

ANALYSIS OF PTUN MEDAN NUMBER 165/G/2023/PTUN. MDN ON BLACKLISTING SANCTIONS IN THE PERSPECTIVE OF SIYASAH QADHAIYYAH

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ABSTRACT

This study is motivated by a legal controversy surrounding the imposition of a blacklisting sanction against PT. Bumi Aceh Citra Persada through the Administrative Court (PTUN) Medan Decision No. 165/G/2023/PTUN. MDN. The main problem addressed in this research is the judicial reasoning underlying the ruling and the extent to which the decision reflects the principle of substantive justice from the perspective of *siyasa qadhaiyyah* (Islamic judicial politics). The purpose of this study is to analyze the judges' legal considerations and evaluate their conformity with Islamic legal principles, particularly within the framework of *siyasa qadhaiyyah*. This research employs a library-based qualitative method with a normative juridical approach, utilizing primary sources such as the PTUN decision, and secondary sources including books, journals, articles, and relevant legal regulations. Data were collected through literature review and analyzed using a qualitative content analysis method. The findings indicate that the judges' considerations were primarily based on Government Regulation No. 12 of 2021 concerning Government Procurement of Goods and Services, which outlines the mechanism for blacklisting sanctions against service providers who violate provisions. However, from the perspective of *siyasa qadhaiyyah*, issues of proportionality and substantive justice remain, as the sanction does not fully consider the aspects of public welfare (*maslahah*) and the protection of the parties' rights. Therefore, this study concludes that harmonization between positive law and Islamic principles of justice is essential in the application of administrative sanctions.

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INTRODUCTIONS

The procurement of government goods and services is one of the important activities in realizing an effective, efficient, and accountable government. In order to ensure the smooth running of the process, the government has established various regulations to regulate the procurement implementation mechanism, including the provision of sanctions for suppliers who commit violations. One form of administrative sanction that has a significant impact is blacklist sanctions (Ramadhani & Sativa, 2024), which are prohibitions for goods/service providers to follow the procurement process in all government agencies for a certain period of time. (Sutedi, 2016)

Blacklisting sanctions not only have an administrative impact, but also have serious implications for the sustainability of the business. When a company is blacklisted, its business opportunities to be involved in government projects are automatically affected, and it can even affect its credibility in the eyes of other business partners. This will certainly affect the company's cash flow, ability to survive in the industry, and lead to potential financial and reputational losses. (Sudarsono, 2024)

The determination of blacklist sanctions must be carried out based on clear provisions and transparent procedures. Goods/service providers have the right to receive complete information about the legal basis for sanctioning, evidence of alleged violations, and being given space to defend themselves. In practice, it is often found that providers are not adequately involved in the clarification or defense process, which then becomes the reason for the appearance of a lawsuit to the State Administrative Court. (Sukma et al., 2025)

In the context of state administrative law, blacklist sanctions are part of state administrative decisions that are concrete, individual, and final, and cause legal consequences for certain parties. Therefore, this decision can become the object of dispute in the PTUN if the sanctioned party feels that its rights have been violated. The State Administrative Court has the function of testing the legality of an administrative decision, including ensuring whether the decision is in accordance with the general principles of good governance. (Prasetya & Saleh, 2023)

These principles include the principles of legal certainty, openness, proportionality, accountability, and non-abuse of authority. If in the process of imposing blacklist sanctions there is a violation of these principles, then the decision can be reversed by the court. The existence of these principles is important to ensure that the authority of state administration is not used arbitrarily or discriminatorily against citizens or legal entities. (Panjaitan, 2015)

In addition to the formal aspects of positive law, the values of justice in the perspective of Islamic law are also relevant for assessing administrative decisions. In the concept of *siyasah qadhaiyyah*, justice is the main foundation in judicial policy-making. Deviations from justice—whether through decisions that are not transparent, unobjective, or disproportionate—can be categorized as a form of *zulm* (tyranny) that is contrary to the principles of sharia. Therefore, administrative decisions must uphold substantive justice, not simply meet procedural requirements. (Syuhada et al., 2021)

The application of blacklist sanctions that are not based on careful considerations, not through fair examination, or only based on weak suspicions, can be contrary to *the maqashid of sharia*, namely the principles of protection of property, honor, and survival of business actors. Therefore, the administrative process in imposing sanctions must be carried out with the principle of balanced justice as required in the sharia. (Sitorus et al., 2024)

In the context of the Medan PTUN case Number 165/G/2023/PTUN. MDN, it is important to examine whether the process and substance of the decision to impose blacklist sanctions against PT. Bumi Aceh Citra Persada has been in accordance with the principles of administrative law and justice according to *siyasah qadhaiyyah*. This research is expected to make an academic contribution in understanding how normative aspects in positive law and Islamic values can go hand in hand to maintain fair governance and integrity.

