

Professional Independence of Judges in Enforcing The Law in Courts According to The Perspective of Islamic Law

Achmad Riduan¹⁾ & Sri Kusriyah²⁾

Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia, E-mail:
AchmadRiduan.std@unissula.ac.id

Abstract. *The judge is one of the most important elements in the judicial institution. He plays a very important role in implementing the implementation of Islamic law and is the person who is most fully responsible for maintaining and defending Islamic law. The judge's task is so heavy that of course not everyone is able to carry it out. This is what makes it important to provide special criteria and special screening for people who will be appointed as judges. This aims to ensure that the person holding this position is truly authoritative and qualified. In addition, a judge must be able to conduct examinations, assessments and finally make decisions on a case submitted to him. Such authority is called judicial power. The approach method used is normative juridical or legal research that only examines library materials so it is also called library legal research. Another approach used is the Analytical Approach. This research was analyzed using qualitative descriptive analysis methods. For that reason, in this simple paper, the requirements to become a judge and their competence are explained. So that the discussion of the requirements and competence of judges in this paper will be explained from the perspective of Islamic justice and the current justice system (Religious Courts in Indonesia) are explained.*

Keywords: Court; Judge; Independence; Profession.

1. Introduction

The independence of judges based on the independence of the Judicial Power in Indonesia is guaranteed in the Indonesian Constitution, namely the 1945 Constitution, which is further implemented in Law Number 48 of 2009. Independence is defined as being free from the influence of the executive or other State Powers, as well as free from coercion, recommendations and all kinds of other things, both extra-judicial and internal judicial in making decisions.

In exercising judicial power, there are 4 (four) judicial environments, namely:

1. General Court
2. Religious Courts
3. Military Court
4. State Administrative Court

Initially, the four judicial environments were separate and not united. Organizationally, administratively and financially, the judicial bodies were under the Supreme Court as the Highest Court carrying out supervision and cassation and review of the decisions of the judicial bodies. In other words, the development of judges is technical and administrative development by the Supreme Court.

In its development, Law Number 35 of 1999, which is an implementation of MPR Decree Number X of 1998 (a clear separation between judicial and executive functions, also contained in Article 24 of the 1945 Constitution) which unites the four judicial environments above under one roof at the Supreme Court so that there will no longer be dualism in the development of judicial bodies, but rather there will be one development under the authority of the Supreme Court, including technical and administrative, organizational and financial development.

The independence of the Judicial Power or judicial bodies/courts is one of the bases for the implementation of a democratic government under the Rule of Law as the idea of a modern Legal State that was once proposed in a conference by the International Commission of Jurists in Bangkok in 1965. In that meeting, "the dynamic aspects of the Rule of Law in the modern age" was produced, in which it was stated that there are 6 (six) conditions for the implementation of a democratic government based on the Rule of Law, namely:

1. Constitutional Protection
2. Independent and impartial courts or judicial bodies
3. Free general elections
4. Freedom of expression
5. Freedom of association/organization and opposition
6. Civic education

In the conditions mentioned above, Independence of Power is included as a basic condition, which if it does not exist then we can no longer talk about the Rule of Law. The importance of the independence of judicial bodies and the Judicial Power has been universally accepted and emphasized in various international legal instruments, including:

1. Universal Declaration of Human Rights, Article 10.
2. International Covenant of Civil and Political Rights, Article 14.
3. Vienna Declaration and Program for Action, 1993 paragraph 27.
4. International Bar Association Code of Minimum Standards of Judicial Independence 1982 (New Delhi, India).
5. Universal Declaration on the Independence, 1983 (Montreal, Canada)
6. Beijing Statement of Principles of the Independence of Judiciary in the Law Asia Region, 1995.

With the explanation above, it is clear that the Independence of the Judicial Power is guaranteed nationally and internationally with various regulations, laws, declarations, and treaties. However, this independence and independence are still bound and limited by certain guidelines, so that in the International Commission of Jurists conference it was said that: "Independence does not mean that the judge is entitled to act in an arbitrary manner".

