

IMPARSIALITAS HAKIM AD-HOC PENGADILAN HUBUNGAN INDUSTRIAL DALAM MEMUTUS PERSELISIHAN BERDASARKAN PEDOMAN KODE ETIK DAN PERILAKU HAKIM

HELEN LEVANA THEDJAKUSUMA

NPM : 00000022861

ABSTRAK

Hakim Ad-Hoc Pengadilan Hubungan Industrial diusulkan oleh Serikat Pekerja/Serikat Buruh dan Organisasi Pengusaha, sehingga sering dianggap sebagai wakil dari pengusulnya dan tidak dapat mewujudkan prinsip imparsiial. Penelitian ini bertujuan untuk mengetahui faktor yang dapat mempengaruhi pelaksanaan prinsip imparsiialitas Hakim Ad-Hoc PHI dalam memeriksa, mengadili dan memutus perkara perselisihan hubungan industrial dan bagaimana upaya yang dapat dilakukan untuk mengatasinya.

Penelitian ini merupakan penelitian hukum normatif-terapan untuk mengkaji implementasi prinsip imparsiialitas Hakim Ad-Hoc PHI sesuai ketentuan hukum positif. Sifat penelitian adalah deskriptif. Jenis data adalah data primer berupa hasil wawancara secara langsung dengan narasumber. Data sekunder berupa bahan hukum primer yakni perundang-undangan dan bahan hukum sekunder dan tersier dari berbagai literatur. Penelitian ini menggunakan pendekatan undang-undang dan pendekatan konseptual, metode analisisnya adalah kualitatif.

Hasil penelitian, faktor yang mempengaruhi pelaksanaan prinsip imparsiialitas Hakim Ad-Hoc PHI terdiri atas faktor internal yaitu keterikatan moral dengan institusi pengusulnya serta perbedaan pendapat dalam musyawarah Majelis Hakim dan faktor eksternal yaitu anggapan masyarakat umum bahwa Hakim Ad-Hoc adalah wakil pengusulnya, penempatan Hakim Ad-Hoc di daerah asalnya, ketidakjelasan status dan kedudukan Hakim Ad-Hoc PHI, sertanya kurangnya perlindungan terhadap Hakim. Upaya untuk mengatasi yaitu diperlukan keteguhan moral Hakim Ad-Hoc PHI yang senantiasa berpegang teguh pada Kode Etik dan Sumpah Jabatan, mengundurkan diri apabila terdapat *conflict of interest*; upaya *dissenting opinion* jika terdapat perbedaan pendapat di antara Majelis Hakim, selalu menjaga sikap baik di dalam maupun di luar kedinasan, ketersediaan untuk ditempatkan di seluruh Pengadilan Hubungan Industrial yang ada. Status dan kedudukan Hakim Ad-Hoc harus jelas dan tidak diskriminatif serta merealisasikan peraturan tentang perlindungan Hakim.

Kata Kunci: Imparsiialitas, Hakim Ad-Hoc, Pengadilan Hubungan Industrial, Memutus Perselisihan, Kode Etik Perilaku Hakim.

IMPARTIALITY OF AD-HOC JUDGES IN THE INDUSTRIAL RELATIONS DISPUTES SETTLEMENT COURT UPON DECIDING ON A CASE BASED ON JUDGES CODE OF ETICHS AND CONDUCT

HELEN LEVANA THEDJAKUSUMA

00000022861

ABSTRACT

Ad-Hoc Judges in the Industrial Relations Disputes Settlement Court are proposed by the Workers/Labour Unions and Employers' Association, therefore often considered as representatives of their proposer and has not been able to put impartiality principle into effect. This study aims to determine the factors that can influence the implementation of impartiality principle of the Industrial Relations Disputes Settlement Court Ad-Hoc Judges in reviewing, adjudicating and providing a verdict upon industrial relations disputes and what methods can be done to solve those issues.

This research is a normative-applied legal research to study the implementation of the PHI Ad-Hoc Judges impartiality principle according to positive legal approach. The characteristic of the study is descriptive. The type of data is primary data in form of direct interviews with the informant resource person. Secondary data in form of primary legal materials namely laws and regulations and secondary and tertiary legal materials from various literatures. This research uses legal approach and conceptual approach, the method of analysis is qualitative.

The results of the study, factors that influence the implementation of impartiality principle of PHI Ad-Hoc Judges consist of internal factors namely moral attachment to the institution proposing them, differences of opinion in the Panel of Judges deliberations, and external factors namely public's assumption that Ad-Hoc Judge is the representative of their proposer, Ad-Hoc Judge's placement in their area of origin, PHI Ad-Hoc Judges unclear status and position, and lack of protection towards Judges. Efforts to overcome this consist of, moral determination by PHI Ad-Hoc Judges who always honour the Code of Ethics and Oath of Position, step down when there is conflict of interest; dissenting opinion when having different opinion among the Panel of Judges, maintaining attitudes both inside and outside of work, willingness to be placed in every Industrial Relations Courts. Status and position of the Ad-Hoc Judge must be clear and non-discriminatory and realizing regulation regarding the protection of Judges.

Key word : Impartiality, Ad-hoc Judges, Industrial Relations Disputed Settlement Court, Case Deciding, Judges Code Of Ethics