

Analysis of PTUN Jakarta Decision Number 99 of 2020 Concerning the Cancellation of the DPR-RI Statement on the Semanggi 1 and Semanggi 2 Incidents in the Terms of Fiqh Siyasah

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Abstract

In the Semanggi 1 and Semanggi 2 incidents, serious human rights violations occurred. The DPR-RI decision was then challenged by a number of community organizations to the Jakarta State Administrative Court (PTUN). This study aims to analyze the history of the Semanggi 1 and Semanggi 2 events, analyzing the Jakarta Administrative Court's decision Number 99 of 2020 concerning the cancellation of the DPR-RI statement on the Semanggi 1 and Semanggi 2 events, and terms of Fiqh Siyasah on the Jakarta Administrative Court's decision Number 99 of 2020 concerning the cancellation of the DPR-RI's statement on Semanggi 1 and Semanggi 2. Then this scientific work research uses normative juridical research methods, namely research based on secondary data sources including primary legal materials in the form of laws and regulations (statute approach) and secondary legal sources with library materials, such as books, scientific articles and journals. The results of this study show that in Decision Number 99 of 2020, the Jakarta State Administrative Court annulled the DPR-RI Decision with the consideration that the DPR-RI had made a mistake in assessing the Semanggi I and II events as not being gross human rights violations. Then the Jakarta State Administrative Court Decision Number 99 of 2020 did not emphasize the suitability in the context of fiqh siyasah. In the concept of fiqh siyasah, the decision of the Jakarta State Administrative Court Number 99 of 2020 does not fulfill the principles of Justice (*Al-Adl*) and Legal Certainty (*Al-Yaqin*). This research emphasizes the need for fair law enforcement and legal certainty to deal with human rights in Indonesia, especially in the events of Semanggi 1 and 2.

Keywords: Fiqh Siyasah, Legal Decision, Semanggi

Introduction

Article 27 point 1 of the 1945 Constitution states: "all citizens shall be equal before the law and government and shall uphold the law and government with no exceptions (UUD 1945)." Despite such provisions in the 1945 Constitution, in reality there is still an unequal application between one person and another in connection with the equality of everyone in the eyes of the law in reality there are still many problems because it does not realize the sense of justice of one person with another. The practice of law enforcement in reality is not in accordance with these principles, so that efforts are needed to enforce a fair law for all people for fellow citizens of the Republic of Indonesia.

The protection of victims of crime, especially in cases of gross human rights violations, does not seem to have received serious attention in national law. This can be seen from only a few national laws and regulations that regulate the rights of victims of gross human rights violations. The imbalance and inequality of legal protection between perpetrators and victims of crime is a denial of the principle that every citizen is equal before the law and government, as intended and mandated by the 1945 Constitution as

a constitutional foundation. In some national laws, the issue of protecting victims of crime has been regulated, but it is still partial and does not apply generally to all victims of crime (Mansur & Gultom, 2006).

In Indonesian legal settings, the victim is always the most disadvantaged party. Not only has the victim suffered losses due to the crimes that have befallen, both materially, physically and psychologically, the victim must also endure multiple suffering because without realizing it, is often treated only as a means for the realization of legal certainty, for example having to re-express, remember and even repeat (reconstruct) the crimes that have befallen while undergoing the examination process, both at the investigation level and after the case has been examined in court (Mansur & Gultom, 2006). When victims are asked to testify as witnesses at the investigation and court levels, it is often found that victims must come alone without adequate security or escort from security forces.

One of the forms of State protection for victims of gross human rights violations and is the right of victims is to obtain compensation and restitution. Compensation is provided by the state to victims of gross human rights violations, while restitution is compensation to victims of criminal acts provided by the perpetrator as his responsibility. There are several regulations in Indonesia that regulate the provision of compensation and restitution. However, in reality, these regulations are not implementable. The provision of compensation can be seen in the Criminal Code, the Criminal Procedure Code and Law Number 26 of 2000 on Human Rights Courts, which then gave birth to Government Regulation Number 3 of 2002 on compensation, restitution and rehabilitation for victims of gross human rights violations (Fadillah, 2004).

