



# The Premarital Drug Testing in Binjai Mayor Regulation Number 39 of 2017 in Terms of *Maqāṣid Asy-Syarī'ah*

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## **Abstract:**

*The current phenomenon, many Indonesian people, especially in the city of Binjai, ended their household ark with divorce, one of which was drug. Then premarital drug testing in Binjai mayor regulation number 39 of 2017 as a requirement to get a control card / NA. Every rule / policy issued certainly has a purpose. Then Islam has rules (Shari'at) which aim to produce benefits and reject mafsadat. As for the benefits of drug testing is to maintain religion, self, reason, descent and wealth. This study aims to determine maqāṣid asy-syarī'ah against premarital drug testing in Binjai mayor regulation number 39 of 2017. Then the result is maqāṣid asy-syarī'ah against pre-marital drug testing in Binjai mayor regulation number 39 of 2017. Then the result is an existence in terms of maqāṣid asy-syarī'ah towards pre-marital drug testing in Binjai mayor regulation number 39 year 2017. Then the result of maqāṣid asy-syarī'ah towards pre-marital drug testing in Binjai mayor regulation number 39 year 2017. 2017 is showing the benefit of preserving religion, self, reason, descent and wealth.*

## **Keywords:**

*drug testing; Mayor regulation; Maqāṣid Asy-Syarī'ahnya*

## **I. Introduction**

Marriage is a very strong contract (ميثاقاً غلوظاً) to obey Allah's commands, and carrying out them is a form of worship (Rofiq, 2015: 51). In the Marriage Law it is mentioned that marriage is a physical bond between a man and a woman as husband and wife with the aim of forming an eternal and eternal family based on Belief in the Almighty God. The purpose of marriage is not just to limit biological fulfillment or sexual impulse, but it has important goals related to social, psychological, and religious.

But the current phenomenon, many Indonesian people, especially in Binjai City, ended their household ark with divorce, one of the causes being drugs. The Binjai Religious Court noted that the number of divorces Binjai City increased from the usual years. That in 2015 the number of divorce cases in the Binjai Religious Court totaled 473 cases and increased in 2016 to 574 cases. Claims for divorce in 2015 amounted to 366 and increased in 2016 to 449. This means that the number of divorces in Binjai City was more dominant by women (Utari, 2018: 71). Although the number of cases that entered from January 2017 to December 2017 slightly decreased to 557, but from January 2018 to November 2018 it increased again to 619 cases and rose in 2019 to 627 cases (from [http://siip.pa-binjai.go.id/stat\\_course](http://siip.pa-binjai.go.id/stat_course)). According to the Clerk of the Binjai City Religious Court (Friday, 29/11), the influencing factor was the most dominant drug, aside from drugs, as well as the economy.

Then premarital drug testing in Binjai Mayor Regulation Number 39 of 2017. As a requirement to get a control card / NA. Every rule / policy issued certainly has a purpose. Then Islam has rules (Shari'at) which aim to produce benefits and reject mafsadat. As for the benefits to safeguard religion, self, reason, descent and wealth. This study aims to determine

*maqāṣid asy-syarī'ah* against premarital drug testing in Binjai Mayor Regulation Number 39 of 2017.

Imam Syāṭibi theory in *maqāṣid asy-syarī'ah* consists of guarding religion, self, reason, religion, descent and wealth. This research is a descriptive analysis research, which describes or gives a description of the object under study through data or samples that have been collected as they are without analyzing and making conclusions (Sugiono, 2009: 29). This research uses the approach of legal sociology (sociological juridical), which identifies and conceptualizes the law as a real and functional social institution in a real living system (Soekanto, 1986: 51).

This type of research in this research is empirical juridical that is studying the applicable legal provisions and what happens in reality in the community. (Waluyo, 2002: 15) Or in other words that is a study conducted on the actual situation or real conditions that occur in the community with a view to knowing and finding the facts and data needed, after the data needed is collected then leads to the identification of problems which ultimately leads to problem solving (Waluyo, 2002: 15).

So this research was carried out incentives throughout this study. That is, that this study is examining premarital drug testing in Binjai mayor regulation number 39 of 2017 in terms of *maqāṣid asy-syarī'ah*, so that researchers analyze later on how to review *maqāṣid asy-syarī'ah* against pre-marital drug testing in Binjai Mayor Regulation Number 39 of 2017.

