LEGAL REASONING JUDGE’S DECISION IN CIVIL CASES

a Hasbuddin Klalid, b Humaera, c Sufirman Rahman, d Hardianto Djanggih

ABSTRACT

Introduction: Civil Procedure Law is a legal regulation that regulates how to ensure compliance with material civil law through the mediation of a judge. If there is a person or several people who feel that their rights have been violated or have caused harm to them, then they can file a claim for their rights through the court.

Objective: This research aims to know, understand, and discover the nature of legal reasoning (legal reasoning) regarding a Judge's decision in a civil case and to know, understand, and discover the juridical position of legal reasoning (legal reasoning) regarding the Judge's decision in a civil case; and to know and understand the factors that influence legal reasoning (legal reasoning) the Judge's decision in a civil case.

Method: The method used by researchers here is: In this research, combining two types of research, namely in this type of research, the researcher conducts research by combining both Normative and Empirical research with a Qualitative approach related to legal reasoning of judges' decisions in civil cases.

Result: The research results show that: 1) The nature of legal reasoning (Legal Reasoning) The Judge's Decision in Civil Cases is an effort made by using a scientific approach in seeking the truth regarding the upholding of norms based on Law Number 48 of 2009 Article 1 Paragraph 1 Concerning Judicial Power and in essence thinking, using, developing or controlling problems in the legal field by using reason, or what can be called legal reasoning. 2) Juridical Position of Legal Reasoning (Legal Reasoning) Regarding the Judge's Decision in Civil Cases, it can be seen from the aspect of justice that it is a logical implementation of legal norms in the sociological dimension of law, from the aspect of the truth of a decision, legal reasoning is a consequent form of the logical and analytical nature of law. 3) Factors that influence this include Legal Culture Factors, Knowledge and Understanding of the Law Factors, and Evidence Factors.

Conclusion: The Essence of Legal Reasoning (Legal Reasoning) of Judges' Decisions in Civil Cases is an effort made by using a scientific approach in seeking the truth regarding the upholding of norms based on Law Number 48 of 2009 Article 1 Paragraph 1 Concerning Judicial Power and in essence thinking, using, developing or controlling a problem in the legal field by using reason, or what could be called legal reasoning.

Keywords: legal reasoning, judge's decision, civil cases.

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RESUMO

Introdução: O Direito Processual Civil é um regulamento legal que regula como garantir o cumprimento do direito civil material através da mediação de um juiz. Se houver uma pessoa ou várias pessoas que sentem que seus direitos foram violados ou causaram danos a elas, então elas podem apresentar uma reivindicação por seus direitos através do tribunal.

Objetivo: Esta pesquisa visa conhecer, entender e descobrir a natureza do raciocínio legal (raciocínio legal) sobre a decisão de um Juiz em um processo civil e conhecer, entender e descobrir a posição jurídica do raciocínio legal (raciocínio legal) sobre a decisão do Juiz em um processo civil; e conhecer e entender os fatores que influenciam o raciocínio legal (raciocínio legal) da decisão do Juiz em um processo civil.

Método: O método usado pelos pesquisadores aqui é: Nesta pesquisa, combinando dois tipos de pesquisa, ou seja, neste tipo de pesquisa, o pesquisador realiza pesquisas combinando pesquisa Normativa e Empírica com uma abordagem Qualitativa relacionada ao raciocínio legal das decisões dos juízes em processos civis.

Resultado: Os resultados da pesquisa mostram que: 1) A natureza do raciocínio jurídico (Raciocínio Jurídico) A Decisão do Juiz em Processos Cíveis é um esforço feito usando uma abordagem científica na busca da verdade em relação à manutenção de normas baseadas na Lei Número 48 de 2009 Artigo 1 Parágrafo 1 Relativo ao Poder Judiciário e em essência pensar, usar, desenvolver ou controlar problemas no campo legal usando a razão, ou o que pode ser chamado de raciocínio legal. 2) Posição Jurídica do Raciocínio Jurídico (Raciocínio Jurídico) Em relação à Decisão do Juiz em Processos Cíveis, pode-se ver do aspecto da justiça que é uma implementação lógica de normas jurídicas na dimensão sociológica do direito, do aspecto da verdade de uma decisão, o raciocínio jurídico é uma forma consequente da natureza lógica e analítica do direito. 3) Fatores que influenciam isso incluem Fatores de Cultura Legal, Conhecimento e Compreensão dos Fatores de Lei, e Fatores de Evidência.

Conclusão: A Essência da Fundamentação Jurídica (Fundamentação Jurídica) das Decisões Judiciais em Processos Civis é um esforço feito usando uma abordagem científica na busca da verdade em relação à manutenção de normas baseadas na Lei n.o 48 de 2009 Artigo 1.o Parágrafo 1 Relativo ao Poder Judiciário e, em essência, pensando, usando, desenvolvendo ou controlando um problema no campo legal usando a razão, ou o que poderia ser chamado de raciocínio legal.

