

OBSERVING THE JUDICIAL COMMISSION'S ROLE IN ENHANCING JUDICIAL CAPACITY AND INTEGRITY

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ABSTRACT

The purpose of this study is to examine the Judicial Commission's urgency in developing the capacity and integrity of judges in Makassar, as well as the mechanism for carrying out the Judicial Commission's duties in developing the capacity and integrity of judges from a *siyasa syar'iyah* perspective. The research method used is descriptive qualitative field research. By adopting a *syar'i* normative perspective. The study's findings underscore the Judicial Commission's urgency in building the capacity and integrity of Makassar's judges through a training program on the Code of Ethics and Code of Conduct for Judges. The mechanism for carrying out the judicial commission's mandate of enhancing judges' capacity and integrity includes conducting training to improve KEPPH for judges with a tenure of 0–8 years, as well as the meaning of KEPPH for judges with a tenure of 8–15 years. In an Islamic state, the Judicial Commission serves as a supervisory agency for judges. It is headed by Qadhi al-Qudhat. This such, the Judicial Commission adheres to Islam's principle of being a supervisory entity in order to promote good behaviors and avert evil ones. The implication of this research is to strengthen the capacity and integrity of judges through the Judicial Commission's frequent implementation of judge training programs.

Keywords: Judicial Commission; Judges; Siyasa Syar'iyah

INTRODUCTION

Humans are complicated beings who constantly adapt to their environment or era.¹ Humans cannot exist outside the network of order, regardless of how or in what form it takes. Humans, like ants, bees, and others, are social organisms, according to

¹ Muhammad Gazali Syaiful, Hamzah Hasan, *Tinjauan Normatif Etika Seksual dalam Hukum Islam, Siyasatuna: Jurnal Hukum Tatanegara Fakultas Syariah dan Hukum*, Volume 2, Number 1, (Januari, 2020), p. 35.

sociality. However, if the ant community is natural, the network of human order is manmade.²

Our country is a law-abiding one.³ Although the term rule of law is a translation of *rechtsstaat*, meaning the role of law, both terms refer to a state of law.⁴ According to the foregoing, the 1945 Constitution follows two types of state power distribution, namely horizontal and vertical distribution.⁵ Horizontal division of power refers to the delegation of state authority to state organs, referred to in our constitution as state institutions, whereas vertical division of power refers to the delegation of state authority between the central and local governments.⁶

The MPR RI published MPR RI Decree No. X/MPR/1998 at the outset of the reform, outlining the principles of development reform in the context of preserving and normalizing national life. The decree includes a provision separating the judicial function (Judicial Power) from the executive.⁷

Between January and June 2019, the Judicial Commission proposed sanctions against 58 judges for violating the Judicial Code of Ethics and Code of Conduct for Judges. The number of judges submitted for censure demonstrates the Judicial Commission's commitment to upholding the Code of Ethics and Code of Conduct for Judges in order to preserve the honor of the judiciary profession. According to Jimly Ashshidqie, the Judicial Commission was established within the Indonesian judicial power structure to allow citizens who are not part of the official structure of the parliamentary institution to participate in the process of appointing, evaluating, and potentially dismissing judges. All of this is intended to preserve and sustain the judges' honor, dignity, and conduct in the framework of achieving truth and justice in the name of God Almighty.⁸ To supervise law enforcement and to ensure that it is clean and fair, the Judicial Commission has succeeded in drafting and supporting the

² Abdul Halil, Hamzah Hasan, Pencabutan Kewenangan Mendagri dalam Membatalkan Perda Kabupaten/ Kota: Tel'ah atas Putusan Mahkamah Konstitusi Number 137/PUU-XIII/2015, *Siyasatuna: Jurnal Hukum Tatanegara Fakultas Syariah dan Hukum*, Volume 1, Number 1, (November, 2019), p. 2.

³ A. Hastriana, Kurniati, *Polemics of Power in Islamic Law Perspective*, *Jurnal Al-Risalah Fakultas Syariah dan Hukum*, Volume 20 Number 2, (November 2020), p. 146.

⁴ Ulfatus Salihah, Rahmiati HL, Pidana Penjara Seumur Hidup bagi Koruptor Ditinjau dari Aspek Hak Asasi Manusia dan Hukum Islam, *Siyasatuna*, Volume 3, Number 1, (Januari, 2021), p. 228.

