Judge's Logical Fallacies And Prospects For The Convict In Supreme Court Decision Number 813 K/PID/2023

Elya Kusuma Dewi
Universitas Muhammadiyah Cirebon, Indonesia
elya.kusuma@umc.ac.id

Muhammad Abdul Azis
Universitas Muhammadiyah Cirebon, Indonesia
azis89148@gmail.com

Dyah Adriantini Sintha Dewi
Universitas Muhammadiyah Magelang, Indonesia
dyahasd@ummgl.ac.id

Tanto Lailam
Universität zu Köln, Germany
tlailam@smail.uni-koeln.de

Clarizze Yvoine Mirielle
Université de la Rochelle, France
cymirielle@outlook.fr

Submission Track:	ABSTRACT
Received: November 30, 2023	**Purpose of the study:** This research scrutinizes the judge's logical fallacy in considering the life history and emotional and psychological condition of the Defendant in Supreme Court Decision Number 813 K/Pid/2023 against the Defendant who was found guilty in a case of premeditated murder, which potentially results in a lighter sentence for the Defendant.
Final Revision: February 13, 2024	**Methodology:** The research methodology used doctrinal methods. Data were collected, selected, grouped, and arranged in narrative form and analyzed qualitatively. The approach used in this research was a normative approach with legal theory analysis to obtain a complete picture of the judge's considerations in implementing decisions. The analysis utilized was content analysis, i.e., interpreting the meanings intended by and in the judge's considerations in Supreme Court Decision Number 813 K/Pid/2023.
Available online: June 27, 2024	**Results:** The research findings exhibited the life history and social circumstances of the Defendant, who, at that time, served as a member of the Indonesian National Police, with his last position as Kadiv Propam (Head of the Professional and Security Division) who had contributed to the state by contributing to maintaining order and security

Corresponding
Author:
Elya Kusuma
Dewi
fh@umc.ac.id

and upholding the law in the country. The Defendant having served as a member of the National Police for approximately 30 years is a consideration that reduces the sentence. This becomes a logical fallacy for judges, resulting in the impact of public distrust in law enforcement.
Applications of this study: The purpose of this research is to elucidate the dynamics of judges' logic in making logical legal considerations in accordance with applicable rules.
Keywords: Judge's Consideration, Death Penalty, Court Decision.

ABSTRAK

Tujuan: Penelitian ini mengkaji kekeliruan pemikiran hakim dalam mempertimbangkan riwayat hidup dan kondisi psikologis emosional terdakwa dalam Putusan Mahkamah Agung Nomor 813 K/Pid/2023 terhadap terdakwa yang dinyatakan bersalah dalam kasus pembunuhan berencana yang berpotensi menyebabkan hukuman yang lebih ringan bagi terdakwa.
Metode: Metodologi penelitian menggunakan metode doctrinal, Data dikumpulkan, dipilih, dikelompokkan, dan dirangkai dalam bentuk narasi serta dianalisis secara kualitatif. Pendekatan dalam penelitian ini adalah pendekatan normatif analisis teori hukum sehingga dapat memperoleh gambaran secara lengkap mengenai pertimbangan hakim dalam penerapan putusan. analisis yang digunakan content analysis, yaitu menafsirkan makna-makna yang dimaksud oleh dan dalam pertimbangan hakim dalam Putusan Mahkamah Agung Nomor 813 K/Pid/2023.
Hasil: Temuan penelitian menunjukkan bahwa riwayat hidup dan keadaan sosial terdakwa dimana saat itu terdakwa menjabat sebagai Anggota Kepolisian Negara Republik Indonesia dengan jabatan terakhir sebagai Kadiv Propam pernah berjasa kepada negara dengan berkontribusi ikut menjaga ketertiban dan keamanan serta menegakkan hukum di tanah air, Terdakwa telah mengabdi sebagai anggota Polri kurang lebih 30 tahun telah menjadi pertimbangan yang memperingan pemidanaan sebagai kekeliruan hakim dalam berpikir, sehingga dapat menimbulkan dampak ketidakpercayaan masyarakat kepada penegak hukum.
Aplikasi penelitian: Kegunaan penelitian ini adalah untuk menjelaskan dinamika logika hakim dalam membuat suatu pertimbangan hukum yang logis sesuai aturan yang berlaku.
Kata Kunci: Pertimbangan Hakim, Hukuman Mati, Putusan Pengadilan.