Palavras-chave: fundamentação jurídica, decisão do juiz, processos cíveis.

1 INTRODUCTION

Civil Procedure Law is a legal regulation that regulates how to ensure compliance with material civil law through the mediation of a judge. If there is a person or several people who feel that their rights have been violated or have caused harm to them, then they can file a claim for their rights through the court. With a resolution using civil
procedural law, it is hoped that the parties to the dispute can accept the decision that the Judge will make properly. In civil procedural law, there are several principles as follows:

1. The Judge's principal is waiting,
2. The Judge is passive,
3. The open nature of the trial,
4. Listen to both sides
5. Decisions must be accompanied by reasons,
6. There is a fee for the event,
7. There is no requirement to represent.

According to Cik Hasan Bisri5, Judge etymologically means "a person who decides the law." Judges are the main element in the court. He is "identical" with the court itself. The freedom of judicial power is often identified with the freedom of judges. Likewise, court decisions are identified with judge decisions. Therefore, achieving law enforcement and justice lies in the ability and wisdom of judges to formulate decisions that reflect justice. According to Khamimmudin, a judge in our justice system is a judge who is free in deciding cases; he cannot and should not be influenced by anyone; he is only responsible to his own conscience and, of course, to God. According to the National Law Commission of the Republic of Indonesia, judges are the personification of the judiciary, carrying out a mandate that is not light. In making decisions, judges are not only required to have intellectual abilities but are also expected to have high morals and integrity; even at a certain point, judges must also have a level of faith and devotion, be able to communicate well, and be able to maintain their role, authority, and status before them. Society so that the results of its work can reflect a sense of justice, guarantee legal certainty, and provide benefits to society.

According to the Judicial Commission of the Republic of Indonesia, the mission carried out by judges is so noble that the constitution (Article 24 paragraph (1) of the 1945 Constitution) and statutory regulations (UU No. 4 of 2004 concerning Judicial Power in conjunction with UU No. 14/1985 in conjunction with UU No. 3 of 2009 concerning the Supreme Court) lays a strong legal foundation, relating to the duties, functions, and positions of judges. Judges really need to make decisions regarding the disputes they are examining and adjudicating. Judges must be able to process data obtained during the trial process, whether from documentary evidence, witnesses, allegations, confessions, or

oaths revealed in the trial (See Article 164 HIR). So that the decision to be made can be based on a sense of responsibility, justice, wisdom, professionalism, and objectivity. In Article 5 of Law No. 48 of 2009 concerning Judicial Power, in deciding cases, the most important thing is the legal conclusion of the facts revealed in court. For this reason, judges must explore values follow and understand legal values and the sense of justice that lives in society.

According to R. Soeparmono, sources of law that can be applied by judges can be in the form of statutory regulations and their implementing regulations, unwritten law (customary law), village decisions, jurisprudence, science, or doctrine/teachings of experts. When deciding a case, a judge must be based on various considerations that can be accepted by all parties and not deviate from existing legal rules. Legal reasoning is defined as a search for "reason" about the law or a basic search for how a judge decides legal matters/cases, a lawyer argues the law, and how a legal expert reasons the law. According to Sudikno Mertokusumo, for judges, legal reasoning is useful in taking considerations to decide a case. Before handing down a decision, a judge must pay attention and do everything possible so that the decision that will be handed down later allows new cases to arise. The decision must be complete and not give rise to new cases. The Judge's task does not stop with just passing a decision but also completes its implementation. In civil cases, judges must help those seeking justice and try as hard as possible to overcome all obstacles to achieve simple, fast, and low-cost justice. According to Sudikno Mertokusumo, a judge's legal reasoning is closely related to the main duties of a judge, namely the task of receiving, examining, indicating, and resolving every case submitted to him. Then, the Judge examines the case and finally adjudicates, which means giving those who are interested their rights or law. That is the importance of a judge's legal reasoning in deciding a case in court. Therefore, it is very interesting to know about legal reasoning in making case decisions. Judicial power as an independent state means that judicial power in carrying out its functions must be free from the influence of other state powers and free from interference except for good legal rules. Good law is a law that is in accordance with the laws that exist in society, which is also in accordance with or is a reflection of the values that apply in society (social justice).