## II. Research Methods

Sources of data used in this study were taken from primary data and secondary data. Primary data is data obtained directly from the first source related to the problem to be discussed (Amiruddin, 2006: 30). Data sources were obtained directly from the field by interviewing: Binjai City Ulama, Binjai Religious Court, BNNK Binjai, Religious Affairs Office. Secondary data is data obtained from books as supplementary data sources for primary data. Secondary data sources of this research are data obtained by conducting literature reviews such as scientific books, research results and so on (Marzuki, 1983: 56). Secondary data includes documents, books, research results in the form of reports, and so on (Soekanto, 1986: 12). The book which is the secondary source of data is *al-Muwāfaqāt's* book by Imam Syāṭibi, the study of *maqāṣid asy-syarī'ah*.

Data collection techniques are the most important step in research, because the main purpose of research is to get data. Without knowing data collection techniques, the researcher will not get data that meets the data standards set (Sugiono, 2009: 308). To obtain data related to this research, data collection techniques are needed. Data that has been collected by means of observation, interviews, and documentation (Sugiono, 2009: 309).

1. Observation as a data collection technique has specific characteristics when compared to other techniques, namely interviews and questionnaires. This technique requires observations from researchers both directly and indirectly on the research object. The instruments that can be used are observation sheets, observation guides. Some information obtained from observations include: space (place), actors, activities, objects, actions, events or events, time and feelings (Noor, 2013: 140).
2. The interview is used as a data collection technique if the researcher wants to conduct a preliminary study to find problems that need to be investigated, and also if the researcher wants to know things from the respondents in more depth and the number of respondents is small / small. This data collection technique bases itself on self-report or self-report (Sugiono, 2009: 194).

3. Documentation is the collection, processing and storage of information in the field of knowledge. The document is every written material or film (Noor, 2013: 140). Data analysis, then after all the data collected both from interviews, observations and documentation studies, the next step is to conduct data analysis. The data analysis that has been used in this study is as follows; (a) Data reduction is a way of showing the process of selecting, focusing, simplifying, abstracting, translating written data from field notes; (b) Data display is the process of organizing and organizing data in such a way as to enable conclusions to be drawn from it. (c) After displaying the data, verification is also carried out at the same time drawing conclusions to see the implications of the findings in the study (Iskandar, 2009: 139-142)

Test the validity of the data in research, often only emphasized on the validity and reliability test (Sugiono, 2009: 363). Test the credibility of the data or trust in the quality of research results data, among others; Extension of Participation, Finding Data Cycle Similarity, Observation Persistence, Triangulation, Negative Case Study, Adequacy of References, Detailed Descriptions, and Auditing (Iskandar, 2009: 885)

### III. Discussion

*Maqāṣid asy-syari'ah* literally means the purpose of law. *Maqāṣid* from the word *qaṣada* which means purpose. The purpose or expected outcome of the legislation / laws (Iskandar, 2009: 885). *Maqāṣid asy-syari'ah* has been directly mentioned in the Qur'an and Sunnah or inferred from this by a number of scientists. All of these things say the urgency of fulfilling the *maslahah* (جواب المصالح) from all humans and to save them from danger (دفع المناسد / درء المناسد). In terminology *maqāṣid* means the meanings and wisdoms and the like that God wants in each of the Shari'ahs, both general and specific, to ensure the benefit of His servants. The meaning of 'Meaning' here is cause, purpose and nature. '*Hikmah*' means the nature, the nature of Islamic shari'ah, which is getting *maslahah*. 'Wanted by God in every shari'ah' is meant that God wants in His shari'ah. The meaning of 'both general and specific' includes general shari'ah which contains sharia propositions and specifically contains laws. While the meaning of in order to ensure the benefits of His servants is that what is prescribed by God is nothing but the benefits of His servants in the world and the hereafter (Al-Yubi, 1998: 37).

Regulations or policies made by Binjai Mayor have a good purpose in the form of the benefit of the people of the city of Binjai. Because basically the purpose of the shari'ah is for the benefit of mankind, be it related to religion, self, reason, descent and wealth. This is in accordance with the results of the interviewer's interview with the Head of Indonesian Ulama Council Binjai:

"The purpose of the Shari'ah is to bring benefit to mankind. Both the benefits associated with religion, self, reason, descent, and property. The mayor's regulation is substantial, because it aims to keep the couple who wants to get married, to reach *sakinah mawaddah warahmah*. New mayor regulations reach the benefit if they are carried out seriously and under strict supervision in accordance with the existing SOP. Why? Because if it is not carried out seriously and under strict supervision it will be like a person who takes a health certificate from the Puskesmas without a check, just write the name and sign then pay Rp. 10,000-, the benefit goal will not be achieved.

