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The view of Judicial Activism and Public Legitimacy.

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Abstract:	<p>The underlying legitimacy issue that underlies sentences related to issues of drug use remains unexplored. It is this relationship between legitimacy and Indonesian judges' accountability when sentencing that the writer will see further in this field. This paper presents judicial activism, and the perceived public legitimacy when sentencing minor drug offenders. To get an insight into the judicial aim of sentencing minor drug offenders, 31 judges were qualitatively interviewed. It drew the import of the findings of judicial activism and public legitimacy to conclude the work. This report introduces the finding in which judicial activism that was influenced by Islamic culture goes together, that Islamic more sympathetic, instead of the central government more punitive, the ways in which the Indonesian judge use that Islamic culture to support the rehabilitative problem-solving sentences. This report discusses a direct accountability mechanism that may be similar to political accountability in the Anglo-Saxon legal scheme.</p>	

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Abstract

The underlying legitimacy issue that underpin sentences related to issues of drug use remains unexplored. It is this relationship between legitimacy and Indonesian judges' accountability when sentencing that this article explores. Judicial activism, and the perceived public legitimacy when sentencing minor drug offenders is presented. To gain an insight into the judicial aim of sentencing minor drug offenders, 31 judges were qualitatively interviewed. Drawing together the findings of judicial activism and public legitimacy, the report concludes that judicial activism is influenced by Islamic culture. Moreover, it finds that Islamic culture is more sympathetic, in comparison with the central government, which is more punitive, with regards to the ways in which the Indonesian judge utilises Islamic culture to support the rehabilitative problem-solving sentences. This report discusses a direct accountability mechanism that is not dissimilar to political accountability in the Anglo-Saxon legal scheme.

Keywords: Judiciary; legitimacy; political accountability; public acceptance; sentencing to rehabilitation.

Introduction

This paper contributes to an understanding of key causal factors which Indonesian judges perceive to influence their sentencing decisions. Hutton (2016) has argued that, without looking at the circumstantial factors which influence sentencing, this can pose challenges to understanding sentencing practices. For example, the way in which judges exercise compassionate approaches and discretionary practices as a central part of court sentencing (Mustafa et al. 2020). Therefore, it is of significant importance to consider the different views that were adopted when sentencing (Ashworth 2017).

In the setting of legal culture in which sentencing operates, a number of factors concerning judicial culture can be considered as hindering circumstances. It relates legal culture to everyday practices of street level-bureaucrats. As street level-bureaucrats, judges in the lower court are subject to the operation of the higher court. The way in which judges in the lower court are required to meet judges in the appeal court can be considered as forms of judicial coping strategies (Lipsky 2010). Lipsky's study illustrated how judges were determined by their bureaucratic status, which required compliance with senior judges' directives. An advocate of

judicial coping strategies claims that junior judges followed senior judges' opinions (Klein and Mitchell 2016). Judges are allowed to exercise discretion (Padfield 2016), in line with their "independence" status (Biland and Steinmetz 2017) and judges are "dependent" on their bureaucratic status, which demands accountability to the chief justice concerning their performances in court's management. However, this managerial orientation and bureaucratic culture may subvert their version of justice into merely expediting the court's caseload, which is comprehended as an essential criterion from the appeal court. In these court's misplaced goals of pursuing cases-processing efficiency, they may sentence those offenders who wish to plead guilty more lightly than those who wish to practice their right to trial (Davis and Ulmer 2020). Within a bureaucratic culture and the managerial orientation as aforementioned, it is viewed as essential for judges to ensure that their sentencing would consider the beneficial aspect of their sentencing to the offenders and to society (i.e. social justice). The connection between legal perspectives within the broader set of social structure will be presented in this article.

Method

To gain an understanding of the participant's perspective on drug sentencing in Indonesia, 31 participants were interviewed. These participants were purposely selected as they were deemed most likely to enlighten the question being explored. That is, to develop a deep understanding of what judges are attempting to achieve when sentencing minor drug offenders (Mustafa, 2020). The University of Stirling Ethics Committee granted ethical approval for this study. The Courts required no further formal ethical approval. The following key questions were used to guide the discussion: To what extent do you feel individual judges actively shape sentencing policies for minor drug offenders in Indonesia? To what extent do you feel the judiciary actively shapes sentencing policies for minor drug offenders in Indonesia? Do you hold a perspective on the purpose that the judicial system plays within society and the policy-drawing procedure?

