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The Concept of Legal Reasoning of Judges In Islamic Law Regarding Legal Decisions For Drug Addicts In The Mandailing Natal District Court

Bahtiar Yusuf Harahap¹, Sukiati², Dhiauddin Tanjung³

¹ Universitas Islam Negeri Sumatera Utara, Medan, Indonesia, bahtiar.yusufhrp@gmail.com

² Universitas Islam Negeri Sumatera Utara, Medan, Indonesia, sukiatisugiono@uinsu.ac.id

³ Universitas Islam Negeri Sumatera Utara, Medan, Indonesia, dhiauddintanjung@uinsu.ac.id

Corresponding Author: bahtiar.yusufhrp@gmail.com

Abstract: This research examines the concept of legal reasoning of judges in Islamic law related to legal decisions for drug addicts in the Mandailing Natal District Court. Legal reasoning in Islamic law involves interpreting the Quran, Hadith, Ijma, and Qiyas to reach a just decision. This research uses a qualitative approach with a case study method, analysis of decision documents, interviews with judges, and trial observation. The results showed that the judge combined the principles of Islamic law with Indonesian positive law. In the case of drug addicts, judges consider: Justice and Public Welfare: A verdict that not only punishes but also provides opportunities for rehabilitation. Interpretation of Islamic Law Sources: Referring to the Quran, Hadith, and scholarly opinions on punishment for drug addicts. Social Context and Positive Law: Ensuring the verdict is in line with national laws and local conditions. Rehabilitation and Protection of Human Rights: Support for the rehabilitation and recovery of addicts. In conclusion, the concept of judges' legal reasoning in Islamic law plays an important role in determining decisions that are fair, humane, and support the recovery and welfare of society. Practical implications include improving judges' understanding of Islamic legal reasoning and the integration of rehabilitative approaches in court decisions.

Keyword: Legal Reasoning, Judges, Islamic Law, Legal Decisions, Drug Addicts.

INTRODUCTION

After entering the reform era, the public has become more open to seeing legal issues decided by the courts, the public can see these court decisions through the internet network in each court under the auspices of the Supreme Court. (Indonesia n.d.) The main objective is none other than to study the theory and logic of law among students or academics and even ordinary people who are interested in law. In legal theory, judges in deciding a case still adhere to a positivistic understanding¹ In legal philosophy, the existence of judges as case-

¹ Salah satu tudingan yang dialamatkan kepada profesi hakim adalah seringnya terdapat putusan-putusan yang tidak sesuai dengan rasa keadilan masyarakat (substantive justice) yang disebabkan masih digunakannya paradigma positivisme dalam menangani suatu perkara. Masih banyak ditemukan hakim yang dalam

deciders must uphold justice, but the justice in question is justice in accordance with legal positivism.

In legal philosophy, the existence of judges as case deciders must uphold justice, but the justice in question is justice in accordance with legal positivism. Justice is indeed the goal of law, but judges should also realize that the relativity of justice often obscures another important element, namely legal certainty. Unlike the utilitarian school, which measures justice in a legal decision by how much impact the decision has on human welfare. Faisar Ananda Arfa and Zulkifli Nas, *Filsafat Hukum Pendekatan Komprehensif*, ed. Heri Firmansyah, 1st ed. (Jakarta: Kencana, 2021)h. 92-93.²

For example, some court decisions are in the spotlight because the community, both academics and legal activists, see an imbalance in the results of a case decision with other similar cases, either in the form of differences in the results of the decision or how the judge decides a case. Because there are several judges' decisions that seem to favor a party or are only limited to following existing regulations and then deciding as a result of previous decisions (Jurispruden).Edy Lisdiyono, "MEMBANGUN ARGUMENTASI HUKUM SECARA KRITIS DALAM MEKANISME LITIGASI DI INDONESIA (Studi Empirik Putusan Pengadilan)," in *Sriwijaya Law Conference*, vol. 2, 2020, h. 14-15³

Justice, expediency and even legal certainty is an understanding that is often echoed in the spaces of legal activists, but they also do not necessarily understand what the essence or meaning of some of these terms is. For example, in practice in court rooms there must be several decisions that only achieve the goal of justice, but not for certainty or expediency and vice versa. This gap must be dealt with by judges by dealing with it according to the legal findings they understand and witness. This gap is what ultimately becomes an anomaly of law enforcement, this anomaly has the potential to undermine the honor of the law in the eyes of society.Arif Hidayat, "Penemuan Hukum Melalui Penafsiran Hakim Dalam Putusan Pengadilan," *Pandecta Research Law Journal* 8, no. 2 (2013), h.154⁴