The first incident, known as the Semanggi 1 Tragedy, occurred on November 11-13, 1998, a riot in the Semanggi area, South Jakarta, which was carried out by students when voicing protests against the government of Bacharuddin Jusuf Habibie. The second incident, known as the Semanggi 2 Tragedy, occurred on September 24, 1999. In this incident, there were severe human rights violations, such as shootings, persecution, and enforced disappearances. The DPR-RI's decision was then challenged by a number of community organizations to the Jakarta State Administrative Court (PTUN). In its decision Number 99 of 2020, the Jakarta Administrative Court annulled the DPR-RI's decision with the consideration that the DPR-RI had made a mistake in assessing the Semanggi 1 and 2 events as not being gross human rights violations.

The Jakarta Administrative Court's decision is interesting to be studied further from the perspective of *fiqh siyasah* (Islamic constitutional law). *Fiqh siyasah* discusses the relationship between people and leaders and the obligations and rights of each party. In this context, PTUN Jakarta's decision relates to the state's obligation to protect the rights of its citizens, including the right to life and security. By analyzing the Jakarta Administrative Court Decision Number 99 of 2020 from the perspective of *fiqh siyasah*, this research is expected to contribute to law enforcement and human rights protection in Indonesia in accordance with the values and principles of Islamic law.

Furthermore, the research also reviewed the results of previous studies. Reviewing the results of previous studies has the aim of obtaining comparison and reference materials. In addition, this review also aims to avoid the assumption of

similarity with existing research. So in the literature review the researcher lists the results of previous research based on two titles. In research conducted by Annisa Azzahra with the title “Analysis of the Semanggi I Tragedy Against Efforts to Prosecute the Settlement of Human Rights Violations,” her research explains the analysis of the Semanggi 1 tragedy and efforts to prosecute the settlement of human rights violations that occurred on November 11-13, 1998 and efforts to prosecute the settlement of human rights violations from the Semanggi 1 tragedy are expected to be completed soon (Azzahra, 2020). The similarity between this research and the author's research is that both discuss the Semanggi 1 incident. And the difference between this research and the author's research is that this research only discusses the analysis of the Semanggi 1 incident, while the author's research discusses the decision on the Semanggi 1 and Semanggi 2 events.

In a study conducted by Andri Nurwandri, Muhammad Ilham, et al, entitled “Application of the Principles of Justice and Human Rights in Prosecution by Prosecutors”, his research explains a deeper understanding of how justice and human rights are applied in prosecution by prosecutors (Nurwandri, et al, 2024). The similarity between this research and the author's research is that both discuss the application of justice to human rights. And the difference between this research and the author's research is that the author's research is broader, covering the PTUN decision on the Semanggi 1 and Semanggi 2 events, not gross human rights violations.

Based on previous research similar to this research, it can be said that this research is different from previous research. Based on the description above, the focus of this research are: (1) Analyzing the history of the Semanggi 1 and Semanggi 2 events, (2) Analyzing the Jakarta PTUN decision Number 99 of 2020 concerning the cancellation of the DPR-RI statement on the Semanggi 1 and Semanggi 2 events, and (3) Knowing how Fiqh Siyasah reviews the Jakarta PTUN decision Number 99 of 2020 concerning the cancellation of the DPR-RI statement on Semanggi 1 and Semanggi 2.

Method

This study employs a normative jurisprudence technique, which investigates secondary data or library studies as a foundation by reviewing legislative rules and relevant library resources on the topic. This normative legal approach utilizes the statute approach, also known as the legislative approach, whereby all laws and regulations pertinent to the legal issues under consideration are examined. The research methodology applied in this study is descriptive analysis, which describes the regulation of human rights (Marzuki, 2013). The data used in this study consists of secondary data sourced from existing literature and library investigations. This secondary data includes primary legal information, such as the Jakarta State Administrative Court Decision Number 99 of 2020 on the annulment of the DPR-RI statement on the Semanggi 1 and Semanggi 2 events. Secondary legal sources include books, scientific publications, and journals. Data collection methods involve examining secondary data from libraries to conduct an inventory of the legal materials necessary for this research. The data analysis approach used in this study is qualitative descriptive analysis, which entails gathering relevant data to support arguments in discussions about analysis of the Jakarta State Administrative Court's decision Number 99 of 2020 concerning the cancellation of the

DPR-RI's statement on the Semanggi 1 and Semanggi 2 events in terms of fiqh siyasah. This information is then organized into logical and methodical descriptions, examined to provide explanations, and conclusions drawn from general to specific. In this study, the author will explain, derive, and evaluate the facts to present them clearly.

