



Analysis of Constitutional Court Decision No. 150/Puu-Xxii/2024 Concerning Civil Servant (PNS) Lecturers Being Advocates from the Perspective of Fiqh Siyasah

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Abstract: The Constitutional Court Decision No. 150/PUU-XXII/2024 allows civil servant lecturers to engage in the legal profession as advocates, strictly within the framework of community service. This study aims to examine the normative structure of both the legal profession and the civil service, analyze the content of the Constitutional Court's decision, and assess its implications from the perspective of fiqh siyasah (Islamic constitutional political jurisprudence). This research employs a normative legal method using statute, case, and conceptual approaches, supported by classical and contemporary Islamic political theory. The findings reveal normative disharmony between the Court's decision and the Law on Advocates, the Civil Service Law, and the Law on Civil Servant Discipline. Although the ruling offers individual benefit (masalahah), from the perspective of fiqh siyasah, combining the roles of lecturer and advocate contradicts the principle of separation of power (ta'addud al-mas'uliyah) and may trigger structural disruption within public institutions. Therefore, the policy should be accepted only under strict regulatory control and institutional ethical oversight to safeguard justice, neutrality, and governance stability.

Keywords: Constitutional Court, Civil Servant Lecturer, Advocate, Fiqh Siyasah

1. Introduction

One of the most prominent legal discourses in 2024 was Constitutional Court Decision No. 150/PUU-XXII/2024, which permitted Civil Servant (PNS) lecturers to practice their profession as advocates in the form of community service (pro bono). This decision was the result of a judicial review of Article 3 paragraph (1) letter c and Article 20 paragraph (2) of Law Number 18 of 2003 concerning Advocates, which previously expressly prohibited advocates with PNS or State official status. (Malik, Sampara, & Qamar, 2020), (DSP Putra, 2022) The petition, filed by several law lecturers, was motivated by a desire to provide free legal aid to the public without sacrificing their employment status. The Court ultimately granted the petition in part, considering that the ban hampered the implementation of the Tri Dharma of Higher Education, particularly in the aspect of community service (MK Decision No. 150/PUU-XXII/2024) (Ramandhani, 2024), (Musawwamah, Maimun, Hariyanto, Supraptiningsih, & Taufiq, 2023).

The Constitutional Court's decision has drawn mixed responses. On the one hand, there is appreciation, as it is seen as opening broader access to justice for the public through the direct involvement of legal academics (Hamzah, 2023), (Hamid, 2024). On the other hand, sharp criticism has also emerged regarding the potential for abuse of authority, conflicts of interest, and violations of the principle of neutrality inherent in civil servant positions. Law Number 94 of 2021 concerning Civil Servant Discipline expressly states that civil servants are required to adhere to working hours and may not hold other positions that could interfere with official duties (Article 4 letter f). Furthermore, Presidential Regulation Number 21 of 2023 stipulates that civil servants' working days and hours are 37.5 hours per week, thus quite strict in terms of time and responsibilities

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(Presidential Regulation No. 21 of 2023). This raises a fundamental question: can a civil servant still carry out their duties optimally while also serving as an advocate, even if only in a limited capacity? As is known, the legal profession in the national legal system has independent and free characteristics (Hamonangan, 2024),(Solehodin, 2023)This is explicitly stated in Article 5 of Law Number 18 of 2003, which states that advocates, in carrying out their profession, are not bound by any authority. This independence serves as an ethical and professional foundation for objectively defending clients' legal interests (YASWIN, nd),(Las, 2021)When a civil servant lecturer within the state bureaucracy also practices the legal profession, there is the potential for a conflict of interest. This role conflict can create serious problems, both in terms of job loyalty, professional integrity, and the potential misuse of state facilities (Wibowo, 2024),(HERDIATI, nd)In their dissenting opinion, Constitutional Court Justices Arsul Sani and Daniel Yusmic P. Foekh even emphasized that the legal profession is a free and independent profession that is incompatible with structural or functional positions within the government (Constitutional Court Decision No. 150/PUU-XXII/2024) (Kelvin, 2022),(Lubis, 2020).

Furthermore, if this decision is examined through the approach of Islamic jurisprudence, especially the branch of Islamic jurisprudence, then it will be found that there is a discrepancy between the substance of the decision and the basic principles of governance in Islam. Islamic jurisprudence is a branch of Islamic jurisprudence that regulates the state's constitutional system, the division of power, and public policy based on the principles of justice (al-'adalah), public welfare (al-maslahah al-'ammah), and the responsibility of power (ta'addud al-mas'uliyah). Abdul Wahhab Khallaf explained that Islamic jurisprudence is the regulation of state affairs to realize the benefit and prevent damage, even though there is no explicit Islamic text, as long as it does not conflict with the spirit of Islamic law (Khallaf in Muhammad Iqbal, 2014: 5). In this context, the Islamic jurisprudence rule which reads:

بالمصلحة منوط الرعية على الإمام إذ صرف

("The ruler's policy over his people depends on the public interest") is a normative benchmark. This means that every public decision must impact the collective good, not merely the interests of a group or individual (Ahmad Zain An-Najah, 2020: 87). Therefore, the opportunity for civil servant lecturers to become advocates must be considered comprehensively: does the resulting benefit outweigh the potential harm? Within the principles of *siyasa*, the rule is also known as

المصالح جلب على مقدم المفسد

which means "avoiding harm takes precedence over achieving benefit." If the existence of civil servant lecturers-advocates actually creates chaos in the bureaucratic ethical system, role ambiguity, and the potential for abuse of office, then restrictions on this dual role are relevant and legitimate under Islamic law. This means that even though the Court's policy appears to bring benefits in the form of free legal access, it still needs to be criticized for the potential structural and ethical damage it causes.