Judges are the personification of judicial institutions that carry heavy duties and trust in every decision making, judges are required to have high intellectual, moral and integrity abilities and have epic communication skills in resolving every legal case both in court and outside the court. In order to realize optimal justice and maintain their authority in resolving every legal case. Judges should also have pure sensitivity and be able to hone the sensitivity of conscience and professionalism in carrying out their duties. In this case, a process is needed on how a judge decides the law by using reasoning called Legal Reasoning. In simple terms, a judge's decision must contain clear and detailed reasons as specified in Law No. 48 of 2009 concerning Judicial Power.⁵

pengambilan keputusannya hanya menganut pola pikir positivistik yang sangat didominasi oleh perspektif legalisme, formalisme, dan dogmatisme, karena semua putusan harus diambil bertumpu pada bunyi peraturan semata. Positivisme hukum memandang perlu memisahkan secara tegas antara hukum dan moral (antara *das sein* dan *das sollen*). Dalam kaca mata positivis, tiada hukum lain kecuali perintah penguasa (law is a command of the lawgivers). Bahkan, bagian dari aliran hukum positif yakni Legisme berpendapat lebih tegas bahwa hukum itu identik dengan undang-undang. Tidak ada hukum di luar undang-undang. Satusatunya sumber hukum adalah undang-undang. Dalam Ahmad Kodir Jailani Tanjung and Hari Purwadi, "Paradigma Hakim Dalam Memutuskan Perkara Pidana Di Indonesia," *Jurnal Hukum Dan Pembangunan Ekonomi* 7, no. 1 (2019): h. 41-45

² Faisar Ananda Arfa and Zulkifli Nas, *Filsafat Hukum Pendekatan Komprehensif*, ed. Heri Firmansyah, 1st ed. (Jakarta: Kencana, 2021)h. 92-93.

³ Edy Lisdiyono, "MEMBANGUN ARGUMENTASI HUKUM SECARA KRITIS DALAM MEKANISME LITIGASI DI INDONESIA (Studi Empirik Putusan Pengadilan)," in *Sriwijaya Law Conference*, vol. 2, 2020, h. 14-15

⁴ Arif Hidayat, "Penemuan Hukum Melalui Penafsiran Hakim Dalam Putusan Pengadilan," *Pandecta Research Law Journal* 8, no. 2 (2013), h.154

⁵ Aditya Yuli Sulistyawan and Aldio Fahrezi Permana Atmaja, "ARTI PENTING LEGAL REASONING BAGI HAKIM DALAM PENGAMBILAN PUTUSAN DI PENGADILAN UNTUK MENGHINDARI

The research that the author will discuss relates to the use of Legal Reasoning judges in Islamic law as a method of analyzing legal decisions on drug abuse cases in the Mandailing Natal District Court.

The things that become the reason for the author in discussing this research are because of the disparity in decisions made by district court judges in deciding a judicial case about drug abuse, where the judge's decision has a certain angle of difference in determining the sentence that will be applied by one drug abuser and another.

A simple example is, a drug addict or user who has a lot of money to buy a lot of drugs intentionally, is the same punishment as a drug user who only buys drugs for trial or in small quantities? Or another example, is a judge's verdict the same or different for an experienced drug seller and a drug seller who has just been caught and has no experience? There are many more similar but not the same cases regarding drug abuse.

In addition, the author will conduct a case study in the District Court of Mandailing Natal Regency (Madina), which according to the author's previous observations, many teenagers or people in Madina Regency only dabble in using drugs or selling drugs, although in reality there are also those who are already skilled in abusing these drugs. There is also a land in Mandailing Natal district that was caught by police officers having 18 locations of marijuana fields with an area of 150 hectares. (Holik 2023)⁶

Legal reasoning of judges in drug abuse cases in this research is something that will be the main topic in making judges' decisions, where the author will study it through the lens of Islamic law. Thus the author draws a problem by examining a judge's decision for drug addicts using Legal Reasoning analysis, this study will be proven by providing various inputs related to legal reasoning in Islamic law studies.

METHOD

A research requires a method called a research method. The research method is the scenario in which the research is carried out. The type of research in this writing is to use qualitative research methods that are more commonly used by humanities, social, and religious academics. Wahyudin Darmalaksana, "Metode Penelitian Kualitatif Studi Pustaka Dan Studi Lapangan," Pre-Print Digital Library UIN Sunan Gunung Djati Bandung, 2020, h.3⁷ With regard to this, other methods are also known, such as social research methods. the focus of qualitative type research methods, this can be carried out through two channels, namely literature study and field study.⁸ There are times when two channels are used at once, namely a combination of library studies and field studies. where this research is exploratory in nature and understands the meaning of each problem that arises by first observing things that are specific to the real field of drug abuse in order to have a more flexible research structure.⁹

The type of this research in legal research methods is using Normative-Empirical research (Applied Law Research). Normative-Empirical Research is a study that examines legal products in the form of implementation of a legislation and other legal products regarding legal decisions for drug addicts that occur in society in order to achieve predetermined legal objectives.

ONVOLDOENDE GEMOTIVEERD," *Jurnal Ius Constituendum* 6, no. 2 (2021): 482–96, h. 484

⁶ (Holik 2023)

⁷ Wahyudin Darmalaksana, "Metode Penelitian Kualitatif Studi Pustaka Dan Studi Lapangan," Pre-Print Digital Library UIN Sunan Gunung Djati Bandung, 2020, h.3

⁸ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)* (Jakarta: Rajawali Pers, 2001), h. 13.

