



Juridical Analysis of PTUN Decision No. 128/G/PTUN-MDN Regarding the Dismissal of Civil Servants Without Respect from the Perspective of Fiqih Siyasah

Bayu Rizky Wirawan¹, Muhammad Ramadhan²

Universitas Islam Negeri Sumatera Utara

Email: bayu0203203010@uinsu.ac.id

muhammadramadhan@uinsu.ac.id

Abstract - This study aims to conduct an in-depth analysis of PTUN Decision No. 128/G/PTUN-MDN concerning the dismissal of civil servants (PNS) without honor. Utilizing a fiqh siyasah approach, this research explores the juridical and administrative aspects of the decision. In the legal context, the study examines the compliance of the decision with various applicable regulations, including Law No. 5 of 2014 on State Civil Apparatus, which regulates the procedures and processes for dismissing civil servants. Additionally, this research assesses whether the dismissal process has been carried out in accordance with the principles of good governance, such as transparency, accountability, and participation. From the perspective of fiqh siyasah, this study aims to evaluate the legitimacy of government actions in dismissing civil servants and their impact on justice and the protection of individual rights. The analysis includes a comparison with Islamic principles related to justice and human rights. The findings indicate that the PTUN decision serves not only as a means of legal enforcement but also reflects the ethical and moral values that should be upheld in governance. This decision can be seen as a manifestation of efforts to create justice in public administration and the necessity of considering moral aspects in every government action. This research contributes significantly to the understanding of the complex relationship between law, public administration, and Islamic values in public policy, emphasizing the importance of integrating fiqh siyasah principles into governmental decision-making.

Keywords: Juridical Analysis, Medan PTUN Decision, Dismissal of Civil Servants, Fiqih Siyasah

I. INTRODUCTION

The Administrative Court (PTUN) plays a crucial role in resolving administrative disputes, particularly those involving government decisions. In the context of civil servants (PNS), PTUN serves to oversee and evaluate decisions regarding the dismissal of PNS, ensuring that government actions comply with applicable regulations. The relevance of PTUN in this case is significant, given that such decisions can affect the rights and legal status of employees. Civil servants are state officials responsible for executing government duties and serving the public. PNS is regulated by various laws, including Law No. 5 of 2014 on State Civil Apparatus. This law outlines various provisions regarding the rights, obligations, and sanctions for PNS, including termination. Dismissal of PNS cannot be arbitrary and must follow clear procedures and valid reasons, both legally and morally. The dismissal of PNS is governed by legislation, which specifies several valid grounds for such action, such as disciplinary violations or criminal conduct. Dismissal without honor is a more severe action that must go through a transparent and fair process.

In the case of PTUN No. 128/G/PTUN-MDN, the dismissal executed by the relevant agency is under scrutiny, particularly regarding the procedure and substance of that decision. Case PTUN No. 128/G/PTUN-MDN involves a civil servant who was dismissed without honor. The significance of this case lies in the question of whether the dismissal was in accordance with existing regulations and whether the civil servant was granted the right to defend themselves before a decision was made. The PTUN's ruling in this case serves as an important precedent in upholding the rights of PNS and ensuring that administrative decisions do not violate principles of justice. (Supriyanto, 2020). Civil Servants (PNS) are required to achieve a civil society that is morally upright, affluent, democratic, civilized, and law-abiding. In addition to upholding national unity and providing services in a fair and equitable manner, these civil officials are expected to perform their government and development obligations with professionalism and responsibility.

In order to control government officials and prevent corruption, collusion, and nepotism, Law Number 43 of 1999 was created. The national objective of achieving a civil society that is law-abiding, civilized, democratic, wealthy, just, and morally elevated is tied to the urgency of civil servants. The Indonesian bureaucracy has several issues in relation to human resources (HR). The targeted workforce consists of government workers assigned to bureaucratic settings to perform predetermined primary activities and functions. These issues include the enormous number of public servants and their annual rate of increase, their poor and inconsistent competency, their misplacement, and the lack of defined career prospects. (Junaidi Abdillah, 2022). Civil servants, like all other people, can do illegal activities, and there are consequences for doing so. Individual acts taken by civil servants have the potential to result in crimes against public office, often known as corruption crimes. administrative sanctions up to being sentenced to disciplinary punishment, which includes being fired as a civil servant.