The principle of neutrality and loyalty of ASN contained in Law No. 5 of 2014 concerning ASN cannot be compromised just like that (Rahma Amin, 2018),(Ardanaeswari et al., nd)Civil servants are bound by the basic principles of integrity, professionalism, and public service. When a civil servant lecturer engages in legal practice that directly intersects with judicial interests, their neutrality as a civil servant is threatened (Darmawan, 2020),(Rofi, nd)This is reinforced by the reality that not all educational institutions have an adequate monitoring system for legal aid activities carried out by their lecturers (Sembiring, 2023),(Ekawati & Purnomo, 2020).

In the Islamic constitutional tradition, the principle of *ta'addud al-mas'uliyah*, or the division of power and responsibility, is recognized. This division aims to prevent power from being concentrated in one hand, thus preventing absolutism and abuse. In classical Islamic history, executive positions such as *amir* and *qadhi* (judge) were func-

tionally and structurally differentiated. A qadhi was not allowed to serve as a regional administrator to maintain objectivity and justice (Abdul Mujib, 2021: 154). Therefore, in the modern context, combining the roles of civil servants and advocates without strict oversight could be a deviation from this principle (Manan, 2023),(Rusdi, 2018).

It is important to remember that the ASN profession, especially lecturers, is not merely an administrative job, but rather a mandate that must be maintained with full responsibility. In the Qur'an, Allah SWT says: "O you who believe! Do not betray Allah and the Messenger, and (don't) betray the trusts entrusted to you" (QS. Al-Anfal: 27)(Khoiriyah, 2024),(Safii, 2017). The mandate in the context of civil servant lecturers encompasses scientific, moral, and social responsibilities. Holding a dual profession as an advocate can blur the boundaries of this mandate, especially if undertaken without adequate regulatory boundaries and oversight (Supriadi, 2023),(Kelvin, 2022).

As a solution, if the primary goal is community service and practical legal education, then these roles can be filled by professional advocates as guest lecturers or legal clinic instructors. This approach has long been implemented at a number of universities with effective results, without requiring civil servant lecturers to directly engage in legal practice. This alternative better ensures bureaucratic neutrality and the independence of advocates as independent law enforcers (Hamonangan, 2024),(Siregar, Syahriadi, Lubis, Azmi, & Hasibuan, 2025).

On the other hand, freedom of profession is guaranteed by Article 28E paragraph (1) and Article 28D paragraph (2) of the 1945 Constitution. However, in the Islamic perspective, individual rights must not conflict with the public interest. Therefore, restrictions on professional rights imposed on ASN are legitimate as long as they aim to safeguard the wider public interest and avoid social harm (Aspikatawati, 2023),(Ni'am, 2021).

As stated in the hadith of the Prophet Muhammad (peace be upon him): "There is no obedience to a creature in disobeying Allah" (Narrated by Ahmad). Therefore, if a positive policy contradicts the principles of ethics, integrity, and the public interest, Muslims are obliged to criticize it objectively and proportionally. The Constitutional Court's decision, although legally valid, remains open to review from a normative perspective in sharia to prevent chaos in the legal and governmental systems (RO Putra, 2025),(Greetings, 2025).

Thus, the review of Constitutional Court Decision No. 150/PUU-XXII/2024 is not sufficient with a formal juridical approach; it also requires a normative approach and Islamic values in Islamic jurisprudence. This paper aims to provide an in-depth analysis of the legality and ethicality of this policy, considering the principles of positive law and the main principles of Islamic governance. By placing the public interest as the focus of analysis, the direction of legal policy can balance constitutionality and sharia (Irwansyah, 2021),(Irawan & SH, 2025).

2. Materials and Methods

This research is a type of normative legal research, namely research that focuses on the study of legal principles, legal norms, and legal decisions as products of legal logic. As stated by Peter Mahmud Marzuki, normative legal research is conducted "by examining library materials or secondary data as the main material, with a conceptual, statutory, and case approach" (Marzuki, 2017: 133). In this context, the statutory approach is used to analyze the synchronization between Constitutional Court Decision No. 150/PUU-XXII/2024 with Law Number 18 of 2003 concerning Advocates, Law Number 5 of 2014 concerning ASN, and Law Number 94 of 2021 concerning Civil Servant Discipline. The case approach is used to understand the arguments in the Court's decision and the dissenting opinion of the constitutional judges. Meanwhile, the conceptual approach is applied through the analysis of the principles of siyasah fiqh, especially those related to

the principles of al-maslahah, ta'addud al-mas'uliyah, and siyasah syar'iyah as evaluative instruments for public legal policies.

