

HERMENEUTIC PRINCIPLES OF GENERAL JUSTICE IN CIVIL CASES

FAJAR RACHMAD DWI MIARSA¹, M. ZAMRONI²

¹Faculty of Health Sciences, Universitas Maarif Hasyim Latif Sidoarjo

²Department of Law, Universitas Maarif Hasyim Latif Sidoarjo

e-mail: ¹fajar_rahmad@dosen.umaha.ac.id

ABSTRACT

In the dispute of civil cases filed to the judiciary, the justice seekers seeking justice through the court hope to be able to do it quickly and lawfully. However, in reality the process through the judiciary is not as hopeful, as the principle of justice should be done simply, quickly and costly. The purpose of this paper is to understand the application of the principle of justice done with a simple, quick and light cost with the method of approach used in this study is the normative-empirical law research is a combination of normative legal research with empirical law research. The principle of the judiciary set forth in Article 2 paragraph (4) of Act Number 48 of 2009 on Judicial Power, should be done simply, quickly and lightly and efficiently and effectively and not ruling out precision and accuracy in seeking truth and justice. The application of the principle of justice depends to a great extent on the legal officers of such bodies, especially in the courts and the supreme court of the administrative authorities as well as of the judges handling cases.

Keywords: principle of justice, a civil lawsuit, the general court

INTRODUCTION

According to Montesquieu's teachings, the power to defend the rule of law or judicial power is in the hands of an independent judiciary free from the interference of the legislative and executive powers.¹ The power² to run the judiciary³ is given to the judiciary. Judicial power is an independent power to enforce the law and justice as referred to in Article 24 paragraph (1) of the 1945 Constitution, conducted by the Supreme Court and the lower courts, one of which is the general court (Article 24 paragraph [2] of the 1945 Constitution). This is further stressed in Article 1 number 1 of Act Number 48 of 2009 on Judicial Power (abbreviated as the Law of Judicial Power) namely, judicial power is "an independent state power to organize the judiciary to uphold law and justice based on groundnorm "Pancasila" and the 1945 Constitution, implementation of the state of law of the Indonesian republic", while the Supreme

Court is the actor of the judicial authority (Article 1 number 2 of the Judicial Power Law). This is clarified in Article 18 of the Judicial Power Law which states that, "judicial power is exercised by a supreme court and the lower courts of justice within the jurisdiction of the general ..."

The general judicial environment in Article 1 number 1 of Act Number 49 of 2009 concerning Second Amendment to Act Number 2 of 1986 concerning the General Courts (abbreviated to the Second General Court of Justice Law) is a⁴ district court and a high court, while the Supreme Court is reaffirmed as one of the actors of judicial power (Article 1 Sub-Article 3 of the Second General Amendment Law). The general court is also one of the judicial authorities for the justice seekers in general as set forth in Article 2 of Act Number 8 of 2004 concerning Amendment to Law Number 2 Year 1986 concerning General Courts (abbreviated General Judicial Law of First Amendment).

Article 3 Paragraph (1) of Act Number 2 of 1986 regarding General Courts (abbreviated to the General Judicature Law) explains the judicial authority in the general court environment carried out by:

- a. the district court;
- b. High Court;

which further culminates in the supreme court as the highest state court (Article 3 paragraph [2] of the General Courts Act). In civil cases, the district court is in charge and authorized to examine, decide and

¹ CST Kansil, *Introduction to Indonesian Law and Legal Law*, Balai Pustaka, Jakarta, 1983, p. 316.

² power (to take care, rule); ability; ability; the ability of people or groups to control other people or groups based on authority, authority, charisma, or physical strength, Language Center of the Ministry of National Education, *Great Dictionary of Indonesian Language*, Third Edition, Balai Pustaka, Jakarta, 2007, p. 604.

³ *Rechtpraak, judiciary*, segala sesuatu yang berhubungan dengan tugas negara menegakkan hukum dan keadilan, CST Kansil, dkk., *Kamus Istilah Aneka Hukum*, cetakan kedua, Jala Permata Aksara, Jakarta, 2010, hal. 363.

