

Legal Protection for the Employment Status of Judicial Commission Liaisons

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Abstract

The discourse on the status of liaisons and institutional employees is not recognized in the Law on State Civil Servants or the Law on Employment, thus giving rise to problems, namely the recognition of the employment status of liaisons in each region. The formulation of the problem raised is legal protection of the employment status of liaisons. The method used in this research is the normative legal research method. The approach used is a statutory approach (statute approach) and conceptual approaches (conceptual approach). In conclusion, the absence of norms explaining the employment status of liaisons has implications for the absence of liaison personnel management arrangements, indicating that legal protection for the employment status of liaisons is not yet effective. The suggestion that can be given is that countries can convert liaisons into part of ASN through a series of tests, regulations and policy regulations as guidelines.

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1. BACKGROUND

The trias politica theory is the basis for the formation of state institutions in Indonesia, where this theory divides 3 (three) powers consisting of the legislative, executive and judiciary to prevent the accumulation of power. Currently 3 (three) powers in Indonesia are held by a number of state institutions, namely:

1. Legislative power is implemented by the People's Representative Council and the Regional Representative Council
2. Executive Power implemented by the President
3. Judicial power is implemented by the Constitutional Court and the Supreme Court

The implementation of complex state administration plays a role in forming state institutions beyond the 3 (three) powers that have been divided by the trias politica which has the status of an independent state institution. Independent state institutions are expected to provide good governance services to the community. The growth of various independent state institutions has created various perceptions regarding the classification of state institutions. Saldi Isra divides the classification of state institutions based on their position, namely based on the hierarchy or level of state institutions. This classification is based on the quality and function of state institutions. The division of this classification is:

1. Primary State Institutions (primary constitutional organs) are State Institutions which, if they did not exist, the state would not be able to carry out its functions as a state.
2. Supporting State Institutions (auxiliary state organs) are state institutions that complement and support so that the implementation of the main state functions carried out by state institutions can run well.

The relationship between main state institutions and supporting state institutions can be of a partnership nature. This partnership relationship can be seen from the relationship between the People's Representative Council and the Supreme Audit Agency, the President and the Ombudsman, and the Supreme Court with the Judicial Commission. The Judicial

Commission is a state institution tasked with supervising the Supreme Court. The Judicial Commission is a state institution whose existence is guaranteed because it is written explicitly in the 1945 Constitution as the highest law in Indonesia. There are several objectives for establishing the Judicial Commission, including:

1. Obtain candidates for Supreme Court Justices, Ad Hoc Judges at the Supreme Court and judges in all judicial bodies according to needs and eligibility standards.
2. Striving to increase the capacity and welfare of judges.
3. Increased judge compliance with the Code of Ethics and Code of Conduct for Judges.
4. Realizing public trust in judges.
5. Increasing the institutional capacity of the Judicial Commission which is clean and free of Corruption, Collusion and Nepotism.

To achieve this goal, the Judicial Commission has 7 members who are assisted by the secretariat. The workload is unbalanced if 7 people supervise thousands of judges spread across all regions in Indonesia. For this reason, the Judicial Commission is given the authority to appoint liaison officers in each region. The establishment of the Judicial Commission Liaison is intended to improve the Judicial Commission's services to the community in the regions. Based on Judicial Commission Regulation Number 1 of 2017 concerning the Establishment, Structure and Work Procedures of Judicial Commission Liaisons in Regions, the formation of Judicial Commission Liaisons aims to assist the implementation of the Judicial Commission's duties, namely:

- a. monitoring and supervising the behavior of judges;
- b. receive reports from the public regarding alleged violations of the Code of Ethics and/or Code of Conduct for Judges;
- c. verifying KEPPH Alleged Violation Reports in a closed manner;
- d. take legal action and/or other steps against individuals, groups of people, or legal entities that undermine the honor and dignity of judges; And
- e. carry out other tasks assigned by the Judicial Commission.

Even though the Judicial Commission is classified as a state institution, Judicial Commission employees with Civil Servant status are only in the secretariat located in the Special Capital Region of Jakarta. Meanwhile, the Judicial Commission liaison in each province has the status of a non-State Civil Service employee, there are also those who are referred to as institutional employees. The discourse on the status of liaisons and institutional employees is not recognized in the Law on State Civil Servants or the Law on Employment, thus giving rise to problems, namely the recognition of the employment status of liaisons in each region. Recognition of status indicates that the state recognizes and protects the existence of non-state civil servants. Recognition must take the form of regulations that can be operationalized. Starting from the description of the conditions that have been discussed, the author is interested in discussing it in the article entitled Legal Protection of the Employment Status of Judicial Commission Liaisons. The problem formulation that can be drawn is how is the legal protection for the employment status of liaisons?