Data collection was conducted through library research, which examined primary legal materials in the form of Constitutional Court rulings, laws and regulations, and secondary legal materials such as classical and contemporary Islamic jurisprudence literature. The primary literature used in this study includes the works of Ahmad Zain An-Najah (2020), Muhammad Iqbal (2014), Abdul Wahhab Khallaf, and Abdul Mujib (2021), each of which discusses the principle of justice in Islamic state governance, the limitations of public officials' power, and the orientation of benefit in Islamic legal governance. Data were analyzed descriptively and analytically, by describing and interpreting the relationship between positive legal norms and the normative principles of Islamic law. This study seeks to identify points of intersection and points of contradiction between Constitutional Court rulings and legal principles in order to assess whether the substance of these rulings can be categorized as legitimate and beneficial legal policies according to Islamic jurisprudence. Thus, the approach used is not only normative-legalistic, but also has evaluative value regarding the integrity of the government system from a sharia perspective.

3. Results and Discussion

3.1 Overview of Civil Servant Advocates and Lecturers

The professions of advocate and civil servant lecturer are two forms of service, each with its own distinct structure of responsibilities, professional ethics, and legal system. Advocates are a free and independent profession that plays a role in law enforcement, providing legal assistance to clients, and carrying out judicial functions outside of the judicial system. Law No. 18 of 2003 concerning Advocates affirms that advocates are free and independent law enforcers and are not under any state power structure (Article 5 paragraph (1)). In the context of the judicial system, the independence of advocates is an absolute requirement to guarantee objectivity in assisting clients, including in dealing with state institutions. Therefore, advocates have a unique position in the Indonesian legal system as equal partners with other law enforcers (judges, prosecutors, police).

In contrast, civil servant lecturers are part of the state civil apparatus structure bound by the government's administrative and bureaucratic system. Law No. 5 of 2014 concerning Civil Servants defines Civil Servants as implementers of public policy who are required to uphold the principles of neutrality, professionalism, integrity, and loyalty to the government (Articles 2 and 3). Lecturers as Civil Servants have the primary task of implementing the Tridharma of Higher Education, namely education, research, and community service. All three are carried out within the academic corridor, under ministerial regulations, and with a work structure that is hierarchically regulated by state institutions. In addition, the workload of Civil Servant lecturers is normatively determined by Law No. 44 of 2024, namely a minimum of 12 credits per semester (Article 10), which when converted into working hours takes up a significant portion of the total weekly working time of Civil Servants (Presidential Decree No. 21 of 2023).

The distinction between advocates and civil servant lecturers is also evident in their respective codes of ethics and functions. The advocate's code of ethics upholds independence in defending clients' interests without intervention, even if the client is in conflict with the state. On the other hand, civil servant lecturers are bound by the principle of loyalty to state policy and, in certain cases, have limits on political and legal involvement. Law No. 94 of 2021 concerning Civil Servant Discipline expressly prohibits civil servants from carrying out other work that could interfere with official duties or create a conflict of interest (Article 5 letter a). Under these circumstances, if a civil servant lecturer carries out duties as an advocate, the potential for ethical conflict and overlapping functions is significant.

Conceptually, the legal profession's responsibilities are based on the judicial system, while civil servant lecturers operate within the executive branch of the state. This becomes crucial when linked to the principle of *ta'addud al-mas'uliyah* in Islamic jurisprudence, namely the separation of powers to prevent absolutism or overlapping roles. According to Abdul Mujib, the division of powers in the Islamic system is based on the principles of clarity of authority, public accountability, and protection from external intervention in justice enforcement institutions (Mujib, 2021: 155). Therefore, when a civil servant lecturer doubles as an advocate, this principle violates this principle because the individual holds two functions with differing loyalties.

In the context of Islamic jurisprudence, the separation of roles is not merely a technical institutional issue, but also related to the protection of justice. In *Al-Ahkam al-Sulthaniyyah*, Al-Mawardi states that a *qadhi* (judge) may not hold concurrent positions as a governor or executive official to maintain freedom in issuing legal decisions (Al-Mawardi in Hadi, 2016: 131). The relevance of this principle in the modern system is evident when civil servant lecturers under the executive structure are involved in advocacy activities that demand judicial independence.

Furthermore, the legal profession recognizes the principle of client loyalty, which refers to complete loyalty to the client's legal interests. This principle can conflict with the principle of civil servant loyalty, which demands compliance with state regulations and the employer's institution. This is emphasized in research by Arie Ramadhani, who stated that the practice of the legal profession by civil servants is prone to conflicts of loyalty, particularly when the cases handled relate to government policy or involve other civil servants (Ramadhani, 2021: 75). Therefore, it is important to reassess the extent to which civil servant lecturers can carry out their advocacy functions without compromising institutional integrity.

From an institutional ethics perspective, civil servant lecturers have an obligation to uphold the reputation of the institution where they serve. This is stipulated in the Minister of Administrative and Bureaucratic Reform's Regulation concerning the Civil Servant Code of Ethics. If a civil servant lecturer acts as an advocate in a sensitive case involving a particular country or institution, a conflict of interest can arise that is not easily tolerated within the bureaucratic system. Research by Shendy Wulandari and Siti Fatima states that the principle of trustworthiness in civil servants includes a clear work focus and the avoidance of dual roles that could undermine the focus of public service (Wulandari & Fatima, 2022: 35).

On the other hand, if community service by civil servant lecturers is carried out through legal clinics or internal legal consultations on campus without reference to the role of independent advocates, this is still normatively acceptable. However, when such service begins to touch the realm of formal litigation, such as serving as legal counsel in court or joining a Legal Aid Institute (LBH) with a professional advocate structure, the function and status of civil servants begin to blur. Therefore, a clear delineation is needed between academic service and the structural practice of the legal profession.