The justice referred to here is not formal justice but material/substantive justice that is in accordance with the Judge's conscience. The important and main element in judicial power is the Judge, who carries out his functions, carries out justice, and upholds
law and justice simultaneously. Law Number 48 of 2009 Article 1 Paragraph 1 Concerning Judicial Power stipulates that: "Judicial power is the power of an independent State to administer justice to uphold law and justice based on Pancasila and the 1945 Constitution of the Republic of Indonesia for the sake of the implementation of the Republic of Indonesia. Indonesia". Judicial power as an independent state means that judicial power in carrying out its functions must be free from the influence of other state powers and free from interference except for good legal rules. Good law is a law that is in accordance with the laws that exist in society, which is also in accordance with or is a reflection of the values that apply in society (social justice). The justice referred to here is not formal justice but material/substantive justice that is in accordance with the Judge's conscience.9 The important and main element in judicial power is the Judge, who carries out his functions, carries out justice, and upholds law and justice simultaneously. Article 2, paragraph 1 of Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power regulates that "Judicial conduct is carried out for the sake of justice based on belief in the Almighty God." This means that all Judge's decisions must be able to provide a sense of justice based on the belief in Almighty God to the community. According to researchers, the meaning of For the Sake of Justice Based on the Almighty God covers the Judge's responsibility to justice seekers and society, but spiritually, it also covers the Judge's responsibility to the Almighty God, the ideological morals of the court decisions. Judges have an important position and role, especially with all the authority they have because through their decisions, a judge can transfer a person's ownership rights, revoke a citizen's freedom, declare invalid the government's arbitrary actions against the community, even order the deprivation of a person's right to life, and so on.

The duties and authority of judges must be carried out within the framework of law enforcement, truth, and justice in accordance with statutory regulations and codes of ethics, taking into account the principle of equality before the law. The Judge's enormous authority demands high levels of responsibility, so the court's decision, which opens with the sentence "For the sake of justice based on belief in the Almighty God," means that the obligation to uphold truth and justice must be horizontally accountable to all humans and vertically accountable to Almighty God. One. As a civilized and religious nation, we are in accordance with the basic principles of our nation and state, namely Article 39 of the 1945 Constitution: "Our country is based on belief in one Almighty God, "This means
that all levels of our nation's society certainly know religion and the greatness of God who controls the fairest day of vengeance. So, of course, we will not easily carry out actions that harm other people; maybe we will even be pioneers in being fair and honest in our nation and state.

Indonesian positive law then regulates this matter in Law Number 48 of 2009 concerning Judicial Power (Judicial Power Law) Article 5 paragraph (2): "Constitutional judges and justices must have integrity and a personality that is beyond reproach, honest, fair, professional and experienced in the legal field." The Judge, as the holder of control and legal determination before the trial, can provide a human touch (including philosophical, sociological, justice, security, order, and protection of society, and no less important is the juridical basis and the facts of the trial), so that it will continue to be used within the framework of law enforcement with a humanitarian spirit. All of these things are used as a basis for judges in deciding a case before them by carrying out legal reasoning, which is technically contained in the legal considerations section of a decision. However, in reality, even though judges have been given the domain to carry out legal reasoning (legal reasoning), where aspects outside the juridical basis can be used as a basis for deciding a case, in reality, this is not fully implemented. There are various court decisions in which the Judge only looks at the juridical aspect of his decision.

Philosophical aspects, empirical realities experienced by justice seekers, considerations of public order and protection that might arise if the decision is handed down, the social situation and conditions of the community, as well as other aspects that should also be present apart from purely juridical considerations, tend to be ignored by judges in making decisions thing. What is even more ironic is that the juridical aspects that are used as the basis for deciding a case tend to be haphazard, for example, without study and analysis or in-depth and comprehensive mastery of adequate legal theory or doctrine when interpreting a statutory provision, or only just carrying out a simple analysis, without a comprehensive, systematic and in-depth study of the events that occurred to determine the truth relating to a case, or when confronting it with the legal provisions that will be applied. This incident then resulted in decisions that were unfair and controversial and reaped negative responses, especially by justice seekers who litigated in court and, in general, by the wider community. Legal reasoning has a very important central position for judges in interpreting the law. In fact, legal reasoning is the spirit of every legal interpretation effort made by a judge to produce a decision. In other
words, legal reasoning has a very important role in guiding judges to determine the
effective meaning of law and pursuit. According to Golding, the term 'legal reasoning'
can be used in two meanings, namely in a broad and narrow sense. In a broad sense, legal
reasoning is related to the psychological processes carried out by judges to arrive at
decisions on cases before them. Meanwhile, legal reasoning in the narrow sense is related
to the reasoning that underlies a decision. This means that legal reasoning in this narrow
sense concerns the study of the logic of a decision, namely the relationship between
reasons and the decision, as well as the accuracy of the reasons or considerations that
support the decision. In principle, legal reasoning is closely related to how judges study,
analyze, and formulate legal reasoning appropriately. Thus, legal reasoning cannot be
separated from efforts to develop criteria that serve as the basis for clear reasoning. The
main issue is universal criteria and specific juridical criteria, which form the basis of the
rationality of legal reasoning. Data comes from primary legal materials such as statutory
regulations.