This is confirmed in Government Regulation Number 11 of 2017 concerning Civil Servant Management, article 250, and Law Number 5 of 2014 concerning the State Civil Apparatus, article 87 paragraph (4). In this case, Tarman, S.P., the plaintiff, was dismissed from his status as a Civil Servant (PNS) on December 28, 2018, by the Regent of North Labuhanbatu (the defendant), after it was determined that he had committed a crime of office or a crime of office pertaining to his position. According to the decision of the Medan District Court, Number: 70/Pid.Sus.K/2013/PN.Mdn, dated October 29, 2013, it was determined that the plaintiff had committed and actively engaged in a criminal act of corruption. Following that, the plaintiff's temporary dismissal from public employment was granted by the June 28, 2013, Regent of North Labuhanbatu Decree, Number: 800/1257/BKD/2013.

Based on the defendant's Decree number 800/126.C/BKD/2016 regarding the re-appointment of Civil Servants to civil positions within the government of North Labuhanbatu Regency at the Agriculture Office of North Labuhanbatu Regency as staff for Production, the plaintiff resumed active status as a Civil Servant on March 1, 2016, after serving the sentence in accordance with the District Court's decision. It is stated that the plaintiff should not be sentenced to dishonorable dismissal in accordance with the object of dispute because the reactivation of the plaintiff includes an outstanding person in his work environment and does not tarnish his dignity as a civil servant or interfere with his work environment or place of employment. Government employees who receive prison sentences of two years or more for committing crimes based on court decisions that have permanent legal force are subject to civil servant management, according to article 248 paragraph (1) of Government Regulation Number 17 of 2020 concerning Amendments to Government Regulation Number 11 of 2017 concerning Civil Servant Management.

1. His actions do not lower the dignity and dignity of civil servants;
2. Have good work performance;
3. Does not affect the working environment after reactivation; and
4. Job vacancies are available.

Then, on December 28, 2018, the plaintiff was removed as a Civil Servant by the Object of Dispute a quo, which was an Honorable Dismissal based on a criminal court ruling,

namely the Medan District Court No. 70/Pid.Sus.K/2013/PN.Mdn, made on October 29, 2013. Additionally, dismissal as specified in Article 250 letters b and d and Article 251 is determined starting from the end of the month from the court decision on the case which has permanent legal force, according to Article 252 of Government Regulation No. 11 of 2017 concerning Civil Servant Management; however, based on the aforementioned legal facts, the issuance of the object of dispute is determined on December 28, 2018. In order for the dispute's object to be in violation of laws and regulations, it is necessary to consider Government Regulation No. 11 of 2017 concerning Civil Servant Management Article 252, which states that civil servants implicated in criminal acts (or corruption) must be fired beginning on the last day of the month following the court's permanently binding decision.

The criminal verdict a quo had permanent legal force at the end of November 2013, not on December 28, 2018 (approximately five years later), so even if it is true that the defendant complied with all applicable laws and regulations, the defendant should have stipulated a Decision of Dishonorable Dismissal to the plaintiff at the end of the month. This is because it is clearly in violation of Government Regulation No. 11 of 2017 concerning Civil Servant Management. Because the subject matter of a quo dispute is presented in a manner that defies laws, rules, and general good governance principles, such as the Principle of Prudence, which states that decisions and/or actions must be supported by comprehensive information and documentation to ensure their legality before being determined or carried out, and that the decision or action in question is carefully considered before being determined or carried out (Exception of Article 10 paragraph 1 letter d).

When the object of the dispute was issued in a way that violated both the laws and regulations and the general principles of good governance, it is appropriate or reasonable to suspect that the decision was made carelessly and that it did not carefully consider the provisions in the laws and regulations that support the decision's validity. Additionally, the Decree may not have been carefully prepared prior to its issuance. All of these factors are listed in article 53 paragraph (2) letters a and b of the PTUN Law. It is proper that the plaintiff ask His Excellency the Medan Administrative Court Panel of Judges to nullify the dispute's object and order the defendant to do the same, so restoring the plaintiff's previous status as a civil servant. The plaintiff's petitum, which requests that his rights, position, and status as a Civil Servant be restored for legal reasons, is rejected, allowing the plaintiff's lawsuit to be partially granted. Meanwhile, the defendant is required to revoke the decree on dismissal for committing an office crime or a crime related to the position.