The main limitations or signs in freedom and independence that must be remembered and observed are the legal rules themselves. Legal provisions, both formal and material, are already limitations for the Judicial Power so that in carrying out its independence it does not violate the law and does not act arbitrarily. Judges are "subordinated" to the Law and cannot act "contra legem".

On the other hand, the Freedom and independence of the judiciary (Independence of Judiciary) is bound by responsibility and accountability (Judicial Accountability). As a concrete step of this responsibility and accountability, the Chief Justice then issued [KMA Decree no. 1-144/KMA/SK/I/2011](#) on Guidelines for Information Services in Court. SK KMA no. 1-144 is a revision of SK KMA no. 144/KMA/SK/VII/2007 on Information Disclosure in Court to realize Good Governance and Check and Balances Information Disclosure and transparency.

In the KMA Decree, various types of information are mentioned that must be announced and issued by judicial institutions, including the Supreme Court, including:

1. Information on the Profile and Basic Services of the Court (Functions, duties and jurisdiction of the Court, organizational structure of the Court, etc.),
2. Procedural procedures for each type of case that falls within the jurisdiction of the Court.
3. Costs related to the case resolution process and all other court clerk rights costs in accordance with the authority, duties and obligations of the Court.

4. Trial agenda at the First Instance Court.
5. The rights of the parties related to the trial (right to receive legal assistance, right to free legal costs, etc.)
6. Procedures for reporting alleged violations committed by Judges and Employees;
7. Information on Work Programs, Activities, Finances and Court Performance
8. Summary of Government Agency Performance Accountability Report (LAKIP).

And many other things that must be "opened" by the court to apply the principle of responsibility and accountability. One of the consequences of the existence of this KMA is that Judges are expected to issue quality decisions because they can be read and studied by everyone. This is also a form of "social accountability" (responsibility to society), because basically the task of judicial bodies or courts is to carry out public services in the field of providing justice for people seeking justice.

Another form of the independence of the judicial power is the recognition of dissenting opinions in a judicial process, because it is through the mechanism of "publication of dissenting opinion" that the independence of judges is guaranteed in conveying and defending their respective legal arguments during the decision deliberation.

Another consequence of such accountability is the existence of supervision or control over the performance of judicial bodies so that the independence and freedom of the Judicial Power are not misused. Some forms and mechanisms of supervision are the establishment of the Judicial Commission, as well as mass media including the press.

So, the freedom of judges, which is the application of the independence of the judicial power, is not superior in itself, but is limited by:

1. Accountability
2. Moral and ethical integrity
3. Transparency
4. Supervision (control)

If the judicial power above is associated with the Judge, then the independence must be perfected with the impartiality and professionalism of a Judge. The Independence of the Judicial Power also contains the meaning that the Judge as a law enforcer is free from the influences of:

1. External (Institutions outside judicial bodies)
2. Internal (Institutions within the judicial system)
3. Parties to the case
4. Social pressures.
5. News and information from the media (trial by the press)

Finally, related to the press, the press plays a large and influential role in the independence of the Judicial Power, because through press reporting the public obtains information whether the course of the judicial process has been carried out properly and as it should be. The press functions as a control as well as a provider of information that is correct, accurate and impartial to the public about the performance of judicial bodies, so that information and news from the press must be informative and is expected not to contain news and information that is of a "trial by the press" nature.

2. Research Methods

In this article, the approach method used is normative juridical or legal research that only examines library materials so it is also called library legal research. Another approach used is the Analytical Approach. This research was analyzed using qualitative descriptive analysis methods.