Because rationality is the main ingredient for formulating legal reasoning, in other
words, legal reasoning is difficult to separate from the elements of rationality and logic.
The word 'logic' as a term means a method or technique created to examine the accuracy
of reasoning. Reasoning is a form of thinking. Other forms of thinking, starting from the
simplest, are understanding or concept, proposition or statement, and reasoning. There
are no propositions without understanding (concepts), and there is no reasoning without
propositions. To understand reasoning, these three forms of thinking must be understood
together. For this reason, there is a strong argument that legal reasoning becomes
meaningful only if it is built on logic. In other words, logic is a "condition sine qua non"
so that a decision can be accepted. Legal reasoning will only be accepted if it is based on
a reasoning process in accordance with a formal logic system, which is an absolute
requirement for reasoning. It can be concluded that the professionalism of law enforcers
does not lie in inherent artificial attributes such as rank, position, and high income but
rather in their consistency in applying systems of thinking (legal reasoning) in the legal
analysis they handle. These are actually the contributors who have caused the disreputable
face of law enforcement in this Republic, so it is not too wrong if people have the slogan
of not daring to defend what is right but daring to defend those who pay. This kind of
behavior of legal graduates ultimately causes society's appreciation of the legal profession
to become lower and less respectable than other professions. According to researchers,
this research is important because it is related to the justice side, which has been implemented by judges, where, in many cases, the judges' decisions are far from the basic values of justice, which can be seen in the reasoning of their decisions. Based on the background of the problem above, the author took the research title "The Nature of Legal Reasoning of Judges' Decisions in Civil Cases.

2 METHOD

The type of research used in combining empirical legal research and normative legal research is related to the legal reasoning of judges' decisions in civil cases. This research is based on the existence of symptoms in the form of a gap between expectations (das solen) and reality (das sein) in the legal field. Normative research is research carried out with an approach to legal norms or substance, legal principles, legal theory, legal postulates, and legal comparisons. In this research, the author combines the two types of research, namely the researcher conducted research by combining the two types of Normative and Empirical research, with the Qualitative approach as mentioned above in a study.

2.1 POPULATION AND SAMPLE

Population is the whole or set of research objects with the same characteristics. Population can be a collection of people, objects (living or dead), symptoms, behavior, articles of legislation, legal cases, time or place, teaching tools, methods, and so on, with the same characteristics and characteristics. Based on the type of data required, in this research, what the researcher uses as participants is a group of objects that are used as data sources in the research whose form can be people, objects, documents, and so on. The sample is part of the population (a part or representative of the population being studied). The research sample is a portion of the population taken as a data source and can represent the entire population. The concept of a sample in research is a small part of the population taken according to certain procedures so that it can represent the population in a representative manner. So, based on the description above, the researcher decided to use a sample collection technique using non-probability sampling. A non-probability sampling technique is a sampling technique that does not give each member of the population a chance or opportunity to be used as a research sample. The non-probability sampling technique used is purposive sampling. Purposive sampling is a sampling
technique used by researchers if the researcher has certain considerations in taking samples or determining samples for certain purposes. The samples/objects that are the data source are:

1. Makassar District Court Judges, five people
2. Makassar High Court Judges, 5 People
3. Advocates, ten people.

2.2 DATA TYPES AND SOURCES

The types of data used in this research include primary data and secondary data, as follows:

a. Primary data, namely data obtained directly from the field and research locations sourced from respondents or informants as data sources, consisting of Makassar District Court Judges, Makassar High Court Judges, and Advocates;

b. Secondary data in this research is data obtained through literature study and searching for decision data in various agencies related to the legal reasoning of judges' decisions in civil cases.

2.3 DATA COLLECTION TECHNIQUES

To obtain the data needed in this research, data collection was carried out in the following way:

1. Interviews, namely meeting respondents by conducting regular and structured direct questions and answers with certain parties related to the legal reasoning of judges' decisions in civil cases.

2. Questionnaire, namely distributing a list of questions to predetermined respondents.

3. Search for literature studies through reference books, statutory regulations, scientific journals, information through print and electronic media, and information through social networks that are relevant to the objects studied in this research.

2.4 DATA ANALYSIS

Data obtained through library research and data obtained through field research through interviews will be analyzed qualitatively and written using a descriptive method.
Qualitative analysis is data analysis by grouping and investigating data obtained from field research according to its quality and truth, then connecting it with theories obtained from literature study so that answers to the problems posed are obtained.