Based on the results of the interview excerpt above, it can be analyzed and concluded that the mayor's regulations are substantially good but do not necessarily achieve benefits before fulfilling several procedures, both implementation and supervision procedures. The benefits obtained from these regulations consist of guarding religion, protecting oneself,

protecting intellect, guarding offspring, and protecting property. As explained by the Head of Indonesian Ulema Council Binjai:

"When the regulation is under strict supervision and the existing SOP will achieve benefits regarding the urine test. Guarding religion, because religion forbids all things that damage. Whether it's self-destruction, reason, and so forth. Then take care of yourself, then guard the mind, because the drug is wrong and everything that is illegal is forbidden because it disturbs the mind. If the mind is damaged, then everything will be damaged, and then take care of the offspring, due to giving birth to powerful generations. If the parents are either one or both drug users, it will certainly affect physically, mentally and spiritually the branch of the baby that will be born. And the last thing to protect the property, because when someone has become a drug addict then, can make it a criminal, robber, thief and can harm the family and others.

Based on the results of the interview excerpt above, it can be analyzed and concluded that the achievement of the objectives of a policy / regulation if carried out seriously and strict supervision based on the SOP so that benefit will be achieved both to maintain religion, self, reason, descent, and treasure.

*Maqāṣid* is the goal to be achieved in doing something to create harm to humans. One of the targets of husband and wife couples who want to be achieved with a urine test is to find out health that basically every human being wants a life and a healthy, peaceful and happy life, even though not always what is thought and desired is achieved.

Islam as a religion is very concerned about human existence, unfolding a firm concept of a good life to humans, for example about whether life and life, and where the direction of its purpose. If the purpose of life in a healthy form can already be applied in the area of the family, then surely the goal of happiness in the world and the hereafter will also be achieved. One of the supports for this happiness is having a healthy body. So that humans can worship Allah Almighty, even with health it can also place humans getting a second favor after faith, as well as evidence in the realization of the Arabic proverb:

العقل الياوم لذي الجسم الياوم

"Common sense is in healthy body."

*Al-Syāri'* as the law-maker to the mukallaf has guaranteed it in Surah al-Hijr verse 9:

"Indeed, it is We who sent down the Qur'an and indeed, We will be its guardian."

All will return to the word ( **حفظ** ) which means care / maintenance. The aim of the Shari'ah is basically to realize *maslahah* and reject *mafsadat*. That can be known from the provisions of the laws explicitly by the Qur'an and the Sunnah (Rahman, 1985: 7-8) Regulations that have been issued by the new mayor arrive at the destination *maslahah* if carried out seriously and with strict supervision based on SOP and other elements. So if all the elements have been carried out it will produce benefits for the people of Binjai.

#### 1. Urine Test Reviewed as Maintaining Religion ( **حفظ الدين** )

Religion prohibits something that is destructive and also teaches that each adherent is encouraged to always do good. For this reason, all religious adherents who believe and carry out their teachings will always carry out everything in the teachings. One of the things that damage and religion forbid it is using drugs, because of course it is something that is destructive. Whether it damages the mind, physical, spiritual, spiritual and also consumes

wealth. Urine test is one way for humans to pay attention to health so that awareness to practice religious sharia is stronger.

## 2. Urine Test Reviewed as Maintenance of the Soul (حفظ النفس)

There are verses and traditions that explain and provide provisions for the maintenance of the soul. In Surah at-Tahrim verse 6:

"O you who have believed, protect yourselves and your families from a Fire whose fuel is people and stones, over which are [appointed] angels, harsh and severe; they do not disobey Allah in what He commands them but do what they are commanded."

The collected verses can be examined perfectly so as to produce conclusions *maqāṣid al-ḍarūriyah* the *qat'i* in terms of soul care (حفظ النفس). As an illustration of the importance of urine tests for prospective husband and wife, and also seen from the behavior of community deviations ranging from drug use, commercial sex workers, and homosexuals so that it can have an impact on the increasing spread of HIV / AIDS.

Deviations committed by the community causes the distribution of the disease to those around them. The transmission of the disease will develop through sexual transmission, non-sexual transmission through the mechanism of panetral transmission and transplacental transmission (from the mother to her fetus), this becomes a new threat that gives birth to innocent victims. Infectious Infection Patients who are a public health problem are quite prominent in most regions of the world. The incidence of cases of communicable infections is believed to be high in many countries and failure to diagnose and provide treatment at an early stage can lead to serious complications and a variety of other sequelae. Among other things infertility, bad effects in infants (premature). (Andalas, 2015: 4).