⁴ *Rechtbank, court*, badan yang melakukan peradilan, yaitu memeriksa dan memutus perkara sengketa-sengketa hukum dan pelanggaran-pelanggaran hukum/undang-undang; *Ibid.*, hal. 361.

settle civil cases at the first level (Article 50 of the General Courts Act) domiciled in the district / city capitals, and its jurisdiction covers the district / municipality (Article 4 paragraph [1] General Court of First Amendment). Whereas, the high court has the duty and authority to adjudicate civil cases at the appeal level (Article 51 paragraph [1] of the General Courts Act), which is domiciled in the provincial capital, as well as its jurisdiction covering the provinces (Article 4 paragraph [2] . The Supreme Court has the authority to examine and adjudicate the appeal and petition for judicial review of judgment which has obtained permanent legal force (Article 28 paragraph [1] Act Number 14 of 1985 on the Supreme Court, abbreviated to the Supreme Court Law).

According to Satjipto Rahardjo, the understanding between the judiciary and the courts is different. The judiciary refers to the process of judgment, while the court is one of the institutions in the process. The final result of the judicial process is a court decision or a judge's decision, as it is the judge who presides over the trial in court.⁵ The judiciary is a place for justice seekers (*justitiabel*)⁶. The meaning of the judiciary is essentially the enforcement of the law, in the case of concrete rights claims or the occurrence of disputes or violations, whose functions are exercised by an independent body and free of influence of what or anyone by means of binding decisions aimed at preventing *eigenrichting*. What is meant by *eigenrichting* is self-judgment or "unilateral action".⁷ Any disagreement between a person and another person, or between a person with a civil law entity, or between a civil and a civil entity, or between a civil legal entity with a public legal entity may result in a dispute. The dispute itself means something that causes dissent; quarrels; argument; disputes; disputes and cases in court⁸. A. Mukti Arto confirms that the definition of dispute is as follows:

"A dispute arises usually because of problems in society and there are two things that cause problems, namely the difference between *das sollen* *das das sein* and the difference between what is desired with what occurs, both are problems and if the problem is caused by other

parties, then the problem will cause a dispute. This dispute if within the scope of the legal order, then it will become a legal dispute and this legal dispute is brought to court and some are not brought to justice."⁹

From the emergence of the dispute may result in either parties or who feel aggrieved the right to take a lawsuit in the court. Yahya Harahap termed as a *contentiosa* lawsuit that is a lawsuit containing a dispute between two or more parties.¹⁰ Justice seekers (*justitiabel*) by seeking justice through the courts hope to be able to do quickly and law enforcement. However, in reality the process through the judiciary is not as hopeful, that can be done quickly. For example in Decision Number 628 / PDT.G / 2015 / PN.SBY¹¹, the lawsuit was registered on July 28, 2015, then decided on June 14, 2016. Thus, the time required for the justice seeker to obtain a verdict in the decision was 11 month, at a cost of Rp766.000,00. It is not finalized if there is an appeal and cassation appeal and a review. So how long is the time and cost needed for the justice seeker. Whereas clear, in Article 2 paragraph (4) Judicial Power Law stipulates that the judiciary is done simply, quickly, and low cost.

With this research is expected to understand the principle of justice that is simple, fast and light cost in civil lawsuit case in general court.

RESEARCH METHODS

Similarly, in this study, normative research in the form of just, quick and light cost of justice is not consistent *within action* the judges' towards the settlement of cases of justice seekers. The normative-empirical legal research is incorporation¹² a harmonious of normative legal research with empirical law research. The normative-empirical legal research in its research has always been a combination of two stages of study, namely:

1. The first stage is a review of applicable normative law.

⁹ A. Mukti Arto, *Konsepsi Ideal Mahkamah Agung, Redefinisi Peran dan Fungsi Mahkamah Agung untuk Membangun Indonesia Baru*, Cetakan I, Pustaka Pelajar, Yogyakarta, 2001, hal. 28-32, dalam Eddy Pranjoto W., *Antinomi Norma Hukum Pembatalan Pemberian Hak Atas Tanah Oleh Peradilan Tata Usaha Negara Dan Badan Pertanahan Nasional*, CV. Utomo, Cetakan pertama, Bandung, 2006, hal. 100.