3 RESULTS & DISCUSSION

3.1 THE ESSENCE OF JUDGES’ LEGAL REASONING (LEGAL REASONING) OF JUDGES’ DECISIONS IN CIVIL CASES

There are three basic essences of legal reasoning (legal reasoning) of judges’ decisions in civil cases, namely:

1. **Adequate Knowledge**

Adequate knowledge is very important and is the main capital for a judge to make a decision; without adequate knowledge, it will be very difficult to make a good/ideal decision, even though, on the other hand, making a decision is very important because it is the embodiment of the existence of a judge (court) for society/ a legal subject that relies on its legal consensus. The knowledge that a judge should possess is not only legal knowledge but non-legal knowledge as well. The method of knowledge, especially in the field of law, is always developing; not only is it said to be progressive (dogmatic) but also expressive (normative); that is to say, adequate knowledge is simply said to think comparatively, accurately, and effectively (affective effect (thinking in terms of content, not just context). Judges must be able to process and process the data obtained during the trial process, both from the evidence of letters, witnesses, conjectures, confessions, and oaths revealed in the trial (Article 164 HIR/ Article 284 RBg) so that the decisions that will be made can be based on a sense of responsibility, justice, wisdom, and professionalism and be objective. The verdict is the product of the examination of the matter done by the Judge. Based on Article 178 HIR/ Article 189 RBG, after the examination is completed, the Judge, due to his position, must deliberate to take the decision that will be passed. The examination is considered completed when it has gone through the stages of answers from the defendant, replicas from the plaintiff, rejoinders from the defendant, and proof and conclusions submitted by the parties. For that reason, judges should dig into the values, follow, and understand the values of the law and the sense of justice that lives in society. Legal sources that can be applied by judges can be in the form of legislation followed by implementation regulations, unwritten law
(customary law), village rulings, jurisprudence, and the science, doctrine, and teachings of experts.

2. **Judge's Skills/Skills**

Legal reasoning is a systematic problematic thinking activity of legal subjects (humans) as individuals and social creatures within their cultural circle. Legal reasoning can be defined as a thinking activity that is related to the multi-aspect (multidimensional and multifaceted) meaning of law. Legal reasoning as a systematic problematic thinking activity has distinctive characteristics. According to Berman, the characteristics of legal reasoning are:

1. Legal reasoning seeks to create consistency in legal rules and legal decisions. The basis of thinking is the principle (belief) that the law must apply equally to everyone within its jurisdiction. The same case must be given the same decision based on the principle of similia similibus (equality);
2. Legal reasoning seeks to maintain continuity in time. Legal reasoning will refer to previously established legal rules and previous legal decisions so as to ensure stability and predictability;
3. In legal reasoning, dialectical reasoning occurs, namely weighing up opposing claims, both in debates on legal formation and in the process of considering the views and facts put forward by the parties in the judicial process and in the negotiation process.

Based on Berman's description above, in line with the results of interviews with judges at the Makassar District Court (on July 20, 2023), the Judge stated in deciding cases/disputes, judges not only need adequate knowledge but also skills or skills obtained from experience, for example, a decision on custody of a child who is not yet mumayyiz, experience is needed in making the decision, because it is in the interests of the child, while the Judge only sees what is presented in court, the rest of the judges don't know how the child's parents behave. The Judge's opinion regarding the skills mentioned above is in line with Lao Tze (Chinese warlord in the 5th century BC), who said we do not understand war strategy from the results of learning because on the battlefield, we do not carry books. There are several experts who mention the steps in legal reasoning. Kenneth J. Vandevelde mentions five steps of legal reasoning, namely:

1. Identify possible sources of law, usually in the form of statutory regulations and court decisions (identify the applicable sources of law);
2. Analyze the sources of law to determine possible legal rules and policies within these rules (analyze the sources of law);
3. Synthesize the legal rules into a coherent structure, namely a structure that groups specific rules under general rules (synthesize the applicable rules of law into a coherent structure);
4. Review the available facts (research the available facts);
5. Applying the structure of rules to the facts to ensure the rights or obligations arising from those facts by using the policies contained in the legal rules in solving difficult cases (apply the structure of rules to the facts).

Gr. van der Brught and J.D.C. Winkelman mentioned seven steps that a judge must take when dealing with a case, including:
1. Putting the case in a map (mapping the case) or describing the case in an overview (map) means briefly explaining the problem of a case (schematizing);
2. Translating the case into juridical terms (qualifying, qualifying);
3. Selecting relevant legal rules;
4. Analyze and interpret (interpretation) of the legal rules;
5. Apply legal rules to cases;
6. Evaluate and weigh (review) arguments and solutions;
7. Formulate (formulate) solutions.