⁵ Nata Haryanto, Abdul Wahid Hadadde, Pengelolaan Badan Usaha Milik Desa Ditinjau dari Hukum Positif dan Hukum Tata Negara Islam, *Siyasatuna: Jurnal Hukum Tatanegara Fakultas Syariah dan Hukum*, Volume 3, Number 1, (Januari, 2021), p. 157.

⁶ Jimly Asshidqie, *Konstitusi Bernegara*, (Malang: Satara Press, 2016), p. 105.

⁷ Norma Yunita, *UUD 1945 dan Amandemen*, (Jakarta: Kunci Aksara, 2014). p. 40.

⁸ Jimly Asshidqie, "Kata Pengantar" dalam buku A. Ahsin Thohari, *Komisi Yudisial & Reformasi Peradilan*, (Jakarta: ELSAM, 2004), p. 93

application of a Code of Ethics for Judges based on *The Bangalore Principle of Judicial Conduct*.⁹

In the Islamic notion, the court as a state entity established to carry out the judicial process is a critical feature that must be carried out by judges as God's guardians.¹⁰ The "judge" is a critical component of any judicial organization. Judges are expected to have high integrity, to be honest and professional, and to have expertise in the legal sector.¹¹ The judge's job is to uphold the legal order, to assess what is required by law in each given situation. Thus, his primary responsibility is to accept, examine, adjudicate, and resolve each matter brought to him.¹² The judge's ruling is the judge's ultimate and conclusive act in a trial that establishes an actor's guilt or innocence in the presented case.¹³

When deciding cases, the panel of judges is extremely diversified or varied; not all cases are granted, but almost all are.¹⁴ Justice is a vexing issue that frequently lurks beneath a law. This is because the standard of human justice is constantly evolving, depending on the time and place (*tagyyir al-ahkam bi al-tagayyur al-azminah wa al-amkinah*).¹⁵

The Qur'an emphasizes the existence of judges. Allah orders humans to select and appoint judges as individuals capable of resolving disputes between disputants. According to Allah's instructions, all rulers must be capable of becoming judges, or at the very least appointing judges, and of upholding truth and justice.

Several sub-problems are formulated based on the description above, namely: what is the Judicial Commission's urgency in terms of increasing the capacity and integrity of judges in Makassar, and what is the mechanism for carrying out the

⁹ Ahmad Sukardja, *Hukum Tata Negara dan Hukum Administrasi Negara dalam Perspektif Fiqh Siyash*, (Jakarta: Sinar Grafika, 2012), p. 126

¹⁰ H. Muslihin Rais, Nilai Keadilan Putusan Hakim Pada Perkara Tindak Pidana Korupsi, *Jurnal Al-Daulah: Jurnal Hukum Tatanegara Fakultas Syariah dan Hukum*, Volume 6, Number 1, (Juni 2017), p. 124.

¹¹ Abdul Halim Talli, Integritas dan Sikap Aktif-Argumentatif Hakim Dalam Pemeriksaan Perkara, *Jurnal Al-Daulah: Jurnal Hukum Tatanegara Fakultas Syariah dan Hukum*, Volume 3, Number 1, (Juni 2014), p. 1.

¹² Nur Aisyah, Peranan Hakim Pengadilan Agama dalam Penerapan Hukum Islam di Indonesia, *Jurnal Al-Qadau: Jurnal Peradilan dan Hukum Keluarga Islam*, Volume 5, Number 1, (Juni 2018), p. 76.

¹³ Zaenal Abdi, Syamsuddin Rajab, Analisis Putusan Hakim Tingkat Kasasi Terhadap Kasus Baiq Nuril Makhnun, *Jurnal Alauddin Law Development Journal (ALDEV)*, Volume 3, Number 1, (March 2021), p. 200.

¹⁴ Indah Syari dan Muhammad Amiruddin, Analisis Putusan Hakim Tentang Penetapan Ganti Rugi Lahan Kereta Api, *Jurnal Alauddin Law Development (ALDEV)*, Volume 3 Number 1, (March 2021), p. 144.

¹⁵ Masnayanti dan Abdillah Mustari, Pertimbangan Hakim Dalam Penyelesaian Sengketa Harta Waris Antara Saudara Kandung, *Iqtishaduna: Jurnal Ilmiah Mahasiswa Jurusan Hukum Ekonomi Syariah*, Volume 1, Number 1, (October 2019), p. 23.

