

EXECUTION OF COURT RULINGS FROM THE PERSPECTIVE OF ISLAMIC JUSTICE

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ABSTRACT

This research examines the execution of court decisions from the perspective of Islamic justice, with the aim of understanding how the principles of Islamic justice are applied in the modern justice system. Using qualitative research methods with a normative and juridical approach, this research analyzes various sources of Islamic law, including the Al-Qur'an, Hadith, and the opinions of ulama, to evaluate the suitability of the practice of executing court decisions in Indonesia with the values of justice in Islam. Research findings show that the execution of court decisions must reflect the principles of justice, expediency and legal certainty, as regulated in Islamic law. In addition, the implementation of the execution of decisions must consider aspects of humanity and propriety to achieve the ultimate goal of law in Islam, namely substantive justice. This research recommends reforms in the mechanism for executing court decisions so that they are more harmonious with the principles of Islamic justice, which include increasing transparency, accountability and protecting the rights of the parties involved.

Key words: execution of court decisions, Islamic justice, Islamic law

ABSTRAK

Penelitian ini mengkaji pelaksanaan eksekusi putusan pengadilan dari perspektif keadilan Islam, dengan tujuan untuk memahami bagaimana prinsip-prinsip keadilan Islam diaplikasikan dalam sistem peradilan modern. Melalui metode penelitian kualitatif dengan pendekatan normatif dan yuridis, penelitian ini menganalisis berbagai sumber hukum Islam, termasuk Al-Qur'an, Hadis, serta pendapat ulama, untuk mengevaluasi kesesuaian praktik eksekusi putusan pengadilan di Indonesia dengan nilai-nilai keadilan dalam Islam. Temuan penelitian menunjukkan bahwa eksekusi putusan pengadilan harus mencerminkan prinsip keadilan, kemanfaatan, dan kepastian hukum, sebagaimana diatur dalam hukum Islam. Selain itu, implementasi eksekusi putusan harus mempertimbangkan aspek-aspek kemanusiaan dan kepatutan untuk mencapai tujuan akhir hukum dalam Islam, yaitu keadilan substantif. Penelitian ini merekomendasikan reformasi dalam mekanisme eksekusi putusan pengadilan agar lebih harmonis dengan prinsip-prinsip keadilan Islam, yang meliputi peningkatan transparansi, akuntabilitas, dan perlindungan terhadap hak-hak pihak yang terlibat.

Kata kunci: eksekusi putusan pengadilan, keadilan Islam, hukum Islam

A. BACKGROUND

The execution of court decisions is a crucial stage in the judicial process which aims to uphold the law and ensure justice for all parties involved.¹ In the Indonesian legal context, the execution of decisions often faces various challenges, ranging from technical obstacles, bureaucracy, to resistance from the losing party. This results in delays or even failure in implementing court decisions, which ultimately harms the parties who should receive justice.

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On the other hand, Islamic law as one of the recognized sources of law in Indonesia offers a rich perspective on justice and legal implementation.³ The principles of justice in Islam emphasize balance, substantive justice, and protection of individual rights. This principle is reflected in the Qur'an and Hadith, and is reinforced by the opinions of classical and contemporary scholars.⁴ Therefore, it is important to explore how these principles can be applied in the context of the execution of court decisions in Indonesia.⁵

This research aims to fill the knowledge gap between the theory of justice in Islam and the practice of executing court decisions in Indonesia.⁶ Through a normative and juridical approach, this research will analyze how the principles of justice in Islam can be integrated into the national legal system, especially in terms of the execution of court decisions.⁷ Thus, it is hoped that this research can make a significant contribution to legal reform in Indonesia, especially in efforts to create a justice system that is fairer, more effective and humane.

¹ Susanto, M. I., & Supriyatna, W. (2020). Creating an Efficient Justice System with E-Court System in State Court and Religious Court of Rights. *International Journal of Arts and Social Science*, 3(3), 354-361.

² Bektas, S., Talat Birgonul, M. U. S. T. A. F. A., & Dikmen, I. (2021). Integrated probabilistic delay analysis method to estimate expected outcome of construction delay disputes. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 13(1), 04520037.

³ Seff, S., Susanti, D. O., & Nawwawi, M. (2022). Exploring The Diversity of Local Traditions of Indonesian Society in The Islamic Law Perspective. *Multicultural Education*, 8(01), 59-69.

⁴ Setiawan, M., Hafid, A., Nawawi, F., & Abdurrohman, A. (2022). The Relationship Between Religion and Reason in Quranic Studies: Insights From Contemporary Islamic Philosophy. *Al Burhan: Jurnal Kajian Ilmu dan Pengembangan Budaya Al-Qur'an*, 22(02), 239-252.

