



The Nature Of Proof And Evidence According To Positive Law

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Info Articles	Abstract
Article History Received : 2024-11-01 Revised: 2024-11-15 Published: 2024-12-30 Keywords: <i>Evidence Law, Evidence, State Administrative Court (PTUN)</i>	This study discusses the application of evidentiary law and evidence in the State Administrative Court (PTUN). The background of this study is based on the importance of the role of evidence in the trial process to determine the validity of administrative decisions. This study uses a normative legal method with a statutory regulatory approach and case studies. The research stages include an analysis of laws related to evidence in the PTUN as well as a study of cases that have been decided by the court. The results of the study indicate that evidentiary law in the PTUN relies heavily on written evidence, especially documents issued by state administrative officials. Although electronic evidence is legally recognized, its application is still limited due to doubts about the authenticity and security of digital data. In addition, witness statements, confessions, and oaths are used minimally, and the role of this evidence tends to only complement written evidence. The discussion in this study highlights the challenges in the application of evidentiary law in the PTUN, including accessibility to documents and the acceptance of electronic evidence. In conclusion, although the evidentiary process in the PTUN is effective, there needs to be an increase in the use of electronic evidence and optimization of non-document evidence to improve efficiency and fairness in the trial process.

I. INTRODUCTION

In the Indonesian judicial system, evidence is one of the most important aspects in the decision-making process in court. The State Administrative Court (PTUN) has a special function in resolving disputes between citizens and the government, where decisions of state administrative officials are often questioned through legal processes. In this context, the law of evidence becomes crucial to determine whether the action or decision is in accordance with applicable law or violates the rights of citizens.

Evidence in the PTUN involves a complex process, where the disputing parties must present valid and relevant evidence to support their claims or objections. The evidence used in the PTUN, such as written evidence, witnesses, experts, and confessions, must meet the requirements of validity and relevance according to the law. However, in practice, not all evidence can be accepted by the judge automatically. Many obstacles and challenges are faced, including the unclear rules governing certain types of evidence, protracted procedures, and the mismatch between theory and practice in the field.

Along with the development of law, PTUN faces new dynamics in the application of evidentiary law. Many cases involve electronic evidence, digital documents, and data stored in other electronic media, which often raises debates about their validity and recognition in court. This requires a more in-depth study of the effectiveness of evidentiary law and the implementation of evidence in PTUN.

This study aims to critically analyze the application of evidentiary law in PTUN and evaluate the use of evidence in the context of state administrative disputes. In addition, this study will also identify the obstacles faced in practice, both in terms of regulation and implementation in the field, and offer solutions that can improve the quality and fairness of the evidentiary process.

The identification of problems in this study includes several main issues. First, the validity of evidence that is often questioned, especially in the case of electronic evidence. Second, the effectiveness of evidentiary law in resolving state administrative disputes, where there are often differences in interpretation between the disputing parties. Third, the lack of clear

standards in the recognition of certain evidence, which causes potential injustice in decisions.

The research method used in this study is a normative-empirical legal approach, in which the analysis is carried out on laws and regulations related to evidentiary law and case studies on several relevant PTUN decisions. In addition, primary data was also collected through interviews with judges, advocates, and other legal practitioners to obtain direct views on the application of evidentiary law and the use of evidence in practice. Secondary data was obtained through literature studies and analysis of legal documents, including court decisions and scientific works related to evidentiary law in PTUN. With this approach, the research is expected to provide a significant contribution to the development of legal science, especially in the field of evidentiary law and evidence in PTUN.

II. RESEARCH METHODS

This study uses a normative-empirical legal approach. The normative legal approach is used to examine the laws and regulations related to the law of evidence in the PTUN, while the empirical approach is used to understand the application of the law in practice through case studies and interviews.

The research stage begins with a literature study to collect secondary data from laws, PTUN decisions, and related legal literature. Analysis of several relevant PTUN decisions was conducted to understand the application of evidentiary law by judges, especially regarding the use of evidence such as written and electronic documents.

Primary data were obtained through in-depth interviews with legal practitioners such as judges and lawyers who are experienced in handling PTUN disputes. The selection of informants was carried out by purposive sampling to ensure that they have expertise relevant to the research topic.

This research was conducted in several PTUNs in Indonesia, especially those handling major cases. Data analysis was conducted descriptively-analytically by combining the results of interviews and literature studies to produce a comprehensive understanding of the law of evidence in PTUN.