Care was taken to avoid making assumptions about the subject as far as possible to ensure trustworthiness. Quotes from interviews were provided, which supported the analyse of the interviews. However, as with all qualitative data, the potential for the researcher's subjective influence at all phases of analysis should not be overlooked.

The primary conceptual framework

The concept of minor drug offenders is in line with the existing laws and rules. The court actors and the offenders being watched are similar to the drama of theatre (Nolan 2001). The court as-theatre metaphor was viewed as applicable to the Indonesian court on at least two points. First, it offers a useful instrument for interpreting how Judges attempt to determine the judicial procedure. Judges' strategies in sentencing rely on negotiating the judicial procedure to avoid unjust sentencing on the front stage, a strategy to meet the expectation of the public. Relatedly, the Indonesian court itself can be understood as theatre, as envisioned in the way in which the individual judges were showing that their sentencing meets the expectation of the public. The manner in which the judges deliver justice with specific relevance to drug sentencing, exercising judicial discretion, and the power relations extant in the Indonesian court hearings will be studied.

Indonesia reflects a Muslim majority in the State, which may influence interference to judicial approach (Davis and Robinson 2006). Although the use of Sharia Judges in Indonesia and the existing organisation is something between the Civil Law and the Common Law System, the existence of positive laws for an issue denotes the significance of the subject and legislative influences to judicial approach on sentencing. Several figures of justice are looked at: legal justice, moral justice, and social justice as pillars in building theoretical frameworks.

Despite the absence in the literature on the organisation of the professional identity of the judiciary in Indonesia, Indonesian judges develop their professional identity through a professional education which enables them to consider 'justice' in their sentencing (Mustafa 2020). Based on the researcher's experience as a judge, it was found that trainee judges learn the three most significant figures of justice: legal justice, moral justice, and social justice. Regarding delivering justice in an Indonesian context, it was identified from the judicial training that the sentencing of drug offenders should cover at least three dimensions, juridical, philosophical, and sociological: Juridical concerns executable sentences; philosophical in terms of the aims of sentencing and sociological concerning public acceptance. Thus, these three dimensions were deemed to be essential within the Indonesian context.

Concerning sentencing, the principal purpose of judicial education is to provoke a consciousness of some tensions between those three forms of justice when sentencing. It was learned that from training, judges would be required to reconcile the often-competing forms of justice. This paper further explores the ways in which the judges reconcile these often-competing forms of justice.

In conditions of judicial performance evaluation, some individual judges may have a desire to fit with the constitution of the judicial system. They desire to be valued by colleagues and

are uneasy about losing points of their execution. The standards for the performance evaluation, which emphasise conformity to the law, may also provide a disincentive for judges to practice free will. These performance measures are often a challenge, as the job of the jurist is not only close to enforcing the standard minimum sentencing but also interpreting the facts and the relevant jurisprudence. For instance, the evaluator was not merely required to assure that their sentencing adhered to such standard minimum sentencing, but also to take into account the importance of sentencing that would benefit the offenders while at the same time being just to society (i.e. Social justice). The connection between the legal perspectives within the broader set of social structure required further details.

To examine the legal perspectives within the broader setting of societal construction, the data analyses were based on consultations and fieldnotes, with the following considerations. Foremost to understanding the judges' explanations regarding sentencing, comparisons were made between the interview data and field notes. Primarily, to investigate the judicial culture and how that affects sentencing, questions were asked in relation to individual judges' views on drug sentencing. These questions were followed up with those exploring the broader pressures on society that enter judges' deliberations. Second, initial observations from these conversations were documented in a notebook, and these are included in the in-depth descriptions of the judge's approach to sentencing (Anleu et al. 2017). The coding process was conducted line by line and through open coding. The data sets in court observation notes and interview transcripts were re-interpreted. The rules of complex experiences of district court justices were coded. The themes for the codebook were created during fieldwork in Indonesia and further developed after fieldwork in Scotland. The fact-sheet data based on the geographical location was categorised as this can show similarities and conflicts between these two tribunals. A descriptive coding book was created, and qualitative data analysis was conducted using Microsoft Excel software. The data were sorted and combined in Excel tables. The subjects and sub-theme that were found were discussed with the supervisors. A thematic analysis approach was utilised to determine theoretical links between the social structure, the judicial culture, and individual perspective of justice. Vigilance was applied to assuring that each emerging theme and description were grounded truly in the information obtained during fieldwork (December 2015 to March 2016). These quality assurance steps ensure the trustworthiness of these findings (Mustafa 2020). The following section highlights the key findings that emerged from this fieldwork:

Findings

This section presents the participants' perception of the apparent political desire to place pressure on the war on drugs agenda denoting political interferences to the judicial approach. The participant's response to the influence of political interference echoed the legal concern.