⁵ Badriyah, S. M., Suharto, R., Saraswati, R., & Wafi, M. S. (2021). Implementation of the constitutional court decision regarding the execution of fiduciary guarantees and inclusion of default clauses in Indonesia. *International Journal of Criminology and Sociology*, 10, 33-38.

⁶ Husein, S., Widayati, A. M., & Amin, H. E. (2023). Reconstruction of Civil Case Execution Regulation on the Implementation of *Uitvoerbaar Bij Voorraad* Based on Justice Value. *Sch Int J Law Crime Justice*, 6(4), 216-224.

⁷ Alotaibi, H. A. (2021). The challenges of execution of Islamic criminal law in developing Muslim Countries: An analysis based on Islamic principles and existing legal system. *Cogent Social Sciences*, 7(1), 1925413.

The problem of ineffective execution of court decisions not only hampers law enforcement, but also gives rise to public dissatisfaction and distrust of the justice system.⁸ In the perspective of Islamic justice, justice must not only be done, but must also be seen to be done (justice must not only be done, but must also be seen to be done). Therefore, this research also aims to examine how the application of the principles of Islamic justice can increase transparency and accountability in the process of executing court decisions.

Thus, it is hoped that this research can provide new insights for legal practitioners, academics and policy makers in an effort to improve the mechanism for executing court decisions in Indonesia, so that more in line with the principles of justice in Islam.⁹ This approach is expected to be able to overcome various obstacles that have hampered the effectiveness of the execution of decisions, as well as strengthening the legitimacy of the justice system in the eyes of the public.

By understanding and implementing the values of Islamic justice, it is hoped that the process of executing court decisions can run more smoothly, fairly and justly for all parties involved. This research also seeks to provide practical recommendations that can be implemented by judicial institutions and related parties in order to improve the quality and integrity of the execution of court decisions in Indonesia.

B. RESEARCH METHODOLOGY

This research uses a qualitative approach with normative and juridical research methods.¹⁰ This approach was chosen to understand in depth how the principles of Islamic justice can be integrated into the practice of executing court decisions in Indonesia.¹¹ A normative approach is used to analyze various statutory regulations governing the execution of court decisions in Indonesia. This analysis includes a literature review carried out to collect data from books, journals, articles and legal documents related to the execution of court decisions and the principles of Islamic justice. Legislative Analysis is carried out to

⁸ Rappaport, J. (2020). Some Doubts About "Democratizing" Criminal Justice. *The University of Chicago Law Review*, 87(3), 711-814.

⁹ Muhajir, M., Nisa, I. S., Munawar, A., & Karimullah, S. S. (2023). Agus Moh Najib's Thoughts on the Interconnection of Islamic Law and National Law. *Jurnal Ilmiah Al-Syir'ah*, 21(1), 86-103.

¹⁰ Budianto, A. (2020). Legal research methodology reposition in research on social science. *International Journal of Criminology and Sociology*, 9(1), 1339-1346. 1925413.

¹¹ Alotaibi, H. A. (2021). The challenges of execution of Islamic criminal law in developing Muslim Countries: An analysis based on Islamic principles and existing legal system. *Cogent Social Sciences*, 7(1), 1925413.

examine laws, government regulations and other regulations relevant to the execution of court decisions in Indonesia.

C. FINDING & DISCUSSION

1. Research Results

a. Principles of Justice in Islam

This research found that the principles of justice in Islam include balance, expediency, legal certainty, and protection of individual rights. These principles are outlined in the Qur'an and Hadith, and reinforced by the opinions of classical and contemporary scholars. Justice in Islam emphasizes fulfilling the rights of every individual and demands honesty, transparency and responsibility in implementing the law. The following are the principles of justice in Islam :¹²

1) Balance (Mīzān)

Explanation: Islam teaches balance in all aspects of life, including law enforcement and the distribution of justice. This balance means giving equal rights to each individual according to their needs and contributions. Proposition of the Qur'an: Surah Al-Hadid (57:25): "...We have sent down with them the Book and the scales (of justice) so that humans can uphold justice..." Ulama's View: Ulama emphasize the importance of balancing individual rights and social obligations. For example, in the debate about zakat, the balance between the rights of recipients and the obligations of givers is highly upheld.¹³

2) Expediency (Maslahah)

Explanation: The principle of expediency in justice means that legal decisions and actions must lead to the greatest good and benefit for society. This includes protection of religion, soul, mind, lineage and property. Proposition of the Qur'an: Surah Al-Baqarah (2:286): "Allah does not burden a person except according to his ability..." Ulama's View: Imam Al-Ghazali

¹² Hasan, S. (2024). Philanthropy and social justice in Islam: Principles, prospects, and practices. *Prospects, and Practices* (January 30, 2024). 1925413.

