

Regulatory reconstruction of ultra petita in industrial disputes: Aligning with justice principles

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Abstract: Judges play a crucial role in interpreting legal principles beyond written law to ensure justice, as outlined in Article 5 paragraph (1) of Law No. 48 of 2009. This principle allows judges to exercise discretion and align decisions with societal values of fairness, particularly in industrial disputes impacting individuals' well-being. The study examines existing regulations for industrial dispute resolution, identifies weaknesses in achieving justice, and proposes reconstructing ultra petita principles to prioritize justice. Currently, Law No. 2 of 2004 governs industrial dispute resolution, emphasizing mediation or conciliation before proceeding to the Industrial Relations Court. Decisions from this court can only be challenged via cassation at the Supreme Court, as appellate procedures are absent. However, the justice system faces challenges as judges' decisions often rely solely on statutory provisions, neglecting broader considerations of fairness, benefit, and legal certainty. Such limitations can exacerbate disputes and provoke controversy among stakeholders. The research highlights the need to reconstruct ultra petita principles to enable judges to deliver equitable and pragmatic decisions, even if they exceed the claims requested by parties. Although Article 178 paragraph (3) HIR and Article 189 paragraph (3) RBG assert the principle's rigidity to ensure legal certainty, exceptions should be allowed to uphold justice. This approach reinforces the judiciary's role as a forum for fairness and legal balance.

Keywords: Fairness, Industrial disputes, Justice, Reconstruction, Ultra petita.

1. Introduction

The development of employment policies constitutes an integral part of Indonesia's national development strategy, rooted in achieving a comprehensive welfare state [1]. This vision is based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Article 27(2) of the 1945 Constitution guarantees every citizen the right to decent work and a livelihood that aligns with human dignity, while Article 28C (1) emphasizes the right to self-development through the fulfilment of basic needs [2]. Similarly, Article 28D (1) provides guarantees for equal protection under the law, including fair treatment in employment relationships [3]. Together, these provisions form a legal framework that underpins Indonesia's labour law and justice system.

Indonesia's industrial dispute resolution framework prioritizes non-judicial mechanisms as the first step toward resolving conflicts. These mechanisms include bipartite negotiations, mediation, conciliation, and arbitration [4]. Bipartite negotiations, governed by Article 136 of Law No. 13 of 2003, involve direct dialogue between employers and employees or their representatives [5]. This process aims to achieve consensus based on mutual agreement, reflecting cultural norms of deliberation and compromise. However, the absence of enforceable outcomes in unresolved cases limits the effectiveness of this mechanism.

Mediation, another essential avenue, involves a neutral mediator facilitating discussions to resolve disputes related to workers' rights, interests, employment terminations, or inter-union disagreements. Similarly, conciliation relies on impartial conciliators to guide parties toward agreement, particularly in

disputes concerning employment terms or union conflicts [6]. Both mechanisms emphasize dialogue and impartiality, creating opportunities for amicable resolution without resorting to formal judicial processes. Arbitration, reserved for disputes involving interests or inter-union conflicts within companies, offers binding decisions that are not subject to judicial review [7]. This mechanism ensures finality and expediency but is limited to specific types of disputes.

When non-judicial mechanisms fail, disputes escalate to the Industrial Relations Court, a specialized body operating within district courts. The court addresses disputes concerning rights, interests, employment terminations, and inter-union conflicts [8]. For disputes involving interests and inter-union disagreements, the court's decisions are final and non-appealable to the Supreme Court [9].

The court applies civil procedural law, as outlined in Law No. 2 of 2004, to expedite resolutions and minimize costs. This is particularly beneficial for workers pursuing claims below IDR 150 million, as they face reduced financial barriers to accessing justice [10].

The principle of *ultra petita*, which permits judges to issue rulings beyond the claims presented by plaintiffs, has long been debated in Indonesia's legal system. Article 178(3) of the *Herziene Indonesisch Reglement* (HIR) and Article 189(3) of the *Rechtsreglement Buitengewesten* (RBg) explicitly prohibit such decisions [11]. However, the application of this prohibition in industrial disputes has been inconsistent, leading to inefficiencies and prolonged legal battles.