Within the framework of *siyasah fiqh*, the boundary between administrative authority and judicial functions must not be violated in order to maintain the wisdom of *tasyri'iyah* (legal wisdom). Rules:

لا يجوز الجمع ب ني ولايت ني مختلفت ني ن يف آن واحد

("It is not permissible to combine two different powers at the same time") is an important foundation for ensuring the neutrality and stability of the government system. Therefore, before normatively justifying the dual position of lecturer and advocate, legal restrictions and strict institutional evaluation must be implemented (Iqbal, 2014: 7).

Thus, it can be generally concluded that the professions of advocate and civil servant lecturer have fundamentally different characteristics, ethical structures, and

working principles. Policies permitting both positions to be held in one individual must be based on a comprehensive legal, ethical, and sharia evaluation. Otherwise, this dual profession will cause structural damage, undermine public trust in civil servants, and contradict the principle of separation of powers upheld in democratic systems and Islamic governance.

3.2 Constitutional Court Decision on Civil Servant Lecturers Being Able to Become Advocates

The Constitutional Court of the Republic of Indonesia Decision Number 150/PUU-XXII/2024 was submitted as a judicial review of Article 3 paragraph (1) letter c and Article 20 paragraph (2) of Law Number 18 of 2003 concerning Advocates, which is considered to prevent lecturers with Civil Servant (PNS) status from practicing the profession of advocate. The applicants consist of a number of law lecturers at state universities who have obtained advocate certificates but are unable to practice due to their employee status. They argue that this provision is contrary to constitutional rights as regulated in Article 28D paragraph (2) and Article 28E paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which guarantees the right to work and the freedom to develop oneself through a legitimate profession (MK Decision No. 150/PUU-XXII/2024, pp. 6–9).

In its deliberations, the Constitutional Court divided this constitutional issue into two main dimensions: first, whether the provision prohibiting civil servants from becoming advocates violates citizens' constitutional rights; and second, whether such practice could compromise the neutrality and independence of civil servants and undermine the professionalism of advocates. In its plenary session, the Court acknowledged that the absolute prohibition on civil servants, including lecturers, from practicing the profession of advocate does indeed hinder certain constitutional rights. However, the Court also recognized the importance of maintaining the ethics of civil servants' positions, so that the practice of advocacy by civil servants must be strictly regulated and its scope limited (Constitutional Court Decision No. 150/PUU-XXII/2024, pp. 35–39).

The Court's ruling stated that Article 3 paragraph (1) letter c and Article 20 paragraph (2) of the Advocates Law are conditionally unconstitutional, meaning they are unconstitutional as long as they are not interpreted to mean that civil servants can only practice the profession of advocate in the context of community service (*pro bono*) and not professionally. This ruling also emphasizes that civil servant lecturers are not permitted to open law firms, not actively join advocate organizations, and not carry out legal practices commercially (MK Decision No. 150/PUU-XXII/2024, pp. 45–46).

In its considerations, the Court emphasized that restrictions on human rights must be subject to the principles of proportionality and legality as stipulated in Article 28J of the 1945 Constitution. Restrictions must be interpreted as not violating the core rights and must be justified in the public interest, public order, or morals. Therefore, the Court is of the opinion that as long as the practice of advocacy by civil servant lecturers is carried out within the framework of community service and does not conflict with official obligations, it cannot be prohibited completely (MK Decision No. 150/PUU-XXII/2024, pp. 41–43).

However, two Constitutional Court judges, Arsul Sani and Daniel Yusmic P. Foekh, expressed a dissenting opinion. They argued that advocacy is a free and independent profession that is inconsistent with the position of civil servants, who are bound by structural loyalty to the state. They argued that the involvement of civil servant lecturers in legal practice, even if limited, still poses risks to the principle of neutrality, potential conflicts of interest, and ambiguity in professional ethics (MK Decision No. 150/PUU-XXII/2024, pp. 51–53).

This dissenting view also highlights the dangers of a policy subject to multiple interpretations. Without clear technical regulations, the Constitutional Court's ruling could

create chaos in its implementation. This is because not all educational institutions have internal oversight systems for lecturers' advocacy activities. Consequently, this gray area could be exploited for interests beyond genuine academic service. This underscores the importance of further government action in the form of technical regulations that limit the scope and timeframe for civil servant lecturers to carry out their advocacy roles.

From a jurisprudence perspective, this ruling can be considered partial benefit but does not guarantee collective benefit (*al-maslahah al-'ammah*). Therefore, a mechanism of *hisbah* (moral-institutional oversight) and *taqyid al-mubah* (limitation of permissibility) is needed to prevent benefit from becoming *mafsadah*. The principle of "avoiding harm is prioritized over gaining benefit" must be the basis for implementing this ruling (Iqbal, 2014: 6).

Thus, Constitutional Court Decision No. 150/PUU-XXII/2024 affirms the individual's right to play an active role in society. However, this legality is limited and conditional. Technical and regulatory clarification is needed from relevant agencies, such as the Ministry of Administrative and Bureaucratic Reform (PAN-RB), the Ministry of Law and Human Rights, and the Ministry of Education and Culture, to maintain a balance between lecturers' constitutional rights and ethical principles of civil service. Otherwise, this decision will create role conflicts and structural ethical violations within the civil service and the legal profession.

