

Legal Analysis of Judges' Decisions that do Not Conform to the Values of Justice of the Parties to the Case

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Abstract. *This study aims to analyze what the judges consider in deciding a case in order to be in accordance with the justice values of the parties to the case and the judges' efforts in deciding a case in accordance with the justice values of the parties to the case. This study uses an approach sociological juridical, namely this research only focuses on the results of interviews, in this case it will examine how judges try to decide cases in accordance with the values of justice of the parties to the case. Based on this research, it is concluded that the judge's considerations in deciding the case are considered not in accordance with the values of justice of the parties that we have previously known that in a case there must be evidence that is proven so that the decision meets the values of justice of the parties involved, but there are still some people who think that the judge must be able to decide as fairly as possible but base the decision on the judge's beliefs and the fulfillment of two pieces of evidence. the judge's efforts in deciding a case in accordance with the values of justice of the parties to the case include firstly upholding procedural law, secondly upholding professional ethics, listening patiently, deciding impartially and considering wisely and using the principle of hearing both parties.*

Keywords: Justice; Litigants; Verdict.

1. Introduction

The Indonesian nation and state is a nation that was born "by the grace of Almighty God", and this recognition is officially stated in the highest document, the Opening of the 1945 Constitution, and the One Almighty God is included in Chapter XI on Religion, Article 29 paragraph (1) of the 1945 Constitution of the Republic of Indonesia.¹ Law enforcement is essentially a process to realize legal goals and legal ideas into reality.² The consequence of making Pancasila the philosophical basis of the nation means that in every aspect of national and state life, Pancasila must be the philosophical foundation that inspires every step of development, including development in the legal field.³

¹Sri Endah Wahyuningsih, The Urgency of Reforming Indonesian Material Criminal Law Based on the Values of Belief in the Almighty God, Journal of Legal Reform Volume 1 No. 1 January – April 2014.

²Sri Endah Wahyuningsih, 2015, Journal of Legal Reform Vol.II No. I January- April.

³Sri Endah Wahyuningsih, 2010, Principles of Individualization of Criminal Procedure in Islamic Criminal Law, Diponegoro University Publishing Agency, Semarang, p. 2.

Master of Law, UNISSULA

For the Indonesian nation, there is a close relationship between the state and religion which is based on the Almighty God which is the first principle of Pancasila, and thus the Indonesian nation has a noble legal system as the basis for national and state life, namely Pancasila and the 1945 Constitution.⁴ The decisions made by judges in court should ideally not cause new problems in the community and affect the authority and credibility of the court institution itself.

This is because the concept of justice in a judge's decision is not easy to find a benchmark for. The legal knowledge that must be mastered by a judge must actually be multidisciplinary, which crosses legal science. Justice is a fundamental issue in law. Justice is also one of the goals of law. Even among the general public, justice is something that cannot be separated from law. However, many also think that justice still cannot be achieved through current law.⁵

Meanwhile, viewed from a sociological perspective, the regulation in criminal law is a reflection of the political ideology of a nation, where the law develops. This means that the social and cultural values of the nation have a place in the regulation in criminal law. The measure for criminalizing an act depends on the values and collective views that exist in society about what is good, what is right, what is beneficial or otherwise. So the views of society about morality and religion are very influential in the formation of law, especially criminal law.⁶

Justice is seen as the goal of law, but it is also fully realized that the relativity of this justice often obscures other elements that are also important, namely the element of legal certainty. Literally, this expression means that harsh laws will hurt, unless justice can help it. In the legal paradigm of Utilitarianism⁷, justice is seen broadly. The only measure to measure whether something is fair or not is how much impact it has on human welfare.

The perspective on justice as formulated above, according to Satjipto Rahardjo⁸ that justice reflects how someone sees the nature of humans and how someone treats humans. Furthermore, Angkasa said that because justice is a measure used by someone in giving to an Object that is outside of the person. Given that the object being assessed is a human being, the measures given by someone to another person cannot be separated from how that person gives a concept or meaning about humans. If someone sees another person as a noble creature, then the treatment of that person will also follow the assumption used as a benchmark and will also determine the measure used in dealing with others.