2. RESEARCH METHOD

The method used in this research is the normative legal research method. This research examines library materials consisting of legal materials and supplemented by secondary legal materials involving books, scientific studies, as well as statutory regulations which are included in primary legal materials. In this research, the approach used is a statutory approach (*statute approach*) and conceptual approaches (*conceptual approach*). The legal materials that have been obtained are then analyzed by describing the research results based on information about a situation or event in general, following the event that is specifically

the object of discussion, systematically through legal materials that have been collected according to the needs of the research being analyzed.

3. DISCUSSION

1. Legal Protection for Liaison Employment Status

In the constitutional system, there is stratification that differentiates the position of one state institution from another. This stratification then gave rise to the division of state institutions into main state institutions and supporting state institutions. If you use the Jellineck approach, organs whose formation is based on the constitution have a higher urgency than organs formed by law. This view confirms that the Judicial Commission has a higher level of urgency because the Judicial Commission is a state institution mentioned in the 1945 Constitution of the Republic of Indonesia. The idea of forming a Judicial Commission emerged in 1968 with the aim of forming a Judge Advisory and Research Council (MPPH). This panel functions to provide final decisions in the form of suggestions, appointments, promotions, transfers, dismissals and punitive measures for judges.

Article 19 of Law Number 48 of 2009 concerning Judicial Power places judges as State Officials. In the context of the rule of law, supervision is an essential element in realizing clean government so that any State Official may not refuse to be supervised. Therefore, supervision is needed to maintain and uphold the nobility and dignity of judges in order to uphold the law. Supervision of judges' performance is carried out by two institutions, namely internal supervision by the Supreme Court and external supervision by the Judicial Commission. Based on Article 20 of Law Number 18 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission, in order to maintain and uphold the honor, nobility and behavior of Judges, the Judicial Commission has the following duties:

- a. Monitoring and supervising the Judge's behavior;
- b. Receive reports from the public regarding violations of the Code of Ethics and/or Code of Conduct for Judges;
- c. Verifying, clarifying and investigating reports of alleged violations of the Code of Ethics and/or Code of Conduct for Judges in private;

To ensure objectivity, the Judicial Commission does not exist under any authority. The existence of the Judicial Commission in the constitutional system is a manifestation of the principle of checks and balances, where there is a system of mutual supervision between one institution and another, thereby preventing the concentration of power in one force. The presence of the Judicial Commission in the Indonesian state administration has two important functions: first, to represent *control of the public* into the judiciary and secondly, playing a role in 'reshaping' the judiciary in Indonesia.

Independent state institutions have their own staffing arrangements. For example, the state Ombudsman institution has 2 (two) types of employees who work under its environment, namely Civil Servants (PNS) and permanent Ombudsman employees. Then there is also the Judicial Commission which has its own personnel system which is regulated in Law Number 18 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission. For employees with civil servant status, their rights, obligations and career paths already have clear regulations. So, for Judicial Commission employees who have civil servant status, if their performance is satisfactory, they are entitled to a promotion. Even in terms of salaries, civil servant income already has a budget ceiling in the structure of the State Revenue and Expenditure Budget. This is different from the Liaison status which is not regulated in separate laws and regulations. The meaning of liaison is not explained in Law Number

18 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission, because Law Number 18 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission has mandated that arrangements regarding liaison be regulated further in the Judicial Commission Regulations. Furthermore, the definition of liaison can be found in Article 1 paragraph (4) of Judicial Commission Regulation Number 1 of 2017 concerning the Establishment, Structure and Work Procedures of Judicial Commission Liaisons in Regions. Liaisons are employees appointed by the Secretary General after obtaining approval from the Judicial Commission. Based on Article 9 of Judicial Commission Regulation Number 1 of 2017 concerning the Establishment, Structure and Work Procedures of Judicial Commission Liaisons in Regions, Liaison Officers consist of:

- (1) a. (one) coordinator; And
b. Maximum 5 (five) assistants.
- (2) The coordinator as referred to in paragraph (1) letter a is responsible for coordinating and carrying out Liaison duties.
- (3) The assistant as referred to in paragraph (1) letter b carries out Liaison duties.
- (4) One of the assistants as referred to in paragraph (3) is also responsible for Liaison administration.