3.3 Legal Implications of Constitutional Court Decision No. 150/PUU-XXII/2024 on the Status and Function of Civil Servant Lecturers as Advocates

Constitutional Court Decision No. 150/PUU-XXII/2024 is a legal breakthrough that paves the way for lecturers with Civil Servant (PNS) status to practice the profession of advocate in a limited scope, namely only in the form of community service through Legal Aid Institutions at universities. In its consideration, the Court stated that the prohibition for Civil Servants to become advocates as stated in Article 3 paragraph (1) letter c and Article 20 paragraph (2) of Law No. 18 of 2003 concerning Advocates, has hampered the implementation of the Tri Dharma of Higher Education, especially in the aspect of community service. Therefore, the Court considers this provision to be contrary to the constitutional rights of citizens to obtain decent work and livelihood as regulated in Article 28D paragraph (2) and Article 28E paragraph (1) of the 1945 Constitution of the Republic of Indonesia (MK Decision No. 150/PUU-XXII/2024).

While seemingly progressive, this ruling creates legal and administrative complexities. Within the state civil service structure, civil servant lecturers are bound by a hierarchical bureaucratic work system derived from prevailing laws and regulations. Law No. 5 of 2014 concerning the State Civil Apparatus (ASN) affirms that ASN is a profession that upholds the principles of neutrality, integrity, and public service (Article 2). Furthermore, Law No. 94 of 2021 concerning Civil Servant Discipline stipulates an obligation to comply with work hours and a prohibition on engaging in other work that could give rise to a conflict of interest (Article 4 letter f and Article 5 letter a). Therefore, granting permission for civil servant lecturers to practice law, even if *pro bono*, still creates tension between rights and obligations within civil service norms.

The fundamental principle of the free and independent legal profession actually has the potential to conflict with the status of civil servants (ASN), which requires loyalty to the state structure. This is emphasized in Article 5 of Law No. 18 of 2003, which states that advocates cannot be interfered with by any party, including state institutions, in carrying out their professional duties. This independence is the basis of advocate ethics, enabling them to objectively defend their clients' legal interests. When a civil servant within the executive structure also carries out judicial functions through the legal profession, the boundaries of neutrality become blurred. This is especially true if advocacy is carried out in cases indirectly related to government interests (Rasji and Erwin, 2025: 211).

This critical view aligns with the dissenting opinion submitted by two Constitutional Court justices, Arsul Sani and Daniel Yusmic P. Foekh. They stated that the independent role of advocates cannot be combined with civil servant positions bound by the state bureaucracy. According to them, allowing civil servants to engage in advocacy, even if limited, would undermine the independence of the legal profession itself and open up room for multiple interpretations of the profession's ethical boundaries (MK Decision No. 150/PUU-XXII/2024, Dissenting Opinion).

Legally, this dual role problem is further exacerbated by the disharmony between the Constitutional Court's ruling and existing regulations. Presidential Regulation No. 21 of 2023 states that civil servants' working hours are 7.5 hours per day or 37.5 hours per week (Article 2). Meanwhile, Law No. 44 of 2024 concerning the Profession, Career, and Income of Lecturers also requires lecturers to fulfill a minimum workload of 12 credits per semester (Article 10). If civil servant lecturers must fulfill all of these responsibilities, plus carry out advocacy activities outside of teaching and research, it is highly likely that task overload and neglect of their primary responsibilities as civil servants will occur.

Another fact is that in civil service practice, oversight of the implementation of civil servant duties is still suboptimal. Data from the National Civil Service Agency (KASN) shows that civil servant disciplinary violations are often caused by weak structural controls and supervision from direct superiors (KASN Data, 2023). Therefore, supervision of lecturers who voluntarily carry out their duties as advocates must still be carried out with a rigid mechanism to prevent deviations from the structural responsibilities of civil servants. Without a strong control system, the implementation of legal service by civil servant lecturers is highly vulnerable to misuse for personal gain, especially if it touches the realm of active litigation or legal representation outside the campus.

From a state administrative law perspective, it must be emphasized that civil servants' authority may not be exercised beyond their duties. According to Ridwan HR, within the framework of a state governed by the rule of law, every action by civil servants must be based on legitimate authority, not exceeding their authority, and not overlapping with the domains of other professions (Ridwan HR, 2022: 101). Therefore, when a civil servant lecturer doubles as an advocate, even based on a Constitutional Court ruling, it must still be evaluated within the context of the principles of legality and non-delegation of power.

From an Islamic legal perspective, this provision also deserves to be tested using the jurisprudence of Islamic jurisprudence. The principle of *ta'addud al-mas'uliyah* in Islamic jurisprudence requires a separation of powers between the executive and judicial functions to prevent overlapping authority and abuse of power (Abdul Mujib, 2021: 154). In classical Islamic history, the position of *qadhi* (judge) was prohibited from being held by administrative authorities to maintain legal independence. Therefore, in the modern context, combining the role of civil servant (as part of the executive) with the role of advocate (which is judicial) contradicts this principle of separation of responsibilities.

Furthermore, the Islamic jurisprudence principle that states: *مقدم على جلب المصالح تجنب المفسدات* ("Avoiding harm is preferred over seeking benefit") teaches that public policy should focus on preventing potential systemic harm. If the legalization of civil servant lecturers holding dual positions as advocates carries the risk of ineffective teaching, violations of civil servant discipline, and professional role conflicts, then this principle demands that the policy be limited or even revoked (Muhammad Iqbal, 2014: 6). Because in Islamic law, a state policy is not only considered legally valid but is also obliged to guarantee the public interest and maintain governance stability.