3. Result and Discussion

3.1. Judiciary and Judges in Islamic Perspective

In the Great Dictionary of the Indonesian Language, justice is everything about the court. While the court has many meanings, namely the council or assembly that tries a case, the court, the process of trying, the judge's decision when trying a case, the house (building) where the case is tried.¹

The judiciary in the development of Islamic legal treasury (fiqh) uses the term al-qadā for the judiciary and the court of al-qadā' for the court while the qādi is the judge. Al-qadā etymologically means musytarāk (many meanings not single). Muhammad Salam Madkur gives three meanings to the word al-qadā; namely, first al-Farāg means to break or finish. Second al-Adā'a means to fulfill or pay and Third, al-bukmu, means to prevent or hinder. According to the Fuqaha scholars as stated by Muhammad Salam Madkur, the term judiciary or al-Qadhā is al-

¹ Department of National Education of the Republic of Indonesia, Big Indonesian Dictionary, 4th Edition (1st ed.; Jakarta: Ministry of National Education, Balai Pustaka, 2008), p. 10

Ikhhār 'an hukm syar'ī 'ala sabīl al-Izām, meaning to convey the sharia law by way of determination.²

The word "judgement" is a translation of "qadā" which means to decide, carry out and complete.³ Furthermore, TM Hasbi Ash Shiddeqy stated that what is meant by al-Qadā is "the power to judge cases."⁴

In the Indonesian Encyclopedia volume 5, a court is "an agency or organization established by the state to manage and adjudicate legal disputes. All court decisions are taken in the name of the Republic of Indonesia" or "in the name of justice". While the formulation of the court is not found. Likewise, in the legal dictionary only the word court is found, namely a council or agency that is obliged to adjudicate cases by examining and making decisions regarding legal disputes, violations of law or laws and so on.⁵

Based on these formulations, it can be concluded that the judiciary is the state's power to receive, examine, try, decide, and resolve cases to uphold law and justice. In relation to this understanding, what is meant by a court is a judicial body that exercises judicial power to uphold law and justice.

3.2. Legal basis for justice in the Qur'an and Hadith

1. Evidence in the Qur'an

The principle of justice is the third principle in Islamic nomocracy. Like deliberation, the words of justice also come from the Koran. There are quite a lot of verses in the Qur'an that describe justice, for example:

a) In surah an-Nisa: 135 the words of al-Qist are a synonym for the words justice: "O you who believe, be you people who truly uphold justice, be witnesses for Allah even against yourselves or your parents and your relatives . whether he is rich or poor, Allah knows best his benefits. So don't follow your desires because you want to deviate from the truth. and if you distort (the words) or are reluctant to be witnesses, then indeed Allah is All-Knowing of everything you do." (QS an-Nisa: 135)

From the verse above, at least three legal principles can be drawn, namely:

1). Upholding justice is the obligation of believers

² Muhammad Salam Madkur, *Al-Qadhā Fil al-Islām* (Cairo: Dār an-Nadhā al-'arabiyah, t.th), p. 11

³ Ahmad Warson Munawir, *Al-Munawwir* (Arabic-Indonesian Dictionary), (First printing: Jakarta: 1996), p. 1215.

⁴ Hasbi Ash-Shiddeqy, *Islamic Courts and Procedural Law* (Yogyakarta: PT.Ma'arif, 1994), p. 29.

⁵ Simorangkir, et.al, *Legal Dictionary* (IXth ed.: Jakarta: Sinar Grafika, 2005), p. 124.

2). Every believer who is a witness is obliged to be a witness for Allah with honesty and fairness

3). Humans are prohibited from following their desires and humans are prohibited from perverting the truth.

b) In another verse, Allah reiterates the obligation of humans to uphold justice and be fair witnesses, as stated in the following verse:

"O you who believe, let you be those who always uphold (the truth) for Allah, be witnesses fairly. and never let your hatred of a people encourage you to act unjustly. Be fair, because justice is closer to piety. and fear Allah, surely Allah is All-Knowing of what you do."(QS Al-Maidah :8)

The verse above commands to fulfill the mandate, emphasizing that the mandate must be fulfilled to the ahliha, namely its owner. When commanding to establish law fairly, it states "when you establish law between people". This means that the command to be fair is directed towards all people.⁶

From this verse, at least four lines of law can be formed which contain commands and prohibitions for humans, namely:

1) Commands to believers to be upright (just) human beings, from the words of alqist for Allah. This line of law implies that every just action is carried out by humans because of their sincerity towards Allah alone, not because of anything else.