¹⁰ M. Yahya Harahap, *Hukum Acara Perdata, Gugatan, Persidangan, Penyitaan, Pembuktian dan Putusan Pengadilan*, Cetakan kesebelas, Sinar Grafika, Jakarta, 2011, hal. 46.

¹¹ Gugatan antara Alimin Josep Soenario melawan PT Aneka Cipta Sentosa Raya, http://sipp-surabayakota.go.id/index.php/detil_perkara (12 Juni 2018).

¹² Soerjono Soekanto, *Pengantar Penelitian Hukum*, Universitas Indonesia (UI-Press), Jakarta, 1986, hal. 51.

⁵ Satjipto Rahardjo, *Ilmu Hukum*, PT Citra Aditya Bakti, Bandung, 2006, hal. 182.

⁶ HRW Gokkel dan N. van der Wall, *Juridisch Latijn*, HD Tjeenk Willink, Groningen, 1971, alihbahasa: S. Adiwinata, *Istilah Hukum, Latin-Indonesia*, PT Intermedia, Jakarta, 1977, hal. 59.

⁷ Sudikno Mertokusumo, *Teori Hukum*, Universitas Atma Jaya, Yogyakarta, 2011, hal. 21.

⁸ Pusat Bahasa Departemen Pendidikan Nasional, *Op.Cit.*, hal. 8.

2. The second stage is the application of the event *in concreto* in order to achieve the intended purpose. Such application can be realized through legal documents and concrete actions. The results of the implementation will create an understanding of the realization of the implementation of the provisions of normative legal provisions that have been studied have been conducted properly or not.

DISCUSSION

petition may be referred to as a lawsuit *voluntary*¹³, but this notion differs from the notion of a lawsuit generally known by the Indonesian people and in the legislation, namely a lawsuit intended to be a *contentious charge* or commonly referred to by a civil suit or a lawsuit. Characteristic of the petition or lawsuit *voluntary* are:

1. The proposed interest only (*matter is of one party for the benefit of one party only*).
2. The problem requested is adjustment to the PN, in principle without dispute with other parties (*without disputes or differences with another party*).
3. No other person or third party is withdrawn as an opponent, but is an *ex-parte*.¹⁴

Meanwhile, a lawsuit *contentious* or civil suit is a lawsuit containing a dispute between two or more parties. The issues raised and asked to be resolved in the lawsuit are disputes or disputes between the parties (*between contending parties*)¹⁵. The *retnowulan* provides an understanding in the lawsuit there is a dispute or conflict to be resolved and decided by the court.¹⁶ The word *contentiosa*, derived from the Latin word meaning passionately compete or polemic.¹⁷ That is why dispute settlement cases, called *jurisdiction contentious* or *contentious jurisdiction*, is the jurisdiction of judicial authorities who examine cases concerning disputes between parties to the dispute¹⁸. The term may also be interpreted by actual court or judicial disputes concerning disputes.¹⁹ Yahya

Harahap provide characteristics inherent in the civil lawsuit:

1. Criminal cases filed in court contains a dispute (Disputes, differences).
2. disputes occur between the parties, at least between two parties.
3. means a civil lawsuit is the party (*party*), the composition, the one act and serves as the plaintiff and the other, as a defendant domiciled.

There are 2 (two) kinds of lawsuits, namely oral lawsuits and written suits. The legal basis of the lawsuit is provided for in Article 118 paragraph (1) of HIR and Article 142 RBg for a written lawsuit which reads in essence:

"The first civil suit in the jurisdiction of a district court shall be conducted by the plaintiff or by a proxy, by a signed application by him or by the power of attorney and submitted to the head of the district court controlling the jurisdiction of the defendant's residence or, if his residence is unknown in his actual residence."