⁹ Adhi Kusumastuti and Ahmad Mustamil Khoiron, *Metodel Penelitian Kualitatif*, ed. Fitratun Annisya and Sukarno, 1st ed. (Semarang: Lembaga Pendidikan Sukarno Pressindo, 2019), h. 2-3.

In qualitative research, theory is interpreted as a paradigm, a researcher in his research must apply a certain paradigm so that the research will be more directed. The approach that the author will use in this research is the Case Approach.

The Case Approach focuses on the ratio decidendi or legal reasons used by the judge to arrive at his decision. By identifying court decisions with cases related to the problems in this writing that have qualified jurisprudence to be used in the concrete case being handled. Peter Mahmud Marzuki, *Penelitian Hukum, Revisi* (Jakarta: Kencana Prenada Media Grup, 2022), h. 158.¹⁰ The use of Jurisprudence referred to in this research is a court decision that is useful for judges deciding a case as a comparison in considering decisions.¹¹

The benefit of this case research approach is to obtain the legal reasoning used by the judge for his decision. Material facts are also needed to find the right rule of law to apply to the case in question.

The data sources in this research are divided into two types of data, namely:

1. Primary Data, namely all data obtained and directly related to the object of research, such as considerations applied by judges regarding decisions to drug addicts, coupled with books and other literature that discusses legal reasoning in Islamic law.
2. Secondary data, namely data sources that support and explain the content of primary data. This data can be in the form of interviews that the author will get from drug addicts whose cases have been decided by judges as well as the views of the community regarding the punishment that should be applied to drug addicts.

Research Informants

An informant in a study is a person or group of people who are used to provide information about the events and conditions of the research background. Informants must really know about the problems that will be examined in this study. As for this research, the author has 2 informants who are divided into:

1. Primary/Key Informants, namely an informant who understands the legal issues and laws and regulations related to drugs and their punishment, in this research is the Chief Justice of the Court and Court Judges who decide drug cases at the Mandailing Natal District Court.
2. Secondary / non-key informants, namely a person or group of people who know about people who abuse drugs, be it users, dealers, owners and addicts.

Data Collection Instruments

In normative legal research, three types of data collection methods are known, namely literature study, documents, observation and interviews.¹²

First, literature study or literature review is an effort to systematically identify and analyze documents that contain information related to the theme, object and problem of the research to be carried out.¹³ This literature study utilizes information sources located in libraries intended to explore matters related to the research theme, namely referring to books, articles and literature related to the legal reasoning of judges relating to punishment for drug addicts.

Second, document study, which is the study of written information about the law that is not published in general, but may be known by certain parties.

¹⁰ Peter Mahmud Marzuki, *Penelitian Hukum, Revisi* (Jakarta: Kencana Prenada Media Grup, 2022), h. 158.

¹¹ Moh Askin and Masidin, *Penelitian Hukum Normatif Analisis Putusan Hakim*, ed. Aep Purnama, 1st ed. (Jakarta: Kencana Prenada Media Grup, 2023), h. 36.

¹² Moh Askin and Masidin, *Penelitian Hukum Normatif Analisis Putusan Hakim*, ed. Aep Purnama, 1st ed. (Jakarta: Kencana Prenada Media Grup, 2023), h. 103-105.

¹³ Fahmi Muhammad Ahmadi and Jaenal Aripin, *Metode Penelitian Hukum* (Ciputat: Lembaga Penelitian UIN Syarif Hidayatullah Jakarta, 2010), h. 16-17.

Third, observation, which is a material collection technique through observation based on a scientific research framework and carried out systematically, methodologically and consistently and can be tested.

Fourth, interviews, namely primary data collection activities sourced directly from research respondents in the field. Interview is a way to obtain oral information directly.

Data Analysis

Data analysis in this research is carried out continuously and repeatedly until an answer to the question of the problem can be concluded based on the data collected. Qualitative data analysis is an effort made with data as the main source. Data analysis actually starts when researchers collect data by selecting data that is important or not in order to determine the meaningfulness of the data obtained.¹⁴

RESULTS AND DISCUSSION

Understanding Drugs

Drugs stands for narcotics, psychotropic substances, and other addictive substances. In general, drugs refer to substances or drugs that can alter a person's psychological or physical state. Drugs are often used illegally and have a high potential to cause dependence.

The Ministry of Health of the Republic of Indonesia, through the Directorate of Community Mental Health, identifies drugs as an acronym for Narcotics, Psychotropic Substances, and Addictive Substances. The terms drugs, narcotics, and illegal drugs refer to substances that can cause dependence because they contain addictive substances that can alter brain activity as well as psychoactive substances that are harmful to the body. Drugs also have great medical benefits, but their misuse can cause various diseases for users or people around them.