This is because the Panel of Judges believes that the plaintiff must still be dismissed without respect, which must be in accordance with the provisions of laws and regulations, particularly related to the aspect of enforcing the decision letter of the object of dispute as stipulated in the laws and regulations. Next, it was mandated that the defendant issue a dismissal decree without regard to the plaintiff. In his work *Al-ahkam Asshulthaniyah*, Imam al-Mawardi one of the Muslim scholars who wrote extensively about the constitution discusses a variety of topics, including bureaucracy, government politics, leadership, judicial institutions, and more (Ichwan, 2022). Among the several components of the Fiqh Siyasa, the Siyasa Qadhaiyah (judicial institution) seeks to resolve global issues by applying Islamic law and rendering decisions in line with the Quranic and Sunnahi sharia. As a result, when an imam (judge) decides a matter, the people's interests are at stake. Strictly speaking, the fact that sharia law serves as the cornerstone has the benefit of benefiting people as Allah's slaves. Acknowledging *maslahah* is an essential component of Islamic law.

Al-Sharia transmits *maslahah* in every one of its legal regulations to ensure that good deeds are done and ill deeds are avoided, which ultimately results in earthly prosperity and unadulterated devotion to Allah. Because, rather than being motivated by human passion, the *maslahah* is truly to uphold and pay heed to the Shari'a's aim in the form of goodness and usefulness that it seeks. Because of the controversy surrounding the creation and application of laws in Indonesia concerning the impolite removal of public servants as a result of corruption, the author reviews the fiqh siyasa in order to conduct research. This is because, at its core, the revision, creation, and application of laws aim to benefit the

Indonesian people as well as the state. Thus, in order to create a society that is more successful, attention must be paid to the issues of criminal conduct, corruption, and the misuse of authority in positions of authority. According to the preceding statement, there are other ways to formulate the problem, specifically: 1) In regards to former corrupt civil servants, how should the Law Enforcement of Civil Servant Dismissal and Consideration of PTUN Judges Number 128/G/2019/PTUN. MDN be analyzed? 2).

From the standpoint of Fiqh Siyasa, how is the interpretation of judgment number 128/G/2019/PTUN-MDN about the firing of government officials without respect? In order to entice scholars to delve deeper into these issues, which the author lays forth in the title *Juridical Analysis of the Decision of the State Administrative Court Number 128/G/2019/PTUN. MDN Regarding the Dismissal of Civil Servants Not Respectfully Fiqh Siyasa Perspective*. A number of earlier research papers have some parallels with the article titles under examination. *Juridical Analysis of Dishonorable Dismissal as a Civil Servant in Semarang City (Case Study of Supreme Court Decision Number 009/G/2015/PTUN-Smg)* is the first work in the form of a journal. Based on the journal Rina et al (2017), The journal looks at the PTUN's procedure for resolving employee conflicts and the factors the judge took into account when rendering a decision. *Reconstruction of Legal Regulations and Sanctions for State Civil Apparatus Employees Who Commit Corruption Crimes* is the second piece published in the magazine *Tohadi* (2022), This article examines the legal framework for corrupt activity by ASN workers, the penalties that are applied, and the necessity of amending the framework to hold those who commit corruption offenses by ASN employees accountable.

The magazine *Sodiq* (2021), *Administrative efforts in settling personnel issues*, is the third piece of writing. This article describes how administrative efforts are organized to settle personnel conflicts, regardless of whether they are the result of disciplinary action or not. This journal further explains that because Article 129 paragraph (1) of the ASN Law expressly states that personnel disputes must be settled administratively, the imposition of disciplinary penalties can give State Civil Apparatus (ASN) employees who feel wronged a sense of justice and legal certainty. The process of resolving disputes through consensual discourse in order to arrive at a win-win solution reflects this fairness. This study, on the other hand, is primarily concerned with analytical research about State Administrative Court rulings from the standpoint of fiqh siyasah. The magazine *Azizah & Sitabuana* (2021), *Analysis of Dishonorable Dismissal of Civil Servants*, is the fourth piece of work. This researcher has offered a debate on the issue of Dishonorable Dismissal as a Civil Servant.