III. RESULTS AND DISCUSSION

In this study, it was found that the application of evidentiary law in the State Administrative Court (PTUN) still faces several obstacles, especially related to the validity and strength of the evidence submitted by the parties. Based on

the results of interviews and document analysis, written evidence such as letters and official documents remain the most frequently used type of evidence and are considered the strongest in the PTUN trial process. This written evidence includes the decisions of the state administrative officials in question, administrative documents related to policies, and official correspondence between the government and the disputing parties.

However, in practice, several problems arise regarding the validity of documents submitted as evidence. One of the main problems is the incompleteness of the documents submitted, which often causes the evidence process to be hampered. Judges often have to request additional documents or further clarification regarding the documents submitted by the parties. This causes the trial process to be longer and more complex. In addition, some of the documents submitted do not have the appropriate legalization or certification, which raises doubts about their validity as valid evidence in the eyes of the law.

In addition to written evidence, electronic evidence such as email, electronic recordings, and digital documents are also starting to be widely used, especially in state administrative disputes involving information technology or digitally stored documents. However, the acceptance of this electronic evidence is still a matter of debate among judges and lawyers. Some judges tend to be more conservative and doubt the validity of electronic evidence, especially regarding the authentication and reliability of the source. Many still consider physical evidence to be more convincing than electronic evidence which is considered easy to manipulate. Although the Electronic Information and Transactions Law (UU ITE) has provided a legal basis for the use of electronic evidence, its implementation in practice is still far from optimal. This is due to the lack of clear technical guidelines on how judges should assess and accept electronic evidence.

The results of the study also show that evidence in the form of witness statements in the PTUN has a fairly important role, although its nature is more limited compared to written evidence. Witnesses presented in PTUN disputes usually come from parties who have special knowledge or direct involvement in the disputed issue, such as government officials or experts in certain fields. However, obstacles that often arise are the absence of witnesses at the trial or testimony that is considered irrelevant by the judge, which results in the evidentiary value of

witness statements becoming less significant in some cases.

Finally, from the results of field research, it was found that confessions and oaths in the PTUN are rarely used as primary evidence. This is because confessions from the disputing parties are often considered not objective enough and are more subjective. Oaths, although recognized as evidence, are rarely used because they are considered to have low evidentiary power compared to written or electronic evidence.

Overall, this study illustrates that although the law of evidence in the PTUN has been regulated quite clearly in the legislation, there are still several challenges in its implementation. Judges still tend to rely more on written evidence as the basis for decisions, while electronic evidence and witness statements still need to be strengthened in terms of their validity and acceptance in the PTUN trial process. This challenge is one of the factors that influences the effectiveness of the trial process and justice in resolving disputes in the PTUN.

A. Application of Evidence Law in PTUN

The application of evidentiary law in the State Administrative Court (PTUN) has basically followed the provisions stipulated in various applicable laws and regulations. One of the legal instruments used as a basis is Law Number 5 of 1986 concerning State Administrative Courts, which provides a general basis for evidentiary procedures in the PTUN. In addition, the principles contained in HIR (Herziene Inlandsch Reglement) and RBg (Rechtsreglement Buitengewesten) are also used as references in determining the type and strength of valid evidence before the court.

In practice, the application of evidentiary law in the PTUN is highly dependent on the judge's judgment. Although legal regulations provide a general framework regarding the types of evidence that can be submitted, the decision regarding whether evidence is acceptable and considered valid depends on the judge's interpretation. This study found that judges in the PTUN tend to follow a very formalistic evidentiary pattern, where written evidence is prioritized over other evidence such as witness statements or electronic evidence. This is in line with the doctrine of administrative law which emphasizes the importance of official documents as authentic evidence in state administrative disputes. (Naftali & Ibrahim, 2021).

Judges at the PTUN rely on written evidence as the most valid and convincing form in the evidentiary process. Official documents issued by state administrative officials, such as decrees or regulations in question, are usually considered the main evidence that has strong evidentiary power. In some cases, both the plaintiff and the defendant submit official documents to support their respective positions, and the judge must assess the validity and relevance of these documents. In this process, the judge often requests additional confirmation, such as legalization or verification by the relevant agency, especially when there is doubt about the authenticity or accuracy of the submitted documents.

