

Lawsuit Against the Regent of Deli Serdang Regarding the Appointment of an Interim Village Head in Buah Nabar Village from a Fiqh Siyasah Perspective (Analytical Study of Ptun Number 42/G/2021/Ptun. Medan)

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Abstract: This study aims to analyze the verdict of the Medan Administrative Court (PTUN Medan) Decision Number 42/G/2021/PTUN.MDN regarding the lawsuit against the Regent of Deli Serdang concerning the interim appointment of a village head in Buah Nabar Village, Sibolangit Sub-district, Karo Regency, which resulted in certain parties feeling disadvantaged. Additionally, this study seeks to analyze the fiqh siyasah (Islamic political jurisprudence) perspective on the decision of PTUN Medan Number 42/G/2021/PTUN.MDN regarding the lawsuit filed against the regent for the interim appointment of a village head. This research is normative in nature, employing qualitative normative analysis. It involves a document study approach using various secondary data sources such as legislation, legal norms, and court decisions.

Keywords: Medan Administrative Court (PTUN Medan), Interim Village Head Appointment, Fiqh Siyasah (Islamic Political Jurisprudence)

1. Introduction

The Constitution of the Republic of Indonesia is a state based on law (rechstaat), not a state based on power (machstaat). (Ridlwani, 2011), (Ismaidar & Annur, 2023). Sovereignty or supreme power in a state is not based on power, but on law. Thus, law has a high position in the Indonesian state. (Buana, Yanti, Saputra, & Qolbi, 2024), (Al Atok, 2016) Based on the principle of a state based on law, all forms of government administration, both central and regional, must comply with applicable laws and regulations. A government based on law is the main pillar in realizing good governance in the Republic of Indonesia. The government grants authority to each region to manage and regulate its own internal affairs according to its respective jurisdiction (Rahayu, 2022), (Fadeli, 2024).

In the context of regional government, there are smaller divisions that include villages. Similarly, villages have an internal structure consisting of units called hamlets (Mandasari, 2015), (Puspitaningrum, 2025). A hamlet is a part of the village area which is the working environment for the implementation of village government. One village can consist of several hamlets led by a hamlet head, the election of the village head (pilkades) is an event in the democratic party at the lowest level, namely in the village (Rukoyah & Wance, 2021), (Bunadi, 2020) This event aims to elect a new leader from the village community, just like any other election. In the process, some are elected and some are not. However, not all of those who are not elected accept it with open hearts and sincerity. In fact, the village head election should be considered a normal process for every leadership change. (Hidayaturrahman & Ubaid, nd), (Najah, nd). While some village head candidates and their supporters may accept defeat in the village head elections, others cannot accept it because they feel they have been disadvantaged by the results. Often, fraud or even vote-buying is involved. This leads to dissatisfaction with the election results, which can ultimately lead to unresolved conflicts between supporters. The losing party can even file an objection or dispute the election results in

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Received: Jul 03, 2025;

Revised: Jul 17 2025;

Accepted: Jul 26, 2025;

Published : Aug 30, 2025;



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accordance with procedures established by law (Sari, Nasution, & Sihombing, 2024),(Assodiki, 2022).

This is the legal basis considering the importance of regulations specifically regulating villages, as a manifestation of the State's recognition of villages, therefore Law Number 6 of 2014 concerning Villages (Village Law) was born (SH, 2019),(Al-Arif, 2017). In addition to these matters, no less important are the provisions regarding the election of Village Heads, as explained in Article 31 of the Village Law. Article 31 explains the concept of Village Head Elections, hereinafter referred to as Pilkades. The Village Law also explains that the Village Consultative Body (BPD) forms a Pilkades consisting of elements of village officials, community organizations, and community leaders. The duties of the Pilkades committee are to conduct the selection and screening of prospective Village Head candidates based on the specified requirements, conduct the voting, determine the elected Village Head candidate, and report on the implementation of the Pilkades.(Fikri, 2021),(Umar, 2023)Democracy in the village head elections can be understood as a recognition of the diversity and participatory political attitudes of the community within the framework of village democracy. In the village head elections, the community can directly elect the best village head candidate according to the community. Village head candidates also come from the local village community. This refers to Law Number 8 of 2005 concerning amendments to Law Number 32 of 2004 concerning regional government into Law Number 32 of 2004 concerning Regional Government (Jamri & Muhsin, 2022),(Yuwananda, 2024).