Thus, it can be said that Article 67 paragraph (2) of the PTUN Law is not violated by the Decision of PT TUN Jakarta Number 160/B/2020/PT. TUN. JKT. The standard employed throughout the evaluation process to approve or disapprove a request for a stay of the State Administrative Decision's implementation that the plaintiff made to the Chairman of the relevant Panel of Judges remains broad. Article 67 paragraph (4) letter b of the PTUN Law clarifies this by stating that if there is a public interest in the development context that compromises the execution of the contested judgment, the application for a delay of implementation cannot be approved. This research, which focuses on the viewpoint of fiqh siyasah, is a little unusual.

II. METHOD

This is a normative legal research that emphasizes the use of secondary data. It also focuses on the examination of texts and literature, library research or literary studies, and laws relevant to the subject under study. *Case Approach* This helps analyze the specific context of the PTUN Decision No. 128/G/PTUN-MDN, highlighting how concrete facts influence legal decisions. *Conceptual Approach* Provides the necessary theoretical foundation to understand the principles of fiqh siyasah, aiding in assessing the legitimacy of government actions in the dismissal of civil servants. *Legislative Approach* Refers to the applicable regulations and norms, ensuring that the analysis is grounded in existing law and providing perspective on legal compliance in this case. The researcher will examine the legislation's contents using a

namely Law Number 5 of 2014 about the State Civil Apparatus. The concepts of civil servant disciplinary sanctions and universal public servant administration legislation will be studied using a conceptual approach.

In this study, the data is derived from: First, major legal materials are those that compel individuals to follow the law or bind them. Law Number 5 of 2014 governing the State Civil Apparatus and Cases in the Decision of the Medan State Administrative Court Number 128/G/2019/PTUN-MDN are the main legal materials that the researcher used in this study. Second, literature pertaining to criminal acts of crimes against office, legal regulations and sanctions of the State Civil Apparatus (ASN) both in the form of books, journals, and laws that study a particular field specifically will provide clues to where the researcher will lead. Secondary legal materials, also known as secondary sources, are legal materials that are not binding but explain primary legal materials that are the result of processed opinions and thoughts of experts or experts. Third, tertiary legal documents provide insight and comprehension of other legal items, hence supporting primary or secondary legal materials. The data collection method involves studying documents or library resources, which is library research that is supported by additional resources. These resources include reviewing court rulings, laws and regulations pertaining to the penalties for civil servants being fired rudely, gathering information from books on the subject of law, various writings or papers, journals, or other online sources regarding the penalties for civil servants being fired dishonorably, and conducting search and research to fill in the gaps in the primary and secondary legal materials (Sukartono, 2009).

III. RESULT AND DISCUSSION

1. Analysis of Law Enforcement of Civil Servant Dismissal and Consideration of PTUN Judges Number 128/G/2019/PTUN. MDN Regarding Ex-Corruptor Civil Servants

The Medan State Administrative Court's ruling, number 128/G/2019/PTUN. The law enforcement conducted by the Regent of North Labuhanbatu against Tarman, SP, the MDN appointed in this study, concluded that Tarman, SP committed a crime of office or a criminal act related to his position in his workplace. This decision was made in the Medan District Court through Decision Number 70/Pid.Sus.K/2013/PN.Mdn, dated October 29, 2013, and sentenced Tarman, SP to a criminal sentence related to his position for one (1) year, along with a fine of Rp50,000,000.00 and a subsidy of one month of imprisonment. The removal of a government worker for committing a crime of office or a criminal conduct connected to their position is not considered respectful, as per the Regent of North Labuhanbatu's Decree No. 800/653/BKD/2018. This is because of the following legal foundations: The State Civil Apparatus Law Number 5 of 2014 contains the following paragraph (4) letter (b) of Article 87: "Civil servants are dismissed without honor because: (b) they are sentenced to imprisonment or confinement based on a court decision that already has permanent legal force for committing a crime of office or a criminal act related to office and/or general crime."

Articles 3, 4, 5, and 6 of Government Regulation Number 53 of 2010 concerning Civil Servant Discipline state that: "Every civil servant must: (4) comply with all provisions of laws and regulations; (5) carry out official duties entrusted to civil servants with full devotion, awareness, and responsibility; and (6) uphold the honor of the state, the Government, and the dignity of civil servants." According to the Joint Decree 182/6597/SJ, Number 15 of 2018, Number 153/Kep/2018, which was issued by the Ministry of Home Affairs, the Minister of State Apparatus Empowerment and Bureaucratic Reform, and the Head of the State Civil Service Agency, on behalf of law enforcement against civil servants who have been sentenced based on court decisions with permanent legal force for committing crimes while in office or criminal acts related to their position. The following are the key aspects in law enforcement that the joint decision highlights for government officials who commit crimes while in office:

- a) This joint decision aims at synergy and coordination between ministries and institutions in law enforcement, especially related to sanctions for civil servants who are proven to have committed crimes in office; and

- b) The scope of this joint decision includes: Sanctions for dishonorable dismissal of civil servants are imposed by the Personnel Supervisory Officer and authorized officials. Sanctions are also imposed on officials who do not comply with them. Improvements made include improving the personnel information system, optimizing supervision, increasing the role of the Government Internal Supervisory Apparatus, and monitoring the implementation of joint decisions in an integrated manner.

In this sense, government workers who violate their disciplinary policies and are later found to have committed crimes including corruption will be fired without honor. Then, on December 28, 2018, the plaintiff was removed as a Civil Servant by the Object of Dispute a quo, which was an Honorable Dismissal based on a criminal court ruling, namely the Medan District Court No. 70/Pid.Sus.K/2013/PN.Mdn, made on October 29, 2013. Moreover, dismissal as specified in Article 250 letters b and d and Article 251 is determined starting from the end of the month since the court decision on the case, which has permanent legal force; however, based on the aforementioned legal facts, the issuance of the object of dispute is determined on December 28, 2018, so that the object of dispute has been contrary to the laws and regulations, according to Article 252 of Government Regulation No. 11 of 2017 concerning Civil Servant Management.

Specifically, Article 252 of Government Regulation No. 11 of 2017 concerning Civil Servant Management mandates that the termination of civil workers implicated in corruption offenses be decided upon beginning at the end of the month after the court ruling on the matter, which carries permanent legal effect. That in the event that it is verified that the defendant complied with all relevant laws and rules, Since the criminal verdict a quo has permanent legal force, the defendant should have determined the decision of dishonorable dismissal to the plaintiff at the end of the month. This is because the decision was made on December 28, 2018, which is approximately five years after the criminal verdict, and it is clearly in violation of Government Regulation No. 11 of 2017 concerning Civil Servant Management. Instead, the decision should have been made at the end of November 2013. In his response, the Regent of North Labuhanbatu said that although the Decree's issuing took into account the General Principles of Good Governance (AAUPB), the dispute's actual subject runs counter to these principles:

- 1) The Principle of Legal Certainty, which is a principle in the state of law that prioritizes the basis of the provisions of laws and regulations, propriety, fairness, and justice in every policy of government administration (Explanation of Article 10 Paragraph 1 letter a) where the Object of Dispute is contrary to the principle of legal certainty because it is issued in violation of the rule of law and does not follow the rules and provisions of the Law on Government Administration, the Law on State Civil Apparatus and Regulations The Government on the Management of Civil Servants thus resulting in the absence of legal certainty on the validity and enforceability of the object of the dispute a quo;
- 2) The Principle of Prudence, which is a principle that means that a Decision and/or Action must be based on complete information and documents to support the legality of the determination and/or implementation of the Decision and/or Action so that the Decision and/or Action concerned is carefully prepared before the Decision and/or Action is determined and/or carried out (Explanation of Article 10 paragraph 1 letter d) where because the object of dispute is issued in violation of regulations Laws and General Principles of Good Government, it is appropriate or reasonable to suspect that the decision was taken carelessly and did not pay attention to the provisions in the legislation to support the validity of the decision to be published as a result of the object of dispute that is contrary to the laws and regulations and the general principles of good government as stipulated in article 53 paragraph (2) letter a and letter b of the PTUN Law, Therefore, it is appropriate for the Plaintiff to request His Excellency the Panel of Judges of the Medan Administrative Court to cancel the *object of the dispute a quo* and require the Defendant to revoke the object of *the dispute a quo* and restore the plaintiff's position as a Civil Servant as before. Based on the above legal

analysis, the researcher argues that the object of the dispute is the authority of the state administrative court to examine, adjudicate, and decide it, and based on the provisions of Article 50 of Law Number 5 of 1986.