Thus, legally and conceptually, Constitutional Court Decision No. 150/PUU-XXII/2024 has opened up space for the reconstruction of the professional responsibilities of civil servant lecturers. However, if not accompanied by rigid technical regulations and strict oversight mechanisms, this policy has the potential to weaken the

professional ethics system both in higher education and in legal practice. Therefore, it requires further study within a normative and Islamic framework, as will be discussed in the following sub-heading.

3.4 Analysis of the Principles of Benefit and Separation of Power in *Siyasah Jurisprudence*

Constitutional Court Decision No. 150/PUU-XXII/2024, which paved the way for civil servant lecturers to practice their profession as advocates in the form of community service, must be analyzed not only from a positive legal perspective but also from the perspective of *siyasa fiqh*. One of the main principles in this branch of *fiqh* is the principle of *al-maslahah al-'ammah* or public benefit. This principle states that every policy of the ruler must be directed towards realizing the collective good and preventing social harm. The principle that states *ما نوط به الاهدلحة تصرف الإمام على الرعاية* ("A leader's policy towards his people depends on the public benefit") has become the basis of *siyasa* thinking in determining the legitimacy of state decisions (Ahmad Zain An-Najah, 2020: 87).

Lecturers with civil servant status essentially have institutional responsibilities within the scope of the *tridharma* of higher education. When the Court allows civil servant lecturers to become advocates, even in a limited form (*pro bono*), a crucial question that needs to be asked is: does this policy truly bring substantial benefits, or does it actually open up opportunities for *mafsadah* (damage)? If not accompanied by an effective control system, it could lead to deviations such as hidden practices outside the campus corridor, abuse of working hours, or even injustice towards other civil servants who are not given similar opportunities.

In this context, the principle of *درء ال مفساد مقدم على جلب ال مصلح* ("Avoiding harm takes precedence over seeking benefit") is relevant to consider. According to Abdul Mujib, this principle is not merely theoretical dogma but should serve as a guideline in formulating state policy. Practically, policies that open up opportunities for structural damage, professional ethics, and conflicts of interest, even if they appear beneficial on the surface, must be normatively rejected (Abdul Mujib, 2021: 153).

In addition to the principle of benefit, Islamic jurisprudence also teaches the importance of the separation of powers (*ta'addud al-mas'uliyah*). This principle refers to the separate and proportional distribution of responsibilities within the state between the executive, legislative, and judicial branches. In classical Islamic practice, for example, the position of *qadhi* (judge) may not be held concurrently by a regional ruler or emir to maintain legal neutrality (Muhammad Hadi, 2016: 132). In the modern context, civil servant lecturers are part of the executive structure, while advocates play a role in the judicial function as legal advisors. Therefore, the combination of these two functions has the potential to blur the boundaries of authority.

In a recent scientific journal, Arie Ramadhani stated that the dual role of a lecturer as an advocate not only creates tensions in professional ethics but also undermines the principle of checks and balances upheld by the country's constitution (Ramadhani, 2021: 75). The advocate's role as a free and independent entity will be compromised if it is carried out by a civil servant (ASN) who must abide by official regulations and bureaucratic loyalty. This is especially true if the lecturer handles cases related to government institutions or fellow ASN.

Therefore, in the author's opinion, the strongest argument in this regard is that the modern system of government is built on the foundation of separating state functions to maintain the principle of checks and balances. Civil servants, who are part of the executive branch of state policy, must be separated from the position of advocates, who carry out oversight and legal assistance functions for state actions. If internal oversight by civil servants is combined with external oversight through the legal profession, an inde-

pendent oversight mechanism can no longer be guaranteed. This weakens the position of advocates as a corrective force in the legal system.

The fact that the legal profession is designed as a free and independent profession shows that this role cannot be within the ASN vertical command system. Advocates are free to reject or accept cases, are free in their defense strategies, and have legal protection against pressure from any power (Law No. 18 of 2003 Article 5 paragraph (1)). If ASN lecturers become advocates, there will be structural pressure and official compliance that can undermine this independence. Therefore, argumentatively, the Constitutional Court's policy is contrary to the institutional essence of the legal profession which is protected by the constitution and law.

Beyond the professional relationship, the creation of multitasking between lecturers and advocates also creates ethical vulnerabilities. Civil servants face strict restrictions on organizing, speaking in public, and taking legal stances. Advocates, on the other hand, act as watchdogs over state policy. In practice, advocates who are also civil servants will struggle to conduct objective legal criticism if the cases they handle involve government institutions. Therefore, the argumentative power of Islamic jurisprudence actually rejects this unification of functions, as it has the potential to nullify the corrective function of law within the state.

In the doctrine of maqashid sharia, benefits can only be justified if they safeguard five main principles: religion, life, reason, property, and lineage. Policies that open up opportunities for abuse of office, obscure institutional ethics, and undermine administrative stability have in fact violated *hifzh al-'aql* (rational reason/systemic mindset), *hifzh al-māl* (protection of public assets), and *hifzh al-manhaj* (protection of law enforcement methodology). In the logic of maqashid, this dual position is only a pseudo benefit, not a true benefit (Nasution, 2023: 129).