This contrasts with the implementation of elections, where Law Number 7 of 2017 concerning elections clearly regulates the mechanism for resolving election process disputes. Under the Election Law, if a dispute arises regarding the election process, the authorized institutions to resolve the case are the Election Supervisory Agency (Bawaslu) and the Administrative Court (PTUN). Bawaslu's decisions are final and binding, except for decisions regarding election disputes related to: verification of political parties participating in the election; determination of the final candidate lists for members of the DPR and DPD; and determination of candidate pairs (Sensu et al., 2022),(Ruslan Husen, 2023).

If any party is dissatisfied with the Bawaslu's decision regarding the three matters mentioned above, they may file a legal action with the State Administrative Court (PTUN). Process disputes in elections are clearly regulated, but in village head elections there are no regulations explaining the dispute resolution mechanism. Although elections are different from village head elections, this does not mean that village head elections can be simply ignored, as this would be inconsistent with the philosophical goal of the Village Law, which aspires to "build the nation from the village."

In Islam, through Fiqh Siyasah, it regulates its followers to remain within the corridors of Islamic law (sharia) in the management of constitutional law which contains the applicable legal regulations, including the election of leaders. In Siyasah Fiqh there is Siyasah Dusturiyah. In the study of siyasah dusturiyah, the meaning of siyasah dusturiyah is the relationship between leaders on the one hand and their people on the other hand as well as the institutions that exist in their society. Siyasa dusturiyah jurisprudence covers a very broad and complex area of life. Related to the fiqh siyasah dusturiyah as referred to is included in the term wizarah tanfidz (assistant to the caliph in administrative matters). Wizarah tanfidz is a mediator or intermediary between the imam and the people as well as officials. The duties of the wizarah tanfidz are to carry out the orders of the imam (head of state), realize his decrees, follow up on his decisions, inform the inauguration of officials, prepare troops, and report important and up-to-date information to the imam so that he can handle it according to the imam's orders. In the election of village heads, the Village Consultative Body (BPD) plays a role in assisting the election process from socializing village head registration to voting. The current wizarah tanfidz can be likened to the BPD.(Yanti & Adnan, 2022),(ERA, 2024).

In Islamic jurisprudence, it is explained that a leader must be responsible to the people. Because a leader that has occupy his power through the appointment of the people who give the power to manage the responsibilities of government. A leader must have one of the leadership qualities such as fairness which makes justice the goal of government. The command to implement justice is often found in the Qur'an. Allah SWT. Based on the above explanation, it can be emphasized that in *Siyasah Syar'iyah* the law of appointing a leader or head of state is obligatory, both in sharia and aqliy. The problem is how the mechanism for appointing a head of state. Islamic jurisprudence scholars have written a lot about political and constitutional issues, such as first al-Mawardi in the book *Aḥkām al-Sulṭāniyyah*, explains that there are two ways to appoint a leader, namely: First, a head of state may be appointed through an electoral institution (*ahlal hall wa al-'aqd*), second appointed through the appointment of the incumbent head of state. Secondly, Yusuf al-Qardhawi, in *Fiqh Daulah*, stated that democracy is in line with Islamic teachings, namely an election process that involves many people to appoint a leader who is liked, in accordance with Islamic teachings which reject a prayer leader who is not liked by the congregation (Kurniawan, 2023), (WINANDA, 2025).

In the dispute over decision 42/g/2021/PTUN.MDN, the issuance of the disputed object has resulted in losses for the Plaintiff, namely the loss of the opportunity for the Plaintiff to be elected as the Head of the Atar Village during the time of Buah Nabar, Sibolangit District. That the Plaintiff feels that there is legal uncertainty in the process of appointing the interim village head of Buah Nabar, the plaintiff who initially nominated as village head and then the Buah Nabar village head election committee canceled the plaintiff as a candidate for village head.⁴

The appointment of an interim village head is a mechanism regulated by law to fill a vacant village head position before the previous term ends. This process is crucial for maintaining the smooth running of government and public services at the village level. However, the implementation of the interim village head appointment often gives rise to legal and political controversy, particularly if there are allegations of procedural irregularities or violations of the principles of fairness and transparency. The appointment of an interim village head is a mechanism regulated by law to fill a vacant village head position before the previous term ends. This process is regulated in Law Number 6 of 2014 concerning Villages, specifically in Article 54, which explains the filling of vacant village head positions, including the appointment of an interim village head. In addition, Government Regulation Number 43 of 2014 also regulates the technical implementation of this appointment. The appointment of an interim village head aims to maintain the smooth running of government and public services at the village level (Edi, 2024), (Liswahyudar, 2022).