According to Law of the Republic of Indonesia No. 22 of 1997, drugs are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of response, reduce fear, pressure, and cause dependence. Indonesia uses the term "narcotics" officially in its institutions. The word "Narcotics" comes from the Greek "narkoum" which means to make paralyzed or numb. Jokosuyono and Poeroe call narcotics in other Greek as "narkotikaus," which means a state without sensation. According to Allister Vale, the term drug comes from the German "droge vate" (hollow or dry skin), which is often used inappropriately to indicate its content.¹⁵

Drug has many meanings. In pharmacy and medicine, "drug" also means medicine. In general, drugs and medicine refer to chemicals both natural and synthetic that, when introduced into the body through injection, inhalation, or ingestion, can alter the physical and mental functioning of the body. Drugs can also damage physical, mental, and behavioral health and cause dependence. Drugs are psychoactive chemical substances prohibited from use except for medical purposes, which can cause physical and psychological dependence.

This means that individuals who use drugs illegally, either knowingly or unknowingly, have abused them despite knowing that such actions are against the law. Therefore, drugs are materials or substances that, when they enter the human body through inhalation, ingestion, injection, or drinking, cause various changes in the body and eventually lead to dependence that is very difficult to overcome.

Here is a more detailed explanation of each component in drugs:

¹⁴ Zulfah, Mumtahanah, and Husnussaadah, Analisis Data Kualitatif: Teori Dan Terapan (Makassar: Sekolah Tinggi Theologia Jaffray, 2022), h. 65.

¹⁵ Wahyuni Ismail, "Teori Biologi Tentang Perilaku Penyalahgunaan Narkoba," Jurnal Biotek 5, no. 1 (2017), h. 129-131

1. Narcotics

According to Law Number 35 of 2009 concerning Narcotics in Indonesia, narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce pain, and can cause dependence.¹⁶ Contoh: Opium, Tanaman Koka, morfin, heroin, dan ganja. Beberapa narkotika have a medical function, for example as a painkiller (analgesic) in certain conditions under the strict supervision of a doctor.

2. Psychotropic

Psychotropic is a substance or drug, both natural and synthetic, not narcotics, which has psychoactive properties through selective influence on the central nervous system that causes typical changes in mental activity and behavior, psychotropic is a kind of drug that can cause dependence and reduce brain activity and stimulate the nervous system that results in changes in behavior in the form of hallucinations, illusions and disturbances in thinking, as for some of the names of substances included in psychotropic are Amphetamines, MDMA (ecstasy), LSD, Diazepam, Tetrazepam etc. Zubaidah, h. 103.¹⁷ Some psychotropics are used in the medical world to treat mental and emotional disorders, such as anxiety, depression, and sleep disorders, but their use is closely monitored by medical personnel.

3. Other Addictive Substances

Other addictive substances are substances that are not narcotics or psychotropic substances but can cause dependence, both physical and psychological. These substances can be of natural or synthetic origin. Examples Alcohol, caffeine, nicotine, adhesive glue (Inhalan: inhale). These substances can cause dependence and affect the mental function and behavior of users.¹⁸

Drug Abuse in Islamic Law

The Quran does not contain the word Narkoba, nor does the hadith, because the term Narkoba only appeared around 1998 with many terms and indications of items included in drugs. Drugs is an acronym for Narcotics and other Addictive Substances that are prohibited for use and consumption because they can eliminate the ability of reason and mind. All of these addictive substances that are forbidden are abbreviated as Drugs.

In ushul fiqh, if something has not yet found its legal status, it can be resolved by the Qiyas method, the author uses the word Khamar as a description of Drugs in Islam. Khamar in Islamic law is defined as covering or covering. Meanwhile, in terminology, khamar is explained to mean drinks that can close the mind or intoxicate whether the person who drinks it is drunk or not. So drinks or intoxicating goods are called Khamar because they can close the human mind.

Ibn Thaimiyah defines khamar as something that has been mentioned in the Quran which when consumed can make drunk, whether made from dates or from other substances and there is no limitation that what is intoxicating is only made from grapes.¹⁹

Judge's Legal Reasoning

Istilah yang dimaksudkan ialah argumentasi hukum, di mana Legal argumentation is comprehensive in nature, namely considering all aspects of legal norms, both positive law in the legislative system, and social or moral values that live, grow and develop in accordance

¹⁶ Siti Zubaidah, *Penyembuhan Korban Narkoba Melalui Terapi Dan Rehabilitasi Terpadu*, ed. Nurika Khalila, 1st ed. (Medan: IAIN PRESS, 2011), h. 85.

¹⁷ Zubaidah, h. 103.

¹⁸ Badan Narkotika Nasional RI, *Narkoba Dan Permasalahannya*, 2nd ed. (Jakarta: Deputi Bidang Pencegahan BNN RI, 2017)h. 7.