The purpose of law is legal certainty⁹, justice and utility. The judge's decision in court is law, therefore the Judge's Decision in Court ideally contains aspects of Legal Certainty, Justice and Utility. In its implementation, it is not easy to synergize these three aspects, especially

⁴Sri Endah Wahyuningsih, Location.cit

⁵Elisabeth Nurhaini Butar Butar, 'The Concept of Justice in the Civil Justice System', *Mimbar Law*, 21.2 (2009), 255–369

⁶Sri Endah Wahyuningsih, op. cit., pp. 7-8.

⁷Subhan Amin, 'JUSTICE IN THE PERSPECTIVE OF LEGAL PHILOSOPHY TOWARDS SOCIETY', *EL-AFKAR: Journal of Islamic Thought and Hadith Interpretation*, 8.1 (2019), 1–1

⁸ Satjipto Rahardjo, 'Legal Development in Indonesia in a Global Context', *Perspective*, 1997, 1–10.

⁹ Atang Hermawan Usman, 'Legal Awareness of Society and Government as a Factor in Upholding the Rule of Law in Indonesia', *Legal Insight*, 30.1 (2014), 28.

Master of Law, UNISSULA

between the aspects of legal certainty and justice which are usually contradictory. A judge in examining and deciding a case is not always fixated on just one principle. The obstacles faced by judges who tend towards legal certainty experience a deadlock when written provisions cannot answer the existing problems.¹⁰

Several examples of cases that are not in accordance with the values of justice of the parties in the case The Jakarta District Court (PN) sentenced Mario Dandy Satriyo (20) for assaulting his friend and sentenced him to 12 years and a fine which was considered by the parties as injustice. And also several cases that had hurt the sense of justice including the theft of watermelon, kapok, corn plants, or the theft of cocoa beans by Grandma Minah, increasingly adding to the long list of dark portraits in the practice of law enforcement in this country. Law enforcement that has been running so far seems to be strongly oriented in the form of procedural justice which emphasizes the aspect of regularity and the application of legal formalities alone. In line with that, legal engineering has become a fairly strong phenomenon in almost every law enforcement in this country. Oppressed people or communities as subjects who really need justice are almost completely ignored. People who have experienced injustice, in fact, it often happens, in the name of justice, justice seekers become victims.

This reality makes the enforcement of justice have an ambivalent face, far from the values of true justice and sometimes actually pokes at the sense of justice itself.¹¹ This study aims to analyze what the judges consider in deciding a case in order to be in accordance with the justice values of the parties to the case. And to analyze the judge's efforts in deciding a case in accordance with the justice values of the parties to the case.

FORMULATION OF THE PROBLEM

Based on the description in the problem background, the problems in this research can be formulated, namely:

1. What are the judge's considerations in deciding a case so that it is considered inconsistent with the values of justice of the parties to the case?
2. How do judges try to decide cases in accordance with the values of justice of the parties to the case?

2. Research Methods

1. Research Approach

In writing this law, the author uses a sociological legal approach method, namely this research only prioritizes the results of interviews, in this case it will examine how the judge's efforts in deciding cases are in accordance with the values of justice of the parties to the case.

2. Research Specifications

This legal research includes descriptive analytical research specifications, namely describing the applicable laws and regulations in relation to legal theories and legal implementation practices concerning the problems in this research.¹² against a judge's decision that is not in accordance with the values of justice of the parties to the case.

¹⁰ Ade Fartini, 'Law and State Functions According to the 1945 Constitution of the Republic of Indonesia', *Al-Ahkam*, 14.1 (2018), 1 <<https://doi.org/10.32678/ajh.v14i1.1427>>.

¹¹ *Ibid.*

¹² Moch Nazir, *Research Methods* (Jakarta: Graia Indonesia, 2008), p. 84.

Master of Law, UNISSULA

3. Data Types and Sources

The data used in this study comes from primary data and secondary data.

- a. a. Primary data is data collection by conducting direct research on the research object directly on the research object to obtain data (field research) by means of interviews, namely a method of collecting data by conducting interviews or direct Q&A with people who are in the research object that leads to the research objectives to be achieved by conducting oral Q&A with judges at the Semarang court.
- b. Secondary data is library material that contains information about primary materials referring to books, scientific works, and others. In this study, it is grouped into three, namely:
 - a) Primary legal materials:
 - 1) The 1945 Constitution of the Republic of Indonesia;
 - 2) Law Number 48 of 2009 concerning Judicial Power;
 - 3) Law No. 8 of 1981 concerning Criminal Procedure Law
 - 4) Criminal Code (KUHP) No. 1 of 2023
 - 5) Live Interview.
 - b) Secondary legal materials are explanations of primary legal materials, consisting of legal books or journals containing basic principles (legal principles), legal research results, legal dictionaries and legal encyclopedias.¹³The secondary legal materials used in this study are the results of scientific work by scholars and research results related to the research object.
 - c) Tertiary legal materials or non-legal materials, namely research materials consisting of non-legal textbooks related to research such as language dictionaries and general encyclopedias.¹⁴