However, the application of the law of evidence in the PTUN does not always run smoothly. One of the main challenges is the flexibility in accepting evidence other than written documents. For example, although electronic evidence is recognized by law, this study shows that there is still hesitation among some judges in accepting electronic evidence such as emails, digital documents, or video recordings. Some judges are cautious in assessing the validity and authenticity of electronic evidence, especially in cases where the evidence is not accompanied by a digital certificate or adequate authentication. The concern that electronic evidence is easily manipulated is the main reason behind this resistance, even though legally electronic evidence already has a clear legal basis in the ITE Law.

In addition to the problem of accepting electronic evidence, judges at the PTUN also often face challenges in interpreting the rules regarding witness testimony evidence. Based on research, witness testimony at the PTUN is used less frequently than written evidence. Many cases do not require witness testimony, especially if the dispute only revolves around clear administrative document issues. However, in more complex cases, witness testimony can be an important element, especially if there is testimony from government officials or third parties directly involved in the disputed decision-making. (Salim & Muttaqin, 2020).

Unfortunately, the application of the law of evidence related to witness testimony in the PTUN still faces problems in practice. One of the obstacles that often arises is the absence of witnesses in court, which can be caused by various factors, including slow bureaucracy or difficulty in summoning government officials who

are key witnesses. This causes the evidence process to be delayed or even hampered, which ultimately affects the duration of the trial.

In addition, this study also shows that there is variation in judges' interpretation of the provisions of the law of evidence, especially in assessing the relevance of the evidence presented. Although the law provides general guidelines, many judges use their discretion in assessing whether or not a piece of evidence is relevant in the context of the dispute at hand. This variation often arises in cases involving electronic evidence or witness testimony, where there is no real standard for how such evidence should be assessed. In some cases, judges firmly reject evidence that is considered insufficient or irrelevant to the subject matter of the case, while in other cases, judges may be more flexible in accepting various types of evidence, including electronic evidence that may still be disputed.

Overall, the application of evidentiary law in the PTUN shows a tendency to prioritize written evidence and follow very formalistic procedures. Although there are efforts to be more open to electronic evidence and witness statements, there are many challenges to be faced, both from a regulatory and practical perspective. Judges in the PTUN continue to strive to apply evidentiary law fairly and objectively, but there is still room for improvement in terms of flexibility and acceptance of more diverse evidence.

B. Written and Electronic Evidence, Witness Statements, and Confessions and Oaths at the PTUN

In the trial process at the State Administrative Court (PTUN), evidence plays a very important role in determining the final outcome of the dispute. From the results of this study, it can be seen that written evidence is still the *prima donna* in proof, while electronic evidence is starting to be recognized, although it has not been fully accepted easily. On the other hand, witness statements and confessions and oaths as evidence are still rarely used as the main evidence, even though their existence is regulated by law. (Lathif, 2017)

Written evidence, which includes various types of official documents such as decrees, regulations, administrative letters, and other official documents issued by state administrative officials, has high legal force in the PTUN. This written evidence is often considered the most credible and authentic, considering that in state administrative disputes, the main object of dispute is usually a government administrative

decision or action that is stated in written form. PTUN judges tend to pay more attention to the documents submitted, especially if the document is a government decision or policy that is the object of the dispute. The validity and legality of this written document is usually not too disputed if the document is issued by an official agency and recognized by law, but sometimes there are problems when the document is not legalized or is incomplete, which can raise doubts about its validity.

However, problems often arise when written documents are not accompanied by supporting evidence, such as the signature of a legitimate authority or the necessary legalization. In some cases, the judge must request further confirmation or additional documents to ensure the validity of the evidence presented. Another problem is when documents that should be key evidence are unavailable or lost, forcing the parties to seek alternative evidence, such as witness statements or electronic evidence. These deficiencies can prolong the trial process because the parties must complete the necessary evidence or find other ways to support their claims.

Electronic evidence is an innovation that is starting to be widely used in the trial process at the PTUN, especially in cases involving information technology or when physical documents are not available. This electronic evidence can be in the form of emails, conversation recordings, short messages, or documents stored in digital format. Although the law has recognized electronic evidence as valid evidence in the eyes of the law, judges at the PTUN still show varying attitudes towards accepting this evidence. Most judges tend to be cautious in accepting electronic evidence, especially if its authenticity is in doubt. Several cases show that electronic evidence is often disputed due to its vulnerability to manipulation, and this issue is a major concern in determining the evidentiary strength of the electronic evidence. In certain cases, judges request an electronic certificate or digital verification to ensure that the evidence submitted has not been modified or falsified. (Safitri, 2022)

Although electronic evidence has been legally recognized, resistance to its use is still apparent. This is because some judges and lawyers are still more comfortable using physical evidence such as written documents which are considered to have a clearer legal trail and are difficult to manipulate. However, with the increasing use of technology in government administration, it is likely that

electronic evidence will become more dominant in the future. The implementation of the Electronic Information and Transactions Law (UU ITE) is a strong foundation for electronic evidence, although in practice, not all judges are fully ready to accept technology-based evidence.