Introduction

The judge is the axis around which the wheels of justice turn. In making decisions, judges do not necessarily hold criminals accountable and ensure the legal system in a country is upheld but also act as a benchmark for how capable they are of satisfying the thirst for justice in society (Reksodiputro, 1994: 84). Little Mitchell (2010) emphasized that judges must be impartial and logical. Judges must also put politics and prejudice aside and make rational decisions. However, this does not appear to be in accordance with expectations, as shown in Decision Number 813 K/Pid/2023, which weakens efforts to seek justice (Prabawanti, 2023; Rumadan, 2017).

This resulted in the death penalty against the Defendant with the initials "FS" in Decision Number 796/Pid.B/2022/PN JKT.SEL rested on the planning and execution of the murder using a firearm against the victim with the initials "NYH" based on the confession of FS's wife, whom the victim had abused in Magelang. FS was found guilty of the criminal offenses of "participating in premeditated murder" and "committing unlawful acts that resulted in disruption of electronic systems together." The death penalty was then imposed based on Decision Number 53/PID/2023/PT, taking into consideration Article 340 of the Criminal Code in conjunction with Article 55 section (1) 1st of the Criminal Code and Article 49 in conjunction with Article 33 of Act Number 11 of 2008 concerning Information and Electronic Transactions in conjunction with Article 55 section (1) 1st of the Criminal Code and Act Number 08 of 1981 concerning the Criminal Procedure Code (KUHAP).

Nevertheless, the death sentence was canceled following the issuance of Supreme Court Decision Number 813 K/Pid/2023 dated August 8, 2023, which commuted defendant FS's death sentence to life imprisonment. With the judge's direction referring to Act Number 1 of 2023, consideration of leniency is based on the Defendant's psychological and emotional condition because the Magelang incident is considered an attack on the honor and dignity of the Defendant and his family. Therefore, the Defendant's emotions are taken into consideration. However, the truth of the incident in Magelang has not been proven. Apart from that, another consideration is that Defendant has carried out his role as a member of the National Police for approximately three decades. This has implications for the prospect of FS convictions and reduces public satisfaction with judicial institutions (Martiar, 2023; Yulika, 2023). In line with Baum's (1997:149) argument, despite the great progress that legal scholars have made, one is still far

from achieving a truly satisfactory explanation of judicial behavior. Changes in punishment triggered the authors to test the *ratio legis* of judges in their decisions, which contained elements of logical confusion (Nikolopoulou, 2023).

In Supreme Court Decision Number 813 K/Pid/2023, the considerations given have implications for the prospect of FS punishment in the future. A prospect refers to a potential event or situation that can have a particular impact. Potential prospects and optimistic hopes are for positive results in the future (Fauziyah, 2021). The issuance of Supreme Court Decision Number 813 K/Pid/2023 has implications for the FS convict who is currently serving his sentence.

For that reason, this article aims to analyze the logical fallacy in the judge's considerations regarding the commutation of FS sentences. This is carried out by looking at the relationship between relevant legal norms, the judge's arguments, and the legal consequences faced by the convict. In addition, this article looks at the implications of changing the sentence for the Defendant by looking at the consequences of Supreme Court Decision Number 813 K/Pid/2023.

RESEARCH METHOD

This research fell into the realm of doctrinal legal research by conducting a comprehensive analysis of literature, legal theories, and expert opinions to gain an in-depth understanding of a legal phenomenon focusing on judges' logical fallacies in implementing Supreme Court Decision Number 813 K/Pid/2023. Next, the data was analyzed qualitatively through content analysis to describe the meaning contained in the judge's considerations (Soekanto, 2009:13-14). This analysis combined rhetorical methodology and psycho-criminology to examine the content of the judge's reasoning and gain insight into the psychological factors that might influence his reasoning processes. This research aimed to provide a comprehensive explanation regarding the logical fallacy by the judge in Supreme Court Decision Number 813 K/Pid/2023. This understanding will be an important element in explaining and understanding the complex nature of the legal issue being investigated.