Results and Discussion

History of the Semanggi 1 and Semanggi 2 Incidents

Semanggi 1 and Semanggi 2 are two important events in Indonesian history that reflect the tensions between civil society and security forces during the reform era. First, the Semanggi 1 incident was an incident of human rights violations that occurred from November 11, 1998 to November 13, 1998 or after the 1998 reformation. This incident was a form of protest from students and the community. This incident occurred because people felt distrust of the government led by the 3rd President, namely President Bacharuddin Jusuf Habibie and the government was positioned as a transitional government that replaced the previous government. Apart from distrusting President Habibie's government, the wider community and students rejected the DPR/MPR which was considered to still have people from the New Order regime (Divisi Kastrat & Divisi Penerbitan HM Sejarah Undip, 2020).

The background to this event was that the transitional government held a session to determine the implementation of elections and discuss other agendas. On the other hand, the students did not recognize President Habibie government and had no trust in the DPR / MPR because it was a legacy of the New Order regime. They demanded to purge the government of New Order people. In addition, students demanded that the military not be involved in politics . The community and students rejected the MPR session in 1998 and also opposed the dual function of ABRI. However, the session continued and the community and students did not remain silent. They held demonstrations throughout the session. Demonstrations were carried out on a large scale in Jakarta, not only in Jakarta but also in various major cities in Indonesia.

The Semanggi 1 incident began on November 11, 1998, where students and the public joined forces and moved from Jalan Salemba. To contain the movement of the community and students, security forces were prepared. The demonstration did not go peacefully and led to a clash between the combined student-community and Pamswakarsa that occurred at the Tugu Proklamasi complex. On November 12, there was a further demonstration from the previous day, students and the community moved towards the DPR / MPR building from various directions Semanggi-Slipi-Kuningan. The security forces did not remain silent and increased their defenses so that the movement of students and the community could not be penetrated. Clashes broke out at night in the Slipi area, many who became victims in the clashes were then evacuated to Atma Jaya University and some were rushed to the hospital.

On November 13, the number of officers who confronted the students increased, and they were surrounded from two directions along Sudirman Street with armored vehicles. The joint TNI-Polri forces tried to disperse the protesters, and there were shootings from the authorities while the students were sitting on the road. And in the Semanggi 1 incident, 18 people died because they were shot by the authorities. Five of them were students, namely Teddy Mardani, Sigit Prasetya, Engkus Kusnadi, Herus

Sudibyo, and BR Norma Irmawan. Meanwhile, 109 people were injured, both people and students (Redaksi, 2023).

The Semanggi 2 incident is one of the darkest events in Indonesian history. The Semanggi 2 incident occurred on September 24-28, 1999, when students demonstrated against the Draft Bill on Countering Dangerous Circumstances (PKB) and the demand to revoke the dual function of ABRI / TNI. On September 24, 1999, hundreds of students and citizens demonstrated against the PKB bill in the Semanggi area, South Jakarta. This was not the first demonstration of its kind; there had been a series of student and citizen demonstrations against this controversial law (Fanani, 2019).

Since early September, a series of student demonstrations against the ratification of the PKB Bill have taken place in several regions in Indonesia. The culmination of these demonstrations was the Semanggi 2 incident on September 24-28, 1999. When students demonstrated against the Draft Bill on Countering Dangerous Circumstances (PKB) and demanded to revoke the dual function of ABRI/TNI, these actions were repressed by ABRI (TNI). The Humanitarian Volunteer Team recorded 11 deaths and 217 injuries in the incident, including Yap Yun Hap (FT UI), Zainal Abidin, Teja Sukmana, M Nuh Ichsan, Salim Jumadoi, Fadly, Deny Julian, Yusuf Rizal (UNILA), Saidatul Fitria and Meyer Ardiansyah (IBA Palembang). Yun Hap who was one of the victims of the University of Indonesia students who died due to shooting by army troops (Elsa & Izza, 2023).