Judicial Commission's duties in terms of increasing the capacity and integrity of judges in Makassar from a siyasah syar'iyah perspective.

METHOD

This is a descriptive qualitative field study (field research). Through the application of a legislative and normative syar'i approach. Primary data sources include interviews. While secondary data sources include information gleaned from study outcomes such as reports and the like. Interviews, observations, literature searches, and documentation were used to collect data. After collecting all data, it is evaluated using descriptive-qualitative methodologies in order to draw conclusions.¹⁶

RESULT AND DISCUSSION

1. The Judicial Commission's Immediate Need to Strengthen the Capacity and Integrity of Judges in Makassar

Increasing judges' capacity and integrity is a proactive measure taken to develop judges with the legal knowledge, capacity, and commitment to uphold and enforce the Judges' Code of Ethics and Code of Conduct (KEPPH). With the phenomenon of judges being apprehended red-handed by the Corruption Eradication Commission (KPK), the judiciary is still regarded as being far from expected. It even spawned a conversation about the public's seeming loss of faith in justice as a result of the practice of "judicial mafia," which fosters judicial corruption (judicial corruption). As many public reports as possible involving alleged violations of the Judges' Code of Ethics and Conduct, which are then forwarded to the Indonesian Judicial Commission. Since its creation in 2013, the Liaison of the South Sulawesi Judicial Commission has received the following number of reports and consultations::

Table 1. Consultation and Acceptance of Community Reports from the South Sulawesi Judicial Commission

N o	YEAR	CONSULTATIO N	PLM
1	September-December 2013	10	4
2	2014	45	15
3	2015	30	8
4	2016	38	12
5	2017	44	19
6	2018	45	13
7	2019	47	3

¹⁶ Megawati, Andi Tenri Padang, Peran Komisi Pemilihan Umum (KPU) Dalam Meningkatkan Partisipasi Pemilih Pemula, *Siyasatuna: Jurnal Hukum Tatanegara Fakultas Syariah dan Hukum*, Volume 2, Number 3, (September 2020), p. 526

8	2020	27	4
9	January-July 2021	4	2

Source: South Sulawesi Regional Judicial Commission¹⁷

Registered reports are those that have been submitted and meet the administrative and substance standards. However, not all reports filed with the Judicial Commission can be investigated. After registration, the report will be analyzed through annotations and cross-examination of the reporter, witness, and/or expert. Judges who are found to have broken the law will face sanctions.

The following are data reports on judges sanctioned for breaking the Judges' Code of Ethics and the Judges' Code of Conduct::

Table 1.2 Violations of the Code of Ethics and Code of Conduct for Judges

Judicial Commission of the Republic of Indonesia in the 1st Quarter of 2021

Sanction Type	Number of Judges
Minor Sanction	36
Medium Sanction	10
Heavy Sanction	2

Source: South Sulawesi Regional Judicial Commission¹⁸

As a result of the presentation of the violation data above, it is clear that judges who are found to have broken the Code of Ethics and the Judges' Code of Conduct face punishments based on the nature of the violations committed.

According to an interview with Azwar Mahis, S.H., M.H., the Coordinator of the South Sulawesi Judicial Commission claimed that:

“Receiving reports from the public regarding claims of Code of Ethics violations against judges who lack integrity. The reporter and the judge who are being reported on will remain anonymous. We cannot identify the judge who was reported or who reported it until the Judicial Commission makes a determination, and even then, if the Judicial Commission makes a determination, it will refer it to the Supreme Court. The Supreme Court and the Judicial Commission have reached an agreement on a combined Code of Ethics and Code of Conduct for Judges that incorporates ten items”.¹⁹

The issue that contributes to the decline of the law is insufficient training of law enforcers, which means that the Judicial Commission's efforts are critical in enhancing the capacity and integrity of judges. The judicial commission's focus on enhancing

¹⁷ Komisi Yudisial Wilayah Sulawesi Selatan, Data Konsultasi Dan Penerimaan Laporan Masyarakat dari tahun 2013 sampai July 2021.

¹⁸ South Sulawesi Judicial Commission, Data on Violations of the Code of Ethics and Code of Conduct for Judges Year 2021.

¹⁹ Azwar Mahis, (Koordinator Komisi Yudisial Wilayah Sulawesi Selatan), *Interview*, Makassar, on 16 June 2021.

judges' capacity and integrity is on honing their legal knowledge and fortifying their adherence to the Code of Ethics and Code of Conduct for Judges.

