



## Application of the Principles of Civil Procedure Law Through the Practice of the Court in the Resolution of Family Disputes in the Giri Mang Religious Courts

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### ABSTRACT

To apply the fundamentals of civil procedural law, when managing the parties' cases, the judge carries out mobile court practices in order to provide justice for the community, especially those who are legally illiterate/lawless and who are far from urban areas. The purpose of this research is first, to explain the application of the principles and principles of civil procedural law through mobile court practice; secondly, to analyze the implementation of the practice of the Giri Win religious court circuit court if it is connected to the principles and principles of civil procedural law. Research methods include empirical/socio legal research type (socio legal approach). The results of this research are that religious courts make a new breakthrough through the practice of mobile courts in accordance with PERMA No. 1 of 2015 concerning integrated services for circuit courts of district courts and religious courts/syar'iyah courts in the context of issuing marriage certificates, marriage books and marriage certificates, and is in accordance with the principles and principles of civil procedural law as stated in HIR and Rbg. Meanwhile, the data collection technique in this research was carried out using several stages starting with secondary data collection in the form of primary legal materials and secondary legal materials related to mobile court practice which is linked to the principles and principles of civil procedural law. These legal materials were obtained through interviews with authorized officials, especially judges who handle family cases through mobile court practice, in addition to the litigants

## **INTRODUCTION**

The main task of One of the judicial power's actors is the Religious Courts. In order to carry out the Republic of Indonesia's Rule of Law, justice must be administered and the law must be upheld using Pancasila and the 1945 Constitution of the Republic of Indonesia. As an Islamic sharia court, the main task of the Religious Courts is to administer justice to uphold law and justice based on Islamic sharia and resolve disputes between litigants, for the sake of the implementation of the Law of the Republic of Indonesia based on Pancasila.

The existence of religious courts is a form of proportional state service to its Muslim population where in their religious life they require the application of the Islamic sharia legal system. The function of the Religious Courts is the position of the Religious Courts as Islamic sharia courts in the state administration system with the contributions they can make to justice seekers, society and the state. As an element of the legal structure in the Islamic sharia legal system, so that the Religious Court can meet the development of the legal needs of society, it must carry out 3 functions of Islamic sharia justice including: 1) The function of overseeing and enforcing law and justice based on Islamic sharia in cases submitted to it; 2) The function of providing legal and justice services based on Islamic sharia to justice seekers; and 3) The function of developing law and justice based on Islamic sharia for the sake of realizing benefits that are appropriate to the era, area and atmosphere of the time. These three functions are carried out by judges immediately (simultaneously) in every judicial process when the judge examines, considers and adjudicates cases proportionally and professionally which is then included in the decision or determination.

In administering justice, the Religious Court as the State Court in the field of Islamic Sharia must always adhere to the principles that apply to it as good justice. These principles are intended to ensure that the Religious Courts are successful in carrying out their main tasks and functions, namely guarding and enforcing Islamic sharia, providing legal and justice services based on Islamic sharia, and developing Islamic sharia law by resolving disputes between the parties completely, finally and satisfactorily. Courts within the religious justice environment as servants of law and justice who directly deal with the community are obliged to help those seeking justice and try as hard as possible conquer all barriers to obtain justice that is straightforward, quick, and inexpensive.

The Religious Courts as a judicial environment under the Supreme Court based on Article 2 of the Religious Courts Law states: "The Religious Courts are one of the implementers of judicial power for people seeking justice who are Muslims regarding certain civil cases regulated in this law." This means that the authority of religious courts is reserved for members of the Muslim community in certain civil cases. The specific civil cases referred to are regulated in Article 49 of Law no. 7 of 1989 are; marriage, inheritance, wills and gifts made based on Islamic law, as well as waqf and shadaqah. Based on Sharia commercial dispute resolution was added to the religious courts' jurisdiction under Article 49 of Law No. 3 of 2006. Furthermore, as stated in Law No. 50 of 2009's Article 49, religious

courts' power was further expanded by adding the resolution of child adoption cases.

