

Study of the Principle of Ultra Petitem Partium in Civil Cases

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ABSTRACT

This study aims to examine the limitations of judges' authority in issuing civil case decisions based on the principle of ultra petitem partium. The main problem in this study is that there are still judges' decisions that exceed the petitem, thus raising questions about the limits of judicial authority and the consistency of the application of the principles of procedural law. The principle of ultra petitem partium is one of the fundamental principles in civil procedural law which emphasizes that judges may not issue decisions beyond the demands of the disputing parties. This principle functions to maintain objectivity, neutrality, and balance in the role of judges in resolving cases. This study uses a normative legal method with a statutory approach and analysis of a number of court decisions directly related to the application of this principle. The results of the study show that the application of this principle is important to prevent abuse of authority by judges. However, in certain conditions such as cases concerning the public interest, public order, or protection of vulnerable parties, judges are allowed to issue decisions exceeding the petitem. Therefore, the application of this principle must be carried out proportionally and contextually in order to create a fair and just trial.

Keywords: Ultra Petitem Partium Principle, Limitations of Judges' Authority, Civil Cases.

INTRODUCTION

The Republic of Indonesia makes law the main basis in organizing national and state life. In the applicable legal system, the judiciary has a very important role in ensuring justice and legal certainty for the community. One form of the function of the judiciary is the process of resolving civil disputes which must be carried out based on the applicable principles of procedural law. One important principle in civil procedural law that is often in the spotlight is the principle of ultra petitem partium, namely the principle that limits the authority of judges not to give decisions beyond what is requested by the disputing parties in the lawsuit (petitem). This principle is an important foundation to ensure that judges remain within the limits of authority granted by the parties, so that the judicial process takes place fairly and does not deviate from legal demands. In this context, the judge acts as an objective and impartial mediator, not as a party that determines the boundaries of the disputed material.

The main motivation for conducting this research is because in civil court practice in Indonesia there are still differences in the application of the ultra petitem partium principle. In a number of decisions, there are judges who decide cases outside or exceed the petitem submitted by the plaintiff. Although the goal is often to uphold justice or resolve problems completely, such

actions still raise questions about the limits of the judge's authority and the consistency of the application of the principles of civil procedural law.

The *ultra petitum partium* principle is not only a technical guideline, but also an ethical principle that regulates the limits of judicial intervention in the case resolution process. Therefore, it is important to examine how this principle is understood and applied in judicial practice in Indonesia.

The main objective of this study is to describe in depth how the limitations of a judge's authority in deciding a civil case are framed by the principle of *ultra petitum partium*, and to identify the extent to which this principle is consistently applied in judicial practice in Indonesia. This study also seeks to evaluate the possibility of exceptions to this principle, especially in cases concerning the public interest, public order, or broader substantive values of justice.

From an academic and practical perspective, this research is important because it provides a more complete understanding of the balance between the authority of judges and the protection of the rights of the parties to the case. If judges are free to decide without considering the limits of the *petitum*, then the potential for legal uncertainty and abuse of authority will increase. Conversely, if judges are too rigid in following the limits of the *petitum* without considering the social and moral impacts of the decision, then the essence of justice could be neglected.

The method used in this study is normative juridical, with an approach to legislation, legal doctrine, and case studies of several court decisions directly related to the application of the *ultra petitum partium* principle. This study also uses a qualitative approach to explore the views of legal practitioners, such as judges and advocates, in understanding and applying the principle in everyday practice.

The initial findings of this study indicate that although in theory the principle of *ultra petitum partium* is widely known and is part of the civil procedural law curriculum in Indonesia, in practice the application of this principle is not always uniform. Several decisions show that judges remain within the corridor of *petitum*, while other decisions show the tendency of judges to go beyond the demands submitted, for various reasons such as the interests of children, consumer protection, or the integrity of customary law communities.

In this context, this research is expected to provide scientific and practical contributions, both for the academic world, judicial institutions, and policy makers. With a deeper understanding of the principle of *ultra petitum partium*, it is hoped that judges can take a more appropriate and proportional position in deciding cases, not merely following the formal limits of the lawsuit, but also considering the values of substantive justice and the social context of the case. Ultimately, this study seeks to emphasize that in a healthy and just civil law system, legal principles such as *ultra petitum partium* must be understood not only as procedural limitations, but also as part of an effort to maintain a balance between judicial power and the subjective rights of justice seekers.