This concern is further reinforced by the concept of *wilayat al-hisbah* in Islamic jurisprudence, namely the public oversight function carried out over all activities of those in power to ensure they do not exceed their limits. When the Court grants additional authority to civil servant lecturers without a robust monitoring and evaluation system, *hisbah*, as a controlling principle, will be diminished. Research by Shendy Wulandari and Siti Fatima emphasizes the importance of the principles of trust and accountability in civil servant performance management to prevent abuse of role and office (Wulandari & Fatima, 2022: 33).

This problem is not only theoretical, but also has the potential to become an implementation problem. As explained in the Al-Qur'an Surah An-Nisa verse 58, Allah commands that trust be given to those who are entitled to it and decisions must be based on justice. In this context, the mandate of lecturers as ASN should not be mixed with the interests of other professions, even in the name of service. The Court's decision needs to be studied from a *syar'i* perspective to see whether it reflects the principles of justice, order and overall public protection.

According to a recent paper by Yuki Muhammad Firdaus et al., unclear ethical standards and job-specific norms are often the source of civil servant violations, particularly when faced with dual roles or multiple functions within state institutions. The study emphasizes the need for institutional ethical boundaries based not only on formal law but also on bureaucratic moral principles (Firdaus et al., 2024: 55).

The relevance of these principles is also emphasized in a scientific journal by Lubis and Hasibuan (2024), who stated that every public legal product in Indonesia needs to be filtered through the lens of Islamic jurisprudence to measure the extent to which the policy maintains the function of state structures and limits the potential for abuse of power. Therefore, criticism of Constitutional Court Decision No. 150/PUU-XXII/2024 is not solely due to differing interpretations of the constitution, but because the policy opens up opportunities for structural dysfunction within the bureaucracy and the legal profession.

Therefore, the strongest argument against the unification of civil servant lecturers and advocates is that this decision, while constitutionally affirmative, fails to anticipate systemic implications that could undermine the principles of structural justice and bureaucratic neutrality. Therefore, detailed, strict, and explicit implementing regulations must be drafted immediately to prevent the principles of *siyasa* (civil service) from being sacrificed in the name of constitutional practicality.

Considering the overall principles of Islamic jurisprudence, it can be concluded that Constitutional Court Decision No. 150/PUU-XXII/2024 contains benefits but also holds significant potential for abuse if not strictly regulated technically and ethically. Therefore, this policy must be complemented by implementing regulations that explicitly define the work limitations of advocates for civil servant lecturers, as well as oversight mechanisms that can prevent conflicts of interest and violations of the principle of separation of powers. Without these, the policy will cause more harm than good.

3.5 Normative Critique and Policy Recommendations from a Constitutional and Sharia Perspective

Constitutional Court Decision No. 150/PUU-XXII/2024 can be seen as a response to contemporary dynamics that demand the participation of law lecturers in providing legal aid directly to the community. However, in a broader review, this decision deserves normative criticism, both from a constitutional perspective and Islamic sharia principles. Constitutionally, this decision creates a tension between the constitutional rights of individuals to work and community service (Articles 28D and 28E of the 1945 Constitution) and the principles of neutrality and professionalism of civil servants as stipulated in Articles 2 and 5 of Law No. 5 of 2014 concerning Civil Servants. When the two meet in a single policy, a mechanism for balancing and harmonizing norms is needed to prevent systemic legal imbalances.

Furthermore, normative criticism of this ruling lies in the lack of consideration of legal synchronization. Peter Mahmud Marzuki reminded that "legal research seeks not only validity, but also harmony between applicable norms within a legal system" (Marzuki, 2017: 133). The Court's decision, which is casuistic in nature, even though based on an interpretation of human rights, has the potential to create systemic inconsistencies if not followed by reformulation of related laws, such as the Advocates Law and the Civil Servant Discipline Law. This lack of synchronization could result in weaknesses in the civil servant control system, difficulties in enforcing discipline, and the potential for abuse of authority.

From a sharia perspective, as analyzed in the previous section, legal policies that conflict with the principles of *maslahah*, *ta'addud al-mas'uliyah*, and *amanah* must be reorganized so as not to harm the main objectives of sharia (*maqashid al-syari'ah*). The relevance of the principle of *لا تَجْمَعُ وَلَايَةَ تَانِ يَف. وَاحِدُ شَخْصٍ* ("Two powers may not be held by one person simultaneously") is an important guideline in maintaining the stability of the power system. In addition, placing individual interests, in this case civil servant lecturers, above institutional interests (state, higher education, ASN, and advocates) is contrary to the principle of *الْمَصَالِحُ دَرَاءُ الْمَفَاسِدِ مَقْدَمُ عَلَى الْجَلْبِ*, which prioritizes preventing damage over gaining benefits (Iqbal, 2014: 6).

Institutionally, granting civil servant lecturers the authority to practice advocacy could create a precedent for other civil servants to demand similar recognition for dual professions, such as doctors, notaries, legal consultants, or auditors. If this occurs without clear regulations, the stability of the civil servant system will be disrupted. Therefore, the main recommendation that can be put forward is the need for derivative regulations from the Constitutional Court decision in the form of Government Regulations or Ministerial Regulations that explicitly regulate: (1) the scope of advocacy for civil servant

lecturers, (2) working hours, (3) professional ethical boundaries, (4) monitoring and sanction mechanisms, and (5) standards for reporting advocacy activities.