2) Commands to believers to be fair witnesses, meaning that in their testimony, they do not take sides with anyone, except the truth.

3) Prohibition for believers to act unfairly, because of emotional motivation or negative sentiment (hate) towards a group of people or a certain person. This verse can also be interpreted, humans are prohibited from acting unfairly because of positive emotional motivation, for example love or compassion for a group or a certain person. In short, every believer is obliged to be a fair witness without being influenced by any feelings, except the truth.

4) An order to believers to be just, because being just is closer to piety.⁷

5) In the Qur'an the theme of justice is something very important. Therefore, as stated in another verse regarding this theme, namely in Surah An-nah. "Indeed, Allah commands (you) to act justly and do good deeds, to give to your relatives, and Allah forbids evil deeds, evil and enmity. He teaches you so that you can learn from it" (QS an-Nahl: 90)

⁶Hasbi Ash-Shiddeqy, Islamic Courts and Procedural Law (Yogyakarta: PT.Ma'arif, 1994), p. 29.

⁷ Simorangkir, et.al, Legal Dictionary (IXth ed.: Jakarta: Sinar Grafika, 2005), p. 124.

At least six lines of law can be formed from the verse above, namely:

- a. Order upholds justice
- b. Order to do good
- c. Order to help materially to relatives or friends
- d. Humans are prohibited from committing vile and bad deeds
- e. Humans are prohibited from committing evil
- f. Humans are prohibited from being hostile

In essence, these legal lines are a unity that is centered on the theme of justice. Therefore, in this verse "the command to uphold justice is placed or outlined in the first order.⁸ From here it can be understood that the command to uphold justice applies to every believer who is entrusted with the mandate to hold state power.

Humans are creatures created by Allah who dare to accept the trust entrusted to them by Allah, which previously no one dared to carry except humans. Humans are perfect creatures who are gifted with reason and passion, humans are given freedom with their intellect. Humans are free to think about how to understand and carry out their mandate as caliphs on this earth.⁹

Pay attention to the words of Allah SWT: "Indeed, Allah commands you to convey a message to those who are entitled to receive it, and (orders you) when you determine a law between people, so that you determine it fairly. Indeed, Allah will give you the best teaching. Indeed, Allah is All-Hearing, All-Seeing." (QSan-Nisa':58)

If the verse is formulated using the method of forming legal lines as taught by Hazirin and developed by Sayjuti Thalib, then from the verse two legal lines can be drawn, namely:

The first line of law is that humans are required to convey trust or trust to those who are entitled to receive it, the second line of law is that humans are required to establish laws fairly.

The word *amanah* which in Indonesian is called "*amanat*" can be interpreted as "trust" or "message". In the context of "state power" the word *amanah* can be understood as a delegation or delegation of authority and therefore power can be called a "mandate" which comes from Allah.

⁸Ibid, p.121

⁹Bismar Siregar, the law of judges and the justice of God (Jakarta: Gema Insani Press, 1995), p.14

"Power is a gift or favor from Allah which is a trust for humans to be maintained and exercised as well as possible in accordance with the basic principles set out in the Qur'an and exemplified by the Sunnah of the Prophet. This power must be accountable to Allah.¹⁰

The delivery of mandate in the context of power contains an implication that there is a prohibition for the holder of the mandate to commit an abuse or misuse of the power he holds, upholding justice is a command of God, if power is connected with justice, then in Islamic nomocracy the implementation of state power through a just government is an obligation of the ruler. In Islamic nomocracy between power in the broad sense of executive, legislative, judiciary, and police with justice are two sides that cannot be separated. Power must always be based on justice, because the principle of justice in Islam occupies a position that is very close to piety.¹¹

Piety is a human benchmark in his life that distinguishes him before the Almighty. The above verse begins with a message that in upholding justice, we are not tempted by hatred for a group of people, so that we deviate from justice.