LITERATURE REVIEW

In the study of civil procedural law, the principle of *ultra petitum partium* is a fundamental principle that determines the limits of a judge's authority in making a decision. This principle states that a judge is not permitted to decide beyond what is demanded by the disputing parties. This principle was born from the spirit of maintaining the neutrality and impartiality of the

judicial institution so as not to be overly proactive which could actually harm one of the parties (Rahardjo, 2010).

Historically, the principle of *ultra petitum partium* developed from the Continental European legal system which prioritizes a system of lawsuits and evidence based on the will of the parties, not the judge's initiative. In this system, the judge functions as an assessor and decider of concrete requests, not as an active seeker of material truth as in the Anglo Saxon legal system (Sudikno, 2007).

Several researchers emphasize that this principle has an important role in ensuring legal certainty and protecting the subjective rights of the parties to the case. For example, Marzuki (2012) stated that if the judge is allowed to decide beyond the *petitum*, then it has the potential to cause legal uncertainty, because the defendant does not have the opportunity to defend himself against things that are not demanded.

However, some legal scholars argue that in practice, there are certain situations where judges are allowed or even required to go slightly outside the boundaries of the *petitum*, especially in cases involving public order or public legal interests. For example, Pasaribu (2018) in his research assessed that in cases of inheritance or adoption disputes, judges often pay attention to broader elements of benefit and justice than simply following the *petitum* textually.

The academic debate shows that understanding the principle of *ultra petitum partium* should not be rigid, but rather needs to be contextual. Research by Astari (2021) highlights a number of district court decisions that go beyond *petitum* with arguments about protecting the interests of minors. This indicates that there is a certain flexibility in the implementation of this principle, as long as it still pays attention to the principle of justice.

In a doctrinal perspective, this principle can be associated with other principles in civil procedural law, such as *audi et alteram partem* (the right to be heard) and *iudex ne eat ultra petita partium* (the judge must not exceed the request). The relationship between these principles needs to be studied further in order to find a balanced formulation between legal certainty, justice, and benefit (Manan, 2005).

In the Indonesian justice system, judges and advocates are both referred to as law enforcers, although their functions and positions are different. If judges are tasked with maintaining objectivity and deciding cases impartially, then advocates play a role in defending the legal rights of clients within the applicable legal framework. As explained by Baihaqi, Dihati, and Lubis (2023), advocates have equal standing with judges and prosecutors, but are still responsible for upholding justice, not just blindly defending clients.

The role of advocates as part of law enforcement has an equal position with judges, prosecutors, and police. As stated by Chaniago, Nasution, and Lubis (2023), advocates are part of the Catur Wangsa Law Enforcers who have an ethical responsibility in fighting for justice, including through free legal assistance to the underprivileged (*pro bono*). This shows that efforts to maintain justice are not only in the hands of judges, but are also borne together by all elements of law enforcement.

This study is based on the understanding that previous studies have focused more on the normative dimension of this principle, but not many have discussed how to actually apply it in court practice, especially in a modern context that demands courts to be adaptive to social

dynamics. Therefore, by studying the existing literature and analyzing relevant court decisions, it is hoped that a comprehensive and balanced analytical framework can be found.

The challenge in compiling this literature review lies in the limited literature that specifically discusses the principle of *ultra petitem partium* in the Indonesian context. Therefore, the literature search strategy involves a combination of national and international sources, such as online law journals, civil procedure textbooks, and court decision repositories. In addition, information is systematically managed to compare doctrine with legal practices that occur in the courts.

METHOD

This study uses a library research approach, which is an approach that relies on the study of doctrinal legal materials. This approach is carried out to study and analyze the principle of *ultra petitem partium* in the Indonesian civil procedure law system, both conceptually and in practice in its application in judges' decisions.

This type of research is normative, because it aims to examine the applicable legal principles and their practices in the judiciary. According to Peter Mahmud Marzuki (2005), normative legal research is research that examines legal documents such as laws and regulations, legal literature, and court decisions that are relevant to the issues raised. Therefore, the main sources in this study include primary legal materials such as Law Number 48 of 2009 concerning Judicial Power, HIR/RBg, and court decisions that contain the application of the *ultra petitem partium* principle.

In addition, the author also uses secondary legal materials in the form of scientific works that examine the principle, such as Yahya Harahap's (2005) writing in Civil Procedure Law, which explicitly discusses the prohibition of judges from issuing verdicts exceeding the plaintiff's demands. Also used is Sudikno Mertokusumo's (2010) writing which explains the role and limitations of judges in trying civil cases, as well as articles from law journals that examine how this principle is applied and whether there are deviations in judicial practice.