Legal basis for the oral law Article 120 HIR and Article 144 RBg, namely: "Where the plaintiff can not write, then he can file his lawsuit verbally to the head of the state court making a recital or ordering to make the record of the lawsuit."

The process of examination of the lawsuit in the court proceeded contradictory (*contradictoir*), ie giving the defendant the right and opportunity to deny the propositions- the plaintiff's argument and otherwise yes the plaintiff is also entitled to counter the defendant's denial²⁰. In other words, the case investigation is underway to refute the objection process, either in the form of replik, closing argument, proving by letter or by witnesses as well as in the form of a conclusion (*conclusion*). Exceptions to the contradictory examination may be made through *verstekor* without rebuttal, if the party concerned does not attend the prescribed trial for no valid reason, even though it has been legally and properly called by the bailiff. After disputes between two or more parties are resolved from beginning to end, the court will issue a decision on the lawsuit.

In the text, the principle of justice is contained in Article 2 paragraph (4) of the Judicial Power Law which must be done simply, quickly and lightly. In the explanation of the article has also been clearly affirmed that in essence the judiciary must be done efficiently and effectively and do not rule out the precision and accuracy in seeking the truth and justice. From the text to be able to understand it more precisely by using the method of legal hermeneutics.

The word hermeneutics or hermeneutics, etymologically derived from the Greek from the verb "*hermeneuein*" means interpreting, interpreting or

¹³ M. Yahya Harahap, *Op.Cit.*, hal. 29.

¹⁴ *Ibid.*

¹⁵ *Ibid.*, hal 46.

¹⁶ Retnowulan Sutantio & Iskandar Oeripkartawinata, *Hukum Acara Perdata Dalam Teori Dan Praktek*, CV Mandar Maju, Bandung, 2009, hal. 10.

¹⁷ K. Prent. CM, dkk, *Kamus Latin Indonesia*, Karnisius, Jakarta, 1969, hal. 188.

¹⁸ M. Yahya Harahap, *Op.Cit.*, hal. 46.

¹⁹ HRW Gokkel dan N. van der Wall, *Juridisch Latijn*, HD Tjeenk Willink, Groningen, 1971, alihbahasa: S. Adiwinata,

Istilah Hukum, Latin-Indonesia, PT Intermasa, Jakarta, 1977, hal. 58.

²⁰ M. Yahya Harahap, *Op.Cit.*, hal. 69.

translating and also acting as an interpreter²¹ as well as from the word "*hermeneuo*" which means expressing one's thoughts in words. From the noun is "*hermeneia*" which means interpretation or interpretation.²² The word hermeneutics is also derived from the English equivalent of *hermeneutic* (without 's') which means interpretation and *hermeneutics* (with the letter 's') containing three meanings, namely:

1. Science of interpretation;
2. Science to know the intentions contained in the words and expressions of the author;
3. An interpretation that specifically refers to the interpretation of the text or scripture.²³

In ancient Greek mythology, the word hermeneutics comes from the word Hermes, which is defined as a god assigned to convey and explain the message of the God to man. According to another version of the myth, Hermes is a messenger who has the task of interpreting the will of the gods with the help of human words.²⁴ Theologically Hermes's role can be attributed as the role of the Prophet's messenger of God, even Sayyed Hossein Nashr stated that the Hermes is none other than the Prophet Idris as mentioned in the Qur'an,²⁵ while in the Jewish religion, Hermes is known by Thoth, in Egyptian mythology known as Moses as²⁶ from the above description, Hermes very important role in interpreting the messages of the sky and must thoroughly understand disampikan messages to be forwarded to mankind. If Hermes fails, the result is fatal, it can mislead all mankind. Hermeneutics is ultimately defined as the process of changing something or the situation of ignorance to understand.²⁷ Basically hermeneutics is also related to language. HG Gadamer writes as follows:

language is a *modus operandi* of the way we are in the world and is a form that seems to embrace the whole constitution of the world.²⁸ Language must we think or we understand as something that has *ketertujuan* (teleology²⁹) in him. According to Wilhelm Dilthey, words or phrases have a purpose (*telos*) alone or with intent. Every word is never meaningless.³⁰ Tradition and culture and ancestral heritage, all of which are revealed in the language, both engraved on stone inscriptions and those written on palm leaves.³¹