The threats posed to HIV / AIDS and sexually transmitted diseases (STDs) are more closely related through sex. Channeling of desire (sex) apart from the form of primary human needs is also an obligation that must be done in carrying out domestic relations. Surely the current real conditions require the Government to make job description in anticipation of preventing the deterioration that occurs.

The risk of transmission from an HIV-infected husband to his wife is 22% and the wife of an HIV-infected person to her husband is 8%. Other studies found seroconversion (negative laboratory tests to positive) within 1-3 years in 42% of husbands and 38% in wives whose partners were HIV-infected so that the risk of transmission of husband and wife or wife and husband was considered the same. Another thing to note is that transmission does not depend on the frequency of sexual relations between husband and wife. (Adisasmito, 2007: 3329).

## 3. Urine Test Reviewed as Maintenance of Intellect (حفظ العقل)

In Islam, reason has a very noble position. However, that does not mean that reason is given unlimited freedom in understanding religion. Islam has rules to place reason accordingly. However, common sense will be able to accept and carry out the shari'ah of Allah Most High, in any case, a great favor on the human self is the intellect that Allah entrusts in the human body. The favors that can be called gifts show the amazing power of Allah.

Therefore in many verses Allah gives encouragement to use reason in thinking, in this case Allah Almighty involves reason to think about the Power and Majesty of Allah in the changes of day and night, the rotation of the bulana and the sun. In Surah an-Nahl verse 12:

"And He has subjected for you the night and day and the sun and moon, and the stars are subjected by His command. Indeed in that are signs for a people who reason."

If we trace the efforts of Nurturing Mind in the *maqāṣid asy-Syari'ah*, it will be seen the important role of reason in the existence of the self, this is what distinguishes between animals and humans. Therefore, the preservation of reason must be guarded from various things that damage the mind, and not all good and evil can be known by reason. Therefore, revelation comes to strengthen what the mind already knows. The apostles came to strengthen what God had placed in our minds and to explain the details of what reason had known.

The role of reason will be seen in determining the merits of one's behavior in acting, up to the level of determining the law in deciding problems as a way out of people's lives, seeing the rampant lifestyle of the community. Life that seems to need to make actions that limit the space of drug users whose effect is to damage the mind. Even more urgent is when drug users or addicts are given space to do marriage.

Scientifically obtained from Indonesian National Narcotics Agency of Binjay City that addictive substances or drugs are substances that work on the CNS (Central Nervous Arrangement) and affect mental processes. Addictive substances will cause someone who consumes it to be happy or lost the pain (fly). However, it is worth noting that there is a neuroadaptation process that is the adaptation of nerve cells to the supply of addictive substances because of the chemical structure that is similar between neurotransmitters and these substances. A further effect is the occurrence of tolerance, which is the required amount of substances that are more than usual in order to provide the expected effect, which will then cause symptoms of drug withdrawal or intoxication. So the purpose of urine tests is to reduce drug users that can damage the human mind.

#### 4. Urine Test Reviewed as Maintenance of Heredity (حفظ النّسب)

As for al-Razi mentions the word *nasl* which means a close relative (*al-Qarabah*) from the father's lineage. From this explanation, Ibn Ashir chose *nasl* as *daruriyah*, because reproduction is related to the creation of al-khaliq whose neglect creates mafsadat. Descendants in the doctrinal of Islamic law are something very important / urgent, descendants of *nasab* are the greatest blessings handed down by Allah to His servants, as the word of Allah in Surah al-Furqan verse 54:

"And it is He who has created from water a human being and made him [a relative by] lineage and marriage. And ever is your Lord competent [concerning creation]."

The above verse makes it clear that the *nasl* lineage is a blessing from God which is understood from the phrase "*fa jaafalahu nasabā.*" So Allah made a descendant. Apart from that, there is the word "*Bayār*" which is used by the Koran to refer to humans in general, with their similarities in terms of physical and humanity without the slightest emphasis. Also on the mental and mental side. The Messenger of Allah was ordered to declare it. Found in Surah al-Kahf verse 110:

"Say, "I am only a man like you, to whom has been revealed that your god is one God. So whoever would hope for the meeting with his Lord - let him do righteous work and not associate in the worship of his Lord anyone"

Thus, the existence of *nasab* offspring is the legality of family relations based on blood ties, as one of the consequences of a legal marriage, or marriage of a *fasid* (divorce), or

intercourse (adultery). Nasab is an acknowledgment of syari 'for the relationship of a child with his father's lineage so that the child becomes a family member of the offspring and thus the child is entitled to rights as a result of a nasab relationship. Such as inheritance law, marriage, guardianship and so forth.