The authority of the religious courts to examine, decide and resolve the civil matters in question is at the same time linked to the principle of Islamic personality, namely that only those who are Muslim can be subject to the authority of the Religious Courts. Religious courts exercise judicial power at the first level, located in the municipality or district capital. Courts at the appeal level are carried out by the High Religious Court located in the provincial capital. Technical guidance of the judiciary, administrative and financial organization of the courts is carried out by the Supreme Court. This guidance must not reduce the judge's freedom in examining and deciding cases. A court judge is an official who carries out the duties of judicial power. The conditions and procedures for appointing, dismissing and carrying out the duties of judges are stipulated in this law. General guidance and supervision of judges is carried out by the chairman of the Supreme Court. This general guidance and supervision must not reduce the freedom of judges in examining and deciding cases. In reality, it turns out that there are still many litigants who are still afraid of dealing with the law and, coupled with this, they do not understand legal issues, so giving power of attorney to lawyers. The most popular method is to settle legal disputes in court. Despite having to spend a specific amount of money, the litigants inevitably have to look for a lawyer. For this reason, looking for a lawyer is one solution to resolving cases in court. And people often assume that going to court is not an alternative for resolving cases.

This is very contradictory as it is known that one of the principles of justice in resolving cases is connected to the ideas of affordability, quickness, and simplicity. First outlined in Law Number 14 of 1970's Article 4 Paragraph 2, this premise was clarified in Number 8. The line said specifically: "The legislation still reflects the requirement that justice be administered according to the principles of simplicity, quickness, and minimal cost. the laws pertaining to civil and criminal procedural law." This idea is stated in Law Number 48 of 2009 about Judicial Power, Article 2, Paragraph 4. which contains regulations regarding examination and evidence which are much simpler."

## LITERATURE REVIEW

Based on the provisions of the principle of fast, simple and low-cost justice, it must not only be realized in the process of examining cases in court when the case has definite legal force. However, this principle must be applied in the application of judgments rendered by courts in civil cases because it is an integral part of the civil case examination process.

There are many formalities that are difficult to understand or complicated regulations, thus allowing various legal problems to arise and causing fear or reluctance on the part of the parties to proceed before court. The word fast refers to the course of justice and too much formality is an obstacle to the conduct of examinations before the trial, even related to the completion of the minutes of the examination at trial up to the signing of the decision by the judge and its implementation. It often happens that a case is delayed for years because

witnesses do not come or the parties in turn do not come or ask for the trial to be postponed. In fact, the matter was continued by his heirs. A trial that runs quickly can amplify the court's authority and popular confidence. Parties are reluctant to bring rights issues before the court because of the high court expenses, which are decided to be borne by the parties.

Access to justice is a person's (or society's) ability to seek and obtain solutions through formal or informal justice institutions, and in line with human rights values. The term defense of rights or dispute resolution has been replaced with a clearer term, namely recovery. And finally, the goal of a solution that is considered fair by individuals and society is transformed into a more abstract concept, namely human rights. Although this definition of access to justice can be said to be elegant, it raises several questions.

The idea of recovery requires some consideration. In a narrower definition of access to justice, the choice of using the courts as the main means of obtaining justice, relies that recovery can only be obtained through a court decision which is the final result of the process of seeking justice. And if courts are not the sole object of access to justice research, then we must also explore other forms of redress. Thus, justice institutions do not only refer to institutions specifically tasked with resolving disputes, but also refer to all institutions that provide remedies.

In the midst of the economic crisis and conditions experiencing systemic corruption, the courts, which are often considered the last dispensers of justice, are experiencing a crisis. Criticism leveled by various groups towards the judiciary in Indonesia has led to insults and swearing. What to do with the judiciary in conditions like today, and almost every day we are treated to various stories or news about unsatisfactory judicial practices. News about judicial mafias, bribery at every step in the judicial process, judges not carrying out examination procedures properly, and so on has almost become daily bread. Finally, law enforcement was directed to the slow track.