... The offenders require shelters; Jungle would not be an appropriate place for the offenders. They are people, not animals! We are not allowed to do that! This has become a legal concern which we should react to. Convicting everybody would be impossible. (Supreme Court)

It is understandable from this extract that the participant perceives it to be impossible either to punish every drug offender or to release the drug offender unsupported, as this can raise social concerns. The following quote shows the challenges in sentencing those who are using drugs to imprisonment due to overcapacity:

Repeated arrest toward drug misusers will fill up the prison with sick people rather than villains. 'Villains' are appropriated for drug distribution and trade. (Judge 6, Urban)

Location also appears to create uncertainty within the criminal justice agency (including the BNN, the prosecuting attorney, and the judges) with regard to what the presumed response should be when approaching drug usage. For example, Judge 6 considered that any sentence to prison for sick people is unjustifiable. On first being asked about the politician's interference to place pressure on the war on drugs agenda, harsh sentencing under the regime of 'war on drugs' are considered useless by Judge 9:

What is the functional aspect of processing procedure? At that place are no benefits to the nation, the offender, and the company. We depend still on the grandiosity of "war on drugs" but is there any good? Do we consciously recognise what we are getting along? Why should we legally control drugs? I saw no benefit from it! (Judge 9, Urban)

Harsh sentencing under the regime's 'war on drugs' is viewed as hurting justice, as informed by Judge 18, *"Too long in prison causes an adverse result, for the offender mingling with the drug traffickers who are dangerous offenders"* (Judge 18, Rural). On first being

questioned about the interference of non-popular politics on sentencing, Judge 18 considered that, after the drug user-entered prison, their conditions would be more dangerous. In Urban Courts, when studying the disadvantage of sentencing to prison, an offender who endures almost a near-end experience was illustrated by Judge 5: "*I realised that for those drug misuse, a custodial sentence is not effective based on my brother's sixth months experience in prison, he nearly suffered to death*" (Judge 5, Urban). Within the blurred boundary between 'possessing to trade/selling' and 'using' Judge 5 found that after the courtroom proceeding the offenders were charged differently than they ought to have been. Consequently, the biased patterns of the prosecutor adds challenges to the quest of justice. My reflections at a Rural Court hearing indicated the consultation between the participant and the prosecutor. This argues the interference of prosecutors on the last judgment of convictions in such things.

[...] [After a short break of the court session short. Inside the courtroom, the prosecutor approached the Judge 20 (Panel) who was sitting down at the bench. The prosecutor then started babbling to the head of panel judges, and the head of the panel judge nodded his head as he was listening to what the prosecutor alleged, and the chief panel judges talked back to the prosecutor, and the prosecutor was nodding his head. Adjacent, the chief panel judge, looked right and spoke to his younger member panel and the younger member panel was nodding his head. Next to the chief panel judge, looked right and spoke to his older member panel, and the older member panel was nodding his head. Inline, the chief panel beheld straight at the offenders, indicating that the final sentencing had been reached and they would continue the court session] (Excerpt from court hearing Observation Notes, Panel)

The chief panel judge cuts short the proceeding to enable consultation. The prosecutor submits an acceptable proposal regarding the period of imprisonment. The orchestration of this courtroom drama regarding the final sentencing are presented by the judges. Recall in this section how judges are advised that the prosecutor is more likely to appear for an unacceptable period of imprisonment below the minimum standard. The chief panel judge adopted the prosecutor's advice and adjusted their judgement accordingly. The findings presented in this report indicated these conditional sentences.

This paper finds that the presentation of consensual negotiation, encouragement and persuasion is evident in the judicial process. Not merely is the court hearing on sentencing

heavily influenced by these things, but they also function as negotiating factors in the countenance's infliction. The various ways of negotiation were presented by the participant (i.e. four from 17) negotiating the judicial process in different ways. For instance, the Judge 6 panel showed their amicable relationship with the prosecutor. Accordingly, for incoming cases, further discussion regarding the prosecutorial indictment were in place:

First the prosecutor discussed with us regarding the indictment. Secondly, the prosecutor revised the indictment and charged the offender as drug misuse. In line with the Criminal Procedure, this revision occurred. (Urban, Judge 6)

The excerpt above provides a useful example of the way in which the indictment is revised following the prosecutor's consultation with the judges. The charge is revised to a using drugs category, which had a sentence of only one year. The following extract illustrated this: *"thank God, my directional advice was accepted by the prosecutor. I am a bit comfortable with the prosecutor's confirmation of my advice."* (Judge 6, Urban). This selection highlights the backstage process of sentencing which enables judicial advice on changing the prosecutorial indictment.