4. Data Collection Methods

To collect secondary data, a literature study and document study were carried out, while to obtain primary data, the author conducted direct interviews with parties who were closely related to the research, so that the data obtained was clearer, in this case to parties related to the problem of judges' decisions that were not in accordance with the values of justice of the parties in the case.

5. Data Analysis Methods

This study uses qualitative data analysis techniques, the data obtained during the research process is systematically arranged and analyzed in such a way as to achieve clarity on the problems discussed, namely those related to judges' decisions that are not in accordance with the sense of justice of the parties to the case.

3. Results and Discussion

¹³*Ibid.*, pp. 195-196.

¹⁴*Ibid.*, pp. 204-206.

Master of Law, UNISSULA

According to the results of research conducted by the author with His Honor, Judge Judi Prasetya SH, MH as Deputy Chief Justice of the Semarang District Court, through this interview, an answer was obtained regarding the interview results, namely as follows:

The judge's consideration can be interpreted as a stage where the panel of judges considers the facts revealed during the trial process. The judicial power plays an important role in the process of law enforcement in criminal cases. The trial stage is a crucial process in proving a case, including in criminal cases. In this stage, the judge plays a role in deciding the case in accordance with the values of justice for the parties to the case and the judge is obliged to explore, follow, and understand the legal values and sense of justice that live in society which have been regulated by Law No. 48 of 2009 concerning judicial power.

This is as stated in Article 25 paragraph (1) that, "Judicial bodies under the Supreme Court include judicial bodies in the general court, religious court, military court and state administrative court environment." (Law No. 48/2009. Article 25 paragraph 1).

The value of justice for each judge is different for each person who has their own subjective value in viewing justice itself. And the judge in giving his decision is always balanced by the fulfillment of two pieces of evidence and the judge's belief, the use of Belief as the basis for proof, then in theory it can be explained 4 (four) theories of proof (bewijstheorie), namely: first, Positive proof theory (positif wettelijk bewijstheorie); second, conviction alone (conviction intime); third, conviction within logical limits (conviction raisone); and fourth negative proof theory (negative wettelijk bewijstheorie), In the positive proof theory (positif wettelijk bewijsh theory) it is determined that only formal evidence that is determined in a limited manner in the law is used by the judge to decide the case. Therefore, this theory is widely used in the process of proving cases that emphasize formal proof more than material¹⁵. In framing the evidence of a criminal case that is material in nature, it is between how the evidence as determined by the law is obtained, presented and assessed by the judge so as to give rise to the belief that leads the decision to the truth at least close to the truth in material terms.

Positioning of Judge's Belief in Criminal Case Examination If observed, there are at least 2 (two) objectives to be achieved in the evidence process, namely: first, seen from the public prosecutor, evidence is an effort to "convince" the judge that the defendant who is being tried is guilty and deserves to be punished. This effort is based on valid evidence, both in terms of the method of acquisition, nature and type of evidence used. Second, for the defendant/legal counsel, the evidence process is a process to "convince" that he/she/his/her client is not guilty and must be acquitted or released from all criminal charges. Of course, this process is carried out by presenting all evidence and arguments that can refute what is conveyed by the public prosecutor. The judge's belief as an inseparable part of the subject who receives the examination, tries and resolves In relation to this, this study found at least 2 (two) views. First, those who believe that only the provisions of evidence that have been set in a limited manner in Article 184 of the Criminal Procedure Code should be the only source in finding belief and truth. In Article 184 paragraph (1) of the Criminal Procedure Code ("KUHP") it is stated that valid evidence is: witness statements, expert statements, letters, clues and statements from

¹⁵Interview with Mr. Judi Prasetya, SH, MH, Deputy Chairman of the Semarang District Court, January 25, 2024, at the Semarang Class 1 A Special District Court.