According to the results of interviews with Rahmat Ryanto S.H., M.Kn., C.L.A., Assistant for the Trial Monitoring Division of the South Sulawesi Judicial Commission:

“the judicial commission provides treatment for judges in terms of training, as it is a necessity, and judges must also upgrade their knowledge.” Judges that have strong insight as their material for consideration while considering a case make good judgements or decisions that have a feeling of justice.²⁰

In this scenario, the judicial commission is critical in enhancing judges' competency and integrity. Considering the numerous reports from the public alleging violations of the code of ethics and rules for judges' behavior, the Judicial Commission must make an effort to strengthen the capacity and integrity of judges.

2. The Mechanism for Carrying Out the Judicial Commission's Duties in Improving the Capacity and Integrity of Judges from the *Siyasah Syar'iyah*'s Perspective

The judicial commission's duties include the responsibility to reform the judiciary, particularly with relation to judges. Keeping in mind that the Judicial Commission is obligated by law to work to enhance judges' capacity in order to preserve and uphold judges' honor, dignity, and behavior.

Efforts to enhance the capacity of judges are made in order to develop judges who are clean, honest, and professional. These efforts complement and assist efforts to expand the capacity of judges. Efforts to build the capacity of judges are made through a variety of actions, as detailed below:

1. Establishment of a KEPPH program for judges with a tenure of 0–8 years
Judges as a profession have a Code of Ethics and Code of Conduct for Judges (KEPPH) that all judges must follow. The requirement that all judges behave in accordance with KEPPH must be accompanied by habituation and training for judges to ensure that they have a character consistent with the values in KEPPH and, additionally, can comprehend and live KEPPH while performing their duties in court and in wider social life.

2. KEPPH's Significance for Judges with 8–15 Years of Service

Additionally, in order to shorten training, the emphasis is on psychologically renewing judges so that they can perform their duties in accordance with the KEPPH. Not only that, the Judicial Commission also develops and evaluates the system for training judges, as well as measures the success of the training.

²⁰ Rahmat Ryanto, (Assistant for the South Sulawesi Judicial Commission Trial Monitoring Division), *Interview*, Makassar, on 24 June 2021.

In assessing the South Sulawesi Judicial Commission's performance of its duties, Rusdiyanto Loleh, S.H., M.H., stated as a Judge at the Makassar District Court:

"The judicial commission's duties, such as maintaining or supervising and upholding judges' honor, dignity, and behavior, are already commendable, but they require judges to follow the rules, but not to fight for the rights of other judges, such as facilities. Many have questioned the technicalities of Supreme Court cases"²¹

The Judicial Commission is prohibited from conducting an examination of the technical juridical, which is the jurisdiction of the Supreme Court, which has the highest supervisory role over judicial institutions in Indonesia. The Judicial Commission must remain committed to preserving the judicial power's independence, ensuring that judges have control over technical legal issues while considering cases.

According to the results of interviews with Ni Putu Dewi, the South Sulawesi Judicial Commission's Assistant Division of Socialization and Network Development stated that:

"In carrying out their duties, the judicial commissions in the liaison area are guided by a central order via a task order (sprint), which is carried out by the liaison judicial commission, namely receiving reports, monitoring, and socializing"²².

Regarding the monitoring of the trial, the Judicial Commission for the South Sulawesi Region's working area is the entire Judicial Body located in South Sulawesi, but the Judicial Commission for the South Sulawesi Region's monitoring of the trial is not limited to South Sulawesi but also to West Sulawesi, based on the High Court that is still incorporated between South and West Sulawesi.

According to the results of his interviews with Usman, S.H. stated as an advocate for PERADI members:

"The Judicial Commission's role, particularly in the South Sulawesi region, has been effective in carrying out its responsibilities, but it requires significant improvement or enhancement, particularly in the area of monitoring, given that the Judicial Liaison Commission of South Sulawesi is composed of only four members, while the scope of the courts that must be monitored is quite broad, impairing judicial monitoring"²³.

The facts or field data above pertain to the mechanism for carrying out the Judicial Commission's duties when viewed through the *siyasa syar'iyah* that al-

²¹ Rusdiyanto Loleh, S.H., M.H., (Hakim Pengadilan Negeri Makassar), *Interview*, Makassar, on 24 June 2021.