3. Judge's Morality

In legal science, the terms 'court of law' versus 'court of justice' are commonly known to describe the existence of two schools of thought in efforts to enforce law and justice. The 'Court of Justice' is a court of justice that seeks to uphold justice in a substantive sense, not just a court of law in the formal sense that only seeks to uphold the law from a purely formalistic and procedural perspective. However, the term court of law that I use in this book is to differentiate it from courts in the field of ethics (court of ethics). The existing judicial institutions that carry out judicial functions in the field of law (courts of law) can be said to have developed through a very long process in human history from ancient times until now. Currently, the term Markus (case broker) seems to be a hot topic of conversation, even though these words are very familiar in certain circles. If that happens, psychics will one day be hit by a "made-in-mark snowball" without having the chance to predict it in advance. The synergy between professional ethics and the code of ethics is as we take from Yap Thiam Hiem, in his book "The Problem of
Violating the Professional Code of Ethics in Justice and Law Enforcement." the aim and purpose of the code of ethics is to regulate and provide quality to the implementation of the profession and to maintain honor and the good name of professional organizations and to protect the public who need good professional services. "The code of ethics is a mechanism for disciplining, coaching and controlling the work ethic of members of professional organizations." Don't Have Any Gaps. Based on an interview with a Makassar District Court judge (July 20, 2023), in deciding a case/dispute, a judge in carrying out his duties cannot be separated from the Judge's professional ethics because ethics contains values that require a sense of justice from society.

Legal reasoning is a process of reason that is used as a basis for conveying certainty. Legal reasoning is a scientific skill that is useful for legal experts to use as a basis for obtaining and providing legal solutions. Legal reasoning can be used to form rational regulations so that sanctions can have a deterrent effect on legal communities who do not obey the law. Legal regulations that are formed with rational provisions and fulfill a sense of justice can foster legal awareness and public trust. In the community of legal practitioners, good mastery and implementation of legal reasoning in every professional activity can be used as a parameter for which legal practitioners are arguing juridically and which legal practitioners are arguing illegitimately. In the scientific tradition, to facilitate understanding of science, a branch grouping of the tree of science was created, and legal science is included in the group of branches of the tree of science. Philosophy of Science from a Positivistic view/Empirical legal science, field of study: Realist: Factual Patterns of Behavior (behavior of law enforcers, judges), which gave birth to Sociological Jurisprudence (law in book law in action) and Socio-Legal Jurisprudence (causality of law and society) is a study in the field of empirical legal science and produces many legal scientists. The theory of legal science from a normative view of the field of study: the norms and rules that gave birth to legal science (legal norms: dogmatics, theoretical and philosophical), which is the study of the field of normative legal science (big findings: Corporate Responsibility, AAUPB) from this field the experts were born law (Judges, prosecutors and Advocates) in the Netherlands are called: Mr (Meester in de rechten).
3.2 FACTORS THAT INFLUENCE THE LEGAL REASONING OF JUDGES’ DECISIONS IN CIVIL CASES

3.2.1 Three factors influence the legal reasoning of a judge's decision in a case, namely:

1. Legal Culture Factors

Culture, according to Soerjono Soekanto, has a very big function for humans and society, namely to regulate so that humans can understand how they should act and determine their attitudes when dealing with other people. Basically, culture includes the values that underlie applicable laws, which values are abstract conceptions of what is considered good (so it is adhered to) and what is considered bad (so it is avoided). In fact, cultural factors are similar to societal factors. However, in cultural factors, more emphasis is placed on the value system that exists in society. In terms of community factors, it is said that the level of community compliance with community rules is still low. This is because there is a culture of compromise that often occurs in Indonesian society. In fact, there will be a cultural tendency for society to escape from the applicable rules by default. Judges, in this case, must also be able to make wise decisions and be fully responsible to God Almighty, themselves, society, nation, and state. In their decisions, judges are required not only to implement the law but also to consider moral and social aspects. The Judge's decision has a great influence on a case because justice is something that is highly expected. The Judge's decision reflects the law enforcement process, which is closely related to society and can have both positive and negative impacts. Legal culture (system) basically includes the values that underlie the applicable laws, so these values are abstract conceptions of what is considered good and what is considered bad. These values are usually a pair of values that reflect two extreme situations that must be harmonized. The pairing of conservatism and innovation values always plays a role in the development of law because, on the one hand, there are those who state that law follows changes that occur and aims to maintain the status quo. Under these conditions, law enforcement must also be able to understand cultural elements that can influence law enforcement. Law enforcement, when viewed from a cultural perspective, can be traced from ancient times, during the kingdom era.