Principles in state administrative law, such as the principles of legal certainty, openness, proportionality, accountability, and the prohibition of abuse of authority, are important pillars in every decision-making by state

administrative officials. If these principles are violated in the imposition of blacklist sanctions, the court is authorized to annul the decision in order to prevent arbitrariness in public administration. (Budiansyah et al., 2024) (Mahfuzah & Tanjung, 2024)

The values of justice can also be the basis for evaluating an administrative decision, not only based on positive legal formalities, but also through a religious normative approach. In the context of Islamic law, *siyasah qadhaiyyah* emphasizes that justice is a fundamental principle in the administration of justice. Policies that are not objective, discriminatory, or disproportionate are a form of deviation from the principle of justice according to Islamic law. (Auda, 2008)

Blacklist sanctions that are imposed without careful consideration, through a process that is not transparent, or only based on weak assumptions, are contrary to the spirit of *maqashid sharia*, which is the protection of property, soul, and honor of individuals and corporations. Therefore, such administrative decisions need to be tested from the perspective of substantial justice, not just formal procedures. (Auda, 2013)

A review of blacklist sanctions from the perspective of *siyasah qadhaiyyah* is important to affirm that administrative power must be used responsibly, fairly, and beneficially. In a pluralistic modern system of government like Indonesia, integrating Islamic values in public legal judgment can strengthen the ethical and moral dimensions in state policies. (Koerniawan et al., 2023)

The application of blacklist sanctions basically aims to maintain the integrity of the procurement system of goods and services and provide a deterrent effect for suppliers who violate the rules. This is in line with the mandate of Presidential Regulation Number 16 of 2018 which has been amended by Presidential Regulation Number 12 of 2021, which stipulates that sanctions are imposed to ensure a fair and efficient procurement process. (*Presidential Regulation (Perpres) Number 12 of 2021 concerning Amendments to Presidential Regulation Number 16 of 2018 concerning the Procurement of Government Goods/Services* , 2021)

However, practice on the ground shows that not all sanctions are imposed based on fair procedures. Some providers complained that no clarification opportunities were provided, or the absence of adequate notice before the decision was made. This opens up opportunities for legal disputes, where the State Administrative Court (PTUN) becomes a legitimate forum to test the legality of the administrative action. (Harahap, 2014)

One of the cases that reflects this problem is the Medan PTUN case Number 165/G/2023/PTUN. MDN, which involves the plaintiff PT. Bumi Aceh Citra Persada against the Decree of the Head of the North Sumatra Provincial Housing Provision Work Unit Number: 15/KTPS/Rb2.4/2023, regarding the determination of blacklist sanctions dated December 12, 2023. The plaintiff feels that the decision has direct adverse legal consequences, especially in terms of the right to participate in the procurement of government goods/services.

As a country of law, Indonesia guarantees the existence of a legal mechanism that allows citizens or civil legal entities to sue the actions of state administrative officials that are considered not in accordance with the law. Law Number 5 of 1986 concerning the State Administrative Court, which has been amended by Law Number 51 of 2009, provides a legal basis for individuals or legal entities to file a lawsuit against state administrative decisions that are considered to be contrary to legal principles and detrimental to their legal rights.

State administrative decisions, including the determination of blacklist sanctions, are concrete, individual, and final decisions, which can be tested before the State Administrative Court. In this case, the authority of the PTUN to examine and decide such disputes is a form of supervision over administrative actions taken by public officials.

In addition to the analysis based on positive law, it is also interesting to review this case from the perspective of *Siyasah Qadhaiyyah*, that is, the politics of justice in Islam. In this concept, every judicial policy must focus on substantive justice, objectivity, and the benefit of the people. The application of sanctions, including administrative

sanctions such as blacklisting, must be based on the intention to uphold justice and safeguard the public interest, not as a tool of oppression, revenge, or political interests.