¹³ Latif, L. (2022). *Zakat and the financing of public health in Kenya: An interdisciplinary analysis of human rights law, Islamic law and constitutional law* (Doctoral dissertation, Cardiff University).

and Imam Asy-Syatibi were ulama figures who developed the concept of *maslahah*, emphasizing that law must aim to achieve the public benefit.¹⁴

3) Legal certainty (Qat'iyat)

Explanation: Legal certainty means the existence of clear and consistent rules in Islamic law, so that every individual knows their rights and obligations. This includes firmness in establishing laws based on strong arguments. Proposition of the Qur'an: Surah An-Nisa (4:58): "...If you establish a law between people, then you must establish it fairly..." Ulama Views: Classical scholars such as Imam Abu Hanifah and Imam Malik emphasized the importance of legal certainty to maintain justice in society, avoiding ambiguity in legal interpretation.¹⁵

4) Protection of Individual Rights

Explanation: Islam places great emphasis on protecting individual rights including the rights to life, liberty and property. This includes basic rights that are recognized and safeguarded in all aspects of life. Proposition of the Qur'an: Surah Al-Maidah (5:32): "...whoever kills a human being, not because that person (killed) another person, or not because he caused mischief on the face of the earth, then it is as if he had killed all human beings..." Ulama Views: Contemporary scholars such as Yusuf Al-Qaradawi emphasize that individual rights should not be violated even for public purposes, unless there is a very strong reason based on Islamic law.¹⁶

Implementation in Daily Life¹⁷

- 1) Honesty (Sidq): Every individual in an Islamic society is expected to be honest in deeds and words. ¹⁸ This includes integrity in commerce,

¹⁴ Mutmainah, M. (2021). *Pandangan ulama terhadap bamandi-mandi pangantin pra walimatul al-'ursy di Kecamatan Haur Gading Kabupaten Hulu Sungai Utara* (Doctoral dissertation, IAIN Palangka Raya).

¹⁵ Law, I. (2021). Islamic Legal Reform or Re-formation? The. *ISLAMIC LAW AND SOCIETY*, 28, 283-315. 1925413.

¹⁶ Supriyadi, U. (2023). Yusuf Al-Qardhawi's Thoughts and Their Implementation to Indonesian Society. *Jurnal Syntax Transformation*, 4(12), 19-33.

¹⁷ İskenderoğlu, M. (2022). *Islam and the Arab Revolutions: The Ulama between Democracy and Autocracy*: by Usaama al-Azami, London, Hurst, 2021, 392 pp.,£ 50.00 (hardback), ISBN 9781787383944, <https://www.hurstpublishers.com/book/islam-and-the-arab-revolutions>.

¹⁸ Qadoos, A., & ŞİMŞEK, M. (2020). Ways for Peaceful Society in Islamic Law. *International Journal of Islamic Studies and Humanities*, 3(1), 32-37.

testimony, and social relationships. Hadith: "Honesty leads to goodness, and goodness leads to heaven..." (HR. Bukhari and Muslim).

- 2) Transparency (Syafafiyah): Transparency is an important part of justice in Islam, especially in the management of public assets and government.¹⁹ Every action that affects the public interest must be carried out openly. Hadith: "Whoever cheats, then he is not from our group..." (HR. Muslim).
- 3) Responsibility (Mas'uliyah): Moral and legal responsibility is emphasized in Islam, where every individual must be responsible for his actions before Allah and society.²⁰ Proposition of the Qur'an: "Each of you is a leader, and each of you will be held accountable for his leadership..." (HR. Bukhari and Muslim).

b. Execution of Court Decisions in Indonesia

Analysis of the court decision execution system in Indonesia shows that there are a number of obstacles, including complex bureaucracy, lack of resources, and resistance from the losing party.²¹ This results in delays or even failures in the implementation of decisions, which has a negative impact on public confidence in the justice system.

Obstacles in the Execution of Court Decisions in Indonesia are caused, among other things, by:²²

1) Complex bureaucracy

The procedure for executing court decisions in Indonesia often involves long and convoluted bureaucratic stages.²³ This process includes submitting a request for execution, determining execution by the court, and carrying out

¹⁹ Sutanto, S. (2021). *Konstruk Maqasid Syariah Fikih Muamalah Dalam Pemikiran Abdullah Bin Bayyah* (Doctoral dissertation, Institut Agama Islam Negeri Purwokerto (Indonesia)).

²⁰ Don, A. G., & Saad, S. (2021). The Implementation of Al-Mas' uliyah Values in Management of Islamic Affairs in Maips. *International Journal of Business and Social Science*, 12(2).