Certain people, if they want to meet the king or want a position from the king or other desires, will pay tribute to the person concerned or to the king so that what they want can quickly be achieved. This apparently still continues today; only the form and
name are different. Nowadays, it is known as bribery. This is no longer strange because it is common knowledge that almost all government agencies have experienced it. This bribery can continue to exist and become a culture because there are sellers and buyers of these bribes from time to time. The sellers are law enforcers who take advantage for their personal gain and do not implement existing regulations as they should. Meanwhile, buyers are people who are willing to pay the authorities or agencies so that what they want can be realized quickly without ignoring the law itself. This shows cultural weaknesses in the enforcement of existing laws. Of course, if this culture is not lost, law enforcement will continue as it should. The respondents' responses regarding the influence of legal culture on the legal reasoning of judges' decisions in civil cases can be seen in the following table:

<table>
<thead>
<tr>
<th>Results</th>
<th>Frequency/respondents</th>
<th>Percentage (%)</th>
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<tbody>
<tr>
<td>Influential</td>
<td>15</td>
<td>75</td>
</tr>
<tr>
<td>No effect</td>
<td>5</td>
<td>25</td>
</tr>
</tbody>
</table>

The data in the table above shows the influence of community culture on the legal reasoning of judges' decisions in civil cases, where 75 percent of respondents said they had an influence, and 25 percent of respondents said they had no influence. This shows that community cultural factors in the legal reasoning of judges' decisions in civil cases are relatively influential.

2. Legal Knowledge and Understanding Factor

The Judge's process of exploring the space in a case, or what is called the concept of legal activity (judicial activism), provides space and opportunity for a judge to use his personal knowledge to guide him in deciding a problem. The personal knowledge referred to in the process of resolving legal cases is, of course, in the context of legal science. In this case, the legal paradigm adopted by the Judge will be very influential, in addition to other legal knowledge. The respondents' responses to the influence of legal knowledge on the legal reasoning of judges' decisions in civil cases can be seen in the following table:
Table 2. The Influence of Legal Knowledge and Understanding on Legal Reasoning of Judges' Decisions in Civil Cases

<table>
<thead>
<tr>
<th>Results</th>
<th>Frequency/respondents</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Influential</td>
<td>18</td>
<td>90</td>
</tr>
<tr>
<td>No effect</td>
<td>2</td>
<td>10</td>
</tr>
</tbody>
</table>

Source: Primary Data 2023

The data in the table above shows the influence of legal knowledge and understanding in the legal reasoning of judges' decisions in civil cases, where 90 percent of respondents said they had an influence and 10 percent of respondents said they had no influence. This shows that the factor of legal knowledge and understanding in the legal reasoning of judges' decisions in civil cases is relatively influential.

3. Evidence Factor

Efforts to prove a case in court are absolutely necessary. In the civil case examination process, the issue of evidence is basically a stage or process that is very decisive and also serves as a basis for the Judge to determine his belief in the case in question based on the evidence submitted by the public prosecutor. Evidence is one of the most important stages in a trial. Even though a case is handled in e-court, this evidentiary stage still requires the physical presence of the parties. The definition of evidence is the process of how evidence is used, submitted, or maintained in accordance with applicable procedural law. The purpose of evidence is to make a decision that is definitive, certain, beyond doubt, and has legal consequences. Proving is providing sufficient grounds to the Judge examining the case in question to provide certainty regarding the truth of the events presented. In terms of proving an event, the method that can be used is to use evidence. Evidence is something that is used to convince the truth of a proposition or position. In civil procedural law, evidence is regulated in Articles 164, 153, 154 Herzien Inlandsch Reglement (HIR) and Articles 284, 180, 181 Rechtreglement voor de Buitengewesten (RBG). As regulated in article 164 HIR/284 RBG, valid evidence according to civil procedural law consists of the following:

1) Letter. According to Sudikno Mertokusumo, what is meant by a letter is something that contains signs that can be read and expresses an idea where the thought can be used as evidence. Documentary evidence consists of 2 (two) types, namely:
   a. A deed is a letter that was deliberately made from the beginning for proof. The act consists of:
1. Authentic act. According to Article 1868 BW, an authentic deed is a deed whose form is determined by law, made by or in front of public officials in authority in the place where the deed is made. What is meant by public officials are notaries, police, and judges.

2. Private deed. A private deed is a deed that is made and approved by the parties who make it and is binding on the parties who make it. A private deed is not made before an authorized official such as a notary, but is only made by the parties who made the agreement.

b. Ordinary mail. Ordinary letters are documentary evidence that was not originally intended to be used as evidence, but if one day the documentary evidence can prove a case in court, then the letter evidence can be used as evidence.