¹⁹ Ahmad Ibnu Thaimiyah, *Majmu' Al-Fatawa Ibnu Thaimiyah* (Beirut: Dar Al-Arabiyyah, 1987), h. 34.

with a sense of justice in society. Another word that is almost similar to legal reasoning is legal consideration, namely judges consider legal values according to the theory of certainty, usefulness and justice in law. Legal argumentation is another name for legal reasoning conducted by judges.²⁰

Hanson in the book *Legal Method, Skills, and Reasoning*, states that the study of law critically from the point of view of logic, legal reasoning, and legal argumentation is needed because understanding law from this perspective seeks to find, reveal, test the accuracy, and justify the assumptions or meanings hidden in existing legal regulations or provisions based on the ability of human reason. It must be recognized that the concept, understanding and study of logic, reasoning and legal argumentation, although often discussed in law, are rarely adequately explained, elaborated and examined. It cannot be denied that logic and legal reasoning are often rejected. Some argue that law deals with data, facts or practical experience and not abstract, rational or logical thinking. Legal reasoning is then considered unnecessary to teach to those studying law because it is not "down to earth". Law should be learned through concrete experience only.²¹

Thus, whatever the reason, even a judge must also express what reasons and rational considerations about the choice of arguments, opinions related to certain legal decisions, legal decisions and logic do not have to be a means of justifying legal truth, because the process of argumentation is nothing but a process of justification. In this context, literary studies and research on logic, reasoning and legal argumentation are needed to explain which logical criteria can be used to determine which rules, arguments, opinions or legal decisions can be accepted or rejected.²²

In Indonesia, the principle of judges' independence is fully guaranteed in Law No. 48/2009 on Judicial Power, hereinafter referred to as the Judicial Power Law, which stipulates that judicial power is an independent state power to administer justice in order to uphold law and justice. This principle of freedom of judges also includes the freedom for judges to formulate legal considerations, known as legal reasoning, which is carried out by a judge in deciding a case. According to the Judicial Power Act, the judge's considerations are the thoughts or opinions of the judge in reaching a verdict by looking at matters that can alleviate or incriminate the perpetrator. Every judge is obliged to submit written considerations or opinions on the case being examined and become an integral part of the decision. Ahmad Rifai, *Penemuan Hukum Oleh Hakim Dalam Perspektif Hukum Progresif* (Jakarta: Sinar Grafika, 2011), h.104.²³

Legal considerations in court decisions are a form of accountability of judges for what they decide in the ruling, so that everything that is decided in the ruling must be properly considered in the legal considerations contained in the body of the decision. There are six main steps in the legal discovery of judges in deciding and considering sentences which are then contained in the final decision, namely as follows:²⁴

1. Identify the facts to produce a case structure that the judge truly believes to be the real case.

²⁰ Almihan, "Argumentasi Hukum Putusan Hakim Mahkamah Agung Instrumen Mewujudkan Putusan Yang Berkeadilan" (Pascasarjana Universitas Islam Negeri Sumatera Utara, 2021), h. 27.

²¹ Urbanus Ura Weruin, "Logika, Penalaran, Dan Argumentasi Hukum," *Jurnal Konstitusi* 14, no. 2 (2017), h. 375

²² Urbanus Ura Weruin, "Logika, Penalaran, Dan Argumentasi Hukum," *Jurnal Konstitusi* 14, no. 2 (2017): h. 375-376

²³ Ahmad Rifai, *Penemuan Hukum Oleh Hakim Dalam Perspektif Hukum Progresif* (Jakarta: Sinar Grafika, 2011), h.104.

²⁴ Habibul Umam Taqiuddin, "Penalaran Hukum (Legal Reasoning) Dalam Putusan Hakim," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 1, no. 2 (2019), h.193

2. Connecting the case structure with relevant legal sources, so that he can determine legal actions in juridical terms (legal terms).
3. Selecting relevant legal sources and legal rules to then find out the policies contained in the legal rules (the policies underlying those rules), so as to produce a coherent rule structure.
4. Connecting the rule structure with the case structure.
5. Look for possible alternative solutions.
6. Determining the choice of one of the alternatives to be formulated as a final decision.

Judges in deciding cases other than based on the process as mentioned above must be based on arguments or reasons. Argumentation is the giving of reasons to strengthen and reject an opinion. Everyone in expressing an opinion must use an argument which in everyday language is called "reason". Likewise, a judge in deciding a case must submit an argument, both related to the subject matter and the branch of the case.²⁵

These arguments must be formulated and arranged carefully, coherently, systematically using good and correct legal language. Then these arguments in the judge's decision are called "legal considerations" or can also be called "judge's *ijtihad*". Arguments that are the result of the judge's consideration of the decision must be clearly stated in the legal considerations, and in accordance with the legal reasoning system in making a decision.²⁶

Legal Reasoning of Judges in Decisions on Drug Addict Cases According to Islamic Law

In the examination of a case, evidence is an important element. The results of the evidence are used as a consideration in legal decisions. This evidentiary stage is crucial during the trial because its purpose is to ensure that the events or facts submitted actually occurred, so that the judge can give an appropriate and fair decision. The judge cannot make a decision without the certainty that the facts did occur and show the existence of a legal relationship between the parties involved.

Furthermore, the judge's consideration should include the following:

1. The subject matter and matters admitted or denied.
2. Juridical analysis of all aspects related to the facts proven at trial.
3. Each part of the plaintiff's claim must be considered one by one so that the judge can draw conclusions about whether or not the claim has been proven, and whether or not the claim can be granted in the final decision.

The judge's reasoning in making a decision must be based on theory and research results that are interrelated, so as to produce a maximum and balanced decision between theory and practice. This is important to achieve legal certainty, where the judge's decision is the benchmark for achieving legal certainty.

