



# JUDICIAL SEQUESTRATION IN AL-GHAZALI'S ETHICAL FRAMEWORK: AN ISLAMIC PERSPECTIVE ON JUDICIAL REFORM IN INDONESIA

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## Abstract

Judicial independence is a foundational principle in ensuring the rule of law and public trust in the judiciary. In Indonesia, this principle faces serious challenges due to recurrent judicial corruption, as revealed by multiple bribery sting operations involving judges. This article examines the concept of judicial sequestration—the isolation of judges from external influences during adjudication—as a potential safeguard for judicial impartiality. Drawing upon Al–Ghazali's ethical framework, the study argues that effective judicial reform must integrate moral virtues such as piety, independence, and resistance to political and personal pressures. The analysis employs a normative–legal and comparative approach, juxtaposing Al–Ghazali's judicial ethics with sequestration practices in common law systems. The findings suggest that embedding Islamic ethical values within institutional reform frameworks can enhance judicial integrity and accountability. In particular, a culturally contextualized model of judicial sequestration may serve as a viable mechanism for strengthening judicial independence in Indonesia. This study contributes to ongoing discourse on legal reform by offering a synthesis of classical Islamic thought and modern judicial ethics.

## Abstrak

*Independensi kekuasaan kehakiman merupakan prinsip fundamental dalam menegakkan supremasi hukum dan membangun kepercayaan publik terhadap lembaga peradilan. Di Indonesia, prinsip ini menghadapi tantangan serius akibat maraknya praktik korupsi di lingkungan peradilan, sebagaimana terungkap dalam berbagai operasi tangkap tangan terhadap hakim. Artikel ini mengkaji konsep isolasi hakim (judicial sequestration)—yakni pemisahan hakim dari pengaruh eksternal selama proses peradilan—sebagai mekanisme potensial untuk menjaga imparialitas yudisial. Dengan merujuk pada kerangka etika Al-Ghazali, studi ini berargumen bahwa reformasi peradilan yang efektif harus mengintegrasikan nilai-nilai moral seperti ketakwaan, independensi, dan ketahanan terhadap tekanan politik maupun kepentingan pribadi. Analisis dilakukan melalui pendekatan normatif-legal dan komparatif, dengan membandingkan etika kehakiman dalam pemikiran Al-Ghazali dengan praktik sequestration dalam sistem hukum common law. Temuan menunjukkan bahwa penerapan nilai-nilai etika Islam dalam kerangka reformasi kelembagaan dapat memperkuat integritas dan akuntabilitas peradilan. Secara khusus, model sequestration yang kontekstual dan berakar pada budaya hukum lokal dapat menjadi mekanisme yang efektif untuk memperkuat kemerdekaan peradilan di Indonesia. Studi ini memberikan kontribusi terhadap wacana reformasi hukum dengan menawarkan sintesis antara pemikiran Islam klasik dan etika yudisial modern.*

## INTRODUCTION

Judicial independence is a fundamental pillar in upholding justice and the rule of law, particularly in countries that prioritize the supremacy of law. Independent judges serve as guardians of justice, ensuring that decisions are made based on facts and legal



provisions, free from external pressures such as political interference, public opinion, or personal interests (Siregar, 2024).

As emphasized by Attila Bady in his book *"Fair Trial and Judicial Independence"*, this independence remains a primary foundation of judicial operations, but it does not stand alone. He further notes that with the increasing power of judicial institutions, two additional demands have emerged that cannot be overlooked: transparency and accountability. The need to monitor judicial activities becomes increasingly significant as the role and influence of the judiciary expand. In other words, beyond guaranteeing independence, a sound legal system must also provide effective oversight mechanisms to ensure that judicial power is not misused and remains aligned with the principles of justice. This is essential for maintaining public trust in judicial institutions as protectors of justice and fair law enforcement (Bado, 2014).

However, judicial independence often faces serious threats, particularly in countries with high levels of corruption and weak legal oversight mechanisms. Transparency International notes that corruption within the judiciary is one of the main barriers to public access to justice. In Indonesia, cases of Sting Operations involving judges, such as the acquittal of Gregorius Ronald Tannur, underscore the inadequacy of oversight mechanisms in maintaining judicial integrity. These cases tarnish the judiciary's credibility and raise significant questions about the extent to which the legal system can protect judges from detrimental external influences.

One relevant approach to addressing these challenges is the concept of judicial sequestration, a mechanism that isolates judges from external influences during court proceedings. In common law systems, a similar concept is applied through jury sequestration, which aims to protect jurors from media pressure and public opinion, ensuring that decisions are based solely on evidence presented in court. As Bady states, "Like judges, juries are required to remain impartial and independent when deciding a case. Impartiality involves two key dimensions: first, the tribunal must be free from any personal bias or prejudice on a subjective level. Second, from an objective perspective, it must provide adequate assurances to eliminate any reasonable doubts regarding its impartiality (Bado, 2014). This highlights the importance of both subjective and objective impartiality in ensuring fair trial proceedings, where mechanisms like sequestration play a crucial role in safeguarding the integrity of judicial and jury decision-making processes.

Similarly, Mike McConville in *"The Myth of Judicial Independence"* notes, "We must remain vigilant against the slightest encroachment on judicial independence, not because judicial independence represents some traditional flummery, but because without an independent judiciary the rule of law would collapse (Bado, 2014)." This statement underscores the crucial role that judicial independence plays in maintaining the integrity of the legal system and protecting the rights of individuals. Just as a judiciary under external pressure compromises its ability to deliver impartial justice, so too does the erosion of judicial independence pose a threat to the rule of law itself. Consequently, judicial sequestration emerges as a strategic measure to safeguard judicial independence, particularly in cases subject to intense political pressure or public scrutiny, ensuring that judges remain free from undue influence and can make decisions based solely on legal principles and facts.