Indeed, the temptation in upholding justice is when our relationships with other people are filled with feelings of pleasure and hatred, if we are involved in relationships with other people or groups or other groups in an atmosphere of displeasure, we should not deviate from justice so that it harms other people.¹²

Therefore, justice must be prioritized in the trial because, first, because Allah has the nature of the most just, His justice is full of compassion for His creatures. Second, in Islam, justice is truth. Truth is also one of the names of Allah. He is the source of truth in the Qur'an called al-Haq. Justice and truth can be likened to two twin brothers who are difficult to separate. Third, justice which comes from the word justice in Arabic in terms of etymology means the same. It shows a balance or in a middle position.¹³

2. Evidence from the Hadith

Not only in the Qur'an is it obligatory to uphold justice but in the hadith the prophet also requires to uphold justice.

If a judge makes ijthihad and his ijthihad is correct, then he gets two rewards, and if he makes ijthihad but his ijthihad is wrong, then he gets one reward."¹⁴

¹⁰Muhammad Tahir Azhary, *State of Law*, p. 106

¹¹Bismar Siregar, *the law of judges and the justice of God* (Jakarta: Gema Insani Press, 1995), p.14

¹²Nurcholish Madjid, *Messages of Piety*, (Jakarta: Paramadina, 2000), p.17

¹³Muhammad Tahir Azhary, *State of law*, p.122

¹⁴Teungku Muhammad Hasbi Ash Shiddieqy, *Islamic courts and procedural law* (Semarang: PT. Pustaka Rizki Putra, 2001), p.36-37

In another hadith it is stated:

"From Buraidah Radliyallaahu 'anhu that Rasulullah Sallallaahu 'alaihi wa Sallam said: "There are three judges, two in hell and one in heaven. One who knows the truth and he decides with it, then he is in heaven; one who knows the truth, but he does not decide with it, then he is in hell; and a person who does not know the truth and he decides for society with ignorance, then he is in hell." History of Imam Four. Sahih hadith according to Hakim.

message may Allah bless him and give him peace and blessings دُبَّحُ God willing
حُرَيْمَةَ, وَأَبْنُ حَبَّانَ

"From Abu Hurairah Radliyallaahu 'anhu that Rasulullah Sallallaahu 'alaihi wa Sallam said: "Whoever is appointed as a judge, he has been slaughtered with a knife." History of Ahmad and Imam Empat. Sahih hadith according to Ibn Khuzaimah and Ibn Hibban."

message Allah's blessings: (لَا يَحْكُمُ أَحَدٌ بَيْنَ اثْنَيْنِ, وَهُوَ غَضَبَانُ) مُتَّفَقٌ عَلَيْهِ

"Abu Bakrah Radliyallaahu 'anhu said: I heard Rasulullah Sallallaahu 'alaihi wa Sallam say: "Let no one punish between two people in a state of anger." Muttafaq Alaihi."

"From Ali Radliyallaahu 'anhu that Rasulullah Sallallaahu 'alaihi wa Sallam said: "If two people ask you for a legal decision, then do not decide for the first person before you hear the second person's statement so that you know how to decide the law." Ali said: After that I was always a good judge. History of Ahmad, Abu Dawud and Tirmidhi. Hasan hadith according to Tirmidhi, corroborated by Ibn al-Madiny, and judged authentic by Ibn Hibban.¹⁵

3.3. Appointment and dismissal of judges and their authorities

1. Definition of judge

Judge comes from the word حَكَمَ - يَحْكُمُ - حَاكِمٌ: the same meaning as *qadhi* which comes from the word قَضَى - يَقْضِي - قَاضٍ means to decide. While according to language it is a wise person or a person who decides a case and determines it. The definition according to Syar'a Judge is a person who is appointed by the head of state to be a judge in resolving lawsuits, disputes in the field of civil law because the ruler himself cannot complete the judicial task¹⁶. As the Prophet Muhammad SAW has appointed *qadhi* to be tasked with resolving disputes between people in distant places, as he has delegated this authority to his

¹⁵ Al-Hafidh Imam Ibnu Hajar al-Asqalany, *bulughul maram min adillatil ahkaam* (tasikmalaya: al-hidayah library, 2008), h....