Through the work of Schleiermacher and Wilhelm Dilthey develop and use hermeneutics as a method for the human sciences, especially history science.³² Schleiermacher himself stated that the task of hermeneutics is to understand the text as well as or better than its own author and to understand the author of the text better than to understand himself.³³ Dilthey states that understanding is an invention of myself within you. In understanding, we follow the process of starting from the overall system we receive in the life experience so that we can understand, to the understanding of ourselves.³⁴

Jazim Hamidi explains that to know the definition of legal hermeneutics as it is, we can return to the definition of hermeneutics in general above. From this the definition of legal hermeneutics can be drawn:

"philosophical teaching on the subject of understanding / understanding of something, or a method of interpretation of the text in which the method and technique of interpreting it is done holistically³⁵ in the framework of the interrelationship between text, context, and contextualization. The text may be a legal text, a legal event, a legal fact, an official state document, an ancient text or a scripture."³⁶

Gadamer explains that interpretation is not just something added to the understanding. The process of understanding is actually the interpretation itself.³⁷ Habermas provides a description of understanding is an activity in which theoretical experiences and

²¹ Sahiron Syamsuddin, dkk., *Hermeneutika Alqur'an (Mazhab Yogya)*, Islamika, Yogyakarta, 2003, hal. 53, dalam Jazim Hamidi, *Hermeneutika Hukum*, UII Pres, Yogyakarta, 2005, hal. 20.

²² E. Sumaryono, *Hermeneutik, Sebuah Metode Filsafat*, Kanisius, Yogyakarta, 1999, hal. 23. Lihat juga Jazim Hamidi, *Ibid.*

²³ Fakhruddin Faiz, *Hermeneutika Qur'ani*, Qalam, Yogyakarta, 2002, hal. 20-21, dalam Jazim Hamidi, *Ibid.*, hal. 19.

²⁴ F. Budi Hardiman, *Melampaui Positivisme dan Modernitas (Diskursus Filosofis Tentang Metode Ilmiah dan Problem Modernitas)*, Kanisius, Yogyakarta, 2003, hal. 38, dalam *Ibid.*, hal. 20-21.

²⁵ Sayyed Hossein Nashr, *Knowledge and The Sacred*, State University Press, New York, 1989, hal. 71, dalam *Ibid.*, hal. 21.

²⁶ Nafisul Atho' dan Arif Fahrudin (Ed), *Hermeneutika Transendental (Dari Konfigurasi Filosofis menuju Praksis Islamic Studies)*, IRCiSod, Yogyakarta, 2003, hal. 14-15, dalam *Ibid.*

²⁷ E. Sumaryono, *Op.Cit.*, hal. 24.

²⁸ *Ibid.*, hal. 26.

²⁹ teori atau ajaran bahwa semua kejadian (setiap gejala) terarah pada suatu tujuan, Pusat Bahasa Departemen Pendidikan Nasional, *Op.Cit.*, hal. 1162.

³⁰ E. Sumaryono, *Op.Cit.*, hal. 27.

³¹ *Ibid.*, hal. 28.

³² Jazim Hamidi, *Op.Cit.*, hal. 28.

³³ E. Sumaryono, *Op.Cit.*, hal. 41.

³⁴ *Ibid.*, hal. 61.

³⁵ berhubungan dengan sistem keseluruhan sebagai suatu kesatuan lebih daripada sekadar kumpulan bagian, Pusat Bahasa Departemen Pendidikan Nasional, *Op.Cit.*, hal. 406.

³⁶ Jazim Hamidi, *Op.Cit.*, hal. 45.