RESULTS AND DISCUSSION

Analysis of the Judge's Considerations in Considering the Supreme Court Decision Number 813 K/Pid/2023

In Supreme Court Decision Number 813 K/Pid/2023, the consideration regarding the Defendant's life history and social condition is because the Defendant, who once served as Kadiv Propam (Head of the Professional and Security Division) in the Indonesian National Police, has made great contributions to the state by maintaining order, security, and law enforcement for approximately 30 years. Apart from that, the Defendant has admitted his mistake and is willing to take responsibility for his actions. These things are in accordance with the aim of punishment to instill a sense of regret in the perpetrator (Sure, 2020).

Another consideration is the psychological condition of the Defendant, who was still emotional. The judge considered the Defendant's mistake in ordering his aide with the initials "RE" to participate in the shooting and murder of victim NYH. This was influenced by the Magelang incident, which caused deep anger and emotional stress because the incident was considered to have threatened his self-esteem and that of his family. Even though the specifics of the Magelang incident could not be proven with certainty, these considerations have given rise to dissenting opinions, including from the Supreme Court Judges with the initials "Judge J" and "Judge D".

"Judge J" was of the opinion that the reasons for cassation submitted by the Public Prosecutor and the Defendant could not be justified. Referring to the *Judex Facti* decision of the High Court, which upheld the *Judex Facti* decision of the District Court, it was stated that the Defendant was legally and convincingly proven guilty of committing the crime of "Participating in premeditated murder" and Without the right to carry out acts which resulted in the electronic system not working as it should, which were carried out together."

"Judge J" was of the opinion that the court had followed the rules and had not exceeded its authority. "Judge J" agreed with Defendant's argument in the appeal that Defendant committed this crime because he felt his pride and honor had been injured by the incident involving his wife, the Witness, with the initials "PC". However, "Judge J" said that the law did not justify this motive. The Defendant was a high-ranking National Police officer with a high position, namely Kadiv Propam (Head of the Professional and Security Division) of the National Police. The Defendant should have been able to examine the victim and punish him if he found any mistakes or violations committed by NYH.

Nevertheless, in this situation, the Defendant did not do this at all, so the Defendant's actions recklessly took the victim's life under the pretext of maintaining dignity. Basically, the

Defendant's defense was that his pride and honor were injured because of what happened to his wife. Still, this reason, as stated in the Defendant's cassation memo, is legally groundless and must be rejected.

On the other hand, "Judge D" said that the reasons put forward by the Public Prosecutor and the Defendant in filing the cassation were baseless. He said that the Courts of First Instance and Appeals did not misapply the law and made decisions on the Defendants' cases based on important legal facts. This means that the court has done its job well in hearing and deciding the case. "Judge D" also said that the Prosecutor basically agreed with what was examined by the judge (*Judex Facti*) that the Defendant collaborated with other people to plan and carry out the murder and did things that led to the destruction of the electronic system.

"Judge D" also explained that the Defendant reacted emotionally when his wife, Witness PC, told him about the abuse she had experienced. The Defendant was indeed very emotional, but because he was a senior police officer, he should have double-checked the report and not just believed his wife's story. Seeing that the Defendant also shot the victim, the shooting might have meant the victim was dead because he pointed the gun at the victim's head. This indicates how serious the Defendant's actions were in this incident. Apart from that, the Defendant informed his aide and wife about the incident. This means that the Defendant had thought about what they were going to do before doing it.

"Judge D" said that based on all the things previously mentioned, the Defendant, who was a police officer and had a high position in the Republic of Indonesia Police, made decisions and took actions without explaining them properly (Faith and Fiction, 2023). This action made the victim's family and the community very sad. Therefore, "Judge D" said that the Defendant's cassation must be rejected, and the *Judex Facti* decision must be upheld.

