



JUDGE AS LAW ENFORCEMENT VIEWED FROM PROFESSIONAL ETHICS AND ISLAMIC LAW

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ABSTRACT:

A judge is required to enforce law and justice with no side. Inside a judge, something justice must be studied especially formerly about truth proposed event to her. Then give evaluation to incident it and connect it with applicable law. After it's the new judge can drop decision to incident the. A judge will can enforce the necessary justice if they have autonomy absolute for decide based on thinking and understanding they alone. No there is mix hand from anyone, fine in work nor influence whatever in making decision in accordance with ethics profession, religious rules, and regulations legislation.

Keywords: freedom of judges, ethics profession, and Islamic law

INTRODUCTION

Judge is official given state court authority by law for prosecute (Article 1 point 8 of the Criminal Procedure Code) (Angkouw, 2014) (Soerodibroto, 1999). Whereas the term judge means a person who judges case in court or Court; Judges matter too court, if people say "the case has submitted to the Judge." Power justice is

independent state power. For organize Justice To use enforce law and justice based on Pancasila, for the sake of the rule of law Republic of Indonesia (Article 24 of the 1945 Constitution and Article 1 of Law No.48 of 2009) (Huda, 2008).

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adherents Genre philosophy law positivism worrying role too big on judges. Judge function only operate power judicial. Basic work operate what is determined by the judiciary (Suadi & SH, 2005) . Basic work just operate what is determined by the legislature. The judge did his job with method syllogism. If he face incident proposed concrete to court, the judge must capable constituting incident That especially formerly meaning the judge must pay attention to the problem case That according to all corner look, deep matter This Of course especially from point of view of the parties involved in dispute it.

The judge must capable confront the views of the parties, and shall can determine incident actual concrete (Visser't Hooft, 2014) . With thereby the judge's job is throw away nuances that do not relevant in case it and maintain relevant thing (Rahman & Tomayahu, 2020) . Then the judge started do invention law (*rechtsvinding*), ie connect concrete events with regulation the law (Badriyah, 2011) . If the rules there is, then judge's only job stay enforce regulation it's on event concrete the in the decision he passed. Just judge as funnel law.

Problems that arise is is semechanistic judge profession that ? No does the judge have freedom, responsibility answer, and sound heart showing honor and dignity his humanity ? Is not that make judges funnel

Constitution means place judges in conflicting positions with essence his humanity ? The real judge is work humanity, no can fall to in the *dehumanizing* process. The judge must always sharpen voice his heart (Herman, 2019) .

A judge will can enforce the necessary justice If they have autonomy absolute for decide based on thinking and understanding they Alone (Manan, 2015) . No There is mix hand from anyone, fine in work nor influence whatever in making verdict. If the judge is in something public are below influence ruler or government them, then difficult for the judge For enforce justice For society. as a result will decide No based on rule applicable law but based on aspirations frequent ruler deviate from circumstances actually.

RESEARCH METHODS

Study This focused or focused on research law normative, which analyzes substance law so that No regardless from method normative analysis, which departs from relevant regulations with the issues discussed.

Research material This used ingredients primary laws and materials law secondary Approach used in study This is approach by law (*statute approach*).

Primary legal material is material nature law authoritative, that is have authority. Primary legal materials needed in study This includes :

1. Al-Qur'an (Al-Quran, 2010)
2. Al- Hadith (Kholis, 2008)

3. Regulation legislation

The collection of analysis of research legal materials is carried out with the following steps:

The first step is to collect primary legal materials and secondary legal materials as long as their contents are relevant to the subject matter (topic) of the research.

The second step is to systematize and interpret primary legal materials and then carry out a qualitative juridical analysis, namely legal analysis that is based on legal reasoning *and* legal argumentation *systematically*.

The third step is to draw conclusions in the form of arguments that answer legal issues.

The fourth step is to provide a prescription (recipe/formula) based on the arguments that have been built in the conclusion.

RESULTS AND DISCUSSION

Professional ethics is part from ethics social, that is philosophy or thinking critical rational about obligations and responsibilities answer man sevagai member people man (Magnis-Suseno, 1987) .

object material from ethics profession is inherent morality profession. Profession is something more concept Specific compared to with work in other words work own more connotations wide than profession. Something profession is job, however No all work is profession. Understanding Work must interpreted in a manner broad, no only

in a physical sense, but also psychologically (mind). According to Thomas Aquinas each exists Work have four purpose : (Sumaryono & Sumaryono, 1995)

1. With work, people get fulfil what to be need life everyday
2. With exists field job, then unemployment can eliminated / prevented. This is also meaningful that with No exists unemployed, then possibility emergence crime can also avoided
3. With a surplus of produce it works, humans can too do charity for each other
4. With work, people get control or control style his life.