¹⁶ Muhammad Salam Madkur, *Justice in Islam*, (Surabaya: PT. Bina Ilmu 1993). Page 29

companions. The judge himself is a state judicial official who is authorized by law to adjudicate.

2. Requirements to Become a Judge

Regarding the requirements to become a judge, the fuqaha have different opinions, among them some say that a *Qadhi*/judge must fulfill 15 requirements, and some say that 7 requirements are sufficient and some are of the opinion that 3 requirements are sufficient. Although they differ about the number, some requirements are fulfilled by others and a number of requirements can be covered by other requirements.¹⁷ Then according to Ibn Rushd, the requirements to become a judge are: Freedom, Islam, Aqil Balig, Male and Fair.¹⁸ Furthermore, according to Yahya Zakaria Al-Ansari, judges should be experts in matters of testimony, namely Muslim, Mukalaf, Independent, Male, Fair and hearing, seeing, able to speak and mastering judicial matters. Therefore, do not lift up unbelievers, children, crazy people, servants, women, transvestites, wicked people, deaf people, blind people, dumb people even if their signs can be understood, forgetful people, cheaters, sick people.¹⁹

3. Appointment of Judges

As for the appointment of a judge by the ruler, the law is mandatory and does not differentiate between granting authority to the judge by the ruler or by way of delegating authority to government assistants for special tasks in the field of justice, and on this basis, a judge actually bases his legal decision on his appointment by the ruler.

As for a judge, even though he is non-Muslim and fair, as long as he can decide the law correctly, it is okay. The most important point in this appointment is that a judge must be appointed by the government or his representative.

In the case of a Muwalli (judge appointer) who adheres to a different school of thought from the one he appointed, then the ruler stipulates that in every decision the judge must follow the school of thought of the ruler who appointed him.

In terms of a judge's authority in handling a problem, there are also two opinions:

¹⁷ Muhammad Salam Madkur, *Justice in Islam*, (Surabaya: PT. Bina Ilmu 1993). p. 53

¹⁸ Ibn Rushd, *Bidayatul Mujtahid*, (Egypt: Mustafa al-Babi al-Halabi, 1960), II: 460

¹⁹ Abu Yahya Zakaria Al-Ansari, *Fathul Wahab bi Syarh Manhaj at-Thulab*, (Singapore: Syria Nur As-Saqafah al-Ilamiyah, n.d.), p. 207.

· A judge may not handle prohibited matters because these are not within his authority.

· A judge may handle prohibited matters (not within his authority) as long as these matters are not included in the requirements for his appointment.

In this case there are two ways to appoint.

1. With sharih including, qalladtuka (I appoint you), wallaituka (I authorize you), astakhlaftuka (I place you), and astanbattuka (I represent you).

2. With kinayah including, i'tamadtu 'alaika (I depend on you), awwaltu 'alaika (I put my trust in you), etc.

In addition to the appointment as above, a judge is legally appointed with four conditions:

1. The muwalli knows that the muwalla (the appointed party) has characteristics that make him worthy of being appointed.

2. Muwalli knows the muwalla's rights to the position of judge.

3. Muwalli clearly states the type of appointment, whether a judge or governor, etc.

4. The work area must be mentioned in the appointment.

However, in this case there is a difference of opinion, some say it is permissible and some say it is not. And what if a woman becomes a judge (*qadhi*)? The scholars also have different opinions on this matter. Ibn Rushd said that a woman is permissible to become a *qadhi*. While Abu Hanifah said that a woman is permissible to become a *qadhi*, if the case being faced is related to property. At-Thabari is even more extreme by saying that women are permissible to become *qadhi* in all cases reported to him.