The relevance of judicial sequestration aligns with the views of Al-Ghazali, a renowned Islamic philosopher and scholar. In *"Nasihat al-Muluk"*, he emphasizes the importance of moral integrity consider the analogy expressed by Al-Ghazali: "The more a person becomes immersed in worldly pleasures, the more they become attached to them,

just as someone who consumes rich food excessively will eventually suffer the consequences, such as stomach problems and poor health. The pleasures of this world, like the fleeting satisfaction of indulgence, will eventually give way to regret and suffering, as the consequences remain long after the pleasure has passed. The deeper one becomes entangled in the material world, the more damaging the consequences will be, just as someone who overindulges in food will experience increasingly unpleasant effects" (A. Ghazali & F.R.C., 1964). Similarly, the closer a judge becomes to external influences whether political, wealth, or personal interests the more it erodes their moral integrity and impartiality, leading to a degradation of justice. Just as someone who drinks seawater becomes increasingly thirsty, a judge whose heart is clouded by worldly attachments may find it impossible to maintain their integrity, as they will inevitably be tainted by these external pressures.

Although Indonesia has a legal framework for regulating judicial independence, abuse of power remains a significant issue. Hand arrest operation (OTT) involving judges like Erintuah Damanik and two other judges implicated in the acquittal of Gregorius Ronald Tannur reveal gaps in monitoring judicial behavior. Such practices damage the credibility of Indonesia's judiciary and reinforce the perception that judicial independence is not fully secured (Inp.polri.go.id, 2024).

The acquittal of Tannur became a major focus, shaking public confidence in the judiciary. Furthermore, in the developments of this case, three judges involved in the decision were arrested for allegedly accepting bribes. This incident underscores the urgent need for comprehensive reform of the judiciary to restore public trust and uphold the rule of law (Kompas.id, 2024).

In this context, the judicial sequestration concept becomes relevant for implementation. Similar to jury sequestration in common law systems, this mechanism aims to protect judicial independence by limiting judges' exposure to external influences during court proceedings. Judges are isolated from the media, public opinion, and political pressure, ensuring that their decisions remain objective and based solely on legal facts.

Implementing this concept in Indonesia requires thorough reforms, including the development of legal infrastructure to support judge isolation during decision-making processes, particularly for sensitive cases. By integrating Islamic moral values as taught by Al-Ghazali, such reforms would not only create a procedurally fairer judiciary but also a more ethically grounded one. By embedding the principles of judicial sequestration into Indonesia's legal system, judicial independence is expected to be safeguarded. This step not only strengthens public trust in judicial institutions but also fosters a more transparent, accountable legal system capable of delivering objective justice. These reforms would bring Indonesia closer to its aspirations of becoming a robust and trustworthy rule-of-law state.

## IMAM AL-GHAZALI: BIOGRAPHY, INTELLECTUAL CONTRIBUTIONS, AND JUDICIAL ETHICS

Imam Abu Hamid Al-Ghazali (1058–1111 M) is one of the most influential figures in the history of Islamic thought. In his book, *"Imam Al-Ghazali: A Concise Life"*, Edoardo Albert describes Al-Ghazali as a Sufi, scholar, and great thinker who made significant contributions to the Islamic world. Albert wrote on the back cover of his book, "Imam Abu Hamid Al-Ghazali (1058–1111 M) is a towering figure in the history of Islamic thought. But did you know that during his lifetime he was a saint, a scholar and a penniless

wanderer?". This statement reflects the complexity and depth of Al-Ghazali's life, as he significantly impacted philosophy, Islamic law, and justice.

Al-Ghazali was born in Tus, Iran, to a modest family. His challenging early life as an orphan taught him perseverance and dedication to acquiring knowledge. Albert writes, "Al-Ghazali was born in Tus, present-day Iran, into a poor but devout family. His father, a wool spinner and merchant, prayed for his sons to become scholars. Before passing away, Al-Ghazali's father entrusted a Sufi friend with raising and educating his children using his savings. The family faced financial difficulties early on, but Al-Ghazali's determination and intellect ensured he pursued his education, starting with memorizing the Qur'an and Islamic teachings. When funds ran out, he studied at a madrasa, where students received free food and education, marking the beginning of his remarkable journey in scholarship and spiritual inquiry" (Albert, 2012). His extraordinary journey, from an orphan in a small town to one of the most respected thinkers in Islamic history, illustrates his remarkable achievements.

One of Al-Ghazali's most renowned intellectual legacies is his critique of Greek philosophy, particularly the thoughts of Muslim philosophers who adopted Greek traditions. In his famous work, *"Tahafut al-Falasifah"* (The Incoherence of the Philosophers), Al-Ghazali refuted the arguments of Arab philosophers, thereby weakening the influence of Greek philosophical thought in the Islamic world. Albert notes, "By successfully refuting the arguments of the Arabic philosophers in the eyes of his contemporaries, Al-Ghazali permanently weakened the influence of Greek philosophical thought in the Islamic world" (Albert, 2012). This critique demonstrates that Al-Ghazali was not only a scholar of law and theology but also a philosopher who dared to challenge dominant intellectual traditions of his time.

Beyond his monumental works in philosophy and theology, Al-Ghazali made significant contributions to Islamic law and ethics. Frank Griffel, in his book *"The Formation of Post-Classical Philosophy in Islam"*, highlights Al-Ghazali's profound influence on Islamic thought, particularly his synthesis of Ash'ariy theology with philosophical methods and his contributions to the Syāfi'i school of jurisprudence. Al-Ghazali's influence on Islamic thought is profound, particularly in his synthesis of Ash'ariy theology with philosophical methods and his contributions to Syāfi'i jurisprudence. He positioned himself at the intersection of theology, law, and mysticism, shaping post-classical Islamic philosophy and jurisprudence in fundamental ways (Griffel, 2021).