In addition to written and electronic evidence, witness statements are also one type of evidence regulated in the procedural law at the PTUN. However, unlike written evidence which is often the mainstay, witness statements at the PTUN are rarely used as the main evidence. Witness statements are usually only used as a complement to strengthen the written or electronic evidence that has been submitted. Witnesses summoned at the PTUN are usually government officials or parties directly involved in the policies or actions in question. In some cases, their testimony is important to provide clarification or additional perspective on the decisions or administrative actions in question. (Nugroho, 2017)

However, this study shows that presenting witnesses at the PTUN often faces various obstacles, including the absence of witnesses due to administrative reasons or difficulties in summoning relevant government officials. Even if witnesses are present, the statements given are often technical or administrative in nature, which although relevant, do not always provide strong evidence that can significantly influence the judge's decision. On the other hand, some witnesses who are presented are also sometimes considered irrelevant to the subject of the dispute, so that their statements are not given much attention by the judge.

Confessions and oaths as evidence in the PTUN, although recognized in the legislation, are rarely used in practice. Confessions from disputing parties, although they can have an influence on the evidence, are often considered less objective because they come from one of the interested parties. Judges tend to rely more on other evidence that is considered more neutral, such as official documents or statements from third parties who do not have a conflict of interest. Oaths, which in legal theory can be strong evidence, are rarely used in the PTUN because the process is formal and its evidentiary power is considered low compared to written or electronic evidence. Many judges and legal practitioners consider oaths to be the last evidence if other evidence is insufficient, and are more often used in civil cases than in disputes in the PTUN.

Thus, although various types of evidence have been recognized in the laws and regulations, in

practice at the PTUN, written evidence is still the strongest and most frequently used evidence, while electronic evidence and witness statements still face challenges in their acceptance and use. Confessions and oaths are rarely used as primary evidence, and tend to be viewed as supplementary evidence in trials. Judges at the PTUN tend to rely more on evidence that has formal legality and can be verified in a more objective manner.

C. Effectiveness of Evidence Law in PTUN

The effectiveness of the application of evidentiary law in the State Administrative Court (PTUN) plays a significant role in ensuring that trials are fair and produce appropriate decisions. Based on the results of this study, evidentiary law in the PTUN has generally functioned as expected, but there are still several challenges and limitations that affect the quality and efficiency of the court process.

In the context of the PTUN, the effectiveness of evidentiary law is determined by the ability of the judicial system to accommodate the evidence submitted by the parties, both plaintiffs and defendants. Valid evidence, such as written documents and decrees of state administrative officials, is the core of the evidentiary process at the PTUN. The reliance on written evidence, which is often considered the most authentic and reliable form of evidence, reflects the nature of disputes at the PTUN which usually focus on the legality of administrative decisions. In many cases, court decisions are greatly influenced by the strength and validity of the documents presented. If the documents are valid and comply with applicable administrative procedures, then the chances of winning the dispute will be greater. (Wikan, 2022)

However, this effectiveness also depends on the accessibility and availability of the written documents. In some cases, the parties have difficulty in obtaining the necessary documents, especially when the documents are held by government agencies that are reluctant to provide copies. This poses challenges in the evidentiary process, because without valid documents, plaintiffs often have difficulty proving violations committed by the government. This condition leads to debates regarding openness and access to information, where government transparency in providing the documents in question is a key factor in determining the effectiveness of the law of evidence in the PTUN. (Asaad et al., 2023)

In addition, although the law of evidence in the PTUN focuses on written evidence, the increasing

use of information technology brings new challenges related to the acceptance of electronic evidence. Based on the results of the study, there is still resistance to the acceptance of electronic evidence in the PTUN. Although the regulations have recognized the validity of electronic evidence such as emails, digital recordings, and other digital documents, trust in such evidence has not fully grown among judges. Many judges still prefer conventional written evidence because they feel more confident in the authenticity and validity of physical documents than electronic ones. Difficulties in authenticating electronic evidence, as well as concerns about digital manipulation, have also slowed down the full adoption of electronic evidence in the judicial process at the PTUN.