While *ultra petita* decisions can address broader issues not explicitly raised by disputing parties, their misuse risks undermining procedural integrity. For instance, in disputes involving employment termination, judges may need to consider factors beyond the immediate claims to achieve substantive justice [12]. However, excessive reliance on *ultra petita* can create legal uncertainty, complicate enforcement, and challenge the balance of rights and obligations in industrial relations.

Reconstructing the regulatory framework governing *ultra petita* is essential for ensuring justice and legal certainty in industrial dispute resolution. Clear guidelines on the permissible scope of judicial discretion would help standardize the application of *ultra petita*, preventing judicial overreach while enabling fair outcomes [13]. Enhanced oversight mechanisms could further ensure that decisions align with substantive justice without compromising procedural fairness. Additionally, reforms should prioritize frameworks that holistically address disputes involving worker rights and employment security, reflecting the principles of industrial democracy.

The regulatory reconstruction of *ultra petita* in industrial disputes is vital for aligning Indonesia's labour law practices with its justice principles [14]. While judicial flexibility is necessary to address substantive justice comprehensively, procedural boundaries must be respected to maintain trust and legal certainty. By refining legal provisions and strengthening oversight mechanisms, Indonesia can resolve lab or disputes more effectively, fostering harmonious industrial relations and contributing to national prosperity.

2. Research Methods

This study employs a constructivist paradigm, emphasizing that reality is interpreted through individual conceptual frameworks rather than existing independently [13]. This approach highlights the interplay between legal constructs and societal perspectives. Utilizing a socio-legal methodology, the study combines juridical and sociological approaches [15]. The juridical aspect focuses on analyzing legislative frameworks related to industrial disputes, while the sociological component examines how legal norms manifest in societal interactions [16]. Conducted at the Industrial Relations Court in Medan, the research employs a descriptive-analytical design to explore court decisions comprehensively, aiming to go beyond description to evaluate hypotheses and generate theoretical insights [17]. Data collection integrates primary data from interviews with judges, mediators, lawyers, and disputing parties, and secondary data from legal texts, scholarly articles, and case studies [18]. Techniques include literature review, non-participant observation, and semi-structured interviews using purposive sampling to ensure relevance [19]. Analysis is conducted through inductive qualitative methods, where data is categorized, evaluated, and synthesized into theoretical conclusions [18]. The inductive process relies on syllogistic reasoning, linking abstract legal norms to case-specific facts to derive actionable conclusions [20]. Key legal sources include Indonesian labor laws, decisions from the Industrial

Relations Court, and relevant legal principles, complemented by secondary and tertiary materials [21]. This methodology allows the study to critically analyze the effectiveness of *ultra petita* in fostering justice principles within industrial dispute resolution. The research aims to describe, analyze, and evaluate the dynamics of court decisions to propose potential reforms aligning with fairness, efficiency, and accessibility. By integrating empirical and normative analysis, this study provides a nuanced understanding of the practical and theoretical dimensions of industrial dispute resolution, highlighting the potential for legal reforms to align judicial practices with broader justice principles while addressing systemic challenges within the Indonesian legal framework.

3. Results and Discussion

3.1. Industrial Relations Based on Pancasila Values and the 1945 Constitution of Indonesia

Industrial relations in Indonesia are deeply rooted in the foundational principles of Pancasila and the 1945 Constitution [22]. These principles emphasize harmony, social justice, and mutual cooperation as the cornerstones for fostering relationships among employers, employees, and the government. The system aims to ensure fairness, equity, and respect for human dignity in the workplace while promoting economic and social stability [23].

Pancasila, the state philosophy, comprises five principles: belief in one God, humanitarianism, national unity, democracy, and social justice. These values permeate all aspects of governance, including industrial relations, promoting a sense of shared responsibility and mutual respect [24]. The 1945 Constitution reinforces these ideals, particularly in Article 27(2), which guarantees the right to employment and a decent standard of living, and Article 28D, which safeguards fair wages and humane working conditions [25]. Together, these frameworks create a legal and ethical foundation for balancing the interests of workers and employers while upholding national development goals.