According to Imam Al-Mawardi in the book *Al-Ahkam As-Sulthaniyyah*, leaders and public officials have a moral and legal responsibility to act fairly in setting policies and decisions. If there is a deviation from the principle of justice, then the act is categorized as tyranny (*zhulm*) and contrary to the basic principles of sharia. Therefore, sanctions imposed without strong evidence, without transparent procedures, or with a deviant purpose, are not in accordance with the teachings of *siyasah qadhaiyyah* (Fadli, 2018).

In the context of this Medan PTUN decision, it is important to examine whether the imposition of blacklist sanctions has gone through correct and fair legal procedures. This research will not only examine the formal and material legality aspects of the decision, but also review its conformity with the principles of justice in Islam.

This research seeks to contribute to strengthening the principle of justice in state administrative governance, as well as offering an alternative analysis based on Islamic values that is relevant to the national legal system. Therefore, the author is interested in researching and analyzing "Medan PTUN Decision Number 165/G/2023/PTUN. MDN on Blacklist Sanctions in the Perspective of *Siyasah Qadhaiyyah*" as a form of effort to combine positive legal approaches and Islamic values of justice.

Based on the background described earlier, this study formulates 2 main problems that are the focus of the study: (1) What are the judges' legal considerations in the Medan PTUN Decision Number 165/G/2023/PTUN. MDN regarding the determination of blacklist sanctions against PT. Bumi Aceh Citra Persada; (2) How is the analysis of *the siyasah qadhaiyyah* perspective of the decision in order to assess the extent to which the principles of Islamic justice can be applied in the context of administrative law enforcement in Indonesia.

In line with the formulation of the problem, this research has two main objectives: (1) to be able to find out in depth the legal considerations used by judges in the Medan PTUN Decision Number 165/G/2023/PTUN. MDN regarding the blacklist sanctions imposed on PT. Bumi Aceh Citra Persada; (2) can analyze the decision from the perspective of *siyasah qadhaiyyah*, with the aim of assessing the extent to which substantive justice has been upheld through administrative sanctions in the form of inclusion in the blacklist.

METHOD

This type of research is normative juridical, which is research that focuses on the study of legal materials. The regulations reviewed include Law Number 30 of 2014 concerning Government Administration, Law Number 51 of 2009 concerning the State Administrative Court, Government Regulation Number 12 of 2021 concerning the Procurement of Government Goods/Services, and Presidential Regulation Number 16 of 2018 concerning the Procurement of Government Goods/Services. With the use of more than one regulation, this study obtained a stronger legal basis for analyzing the judgments under review.

The data sources in this study are divided into two categories. Primary legal sources include the Medan State Administrative Court Decision Number 165/G/2023/PTUN. MDN as well as relevant laws and regulations. Secondary legal sources include books, journals, articles, and other scientific research results that support the analysis. The use of these two types of sources allows research to present a thorough analysis between normative aspects and academic perspectives (Sugiyono, 2020).

Data collection techniques are carried out through literature studies by identifying, classifying, and analyzing primary and secondary legal materials. Each source was systematically studied to see the relationship between court decisions, laws and regulations, and legal theories used in the research. Data analysis is carried out in a qualitative descriptive manner with *content analysis techniques*, namely decomposing, interpreting, and studying legal data

systematically. This analysis process combines a normative approach with conceptual considerations, so that the results of the research can explain the judge's legal considerations in the Medan PTUN decision Number 165/G/2023/PTUN. MDN also assesses it from the perspective of *siyasah qadhaiyyah*. The pattern of analysis is deductive, namely drawing special conclusions based on the general principles of positive law and the principles of justice in Islamic law (Neong, 2020).

RESULT AND DISCUSSION

Legal Considerations of Judges in the Decision of the Medan State Administrative Court Number 165/G/2023/PTUN. MDN related to the Determination of Blacklist Sanctions against PT. Bumi Aceh Citra Persada

Decision of the Medan State Administrative Court Number 165/G/2023/PTUN. MDN shows how the state administrative dispute resolution mechanism has an important role in ensuring legal certainty. This dispute originated from the Decree of the Head of the North Sumatra Provincial Housing Provision Work Unit which stipulated blacklist sanctions against PT. Bumi Aceh Citra Persada. The impact of this decision is very significant, because it not only results in the company not being able to operate, but also causes material losses in the form of cancellation of the work contract for the construction of the Nias School of North Sumatra Phase II. This reflects that a state administrative decision that does not go through the correct examination mechanism can create legal uncertainty and harm the affected parties.