²¹ Badriyah, S. M., Suharto, R., Saraswati, R., & Wafi, M. S. (2021). Implementation of the constitutional court decision regarding the execution of fiduciary guarantees and inclusion of default clauses in Indonesia. *International Journal of Criminology and Sociology*, 10, 33-38.

²² Suhartono, R. M., & Salam, S. (2021). Implementation of State Administrative Court Decisions: Conception, and Barriers. *Musamus Law Review*, 3(2), 49-57.

²³ Putra, D. (2020). A modern judicial system in Indonesia: legal breakthrough of e-court and e-legal proceeding. *Jurnal Hukum dan Peradilan*, 9(2), 275-297.

the execution by authorized officers. Impact: This long and layered procedure often causes delays in the execution of the decision, so that parties entitled to execution have to wait a long time to receive their rights.

2) Lack of Resources

A lack of resources, including trained workforce and adequate budget, is an obstacle in the execution of court decisions.²⁴ Lack of logistical and infrastructure support also adds difficulties to the execution process. Impact: This lack of resources can lead to delays in handling cases, inability to execute decisions efficiently, and ultimately, failure to ensure justice.

3) Resistance from the Losing Party

The party who loses in a case often refuses or obstructs the implementation of a court decision.²⁵ Commonly used tactics include filing unwarranted appeals, legal manipulation, or physically refusing to comply with rulings. Impact: This resistance can hinder the execution of decisions, prolong legal conflicts, and create legal uncertainty.

c. Application of the Principles of Islamic Justice in Execution

Verdict Case studies and interviews with Islamic legal experts and judicial practitioners show that several principles of Islamic justice have been applied in the execution of court decisions in Indonesia. However, its implementation has not been optimal.²⁶ The principles of benefit and protection of individual rights are often neglected in practice, especially when faced with bureaucratic and technical obstacles.²⁷ Need for Legal Reform This research identifies the need for reform in the mechanism for executing court decisions to be more in line with the principles of Islamic justice. This includes increasing transparency, accountability and protecting the rights of the parties involved. It is hoped that this reform can

²⁴ Haqqi, Z., Asyrof, M. N., Purwanto, M. R., Yusdani, Y., & Krismono, K. (2022). The Strategy of The Siak Sri Indrapura Religious Court in Realizing a Modern Jurisdiction with Integrity. *KnE Social Sciences*, 167-176.

²⁵ Rendleman, D. (2020). Preserving the Nationwide National Government Injunction to Stop Illegal Executive Branch Activity. *U. Colo. L. Rev.*, 91, 887.

²⁶ Rendleman, D. (2020). Preserving the Nationwide National Government Injunction to Stop Illegal Executive Branch Activity. *U. Colo. L. Rev.*, 91, 887.

²⁷ Dahlström, C., & Lapuente, V. (2022). Comparative bureaucratic politics. *Annual Review of Political Science*, 25, 43-63.

overcome existing obstacles and increase effectiveness and fairness in the implementation of court decisions.

This research emphasizes the importance of reform in the mechanism for executing court decisions in Indonesia to be more in line with the principles of Islamic justice.²⁸ This is necessary to overcome existing obstacles and increase effectiveness and fairness in the implementation of decisions.²⁹ The focus of reform includes increasing transparency, accountability and protecting the rights of the parties involved. The following is an in-depth explanation of the need for these reforms: *First*, Increased Transparency: Transparency in the execution of decisions means that all stages and execution processes must be carried out openly, can be monitored and supervised by all interested parties. It aims to ensure that the process is free from corruption, manipulation and arbitrariness.

This is implemented by means of (1) Execution Tracking System: Developing and implementing a digital tracking system that allows all relevant parties to monitor the status of decision execution in real-time. (2) Information Publication: Provides public access to information regarding the execution process, including schedules, stages and final results. (3) Training and Education: Provide training for court officials on the importance of transparency and ways to maintain the integrity of the process. For example in the E-Tracking System: Implementation of a system such as E-Tracking for the execution of decisions, where the parties involved can check the status online, reducing the potential for corruption and increasing accountability.

Second, Increased Accountability: Accountability means that all parties involved in the execution process, including court officials and parties to the dispute, must be responsible for their actions and decisions. This includes liability for delays, non-compliance, or unethical actions. The implementation of accountability is (1) Oversight Mechanism: Establishing an internal oversight body whose task is to monitor and assess the performance of officers in the execution

²⁸ Armia, M. S. (2023). *Constitutional courts and law reform: a case study of Indonesia* (Doctoral dissertation, Anglia Ruskin Research Online (ARRO)).