Master of Law, UNISSULA

the accused. This school of thought is called the positivistic school of thought where there is no need for other elements to find material truth in a criminal case.¹⁶ In addition to being based on Article 184 of the Criminal Procedure Code, this view is also based on the theory of positive evidence (positif wettelijk bewijstheorie) although it does not fully adhere to it. In short, the view of this first type of judge still recognizes the existence of a negative evidence system (negative wettelijk bewijs theorie) as in Article 183 of the Criminal Procedure Code, however, in an effort to achieve conviction as in the Article, the measure/parameter is only based on evidence that has been determined in a limited manner in Article 184 of the Criminal Procedure Code. Furthermore, the theory of evidence that involves the judge's conviction is distinguished between evidence that is only based on: first, his subjective conviction as a noble judge (conviction intime); second, the judge's conviction obtained from rational and objective reasons (conviction ratione); and third, the judge's conviction obtained by implementing the law negatively (negative wettelijk bewijstheorie).

For the author, this becomes ambiguous, especially if we argue that a judge is someone who has independence/freedom in examining and deciding criminal cases. This means that a judge is not a mouthpiece of the law, so that in an effort to gain confidence in a material truth, the judge must not only be bound by evidence contained in the law, but must also be based on the breadth of knowledge, experience and wisdom of the judge. That is what constitutes the framework of negative proof (negative wettelijk bewijs theorie)¹⁷.

This study found that sometimes after the proof process took place by examining two pieces of evidence and all the evidence/indications in the trial, the judge actually got a different belief from what was argued by both the public prosecutor and the legal advisor. The judge had his own belief in the case.

This means that the criminal case examination process must always present and pay attention to valid evidence and be followed by the judge's initiative in seeking and finding the truth about a criminal event. In such a context, the judge's activeness in examining the case and sensitivity in capturing all trial facts are highly demanded so that a conviction is obtained that the defendant is guilty or not guilty.

The existence of the judge's freedom to assess and decide a case based on his/her beliefs must also be based on formal evidence. Likewise, the existence of formal evidence in a trial examination should not be considered as the only source of truth. The search and discovery of truth, both formal and material, in a criminal case by a judge must be carried out professionally and proportionally.

The Existence of Judges' Beliefs in Criminal Cases in Indonesia In addition to the legality dimension as stated in Article 1 paragraph (1) of the Criminal Procedure Code as an instrument of protection, protection is also realized through a judge's decision. The results of the study show that in judicial practice, judges' beliefs play an important role. The results of interviews

¹⁶Interview with Mr. Judi Prasetya, SH, MH, Deputy Chairman of the Semarang District Court, January 25, 2024, at the Semarang Class 1 A Special District Court.

¹⁷Interview with Mr. Judi Prasetya, SH, MH, Deputy Chairman of the Semarang District Court, January 25, 2024, at the Semarang Class 1 A Special District Court.

Master of Law, UNISSULA

with judges at the Semarang City District Court have confirmed the application of the negative evidentiary theory (negative wettelijk bewijstheorie)¹⁸.

During the evidentiary process, the judge is not only bound by the evidence that has been determined in a limited manner in Article 184 of the Criminal Procedure Code (KUHAP), but also uses his/her conviction to prove the defendant guilty or not. This is in accordance with the provisions as stated in Article 183 of the Criminal Procedure Code (KUHAP) which stipulates that: A judge may not sentence a person unless with at least two valid pieces of evidence he/she obtains the conviction that a crime actually occurred and that the defendant is guilty of committing it. Legally, the use of the judge's conviction in finding material truth together with valid pieces of evidence has obtained its legal basis.

If legally the judge's belief is recognized and has an important position based on the provisions of Article 183 of the Criminal Procedure Code and is supported by the theory of negative evidence (negative wettelijk bewijs theorie), then how is the existence of the judge's belief both philosophically and practically? The results of interviews with judges at the Semarang City District Court found that in practice the judge's belief was reflected in his decision when giving legal considerations. In the legal considerations section, it will be seen how the judge's perspective is in seeing and constructing concrete facts into legal facts and connecting these legal facts to the qualifications of the Article charged.

Parameters of Judges' Beliefs in Criminal Case Examination at the Semarang City District Court. The Nature and Role of Judges' Beliefs in Criminal Case Examination Belief is a human mental attitude based on the certainty that there is truth, but the truth that is investigated by himself. Belief is an attitude shown by humans when he feels he knows enough and concludes that he has reached or interpreted the truth.