³⁷ E. Sumaryono, *Op.Cit.*, hal. 81-82.

understandings combine together, as well as scientific thought that explanation must be an objective application of a law or theory to fact.³⁸

The function and purpose of hermeneutic law according to James Robinson is to clarify something unclear in order to be more clear, whereas according to Leyh, the goal of legal hermeneutics is to place contemporary debates³⁹ on the interpretation of law within the framework of hermeneutics in general.⁴⁰ The legal hermeneutics recommends that lawyers explore and examine the legal meanings from the perspective of users and / or seekers of justice.⁴¹ If it is related to the principle of justice as written in Article 2 paragraph (4) of the Judicial Power Law that must be done simply, quickly and lightly costs should be implemented, but this is not in accordance with what is written in the law as an example of civil case between Suwito with Sae at the Banyuwangi District Court. The case was a legal process that began in 1990. However, it can only be executed in 2013 on the grounds of a mistake in the Supreme Court's verdict, for repairs to take seven years.⁴² This is for law enforcement officers, especially the Supreme Court and its staff can not be said to understand the principle of justice.

In Article 4 paragraph (2) of the Judicial Power Law clearly states that courts are assisting justice seekers and are trying to overcome all obstacles and obstacles in order to achieve a simple, quick and costly trial. In the text of the law it is clear that the court tries to overcome all obstacles and obstacles in order to reach the judicial process, should it be possible if the judicial authorities understand the principle of justice which is the foundation or foundation of the judicial process.

One of the considerations of the Law on Judicial Power is to realize a clean and authoritative judiciary that needs to be done in the structuring of an integrated judicial system and to enforce the law. According to Jimly Asshiddiqie, law enforcement is the process of undertaking efforts to uphold or functioning legal norms in real terms as a behavioral guide in traffic or legal relationships in the life of society and state.⁴³ Judging from the point of the

subject, law enforcement can be done by a broad subject and can also be interpreted as law enforcement efforts by the subject in a limited or narrow sense. Jimly Asshiddiqie gives the definition of law enforcement seen from the subject namely:

"In a broad sense, the law enforcement process involves all legal subjects in every legal relationship. Anyone who runs a normative rule or does something or does not do something by basing himself on the norms of applicable law rules, means he is running or enforcing the rule of law. In a narrow sense, in terms of its subject, law enforcement is defined only as an attempt by certain law enforcement apparatus to ensure and ensure that a rule of law works as it should."⁴⁴

The employees and judges of the supreme court and their ranks must be thoroughly understood, the law is made not just used as *law in book*, but also can be applied properly (*law in action*). For a good judiciary it is further required:

- Judges of good quality. Selection and payroll are very important;
- The possibility for the citizen to always have a way (ask for help) to a judge;
- Termination in the dispute within a reasonable time;
- Stipulation of a good procedural law, in which the basics of an elementary (like listening and listening) arrangement have been determined;
- Possible appeals and or appeals, to correct possible errors of the lesser judges;
- Guarantees that judges' decisions are also actually implemented.⁴⁵

Logemann adds that there are five things that an official must do as a civil servant, namely: The

1. official must try to be a good employee;
2. Compulsory to do his work in accordance with his work ability;
3. His conduct shall be in accordance with established rules and legal principles;
4. Must imitate life outside his work;
5. Must prioritize the interests of office above self interest.⁴⁶

The application of fair trial principles, which should be done simply, quickly and lightly, is also dependent on the legal officers of such bodies, especially in courts and supreme courts, both from administrative officials and from judges handling cases. As Daniel S. Lev puts it: "The law is everyday practice by law officials. If the conduct of legal officers includes judges, ... and government officials generally

³⁸ *Ibid.*, hal. 90.

³⁹ pada waktu yang sama; semasa; sewaktu; pada masa kini; dewasa ini, Pusat Bahasa Departemen Pendidikan Nasional, *Op.Cit.*, hal. 591.

⁴⁰ Jazim Hamidi, *Loc.Cit.*

⁴¹ *Ibid.*, hal. 48.

⁴² <http://www.kabarbanyuwangi.info/beperkara-1990-dieksekusi-2013.html> (12 Juni 2018).