The court assessed that there was a procedure that was violated in the issuance of the decision. Supposedly, before the imposition of administrative sanctions in the form of a blacklist, it is necessary to conduct an examination and clarification of the party suspected of committing violations. The failure to carry out this stage violates the principle of *audi et alteram partem* or the principle of hearing both parties, which is part of the general principle of good governance (AUPB). Thus, the judge considered that the decision issued did not meet the principle of administrative justice because it was hasty and tended to harm the plaintiff.

The Medan State Administrative Court emphasized that the provision of administrative sanctions must be in line with applicable regulations, especially Presidential Regulation Number 16 of 2018 and Government Regulation Number 12 of 2021 concerning the Procurement of Government Goods/Services. These two regulations clearly regulate the procedures for imposing blacklist sanctions, including procedural stages that must be passed so that the decision does not cause arbitrariness. By ignoring these rules, the decision of the Head of the Work Unit is considered invalid and needs to be canceled in order to maintain the orderliness of state administration.

The legal considerations in this decision also reflect the application of the principle of substantive justice. The judge not only adheres to the aspect of legal formality, but also assesses the consequences for the plaintiff. The losses suffered by the plaintiff in the form of unilateral cancellation of the contract without a valid basis are a form of injustice that cannot be tolerated in the administrative legal system. Therefore, the court affirmed the need for the revocation of the decision so that substantive justice can be upheld and the rights of the plaintiff are protected.

This decision shows how the judiciary plays a role as a balance guard between administrative power and the interests of the aggrieved community or legal entity. If government institutions are given the flexibility to impose sanctions without judicial control, it is feared that arbitrary practices will arise. In this context, the PTUN is present as a forum for judicial supervision of administrative actions that have the potential to deviate from the principles of legality and the principles of justice.

From the perspective of Islamic law, especially *siyasah qadhaiyyah*, this ruling can also be seen as a form of implementation of the principles of *al-'adl* (justice) and *maslahah* (benefit). The imposition of blacklist sanctions should not only be oriented to the interests of government administration, but also consider the public benefits and

business continuity of the sanctioned parties. Thus, the harmonization between positive law and the principles of Islamic justice is important so that administrative sanctions do not lose their moral and social value.

This ruling sets a precedent that every state administrative decision must be made carefully, in accordance with procedures, and based on the principles of good governance. This also reminds administrative officials that the authority they have is not a form of absolute power, but a mandate that must be carried out by upholding law and justice. Thus, this dispute is not only relevant for the litigants, but also an important lesson for government practices in Indonesia in preventing the recurrence of similar cases in the future.

Analysis of Siyasah Qadhaiyyah's Perspective on the Decision of the Medan State Administrative Court Number 165/G/2023/PTUN. MDN in Assessing the Application of Islamic Justice Principles in Administrative Law Enforcement in Indonesia

In the perspective of *siyasah qadhaiyyah*, the judiciary functions as a guard for upholding the principles of justice (*'adl*) and benefit (*mashlahah*) in the government system. The decision of the Medan Administrative Court shows how the judiciary plays an active role in correcting administrative actions that deviate from the principle of legality. This is in accordance with the view of Ibn Taymiyyah in *al-Siyasah al-Syar'iyah* which emphasizes that the ruler and state apparatus must submit to sharia law and ensure justice for its people. By canceling the procedural flawed decision, the PTUN has carried out the function of *siyasah qadhaiyyah* in the modern Indonesian context.

The principle of deliberation (*al-sura*) as explained by Afandi et al. (2024) also has relevance in this case. The blacklist sanctions were imposed without a clear examination and communication process between the government and the plaintiff. This violates the spirit of the shura which demands participation and consultation in every important decision. Therefore, the PTUN decision that canceled the decision also reminded the need to apply shura principles in government administration governance, so that every interested party has space to express their views.

The principle of trust or responsibility (*al-amanah*) is also an important highlight in this case. The Head of the Work Unit as a public official should carry out his duties with full responsibility, transparency, and not act arbitrarily (Yunus, 2016). By imposing blacklisting sanctions without legal procedures, the public official failed to fulfill the principle of trust that is the foundation of Islamic *siyasah*. The decision of the Medan Administrative Court can be seen as an effort to remind administrative officials to re-enforce this principle in practice.