Data collection was conducted by tracing the literature from law books, scientific journals, and court decisions through the Directory of Decisions of the Supreme Court of the Republic of Indonesia. The decisions studied were selected purposively, namely decisions that were proven to contain considerations or orders that went beyond the *petitum*.

DISCUSSION

The *ultra petitem partium* principle is an important principle in civil procedural law which emphasizes that judges may not decide a case beyond the demands submitted by the parties in the trial. This principle is born from the basic concept that judges are passive parties (passive in the context of demands), where judges may only examine, consider, and decide based on the *petitum* (demands) requested by the plaintiff and may not grant more than what is requested (Feldman 2004). In other words, if a plaintiff demands compensation of 100 million rupiah, the judge is not allowed to decide on compensation of 150 million rupiah because that would exceed the legitimate request of the parties to the case.

In the context of the Indonesian judicial system, this principle not only has theoretical relevance, but also has a great practical influence in maintaining the objectivity and neutrality of judges. This principle is implicitly reflected in Article 178 HIR (Herzien Inlandsch Reglement) and Article 189 RBg (Reglement Buitengewesten), which states that judges are required to try all cases submitted, but may not exceed the requests of the parties. The aim is for court decisions to remain within the legal framework and formal requests prepared by the disputing parties (Perry et al. 2003).

1. Research Objectives and Importance of this Principle Study

This study aims to examine the implementation of the *ultra petitem partium* principle in judicial practice in Indonesia, especially in contemporary civil cases. This objective is important considering that judicial practice in Indonesia often shows cases that clearly show violations of this principle. In several decisions, judges appear to give orders that exceed the demands, either because of an overly broad interpretation of the law or because of considerations of morality or substantive justice that are deemed necessary by the judge. This study is expected to strengthen the importance of legal limitations in the authority of judges.

As emphasized by Summers (2001), scientific discussion must be able to link research results to broader contributions to legal knowledge. In the context of this principle, the main contribution of research is to provide a critical understanding of the normative limitations on judicial power and their impact on the principles of justice and legal certainty.

2. Findings and Interpretation of Research Objectives

This study found that violations of the *ultra petitem partium* principle still occur at various levels of court, although normatively this principle has been recognized and used as a reference in various procedural law literature. In certain decisions, judges take the initiative to decide outside the *petitum* on the pretext of providing substantive justice. In divorce cases, for example, judges often decide on the division of joint property or child custody without any explicit request from the plaintiff or defendant. This shows that there is tension between the formal (positivistic) legal principles and the principles of substantive justice (Varadarajan, 1996).

Furthermore, this finding also shows that violations of this principle are not always caused by the judge's intention, but sometimes due to the weak quality of the lawsuit filed by the litigants. Unclear or incomplete lawsuits often encourage judges to "construct" claims that should be based on legal logic and facts that emerge in the trial. This is where the dilemma arises between strictly following this principle or taking a way out to provide justice for all parties involved.

3. Relationship with Previous Literature and Research

Literature discussing the principle of *ultra petitem partium* generally comes from the realm of classical civil procedural law which emphasizes the importance of the principles of clarity, appropriateness, and caution in the preparation of lawsuits and verdicts. For example, according to Feldman (2004), this principle was born from the continental European legal tradition which emphasized the importance of legal formalities in the judicial process. This

principle not only aims to limit the power of judges but also provides legal protection for the parties to the case.

In the Indonesian context, Perry et al.'s (2003) study shows that the existence of this principle has actually been applied for quite a long time, but has experienced challenges in practice due to the characteristics of the justice system which are not entirely consistent in their application. Summers (2001) added that there is a tendency for some judges to try to balance formal justice with material justice, although this can lead to inconsistencies in jurisprudence.

4. Explanation of Unexpected Findings

One of the unexpected things from this study is that most violations of the *ultra petitem partium* principle actually received support from the party that should have been harmed. In a number of interviews with legal practitioners, it was found that sometimes the defendant or the losing party in the case did not file an objection even though the verdict exceeded the *petitum*. This indicates an informal acceptance of violations of this principle, especially when it is considered to provide "real justice" outside of formal procedures.

This fact shows that understanding and acceptance of legal principles are not always absolute. In practice, legal actors often prioritize the final result over formal procedures. This certainly raises concerns about the degradation of legal principles that should be maintained by all parties, especially judges as the main law enforcers in the justice system (Feldman 2004).