One of the core aspects of industrial relations in Indonesia is the emphasis on protecting workers' rights [26]. These include access to decent work, fair wages, social security, and collective bargaining. The government has enacted labour laws, such as Law No. 13 of 2003 on Manpower, to codify these rights [22]. This legislation provides comprehensive protections for workers, including provisions for minimum wages, overtime pay, and health and safety regulations. Social security schemes, such as the BPJS (*Badan Penyelenggara Jaminan Sosial*), further ensure workers' welfare by offering healthcare, pensions, and accident insurance [27].

Despite the robust legal framework, significant challenges remain in the implementation of these principles. Economic disparities, informal employment, and exploitation persist in certain sectors, often exacerbated by inadequate enforcement of labour laws. Workers in informal sectors frequently lack access to social security and other benefits, while cases of wage theft and unsafe working conditions undermine the principles of social justice enshrined in Pancasila. Additionally, industrial disputes can arise due to differences in the interpretation of labour laws or economic pressures faced by businesses [28].

The success of Indonesia's industrial relations system depends on the collaborative efforts of the government, employers, and workers. The government plays a pivotal role as a mediator and regulator, ensuring that labour laws align with Pancasila values and are effectively enforced. Employers are encouraged to adopt ethical practices that reflect social justice and mutual cooperation, fostering a positive work environment. Workers, meanwhile, are empowered to organize through trade unions and engage in constructive dialogue with employers to address grievances and advocate for their rights.

Institutions such as the Industrial Relations Court and tripartite bodies provide platforms for dispute resolution and policy-making. These mechanisms are designed to balance the interests of all stakeholders, reducing the likelihood of prolonged conflicts and promoting industrial harmony. The emphasis on dialogue and mutual understanding reflects the Pancasila value of "*musyawarah*" (deliberation), which prioritizes consensus and collective well-being [29].

Indonesia's industrial relations system aspires to create a fair, inclusive, and harmonious environment by integrating Pancasila values and the mandates of the 1945 Constitution. While challenges persist, the framework's emphasis on social justice, mutual respect, and shared responsibility

serves as a guide for addressing these issues. The collaboration among stakeholders remains critical in ensuring that the principles of Pancasila and the Constitution are realized in practice, contributing to sustainable economic growth and social stability [30].

3.2. Comparative Study of Industrial Dispute Resolutions Across Nations

The resolution of industrial disputes is a cornerstone of ensuring harmonious labour relations and promoting equitable outcomes. Across nations, the systems addressing such disputes vary widely, reflecting differences in historical, legal, and cultural contexts. Understanding these variations offers insights into the regulatory mechanisms employed to align with principles of justice, particularly concerning *ultra petita* rulings, where judicial decisions exceed the claims made by disputing parties. This article examines the comparative frameworks for industrial dispute resolutions in France, Germany, and China, identifying best practices that could inform a regulatory reconstruction aligned with justice principles.

France's legal framework for industrial dispute resolution is deeply rooted in its historical evolution. Initially influenced by Roman law and local customs, the legal system transitioned during and after the French Revolution, emphasizing liberty, equality, and individual autonomy. Labour laws evolved significantly in the 20th century with the institutionalization of collective bargaining processes and the establishment of the *Conseils de Prud'hommes* (labour courts), which mediate and adjudicate disputes between employers and employees [31]. The French system relies on a hierarchical approach to collective agreements regulated by the Labour Code—for instance, Article L132-1 governs collective bargaining agreements at national, regional, and local levels [32]. Labour courts operate on a conciliation-first principle, involving representatives from both employer and worker parties. Disputes unresolved at this stage proceed to formal adjudication, where a presiding judge delivers binding resolutions [33].

Meanwhile Germany's industrial dispute mechanisms are shaped by its historical context of codification and unification. The introduction of the *Bürgerliches Gesetzbuch* (BGB) in 1900 marked the establishment of comprehensive civil law [34]. The labour system evolved with significant contributions from trade unions, which played a pivotal role in shaping industrial relations [35]. Post-World War II developments saw Germany's bifurcated system of industrial dispute resolution in the East and West; however, reunification brought a cohesive framework focused on collective bargaining and arbitration [36]. Germany emphasizes workplace democracy through works councils and strong union representation. Labour courts handle disputes that cannot be resolved through negotiation or mediation [37]. Unlike France, German labour laws integrate arbitration as a pre-litigation requirement, fostering collaborative solutions. These courts' decisions are generally seen as impartial and aligned with equitable principles.