However, the implementation of the appointment of interim village heads often gives rise to legal and political controversy, particularly if there are allegations of procedural irregularities, violations of transparency principles, or unfairness in the process. In Deli Serdang Regency, specifically in Buah Nabar Village, the appointment of an interim village head by the Regent has triggered a lawsuit filed with the State Administrative Court (PTUN). This lawsuit stems from allegations that the appointment does not comply with applicable laws and has had a negative impact on village governance and public trust (Andayani, Zitri, & Darmansyah, 2024).

In Deli Serdang Regency, specifically in Buah Nabar Village, the Regent's appointment of an interim village head has sparked a lawsuit filed with the State Administrative Court (PTUN). The lawsuit alleges that the appointment violated applicable law and negatively impacted village governance and public trust. The case, outlined in PTUN Case No. 42/G/2021/PTUN Medan, merits in-depth analysis, particularly from a *fiqh siyasah* perspective.

Fiqh siyasah, as a science that studies Islamic governance and politics, provides a normative framework for assessing the legitimacy and validity of the ruler's actions in the context of justice, maslahat (public interest), and compliance with the law. The fiqh siyasah approach in this case can help understand how Islamic values and state legal principles can be used as a basis for assessing and criticizing the policy of appointing interim village heads. With this, the author focuses his research on the lawsuit against the Regent of Deli Serdang over the appointment of interim village heads. With this, the author takes the title "Lawsuit Against the Regent of Deli Serdang Over the Appointment of Interim Village Heads in Buah Nabar Village, Fiqh Siyasah Perspective (Analysis Study of Ptun Number 42 / G / 2021 / Ptun. Medan).

The legal vacuum related to the mechanism for objecting to Pilkades results has a serious impact on the legal and social legitimacy of elected village heads, as it creates legal uncertainty that has the potential to trigger conflict and weaken public trust in the local democratic process. In the perspective of fiqh siyasah, the imbalance between the regent's authority and the lack of role of the village community in the appointment of the acting village head is a form of violation of the principles of maslahat and justice, because power that does not involve community participation is contrary to the mandate of leadership in Islam, which must always side with the interests of the people.

2. Materials and Methods

This research is normative, employing qualitative normative analysis. It examines document studies using various secondary data, such as legislation, legal norms, and court decisions. This secondary data will be obtained through data and documents related to the research object.

This study applies a normative research method, involving an approach based on the use of legal literature, or in other terms, library-based research. The study was conducted by compiling secondary, primary, and tertiary legal materials through the review and research of books, papers, and other works related to the research topic, as well as the PTUN judge's decision regarding the lawsuit against the Kampar regent in the appointment of the Bukit Melintang village head involving an incident of fraud. This study applies three diverse approaches. The first method is the statute approach, which involves studying all laws and regulations related to the issue being handled. The second approach is the conceptual approach, which involves studying the perspectives and concepts of experts related to the issue. The last approach is the case approach, which requires analysis of cases that have been decided by the court and have final legal force. This approach is focused on studying legal terms in the rules of positive law and Islamic law, especially in using regulations in fiqh siyasah. In this study, the author found a problem and wanted to analyze it based on statutory regulations.

This research is normative in nature, employing qualitative normative analysis. It examines document studies using various secondary data, such as legislation, legal norms, and court decisions. This secondary data will be obtained from data and documents related to the research object.

3. Results and Discussion

3.1. *Dispute over a lawsuit against the Regent of Deli Serdang over the appointment of an interim village head in Buah Nabar Village*

The Village Head Election is one form of manifestation of the democratic system that exists in the Village with a Village Head Election model that is directly elected by the residents of a particular Village. At first glance in the Village Head election, many things happened that were not in accordance with democratic values. The election of the village head in Buah Nabar village, namely the Plaintiff, felt disadvantaged because during the interim village head election process there was legal uncertainty. In this decision, the plaintiff named Sarman Tarigan is an Entrepreneur, Residence in Dusun I Buah Nabar,

Sibolangit District, Deli Serdang Regency, and there are 2 defendants, namely the first defendant, the Regent of Deli Serdang and the second defendant, Toni Ginting, namely as the village head who was elected in the implementation of the village head election in Buah Nabar village.

that the object of dispute in the a quo case is the Decree of the Regent of Deli Serdang Number: 114 of 2021 dated March 24, 2021 concerning the Dismissal of the Acting Head of Buah Nabar Village and the Appointment of the Interim Village Head of Buah Nabar, Sibolangit District, that the object of dispute in the a quo case is in the form of a Written Determination (*beschikking*), issued by the Defendant in his capacity as an agency or official carrying out government affairs. that thus the Defendant is a State Administrative Agency or Official as determined by Article 1 number 8 of Law Number 51 of 2009 concerning the second amendment to Law Number 5 of 1986 concerning State Administrative Courts; that the object of dispute in the a quo case has fulfilled the requirements to be called a State Administrative Decision as regulated in the provisions of Article 1 number 9 of Law Number 51 of 2009 concerning the second amendment to Law No. 5 of 1986 concerning. state administrative courts, which in principle contain the conditions that must be met so that a dispute can be sued in the State Administrative Court.