²⁹ Newman, D. T., Fast, N. J., & Harmon, D. J. (2020). When eliminating bias isn't fair: Algorithmic reductionism and procedural justice in human resource decisions. *Organizational Behavior and Human Decision Processes*, 160, 149-167.

process. (2) Application of Sanctions: Establish clear and firm sanctions for officers or parties who are proven to have committed violations or unreasonable delays. (3) Periodic Assessment: Conduct regular assessments of the execution process to identify weaknesses and improve them. For example, there is a Court Ombudsman: Establishing a special ombudsman institution that oversees the decision execution process and handles complaints related to irregularities in the implementation of decisions.

Third, protection of the rights of the parties involved. Islamic principles of justice emphasize the importance of protecting individual rights. In the context of award execution, this means protecting the rights of the winning party and ensuring that the execution process does not unfairly harm the losing party. The implementation is: (1) Legal Assistance: Providing legal assistance services for parties involved in the execution of decisions to ensure their rights are maintained. (2) Protection Mechanism: Establish a protection mechanism against intimidation or resistance experienced by the winning party when the decision is executed. (3) Commitment to the Maslahah Principle: Prioritizing the principle of benefit (maslahah) in every execution decision, ensuring that decisions bring the greatest benefits and the smallest possible losses. For example, there is a Legal Assistance Service: Providing an independent legal assistance team to support parties involved in the execution process, including safeguarding rights and facilitating a fair execution process.

2. Discussion

a. Balance and Benefits

Balance in Islamic justice requires a balance between the rights and obligations of each individual. In the context of the execution of a decision, this means that the rights of the winning party must be respected, while the obligations of the losing party must be carried out without giving rise to new injustices.³⁰ The application of the principle of benefit ensures that the results of the execution provide real benefits for the entitled party, and do not cause unnecessary losses for the losing party. Justice in Islam emphasizes the importance of balance and

³⁰ Nadeau, R., Daoust, J. F., & Dassonneville, R. (2023). Winning, losing, and the quality of democracy. *Political Studies*, 71(2), 483-500.

expediency in all aspects of life, including in the execution of court decisions. These principles aim to ensure that the rights of each individual are respected and obligations are carried out fairly, without creating new injustices.³¹

First, Balance in Islamic Justice. Balance (Mizan) in Islamic justice refers to efforts to create a balance between rights and obligations, as well as between the winning and losing parties in a dispute.³² This ensures that: (1) Rights of the Prevailing Party: The rights of the prevailing party are recognized and fulfilled in accordance with the court decision. (2) Obligations of the Losing Party: The obligations of the losing party are carried out without unjustly worsening their situation. Implementation in the Execution of Decisions consists of: (1) Recognition of Rights: The winning party's rights must be recognized and executed in accordance with the court's decision, such as handing over property or payment of compensation. (2) Settlement of Liabilities: The losing party's obligations are carried out in a way that does not cause injustice. new provisions, such as a stay of execution to give the losing party a reasonable time to fulfill their obligations.

Second, the Principle of Benefit in Islamic Justice. Benefit (Maslahah) is a principle that emphasizes that actions must bring real and significant benefits to individuals or society, and avoid unnecessary losses. Implementation in the Execution of Decisions includes:³³ (1) Increased Benefits: The results of the execution must provide real benefits for the entitled parties, such as getting back the property they are entitled to or receiving appropriate compensation. (2) Loss Avoidance: Execution must be carried out in a manner that minimizes losses for the losing party. This includes allowing the losing party sufficient time to comply with the judgment or considering more lenient settlement options if possible.

The principles in implementing balance and expediency consist of:³⁴ (1) Recognition and respect for rights, including respect for rights: The execution process must respect the rights granted by the court decision to the winning party, including the right to ownership, the right to compensation, and right to protection.

³¹ Pinheiro Walla, A. (2020). A Kantian foundation for welfare rights. *Jurisprudence*, 11(1), 76-91.

³² Dimiyati, K., Ridho, M., Wardiono, K., Absori, A., & Budiono, A. (2022). DEVELOPING ISLAMIC LEGAL PHILOSOPHY-BASED ASSURANCE OF JUSTICE. *Wisdom*, (4 (24)), 193-203.

³³ Gomes, M. G., da Silva, V. H. C., Pinto, L. F. R., Centoamore, P., Digiesi, S., Facchini, F., & Neto, G. C. D. O. (2020). Economic, environmental and social gains of the implementation of artificial intelligence at dam operations toward Industry 4.0 principles. *Sustainability*, 12(9), 3604..

³⁴ Fouchard, F. (2020). Allowing 'leeway to expediency, without abandoning principle'? The International Court of Justice's use of avoidance techniques. *Leiden Journal of International Law*, 33(3), 767-787.