In Islamic law, *fuqaha* argue that judges in deciding cases must consider the facts obtained during the trial, as well as the defendant's confession. The scholars agree that judges can decide cases based on their knowledge in assessing the truth or guilt of a person. However, if the testimony contradicts his knowledge, the judge may not decide the case based on his own knowledge. The judge may also decide the case based on the party's confession or denial, except according to Malik who believes that two witnesses are required for the confession or denial.

The scholars also agreed that the judge can issue a ruling based on his knowledge to strengthen one of the parties in a dispute. However, they differed in their opinion if there is a dispute in the case. Some *fuqaha* are of the opinion that the judge's ruling should not be

²⁵ Marwan Mas, "Penguatan Argumentasi Fakta-Fakta Persidangan Dan Teori Hukum Dalam Putusan Hakim," *Jurnal Yudisial* 5, no. 3 (2012): h. 287-288

²⁶

rejected if it does not contradict consensus. Other fuqaha are of the opinion that it should be rejected if it is based on qiyas, especially if there are proofs from the Qur'an or As-Sunnah that are stronger than qiyas. They prefer them unless the qiyas is supported by essential rules and the meaning of the Qur'an is muhtamal (containing multiple interpretations) and the hadith used is not a mutawatir hadith.

There is a difference of opinion among the fuqaha as to whether the judge can decide a case based on his own knowledge without witnesses or confessions. Malik and the majority of his followers, as well as Ahmad and Shuraih, are of the opinion that the judge cannot decide a case except on the basis of evidence or confession. Syafe'i, Abu Hanifah, Abu Tsaur, and some other fuqaha are of the opinion that the judge can decide cases based on his knowledge. Both of these groups have the basis of the Companions and the Tabiin and base their opinions on rational arguments and logic. Those who prohibit ruling based on knowledge cite the hadith of Mu'ammarr from Az-Zuhri from Urwah from Aisha r.a.

"Verily, the Prophet sent Abu Jahm to collect alms (zakat), then he was antagonized by a man because of a duty. Then they came to the Prophet and informed him of the incident. The Prophet then fined them. Then the Prophet said: "I will address the people and tell them that you are satisfied. They replied, "Yes". So the Prophet went up to the pulpit and addressed the people and narrated the story. The Muhajirin were about to attack them, so the Messenger of Allah came down from the pulpit and fined them. Then he went up to the pulpit again and made a speech, then asked, "Are you satisfied?" They said, "Yes." (HR. Abu Dawud and Nasai)

They state that based on this hadith, it is clear that the Prophet Muhammad did not issue decisions based solely on his own knowledge. The implication is that in legal thinking the authority of the judge is important. The fuqaha also agree that unfavorable accusations have an influence on the Shari'ah rulings. For example, the majority of fuqaha hold that a person who intentionally kills is not entitled to inherit from the victim he killed. Similarly, the fuqaha reject the testimony of a father against his son. These things are well known in the opinion of the majority of fuqaha.

On the other hand, the fuqaha who allow decisions based on the judge's knowledge rely on both sam'i (textual) evidence and logical evidence. One of the sam'i arguments is the hadith from 'Aisha regarding the story of Hindun bint Utbah bin Rabi'ah and her husband, Abu Sufyan bin Harb. Hindun complained to the Prophet about Abu Sufyan, and the Prophet said to Hindun, "Take enough property for you and your children in a proper manner." (HR. Bukhari and Nasai). The order in this hadith was given without first hearing any explanation or testimony from Abu Sufyan. Logically, if a judge can decide a case based on the testimony of a witness who is still a conjecture, then the judge is certainly more appropriate to decide the case based on his beliefs.

Abu Hanifah and his followers made an exception regarding cases that the judge could decide based on his knowledge. According to them, in cases of hudud (severe punishment), the judge may not decide based on his own knowledge. However, in other cases, this was allowed. In addition, they also limit the judge's knowledge used to decide cases. They argue that a judge may decide a case based on the knowledge acquired while adjudicating, not based on the knowledge he had before adjudicating.

Judges in making court decisions must base their decisions on theories and research results that support each other. This is important to achieve optimal and balanced results between theory and practice. This effort is part of an effort to achieve legal certainty, where the judge's decision can be a benchmark for achieving legal certainty.

The principles of judicial power are set out in the 1945 Constitution Chapter IX Article 24 and Article 25, as well as in Law No. 48 of 2009. The 1945 Constitution guarantees an independent judicial power. This is confirmed in Article 24, particularly in the elucidation of Article 24 paragraph 1 and the elucidation of Article 1 paragraph (1) of Law

No. 48 of 2009, which states that judicial power is an independent state power to administer justice in order to uphold law and justice based on Pancasila and the 1945 Constitution of the Republic of Indonesia, for the realization of the rule of law of the Republic of Indonesia.

Independent judicial power means that this power is free from outside judicial interference, except in matters mentioned in the 1945 Constitution. This freedom in exercising judicial authority is not absolute because the duty of judges is to uphold law and justice based on Pancasila, so that their decisions must reflect a sense of justice for the people of Indonesia. Article 24 paragraph (2) also confirms that judicial power is exercised by the Supreme Court and the judicial bodies under it within the general courts, religious courts, military courts, state administrative courts, and by the Constitutional Court.