The researcher comes to the conclusion that the Regent of North Labuhanbatu is a Personnel Supervisory Officer with the authority to decide Tarman's appointment, transfer, and dismissal because the object of dispute was issued by the Regent of North Labuhanbatu, Tarman is a civil servant within the Agriculture Service, and he is not a main high-ranking official, intermediate high-ranking official, or functional official of the main expertise as excluded in Article 3 paragraph (3) of Government Regulation Number 11 of 2017 concerning Civil Servant Management. The researcher claims that the criminal decision Number 70/Pid.Sus.K/2013/PN.Mdn, dated October 29, 2013, as well as the provisions of Article 87 paragraph (4) letter b of Law Number 5 of 2014 concerning the State Civil Apparatus in conjunction with Article 250 letter b of Government Regulation Number 11 of 2017 concerning Civil Servant Management, were the basis for Tarman's dishonorable dismissal as a civil servant. Moreover, with reference to the retroactive application of the Decree on dismissal without regard to government officials since its passage.

The State Civil Apparatus Law's Article 87 Paragraph (4), Letter D, and Government Regulation Number 11 of 2017's Article 266 jo, Article 276 letter c, and Article 277 Paragraph (4), which provide the legal foundation for dehumanizing the plaintiff as a civil servant, are generally the main points of contention. The State Civil Apparatus Law's Article 87, paragraph 4, letter d, came into force on January 15, 2014, while Government Regulation Number 11 of 2017 was just issued on March 30, 2017. These provisions serve as the legal foundation. Before the State Civil Apparatus Law and Government Regulation Number 11 of 2017 were passed, the plaintiff was imprisoned in accordance with a judge's decision that he had signed. At that time, the plaintiff was still bound by the terms of Law No. 43 of 1999 concerning Civil Service Principles, which has since been repealed and replaced by the State Civil Apparatus Law.

Article 28I, Paragraph 1, of the 1945 Constitution states, "The right not to be prosecuted on the basis of retroactive law is a human right that cannot be reduced under any circumstances," which is directly contradicted by the retroactive enforcement. Retroactive enforcement also violates Articles 57 and 58 Paragraph (6) of the Government Administration Law, both of which ban retroactive enforcement judgments. "Article 57: The Decision takes effect on the date it is determined, unless otherwise specified in the Decree or the provisions of the laws and regulations on which the Decision is based. It cannot be applied retroactively. This is because of the provisions of Article 57 and Article 58 Paragraph (6)." Article 58, Paragraph 6: A judgment cannot be applied retroactively, unless it is done so to prevent more damages and/or the disregard of citizens' rights."

The Government Administration Law is a higher legal regulation, hence the terms of Article 252 of Government Regulation Number 11 of 2017 on ASN Management must be disregarded. Furthermore, there is a lack of coordination between the Ministry of Law and Human Rights and pertinent public service agencies (like the prosecutor's office and the police), which results in some civil servants who have been sentenced to remain active in their roles as civil servants and fulfill functional positions against the law, of course. This means that there are still differences between the rule of law and its implementation. The law enforcement philosophy held by Indonesian public personnel runs counter to this. Because the state continues to pay these civil servants' salaries, there will be legal repercussions for civil servants and personnel coaching officials who disregard the provisions of the Decree pertaining to the dismissal of civil servants who commit crimes with permanent legal force or inkrah. If these officials are not fired, the state will suffer losses (Fahmi et al., 2018).

2. Analysis of the PTUN Decision Number 128/G/2019/PTUN. MDN related to the Dishonorable Dismissal of Civil Servants According to the Perspective of Fiqh Siyasa

The judiciary is an institution that is acknowledged by everyone, including the state. Then it carries out commands by showing kindness and refraining from or stopping immoral acts, implying that it controls the ruler's behavior and attending to community complaints about the ruler and his family's arbitrary actions against state property and common people whose rights are violated by the ruler. If it relates to state property, it will be settled by the al-mazalim regional institution, and if it relates to the rights of the oppressed people, it will be restored to the state treasury. The broad laws of good governance are explored in accordance with instances from fiqh siyasah, such as the principles of accountability, trust, maslahat, and supervision (Sukardja, 2014).

As a government employee, you should follow the rules that the leader sets since the leader always gives things some thought before making a decision so that the regulations don't go against Islamic law or restrict residents' rights. As a government employee, you should follow the rules that the leader sets since the leader always gives things some thought before making a decision so that the regulations don't go against Islamic law or restrict residents' rights. From this, a common theme emerges: the Regent of North Labuhanbatu's action in dismissing the Plaintiff was in accordance with the guidelines established by the Minister when prosecuting civil servants found guilty of corruption offenses covered by the decision and sentenced to prison terms. In the meantime, Allah SWT severely condemns and highlights in Islam those who consume the property of others, particularly in the case of the plaintiff who corrupts public property for personal gain.

