

## NON-COMPLIANCE OF TUN OFFICIALS TOWARDS PTUN DECISIONS FROM THE PERSPECTIVE OF FIQH SIYASAH: A CASE STUDY IN SELUMA REGENCY

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### ABSTRACT

This study discusses the phenomenon of non-compliance of State Administrative (TUN) officials in Seluma Regency with the decisions of the State Administrative Court (PTUN) which have permanent legal force. Failure to implement PTUN decisions has a negative impact on legal certainty and reduces public trust in the justice system. This study uses a qualitative approach through a case study in Seluma Regency with in-depth interview data collection techniques and documentation studies. The results of the study indicate that the main causes of non-compliance are weak supervision, political intervention, low legal awareness of officials, and weak implementation of administrative sanctions. From the perspective of fiqh siyasah, non-compliance of officials violates the principles of justice and trust in leadership, so solutions are needed based on increasing accountability, legal education, and bureaucratic reform. The recommendations of this study include strengthening sanctions, transparency in the implementation of PTUN decisions, and socialization of fiqh siyasah values in governance.

**Keywords:** Non-compliance of State Administrative Court Officials, Administrative Court, Fiqh Siyasah, Legal Certainty, Seluma Regency

### INTRODUCTION

The existence of the State Administrative Court (PTUN) has an important role in upholding the principle of the supremacy of law in Indonesia, especially in resolving disputes between citizens and state administrative officials regarding state administrative decisions (KTUN). This institution is tasked with testing the validity of a government administrative decision that is considered to violate the rights or interests of citizens. Normatively, this provision is emphasized in Law Number 5 of 1986

concerning PTUN as last amended by Law No. 51 of 2009 (Sujatmiko, 2022). PTUN is expected to be the main guardian of fair, open, and accountable governance, in line with the concept of good governance that prioritizes transparency and justice in public services (Rosdiana & Pratama, 2023).

However, in its implementation in the regions, especially in Seluma Regency, there is a serious problem in the form of non-compliance by State Administrative (TUN) officials with PTUN decisions that have permanent legal force (*inkracht*). This phenomenon creates a paradox, because on the one hand, court decisions should be legally binding (*binding force*), but on the other hand, implementation in the field shows rejection or neglect (*non-compliance*) by regional officials (Sari & Prakoso, 2021). This non-compliance is not merely a legal problem, but also reflects the ethical and moral problems of the government bureaucracy that fails to fully understand and implement the principle of the rule of law (Lestari, 2022).

Several factors causing non-compliance have been identified through previous research. First, the weakness of the internal and external supervision system for the implementation of PTUN decisions. As revealed by Suparman (2021), the lack of supervision from regional inspectorates and other supervisory institutions opens up loopholes for officials to ignore decisions without strict sanctions. Second, there is political intervention, where decisions by TUN officials are often influenced by the interests of certain political parties or groups (Raharjo, 2023). Third, the ambiguity and lack of norms in the procedures for implementing PTUN decisions at the regional government level also increase the space for free interpretation which leads to legal disobedience (Darminto, 2022). Fourth, the low understanding of the law and ethics of public officials is a key factor that should not be ignored. A study by Handayani & Nugroho (2020) shows that most officials at the district/city level do not understand the legal implications of non-compliance with PTUN decisions, both in terms of administrative law and criminal law. In fact, according to Yulianto (2022), every public official is bound by the principle of legal accountability which should be implemented consistently for the sake of legal certainty.

The impact of this non-compliance is very serious, not only damaging public trust in the state administrative justice system, but also eroding the legitimacy of local governments as organizers of public affairs (Mahardika,

2023). When the public witnesses court decisions being ignored, the perception arises that the law can be negotiated or bargained, which ultimately gives rise to a crisis of trust (trust deficit) in society (Kurniawan et al., 2021).

From the perspective of *fiqh siyasah*, this phenomenon is a form of violation of the basic principles of Islamic leadership. *Fiqh siyasah* teaches that a leader is responsible for implementing the law fairly, honestly, and consistently without being influenced by personal interests, groups, or political pressure (Ismail, 2022). Non-compliance by state administrative officials with court decisions not only means denying state law, but also tarnishing the trusteeship carried out by leaders according to Islamic teachings (Rahman, 2023).