That the defendant's decision, which is the object of the dispute in the a quo case, has harmed the plaintiff's interests, based on the provisions of Article 53 paragraph (1) of Law No. 9 of 2004 concerning Amendments to Law No. 5 of 1986 concerning State Administrative Courts, which states: "A person or civil legal entity who feels that their interests have been harmed by a State Administrative Decision may file a written lawsuit with the competent court containing a demand that the disputed State Administrative Decision be declared null and void or invalid, with or without a claim for compensation and/or rehabilitation." Therefore, the lawsuit filed by the plaintiff has fulfilled the requirements to cancel the defendant's decision letter which is the object of the lawsuit in the a quo case. That the plaintiff was previously requested by the public

Buah Nabar Village to participate as a candidate for village head in the 2016 Buah Nabar Village Head Election. That due to the enormous support from the family and community, the Plaintiff has confirmed his intention to participate in the Buah Nabar Village Head Election and the Plaintiff has registered himself as a Candidate for Village Head with the Buah Nabar Village Head Election Committee at the Buah Nabar Village office with a letter of application dated January 9, 2016 and attaching the requirements that have been completed by the Plaintiff.⁶

That then the Buah Nabar village head election committee canceled the plaintiff as a Candidate for Buah Nabar Village Head with a decree Number 15 of 2016 dated March 14, 2016 concerning village head candidates who are entitled to participate in the Buah Nabar Village Head Election, Sibolangit District, Deli Serdang Regency in 2016, which then the Committee Decree canceling the Plaintiff's participation as a Candidate for Buah Nabar Village Head has been canceled by the Medan PTUN with Decision Number: 44/G/2016/PTUN-Mdn dated June 23, 2016 which has permanent legal force.

That the Buah Nabar Village Head election committee continued to carry out the village head election without including the Plaintiff even though a postponement decision had previously been issued by the Medan PTUN panel of judges with decision No. 44/G/2016/PTUN/Mdn dated April 15, 2016 regarding postponing the implementation of the Buah Nabar Village Head Election Committee Decree Number: 15 of 2016 regarding Village Head Candidates who are entitled to participate in the Buah Nabar Village Head Election, Sibolangit District, Deli Serdang Regency in 2016. That the Buah Nabar Village Head Election was still carried out by the Buah Nabar Village Head Election Committee without including the Plaintiff, finally appointing Tony Ginting as the elected Village Head.

Even though there has been a decision of the Medan Administrative Court which annulled the decision letter of the Buah Nabar Village Head election committee regarding the Village Head candidates who are entitled to participate in the Buah Nabar Village Head election, Sibolangit District, Deli Serdang Regency in 2016, the Regent of Deli Serdang still inaugurated Tony Ginting as the Head of Buah Nabar Village with Decree Number: 970 of 2016 dated May 18, 2016. After the decision had permanent legal force, the Regent of Deli Serdang finally dismissed Tony Ginting as the Head of Buah Nabar Village and appointed the secretary of Sibolangit District as the acting Head of Buah Nabar Village. After Tony Ginting was dismissed as the Head of Buah Nabar Village, there was never a deliberation to form the interim village head election committee or the announcement and registration of prospective candidates to the interim village in Buah Nabar Village. Then on January 15, 2021 at 13.00 WIB the interim Village Head election committee ordered the plaintiff to prepare the nomination files for the interim village head and waited until 15.00 WIB, but the plaintiff refused because it was contrary to the law. with the PTUN Decision which has permanent legal force;

Based on this explanation, the forms of violations in the election of the Village Head in Buah Nabar Village are considered to be very contrary to the law and the values of honest, fair and confidential democracy.