⁴³ Jimly Asshiddiqie, *Penegakan Hukum*, <http://jimly.com> (12 Juni 2018).

⁴⁴ *Ibid.*

⁴⁵ Philipus M. Hadjon, dkk., *Pengantar Hukum Administrasi Indonesia (Introduction To The Indonesian Administrative Law)*, Gadjah Mada University Press, Yogyakarta, 2008, hal. 392.

⁴⁶ R. Abdoel Djamali, *Pengantar Hukum Indonesia*, PT RajaGrafindo Persada, Jakarta, 2001, hal. 102.

change, this means that the law has changed even though the law is the same as it used to be. "47 If the trial is delayed, the settlement of the matter is slow, it means justice delayed or no justice (*justice delayed is justice denied*).⁴⁸

The seeker of justice has the hope that the court can carry out its function to obtain the following:

1. *Equality before the law*, ie to be treated the same regardless of the color, status and status of the community;
2. *Opportunity to be heard*, ie to get a chance to be heard of its complaints and defenses;
3. *Law enforcement*, which is the right of every citizen to ask the authority to enforce the law and court rulings.⁴⁹

Sajipto Rahardjo states in his progressive law that

"the process of change can not be centered on the rules but on the creativity of lawmakers actualizing the law in the right space and time. Progressive lawmakers can make changes by making creative interpretation of existing rules, without having to wait for change of law (*changing the law*). Bad regulation, not a barrier for progressive lawmakers to bring justice to the people and seekers of justice."⁵⁰

In the responsive legal model delivered by Nonet-Selznick, responsive law is the most appropriate type of law in developing a typical Indonesian legal system tend to put forward the deliberations as a way of solving a problem because it emphasizes how legal institutions work. So that in carrying out its duties and responsibilities regardless of the influence of governmental power and other influences must still stick to the rules called the law of the show. The law can not walk or stand if there is no law enforcement officer who is credible, competent and independent. How good is a legislation if it is not supported by good law enforcement officers then justice is just wishful thinking. Weak mentality of law enforcement officers resulted in law enforcement not working properly. So it can be asserted that law enforcement factors play an important role in the functioning of the law. If the rules are good, but the quality of law enforcement is low then there will be problems.

⁴⁷ Soerjono Soekanto, *Pokok-Pokok Sosiologi Hukum*, PT. RajaGrafindo Persada, Jakarta, 2007, hal. 151.

⁴⁸ Sudikno Mertokusumo, *Bunga Rampai Ilmu Hukum*, Liberty, Yogyakarta, 2010, hal. 47.

⁴⁹ Munir Fuady, *Teori-Teori Besar Dalam Hukum (Grand Theory)*, Prenada Media Group, Jakarta, 2013, hal. 263.

⁵⁰ Bernard L. Tanya, dkk., *Teori Hukum, Strategi Tertib Manusia Lintas Ruang dan Generasi*, Genta Publishing, Yogyakarta, 2010, hal. 212-213.

CONCLUSION

From the above discussion can be drawn the conclusion, namely: The principle of justice is contained in Article 2 paragraph (4) Judicial Power Law that must be done with simple, fast and light cost that must be done efficiently and effectively and do not rule out precision and accuracy in searching truth and justice. In Article 4 Paragraph (2) of the Judicial Power Law also clearly states that courts are assisting justice seekers and are trying to overcome all obstacles and obstacles in order to achieve a simple, speedy and low cost trial. One of the considerations of the Law on Judicial Power is to realize a clean and authoritative judiciary that needs to be done in the structuring of an integrated judicial system and to enforce the law. This is in accordance with legal hermeneutics should be understood by the process of application. The application of fair trial principles, which should be done simply, quickly and lightly, is also dependent on the legal officers of such bodies, especially in courts and supreme courts, both from administrative officials and from judges handling cases.