According to Al-Ghazali in *Nasihat al-Muluk*, the essence of a leader's power is to implement the law fairly as a manifestation of faith and responsibility before Allah (Al-Ghazali, 2003). Fair implementation of the law is seen as a form of social worship that protects the rights of the people and creates public welfare (*maslahah 'ammah*) (Zarkasyi, 2021). If the leader ignores the law, then the joints of justice are damaged, and society is plunged into moral chaos and social distrust (Yunus, 2021). In this context, the non-compliance of TUN officials in Seluma Regency can be seen as a form of violation of the two main principles of *fiqh siyasah*, namely justice (*al-'adalah*) and trust (*al-amanah*). The principle of justice requires leaders to determine and implement legal decisions objectively and non-discriminatory (Salam, 2020). Meanwhile, the principle of trust requires every official to maintain integrity, honesty, and responsibility in serving the people (Nasution & Harun, 2020).

Furthermore, non-compliance with PTUN decisions has the potential to cause systemic impacts that endanger the stability of regional government. Research by Wulandari & Firdaus (2021) shows that this non-compliance can give rise to horizontal conflicts between citizens and the government, increase the chances of new lawsuits, and increase the regional financial burden due to compensation or fines. Even in a global context, government non-compliance with court decisions is one indicator of the poor quality of democracy and law enforcement in the international good governance index (OECD, 2022).

This problem also poses a challenge for the world of legal education and training of state civil servants (ASN), especially in increasing literacy in state administrative law among regional officials. According to Aswad & Rauf (2023), intensive case study-based training is needed so that officials understand the importance of complying with PTUN decisions as part of the organization's legal culture. On the other hand, religious institutions are also expected to play a role in instilling the values of justice and trustworthiness based on *fiqh siyasah*, as conveyed by Sulaiman (2023) in his study of Islamic leadership ethics in modern bureaucracy. Based on the description above, this study raises two main problem formulations, namely: What is the form of non-compliance of TUN officials with PTUN decisions in Seluma Regency? How is the *fiqh siyasah* analysis of the phenomenon of non-compliance? The objectives of this study are: Analyze the factors causing non-compliance of TUN officials with PTUN decisions in Seluma Regency. Studying this phenomenon through the perspective of *fiqh siyasah* in order to provide alternative solutions based on Islamic values. By integrating the positive law and *fiqh siyasah* approaches, it is hoped that this study will be able to provide theoretical and practical contributions in strengthening regional governance based on substantive justice values.

## RESEARCH METHOD

This study uses a qualitative approach with a case study method. This approach was chosen to gain an in-depth understanding of the phenomenon of non-compliance of State Administrative (TUN) officials with the decisions of the State Administrative Court (PTUN) in Seluma Regency, Bengkulu Province. The qualitative approach is considered appropriate because it allows researchers to explore social realities, individual meanings, and the cultural and bureaucratic contexts that underlie the occurrence of non-compliance (Creswell & Poth, 2018).

According to Yin (2017), case studies are very appropriate when researchers want to examine a contemporary phenomenon in a real-life context, especially when the boundaries between the phenomenon and its context are not very clear. In this case, the case of non-compliance of TUN officials in Seluma Regency with the PTUN decision is considered a complex

phenomenon because it involves legal, political, organizational culture, and religious values contained in *fiqh siyasah* (Patton, 2015).

The location of this research is several agencies within the Seluma Regency Government, Bengkulu. The selection of this location was done intentionally (purposively) because in this area there were several cases of officials' non-compliance with PTUN decisions that had permanent legal force. Research informants were determined through purposive sampling techniques, namely selecting individuals or parties who were considered to have knowledge, experience, or direct involvement in the cases studied (Sugiyono, 2021).

The main informants in this study: Seluma Regency Regional Government Officials, including heads of departments, regional secretaries, and related policy implementing officials. Seluma Regional Secretariat legal officials, who are tasked with reviewing legal decisions and recommendations for implementing PTUN decisions. Legal counselors from the Bengkulu Regional Office of the Ministry of Law and Human Rights or related institutions. Representatives of the community or plaintiffs who were directly involved or affected by the implementation (or non-implementation) of PTUN decisions.

The data in this study were collected from two main sources, namely primary data and secondary data. Primary data was obtained through in-depth interviews with key informants as explained above. This interview was conducted in a semi-structured manner to provide researchers with ample space for exploration in exploring information related to perceptions, experiences, and attitudes of informants towards the implementation of PTUN decisions.

Secondary data in the form of official documents such as copies of PTUN decisions, Law Number 5 of 1986, Law Number 51 of 2009, and scientific literature related to *fiqh siyasah*, state administrative law, and legal compliance theory. In addition, secondary data was obtained through national and international journal articles, books, research reports, and publications of official institutions related to law and government (Neuman, 2014).