Furthermore, the benefit or utility of the offender or victim is the reason for the retroactive enforcement in accordance with fiqh siyasah, or Islamic law. If the offense was done prior to the passage of time, the offender may be subject to further laws. The penalty must, nonetheless, be less severe than the current penalty. Therefore, the offender shouldn't be penalized by the recently created regulations or laws if he has already been punished by the previous ones. "Protecting the interests of perpetrators and victims" is the only reason this is done (Billah, 2015). As opposed to the disagreement that arose when Tarman's brother was fired from his position as a government servant by the Regent of North Labuhanbatu, which was applied retrospectively at the time of the decision. Because it is stated in the dicta that the dismissal has been carried out since the court ruling has acquired permanent legal force, namely October 29, 2013, this indicates that the deficiency in the application of the procedures for the removal of government officials is one of legal certainty.

Thus, the author contends that the Regent of North Labuhanbatu's termination of government workers is deemed illegal in accordance with current laws and regulations and violates the legality and meticulousness standards. A person who creates a rule or policy in violation of these terms is essentially keeping the advantages outside of the community and may potentially do damage to the community as a whole. Therefore, in order to achieve a benefit in the community's life, it is preferable for a leader or government official who has been given a mandate by the community to abide by the rules and regulations. As stated in the fiqh rules, specifically:

صَرُفُ الْأَمَامِ عَلَى الرَّاعِيَّةِ مَنْوُطٌ بِالْمَصْلَحَةِ

"The actions or wisdom of the leader (Imam) towards his people must be associated with benefit."

This regulation serves as a guide for officials or the government when making decisions pertaining to public policy. In deciding on policies, leaders are supposed to take their people's reputation into account as mandate holders (Duski, 2019), and ensure that the people are not harmed. Therefore, in this instance, the Regent of North Labuhanbatu

should not apply its decision to dismiss the plaintiff retroactively. This will prevent the plaintiff from suffering significant losses and ensure that the decision does not conflict with the relevant laws and regulations, as previously stated. As a result, the author contends that the Regent of North Labuhanbatu's actions in dismissing government officials are inconsistent with or contradictory to the standards and principles outlined above. The judge's consideration in decision Number: 128/G/2019/PTUN is thus supported by the author.

According to MDN, the Regent of North Labuhanbatu's Decree of Dishonorable Dismissal must be annulled since it has been established that the Regent violated several laws, particularly with regard to when the decree's retroactive effective date was determined. The Plaintiff has been proven to have committed a criminal act of office or related to office due to corruption by a court decision with permanent legal force, so when considering the Decree's reasons for dismissing civil servants, it is in fact in compliance with applicable regulations. Accordingly, the Panel of Judges believes that the Plaintiff in this matter should still be dismissed disrespectfully, but with a fresh decree that is not retroactive.

As a result, the justification given in the Judge's Consideration above is consistent with the fairness concept found in Fiqh Siyasah. Because the plaintiff in this instance had previously engaged in criminal corruption, which is forbidden by Islamic law as an evil conduct. As a result, it must be trustworthy and honest. In addition, the judge has the only authority to choose the proper kind of punishment. When determining the proper kind of punishment for corrupt individuals, the judge's common sense, convictions, and sense of justice all of which are grounded in public justice must be taken into consideration. Removing dishonest offenders from their jobs is one of them. Dismissal is a type of ta'zir that informs the public that corrupt criminals are no longer worthy of carrying out their duty due to the treachery that has resulted in corruption. This can be applied to public officials who receive pay for volunteer or appointed posts (Amelia, 2017). As a result, the author contends that dismissing the plaintiff in line with the relevant laws that is, by issuing a fresh dismissal decree in compliance with the judge's ruling would be a just conclusion.

IV. CONCLUSION

Positive Law Perspective The PTUN ruling is examined in terms of compliance with existing laws, such as Law No. 5 of 2014 on State Civil Apparatus. This aspect emphasizes the importance of proper procedures in dismissing civil servants, as well as the rights that must be fulfilled before a decision is made. Positive law stresses that every administrative action must be based on clear norms to ensure justice and transparency. **Administrative Perspective** From an administrative viewpoint, this analysis looks at how the dismissal decision was made and the processes involved. It encompasses aspects of human resource management within the government and the compliance of institutions with good governance principles. It is crucial to ensure that administrative decisions are not only legally valid but also ethical and responsible.