It is the prospect of the substantial minority of the participating Urban Court that those drug users should not inevitably be penalised. This implies that to achieve public support, the judges strategically present a lenient approach as an acceptable scheme to the court for further expansion to achieving broader public support. The messenger gives direction to the presentation of judicial approach. In their function as a public relations officer, the substantial minority of the participating Urban Court disclosed that, sometimes, they send their message to the public through media coverage to present judicial confirmation to the drug laws: *"It [sentencing] was appreciated, by the government and the voluntary sector. The mediaⁱ also reported this tremendous appreciation."* (Judge 4, Urban). This comment provides a useful example of sentencing that meets public expectation. The way in which Judge 6 uses media for broadcasting a message that reaches the public, demonstrates that rules are being traced in one Rural Court. Judge 28 handles the media in a slightly different approach. Judge 28 mentions that the media's function is helpful in purposefully disseminating the court's use of a treatment approach to drug users, mainly with the condition that an amicable relationship between the judge and the media are in place. Judge 28's comment about the strategic dissemination of the six ministries' (SKB) Joint Agreement about treatment provision is pertinent:

After downward departure from the mandatory sentencing, the prosecutor wondered. Then we propose an enlightenment; we use the treatment approach to drug users as the foundation of sentencing... We share the six ministries' (SKB) Joint Agreement about treatment provision and, also, continuously inform them... I shared this SKB via the media and likewise; I informed the media continually that, once the members of the community use drugs, referral to rehab would be more beneficial for them. (Judge 28, Rural)

As can be seen from the comment above, Judge 28's way of managing relationships is by passing around the drug user's referral to rehabilitation. A media relationship, Judge 28 believes, should be cultivated. These forms of relationships were seen as public presentations of social justice. They process strategic relationships through inter-agency coordination and sharing data. This form of inter-agency communication should be proactively cultivated. This was done through establishing data sharing and cooperation. It was this inter-agency cooperation that channelled reasonable expectation and 'informed public opinion' of rehabilitative sentencing:

I can inform the rehabilitative sentencing and the SKB and provide rehabilitation to the chief of local BNN. A fruitful outcome happened: continuous engagement about the SKB with the public and media. They start the operation of rehabilitation before they take the event to the tribunal. We advised these rehabilitative sentences at the court hearing to their families. (Judge 28, Rural)

The above excerpt indicates the way in which the participating judges seek wider support about rehabilitative sentences for offenders from the media and local BNN. This judicial engagement with the public shaped the earlier process of rehabilitation before the case was taken to the courtroom.

This finding indicates that the substantial minority of the participating Urban Court is tolerant toward the competing aims of sentencing. The interview data suggests that a reduction in sentencing is a means of reducing the prison occupancy rate. The observational data shows the judicial acknowledgement of relative distribution of justice:

Law Counsel: In the name of justice, the judge is perceived as God's representation in the universe. This protest is not merely for the wrongdoer, but for justice. I think the panel will consider our mitigation speech.

Panel: For the offender, please make a wish to God for our court hearing managed appropriately. Likewise, we aim to ensure justice has been done, it might not be benign nor hostile sentencing due to the relativity of justice, you [the offender] and your adversaryⁱⁱ [the prosecutor] might feel differently interim of justice. (Excerpt from court hearing Observation Notes, Panel)

An excerpt from the court hearing observation notes above shows the basis of judicial 'discretion' based on their perceived 'representation of God'.

Discussion

In this discussion, the findings are analysed and highlight the participants' way of seeking legitimacy (judicial legitimacy) and their contribution to knowledge is presented. The term legitimacy refers to the agency's way of meeting audience expectations (Goffman 1959). This perspective acknowledges the audience's recognition as legitimate action. Analysis of data from interview and court hearing observations suggested that the judicial consideration of their approach is centred on legitimising within their audiences. It was necessary for the judiciary in this study that this audience recognised the judicial presentation of public service and pursuing justice. A number of participants acknowledge that during their interaction with the public, they aim to meet with public expectation. Those participants perceived the wishes of the public to be influential. Self-presentation was clear in the way that several participating judges reportedly adjusted their plan of seeking public acceptance. This presentation of conditional sentences represents the organisation of the judiciary into a group on forming interaction with the public. These interactions are discussed in relation to their accountability to the public, religious community and political.