If at some point a person has sufficient reason, that he believes there is sufficient reason that his knowledge is in accordance with its object, then he interprets certainty. In this attitude of certainty he no longer doubts, that he really knows the basis of his knowledge, why it is so, and why it must be so. Achieving this just truth is said to provide a psychological effect of a sense of "satisfaction" for humans, and at such times he is called convinced. However, this belief does not always contain (is not identical to) the truth. Belief is an attitude, so a person's belief is not always true, belief is not a guarantee of truth. Belief within a person even has its own logic and the logic of a person's belief is not necessarily in line with the logic of the conscious mind, because a belief can even be born subjectively because of the potential intuition and imagination of a human being. Judge's belief in criminal law the birth of a judge's belief in practice cannot be separated from his struggle in the process of proof. Although the judge's interpretation and assessment that gives rise to that belief certainly does not only depend on the process of proof but also on things that influence him¹⁹. Indonesia is a prerequisite for criminal decisions (verdicts).

Judges do not only think about deciding cases quickly, but also resolving cases that can benefit the community in a philosophical context, so the depth and maturity of a judge to seek and

¹⁸Interview with Mr. Judi Prasetya, SH, MH, Deputy Chairman of the Semarang District Court, January 25, 2024, at the Semarang Class 1 A Special District Court.

¹⁹Interview with Mr. Judi Prasetya, SH, MH, Deputy Chairman of the Semarang District Court, January 25, 2024, at the Semarang Class 1 A Special District Court.

Master of Law, UNISSULA

present justice is the most important part in the criminal procedure examination process. Belief in a material truth must be built on integrity to always realize justice. However, regarding the various aspects that must be considered (juridical, sociological and philosophical), until now there has been no detailed explanation of how the various considerations are implemented in an orderly framework. This means that building a construction of belief as referred to in Article 183 of the Criminal Procedure Code is very subjective based on the independence and independence of the judge.

What is the judge's belief in deciding a case by seeing the real case Where a judge can put his justice in it. Using what is logical and can be proven in theory of proof and truth against his arguments. In the theory of positive proof (positive wettelijk bewijsh theory) it is determined that only formal evidence that is determined in a limited manner in the law is used by the judge to decide the case. Therefore, this theory is widely used in the process of proving cases that emphasize more on formal proof than material/civil cases.

The limiting provisions on evidence are strictly regulated in Article 184 of the Criminal Procedure Code, namely: 1) Witness testimony; 2) Expert testimony; 3) letters; 4) instructions and 5) defendant's testimony. As a comparative material to increase knowledge, for example, the order of evidence based on Article 78 of Law Number 1 of 1950 states that the order of evidence is: Judge's knowledge (eigenwaarneming van der rechter); defendant's testimony (verklaring van de verdachte); witness testimony (verklaring van de getuige), expert testimony (verklaring van de deskundige) and letters (schriftelijke bescheiden). The role of legal considerations for judges in their decisions, so that the consequences of the judge's profession can be substantially interpreted into the meaning: Judges are a special profession, so they are given special tools in the form of independence or freedom to organize honest, fair and authoritative trials. The judge's thinking method is carried out deductively, namely thinking from the general to the specific. Judges think from general provisions to be applied to in-concrete cases (special rules) that are being tried. In Indonesia, which in theory adheres to the Continental European justice system, judges are often bound to precedent, but in contrast in England, judges often free themselves from being bound to precedent if the needs of the community require otherwise.

The judge's decision serves as a consideration for other judges in similar cases, especially in the ratio decidendi section with the aim of making the judge more quickly make a decision on the case being handled. The "progressive law" approach emphasized by Satjipto Rahardjo has been practiced in the judge's decision, dissenting opinions are no longer "confidential" because they are stated in the judge's decision, and are even read out in open court by members of the panel of judges who have a different opinion. This means that the confidentiality (closedness) of dissenting opinions no longer applies and must be known to the public.

If the court is of the opinion that from the results of the examination at trial, the defendant's guilt for the act charged against him has not been proven legally and convincingly, then the defendant is declared free. If the court is of the opinion that the act charged against the defendant has been proven, but the act does not constitute a criminal act, then the defendant is declared free from all legal charges. And in the case as referred to in paragraph (1) and paragraph (2), the defendant who is in detention status is ordered to be released immediately, unless for another legitimate reason, the defendant needs to be detained.