The principle of equality (*al-musawah*) has also received attention. In Islamic law, all individuals and institutions are treated equally before the law. The application of unfair blacklisting sanctions to one party without proper due process shows discriminatory treatment. The PTUN decision that annulled the decision restored the principle of equality before the law, in accordance with the teachings of *siyasah qadhaiyyah* which emphasizes universal justice.

The principle of freedom (*al-hurriyyah*) in *fiqh siyasah* is also relevant in this context. The freedom in question is not unlimited, but freedom that remains bound by the rule of law. With the revocation of the invalid decision, the PTUN provides space for the company to resume its activities legally. This shows that the law should not be used to arbitrarily restrict freedom, but rather to guarantee fair and proportionate freedom for all parties.

The implications of this ruling also have a wide impact on governance practices. Ramadhani and Sativa (2024) emphasized that *siyasah qadhaiyyah* functions to strengthen public governance by emphasizing the importance of justice in the exercise of authority. The Medan PTUN decision affirms the role of the judiciary as a control mechanism for administrative actions that have the potential to violate the principles of good governance. Thus, the judiciary not only resolves disputes, but also plays a role in building a more fair and transparent state governance system.

Analysis within the framework of *fiqh siyasah* shows that substantive justice is more important than formal justice. Although an administrative decision may appear to be formally legitimate, if it causes injustice and harms the rights of the community, it must still be reversed. The Medan PTUN decision reflects this view, because the judge considers that the substance of justice is more important than just administrative compliance.

On the other hand, this ruling can also be used as a legal education instrument for government officials. In the *fiqh siyasah* tradition, one of the functions of *qadhi* or judges is to provide lessons for the community and the government so as not to repeat the same mistakes (Zahrah, 2010). Thus, the decision of the Medan Administrative Court not only resolves the dispute between the plaintiff and the defendant, but also serves as a prevention against administrative practices that are not in accordance with procedures in the future.

In the framework of *good corporate governance*, this case also highlights the importance of synergy between state law and Islamic justice principles. Blacklisting sanctions imposed without legitimate procedures show weak internal oversight and lack of accountability in decision-making. The decision of the Medan Administrative Court sends a signal that transparency, accountability, and procedural justice must be upheld, both in government administration and in the business world.

From the perspective of *siyasah qadhaiyyah*, this decision shows the relevance of Islamic teachings in building a just, balanced, and benefit-oriented legal system. Harmonization between positive Indonesian law and Islamic law principles can strengthen the legitimacy of administrative law, while increasing public trust in the judiciary. Thus, the Decision of the Medan State Administrative Court Number 165/G/2023/PTUN. MDN can be used as a concrete example of the application of *siyasah qadhaiyyah values* in the modern context, especially in upholding the principles of Islamic justice in the field of administrative law.

CONCLUSION

Decision of the Medan State Administrative Court Number 165/G/2023/PTUN. MDN related to the dispute over the determination of blacklist sanctions against PT. Bumi Aceh Citra Persada shows the enforcement of the principle of substantive justice in administrative law. This decision emphasizes that procedures that are not in accordance with positive legal provisions cannot be used as a basis for granting administrative sanctions, so decisions that are detrimental to the plaintiff are declared null and void. From the perspective of *fiqh siyasah*, this decision is in line with the values of justice (*'adl*), benefit (*mashlahah*), trust, as well as the principles of transparency and accountability which are the basis for the administration of government. Thus, this decision proves that Islamic principles in *siyasah qadhaiyyah* are relevant to be applied in assessing modern legal policies in Indonesia.

Based on the results of the analysis, it is recommended that state administrative officials be more careful in imposing blacklist sanctions by always paying attention to legal procedures and general principles of good governance. A transparent, participatory, and accountable examination mechanism must be prioritized so that decisions taken do not lead to injustice. In addition, it is important to harmonize positive law with the principles of *fiqh siyasah* so that public policies are not only legally valid, but also have moral and social legitimacy in the eyes of the public.

Research on the decisions of state administrative courts can be extended by examining comparisons between similar cases, both at the national and international levels, to see the extent to which the principles of Islamic justice can be implemented in administrative judicial practice. Further research can also explore the relationship between the concept of *siyasah qadhaiyyah* and the principle of *good governance*, especially in the government procurement of goods and services. Thus, there will be more opportunities to develop the concept of Islamic constitutional law that is contextual, applicative, and able to make a real contribution to administrative law reform in Indonesia.

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