In terms of judicial accountability to political audiences, the apparent drugs war agenda creates clashes between pursuing justice and upholding the drugs war agenda. The interest of fairness frequently clashes with political agenda aimed at power preservation. The majority of participants demonstrate serving the power by fulfilling the requirement of the State interest. These demonstrations can be seen from the observations in court hearings, whereby a majority of participating judges cut short the court hearing to enable the prosecuting attorney to

negotiate with the panel judges. As representatives of the state, the prosecutor submits their proposal on the period of imprisonment, bearing in mind that the prosecuting attorney is likely to invoke if the participants' sentence is under the standard minimum. Most participants accept the prosecutor's proposal. Therefore, the infliction of the sentences is negotiated and not purely compassionate.

In another way, a minority of participants appeared to gain their trust. This reflected the growth of confidence in using judicial prudence. It was found that a significant minority of participants persuaded their colleagues to exercise their moral duty and compassion rather than imposing the standard minimum sentencing to the individual. This encouraged other panel judges to deviate from the standard minimum sentencing, seeking consensus for deciding on dismissal. The panel judge's moral responsibility and compassion encouraged their interpretation of justice to the conditions. The panel judges were exercising their discretion and justice as well as affording accountability to political pressures. Thus, judicial discretion is taken here as healthy for fairness. To achieve wider social justice, judicial interpretation of fact and relevant law apparently occurred in this study setting. In some other settings, a number of studies presented the judge as sitting on the bench, the law as being the reflection of democracy, and the panel judge's job as merely being to implement the legal, without having discretion outside of the law (Hart et al. 2012). The execution of the law is interpreted in this paper as an effort to further the democratic procedure, through interpretation, to balance the application of justice with the peculiar circumstances which achieve justice. The judicial interpretation is regarded as contemplation of their political accountability. For instance, American judges were elected by the majority of the public, and thus the judicial version of justice is reflected in the way the judges are accountable to the public (Ulmer et al. 2018). In the United Kingdom, the State appoints the judge, therefore the judicial version of justice is reflected in the way the judges are accountable to the state (Helm 2019). Some critics have asserted that the judiciary are not merely taking a juridical approach but also a political approach on their sentencing. Therefore, sentencing can be considered as a reflection of judicial accountability to the public.

Some participants acknowledged the interference of politics on drug sentencing. The challenging factor of political interference as a barrier to exercising discretion was explored. It is noteworthy that the State appoints the participant, so the participant's political accountability has compromised their judicial independence. The objective of drug sentencing was, therefore, to give judicial accountability to the politics. They also needed to answer to their superior: the inspectorate for the judicial system. This overseeing body for the judicial system puts pressure on some participating judges to abide strongly and keep their sense of enforcing the law. The

current accountability system appeared to place a burden on some of the participating judges to adhere with the minimum sentencing. The current accountability arrangement created an unhealthy condition, especially where the accountability was measured by judicial adherence to the standard minimum sentencing. This accountability system led a significant minority of participating judges to introduce a solidarity to heed their moral duty and exercise meaningful discretion. As Mustafa et al. (2020) indicated, they wished that somebody in the Higher Court would treat their declaration of sentencing on a moral footing and accept their sentencing limitation and act accordingly. This organisation of cohesion to exercise expressive discretion is regarded as moving over the panel responsiveness to political and bureaucratic pressure in their response to justice.

In terms of judicial accountability to the public, an example is shown here and in a previous article (Mustafa 2020) that justice is conditional, depending on public acceptance. On the one hand, the fear of sceptical public opinion surrounding the topics of corruption may put most participating judges in a mixed-up situation when meeting public accountability. Instead, most participating judges avoid public accusations toward sentencing. This avoidance may limit their chances to receive sympathy from the public. Comparatively, the confidence of appreciative public opinion surrounding rehabilitative support may place a significant minority of participants in a position to build rapport with the public. The degree of public acceptance and the beneficial aspect of sentencing to the offenders becomes the focus of a significant minority of participants. To earn public legitimacy, public engagement is evident between this substantial minority of participants. Legitimacy refers to the approach which enables the member of the group to reflect over the others' expectations. This perspective would help to understand the conditional basis for legitimised performance and is dependent upon the balanced presentation between pursuing justice and reflecting public expectation. The delightful mixture of public accountability and rehabilitative sentences were negotiated by the significant minority of participating judges.