3.2. Judge's Decision in Decision 42/G/2021/PTUN.MEDAN

Granting the plaintiff's lawsuit in its entirety Declaring the Decree of the Regent of Deli Serdang Number 114 of 2021 dated March 24, 2021 concerning the Dismissal of the Acting Head of Buah Nabar Village and the Appointment of an Interim Village Head of Buah Nabar, Sibolangit District. Requiring the defendant to revoke the Decree of the Regent of Deli Serdang Number 114 of 2021 dated March 24, 2021 concerning the dismissal of the Acting Head of Buah Nabar Village and the appointment of an interim Village Head of Buah Nabar, Sibolangit District. Sentencing the defendant and the second defendant to pay court costs of Rp. 636,800,- (six hundred thirty-six thousand eight hundred rupiah);

3.3. Fiqh Siyasah Analysis of Administrative Court Decision Number 42/G/2021/PTUN.MEDAN

Fiqh siyasah can be interpreted as a science that explains the rules between the people and the state from various forms of law and is used as a goal to create the welfare of humanity.⁵ In a fiqh siyasah state, it consists of several institutional parts, including: (a) Sultah Tanfidhiyah (executive institution), Sultah Tashri'iyah (legislative institution), and Sultah Qodo'iyah (judicial institution). (b) Sultah Tanfidhiyah (executive institution) a state institution that has the authority to implement laws. (c) Sultah Tashri'iyah (legislative institution) on the other hand, this state institution has the authority to make laws. (d) Sultah Qodo'iyah (judicial institution) for this state institution, judges have the authority to decide disputes. and all of these institutions are under the auspices of the general executor of judicial power. and the existence of sultah qodo'iyah or judicial power is one of the important elements in a state because this power is a guarantee of the implementation of the law in a just manner.

The existence of the sultanate qodo'iyah or judicial power is one of the important elements in a country because this power is the guarantor of the implementation of the law in a just manner. Al-Nizham and al-Mazalim are institutions during the Abbasid dynasty that have the authority to provide legal guidance and regulate law in the life of society or government. both have the same position and have three judicial bodies, including:

- a. Al-qadha area

This institution is tasked with resolving disputes among the lower classes, both civil and criminal.

b. Al-Hisbah Region

This regional institution has the task of inviting the community to do good to others and prevent all forms of evil, which aims to gain rewards from Allah SWT.

c. Al-Mazalim Region

A court specifically for handling injustice committed by state officials against themselves or their relatives, arbitrary acts such as abuse or other acts against the public. In the Indonesian constitutional system, the State Administrative Court was the last court to be established and was ratified by Law Number 5 of 1986 on December 29, 1986. This State Administrative Court is an institution under the auspices of the Supreme Court. The existence of *siyasah qadhaiyyah* is very important in the judicial power, as is *al-Mazalim*.¹⁰

The author found similarities between the *al-Mazalim* judicial institution and the State Administrative Court in terms of *fiqh siyasah*. First, they both have the authority to decide on a case. Second, the PTUN and the *al-Mazalim* jurisdiction both operate within the judicial authority or *sultah qodoiyah*. Third, in terms of their objectives, they both share the same goal: to protect the constitutional rights of citizens, while the *al-Mazalim* jurisdiction also aims to protect the rights of the people.

4. Conclusions

The election of the village head in Buah Nabar village caused some parties to feel disadvantaged, because during the interim Village Head Election process there was injustice and it was contrary to the law. This study also highlights the importance of transparency and accountability in administrative decision-making, as well as the need for regulatory reform to ensure that the actions of public officials are carried out legally, fairly, and transparently. In addition, oversight institutions in Indonesia have an important role in improving government integrity and preventing abuse of authority.

In the concept of reviewing the *fiqh siyasah*, there are similarities between the duties of the state administrative court and the concept of *al-mazalim* in *fiqh siyasah*, namely that both have the authority to decide cases. And both have the same position as *sultan qodoiyah*. PTUN and the *al-mazalim* region both operate within the judicial power or *sultan qodoiyah*. In terms of their goals, both have the same aim, namely, both aim to protect the constitutional rights of citizens.

This research contributes to the development of an alternative model of government administration dispute resolution at the local level by integrating Islamic principles of justice in *fiqh siyasah*, particularly through a comparison between the functions of the state administrative court (PTUN) and the institution of *al-Mazalim*. The author shows that positive law-based mechanisms can be reinforced with Islamic ethical and spiritual values to enhance legitimacy and public trust. In building this integrative framework, the urgency of establishing special regulations regarding disputes over the appointment of village heads needs to be emphasized given the legal vacuum that causes procedural uncertainty. Based on the principle of *fiqh siyasah*, which emphasizes justice in leadership, *lex specialis* regulations are needed to ensure a fair, transparent, and free from arbitrariness process at the village level.

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