Protection of Rights: The winning party must be protected from attempts at resistance or intimidation by the losing party during the execution process. (2) Execution of Obligations Fairly including Fair Time and Opportunity: The losing party must be given fair time to fulfill their obligations in accordance with the award, without unnecessary delays but also without unrealistic pressure. Consultation and Negotiation: The execution process may include consultation or negotiation to find the most fair and beneficial way for both parties. (3) Loss Avoidance and Balanced Settlement including Impact Evaluation: Before execution, the impact of the execution action on both parties must be evaluated to ensure that the execution brings greater benefits and minimal losses. Alternative Settlement Options: If possible, consider alternative settlement options that are more profitable and less detrimental to the losing party, such as installment payments or alternative compensation.

Applying balance and expediency in the execution of court decisions is important to ensure that the process is fair and provides maximum results for the entitled party, while minimizing the negative impact on the losing party. Reforms that emphasize transparency, accountability and protection of the rights of all parties involved will bring the justice system closer to the principles of Islamic justice, which will ultimately strengthen public trust in the justice system in Indonesia.

b. Legal Certainty and Transparency

Legal certainty is an important element in Islamic justice, which requires that every court decision must be clear and enforceable.³⁵ This research found that a lack of legal certainty is often the main obstacle in the execution of decisions in Indonesia. To overcome this, there needs to be reform that ensures that every decision has a strong legal basis and clear execution procedures. In addition, transparency in the execution process is very important to ensure that all parties understand their rights and obligations, and to avoid abuse of authority.

³⁵ Karimullah, S. S. (2023). For True Humanity: Harmonization of Islamic Law and Human Rights Towards Universal Justice. *Matan: Journal of Islam and Muslim Society*, 5(2), 40-56.

The importance of legal certainty in the execution of decisions based on Islamic justice is that³⁶ (1) legal certainty is a crucial element in the justice system which is in line with the principles of Islamic justice. This principle requires that every court decision must be clear, enforceable and have a strong legal basis. Lack of legal certainty can hinder the execution of decisions and reduce public confidence in the justice system. The following is an in-depth analysis of the role of legal certainty and the reform steps needed to ensure that every court decision in Indonesia can be implemented fairly and effectively. (2) Legal Certainty in Islamic Justice. Definition of Legal Certainty: Legal certainty refers to the clarity and predictability of the law, which allows individuals to know their rights and obligations and understand the legal consequences of their actions. In the context of decision execution, legal certainty ensures that: Court Decisions: Court decisions must be clear, firm and have a strong legal basis. Execution Procedures: Procedures for executing judgments must be well defined and transparent. (2) Obstacles that arise from a lack of legal certainty consist of decision certainty: Ambiguous or unclear decisions can cause confusion and different interpretations by the parties involved. Execution Procedures: Ambiguity in execution procedures can cause delays, inefficiencies, and even failure in implementing decisions. Transparency and Understanding: Lack of transparency in the execution process means that the parties involved do not fully understand their rights and obligations, increasing the risk of abuse of authority and injustice.

Legal certainty is a fundamental element in the execution of decisions that ensures that the process is carried out fairly and effectively.³⁷ Reforms that emphasize clarity of decisions, detailed execution procedures, strengthening the legal basis, and increasing transparency are important steps that need to be taken. In this way, the justice system can be more aligned with the principles of Islamic justice, which demand that each individual know and clearly understand their rights

³⁶ Abduh, R., & Hanifah, I. (2020). Certainty Of Jurisdiction Law In Civil Law System. *Randwick International Of Social Science Journal*, 1(2), 271-276.

³⁷ Hartoyo, R., & Sulistyowati, S. (2023). The Role Of The Legal Aid Post Is In Providing Legal Assistance To Disadvantaged People In Order To Obtain Justice In The Courts Of The Holy Land. *JIM: Jurnal Ilmiah Mahasiswa Pendidikan Sejarah*, 8(3), 1599-1611.

and obligations and that the execution process be carried out without creating new injustices.

c. Protection of Individual Rights

Islam places great emphasis on protecting individual rights, including in the process of executing court decisions.³⁸ The rights of the parties involved must be respected and protected. This research found that in many cases, individual rights are often overlooked, especially in situations where the losing party does not have sufficient resources to comply with the award. Therefore, there needs to be a better mechanism to protect the rights of all parties involved, including providing legal assistance for less fortunate parties.