In this case, the authors outline an analysis of the views of "Judge J" and "Judge D" using a criminal theory framework with rhetorical and psycho-criminological interpretation techniques. Rhetorical techniques involve analyzing a judge's reasoning to determine the use of legal language, which includes significant words, phrases, and technical terms. This helps in understanding the structure of legal reasoning to facilitate understanding of the content and the judge's reasoning in forming the legal arguments presented. Psycho-criminology techniques are used to examine psychological aspects that can influence criminal behavior. Underlying motivations and emotions that may influence the Defendant's decision-making are analyzed.

The first is the rhetorical approach. "Judge J" used more conservative rhetoric and adhered to strict enforcement of the law. He emphasized that the Defendant was a law enforcement officer and should act in accordance with the applicable code of ethics and procedures (Iskander, 2022). This reflects views that maintain authority and more rigid measures in law enforcement. Then, "Judge D" used more liberal rhetoric. He criticized the Defendant for his lack of professionalism and ability to handle situations involving emotions (Sweeney, 2022). This signals a more open view of changes in law enforcement and encourages law enforcement officials to act more wisely and empathetically in cases like this.

Second is the psycho-criminology approach. "Judge D" noted the Defendant's emotions and emotional reactions to his wife's report. This shows a deeper understanding of psychology and the impact of emotions on criminal activity. He also discussed the Defendant's plan to eliminate traces as a well-planned act, showing concern for the psychological factors underlying criminal acts.

From the explanation above, the authors are of the opinion that the judge's decision to change the death penalty to life imprisonment in Supreme Court Decision Number 813 K/Pid/2023 was a mistake. By ignoring the patterns of reasoning in a particular field, logical processing fallacies could produce conclusions that are not in accordance with the prevailing thinking in that field.

In the field of logic, these deviations are also characterized as "fallacies" according to the Philosophy of Science. To ensure that there are aspects of error in a conclusion or decision, the judge must first have a comprehensive understanding of the subject matter of the case, as determined by the relevant scientific disciplinary framework. Apart from that, conclusions can also be drawn again through the logical, dialectical, or procedural layers. This research focuses on the relationship between the written legal reasons presented in the decision (legal considerations). According to the authors, in this case, the death penalty should be applied.

The death penalty is a sanction imposed for serious crimes such as premeditated murder; even though the Defendant expressed self-respecting motives, as a law enforcer, he should have known that justice must be served through legitimate legal channels, not by criminal means. Based on the legal basis of Article 340 of the Criminal Code and Article 55 section (1) 1st of the Criminal Code, which regulates the crime of premeditated murder, with the fact that the Defendant was proven to have committed a criminal act together with the Witness, the death

penalty is a sanction commensurate with the level of the crime he committed, even though the Defendant stated that his actions were triggered by emotions over what happened to his wife.

The Defendant, as a high-ranking law enforcement officer, should have acted professionally and treated the situation more appropriately, such as conducting an investigation and imposing sanctions if necessary. This is also reinforced in research conducted by Teguh Kurniawan (2022), which explains that a law enforcer, especially the police, must set a good example and obey the rules of the community. The authors also agree with "Judge D"'s opinion regarding the seriousness of the Defendant's actions. The Defendant was involved in an act of premeditated murder and even actively participated in the act. The scenario was designed by the Defendant to get away with it, and the executor showed careful planning and involved many perpetrators to carry out this inhumane act.

Implications of Sentencing Changes for Defendants

After carefully examining the recently passed Article 69 of the Criminal Code, using a futuristic interpretation involving an explanation of the law by considering the potential impact of laws that have not yet been enacted (Hanifah & Muliawan, 2020), it becomes clear that there is a provision where the sentence for FS can potentially be reduced upon completion minimum 15 years in prison (Putra & Sutanti, 2020). This special legal provision, as outlined in the article mentioned above, delineates the possibility of reduced sentences for those found guilty of the crime, subject to the fulfillment of the above-mentioned temporary conditions (Nugroho, 2021). In a hypothetical scenario where a Presidential Decree is issued and then evaluated by the Supreme Court, it is plausible that the applicable sentence for FS could potentially be reduced, resulting in a revised prison sentence covering a duration of approximately 20 years.