5. Practical Implications for the Legal World

The implications of these findings are quite broad, especially in terms of the formation of judicial policies and the training of judges. Stricter guidance and supervision are needed for the implementation of this principle, so that there are no deviations that are detrimental to the principles of justice and legal certainty. In addition, there is a need to strengthen the capacity of plaintiffs and legal counsel in preparing clear and complete *petitums* so that judges do not get caught up in making decisions that exceed requests.

Another implication is the need to update the legal education curriculum to place more emphasis on judicial ethics and the limits of judicial power. The principle of *ultra petitem partium* needs to be taught as part of the integrity of the legal profession, not just as a mere formalistic principle.

6. Research Limitations

This study has limitations in terms of data coverage, where the analysis was only conducted on a number of decisions at the district court and appeal levels. There has been no in-depth analysis of the Supreme Court's decisions which may have a different perspective or have certain jurisprudence that accommodates exceptions to this principle. In addition, the approach of this study is still qualitative-descriptive so that it has not statistically measured how often violations of this principle occur in national judicial practice.

7. Further Research Directions

In the future, quantitative research using the content analysis method needs to be conducted on thousands of court decisions to identify patterns of violations of this principle more systematically. Comparative research with countries that adopt similar legal systems can also provide new perspectives on the implementation of the *ultra petitem partium* principle. In addition, a more in-depth study of the relationship between this principle and other legal principles such as *ius curia novit* and *non liquet* can enrich the understanding of the dynamics of judges' work in deciding cases.

The *ultra petitem partium* principle in civil procedural law basically prohibits judges from ruling beyond what is requested by the parties in the *petitum*. However, in Indonesian judicial practice, there are a number of exceptions that normatively and based on jurisprudential practice allow judges to issue rulings exceeding the *petitum*. The following are some special conditions that justify deviations from this principle:

1. Matters Concerning Public Interest and Protection of Vulnerable Parties

In certain cases, such as child protection cases, domestic violence (KDRT), or human rights violations, judges are permitted to rule beyond the *petitum* for the sake of protecting vulnerable parties or to ensure substantive justice.

Example: In a child custody case, even if the plaintiff only requests custody, the judge can also determine child support to ensure the protection of the child's rights.

2. There are legal provisions that require judges to decide outside the *petitum*

In some types of cases, the law expressly requires judges to include certain matters in their decisions even if they are not explicitly requested in the *petition*.

Example: In divorce cases, the judge can determine the division of joint assets (*gono-gini*) or *iddah* and *mut'ah* maintenance even if it is not requested, based on the provisions of statutory regulations.

3. Broad Interpretation of *Petitum* to Achieve Justice

In certain circumstances, the judge can interpret the *petitum* contextually and broadly, as long as it does not deviate from the main points of the lawsuit, to provide fair legal protection for the parties.

Example: A request to cancel an agreement due to a defect in will can be followed by a decision on restitution (return of performance) even though it is not explicitly requested.

4. Decision on Integrated or Inseparable Objects

If the *petitum* only mentions part of an object that cannot be separated legally, the judge can decide on the entire object for the sake of effectiveness and clarity of the decision.

Example: The plaintiff only sued for part of the inherited land, but the judge decided on the whole thing because the land was a single object that was not legally divided.

CONCLUSION

The ultra petitem partium principle is an important principle in civil procedural law that limits judges from making decisions that exceed the demands submitted by the parties. This study shows that this principle has a central role in ensuring legal certainty and procedural justice. The application of this principle encourages the parties to be careful in formulating the petitem, as well as controlling the judge's room for maneuver so as not to exceed his judicial authority. In practice, it was found that violations of this principle still occur, both due to weaknesses in the preparation of the lawsuit and because the judge's interpretation is too progressive in pursuing substantive justice.

Although this study successfully identified the dynamics of the application of the ultra petitem partium principle, there are several limitations that need to be acknowledged. The main limitation lies in the scope of the cases analyzed, which only covers a small portion of court decisions. In addition, the qualitative approach used opens up the possibility of interpretation bias and does not reflect a comprehensive picture of all courts in Indonesia. These limitations are not caused by methodological errors, but rather by the choice of research design that focuses on the depth of analysis, not quantification.

This research is expected to be a basis for further studies with a broader scope and mixed methods approach in order to comprehensively describe the practice of implementing this principle.

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