Data collection in this study was carried out through three main techniques: In-depth Interviews. This interview is used to explore in-depth

information regarding the factors causing TUN officials' non-compliance with PTUN decisions. This technique helps researchers understand the motives, obstacles, and personal views of informants regarding the research issue (King & Horrocks, 2019). Documentation. This technique is carried out by reviewing official government documents, PTUN archives, laws and regulations, meeting minutes, and decrees related to the implementation of PTUN decisions in the Seluma Regency Regional Government. Documentation helps strengthen the validity of data from interview results (Bowen, 2009).

Literature Review. Literature studies are conducted to examine various theories and findings from previous studies regarding legal non-compliance, *fiqh siyasah*, and the concept of good governance in public administration (Ridwan, 2020). In addition, literature reviews are used to place research results in a broader academic context.

The use of triangulation of sources and techniques aims to increase the validity and reliability of data, as suggested by Denzin & Lincoln (2018), that in qualitative research, a combination of several data sources and data collection methods is very important to produce reliable findings.

## **RESULTS AND DISCUSSION**

### **3.1 Non-Compliance of State Administrative Officials with PTUN Decisions**

The results of the study show that non-compliance of State Administrative (TUN) officials in Seluma Regency with PTUN decisions that have permanent legal force is caused by several main factors. First, weak internal supervision within the local government. Supervision is not effective because there is no clear mechanism for monitoring the implementation of PTUN decisions by related officials (Nugroho, 2020).

Second, the unclear regulations and the lack of firmness in the rules for implementing PTUN decisions at the regional level have led to multiple interpretations among implementing officials. Some officials consider that the implementation of PTUN decisions is optional, not an absolute obligation, so they tend to be postponed or ignored (Astuti, 2022).

Third, political intervention is a dominant factor that complicates the implementation of legal decisions. Bureaucratic officials feel pressured by the

interests of local political actors who prioritize power considerations over law enforcement. This is in line with the findings of Setiawan (2021) who stated that regional bureaucracy is often used as a tool for practical political interests, thus ignoring the principles of good governance.

Fourth, there is a low level of understanding of state administrative law by officials, especially regarding the obligation to implement final PTUN decisions. The lack of legal training for structural officials means that they do not understand the legal implications of such non-compliance (Huda, 2021).

In the real cases studied, namely PTUN decisions No. 107/G/2019/PTUN.BKL and No. 18/B/2022/PT.TUN.PLG, the execution of the decision experienced significant delays due to the slow bureaucratic process and weak coordination between related agencies. This incident shows a serious gap between legal norms and field implementation.

### **3.2 Impact of Non-Compliance**

The non-compliance of TUN officials has a negative impact on local government and society. The first impact is the decline in public trust in the legal system and government. The public becomes skeptical of the legal bias because they see the lack of seriousness of officials in implementing court decisions (Rahman et al., 2023).

The second impact is the damage to bureaucratic governance, where non-compliance creates a bad precedent in the implementation of law in the local government environment. This hinders the creation of a clean and accountable government (Fauzi, 2022).

Third, non-compliance opens up opportunities for corruption, collusion, and maladministration because legal loopholes are exploited for personal or group interests. This practice is contrary to the principle of integrity in public service (Anderson, 2021).

### **3.3 Review of Fiqh Siyasah**

From the perspective of fiqh siyasah, compliance with the law is an integral part of the implementation of the leadership mandate (al-amanah) carried out by public officials. Non-compliance with court decisions is a form

of violation of the principles of justice (al-‘adl) and public responsibility (mas’uliyah) which are the main foundations of Islamic leadership (Al-Mubarak, 2020).

Fiqh siyasah also emphasizes the importance of hisbah (supervision) and shura (deliberation) in the implementation of government, so that policies do not deviate from the principles of justice and the welfare of the people (Aziz, 2022). When officials neglect the legal mandate, they are considered to have violated the rights of the people protected by sharia (Rahman & Khalid, 2021).

As an effort to improve, fiqh siyasah proposes several steps: bureaucratic reform to strengthen the integrity of institutions; increasing legal literacy for public officials; enforcing strict sanctions against violations of the law; and educating state officials about the values of justice based on Islamic teachings (Al-Khatib, 2023). By implementing these principles, it is hoped that the implementation of PTUN decisions in the regions can run according to legal and sharia provisions.

## CONCLUSION

Non-compliance of TUN Officials in Seluma Regency is caused by weak supervision, political intervention, lack of understanding of the law of officials, and ineffective administrative sanctions. The impact is very detrimental to the legal system and public trust. Fiqh Siyasah emphasizes that this non-compliance is contrary to the principles of justice and the mandate of leaders in Islam. The solutions offered are the application of effective sanctions, bureaucratic reform, increasing legal awareness, and strengthening supervision by hisbah institutions or ombudsman.

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