2) Witnesses. A witness is a person who provides testimony/testimony before the court regarding what they know, see for themselves, hear for themselves, or experience for themselves, which with this testimony will make a case clear. A witness's statement must be presented orally and personally, meaning it cannot be represented by another person and must be presented orally at a court hearing. In principle, everyone can be a witness except certain people who cannot be heard as witnesses, including:

a. Blood and blood family;
b. Wife or husband, even if divorced;
c. Children under 15 years of age;
d. Crazy person,

3) An estimate. The presumption is regulated in Article 173 HIR, but in that article, what is meant by presumption is not explained in detail. But only determines that the presumption can be used as evidence if the presumption is important, thorough, specific, and compatible with each other. In Article 1915 of the Civil Code, it is known that there are 2 (two) presumptions, namely:

1. Presumptions based on law and
2. Estimates based on facts.

Whereas in the 1916 Civil Code, which is determined as an approximation is as follows:
a. Actions that are declared void by law because of the eel and circumstances alone can be suspected of being committed to avoiding the provisions of the law;
b. Events that, according to the law, can be used as conclusions to implement ownership rights or release from debt;
c. The force is given by law to the Judge's decision;
d. The force is given by law to a confession or oath by one of the parties.

4) Confession. Confession in HIR is regulated in Articles 174, 175, and Article 176. When looking at the provisions of Article 164 of HIR, it is clear that confession, according to the law, is one of the tools of evidence in the process of settling civil cases. Based on Article 1926 of the Civil Code, a confession can be made either directly by the person concerned or by another person who is given special authority to do so, either orally or in writing. When admitting something in front of a judge, one must be careful because a confession made in front of a court cannot be withdrawn unless he can prove that the confession was the result of a mistake regarding the facts. According to Article 174 HIR, confessions made in front of a trial have perfect evidentiary power and are binding. Meanwhile, according to Article 175 HIR, the strength of the proof is left to the Judge's discretion, or in other words, confession outside the court means that the Judge is free to give it the strength of the evidence or only consider it as preliminary evidence.

5) Oath. Oath evidence is regulated in Articles 155, 156, 157, 158 and 177 HIR. Oath evidence can be used as a last resort in proving the truth of a civil case process. According to Sudikno Mertokusumo, an oath is a solemn statement given or said when giving information by remembering the Almighty nature of God Almighty and believing that anyone who gives false information or promises will be punished by Him.

In Civil Procedure Law, there are 3 (three) types of oaths as evidence, namely:
a. Complementary Oath (Suppletoir). A complementary oath is an oath ordered by the Judge because of his position to complete the proof of the event in dispute as the basis for his decision. Complementary oaths are regulated in Article 155 HIR/Article 182 RBG.
b. Oath of Appraisal (Aestimatoir, Schattingseed). Appraisal oath is an oath ordered by the Judge because of his position to the plaintiff to determine the amount of compensation money. The condition for imposing an oath of
assessment is that the defendant's fault has been proven, but the amount of loss is difficult to determine. The appraisal oath is regulated in Article 155 HIR/Article 182 RBG/Article 1940 of the Civil Code.

c. Decisive Oath (Decisoir). Terminating oath is an oath in which one party, through the intermediary of the Judge, orders the other party to terminate the case. The decision oath is the last resort to resolve a case whose existence is regulated in Articles 156, 157, and 177 HIR.

The respondents' responses to the influence of legal knowledge on the legal reasoning of judges' decisions in civil cases can be seen in the following table:

<table>
<thead>
<tr>
<th>Results</th>
<th>Frequency/respondents</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Influential</td>
<td>17</td>
<td>85</td>
</tr>
<tr>
<td>No effect</td>
<td>3</td>
<td>15</td>
</tr>
<tr>
<td>amount</td>
<td>20</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Primary Data 2023

The data in the table above shows the influence of evidence in the legal reasoning of judges' decisions in civil cases, where 85 percent of respondents said they had an influence, and 15 percent of respondents said they had no influence. This shows that the legal knowledge factor in the legal reasoning of judges' decisions in civil cases influences making a decision.

4 CONCLUSION

1. The Essence of Legal Reasoning (Legal Reasoning) of Judges' Decisions in Civil Cases is an effort made by using a scientific approach in seeking the truth regarding the upholding of norms based on Law Number 48 of 2009 Article 1 Paragraph 1 Concerning Judicial Power and in essence thinking, using, developing or controlling a problem in the legal field by using reason, or what could be called legal reasoning.

2. The Juridical Position of Legal Reasoning Regarding Judges' Decisions in Civil Cases can be seen from the aspect of justice, namely the logical implementation of legal norms in the sociological dimension of law, from the aspect of the truth of a decision, legal reasoning is a consequent form of the logical and analytical nature of law.
3. Factors that influence this include the Legal Culture Factor, Knowledge Factor, Legal Understanding Factor, and Evidence Factor.
REFERENCES