In the field of Islamic law, Al-Ghazali paid significant attention to justice and ethics in legal application. One of his most important ideas was about judicial independence. He emphasized the necessity of preserving legal integrity by upholding the presumption of innocence and exercising caution in imposing punishments. Griffel notes, "Al-Ghazali emphasizes the procedural safeguards in Islamic law, arguing that doubt should always favor the accused in judicial proceedings, thus protecting against unjust application of punitive measures. This reflects his commitment to upholding ethical integrity and fairness in judicial matters" (Griffel, 2021). This reflects Al-Ghazali's dedication to substantive justice, which prioritizes deep moral values alongside formalistic rules.

Al-Ghazali is also known as the *"Proof of Islam"* (*Hujjat al-Islām*) for his substantial contributions to defending Islam against internal sectarian trends and enriching intellectual discourse on the Islamic worldview, including Islamic law. Mustafa Abu Sway, in his book *"A Treasury of Al-Ghazali: A Companion for the Untethered Soul"*, writes that Al-Ghazali occupied a unique position in Islamic thought. He became the center of academic attention at the Nizamiyyah Baghdad, where hundreds of scholars attended his

lectures between 484 AH/1091 CE and 488 AH/1095 CE. Abu Sway writes, "Imām Al–Ghazālī carved a niche for himself in the world of Islamic thought. His scholarly works in jurisprudence, theology, philosophy, education and Islamic spirituality continue to enrich academic discourse on the Islamic worldview" (Sway, 2017). His rich contributions to jurisprudence, theology, and mysticism remain an inspiration for many to this day.

Al–Ghazali's thoughts on justice were foundational in shaping the Islamic judicial system. He stated that justice is a central pillar in all institutions, including family, society, and the state. Abu Sway writes, "Justice in Islam is the cornerstone of every institution, including the family, the community and the state. It is a key factor in being accepted by Allah, Who commanded humanity to be just and to do charitable and beautiful good deeds (*iḥsān*)" (Sway, 2017). This underscores that justice is not only a fundamental principle in Islamic law but also a moral foundation that must be applied in the social and political lives of Muslims.

Al–Ghazali's contributions to Islamic law are particularly significant in how he connects "*Syariah*" principles to everyday life. In his works, he asserts that God's law (*Syariah*) governs both human relations with God and aims to create a good life on earth while ensuring happiness in the afterlife. Albert notes, "Al–Ghazali based this idea on the belief that God's law, the *Syariah*, was intended to help people in this world and the next. That is, by aiding people to live good lives in this world God's law ensured heavenly bliss in the next world" (Albert, 2012). This illustrates that "*Syariah*" is not merely a law applied in social life but also a path to achieving worldly and eternal happiness.

Additionally, Al–Ghazali advocated for religious law to focus not only on technical aspects but also on shaping a culture and environment conducive to people's well – being. He argued that law should foster a virtuous society. Albert notes, "He suggested that the religious law under which Muslims lived should try to create a culture and environment conducive to people's wellbeing and their living virtuously" (Albert, 2012). This suggests that, in Al–Ghazali's view, law functions not just as a tool for enforcing justice but also as an instrument for creating a moral and harmonious society.

Al–Ghazali's perspectives on the judiciary and judicial independence are also critical to understanding. He argued that judges are tasked not only with upholding the law but also with protecting the five essential needs of humanity: religion, life, intellect, lineage, and property. Albert writes, "So any religious judge should, in his rulings, aim to look after the 'five necessities' religion, life, intellect, children, and property and avoid or overturn anything that acted against them" (Albert, 2012). This highlights Al–Ghazali's deep respect for protecting fundamental human rights, and judges must ensure that the laws they enforce do not harm these rights.

Al–Ghazali emphasized the importance of separating personal interests from judicial affairs, stressing that judicial decisions must strictly adhere to justice. He highlighted the need to preserve the sanctity of Islamic law, ensuring that decisions are not swayed by personal gain or political influence. In his view, justice is not merely about adhering to legal rules but also about aligning all actions with their rightful place, similar to how the movements of the limbs should conform to the law of justice. Just as one must position the limbs correctly without crookedness, so too must the heart align with justice through proper actions.

He argued that the material world is like farmland for the afterlife, and those who die before straightening their actions suffer immense sorrow, as the path to righteousness closes at death. The heart, much like a straightened mirror, can only reflect true realities when the actions of the limbs are just and upright. Justice, in essence, is about putting



things in their proper places, such as facing the direction of prayer during worship while turning away only for natural needs. Similarly, the right hand is to be preferred for noble actions like handling the Qur'an or food, while the left hand is reserved for cleaning or handling repulsive tasks. This alignment of actions ensures integrity and justice in both the physical and spiritual realms, preventing personal interests from corrupting decisions or behavior (Al – Ghazali, 2016).

Al – Ghazali placed great emphasis on justice as a divine command and a fundamental principle of governance. He supported judicial independence to ensure that justice is upheld without external interference. Al – Ghazali stressed the importance of justice as a divine command and an essential principle of governance. Just as God Almighty has determined that some actions and circumstances of humans will lead to happiness or misery, and since no human can recognize which actions will lead to happiness or misery, God created angels and commanded them to reveal this secret to those whose happiness He had predestined, namely the Prophets. They were given revelations to inform humanity about the paths to happiness and misery, so that no one could have an argument against God.