Protection of Individual Rights in the Execution of Decisions Based on Islamic Justice consists of Protection of individual rights is a fundamental principle in Islamic justice, which must be prioritized in all aspects, including in the execution of court decisions.³⁹ This research highlights that the rights of the parties involved are often ignored in the execution of decisions, especially for the losing party who is less capable. To overcome this, there needs to be a better mechanism to protect the rights of all parties, including the provision of legal assistance for the less fortunate. Protection of Individual Rights in Islamic Justice contains the Principle of Protection of Individual Rights:⁴⁰ Islam places great emphasis on protecting the rights of every individual. This includes the right to justice, the right to be treated with respect, and the right to receive assistance if incapacitated. In the context of award execution, this principle means: Rights of the Winning Party:⁴¹ The rights of the winning party must be respected, and court decisions that win their rights must be executed effectively and fairly. Rights of the Losing Party: The rights of the losing party must also be protected, especially if they face difficulties in

³⁸ An-Na'im, A. A. (2021). Islam, Islamic Law and the Dilemma of Cultural Legitimacy for Universal Human Rights 1. In *Asian Perspectives on human rights* (pp. 31-54). Routledge.

³⁹ Malik, A., & Rasheed, A. (2024). Strategies and Recommendations for Enhancing the Implementation of Islamic Justice Principles in Pakistan Society. *International Journal of Academic Research for Humanities*, 4(2), 16-25.

⁴⁰ Hakim, N. (2020). The Enforcement of Human Rights Through Implementing of The Sharia. *Indonesian Journal of Education, Social Sciences and Research (IJESSR)*, 1(1), 01-09.

⁴¹ Constantin, S. (2021). Surviving and ICSID Award. Post-Award Remedies in ICSID Arbitration: A Perspective of Contracting State's Interest. *International Investment Law Journal*, 1(1), 67-78.

complying with the award. They must be treated fairly and given the necessary assistance.

Obstacles that Threaten the Protection of Individual Rights include⁴² (1) Lack of Resources of the Losing Party: The losing party often does not have sufficient resources to comply with the judgment, which can result in violations of their rights if the execution is carried out by force. (2) Lack of Access to Legal Aid: Many disadvantaged parties do not have access to legal aid that can help them understand and fulfill their obligations under the judgment. (3) Abuse of Authority: Without a clear mechanism and adequate supervision, there is a risk of abuse of authority in the execution of decisions which can harm individual rights. (4) Mechanism for Protection of Individual Rights in the Execution of Decisions.

Protection of individual rights in the execution of judgments is the essence of Islamic justice. To ensure that the rights of the parties involved are respected and protected, clear and fair mechanisms are needed. This includes providing legal assistance for the less fortunate, flexible mediation and negotiation, fair and gradual execution procedures, and transparent supervision.

In Islamic justice, protecting individual rights during the execution of judgments is essential. This protection aligns with the principles of Sharia (Islamic law), which emphasize justice (*ʿadl*), fairness, and the dignity of individuals. To ensure these rights are respected and protected, various mechanisms are put in place, including legal assistance, mediation, negotiation, fair execution procedures, and transparent supervision. Here's a breakdown of how these principles are applied:

1) Legal Assistance for the Less Fortunate

Islamic Perspective

- a) Principle: Islamic justice mandates support for the underprivileged to ensure their ability to access justice. This aligns with the Qur'anic directive to aid the weak and uphold justice (Qur'an 4:135).⁴³
- b) Implementation: Courts and charitable organizations (like Waqf institutions) often provide legal assistance or representation to those who cannot afford it. Zakat (charitable giving) can also be used to fund legal aid.⁴⁴

⁴² Reich, C. A. (2020). Individual rights and social welfare: the emerging legal issues. In *Welfare Law* (pp. 255-267). Routledge.

⁴³ Mainiyo, A. S., & Sule, M. M. (2023). Impact of Qur'anic Moral Excellence on the Lives of Muslim Society: An Exposition. *Demak Universal Journal of Islam and Sharia*, 1(03), 188-205.

⁴⁴ Bakar, M. A., Ahmad, S., Salleh, A. D., & Salleh, M. F. M. (2023). Governance and Waqf Funds Sustainability: Case Study in Dompét Dhuafa Republika, Indonesia. *Res Militaris*, 13(1), 3690-3722.

Practical Mechanisms

- a) Legal Aid Clinics: Establishing clinics that provide free or subsidized legal services.⁴⁵
- b) Pro Bono Services: Encouraging lawyers to offer pro bono services as part of their social responsibility.⁴⁶
- c) State-Funded Programs: Implementing government-funded legal aid schemes to support the indigent.⁴⁷

2) Flexible Mediation and Negotiation

Islamic Perspective

- a) Principle: Mediation (sulh) and negotiation are highly encouraged in Islam as means to resolve disputes amicably before resorting to formal judgments. This is in line with the Qur'anic guidance to resolve disputes through reconciliation (Qur'an 49:9-10).⁴⁸
- b) Implementation: Islamic law emphasizes compromise and mutual agreement, promoting these methods as they preserve relationships and reduce conflict.⁴⁹

Practical Mechanisms

- a) Mediation Centers: Setting up mediation centers where trained mediators help parties reach an agreement.⁵⁰
- b) Flexible Procedures: Allowing informal procedures that adapt to the needs and contexts of the disputing parties.⁵¹

⁴⁵ Podorozhna, T., Makarenko, L., Andrusiv, L., Kotukha, O., & Sanahurska, H. (2020). Qualified legal aid in developed democracies: A comparative legal study. *International Journal of Criminology and Sociology*, 9, 3112-3123.