Fiqh Siyasah Perspective In the context of fiqh siyasah, this analysis assesses the legitimacy of government actions in dismissing civil servants. Fiqh siyasah presents moral and ethical principles that should guide governance, including justice, transparency, and accountability. This perspective emphasizes that decisions must reflect the public interest and protect individual rights. By separating and detailing each perspective, we can see that the analysis of PTUN Decision No. 128/G/PTUN-MDN is not only related to legal compliance but also to the principles of good administration and ethical governance. This holistic approach provides a deeper understanding of the implications of the decision in a broader context.

REFERENCES

- Anjari, W. (2017). Kejahatan Jabatan Dalam Perspektif Negara Hukum Pancasila. *Jurnal Ilmiah WIDYA Yustisia*, 1, 122.
- Amelia, M. A. (2017). *Korupsi Dalam Tinjauan Hukum Islam*. juris.

- Azizah, N. I., & Sitabuana, T. H. (2021). Analisis Pemberhentian Tidak Dengan Hormat Sebagai Pegawai Negeri Sipil. *Jurnal Hukum Adigama*, 4(1), 865–888.
- Fahmi, W., Syahbandir, M., & Efendi, E. (2018). Kedudukan Pegawai Negeri Sipil Yang Diberhentikan Secara Tidak Hormat Karena Melakukan Tindak Pidana Kejahatan Jabatan. *Syiah Kuala Law Journal*,
- Ichwan, A. K. (2022). Sistem Pemerintahan Negara Al-Ahkam As Shulthaniyah serta Relevansinya di Indonesia. *Interdisciplinary Journal on Law, Social Sciences and Humanities*, 3(2), 150.
- Junaidi Abdillah, S. A. (2022). Pembentukan Aparatur yang Bersih dan Berwibawa Dengan Pemberian Sanksi Administrasi Disiplin Terhadap Pegawai Negeri Sipil.
- Rina, I. A., Utama, Y. J., & Putriyanti, A. (2017). ANALISIS YURIDIS TERHADAP PEMBERHENTIAN TIDAK DENGAN HORMAT SEBAGAI PEGAWAI NEGERI SIPIL DI KOTA SEMARANG (Studi Kasus Putusan MA No. 009/G/2015/PTUN SMG). *Diponegoro Law Journal*, 6(2), 1–16.
- Sodiq, M. M. H. (2021). Upaya administratif dalam penyelesaian sengketa kepegawaian. *Jurnal Cakrawala Hukum*, 12(1), 60–68.
- Tohadi, T. (2022). Rekonstruksi Pengaturan Dan Sanksi Hukum Bagi Pegawai Aparatur Sipil Negara Yang Melakukan Tindak Pidana Korupsi Reconstruction of Legal Regulating and Sanctioning the Employee of State Civil Apparatus Who Comits Corruption Criminal Act. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 11(2), 173–190.
- Billah, M. A. (2015). Pemberlakuan Hukum Secara Surut Dalam Sistem Hukum Pidana Indonesia Menurut Pandangan Hukum Islam. UIN Syarif Hidayatullah Jakarta.
- Duski, i. (2019). *Al-Qawald Al-Fiqhiyah (Kaidah-Kaidah Fiqih)*. Palembang: Noerfikri.
- Marbun, S. (1997). *Peradilan Administrasidan Upaya Administrasi di Indonesia*. Yogyakarta: Liberty.
- Muchsan. (1997). *sistem pengawasan terhadap perbuatan aparat pemerintahan dan peradilan tata usaha negara di Indonesia*. Yogyakarta: Liberty.
- Ridwan, H. (2003). *Hukum Adminstrasi*. Yogyakarta: UII Press.
- Sukardja, A. (2014). *Hukum tata negara & hukum administrasi negara: dalam perspektif fikih siyasah*. Jakarta: Sinar Grafika.
- Sukartono, H. P. S. dan H. (2009). *BUKU REFERENSI METODE PENELITIAN HUKUM*.pdf.
- Tjandra, S. P. (1996). *Peradilan tata usaha negara sebagai salah satu fungsi kontrol pemerintah*. Yogyakarta: universitas atma jaya.