Master of Law, UNISSULA

The judge's decision contains both criminal penalties and acquittals for the defendant. The criminal penalty decision is intended to punish the defendant because the person concerned in the court hearing was proven legally and convincingly to have committed a crime as charged by the PU.

Case example from the DKI Jakarta District Court (PN) sentencing Mario Dandy Satriyo (20) who was sentenced to 12 years and paid restitution of Rp 25 billion. The judge said the restitution value was in accordance with the sense of justice. "The panel of judges agrees that what has been considered and decided by the panel of judges at the first instance has been considered and decided correctly and legally in accordance with the sense of legal justice and social justice," said judge Tony Pribadi during the trial at the Jakarta High Court. The judge said Mario Dandy's actions had caused more than just serious injuries. The judge stated that restitution was very necessary for the treatment and support of living needs in the recovery of health for Cristalino David Ozora (17). "Because what the defendant did to the victim caused more than just serious injuries and the restitution imposed on the defendant against the victim was needed to guarantee treatment and support of living needs in facing the uncertainty of recovering health," said the judge. In his appeal memo, the legal advisor asked Mario Dandy to be sentenced as lightly as possible. Mario Dandy's party also asked the judge to reject the calculation of restitution of Rp 25 billion. "Rejecting the calculation of restitution as decided by the first instance panel of judges because it was made based on statutory regulations," said the judge reading the appeal memorandum. Mario Dandy's party also considered the South Jakarta District Court judge's decision to be wrong regarding the Rubicon car being seized for auction. Mario Dandy's party said the car belonged to a third party named Ahmad Saefudin. "The first instance panel of judges was wrong in considering the decision regarding the sale of the Rubicon car. The decision regarding the sale of the Rubicon as a reduction in the restitution value is contrary to applicable law and indicates problems in the future because in fact the Rubicon car does not belong to the appellant, but to the thirdparty Ahmad Saefudin," said the judge reading Mario Dandy's appeal memorandum. Upholds 12-Year Prison Sentence the DKI Jakarta High Court accepted the appeal of Mario Dandy Satriyo and the public prosecutor regarding the assault case against Cristalino David Ozora. The panel of appeal judges decided to uphold the South Jakarta District Court's decision which sentenced Mario Dandy to 12 years in prison. "To strengthen the decision of the South Jakarta District Court 297/Pid.B/2023/PN JKT.SEL dated September 7, which was appealed," said Judge Tony when reading the verdict. Sitting as chairman of the panel was Tony Pribadi Prakoso with members Sumpeno and Indah Sulistyowati. Meanwhile, Mario was not present at the hearing to read the appeal verdict. This appeal verdict was only attended by the Jakarta High Court panel. It is known that at the first level, Mario Dandy was sentenced to 12 years in prison and ordered to pay restitution of Rp 25 billion. The judge found Mario guilty of committing premeditated serious assault on Cristalino David Ozora.

And allso some cases that have hurt the sense of justice include the case of theft of watermelon, kapok, corn plants, or theft of cocoa beans by Grandma Minah, this case began when Grandma Minah found 3 cocoa fruits on the plantation tree where she worked that looked ripe. The intention of the 55-year-old Grandma at that time was to pick them to be sown as seeds on her land. Then, she immediately put the cocoa under the tree in question. Not long after, the cocoa plantation foreman reprimanded Grandma Minah because of the 3 cocoa fruits that appeared to be lying under the tree. Not denying her actions, Grandma

Master of Law, UNISSULA

Minah admitted and apologized to the foreman and returned the three coconuts. About a week later, Grandma Minah received a summons from the police on suspicion of theft. The examination took place until finally the case rolled to the green table at the Purwokerto District Court. Grandma Minah in the trial as widely reported by various media was not accompanied by a legal advisor and ended up being charged with theft (Article 362 of the Criminal Code) of 3 coconut fruits weighing 3 kilograms with a price calculation of Rp. 2,000 per kilogram.

As a result, the Panel of Judges at the Purwokerto District Court at that time decided that Grandma Minah was sentenced to 1 month and 15 days with a 3-month probation period. The trial of Case No. 247/PID.B/2009/PN Pwt and the case of the theft of sandals allegedly belonging to the Police who had also been deemed guilty and sentenced to a criminal offense, further added to the long list of dark portraits in the practice of law enforcement in this country. Law enforcement that has been running so far seems to still be strongly oriented in the form of procedural justice that emphasizes the aspect of regularity and the application of legal formalities alone.