For Al – Ghazali, justice means placing everything in its rightful place, both in the relationship between humans and God, and between individuals. The fundamental principle of justice includes treating people fairly and avoiding unjust oppression. He also emphasized that in matters between humans and God, forgiveness is possible, but any form of injustice towards fellow humans will not be overlooked on the Day of Resurrection. An unjust ruler will face great risks in the afterlife, as mentioned in the hadith of the Prophet, which states that one day of just rule is more valuable than sixty years of continuous worship (A. Ghazali & F.R.C., 1964).

## JURY SEQUESTRATION IN STRENGTHENING JUDICIAL INDEPENDENCE

As previously mentioned, judicial independence in decision – making is a fundamental pillar for ensuring a fair legal system free from external pressures. This concept is a key focus in different legal systems, such as "common law", which employs the "jury sequestration" mechanism, and "civil law", which relies on judges as the primary decision – makers.

In "common law" countries, "jury sequestration" is used to protect jurors from the influence of public opinion or media, which could compromise their objectivity. Jeffrey Abramson, in *We, the Jury*, highlights that this mechanism is crucial for ensuring impartiality and maintaining focus on the facts and legal arguments presented in court. He observes that while legislators are expected to stay attuned to public opinion, jurors are often shielded from such influence to prevent external pressures from interfering with their decision – making. As he notes, "we often sequester juries to prevent members from even learning the community's opinions about a case" (Abramson, 1990). In the context of Indonesia, which adheres to a "civil law" system, the relevance of this mechanism should be examined as an adaptation to protect judicial independence from external pressures, especially in cases that attract extensive public scrutiny.

Collective deliberation lies at the core of jurors' responsibilities in the "common law" system, as it fosters a collaborative and reasoned approach to justice. Jeffrey Abramson emphasizes that "the essence of a juror's duty is deliberation, a process that requires face – to – face conversation aimed at persuading others or being persuaded" (Abramson, 1990). This process of deliberation encourages jurors to critically engage with differing perspectives, challenge preconceived notions, and evaluate evidence in depth. By

facilitating such thoughtful dialogue, the jury system aims to ensure that the final verdict is not only impartial but also a reflection of objective and collective reasoning, reinforcing the principle of justice through consensus.

Reid Hastie, Steven Penrod, and Nancy Pennington in *Inside the Jury* emphasize the importance of jury deliberations in promoting the correct application of common sense to evidence presented during trials. They argue that jury deliberation should not only foster rational analysis of the facts but also actively counterbalance inherent biases. As they note, "Jury deliberation should foster the correct application of common sense to these facts. This includes the 'counterbalancing of various biases,' to 'minimize the potential bigotry of those who might convict on inadequate evidence, or who acquit when evidence of guilt was clear,' and to 'assure the parties that the jurors before whom they try the case will decide on the basis of the evidence placed before them, and not otherwise'" (Hastie & etc, 1983). Such deliberations are intended to ensure impartiality and fairness, providing a safeguard against prejudices that could otherwise distort the process. To uphold this principle, protective mechanisms like jury sequestration are employed to shield jurors from external influences, such as media coverage or public opinion, that could compromise their objectivity and disrupt the deliberation process. These measures reinforce the idea that verdicts must be grounded in the evidence alone, ensuring justice is served in an unbiased and rational manner.

Furthermore, research by Hastie and colleagues notes that the dynamics of group size within a jury affect the quality of decision – making. "The dynamics of jury deliberation, including faction size and individual participation, reveal significant patterns in how decisions are formed and influenced during the process" (Hastie & etc, 1983). In this context, providing decision – makers be they jurors or judges a pressure – free environment is critical for uninterrupted deliberation processes. The influence of faction size highlights the importance of balanced group dynamics, where all voices are considered to enhance the fairness and accuracy of the final verdict.

This places judicial independence as a critical aspect, particularly in high – profile cases that garner public attention. Jeffrey Abramson stresses that external influences, whether real or perceived, can compromise the fairness of judicial processes. He writes, "Not even the appearance of justice can be delivered by a jury selection process that continually underrepresents minorities" (Abramson, 1990). In Indonesia's legal system, where judges play a central role in adjudicating cases, ensuring fairness requires that judicial independence is safeguarded not only from actual bias but also from the perception of undue influence.

To address these challenges, a mechanism akin to 'jury sequestration', namely 'judicial sequestration', can be adapted to enhance judicial independence and public trust. Valerie P. Hans and Neil Vidmar in "Judging the Jury" highlight the significance of tailoring such mechanisms to specific local needs and circumstances. They state, "The jury is undergoing two major changes. One change, the democratic broadening of the reservoir from which jurors are recruited, was highly beneficial as it enhanced representation and fairness. The other change, the manifold reductions of the jury's size, highlighted the need for careful calibration of reforms to maintain efficiency without undermining the jury's core functions" (Hans, 1986). This observation underscores the dual importance of inclusivity and balance in implementing reforms. While democratic inclusivity strengthens public confidence in the system, reforms that prioritize efficiency must avoid eroding the foundational principles of fairness and impartiality. In the context of 'judicial sequestration,' this approach ensures that judicial measures remain adaptable,

fair, and responsive to the unique challenges of different jurisdictions, thereby preserving the integrity and efficacy of the judicial process.

In practice, "Judicial sequestration" could involve the physical isolation of judges from direct access to public opinion during trials. This includes limiting judges' interactions with external parties, restricting media consumption, and providing special facilities for judges during deliberation processes. This approach mirrors the jury sequestration practices in "common law" countries, designed to protect jurors from external bias. However, a lack of public understanding about the benefits of "judicial sequestration" could be a major obstacle. Abramson highlights that this isolation is frequently misunderstood as punitive rather than protective, creating a barrier to public acceptance of such measures" (Abramson, 1990). Therefore, raising public awareness about the importance of safeguarding judicial independence is essential for maintaining the integrity of the legal system.