5. The authority of the judge

The judicial authority has the main task of receiving, examining and adjudicating and resolving every case submitted to it in order to uphold law and justice.

6. Functions of Judges

The function of a judge is to uphold the true truth of what is stated and demanded by the parties without exceeding or reducing it, especially in relation to civil cases, while in criminal cases seeking the true truth is absolutely not limited to what the defendant has done, but rather must be investigated from the background of the defendant's actions. This means that the judge pursues material truth absolutely and completely. Here the intellectualism of the judge

is seen which will be tested by deploying all the abilities and knowledge they have, all of which will be seen in the case examination process whether there are still violations in judicial techniques or not.

4. Conclusion

The judicial process during the time of the Prophet SAW was very simple and not complicated, but instead prioritized the substance over the process. The judicial system at that time also provided a basis and basic principles for the development of the judicial system which developed later in Islamic civilization which included the strengthening of new institutions such as *hisbah* and *madzālim* courts. When the caliphs had a case presented to them and were told to give a legal fatwa, the caliphs looked for the legal provisions in the Book of Allah, if they did not find the legal provisions in the Koran then they looked for them in the Sunnah of the Prophet and *Ijma'*.

5. References

Book

- Abd. Wahab Khallaf, the science of Usul al-Fiqh, translated by Noer Iskandar al-Barsany and Moh. Thalchah Mansoer, with the title "The Principles of Islamic Law (The Science of Usulul Fiqhi), Jakarta: PT. Raja Grafindo Persada, 1996,
- Abu Yahya Zakaria Al-Ansari, Fathul Wahab bi Syarh Manhaj at-Thulab, (Singapore: Syria Nur As-Saqafah al-Ilamiyah, n.d.).
- Ahmad Warson Munawir, Al-Munawwir (Arabic-Indonesian Dictionary), (First printing: Jakarta: 1996),
- Al-Hafidh Imam Ibnu Hajar al-Asqalany, bulughul maram min adillatil ahkaam (tasikmalaya: al-hidayah library, 2008),
- Bismar Siregar, the law of judges and the justice of God (Jakarta: Gema Insani Press, 1995),
- Department of National Education of the Republic of Indonesia, Big Indonesian Dictionary, 4th Edition (1st ed.; Jakarta: Ministry of National Education, Balai Pustaka, 2008),
- Hasbi Ash-Shiddeqy, Islamic Courts and Procedural Law (Yogyakarta: PT.Ma'arif, 1994),
- Ibn Rushd, Bidayatul Mujtahid, (Egypt: Mustafa al-Babi al-Halabi, 1960), II: 460
- M. Quraish Shihab, Tafsir al-Mishbah: Messages, Impressions, and Harmony of the Qur'an, Volume 2, 1st printing, (Ciputat: Lentera Hati, 2000),

Muhammad Salam Madkur, *Al-Qadhā Fil al-Islām* (Cairo: Dār an-Nadhā al-'arabiyah, t.th),

Muhammad Salam Madkur, *Justice in Islam*, (Surabaya: PT. Bina Ilmu 1993),

Muhammad Salam Madkur, *Justice in Islam*, (Surabaya: PT. Bina Ilmu 1993),

Muhammad Tahir Azhary, *state of law* (Jakarta: Kencana 2004),

Muhammad Tahir Azhary, *State of law*,

Muhammad Tahir Azhary, *State of law*,

Nurcholish Madjid, *Messages of Piety*, (Jakarta: Paramadina, 2000),

Simorangkir, et.al, *Legal Dictionary* (IXth ed.: Jakarta: Sinar Grafika, 2005),

Teungku Muhammad Hasbi Ash Shiddieqy, *Islamic courts and procedural law* (Semarang: PT. Pustaka Rizki Putra, 2001),

Zainal Abidin Ahmad, *A Just and Prosperous State According to Ibn Siena*, Jakarta: Bulan Bintang, 1974,