The Semanggi 1 and 2 incidents, which are included as human rights violations, have various impacts on the community and students. The Semanggi 1 and Semanggi 2 incidents had several impacts, namely; the fall of many civilian victims, including students, hundreds of people were injured, and the trauma experienced by the community.

PTUN Jakarta Decision Number 99 of 2020 Concerning the Cancellation of the DPR-RI Statement on the Semanggi 1 and Semanggi 2 Incidents

In Indonesia alone, there is one decision related to a lawsuit against the statement of a state administrative official on the basis of a lawsuit against legal action by the government (*onrechtmatige overheidsdaad*), namely the decision of the Jakarta State Administrative Court with case number 99/G/TF/2020/PTUN.JKT between Ms. Sumarsih and Ms. Ho Kim Ngo against the Attorney General of the Republic of Indonesia. This case began with the Attorney General's statement in a Working Meeting with Commission III of the House of Representatives on January 16, 2020 that the Semanggi 1 and 2 Tragedies were not gross human rights violations so that Komnas HAM did not need to follow up on the reports of the two incidents (Decision No. 99/G/TF/2020/PTUN.JKT.). The statement triggered a lawsuit by Ms. Sumarsih and Ms. Ho Kim Ngo at the Jakarta State Administrative Court on the grounds that the statement obscured the fact that the Semanggi 1 and 2 Tragedies were gross human rights violations and obstructed the legal process related to gross human rights violations in the Semanggi 1 and 2 Tragedies. Both Ms. Sumarsih and Ms. Ho Kim Ngo requested that the panel of judges decide that the statement made by the Attorney General was an unlawful act by the government (*onrechtmatige overheidsdaad*) and punish the Attorney General to make a statement in the next Working Meeting with Commission III of the House of

Representatives that the Semanggi I and II Tragedies were gross human rights violations. The request was accepted by the panel of judges, where through its decision, the panel of judges granted all the claims filed by Ms. Sumarsih and Ms. Ho Kim Ngo. There are several interesting considerations that underlie the panel of judges to decide such cases.

First, the panel of judges argued that the statement made by the Attorney General fell under the category of governmental action. This opinion is interesting to discuss because the panel of judges used extensive interpretation in interpreting statements as part of the category of acts. This also strengthens the opinion of the plaintiff's expert, Dr. Oce Madril, S.H., M.A., regarding the statements of state administrative officials as part of government actions. The opinion of the panel of judges that the statement made by the Attorney General falls into the category of governmental action allows the statement to be challenged in court.

In theory, extensive interpretation is one approach to interpretation in law that interprets beyond the limits provided by grammatical interpretation (Hanifah & Muliawan, 2020). This form of interpretation arises from the prohibition of judges to reject a case on the basis that there is no law that clearly regulates the case causing judges to be required to explore and understand the intent of the law. Although there are many examples of the application of extensive interpretation in judicial decisions, the use of this interpretation requires caution so as not to be used haphazardly and actually contradict the original meaning as regulated in the law (Christianto, 2010). Such caution is needed to prevent judges' mistakes in using extensive interpretation of a legal provision.

If it is related to the opinion of the panel of judges who used extensive interpretation in interpreting statements as part of the category of acts/actions in this decision, then in the author's opinion, the extensive interpretation can still be allowed. This is because the basis for the panel of judges in making an extensive interpretation is the right of state administrative officials to use the authority to take government administration actions and the definition of government administration actions themselves. Because statements are included in one form of action and there is no decision/legal provision that regulates that statements are included in the actions of state administrative officials, the panel of judges made an extensive interpretation of this matter. Thus, the extensive interpretation of the panel of judges in this decision is justified.