Although Indonesia does not employ a jury system, the principles of collective deliberation and protection for decision-makers remain relevant. Hastie, Penrod, and Pennington note that "jury deliberations offer lessons in the value of counterbalancing biases, a principle that could be valuable in judge-led systems" (Hastie & etc, 1983). The principle of "Judicial sequestration" can be adapted into the "civil law" system in Indonesia through various strategic measures (Sujayadi, 2010).

In Indonesia's civil law system, where judges make both investigative and final decisions, these principles can be adapted. One adaptation could be "judge sequestration," where judges are isolated from external influences during deliberation to ensure impartiality. This could extend to limiting exposure to media or public opinion, ensuring decisions are based solely on the case at hand. Furthermore, collective deliberation can be incorporated through panel judges, especially in complex cases, to counterbalance individual biases and improve decision-making quality. By adopting elements of the jury system, such as mitigating bias and promoting collective deliberation, Indonesia can strengthen its judicial process and ensure fairness and impartiality (Adolph, 2016).

One crucial step is intensive training for judges. Such training is designed to help judges recognize and manage biases, both personal and external. With this training, judges will be better equipped to handle pressures, especially in cases that attract extensive media and public attention. Another important measure is media regulation and the application of judicial isolation during trials. In this regard, media access to judges can be restricted to minimize the potential for public pressure influencing decision-making. Isolation similar to "jury sequestration" in "common law" countries can also be applied. Judges involved in major cases can be placed in controlled environments with limited access to external information and communication with outside parties. This approach aims to protect judges from potential biases or influences that could compromise the integrity of judicial processes (Leksono, Zahra, Dhani, & Wijayanti, 2025).

Additionally, the use of technology is an essential step in supporting judicial transparency and efficiency without compromising judicial independence. Digital systems can be used to document and monitor judicial processes, including electronic evidence storage, trial schedule management, and internal monitoring of judicial deliberations. This technology also allows for better oversight of judicial processes without creating opportunities for external pressure.

Finally, public education aims to raise awareness about the importance of judicial independence. This can be achieved through campaigns, seminars, or collaborations with the media to explain why protecting judges is crucial for maintaining justice. Public



understanding will help build trust in the legal system and support the implementation of policies such as "Judicial sequestration". By implementing these measures, Indonesia's judiciary can strengthen its integrity while ensuring that judges can perform their duties independently, fairly, and free from external pressures. This approach is not only relevant for high – profile cases but also forms the foundation for improved public trust in judicial institutions. These measures could become part of a strategy to adapt jury protection principles from the "common law" system to Indonesia's judicial context (Nikhio, Sekarwati Amalia, & Irawan, 2023).

Judicial independence in decision – making is the foundation of justice that must be protected from external influence. The experience of "common law" countries demonstrates that mechanisms like "jury sequestration" effectively preserve the integrity of jury deliberations. By adapting this principle into "Judicial sequestration", Indonesia can strengthen judicial independence and enhance public trust in its legal system. As Abramson notes, "the judicial process must not only be free of bias but also appear so to maintain public confidence" (Abramson, 1990). By implementing judicial isolation in the form of "Judicial sequestration", Indonesia's legal system can move closer to the ideal of a fair, independent judiciary free from external influence.

## AL-GHAZALI'S PERSPECTIVE ON JUDICIAL SEQUESTRATION

Independence and impartiality form the foundation of judicial fairness, principles universally recognized across cultures and legal systems. The impartiality of judges has long been a pillar of justice, serving as a safeguard against external pressures that may compromise fairness. In contemporary legal systems, mechanisms like judicial sequestration isolate judges from public opinion, media influence, and other external factors during trials of significant public interest. While this concept is often viewed as a modern innovation, its roots can be traced back to Islamic judicial ethics, particularly in the works of Abu Hamid Al – Ghazali (1058 – 1111 M). Al – Ghazali, a prominent theologian and jurist, extensively discussed the moral and spiritual responsibilities of judges. His works, such as "Ihya Ulumuddin" and "Nasihat al – Muluk", emphasize the necessity of maintaining judicial independence and integrity, which resonate with the principles underlying Judicial sequestration.

According to Al – Ghazali, the judge holds a divine mandate, tasked with the noble responsibility of upholding justice as a sacred trust. This role requires both spiritual discipline and ethical rigor. He reminds judges of their primary duty to seek justice, writing: "Whoever fears Allah, He will make a way out for him and provide for him from where he does not expect. Fear is the heart's pain due to its expectation of something disliked in the future" (I. A. H. M. Al Ghazali, 2016). A judge must therefore free himself from greed and fear, for these are the roots of injustice. His decisions must flow from truth, guided by divine principles rather than worldly influences.

In the Islamic perspective, a judge is the embodiment of a divine trust in upholding justice, and morality is a fundamental prerequisite for carrying out this duty. A judge must not only ensure that every legal decision adheres to established laws but also consider the moral and spiritual implications of their judgments. Al – Ghazali, in "Mukhtasar Ihyā' 'Ulūm Ad – don", emphasizes the importance of consistency in adhering to lawful practices, as the validity of legal decisions is rooted in adherence to the principles of Sharia. He states, "Seeking the lawful is obligatory for every Muslim. He who is ridden with laziness relies on the notion that legality no longer exists, thence adopting a permissive attitude towards all matters" (Al – Ghazali, 2013).