To gain public acceptance, the community expectation regarding rehabilitative support to minor drug offenders are fulfilled by the substantial minority of participants. These acceptable responses of the participants' supportive role are contextualised within Sunni Islamic society. Their moral responsibility when sentencing is marked with high expectation within the residential area because of their expected role as being supportive of the minor drug offenders who are socio-economically disadvantaged. Within this expected supportive role of the judges, the significant minority of participating judges seemed responsive to this public expectation. For example, the significant minority of participants have two distinct functions as a judge and

as a public relations officer. Within this dual role, the participant informs the public through the media. The participant disseminates the treatment provision to the public. They examine the audience's response to understand the level of public acceptance. Then they look for public satisfaction. They deploy dramaturgical competence by presenting dialogue.

Tertiary, in conditions of religion, sentencing can be comprehended as a part of their role as God's servantⁱⁱⁱ. Thus, a portion of judicial accountability is to God. This is contextualised within this paper as accountability to God within the Muslim society. This includes the perceived role of sentencing as vocation. This determination led to the condition that the legitimacy when sentencing minor drug offenders in Indonesia is conditionally based on Sunni Islamic values. Thus, the participants' submission of rehabilitative sentencing is considered as their perceived accountability to God. A lot of the religious values as one legitimising value comes through the international literature of other national jurisdictions. For illustration, the participating judges in the American study of a problem-solving drug court appeared to consider the spiritual value in their drug sentencing (Nolan 2001). This perspective on the religious value as one legitimising value would help to understand that the judicial perspective of justice is shaped by the interference of Sunni Islam. This perspective would lead to the condition of legitimation basis that would be conditional upon sentencing practice. Most participating judges present punitive practice when sentencing the minor drug offenders. They rarely dismissed the offenders. During several observations, the legal age of participating judges presented judicial defensiveness. Introducing these disciplinary practices, all the same, would dispute the legitimacy of Sunni Islamic values in sentencing.

From a different view, the supportive approaches are presented by a substantial minority of participants. They opt into this supportive approach to show a lenient approach to drug users. This impression of leniency is based upon the spiritual (Mustafa 2018). Within the cultural setting, the religiously based supportive principle is a central distinction in this study. This religiously based supportive principle entered a substantial minority of participating judges' deliberation when sentencing.

As understood from this perspective, religion finds the path of justice. A pile of the influence of religious values of the forms of justice comes through the international literature of other national jurisdictions. In this paper, a significant minority of participating judges attempted to achieve social justice that would benefit the society. Imposing brief sentences for minor drug offenders should permit the offenders to pick up an early release and to enable the offender's treatment outside prison. The real minority of participant judges felt that this imposition of brief sentences was in line with being just. Moral responsibility values informed

this effort to achieve social justice. The substantial minority of the judge's concern about the offenders' socio-economic issues elevated this moral responsibility, by the concept of a 'victim of circumstances', and by understanding behaviour in sociological terms rather than criminal absolutes. The re-emergence of religiously based supportive principles within the Sunni Islamic community would promote the condition of legitimization basis.

In that respect, there are some limitations in the field that are worth mentioning. The limitation of the concept of Goffman (1959) on the dramaturgical competence of the representation was recognised for the influence of structural inequality. Within the limitation of the legal structure, there were a number of participants seeking an acceptable form of sentencing (Mustafa et al., 2020). Therefore, it would be valuable if a future study would consider the phase of interpretation in imposing harsh sentencing at other jurisdictions within their setting of societal construction.

Conclusion

An important sample of judicial activism and public accountability were presented in this paper. This judicial activism may be more typically attributed to the political accountability of the judiciary in the common law system. This is an essential sample of a judicial activism toward seeing public legitimacy that may be more typically attributed to the political accountability of the judiciary in the common law system. Even though Sunni Islam prohibits drugs for sentencing minor drug offenders, the Sunni Islamic community seems to affirm the rehabilitative sentencing. This community affirmation shapes the form of a sentence that would enable wider social justice. This support offers confirmation for the dramaturgy concept that such understanding of the situation was likely to be sustained during the interaction of a social group with their audiences.

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ⁱ The Media.com is an online newspaper. People can subscribe to receive this timely and updated news.

ⁱⁱ Adversary here relate to how the offender is placed opposite to the prosecutor in the courtroom, and so they seem to battle each other.

ⁱⁱⁱ The following Koranic verses are showing these three forms of justice. "To the believer, be steadfast as God's services and pursuit of justice.