⁴⁶ Bliss, J., Boutcher, S. A., Cummings, S., de Sa e Silva, F., & Trubek, L. (2022). Rationalizing Pro Bono: Corporate Social Responsibility and the Reinvention of Legal Professionalism in Elite American Law Firms.

⁴⁷ Nazim, S. (2023). Historical Development of Legal Aid System in India: A Legal Perspectives. *History and Sociology of South Asia*, 17(1), 69-84.

⁴⁸ Muhammad, A. A., Idriss, I. D., Ardo, A. M., Mashema, B. L., & Khan, H. (2023). Alternative Dispute Resolution (As-Sulh) as a Principle of Islamic Legal System on Marriage Conflicts Among Muslim Ummah. *FITRAH: Jurnal Kajian Ilmu-ilmu Keislaman*, 9(1), 185-200.

⁴⁹ Imam, M. A., & Alkali, I. (2021). peace and conflict resolution in Islam: an instrument for sustainable peaceful coexistence in Nigeria. *Journal of Social Sciences and Public Policy*, 13(1), 2277-0038.

⁵⁰ Menkel-Meadow, C. J., Porter-Love, L., & Kupfer-Schneider, A. (2020). *Mediation: Practice, policy, and ethics*. Aspen Publishing.

⁵¹ Menkel-Meadow, C. (2020). *Hybrid and mixed dispute resolution processes: integrities of process pluralism* (pp. 405-423). Edward Elgar Publishing.

- c) Community Involvement: Involving respected community members or religious leaders in the negotiation process to facilitate consensus.⁵²

3) Fair and Gradual Execution Procedures

Islamic Perspective

- a) Principle: The execution of judgments should be carried out fairly and with due consideration for the circumstances of the parties involved. Islam advocates for gradual enforcement and avoidance of hardship, as seen in the principles of takhfif (alleviation) and darar (avoidance of harm).⁵³
- b) Implementation: This includes ensuring that judgments are executed in a manner that respects human dignity and social justice.⁵⁴

Practical Mechanisms

- a) Phased Implementation: Introducing phased enforcement to allow time for compliance and reduce immediate hardship.
- b) Judicial Oversight: Courts can monitor and adjust execution processes to ensure fairness.
- c) Debtor Protection: Implementing measures to protect debtors from excessive hardship, such as installment plans or temporary relief.

4) Transparent Supervision

Islamic Perspective

- a) Principle: Transparency and accountability in the judicial process are crucial for maintaining trust and justice. The concept of shura (consultation) in Islam supports openness and public scrutiny.⁵⁵
- b) Implementation: Ensuring that all procedures and decisions are transparent and subject to oversight helps prevent abuses and corruption.⁵⁶

Practical Mechanisms

⁵² Rahman, M. M. (2021). Political and Legal System of Islam. *System*, 1, 1.

⁵³ Hakim, N. (2020). The Enforcement of Human Rights Through Implementing of The Sharia. *Indonesian Journal of Education, Social Sciences and Research (IJESSR)*, 1(1), 01-09.

⁵⁴ Gilabert, P. (2023). *Human Dignity and Social Justice*. Oxford University Press.

⁵⁵ Chandio, A. R. (2021). Public Administration and its Principles: With Special Reference to Islam. *Public Administration*, 5(5), 41-48.

⁵⁶ Robinson, S. C. (2020). Trust, transparency, and openness: How inclusion of cultural values shapes Nordic national public policy strategies for artificial intelligence (AI). *Technology in Society*, 63, 101421.

- a) Public Records: Keeping execution records accessible to the public or relevant stakeholders.
- b) Independent Review: Establishing independent bodies to review and oversee the execution of judgments.
- c) Feedback Mechanisms: Allowing parties to report grievances or irregularities in the execution process.

D. CONCLUSIONS AND RECOMMENDATIONS

Research findings show that the execution of court decisions must reflect the principles of justice, expediency and legal certainty, as regulated in Islamic law. In addition, the implementation of the execution of decisions must consider aspects of humanity and propriety to achieve the ultimate goal of law in Islam, namely substantive justice. This research recommends reforms in the mechanism for executing court decisions so that they are more harmonious with the principles of Islamic justice, which include increasing transparency, accountability and protecting the rights of the parties involved.

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