Furthermore, Al – Ghazali quotes the hadith of Prophet Muhammad (peace be upon him): "He who consumes only the lawful for forty days, God will light up his heart and well up the springs of Wisdom from his heart onto his tongue" .This illustrates that the integrity of a judge is not only assessed by the decisions they make but also by their avoidance of anything prohibited or doubtful (*haram* or *shubhat*). According to Al – Ghazali, a judge who neglects this not only compromises the spiritual validity of their actions but also diminishes the acceptance of their prayers before Allah. More than just a profession, being a judge is a divine calling that demands integrity, wisdom, and noble character. A judge is not only required to master legal knowledge but must also possess piety and an awareness of their responsibility before God. As explained by Imam Al – Ghazali, an ideal judge is one who is pious, knowledgeable, and of noble character:

"To be a God – fearing scholar of good manners; and as for his knowledge, he must know the limits of accountability, so that he remains within the legal bounds. He must be of good manners, so that he is not violent to a degree whereby he exceeds those legal bounds and as a result does more harm than good, and his judgments conflict. So that if he leads someone to desist, or faces him with something he dislikes, he should not exceed the bounds of the *Syari'ah*, forgetting the purpose, thus committing transgression in the reckoning itself (Al – Ghazali, 2013)."

This quote underscores the necessity of balancing legal knowledge with moral character in a judge. While a deep understanding of the law ensures fair and rule – based decisions, a noble character prevents the judge from exceeding their authority and acting arbitrarily. A judge's noble character is crucial for their integrity and fairness. Piety is foundational, as a judge must always be mindful of Allah and the accountability of their decisions in the Hereafter. This awareness guides them to act justly, with moral responsibility. Justice, at the core of a judge's role, requires impartiality, ensuring decisions are based solely on the facts and law, not on external influences.

Honesty is essential; a judge must be transparent, free from corruption, and resist temptations such as bribes or personal gain. Wisdom is also vital, allowing the judge to carefully assess all aspects of a case, ensuring that decisions serve the best interest of justice. Patience helps a judge handle complex cases and external pressures with calm, deliberating thoughtfully in pursuit of justice. Humility is another key trait. Despite their authority, a judge must remain humble, acknowledging that their position is a trust and not a source of superiority. By maintaining humility, a judge earns public trust and respect, demonstrating fairness in all actions. In addition to these traits, courage is required to uphold truth and fight injustice, even when confronting powerful figures. Together, these qualities enable a judge to serve justice with integrity, wisdom, and compassion, ensuring that the law is applied justly in all circumstances (Syamsudin, 2011).

The story of Dabbah bin Muhsin Al – 'Anzi, who reprimanded Abi Misa al – Ash'ari for not showing proper respect to Abu Bakr in his sermon, highlights the importance of a judge's bravery in speaking the truth, even to those in power (Al – Ghazali, 2013). However, a judge must also be wise in delivering criticism and advice. Criticism delivered in a harsh and inappropriate manner can cause division and greater harm. The role of a judge as an enforcer of justice is a divine trust that demands integrity, wisdom, and noble character. By embodying good character, a judge can carry out their duties justly and wisely, creating justice and peace in society.

This principle parallels the rationale for Judicial sequestration, which aims to shield judges from public and media pressure. By isolating judges during trials, the judiciary creates a controlled environment where decisions can be made without external interference. This is further emphasized in "*Nasihah al – Muluk*", where Al – Ghazali

underscores divine accountability: "The scales of justice must not tilt due to the opinions of rulers or the clamor of the masses. Justice is a trust from God, and every deviation from it is a betrayal of that trust" (A. Ghazali & F.R.C., 1964).

In the book *The First Islamic Reviver*, Abū Ḥāmid al-Ghazālī and his revival of the religious Sciences, Kenneth Garden reveals Al-Ghazali's perspective on "Justice as a virtue (*ṣifat*) through which rights are given to those to whom they belong." It is "the basis of all of the religious and worldly sciences." In the section on "The Second Degree" of justice, Al-Ghazali also reveals: "The second degree is the justice of the scholar of the hereafter with himself (*nafs*), because a human being is a world in miniature, just as the world is a human being writ large. Just as there are rights in the world, so too are there rights in the human being."

In this section, he says that "rights are a trust from God," and to give rights to whomever they belong is the decree of God. Every time a right is lost due to the demands of the appetites, the true order of the soul is shattered. This is an injustice that will be punished in the hereafter. Thus, "justice is a trust from God" (Garden, 2014). Al-Ghazālī also urges the upholding of basic justice in earning a living, which must be accompanied by performing good deeds beyond what is strictly required (*iḥsān*); justice will earn one salvation alone, and performing good deeds will gain one reward (*fawz*) and felicity (Garden, 2014)

Al-Ghazali frequently cautions against the corrosive effects of external pressures, warning judges and leaders to resist societal expectations or public opinion that may distort their judgment. This principle is deeply rooted in his teachings in "Ihya Ulumuddin", where he emphasizes the importance of "*ikhlas*" (sincerity) and steadfastness in fulfilling one's obligations. He urges individuals to adhere to divine commandments and maintain moral integrity, stating, "Avoid everything prohibited by Allah, fulfill all obligations prescribed by Him, and you will be among the wise. Perform righteous deeds, and you will rise in honor and distinction in this transient world" (Al-Ghazali, Hamid, & Al-Islam, 1963). This highlights the need for unwavering commitment to righteousness, free from the temptation to compromise under external influence.

In addition to external pressures, Al-Ghazali warns against the internal struggles posed by uncontrolled desires and passions. He writes, "As for desires that surge uncontrollably and are difficult to restrain, gentle efforts to calm the heart will not be effective. Instead, one must constantly exert effort to steer these desires toward the path of truth" (Al-Ghazali et al., 1963). This reflects his belief that personal inclinations can be as damaging to judgment as societal pressures, requiring constant vigilance and self-control to maintain moral clarity.