Second, the panel of judges was of the opinion that the Attorney General's statement in the Working Meeting with Commission III of the House of Representatives on January 16, 2020 that the Semanggi 1 and 2 Tragedies were not gross human rights violations was a statement made in his capacity as Attorney General in an official state forum, in this case a Working Meeting with Commission III of the House of Representatives. This opinion is proven by the presence of the Attorney General in the meeting on the basis of an invitation from the DPR RI. Then in the meeting, the Attorney General represented the government in the function of implementing the government and Commission III of the House of Representatives as part of the parliament in carrying out the function of supervising the government. The Attorney General's statement in the meeting was a form of accountability from the Attorney General to Commission III

of the House of Representatives as a supervisory party in terms of investigating the events of Semanggi Tragedy 1 and 2 (Mangara, 2023).

The panel of judges' opinion can be justified for two reasons. First, the presence of the Attorney General in the Working Meeting with Commission III of the House of Representatives causes every statement issued by the Attorney General to be an act of government administration based on the authority of the Attorney General in government affairs based on applicable laws and regulations. Secondly, Commission III of the House of Representatives carries out the function of supervising the government through various forms, one of which is by inviting the government represented by the relevant minister/institution head to attend a working meeting held by Commission III of the House of Representatives. Thus, the opinion of the panel of judges in this decision regarding the procedural aspects of the Attorney General in performing government administrative actions through his statement is appropriate.

Third, the panel of judges was of the opinion that the Attorney General's statement in the Working Meeting with Commission III of the House of Representatives on January 16, 2020 that the Semanggi 1 and 2 Tragedy was not a gross human rights violation contained bedrog (lies) because it was not in accordance with the actual facts so that the statement was declared an unlawful act by the government. The actual fact is that the investigation process of alleged gross human rights violations related to the Semanggi 1 and 2 Tragedy is still ongoing, but the Attorney General did not fully describe the investigation process. This is evidenced by the evidence of letters and witnesses presented both from the plaintiff (Mrs. Sumarsih and Mrs. Ho Kim Ngo) and her attorney and from the defendant (Attorney General) and his attorney. Because the Attorney General's statement was not in accordance with the actual facts in the field, the Attorney General's statement contained bedrog (lies) so that the statement was declared a tort by the government.

Although in the verdict the panel of judges granted all of the claims filed by Mrs. Sumarsih and Mrs. Ho Kim Ngo, the Attorney General decided to appeal and the decision was later annulled by the Jakarta State Administrative High Court through its decision with case number 12/B/TF/2021/PT.TUN.JKT on March 1, 2021. The reasons for the annulment of the decision were that the plaintiffs (Mrs. Sumarsih and Mrs. Ho Kim Ngo) and their legal counsel did not file an Administrative Appeal because the letters sent by the Plaintiffs were not of a special nature so that they could not be categorized as an appeal, exceeded the 10-day period, and that the Victims Solidarity Network for Justice (JSKK) was not authorized to file an appeal so that the exception of the defendant (Attorney General) and his legal counsel regarding the plaintiffs' premature lawsuit was granted. The cassation filed by the plaintiffs was also rejected by the Supreme Court through its decision on September 2, 2021 (Mangara, 2023).

Fiqh Siyasah Perspective on the PTUN Jakarta Decision Number 99 of 2020

One of the basic principles of the government or state system emphasized in Islam is the rule of law. Muhammad Tahir Azhari mentions that the state of law as Islamic Nomocracy. As a state of law, the establishment of justice is an obligation that must be realized in the life of the nation and state. As for being able to uphold justice so that the creation of a just law cannot be achieved without a judicial institution.

Therefore, the judiciary in Islamic state administration is an absolute thing that must be fulfilled. Because, only through the judiciary can the truth be enforced with justice (Sari, et al, 2023).

Fiqh siyasah states that the Islamic judiciary or known as siyasah qadhaiyyah is an institution that serves as a judicial power that has to do with the duties and authority of a court. This court has the aim of resolving cases that use Islamic law (Meliani, 2022). Siyasah qadhaiyyah can be used as a reference to analyze and resolve the dispute between Mrs. Sumarsih and Mrs. Ho Kim Ngo with the Attorney General in a fair manner, and help determine whether the Jakarta State Administrative Court judge's decision Number 99 of 2020 is a fair decision and in accordance with applicable laws and regulations.