Considering the existence of just, quick and low cost of justice in the civil lawsuit case in the public court, it is hereby advised that the Supreme Court and its jurisdiction, the lower courts, must be able to resolve the case brought by justice seekers based on justice and legal certainty. Without legal certainty, justice seekers do not know what to do that will eventually cause unrest. Whatever the rules are, they must be obeyed and enforced and sometimes they are often cruel if they are strictly enforced (*lex dura sed tamen scripta*) and *justice delayed is justice denied*.

REFERENCES

- Djamali, R. Abdoel, 2001, *Introduction to Indonesian Law*, PT RajaGrafindo Persada, Jakarta.
- Fuady, Munir, 2013, *Theory of Big Theory (Grand Theory)*, Prenada Media Group, Jakarta.
- Hamidi, Jazim, 2005, *Hermeneutics Law*, UII Pres, Yogyakarta.
- Harahap, M. Yahya, 2011, *Civil Procedure Law, Lawsuit, Trial, Foreclosure, Verification and Court Judgment*, Eleventh Print, Sinar Grafika, Jakarta.
- Mertokusumo, Sudikno, 2010, *Bungle of Legal Sciences*, Liberty, Yogyakarta.
- Mertokusumo, Sudikno, 2011, *Legal Theory*, Atma Jaya University, Yogyakarta.
- M. Hadjon, Philipus, et al., 2008, *Introduction to Indonesian Administrative Law*, Gadjah Mada University Press, Yogyakarta.
- Pranjoto W., Eddy, 2006, *Antinomi Norma Hukum Cancellation of Land Rights By State*

- Administrative Court And National Land Agency*, CV. Utomo, First printing, Bandung.
- Rahardjo, Satjipto, 2006, *Law Science*, PT Citra Aditya Bakti, Bandung.
- Rasjidi, Lili and Liza Sonia Rasjidi, 2012, *Fundamentals of Philosophy and Legal Theory*, Matter of the 11th, PT Citra Aditya, Bandung.
- Soekanto, Soerjono, 2007, *Principles of Legal Sociology*, PT. RajaGrafindo Persada, Jakarta.
- Sutantio, Retnowulan & Iskandar Oeripkartawinata, 2009, *Civil Procedure Law In Theory And Practice*, CV Mandar Maju, Bandung.
- Tanya, Bernard L., et al., 2010, *Legal Theory, People's Ordered Strategy across Space and Generation*, Genta Publishing, Yogyakarta.
- Herziene Indonesich Reglement Rechtsreglement voor de buitengewesten*
Act no. 14 of 1985 on the *Supreme Court*
Law Number 2 of 1986 concerning *General Court*
Law Number 5 Year 2004 regarding *Amendment to Law Number 14 Year 1985* regarding the *Supreme Court*
Law Number 8 Year 2004 on *Amendment to Law Number 2 of 1986 concerning the General Court of*
Law Number 3 of 2009 concerning the *Second Amendment to Law Number 14 Year 1985* regarding the *Supreme Court*
Law Number 48 Year 2009 on *Judicial Power*
Law Number 49 Year 2009 on the *Second Amendment to the Law Law Number 2 of 1986 on General Courts of*
Gokkel, HRW and N. van der Wall, 1971, *Juridisch Latijn*, HD Tjeenk Willink, Groningen, transcription: S. Adiwinata, 1977, *Legal, Latin-Indonesian*, PT Intermedia, Jakarta.
- Kansil, CST, et al., 2010, *Aneka Hukum Dictionary*, second printing, Jala Permata Aksara, Jakarta.
- K. Prent. CM, et al, 1969, *Latin Dictionary of Indonesia*, Karnisius, Jakarta.
- Language Center of the Ministry of National Education, 2007, *Big Indonesian Dictionary*, Third Edition, Balai Pustaka, Jakarta.
- Jimly Asshiddiqie, *Law Enforcement*, <http://jimly.com> (June 12, 2018).
- <http://www.kabarbanyuwangi.info/beperkara-1990-executed-2013.html> (June 12, 2018).
- http://sipp.pn-surabayakota.go.id/index.php/detil_perkara (12 June, 2018).