Furthermore, Al-Ghazali stresses the importance of leadership integrity and communal trust. He advises that leaders, including judges and imams, should only serve when they have the acceptance and respect of the community. He observes, "No one should lead prayer for a congregation that does not favor them. If the congregation is divided, priority should be given to the opinion of the majority" (Al-Ghazali et al., 1963). This reflects his broader concern that leadership should be rooted in trust and fairness, ensuring that decisions are not swayed by personal gain or external demands.

Through these teachings, Al-Ghazali underscores the necessity of grounding decisions in wisdom, faith, and moral responsibility. He calls for resistance to both societal pressures and internal conflicts, emphasizing that true justice and effective leadership are built upon unwavering commitment to ethical principles and divine guidance. The ethics of judges are very important in the judicial system because their decisions impact not

only individuals but also society as a whole. Judges are expected to act with integrity, fairness, and wisdom, considering their significant responsibility in upholding the law and morality. Judicial decisions often involve complex considerations. They must assess the facts, apply the law, and consider the implications of their decisions. As Sami Al-Daghistani notes regarding Al-Ghazali's views on judicial ethics, "The prophets and religious leaders necessarily made mankind rely on independent judgment, even though they knew they might fall into error" (Daghistani, 2021).

This highlights the importance of independent judgment in judicial ethics. A good judge does not merely follow the law rigidly but also considers ethical and moral values. They must be courageous enough to make morally correct decisions, even if they are unpopular (Eizeluna Farnesty et al., 2024). A judge's decisions can set precedents that affect the legal system and society for a long time. Thus, judicial ethics encompass legal knowledge, empathy, and an understanding of social context. Judges must always remember that they are guardians of justice, and every decision should reflect a commitment to ethical principles. Judicial ethics serve as the foundation for creating a fair and integrity-based judicial system. This aligns directly with the objectives of "Judicial sequestration," which seeks to insulate judicial processes from such influences. The focus on divine guidance is further elaborated in God and Humans in Islamic Thought: "The judge must act as the vicegerent of God on earth, reflecting divine justice and mercy in every verdict" (Elkaisy & Freimuth, 2006).

A central tenet of Al-Ghazali's judicial ethics is "*zuhud*," or asceticism, which serves as a moral shield against corruption. By fostering detachment from materialism, Al-Ghazali believes judges can achieve greater impartiality. The connection between Al-Ghazali's judicial ethics regarding "*zuhud*" and the practice of bribery is highly relevant, especially in the context of maintaining the integrity and morality of a judge. The concept of *zuhud*, which emphasizes self-control and detachment from materialism, serves as a strong moral shield against corruption, including bribery. In practice, bribery often arises as a result of uncontrolled worldly desires, where judges or public officials become trapped in the temptation to prioritize personal interests over justice.

Al-Ghazali asserts that "worldly desires are the chains that bind a judge's soul. To uphold justice, he must sever these ties and seek only the approval of God" (Al-Ghazali et al., 1963). This statement indicates that judges involved in bribery not only violate the law but also betray the moral responsibilities they carry. By being bound to personal interests, these judges lose the objectivity and impartiality that should be the foundation of their decision-making. The principle of separation proposed by Al-Ghazali, which aims to distance judges from environments that may create conflicts of interest, is crucial in this context. This separation is not only physical but also psychological, creating a mental space that allows judges to focus on the values of justice and integrity. In the practice of bribery, judges are often influenced by external pressures or tempting offers, which can cloud their judgment. By applying the principle of *zuhud*, judges are expected to reject such offers and remain faithful to the principles of justice.

Al-Ghazali also emphasizes the importance of silence and self-control in decision-making. He states: "Worship has ten parts, nine of which are in silence and one of which is in fleeing from people" (A. Ghazali, 2024). This silence provides judges with the opportunity to reflect and internalize the spiritual values necessary to perform their duties well. In the context of bribery, silence and self-reflection can help judges assess situations objectively and avoid decisions influenced by external temptations. Al-Ghazali's warning that "whoever speaks much slips much" (A. Ghazali, 2024), is also relevant in the context of bribery. Unchecked communication can lead to mistakes and

violations, including in the matter of accepting bribes. Therefore, self – control and awareness of the words spoken become crucial in maintaining the morality and ethics of a judge.

Finally, Al – Ghazali's call for introspection, "Blessed be whoever is occupied with his own defects rather than the defects of [other] people" (A. Ghazali, 2024), invites judges to focus more on self – improvement. In this context, introspection can help judges recognize potential weaknesses and temptations, allowing them to avoid bribery practices and remain committed to justice. Thus, Al – Ghazali's teachings on *zuhud* are not only relevant in the context of the judiciary but also serve as an important foundation in combating corrupt practices, including bribery. Self – control, moral awareness, and introspection are key to achieving justice and goodness within the judicial system.

In today's globalized and media – driven society, the impartiality of judges is frequently jeopardized by pervasive public opinion and sensational media coverage. High – profile cases, in particular, attract excessive attention that risks undermining judicial integrity. The insights of Al – Ghazali provide a compelling ethical framework to address these challenges. He asserts, "The ruler must establish barriers around the judiciary, shielding it from undue influence to preserve its integrity and the public's trust" (A. Ghazali & F.R.C., 1964). By isolating judges from external pressures, the concept of "Judicial sequestration" creates a space for impartial deliberation, enabling the judiciary to operate in accordance with ethical and divine principles.

Another crucial objective of "Judicial sequestration" is to furnish judges with an environment conducive to focused reflection. Al – Ghazali emphasizes the importance of solitude in achieving clarity of thought and divine insight: "A judge's mind must remain free from the clutter of external noise, for clarity of thought is the gateway to justice" (Al – Ghazali et al., 1963). He further argues that judges must actively withdraw from societal distractions: "Only through retreat from the world can the judge attune himself to the divine principles of justice and equity" (Al – Ghazali et al., 1963). Modern sequestration practices reflect this principle by providing judges with the necessary conditions to deliberate based solely on evidence and law.