Specifically, PTUN Decision Number 99 of 2020 relates to an administrative dispute between a citizen and a government agency, in which the plaintiff files a claim for a decision or administrative action that is deemed not in accordance with applicable legal provisions. In the previous section, which discussed the analysis of Jakarta State Administrative Court Decision Number 99 of 2020, it was explained that the decision was overturned at the appeal and cassation levels for reasons related to administrative remedies. In the context of fiqh siyasah, the Jakarta State Administrative Court Decision Number 99 of 2020 concerning the cancellation of the DPR RI statement on the Semanggi 1 and Semanggi 2 incident, can be analyzed from several principles of fiqh siyasah, namely:

1. Justice (*Al-Adl*)

In observing the principle of justice before the Jakarta Administrative Court's decision Number 99 of 2020 was overturned at the appeal and cassation levels, this decision can be seen as a form of realizing justice for victims of the Semanggi 1 and Semanggi 2 incidents. By overturning the DPR-RI statement denying the existence of gross human rights violations, the Jakarta Administrative Court's decision Number 99 of 2020 provided recognition for the suffering experienced by victims. However, this did not last long, as it was upheld on appeal and cassation.

Although the verdict of the panel of judges granted the entire lawsuit filed by Ms. Sumarsih and Ms. Ho Kim Ngo, the Attorney General decided to appeal. And the decision was then canceled by the Jakarta State Administrative High Court through its decision with case number 12/B/TF/2021/PT.TUN.JKT. After the annulment of the Jakarta Administrative Court decision Number 99 of 2020, this decision no longer accommodates the principles of justice that should apply to the victims of Semanggi 1 and Semanggi 2, including the plaintiffs (Mrs. Sumarsih and Mrs. Ho Kim Ngo), because the plaintiffs and their attorneys did not receive an appeal and the Victims Solidarity Network for Justice (JSKK) was not given the power to appeal just as the judge gave the defendant the opportunity to appeal. Due to the weakness of the plaintiff's case, the defendant's (Attorney General) and his attorney's exceptions were granted. No justice was given to the plaintiffs as the families of the victims and victims of the Semanggi 1 and Semanggi 2 incidents.

As explained in the word of Allah SWT., in Q.S. An-Nisa verse 135, namely:

يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ بِالْقِسْطِ شُهَدَاءَ لِلَّهِ وَلَوْ عَلَىٰ أَنفُسِكُمْ
 أَوِ الْوَالِدِينَ وَالْأَقْرَبِينَ إِن يَكُنْ غَنِيًّا أَوْ فَقِيرًا فَاللَّهُ أَوْلَىٰ بِهِمَا فَلَا تَتَّبِعُوا الْهَوَانَ
 تَعْدِلُوا وَإِن تَلَوْا أَوْ تُعْرَضُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا

“You who believe, be you who are truly the upholder of justice to be a witness for Allah even if it is against yourself or your mother and father and relatives. If he is rich or poor, Allah knows better. So do not follow your lusts to deviate from the truth. And if you twist your words or are reluctant to bear witness, then surely Allah is aware of all that you do.” (Q.S. An-Nisa:135) (Departemen Agama RI, 2000)

This verse explains that judicial law in Islam is fardhu kifayah because all human affairs will not be resolved without the intervention of judicial law (Al-Fauzan, 2006). Therefore, a leader of Muslims must determine several judges who are considered worthy and good, so that he is able to uphold human rights. And by canceling the Jakarta State Administrative Court's decision Number 99 of 2020 and approving the appeal by the Attorney General, the decision has contradicted the judicial law in accordance with Q. S An-Nisa verse 135.

2. Legal Certainty (*Al-Yaqin*)

In the application of Fiqh Siyasah, every action and legal determination must have a clear and transparent legal basis (Salman & Baihaqi, 2022). What seems to be ignored in the DPR-RI statement on the Semanggi 1 and Semanggi 2 events is not a gross human rights violation. Whereas the events of Semanggi 1 and Semanggi 2 can be suspected as cases of gross human rights violations because they fulfill the elements in Article 9 letter (a) of Law Number 26 of 2000 concerning Human Rights Courts, namely:

a) One of the acts

Komnas HAM has investigated and demonstrated that crimes against humanity, in the form of murder and inhumane acts, have occurred. Several students died from being shot with live bullets and/or from being hit with blunt objects. One student named Yap Yun Hap died with a gunshot wound in front of Atma Jaya University. The post-mortem showed that there was a murder. Finally, KPP HAM TSS concluded that 50 TNI/Polri officers were allegedly involved in gross human rights violations.