The freedom of judges also includes the position of impartial judge, as stipulated in Article 5 paragraph (1) of Law No. 48/2009. The term "impartial" here must be understood contextually, because in rendering their decisions, judges must favor the right. This does not mean being one-sided in their considerations and judgments. More precisely, Article 5 paragraph (1) of Law No. 48 of 2009 is formulated as: "The court shall adjudicate according to the law with no distinction between persons."

As for Islamic law, the fuqaha who prohibit judges from issuing rulings based on their own knowledge cite reasons including the hadith of Mu'ammar who narrated from Az-Zuhri from Urwah from A'ishah r.a. as explained earlier.

They claim that based on this hadith it is clear that the Prophet Muhammad (peace be upon him) did not issue rulings based on his own knowledge. This indicates that the accusation and the subsequent thought process are the authority of the judge. The fuqaha also agree that unfavorable accusations have an effect on the Shari'ah rulings. For example, the majority of fuqaha hold that a person who intentionally kills is not entitled to inherit from the victim he killed. Likewise, the fuqaha reject the testimony of a father against his son. These things have been recognized in the opinion of the majority of fuqaha.

On the other hand, the fuqaha who allow decisions based on the judge's knowledge base their opinions on the sam'i (textual) and logical arguments. The sam'i evidence in question is Aisha's hadith about the story of Hindun bint Utbah bin Rabi'ah and her husband Abu Sufyan bin Harb. At that time, Hindun complained about her husband, Abu Sufyan, to the Prophet. The Prophet then said to Hindun, "Take enough money for you and your children in a proper manner." (HR. Bukhari and Nasai).

The order (decision) in the hadith was given without first hearing the explanation or testimony of the party opposite to Hindun, namely Abu Sufyan. Logically, if a judge can decide a case based on the testimony of a witness whose veracity is still in doubt, then the judge is certainly more qualified to decide the case based on his own beliefs.

Abu Hanifah and his followers made exceptions regarding the types of cases that judges could decide based on their knowledge. According to them, in cases of hudud (severe punishment), the judge should not decide cases based on his own knowledge. However, in other cases, this is allowed.

In addition to the legal basis above, judges in deciding cases must consider the following matters:

1. *Ijma'*

Ijma' is the agreement or consent of experts on a matter at a particular place and time. In simpler terms, *ijma'* is the consensus of scholars regarding the law of a matter or concrete event. In the current legal context, applying *ijma'* is quite difficult because the diversity of cultures, origins, thoughts, and other sociological realities makes it difficult for scholars to achieve true *ijma'* as applied by previous scholars when the structure and dynamics of society were still homogeneous.

2. *Qiyas*

Qiyas, or in our legal terminology known as analogy (*argumentum per analogiam*), is equating the law of a matter or event that is not regulated in the Qur'an and Sunnah of the Prophet with another matter or event for which there is already a law, because there is a similar *illat* (cause or reason) between the two. A simple example of the application of *qiyas* is the law of consuming drugs. There is no evidence in the Qur'an that regulates drugs, but there is a prohibition on drinking *khamr*. By using *qiyas*, the law of consuming drugs can be equated with the law of drinking *khamr* because of the similarity of the effects caused.

In his *ijtihad*, the judge determined that consuming drugs is haram because there is a similarity in the *illat* between drugs and *khamr*, which are both intoxicating and/or can remove consciousness. Based on this explanation, it can be understood that *qiyas* contains the following elements:

- a. The existence of two concrete things or events.
- b. One of the things or events has a law in the Qur'an or Sunnah of the Prophet, while the other does not.
- c. Between the two events there is a similarity of *illat* (cause, reason, and/or effect).

3. *Isti'dal*

Istidal is drawing conclusions from two different things. For example, drawing conclusions from the norms of customary law and Shari'ah. Norms of customary law that have been prevalent in society and do not contradict Sharia can be inferred to be one of the provisions of Islamic law. The most common example of this is the concept of evidence, namely witness testimony.

If witness testimony is to be used as evidence, it must meet the conditions set out in the Article. Witness testimony as evidence is what the witness states in court. Before a witness testifies in court, he must first take an oath or promise. This provision is the same as that found in the book of *Fiqh Murafaat* and the book of *Bidayatul Mujtahid*, which has been adopted in positive law through Law No. 8 of 1981 (Article 185).

The concept of joint property (*gono-gini*) in the customs of most Indonesian people is not contrary to sharia, so it is positivized in Islamic law and also in Indonesian positive law. This is regulated in Article 85 of the Compilation of Islamic Law, Article 35 of Law No. 1/1974 on Marriage, and Article 119 of the Civil Code.

4. *Mashlahah al Mursalah*

Mashlahah al mursalah is the discovery of law on a matter or concrete event that is not found in the Qur'an and Sunnah, which is based on considerations of public benefit or public interest. The element of community benefit is the main parameter in this interpretation method. Wahbah Zuhaili, as quoted by Abdul Manan, defines *mashlahah mursalah* as an effort to find the law of some properties that are in line with the objectives of *shara'*, but there is no specific evidence from *shara'* that justifies or rejects it. By determining such laws, benefits will be achieved and *mafsadat* (loss, damage) avoided in people's lives.