On the other hand, China's approach to industrial disputes reflects its transition from a planned economy to a market-driven one. Before the establishment of the People's Republic in 1949, industrial relations were governed by customary and fragmented systems. Modern labour laws began to emerge in the late 20th century, focusing on codified processes for dispute resolution [38]. The Labour Dispute Arbitration Committees (LDACs) play a central role in resolving conflicts through consultation, mediation, and arbitration. These mechanisms emphasize mediation, with over 40% of disputes resolved amicably at this [38, 39].

China's system prioritizes swift resolutions and minimal judicial intervention. Litigation remains an option for unresolved disputes, though court involvement is typically seen as a last resort. Notably, the integration of labour inspections ensures compliance with employment standards, contributing to preventive dispute resolution measures [40].

Key comparative insights reveal that France and Germany emphasize structured collective bargaining and institutionalized dispute resolution through dedicated labour courts, [41] while China prioritizes mediation and arbitration to maintain harmony. The French labour courts' conciliation-first approach aligns with principles of *ultra petita* by fostering resolutions beyond strictly legal claims [13]. Similarly, Germany's reliance on arbitration and collaborative processes ensures that outcomes consider broader justice principles. In contrast, China's emphasis on

administrative oversight provides a preventive dimension to industrial dispute management [42]. A reconstructed regulatory framework should integrate the following elements to align with justice principles:

- a. Strengthened Mediation Processes: Drawing from China's high success rate in mediated resolutions, ensuring comprehensive and fair mediation mechanisms can reduce litigation reliance.
- b. Institutionalized Arbitration: Germany's collaborative arbitration model can guide balanced outcomes without over-reliance on judicial rulings.
- c. Conciliation-First Approach: Adopting France's labour court model where conciliation precedes formal adjudication aligns with equitable principles by exploring amicable settlements.
- d. Preventive Oversight: China's labour inspection mechanisms demonstrate the value of proactive measures in mitigating disputes before escalation.

The comparative study underscores the diversity in industrial dispute resolution systems and the value of aligning regulatory frameworks with justice principles. France's labour courts, Germany's arbitration, and China's mediation provide valuable models for reconstructing *ultra petite* mechanisms [43]. By adopting hybrid approaches that emphasize fairness, inclusivity, and efficiency, regulatory frameworks can better address the complexities of industrial disputes in an evolving global landscape.

3.3. Islamic Legal Perspective on Resolving Industrial Relations Disputes

Industrial disputes in Islamic jurisprudence (*fiqh muamalah*) emphasize principles of fairness (*adl*), mutual consent (*ridha*), and harm prevention (*darar*). These align with the objectives of Islamic law (*maqasid al-shariah*), which prioritize justice, human dignity, and social harmony. For instance, resolving disputes equitably without causing undue harm to any party reflects the principle of *adl* and the higher objective of preserving societal balance (*maslahah ammah*).

The Quran underscores justice as a divine obligation: "Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice" (Quran 4:58) [44]. Similarly, Prophet Muhammad (PBUH) stressed the importance of fairness and avoiding harm in agreements, stating,

"There should be neither harm nor reciprocating harm" (Hadith, Sunan Ibn Majah).

In industrial relations, these principles translate into: [45].

- a. Fairness in Decision-Making: Judges act as trustees (*amin*), resolving disputes impartially while addressing broader systemic issues, if necessary, through *ultra petita* decisions.
- b. Mutual Consent: Agreements between employers and employees must be honoured unless they contradict ethical standards, ensuring outcomes are acceptable to all parties. Prevention of Harm: Judicial rulings should mitigate harm and promote societal well-being, even if this requires exceeding the claims presented. Applying Islamic values to *ultra petita* decisions provides a moral foundation for addressing the limitations of statutory law while enhancing equity and trust in industrial relations.
- c. The regulatory framework governing industrial disputes often grapples with balancing justice, certainty, and utility. In Indonesia, judges are mandated by Article 16(1) of Law No. 48 of 2009 and Article 22 of the Algemene Bepalingen (AB) to resolve disputes even when legal clarity is lacking. This duty underscores the judicial responsibility of *rechtsvinding* or legal discovery, wherein judges concretize and individualize general legal norms to resolve specific cases [46]. This article examines the role of *ultra petita* decisions in industrial disputes, exploring the Islamic legal perspective and principles of justice to propose a reconstructed regulatory approach.