b) Committed as part of an attack

The attack by law enforcement officers on a demonstration by students in response to the plan to enact the Law on Countering Dangerous Circumstances had a major impact on the nation and state of Indonesia. For this reason, researchers stated that the element of being carried out as part of an attack was fulfilled.

c) Widespread or systematic

The Semanggi case occurred twice, this case was a continuation of the Trisakti incident. This means that there is a series of cases that occur continuously and have a serious impact, resulting in a large number of injured

and dead victims. This case shows the existence of massive, repeated and large-scale actions, which are carried out collectively with serious impacts and directed against a large number of victims. Where in the first and second events there were shooting actions that resulted in deaths and injuries. So that it is considered to meet the systematic element because the shooting was carried out by law enforcement officers who were neatly organized and carried out continuously.

The Messenger of Allah (SAW) also said:

“Enforce hudud (Islamic law) against those who commit offenses, but do not harm the innocent.” (HR. Bukhari)

This hadith explains the importance of certainty in the application of the law, in accordance with the offense committed by the guilty person without harming innocent people.

Meanwhile, the Jakarta State Administrative Court (PTUN) Decision Number 99 of 2020 stated that the actions of the Attorney General's Office were unlawful and obliged the Attorney General's Office to make a statement regarding the handling of the alleged Semanggi 1 and Semanggi 2 gross human rights violations in accordance with the actual circumstances in the next working meeting with Commission III of the House of Representatives. However, the Panel of Judges formally accepted the Defendant's appeal and annulled the Decision in Decision Number 12/B/TF/2021/PT.TUN.JKT. Thus, the decision of the Jakarta Administrative Court does not fulfill the principles of protecting human rights.

And it is very clear that the resolution of human rights violations in Indonesia is weak and has not maximally played an active role in upholding gross human rights. With this, the Jakarta Administrative Court Decision Number 99 of 2020 does not also produce the principles of *fiqh siyasah* namely, legal certainty and legal clarity over the occurrence of the Semanggi 1 and Semanggi 2 events which are gross human rights violations.

Conclusion

From this research it can be concluded that the Semanggi 1 incident occurred on November 11-13, 1998 and the Semanggi 2 incident occurred on September 24, 1999. In this incident, there were severe human rights violations, such as shootings, persecution, and enforced disappearances. The DPR-RI's decision was then challenged by a number of community organizations to the Jakarta State Administrative Court (PTUN). In its decision Number 99 of 2020, the Jakarta Administrative Court annulled the DPR-RI's decision with the consideration that the DPR-RI had made a mistake in assessing the Semanggi 1 and 2 events as not being gross human rights violations. This research also confirms that the concept of *fiqh siyasah* is not in accordance with the Jakarta Administrative Court Decision Number 99 of 2020 because it does not fulfill the principles of justice (*Al-Adl*) and legal certainty (*Al-Yaqin*). Where by canceling the Jakarta Administrative Court Decision Number 99 of 2020 and approving the appeal by the Attorney General, the decision has contradicted the principles of justice (*Al-Adl*) and judicial law in accordance with Q. S An-Nisa verse 135. And the weak resolution of human rights violations in Indonesia which has not produced legal certainty (*Al-Yaqin*)

and legal clarity over the occurrence of the Semanggi 1 and Semanggi 2 events which are gross human rights violations. With the annulment of the Jakarta Administrative Court Decision, the state has not maximally played an active role in the enforcement of gross human rights. With the weak resolution of human rights violations in Indonesia carried out in court, it is hoped that it will further improve solutions in resolving human rights violations that are more efficient in revealing the facts that occurred.