Furthermore, it is necessary to establish an evaluation system based on *wilayat al-hisbah*, or internal public oversight, within higher education institutions. This system is tasked with assessing whether advocacy practices carried out by lecturers remain within the *Tridharma* (three pillars) and do not violate the principles of academic integrity and civil servant ethics. This oversight can also be complemented by the involvement of the State Civil Service Commission (KASN) to develop an ethics audit instrument for lecturers' advocacy activities, as has been done in the supervision of other functional positions (KASN Data, 2023).

In the context of the constitution, the Constitutional Court must be more careful in considering the consequences of its decisions on other sectoral legal norms. If a Court decision relies solely on human rights reasoning and fails to link it to constitutional principles and ethical principles of civil service, it loses its systemic integration. Therefore, Constitutional Court Decision No. 150/PUU-XXII/2024 should be accompanied by an order for legislators to adjust the affected legal norms, as was previously done in the Constitutional Court's decision on the judicial review of the Civil Service Law (see Constitutional Court Decision No. 87/PUU-XI/2013).

Finally, from the perspective of Islamic jurisprudence (*fiqh siyasah*), all state policies must be assessed from two perspectives: first, their formal legal validity (legality); and second, their conformity with sharia values, justice, and the public interest (legitimacy). This Constitutional Court ruling, if not criticized and monitored normatively, could become a legally valid policy but not systemic in its benefit. In the Islamic *siyasah* tradition, a leader who enacts laws without regard for justice and the public interest is considered to have deviated from the mandate of power. As Umar ibn Khattab emphasized: "*Al-'adlu asās al-mulk*," that "justice is the foundation of government."

Taking all these aspects into consideration, this study recommends that the government and the House of Representatives (DPR) immediately respond to the Constitutional Court's ruling by drafting implementing regulations that are responsive to the principles of positive law, civil servant discipline, and the principles of Islamic jurisprudence. This way, the legitimacy of civil servant lecturers holding dual positions as advocates is not only constitutionally valid, but also just, beneficial, and protected within the framework of Islamic law.

4 Conclusions

Based on the description of the results and discussion in this study, it can be concluded that the discourse and normative reality regarding the permissibility of civil servant lecturers to become advocates as stated in the Constitutional Court Decision No. 150/PUU-XXII/2024 contains complexities that are not simple, both from a positive legal perspective and from the perspective of *fiqh siyasah*. (a) Conceptually, the profession of advocate and civil servant lecturer have very different structures, functions, and professional ethics. Advocates are a free and independent profession that functions in the judicial system as a protector of the legal rights of the community, while civil servant lecturers are part of the state civil apparatus who are subject to the principles of neutrality and loyalty to the state. These two roles operate in separate orbits, so that normatively and ethically they have vulnerable points when combined in one individual.

Constitutional Court Decision No. 150/PUU-XXII/2024, which partially granted the petition for judicial review of Article 3 paragraph (1) letter c and Article 20 paragraph (2) of the Advocates Law, stated that the total prohibition on civil servants from becoming advocates is conditionally unconstitutional. This decision allows civil servant lecturers to practice the profession of advocate on a limited basis as a form of community service (*pro bono*), as long as they do not open a professional legal practice and do not conflict with

official duties. This decision is based on the constitutional rights of citizens to work and develop their potential, but still leaves wide room for interpretation, thus potentially subject to multiple interpretations in technical implementation.

In terms of legal implications, the ruling has created tension between the norms of the Advocates Law, the Civil Servant Law, and the Civil Servant Discipline Law. Although the Constitutional Court attempted to balance individual rights with structural obligations, without revisions to the relevant laws, the implementation of this ruling will complicate disciplinary oversight, open up the potential for abuse of office, and undermine the integrity of the legal profession and the civil servant system.

From a legal perspective, this ruling contains partial benefits but risks causing structural harm. The principles of benefits, mutual benefit, and trust require a separation of authority and clarity of public responsibility to maintain government stability. The integration of civil servant lecturers into advocates is considered contrary to the principles of legal principles, as it has the potential to undermine the checks and balances mechanism, confuse executive and judicial functions, and blur the boundaries of institutional loyalty.

From a normative perspective, this ruling must be responded to immediately through clear technical and legal policies. The government, together with the House of Representatives (DPR) and relevant ministries, needs to draft explicit and rigid implementing regulations regarding the scope, ethics, oversight, and sanctions for civil servant lecturers who carry out the role of advocates within the scope of service. Otherwise, the constitutional benefits offered by this Court ruling will instead turn into systemic damage that weakens the neutrality of civil servants, undermines the legal profession system, and contradicts the fundamental values of governance from an Islamic perspective. Thus, it can be emphasized that this Constitutional Court ruling cannot stand alone without further legal reconstruction in line with the principles of constitutional justice and the public interest in Islamic jurisprudence. Legal legitimacy is not only about formal legality, but also about sharia propriety and the integrity of a just, proportional, and accountable public system.

Based on the results of the study, strengthening the role of the police in preventing and prosecuting abuse of authority by government officials needs to be done through strengthening internal regulations, increasing the capacity of officials through special training, optimizing inter-agency coordination, utilizing surveillance technology, and protecting whistleblowers. The implications of these findings underscore the need for institutional reform that emphasizes transparency, individual accountability, strengthening of check-and-balance mechanisms, implementation of integrity-based performance evaluations, and strengthening of independent oversight institutions to ensure greater accountability of public officials in Indonesia.

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