The Judicial Commission carries out monitoring based on two things, namely public requests and the Judicial Commission's initiative. The wide scope of work, as well as the large number of judges supervised, requires employees who act as liaisons in each province. On the other hand, Law Number 18 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission guarantees the freedom of the Judicial Commission to appoint liaisons according to needs. So that recruitment of liaisons began to be implemented since the existence of the Judicial Commission liaison was established. However, problems begin to arise when the rights and obligations of liaisons are not further regulated in statutory regulations. Due to the lack of norms regarding linking phrases, this also raises questions about legal protection.

In general, there are several phrases in legislation that describe employees, or in other words, workers. Workers in law. Article 1 paragraph (3) of Law Number 13 of 2003 concerning Employment, workers are known as laborers, which means everyone who works and receives wages or other forms of compensation. Meanwhile, the word employee can be found in Article 1 paragraph (2) of Law Number 20 of 2023 concerning State Civil Apparatus, namely State Civil Service Employees (PNS), hereinafter referred to as ASN Employees, are Civil Servants and Government Employees with a Work Agreement (PPPK) who are appointed by civil service development officials and entrusted with duties in a government position or entrusted with other state duties and are given income based on statutory regulations. Considering the position of the Judicial Commission as a state institution, employees who work in this agency should be part of the State Civil Apparatus. However, if we refer to Law Number 20 of 2023 concerning State Civil Apparatus which explicitly limits the types of State Civil Apparatus, namely only PNS and PPPK, Law Number 20 of 2023 concerning State Civil Apparatus cannot provide legal protection to liaisons. So, it can be concluded that Law Number 13 of 2003 concerning Employment and Law Number 20 of 2023 concerning State Civil Apparatus do not mention the phrase liaison or liaison employee.

Because only Law Number 18 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission and Judicial Commission Number 1 of 2017 concerning the Establishment, Structure and Working Procedures of Liaison Judicial Commissions are the legal umbrella for liaison, then only these two regulations apply. can be studied. Liaison provisions are further regulated in Judicial Commission

Regulation Number 1 of 2017 concerning the Establishment, Structure and Work Procedures of Judicial Commission Liaison in Regions. These regulations only contain the arrangements for appointment, dismissal, duties, work procedures, rights and obligations, as well as financing for liaisons, without any certainty regarding the amount of salary, allowances, career levels and management patterns of liaisons themselves. Regulation of tiered administrative sanctions is also not regulated in Judicial Commission Regulation Number 1 of 2017 concerning the Establishment, Structure and Liaison Work Procedures of Judicial Commissions in Regions.

Regardless of status as a civil servant, PPPK, or liaison, the public's expectation when joining a government agency is to receive adequate compensation. The fact that one way to maintain employee loyalty is to provide appropriate compensation is supported by research results which show that:

- a. Salary has a positive and significant effect on employee performance, this means that if salary increases it will improve employee performance.
- b. Work benefits have a positive and significant effect on employee performance, this means that if work benefits increase it will improve employee performance.
- c. Work facilities have a positive and significant effect on employee performance, this means that if work facilities improve, employee performance will increase.
- d. Together the three variables consisting of salary, work benefits and work facilities have a positive and significant influence on employee performance. If salaries, benefits and work facilities increase together, it will improve employee performance.

Facts show that there is a difference between ASN and liaison compensation management. The government has allocated compensation for ASN in the annual State Revenue and Expenditure Budget (APBN). The APBN also allocates a number of funds to state institutions, including the Judicial Commission, but because liaisons are considered to work for the Judicial Commission, liaison compensation is budgeted from the budget for the Judicial Commission, not specifically like ASN. This shows that ASN payroll is more flexible because it has its own budget which is different from the budget for agencies, whereas the state only gives the Judicial Commission an institutional budget, there is no special budget for liaison salaries.

The achievements of an agency depend on the individual performance of its employees. Meanwhile, individual performance in an organization results from a combination of efforts accompanied by motivation and the abilities, skills and experience of the person concerned. To increase work enthusiasm, efforts are needed from the agency concerned to provide more compensation to employees so that the agency achieves maximum results. The absence of norms explaining the employment status of liaisons has implications for the emptiness of liaison personnel management arrangements. This indicates that liaisons do not yet have effective legal protection to achieve prosperity.

4. CONCLUSION

The absence of norms explaining employment status has implications for the absence of liaison personnel management arrangements, indicating that legal protection for liaison employment status is not yet effective.

5. SUGGESTION

So that the liaison has prosperity, the state can change the liaison's status to become a civil servant or PPPK through a series of tests organized by the state. Furthermore, the transfer of functions is followed up through regulations and policies so that it can be followed up. So that the liaison has clear personnel management.

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