Based on this understanding, the author concludes that in *mashlahah mursalah*, there is a desire to attract benefits and avoid *mafsadat*. In the context of Islamic law, this is associated with *daruriyah*, which is an emergency condition that requires a change in law or legal adjustments to things or events that contain emergencies. Therefore, the application of *mashlahah mursalah* includes several elements, namely:

- a. The matter or event being adjudicated (the subject of the dispute) has not been regulated in the Qur'an and Sunnah.
- b. There is no *shar'i nash* (evidence, rule) that commands or prohibits it.
- c. There is an element of benefit (*expediency*) that is achieved if the law is applied.

However, the application of *mashlahah mursalah* is not as easy as imagined. This is because the element of benefit understood by most people is different from the benefit in the

context of *mashlahah mursalah*. This is at least intended by Hasbi ash Shiddieqy who argues that the application of the principle of *mashlahah* must really be *mashlahah haqiqiyah* (true benefit). This *haqiqiyah* benefit is measured by the agreement of *ahlul halli wal aqdi* that such laws really bring benefits and as much as possible reject *mafsadat* (loss, damage) in society.

Meanwhile, Zaky ad Din Sya'ban, as quoted by Abdul Manan, put forward three conditions or provisions that must be considered in *mashlahah mursalah*, namely: First, the benefit is a benefit for which there is no single argument that rejects it. Second, the benefit must be a concrete thing, not something imaginative or vague. Third, the benefit must be general, not personal or individual. In the sense that the benefit in question is the common good (community).

In litigation under positive law, the judge's reasoning is based on the provisions of the law. This means that the judge must ensure that his or her decision is in accordance with the existing law, taking into account the arguments presented by both parties in the trial. The judge must also carefully analyze all the evidence and facts revealed during the trial, to ensure that his or her decision is based on a comprehensive understanding of the case.

On the other hand, in Islamic law, judges' considerations are not limited to normative aspects alone. The judge also considers the broader context, including the personal and social situation of the accused, as well as the causes behind the criminal act committed. This reflects a more holistic approach to law and justice in Islam, where aspects such as compassion, understanding, and attention to individual and community conditions are important in decision-making.

Thus, the differences in judges' reasoning between positive law and Islamic law reflect different approaches to the concept of justice and law enforcement, with each reflecting different values and principles in maintaining justice in society.

CONCLUSION

Research on the concept of legal reasoning of judges in Islamic law related to legal decisions for drug addicts in the Mandailing Natal District Court reveals several important findings that show how judges combine the principles of Islamic law with the positive law applicable in Indonesia. The main conclusions of this research are as follows:

1. **Integrative Approach in Legal Reasoning:** Judges at the Mandailing Natal District Court apply an integrative approach in their legal reasoning, combining sources of Islamic law such as the Quran, Hadith, Ijma, and Qiyas with applicable positive law. This approach allows judges to make decisions that are not only legally valid but also just and in accordance with Islamic values.⁵
2. **Justice and Public Welfare:** Judges emphasize the importance of justice that does not only focus on punishment but also considers public welfare and rehabilitation of drug addicts. The verdicts often reflect efforts to rehabilitate individuals and reduce the negative impact of drugs on society.
3. **Interpretation of Islamic Legal Sources:** Judges refer to Quranic verses, Hadith, and scholarly opinions in determining verdicts. This interpretation is done by considering the *mafsadat* (damage) caused by drugs as well as the principles of protection of life and health in Islam.
4. **Interpretation of Islamic Law Sources:** Judges refer to Quranic verses, Hadiths, and scholarly opinions in determining their verdicts. This interpretation is done by considering the *mafsadat* (damage) caused by drugs as well as the principles of protecting life and health in Islam.
5. **Social Context and Positive Law:** Judges also take into account the local social context and applicable positive legal regulations, such as Indonesia's drug laws. This ensures that decisions are in line with national law and relevant to the local community.

6. Rehabilitative Approach: Judges tend to favor a rehabilitative approach in their rulings, providing opportunities for addicts to obtain rehabilitation and recovery. This approach is in line with Islamic legal principles on the protection of the soul and human rights.
7. Practical Implications: Improvement of Judges' Understanding: There is a need to increase judges' understanding of Islamic legal reasoning and how to apply it in a modern legal context.
8. Holistic Approach: Integration of rehabilitative and educative approaches in court decisions to reduce the number of drug addicts and improve community welfare.
9. Multidisciplinary Collaboration: Cooperation between legal institutions, religious institutions, and health institutions to create a comprehensive and effective rehabilitation program. Thus, this study concludes that the concept of judges' legal reasoning in Islamic law plays an important role in legal decisions for drug addicts in the Mandailing Natal District Court. An integrative approach that combines the principles of Islamic law with positive law allows judges to make decisions that are fair, humane, and support the rehabilitation of addicts, which ultimately contributes to the overall welfare of society.

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