References

- Al-Fauzan, Saleh. 2006. *Fiqh Sehari-hari*. Jakarta: Gema Insani.
- Azzahra, Annisa. 2020. "Analisis Tragedi Semanggi I Terhadap Upaya Penuntutan Penyelesaian Pelanggaran HAM." *Jurnal Academia Praja* 3 (1): 102-112. <https://ejournal.fisip.unjani.ac.id/index.php/jurnal-academia-praja/article/view/128/115>.
- Christianto, Hwian. 2010. "Batasan dan Perkembangan Penafsiran Ekstensif dalam Hukum Pidana." *Pamator* 3 (2): 101-113.
- Departemen Agama RI. 2000. *Al-Qur'an dan Terjemahannya*. Bandung: CV, Penerbit Diponogoro.
- Divisi Kastrat & Divisi Penerbitan HM Sejarah Undip. 2020. "22 Tahun Tragedi Semanggi I, Pelanggaran HAM Yang Harus Dituntaskan." *Penerbitan dan Literasi*. <https://hmsejarah.fib.undip.ac.id/12-tahun-tragedi-semanggi-i-pelanggaran-ham-yang-harus-dituntaskan/>.
- Elsa dan Izza. 2023. "Semanggi II: Jejak Kelam Pelanggaran HAM yang Terus Menggema." *Locus*. <https://www.lpmlocus.com/semanggi-ii-jejak-kelam-pelanggaran-ham-yang-terus-menggema/>.
- Fadillah, Syarif. 2004. *Korban Kejahatan dalam Perspektif Vikti-mologi dan Hukum Pidana Islam*. Jakarta: Ghalia Press.
- Hanifah, Farhana Nabila dan Anatomi Muliawan. 2020. "Implementasi Penerapan Penafsiran Hakim tentang Pelanggaran Unsur Bertentangan dengan Kewajiban Pegawai Negeri dalam Perkara Tindak Pidana Korupsi." *JCA of Law* 1 (1): 117-127.
- Mangara, Gerhard. 2023. "Menggugat Kata: Analisis Pernyataan Pejabat TUN Sebagai Objek Gugatan Pada PTUN Di Indonesia." *Jurnal Hukum PERATUN* 6 (2): 167-202. <https://doi.org/10.25216/peratun.622023.167-202>.
- Mansur, Dikdik M. Arief dan Elisatris Gultom. 2006. *Urgensi Perlindungan Korban Kejahatan Antara Norma dan Realita*. Jakarta: Rineka Cipta.
- Marzuki, Peter Mahmud. 2013. *Penelitian Hukum*. Cet. VIII. Jakarta: Kencana Prenada Media Group.
- Meliani, Putri. 2002. "Tinjauan Siyasah Qadha'iyah Terhadap Perlambatan Akses Internet Oleh Pemerintah (Studi Putusan PTUN Jakarta No.230/G/TF/2019/PTUN-JKT)." Universitas Islam Negeri Maulana Malik Ibrahim Malang.
- Nurwandri, Andri, M. Ilham, Rahmayani, Lila Mawaddah H, dan Lily Amanda S. 2024. "Penerapan Prinsip Keadilan Dan Hak Asasi Manusia Dalam Penuntutan Oleh Jaksa." *Journal Pusat Studi Pendidikan Rakyat* 4 (1): 24-35. <https://pusdikra-publishing.com/index.php/jies>.
- Pengadilan Tata Usaha Negara Jakarta, Putusan No. 99/G/TF/2020/PTUN.JKT.

- Redaksi. 2023. Kilas Balik Tragedi Semanggi I, 13 November 1998. <https://kabar24.bisnis.com/read/20231113/15/1713769/kilas-balik-tragedi-semanggi-i-13-november-1998>, diakses pada 28 Oktober 2024.
- Salman, A. M. B., & Baihaqi, Y. 2022. "Redefining Khobar Al-Ahad Based On Rashid Rida's Rational Approach In Al-Manar." *Jurnal Studi Ilmu-Ilmu Al-Qur'an Dan Hadis* 23 (2): 229.
- Sari, M, Zahlul Pasha, M Saddiq Amia. 2023. "Analisis Siyasa Qadhaiyyah Terhadap Pemberhentian Presiden Melalui Mahkamah Konstitusi." *Jurnal APHTN-HAN* 2 (1): 37-60. <https://doi.org/10.55292/japhtnhan.v2i1.56>.