In practice, especially in the Semarang District Court, to construct a judge's belief, it will be returned to the principle of freedom and independence of judges based on the material truth obtained during the trial. The subjectivity factor of judges is very dominant in providing assessments of a series of criminal process examinations. The absence of this guideline risks giving rise to polemics related to the objectivity of judges. The Institute for Criminal Justice Reform (ICJR) report shows that the absence of guidelines (parameters) for judges' beliefs associated with the limitations of evidence (Article 184 of the Criminal Procedure Code) and the independence/freedom of judges can give rise to problems due to 2 (two) things: 1) There is no control over the principles of freedom and independence; 2) Often the court institution is suspected of being non-independent in handling cases due to external influences (eg: the phenomenon of courtroom television and mass action outside the court building during the trial)²⁰.

This also shows that the judge's belief in practice is not only based on theory, doctrine or expert opinion, but there are those who 'work' outside of that. This condition is what ultimately makes the judge's authority in making legal decisions always a mystery to the general public. Simply put, what is meant by belief is an attitude shown by humans when they feel they know enough and conclude that they have reached the truth. Because belief is an attitude, a person's belief is not always true or, belief alone is not the path to truth. There is a basis used to obtain belief. In the context of the judge's belief, according to Subekti, the judge's belief must be based on something that is called evidence by law.²¹ The parameters that form the judge's belief should ideally be explained in detail, transparently, accountably and written in the decision handed down to the Defendant. The absence of parameters for the judge's belief in examining and deciding a case risks subjectivity.

A good decision that has dimensions of justice, benefit and legal certainty that should be based on law philosophically while the judge's duties are to carry out the duties of judicial power in his jurisdiction and other duties that are his responsibility. Examine, decide and

²⁰Assessment Report on the Implementation of Fair Trial Principles in Indonesia, 2022, Institute for Criminal Justice Reform.

²¹Subekti, 2015, Law of Evidence, Balai Pustaka, Jakarta, p. 2.

Master of Law, UNISSULA

resolve cases that are received. Carry out supervisory/guidance duties (supervisory judges in the field) assigned to him. Implementation of Law No. 48 of 2009 concerning judicial power Article 5 paragraph (1) states: "Judges and constitutional judges are required to explore, follow, and understand the legal values and sense of justice that live in society." The law provides direction that judges must understand cultural customs. Moreover, now the decision is often agitated by irresponsible people with social media so that it makes a fuss about something that actually did not happen and creates confusion among the community and begins to judge for themselves. That is why as a judge, carefulness is needed in handling cases like this in accordance with the values of justice in society. In a case, the argument must be proven. If the argument that has been proven is not in accordance with the facts, then the proof is called a decision that is not in accordance with the values of justice of the parties to the case.

3.1. The Judge's Efforts in Deciding a Case in Accordance with the Values of Justice of the Parties to the Case.

The judge's efforts to give a decision that is in accordance with the values of justice, the judge must stand alone and not be burdened by anything in deciding according to the evidence with the judge's belief. The judge must judge correctly the case submitted to him, he must not reject a case on the grounds that the law does not exist or it's not yet clear, but he is obliged to try it²². The basis for judges in issuing court decisions must be based on theories and research results that are interrelated so that maximum research results are obtained in terms of theory and practice. where judges apply law enforcement officers through their decisions can be a benchmark for achieving legal certainty. A case has gone through the stages regulated in the Implementation Guidelines for the Criminal Procedure Code, based on the guidelines for implementing the Criminal Procedure Code, namely:

- a. The defendant is acquitted if the court is of the opinion that based on the results of the trial examination, the defendant's guilt or the actions he is accused of have not been proven legally and convincingly.
- b. The defendant is acquitted of all legal charges, namely if the court is of the opinion that the act of which the defendant is accused has been proven, but the act does not constitute a criminal act.
- c. The defendant is sentenced to a criminal sentence, namely if the court is of the opinion that the defendant is guilty of committing the crime with which he is accused.