²² Ni Putu Dewi, (Asisten Divisi Sosialisasi dan Pengembangan Jaringan), *Interview*, Makassar, on 23 June 2021

²³ Usman, S.H., (Advokat dari PERADI), *Interview*, Makassar, on 22 June 2021.

Sulhah al-Qaa'iyah holds the judicial power as the power that is related to the judiciary's duties and authorities, namely overseeing the monitoring of legislation by law enforcement.

Throughout Islamic history, this institution's authority has typically included the al-hisbah area (a judicial institution that adjudicates minor violations such as fraud and business fraud), the al-qaha area (a judicial institution that adjudicates civil and criminal cases involving fellow citizens), and the al-mazhalim area (a judicial institution that adjudicates cases of state officials misappropriating funds while performing their duties, such as making political decisions).²⁴

According to Islam, increasing the capacity and integrity of judges cannot be divorced from their supervision, specifically the role of Al-Hisbah and Qadhi Al-Qudhat, who are entrusted with judicial affairs and granted the authority to appoint judicial officials for those deemed capable, both far from the center of government and close to it.

As a supervisory agency, Qadhi al-Qudhat is empowered to fire judicial employees who breach the professional code of ethics. The Judicial Commission serves as a supervision institution for judges, ensuring that judges do not act arbitrarily while determining cases. As per QS. Al-Imran/3:104.

The translation: \s" And let there be among you a group of persons who invite to virtue, enjoin to what is right, and forbid what is bad. They are the fortunate few."

According to Prof. Dr. Quraish Shihab, MA, the aforementioned verse contains the phrases al-khair/benevolence and al-ma'ruf. Al-khair is a universal value that the Qur'an and Sunnah both emphasize. According to the Prophet, al-khair. As Ibn Kathir noted in his commentary, *itba'ul qur'an wa sunnatii* (adherence to the Qur'an and my Sunnah). While al-Ma'ruf is a beneficial thing in the eyes of one community as long as it is in accordance with al-khair. Al-munkar, on the other hand, is something that a society regards as harmful and is antithetical to divine ideals. Thus, the preceding verse highlights the need of inviting al-khair or virtue, commanding what is right and preventing what is wrong. It is obvious how asking al-khair to come first, then commanding what is makruf and forbidding what is evil, is the proper order.

"Once, the Messenger of Allah read a scripture with the following translation: 'And let there be among you a group of people who call to virtue.'²⁵

²⁴ Ridwan HR., *Fiqh Politik Gagasan, Harapan dan Kenyataan* (Yogyakarta: Fakultas Hukum UII Press, 2007), p. 273

²⁵ M. Quraish Shihab, *Tafsir al-Misbah Pesan, Kesan, dan Keserasian al-Qur'an*, (Jakarta: Lentera Hati, 2002) Vol. 2, p. 211.

Abu Ja'far al-Baqir stated. Then he stated, "The virtue is adhering to the Qur'an and my sunnah." (Ibn Mardawaih, HR.)

According to the description above, the judicial commission serves as a supervision agency for judges and is headed by Qadhi al-Qudhah. This such, the Judicial Commission adheres to Islam's principle of being a supervisory entity in order to promote good behaviors and avert evil ones.

CONCLUSION

The Judicial Commission's urgency in increasing the capacity and integrity of judges in Makassar is based on the increasing number of public reports of violations of the code of ethics and guidelines for judges' behavior. As a result, the Judicial Commission must make an effort to increase the capacity and integrity of judges. The mechanism for carrying out the judicial commission's tasks in terms of enhancing judges' capacity and integrity is to conduct training by strengthening KEPH for judges with a tenure of 0-8 years and the meaning of KEPH for judges with a tenure of 8-15 years. take out their responsibilities in accordance with KEPH. As was the case during the Prophet's and Khulafaurrasyidin's lifetimes, an institution like a judicial commission is the Qadhi al-Qudhat, which is a judicial body assigned with the responsibility of choosing regional judges, accepting judges' resignations, and supervising judges. This role is consistent with the Judicial Commission's current mandate; the responsibilities and authorities for supervising judges are extremely broad, as evidenced by Qadhi Al-authority Qudhat's as a supervisory agency authorized to dismiss judicial officials who violate the professional code of ethics. The Judicial Commission as a supervisory agency for judges to ensure that judges do not behave arbitrarily while judging cases, as highlighted in QS. Al-Imran/3:104 and the Prophet Muhammad's Hadith. the history of Ibn Mardawaih.

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