According to the Qur'an and As- Sunnah: Legal basis establish *al- qadhi* as there is in the Qur'an and Hadith namely :

a. Al-Qur'an Surah an-Nisa verse 58 :

" Verily Allah commands You convey mandate to those who are entitled accept it, and (command you) when set law between man so You set with fair. Verily Allah gives the best teaching to you. Verily, Allah is All - Hearing again All- Seeing".

b. Al-Qur'an Surah an-Nisa verse 135 :

" O you who believe, let us be truthful enforcer justice, be witness for Allah, even against yourself Alone or Mother father and people relatives. If he is rich or mislin, then Allah is more know his benefit. Then don't that's it You follow weather lust Because want to deviate from truth. And if You twist (words) or reluctant become witness, then

verily Allah is All- Knowing all what are you do

According to regulation legislation :

There is a firm guarantee in constitution that is The 1945 Constitution (UUD) post the amendment to Article 24 Paragraph (1) of the 1945 Constitution confirms (Fartini, 2022) :

“ power justice is independent power For organize Justice To use enforce law and justice.

Not only Therefore, Article 24 Paragraph (2) of the 1945 Constitution mandates that (Sugiyanto, 2021) :

power justice No only done by a Supreme Court but also by a Court Constitution.

Even for a judge, Article 24 A Paragraph (2) of the 1945 Constitution by explicit determine (Jailani, 2012) :

chief justice should own integrity and personality that is not despicable, fair, professional, and experienced in the field law.

Article 27 of the Law Number 14 of 1970 concerning Provision tree Power Justice (Hrp & Talib, 2019) :

"Judge mandatory dig values living law in society.

values law, like perception public about justice, certainty law, and expediency, always develop from time to time. values earlier always tug so that the pendulum

Possible something moment near to justice, but also deep another chance more close to certainty law or benefit.

In relation with ethics to the profession of judge, there is a number of espoused and obligatory values respected by persons the profession of judge in operate his job. Value interpreted as characteristic or useful qualities for life human, value made foundation, reason, or motivation in behave and act do, fine realized or not.

Referring to the Law Number 14 of 1970 concerning tree Power Justice values the as following (Indonesia, 2002) :

a. Independence value

The profession of a judge is an independent upholding profession law and justice based on Pancasila for the sake of the implementation of a constitutional state Republic of Indonesia for the sake of the establishment of a rule of law state Republic of Indonesia (Article 1). contained value justice.

The profession of a judge is independent, deep profession carry out his job No can influenced by parties anywhere. The judge dropped decision based on his beliefs based with honesty and thoroughness, which he took after hear and learn descriptions from all party.

b. Value of Justice

Obligation enforce justice This No only be held accountable horizontally to fellow humans, but also in a way vertical to God Almighty. The value of justice can also be expanded until to judge's obligation to honor right someone (even Still status suspect) for

obtain help law, filed effort law to level more court high, gain change loss and rehabilitation, because mistake about people or applicable law.

c. Disclosure Value

Judge no can reject For check and judge something the case filed with pretext that the law No or not enough clear. Openness value This No can challenged, for example with verdict " no can accepted" (*niet ontvankelijk verklaring*) frequently handed down by the judge something lawsuit civil, cause decision thereby new dropped after the judge received and examined the matter concerned.

d. work value The same

Mandatory judge uphold tall Work same and authority corps. work value The same This looked from form trial assembly, with at least consists atats three judges. These judges drop the verdict with discussion in a manner secret. On the side it, for interest judiciary, court (including) mandatory each other give requested assistance. In fact, work The same this is also expandable, so covers pua Work The same with other state agencies requesting remarks, considerations or related advice with problem law.

e. Responsibility value answer

Always judge take responsibility all attitudes and actions. Accountability This dimension vertical and horizontal. kindly vertical means He responsible to God Almighty. Horizontally, meaning accountability That addressed to fellow human, fine That to institution more justice tall nor public wide.

In accountability horizontally, check and read decision court must open For general.

Article 23 paragraph (1) states :

“ everything decision court besides must load reasons and reasons decision that, too, should also includes articles certain from the relevant regulations or source law No written made base For judge ”.

Chapter This put mark not quite enough answered the judge against the decision he made, so decision That fulfil objective law form justice (*gerechtigheit*), certainty law(*rechtssicherheit*), and expediency(*zweckmassigkeit*) (Fanani, 2023)

f. Objectivity value

Mandatory judge uphold tall mark objectivity. Article 28 Law no. 14 of 1970 about Constitution tree Power Justice state that the judge is obligated resign self in inspection something case if He have interest to case it.

CONCLUSION

A judge will can enforce the necessary justice If they have autonomy absolute for decide based on thinking and understanding they alone. No There is mix hand from anyone, fine in work nor influence whatever in making verdict, with refers to ethics profession that has there and always follow and obey the rules - the rules of the religion in matter This is the religion of Islam and the rules applicable and relevant legislation.

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