To obtain the verdict, the judge will conduct criminal act proof on the defendant, namely by seeking conviction whether the defendant committed the act charged against him or not, and matching the behavior charged against him with the articles of criminal law. The judge's conviction search is carried out by asking the prosecutor, defense attorney, witnesses, defendant or looking at the evidence submitted. The judge is convinced that the defendant committed the act charged against him, the judge's freedom also needs to be explained in the position of an impartial judge (impartial judge) Article 5 paragraph (I) of Law No. 48 of 2009. The term impartial here must not be literal, because in making his decision the judge must side with the right.

²²Interview with Mr. Judi Prasetya, SH, MH, Deputy Chairman of the Semarang District Court, January 25, 2024, at the Semarang Class 1 A Special District Court.

Master of Law, UNISSULA

Formulation of Law No. 48 of 2009 Article 5 paragraph (I): "The court shall adjudicate according to the law without discriminating between people". A judge is required to uphold the law and justice impartially. In providing justice, a judge must first examine the truth of the event submitted to him, then provide an assessment of the event and relate it to the applicable law, after which the judge can make a decision on the case. A judge may not refuse to examine and try a case submitted to him. This is regulated in Article 16 paragraph (I) of Law no. 48 of 2009. "Judge's Efforts in Deciding Cases According to Islamic Criminal Law According to Islamic law, in terms of language, a judge has several meanings, namely: A law maker who determines or brings up sources of law, and who finds, explains, introduces, and reveals the law. Judges are quite important in ushul fiqh, because they are related to the creation of laws in Islamic law, or the formulator of sharia law, which brings rewards for those who do it and sins for those who break it. In the science of ushul fiqh, judges are also called sharia.

thus the scholars agree that a judge can pass a verdict based on his knowledge in determining the goodness or badness of another person. If the witnesses give opposing opinions, then a judge may not pass a verdict based on his knowledge. If there is a dispute, then the scholars agree that the judge can issue a decision based on his knowledge in strengthening the reasons of one party over the other party.

Judges strive to apply God's law. God has dictated the demands on judges to strive to apply God's law as formal law for the judicial traffic of society. Judges in examining a case are required to use/adhere to the Qur'an and hadith. the best law for humans, which can only be experienced by people who believe in the nature of God, namely the Most Just and the Most Wise²³. Upholding the authenticity in accordance with the irah-irah made in the head of the decision which reads "For the Sake of Justice Based on the Almighty God". Second, must uphold criminal procedural law, as well as uphold the ethics of the judge's profession Based on the above considerations and in accordance with the requirements, a Code of Ethics and Guidelines for Judges' Conduct were drawn up which are a guide for judges throughout Indonesia.

The basic principles of the Code of Ethics and Guidelines for Judges' Behavior are implemented in 10 (ten) rules of behavior as follows: (1) Behaving Fairly, (2) Behaving Honestly, (3) Behaving Wisely and Prudently, (4) Being Independent, (5) Having High Integrity, (6) Being Responsible, (7) Upholding Self-Respect, (8) Being Highly Disciplined, (9) Behaving Humbly, (10) Being Professional. And always being a patient listener and considering wisely and Behaving and acting according to the lines determined in the applicable procedural law. It is not permissible to act in a way that shows bias or sympathy or antipathy towards the parties to the case. Must be polite, firm and wise in leading the trial, both in words and actions and Back again²⁴. The judge has the highest power. Anyone who has a case must submit to the judge's decision. That is why the judge seems to be God's representative in deciding truth and justice. The judge has

²³Mandal, S. (2018). Out Of Shah Bano's Shadow: Muslim Women's Rights And The Supreme Court's Triple Talaq Verdict. *Indian Law Review*, 2(1), Pg, 89–107.

²⁴Interview with Mr. Judi Prasetya, SH, MH, Deputy Chairman of the Semarang District Court, January 25, 2024, at the Semarang Class 1 A Special District Court.

Master of Law, UNISSULA

considered wisely, listened patiently and decided impartially can produce a decision that is in accordance with the values of justice of the parties to the case.²⁵.

4. Conclusion

The judge's consideration in deciding the case so that it is considered not in accordance with the value of justice of the parties that we have previously known that in a case there must be evidence that is proven so that the decision meets the value of justice of the parties involved in the case, but there are still some people who think that the judge must be able to decide as fairly as possible but base the decision on the judge's belief and the fulfillment of two pieces of evidence. The judge's efforts in deciding a case in accordance with the values of justice of the parties to the case include firstly upholding procedural law, secondly upholding professional ethics, listening patiently, deciding impartially and considering wisely and using the principle of hearing both parties.

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