A statement that Supreme Court Decision Number 813 K/Pid/2023 is fundamentally unfair, as articulated by Kurniawan (2013), underscoring the idea that the outcome of every judicial decision is intrinsically linked to the personal interests of the adjudicating judge. These observations raise significant concerns regarding the impartiality and fairness of the verdict. Apart from handing down a verdict, the decision also took into account mitigating factors for FS.

Therefore, it can be said that the imposition of the death penalty is a justifiable and appropriate action to respond to this heinous crime. By imposing the death penalty on the Defendant, the court has effectively upheld and safeguarded the basic principles of justice and

legal certainty that underpin this country's legal system as a clear statement that serious violations will be appropriately rewarded in accordance with the established legal framework. Considerations related to planning, emotion, and tampering with electronic systems as an attempt by the Defendant to cover up his crime, which does not reflect a good law enforcement attitude, can be referred to as reasons for imposing the death penalty on the Defendant.

CONCLUSION

It can be concluded that in Supreme Court Decision Number 813 K/Pid/2023, there is a logical fallacy in the decision consideration. The judge provided considerations based on the Defendant's life history and social situation, as well as the Defendant's psychological condition, as a basis for changing the death penalty to life imprisonment. However, this reflects that there are differences in the assessment of the severity of the crime committed by the Defendant. The difference in views between "Judge J", who emphasized the authority of the law and the need to maintain law enforcement ethics, and "Judge D", who paid more attention to psychological aspects, gave rise to confusion regarding the consistency of law enforcement. The judge's fallacy in considering the self-respecting motive of the Defendant, who was a police officer, as a justification for the crime he committed created uncertainty regarding justice and gave an ambiguous signal to law enforcement.

The implications of changing the Defendant's sentence in Supreme Court Decision Number 813 K/Pid/2023 illustrate the potential for changes in the legal system, especially related to the implementation of Article 69 of the Criminal Code, which has just been passed. This article provides the possibility of reducing the sentence for the Defendant after serving a minimum sentence of 15 years in prison. With a futuristic interpretation, it seems that a revised prison sentence of around 20 years could become a reality, subject to the fulfillment of interim conditions. However, there is a view that the decision gives the impression of being unfair and raises concerns about impartiality and fairness in court decisions.

REFERENCES

Book
Baum, L. (1997). *The Puzzle of Judicial Behavior*. Ann Arbor: University of Michigan Press.
Klein, Mitchell, G. (2010). Defining good judging. In *The Psychology of Judicial Decision Making*. Oxford: Oxford University Press.

Reksodiputro, M. (1994). *Sistem Peradilan Pidana Indonesia*. Jakarta: Universitas Indonesia.

Soekanto, S. (2009). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: Radja Grafindo Persada.

Journals

Amini, T. W., & Fauzi, A. (2023). Peran Kekuasaan Absolut Dalam Birokrasi Aparat Kepolisian Analisis Studi Kasus Tindak Kriminal Irjen Ferdy Sambo. *SOSIOLOGI: Jurnal Ilmiah Kajian Ilmu Sosial Dan Budaya*, *25*(1), 89–107. https://doi.org/10.23960/sosiologi.v25i1.531

Hanifah, F. N., & Muliawan, A. (2020). Implementasi Penerapan Penafsiran Hakim Tentang Pelanggaran Unsur Bertentangan Dengan Kewajiban Pegawai Negeri Dalam Perkara Tindak Pidana Korupsi. *JCA of Law*, *1*(1), 117–127. Retrieved from https://jca.esaunggul.ac.id/index.php/law/article/view/13