Al – Ghazali frequently warns against the perils of material greed and political influence, which can erode judicial independence. He observes, "A judge who accepts gifts or favors is like a physician who poisons the medicine he destroys the trust placed in him" (A. Ghazali & F.R.C., 1964). This statement strongly resonates with the principle of sequestration, which seeks to limit external interactions that could introduce bias or corruption. For Al – Ghazali, justice must not only be fair but must also be perceived as fair to maintain public confidence in the judiciary. He writes, "Justice is not merely an act but a spectacle; the people must see that their rights are safeguarded without compromise". By visibly isolating judges from undue influences, "Judicial sequestration" reaffirms the judiciary's commitment to impartiality and strengthens public trust.

Al – Ghazali asserts that judicial decision – making necessitates a balance between rationality and morality. He contends, "The judge acts as a bridge between divine justice and human imperfection, guided by reason and faith alike" (Elkaisy & Freimuth, 2006). This perspective underscores the importance of maintaining judicial focus and integrity, which can be achieved through sequestration practices.

In his ethical framework, Al – Ghazali emphasizes the significance of "*zuhud*," which serves as a moral compass for judges. He notes, "When a judge detaches himself from worldly desires, he gains the clarity and courage to uphold justice, regardless of external pressures" (Al – Ghazali et al., 1963). This ideal aligns seamlessly with the sequestration process, which provides an environment for judges to fulfill their ethical and judicial



responsibilities. Justice, according to Al – Ghazali, is a sacred trust bestowed by God. He warns judges of the severe consequences of failing in this duty: "The judge is a steward of God's justice, entrusted to uphold the truth without fear or favor" (A. Ghazali & F.R.C., 1964). By protecting judges from external influences, sequestration upholds the sanctity of this trust.

Moreover, Al – Ghazali emphasizes the importance of judicial rulings being aligned with the demands of truth and justice. He states, "When deciding the law of a case, one must decide according to the demands of truth and justice, and in doing so, one should reach the level of *ijtihad* to provide a *fatwa* that is appropriate for the time, place, and people based on the *Syari'ah* of Allah" (Hawa, 1998). He also warns, "A judge should not impose a sentence on someone when in a state of anger, as it may lead to actions that exceed the limits or may contain elements of venting personal grudges, causing the decision to be influenced by passion. Furthermore, he asserts, "Every servant who has the power with their hands and tongue to facilitate the struggle to uphold dignity will receive a share of this name.

However, they will sin if they engage in humiliating those who should not be humiliated and honoring those who should be humiliated". This perspective reinforces the necessity for judges to engage in deep reflection and *ijtihad*, ensuring their decisions resonate with contemporary contexts while remaining rooted in divine principles. Additionally, Al – Ghazali emphasizes, "The first justice that must be realized within oneself is to make desires and anger subservient to reason and religion. If reason is made a servant to desires and anger, then one has acted unjustly" (Hawa, 1998). This principle highlights the internal struggle judges must navigate to maintain their integrity and uphold justice.

The implementation of "Judges equestration" in Indonesia must take into account cultural and social sensitivities. Al – Ghazali's teachings provide a framework for fostering public acceptance of judicial reforms, emphasizing the ethical roots of justice: "Educating the public about the virtues of justice and its divine roots is essential for fostering acceptance of judicial reforms" (A. Ghazali & F.R.C., 1964). Establishing sequestration protocols requires substantial resources; however, Al – Ghazali emphasizes the importance of investing in justice: "The cost of injustice far outweighs the expense of upholding fairness; a nation built on justice endures, while one built on tyranny crumbles" (Al – Ghazali et al., 1963). By prioritizing judicial integrity, nations can strengthen their legal systems and build trust among citizens.

Al – Ghazali's ethical framework offers timeless insights into the principles of judicial independence and impartiality. By aligning these teachings with modern practices like "judicial sequestration," legal systems can uphold justice in an increasingly complex and interconnected world. As Al – Ghazali reminds us, "A nation that upholds justice is like a tree planted by a river, its roots deep and its fruit abundant. But a nation that neglects justice is like a barren desert, where nothing can flourish" (A. Ghazali & F.R.C., 1964). Through thoughtful application and public engagement, sequestration can become an integral part of judicial reform, fulfilling Al – Ghazali's vision of a just and moral society.

## CONCLUSION

The concept of Judicial sequestration, if implemented within Indonesia's judiciary, holds significant potential to strengthen judicial independence and restore public trust. By adapting jury sequestration practices from common law systems and integrating them with Al – Ghazali's principles of judicial ethics, this approach offers a mechanism that not

only shields judges from external pressures but also embeds a strong moral and spiritual foundation. Isolating judges during trials serves as a critical safeguard to ensure that verdicts are based solely on evidence and law, free from political influence, public opinion, or personal interests.

The integration of Islamic moral values, as emphasized by Al-Ghazali, adds a profound ethical dimension to this concept. For Al-Ghazali, justice is not merely a professional duty but a moral trust before God and society. Thus, Judicial sequestration is not just a technical procedure, but a strategic step toward building a judiciary that is clean, transparent, and trustworthy—where judges not only act impartially but are also perceived as impartial in the eyes of the public.

Implementing this concept requires comprehensive policy support, including physical isolation for judges in sensitive cases, training to maintain impartiality, the use of technology for transparency, and public awareness campaigns. If applied consistently, such reforms can create a judiciary resilient against corruption and external interference, while advancing the rule of law in Indonesia. With a foundation rooted in both legal safeguards and moral values, the judiciary can truly embody the ideals of justice, integrity, and public trust.

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