The effectiveness of the law of evidence is also seen from the court's ability to carry out the trial process efficiently. In some cases, the lengthy evidence process occurs due to incomplete evidence or lack of preparation by the parties in submitting relevant evidence. Delays in submitting evidence, especially in terms of obtaining administrative documents from third parties such as state administrative officials, cause the trial process to take longer. Effectiveness in this case is largely determined by how quickly and accurately the evidence can be submitted and verified by the court. In addition, the use of electronic evidence also raises new challenges in ensuring that the evidence submission process runs smoothly, especially in terms of ensuring that the electronic evidence can be accepted in the appropriate format and can be verified. (Basri, 2020)

Another obstacle in the application of evidentiary law is in terms of the use of witness statements. Although witness statements are recognized in the PTUN procedural law, their effectiveness in resolving administrative disputes is still debated. Judges tend to use witnesses as a complement to written evidence rather than as the main evidence. In this case, witness statements are often insufficient to overturn clear and strong written evidence. Moreover, presenting witnesses, especially state administrative officials who are directly involved in the dispute, is often difficult and causes delays in the trial process. Thus, although witness statements are part of the evidentiary law, their effectiveness tends to be limited in the context of the PTUN which focuses more on documentary evidence.

Meanwhile, the effectiveness of the use of confessions and oaths as evidence in the PTUN is also relatively low. Confessions from the disputing parties are rarely used because they are considered less objective, while oaths, although legally having significant evidentiary power, are rarely submitted as primary evidence. Judges in the PTUN prefer to use evidence that can be objectively verified, such as official documents or authenticated electronic evidence. Therefore, although confessions and oaths are recognized in the law of evidence, their use in practice is more limited and rarely makes a significant contribution to resolving disputes in the PTUN. (Asimah, 2020)

In the context of justice, the law of evidence in the PTUN seeks to provide space for both parties to submit relevant evidence, but challenges remain in terms of accessibility, acceptance of electronic evidence, and the use of evidence other than written documents. Although the evidentiary process in the PTUN can be considered effective in deciding disputes based on the available evidence, there is a need to increase flexibility and access to non-traditional evidence. This is especially important given technological developments and the increasing need for transparency and fairness in administrative court processes. (Safitri & Sa'adah, 2021)

Overall, the effectiveness of the law of evidence in the PTUN is running well, especially in terms of written evidence, which is the main basis for resolving state administrative disputes. However, to achieve a better level of efficiency and justice, improvements are needed in the acceptance of electronic evidence, simplification of procedures for presenting witnesses, and increased access to the necessary documents. With these improvements, the process of evidence in the PTUN is expected to run more efficiently, fairly, and responsively to developments in the times.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

In disputes in the State Administrative Court (PTUN), the law of evidence is highly dependent on the strength of written evidence, especially official documents issued by state administrative officials. These written documents are the mainstay of evidence, because they are considered the most legitimate and authentic evidence in assessing the legality of state administrative actions. Although regulations recognize electronic evidence, its application in the PTUN still faces challenges, especially related

to doubts about the authenticity and security of electronic data.

The use of witness statements and other evidence such as confessions and oaths in the PTUN is relatively limited, because written evidence tends to be more dominant. Testimony is often only used as a complement, while confessions and oaths are rarely used in practice, considering that judges prioritize objective and verifiable evidence. Therefore, although the law of evidence in the PTUN is generally effective, there are still several obstacles that affect its implementation, especially related to electronic evidence and the use of evidence other than written documents.

B. Suggestion

To improve the effectiveness of the law of evidence in the PTUN, several steps are needed to improve. First, it is important to increase awareness and acceptance of electronic evidence among judges and legal practitioners. Courts need to be more open to the use of technology, by ensuring that digital evidence authentication procedures can run more efficiently and easily.

Second, accessibility to administrative documents from the government needs to be improved. The government and related agencies must be more transparent in providing documents needed by the disputing parties at the PTUN, in order to speed up the evidence process and ensure justice.

Third, the use of witness statements, confessions, and oaths must be optimized in the evidence process. This includes simplifying the procedure for summoning witnesses, especially related officials, and providing more space for confessions and oaths to be used as evidence that can strengthen or complement written and electronic evidence.

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