Iskander, W. M. (2022). Efektivitas Pelaksanaan Program Pengembangan Etika Profesional Sebagai Upaya Mencegah Tindakan Pidana Anggota Polri. *Swara Justisia*, *6*(3), 277–290. https://doi.org/10.31933/ujsj.v6i3

Nugroho, T. (2021). Penerapan Asas in Dubio Pro Reo Pada Putusan Mahkamah Agung Republik Indonesia Dalam Perkara Pidana. *Jurnal Ilmiah Hukum Kenotariatan*, *10*(1), 86–98. https://doi.org/10.28946/rpt.v10i1.1189

Putra, A. W., & Sutanti, R. D. (2020). Kebijakan Formulasi Pidana Mati Bersyarat dalam Perspektif Pembaharuan Hukum Pidana Indonesia. *Jurnal Pembangunan Hukum Indonesia*, *2*(3), 319–330. https://doi.org/10.14710/jphi.v2i3.319-330

Rumadan, I. (2017). Peran Lembaga Peradilan Sebagai Institusi Penegak Hukum Dalam Menegakkan Keadilan Bagi Terwujudnya Perdamaian. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, *6*(1), 69. https://doi.org/10.33331/rechtsvinding.v6i1.128

Sweeney, K. (2022). Understanding emotion as a strategy in policing. *Police Journal*, *95*(3), 473–491. https://doi.org/10.1177/0032258X211018496

Teguh Kurniawan, A. H. A. (2022). Perilaku Ramah Lingkungan Anggota Kepolisian Negara Republik Indonesia: Sebuah Tinjauan Literatur. *Jurnal Ilmu Kepolisian*, *15*(3), 19. https://doi.org/10.35879/jik.v15i3.344

Yakin, N. (2020). Tujuan Pemidanaan Dan Pertimbangan Hakim Dalam Menjatuhkan Pidana Terhada Pengguna Sekaligus Pengedar Narkotika. *Indonesian Journal of Criminal Law and Criminology (IJCLC)*, *1*(1), 20–32. https://doi.org/10.18196/ijclc.v1i1.9103

Internet

Fauziyah, R. N. (2021). Arti Prospek, Cara Menemukan Prospek, dan Mengelola Prospek. Retrieved November 27, 2023, from www.gramedia.com website: https://www.gramedia.com/best-seller/arti-prospek/

Kurniawan, W. (2013). Demi Keadilan Berdasarkan Ketuhanan Yang Maha Esa' Sebuah Janji Hakim Pada Sang Pencipta. Retrieved November 28, 2023, from www.umm.ac.id website: https://www.umm.ac.id/en/opini/demi-keadilan-berdasarkan-ketuhanan-yang-maha-esa-sebuah-janji-hakim-pada-sang-pencipta.html

Martiar, N. A. D. (2023). Keluarga Brigadir J Kecewa MA Kurangi Hukuman Ferdy Sambo. Retrieved November 27, 2023, from www.kompas.id website: https://www.kompas.id/baca/polhuk/2023/08/09/keluarga-brigadir-j-kecewa-ma-kurangi-hukuman-ferdy-sambo

Nikolopoulou, K. (2023). Logical Fallacies. Definition, Types, List & Examples. Retrieved November 27, 2023, from www.scribbr.com website:

https://www.scribbr.com/fallacies/logical-fallacy/

Prabawanti, M. A. H. (2023). Ragam Reaksi atas Vonis Mati Ferdy Sambo. Retrieved November 27, 2023, from nasional.tempo.co website: https://nasional.tempo.co/read/1691012/ragam-reaksi-atas-vonis-mati-ferdy-sambo

Yulika, N. C. (2023). Kecewa Ferdy Sambo Batal Dihukum Mati, Megawati: Saya Bukan Orang Hukum, Tapi Bisa Mikir. Retrieved November 27, 2023, from www.liputan6.com website: https://www.liputan6.com/news/read/5376712/kecewa-ferdy-sambo-batal-dihukum-mati-megawati-saya-bukan-orang-hukum-tapi-bisa-mikir