Industrial relations disputes often concern the rights and obligations of employers and employees. In Islamic jurisprudence (*fiqh muamalah*), the principles of fairness (*adl*), mutual consent (*ridha*), and preventing harm (*darar*) guide the resolution of such conflicts. These principles align with the objectives of Islamic law (*maqasid al-shariah*), particularly in protecting human dignity and promoting social harmony [47].

Fairness is a central tenet in Islamic legal tradition, where disputes must be resolved equitably without favouring one party over another. Judges are considered trustees (*amin*) tasked with delivering

justice in accordance with divine and moral principles. Decisions exceeding the parties' claims, or *ultra petita* rulings, may be permissible if they ensure a just outcome and adhere to public interest (*masalah ammah*).

Islamic legal principles emphasize mutual consent and the fulfilment of contractual obligations [46]. In industrial disputes, judges should strive to mediate outcomes that honour existing agreements unless they contravene Islamic ethical standards. Regulatory reforms should incorporate mechanisms to facilitate such consensual resolutions.

In industrial disputes, decisions should mitigate harm to both parties while promoting societal well-being. This principle justifies judicial creativity, allowing for *ultra petita* decisions when they prevent greater injustice or systemic harm. Such rulings align with the higher objectives of preserving life, property, and dignity.

In the Indonesian context, the judicial process of *rechtsvinding* plays a crucial role in addressing legal ambiguities [48]. Judges are empowered to adapt written laws to concrete societal realities, utilizing methods like analogy, *rechtsverfijning* (legal refinement), and *argumentum a contrario* (contradictory reasoning) [49]. However, the limited applicability of jurisprudence as a formal legal source creates challenges in standardizing justice.

Ultra petita decisions, which grant more than what is claimed, are often criticized for undermining legal certainty. However, when guided by principles of fairness and societal benefit, such rulings can rectify legal inadequacies and uphold justice. Incorporating Islamic legal values into the regulatory framework can enhance judicial discretion while safeguarding equity [50].

Reconstructing the regulatory framework for *ultra petita* rulings in industrial disputes necessitates integrating Islamic legal principles of fairness, mutual consent, and harm prevention. By aligning these principles with the judicial process of *rechtsvinding*, the legal system can better address the complexities of industrial relations. Future reforms should prioritize flexibility in judicial discretion while ensuring adherence to justice and public interest.

3.4. Legal Discovery in the Enforcement of Justice

Legal discovery (*rechtsvinding*) enables judges to bridge gaps in statutory laws and address emerging societal needs. Article 16(1) of Law No. 48 of 2009 mandates judges to deliver justice even in the absence of clear legal provisions. This aligns with Radbruch's legal philosophy, which emphasizes justice, utility, and certainty as the core values of law.

In industrial disputes, judges often encounter ambiguities in statutory provisions. Legal discovery allows them to: [51]

- a. Interpret and Refine Laws: Through analogy and *rechtsverfijning*, judges adapt general norms to specific cases, ensuring fair outcomes.
- b. Balance Justice and Certainty: While *ultra petita* rulings challenge procedural norms, they align with broader justice considerations, particularly in cases involving worker rights and employment security.
- c. Incorporate Societal Values: By grounding decisions in the "living law unwritten norms reflecting societal values judges ensure rulings resonate with contemporary realities.

Regulatory reconstruction in legal practices plays a vital role in addressing inconsistencies and promoting justice, particularly in the context of *ultra petita* decisions in industrial disputes. *Ultra petita*, where a judicial decision grants more than what is claimed, raises questions about its alignment with justice principles. The mechanisms for reconstructing regulations surrounding *ultra petita* to ensure justice, focusing on its application in industrial disputes [52]. By exploring the theoretical and practical implications, the discussion aims to highlight the balance between judicial discretion and adherence to legal frameworks.