Therefore, the problem is, when parents want to marry off their children to a prospective partner who has received a medical diagnosis of contracting HIV / AIDS or a potential partner who has taken drugs, then the victim when the contract has been carried out is a partner in the good, healthy category and even offspring get adverse effects from people suffering from the disease (Green, 2005: 6)

Drug addiction has a serious influence on family life, including the burden on the household economy because the head of the family will spend most of his wealth to get capital and other needs to buy drugs, and users will also neglect family members and the basic needs of family members, do not respect among with one another, deceptive and not secure especially with yourself. Also the effect of drug abuse on mothers who contain in a bad form, so it can be said he has threatened the object of shari'ah in protecting offspring.

The problem of heredity is closely related to health problems, the medical science said, that the appearance and shape of the fetus depends on the quality of sperm cells in men and the quality of the ovum (ovary) that exists in these women. Then born a child who is similar to his mother and father, both body (physical) and reason (Walgito, 2002: 36) From this it seems clear that the health of each mother and father participated in determining the health of their children later. Because if the parents of drug addicts will affect the health of branches of the baby to be born. Based on these problems, there is the presence of a premarital urine test, each couple who wants to get married can check their urine, both prospective bridegroom and bride. Through this examination we can find out each other's health, especially the health of the reproductive organs which is very closely related to nasab descent problems.

##### 5. Urine Test Reviewed as Maintenance of Assets ( حفظ المال )

The *fugaha'* defines property as something desired by human nature and may be stored for the required tempo or something that can be controlled, stored and utilized (Abidin, 1996: 501). The formula in *maqāsid asy-syari'ah* reasoning about protecting assets is to prioritize matters which are primary and maintain wholeness that is also primary in nature with regard to other supporters. In this case, *maqāsid asy-syari'ah* consists of guarding religion, guarding the soul, guarding intellect, guarding offspring, and protecting property (Al-Zuhailiy, 1997: 44).

The ulama agreed that the primary nature of protecting religion cannot be replaced. Whereas the matter of protecting property cannot occupy the primary matter of shifting the position of guarding religion. However, regarding safeguarding property is important to maintain the integrity of religion until it is said that damaged property can affect the purity of religion. For example in muamalah activities that 'Friday prayer' is the primary and main thing to do rather than selling muamalah activities refer to Surah al-Jumu'ah verse 9:

"O you who have believed, when [the adhan] is called for the prayer on the day of Jumu'ah [Friday], then proceed to the remembrance of Allah and leave trade. That is better for you, if you only knew."

Another example is that damaged material possessions can affect the integrity of primary matters, such as prayer using stolen sheaths. Shāṭibi outlined how to safeguard property in accordance with the provisions of *Maqāsid asy-syari'ah*, namely the existence of legal provisions legalized by God about the prohibition of stealing and sanctions against it,

forbidden cheating and treason in business, forbidden usury, forbidden to eat other people's property in a vanity, and required to replace items that have been damaged, so as to be maintained / preserved treasure.

In order to become a consideration that is part of the deepening of material safeguarding assets, certainly the amount of costs incurred when someone is experiencing narcotics abuse is a type of drug, which is a must for sufferers to be rehabilitated. Around Rp. 10 million per month. The cost does not include drugs that must be consumed routinely by addicts. Of course this picture will be a consideration when a prospective husband or future wife who wants to get a married partner who has long consumed drugs or in the category of HIV / AIDS sufferers who both require substantial treatment. . This is one of the initial triggers of divisions in household harmonization. Not to mention when it is associated with the amount of household income that is considered economically minimal, with various needs that exist, of course, must be considered earlier, when the couple who want to get married is a pleasure for both of them to do a urine check in PPKS to detect the possibility of that happening.

#### IV. Conclusion

Shāṭibi divided the objectives of Islamic law into 5 parts; (a) safeguarding religion; (b) protect yourself; (c) guarding reason; (d) guarding offspring; (e) safeguarding property. Of course every law / rule has a goal (*maqāṣid*) which is to seek benefit and reject *mafsadat*. A review of *maqāṣid asy-syarī'ah* against premarital drug testing in the Binjai Mayor Regulation Number 39 of 2017 for the benefit of the citizens of the city of Binjai in an effort to safeguard religion, self, reason, descent, and property. In order to achieve this goal, seriousness, maximum work, and strict supervision are required based on SOP and so on. When some of the above has been done it will produce benefits in terms of protecting religion, self, reason, descent, and property.

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