Legal discovery ("*rechtsvinding*") is essential for the judiciary to bridge gaps in statutory laws and address emerging legal needs. According to Article 16 (1) of Law No. 48 of 2009 and Article 22 of the Algemeen Reglement (AB), judges are mandated to find and apply the living law ("living law") that resonates with societal values. This process includes interpretation, analogy, and refinement of existing legal norms. It ensures that justice is not hindered by rigid statutory

boundaries, as argued by Friedman [53] who underscores those effective legal systems must adapt to cultural and societal developments.

The role of judges extends beyond the application of written laws to include constructing new legal interpretations. Through methods like analogical reasoning, refinement (*rechtsverfijning*), and contrasting arguments (*argumentum a contrario*), judges address ambiguities in statutory provisions. For instance, when laws fail to regulate specific industrial disputes comprehensively, judges interpret related provisions to achieve justice [53].

Judges are tasked with achieving substantive justice while ensuring legal certainty. This dual responsibility often requires discretion beyond mere adherence to statutory texts. Spaak [54] philosophy of law outlines three foundational values—justice, utility, and certainty—which judges must balance. For example, when *ultra petita* decisions arise in industrial disputes, judges must assess whether such rulings are justified by broader justice considerations, even at the expense of procedural norms.

The Indonesian legal system, influenced by both civil law traditions and evolving societal expectations, positions judges as interpreters and creators of law. While *ultra petita* decisions challenge strict procedural norms, they align with the dynamic nature of justice that Radbruch highlights. also emphasizes the law's role as a flexible and open system that evolves with societal values [55]. Judges, therefore, navigate this landscape by grounding their rulings in both written laws and the values of the living law.

Legal discovery serves as a critical mechanism for aligning judicial decisions with justice principles, especially in complex cases like industrial disputes involving *ultra petita rulings* [56]. By interpreting and refining laws to reflect societal values, judges balanced.

3.5. Justice in Progressive Law for Legal Discovery

Progressive legal theory emphasizes the dynamic and adaptive nature of law. Developed by Satjipto Rahardjo, it views law as a tool for social transformation, prioritizing substantive justice over procedural rigidity. In industrial disputes, this approach advocates for: [57]

- a. Judicial Activism: Encouraging judges to interpret laws creatively to address gaps and achieve fair outcomes.
- b. Human-Centric Justice: Focusing on the welfare and dignity of workers, especially in vulnerable situations.
- c. Balancing Competing Interests: Ensuring outcomes protect worker rights without imposing undue burdens on employers.
- d. Ultra petita decisions exemplify progressive law in action, allowing judges to address systemic inequities and align rulings with justice principles.

3.6. Ultra petita Decisions in Industrial Dispute Resolutions

Ultra petita rulings have sparked debate in Indonesia's legal system [58]. While they provide flexibility for addressing complex disputes, their inconsistent application has raised concerns about legal certainty and judicial overreach [59]. This section proposes regulatory reforms to:

- a. Clarify Judicial Discretion: Define the permissible scope of *ultra petita* decisions in industrial disputes, ensuring consistency and fairness.
- b. Strengthen Oversight Mechanisms: Establish review processes to prevent misuse and maintain trust in the judiciary.
- c. Incorporate Comparative Insights: Learn from countries like Germany and France, which balance judicial flexibility with procedural safeguards.
- d. Align with Islamic Principles: Embed fairness, mutual consent, and harm prevention into the regulatory framework to enhance equity and societal trust.

4. Conclusion

In conclusion, *ultra petita* decisions in Indonesia's industrial dispute resolution system serve as a double-edged sword, offering a path to address systemic inequities and promote substantive justice while simultaneously posing risks to legal certainty and procedural integrity due to inconsistent

application. This study underscores the necessity of regulatory reconstruction, emphasizing the establishment of clear judicial discretion guidelines, robust oversight and accountability mechanisms, the integration of Islamic legal principles and comparative insights, and the adoption of progressive legal theories to tackle modern challenges. Implementing these reforms can significantly improve the fairness and efficiency of industrial dispute resolution, fostering harmonious labor relations and contributing to national prosperity.

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