While many social scientists are too complicated or cynical in viewing judicial independence, all constitutional law experts pay attention to this issue. Proponents and critics of judicial activism rely heavily on the idea of degrees of judicial independence. For activist justice advocates, independence allows courts to avoid the prejudices and short-sighted pettiness that elected officials sometimes resort to.

In determining several relevant facts and determining the legal rules that will be used as a basis for deciding and resolving the cases they handle, it is clear that the Judges have great power over the cases of the parties they handle. This means that in carrying out his duties, the judge fully assumes a large responsibility and must be aware of his responsibilities, because this decision is very influential in the lives of the parties involved in the lawsuit.

Bismar Siregar stated that the law clearly states that the responsibility of judges is not to the state and not to the nation, but first to God Almighty, then to themselves. For this reason, will judges hesitate to test whether it is necessary to cancel regulations that conflict with Pancasila, especially its first principle, namely Belief in One Almighty God. In handing down a decision, the judge must

pay attention and make every effort to ensure that the decision does not allow the emergence of new cases (as far as possible the parties in the case do not file an appeal or other legal remedy). Apart from that, Every case that is presented before the court must help the judiciary by attempting to administer justice in a straightforward, efficient, and economical manner. The public's faith in the courts will rise as a result., which will result in the judicial institution becoming more authoritative. In addition, one of the most factors supports the achievement of increased economic progress that can improve the welfare of the people of a country, namely acceptable justice, in the sense of a justice system that is able to resolve disputes quickly and at low cost. For this reason, it is impossible for economic development and business practice activities to achieve brilliant and smooth results without support from the justice system. The goal of the Religious Courts' recent work program, the mobile court, is to make justice accessible to those who seek it. This goal aligns with Under the motto "justice for all," the Supreme Court and the Director General of Badilag aim to create an atmosphere where individuals in search of justice can easily access and make use of their legal rights to acquire justice from the Judicial Institution. A court that moves is an in-person judicial proceeding designed for individuals who face challenges accessing the courtroom because of financial constraints, travel time, or geographic location..

In the latest regulations regarding mobile courts, namely Regarding the issuance of marriage books, marriage certificates, and marriage certificates, Perma No. 1 of 2015 addresses Integrated Services for Mobile Sessions of District Courts and Religious Courts/Syar'iyah Courts. Perma No. 1 of 2015 was created so that those seeking justice who are unwilling or fearful of the legal system would not be affected by the presence of a complex and challenging system. due to the fact that a lengthy and complicated system leaves room for corruption. As a result, many members of low-income groups are excluded from the legal system. In order to address this issue, the Religious Courts have also made significant progress in their efforts to reach underprivileged and disenfranchised parties involved in family law matters. The mobile court and offering free legal services through it were revolutionary. assistance stations.As for the integrated services of the mobile court according to Article 1 number 1 PERMA No. 1 of 2015, namely a set of coordinated actions that are carried out by the District Court, Religious Court/Syar'iyah Court, District/City Population and Civil Registration Service, District Religious Affairs Office, and others at a designated time and location to provide marriage validation services and handle other cases under the District Court's authority and marriage laws under the Religious Court/Syar'iyah Court's authority, as well as to complete marriage registration and birth registration.

Integrated services for circuit courts according to Article 3 paragraph (1) Perma No. 1 of 2015 aims to: a) Increase access to services in the legal sector; b) Helping people, especially those who cannot afford it, in obtaining marriage certificates, marriage books and birth certificates which are done simply, quickly and at low cost. Integrated services carried out by the Regency/City Population and Civil Registration Services, District Court or Religious Court/Syar'iyah

Court, and District KUA, are realized in the form of mobile court service activities. Article 3 paragraph (2) Perma no. 1 of 2015.

Integrated services for circuit courts according to Article 4 of Perma No. 1 of 2015 include: a) Trial of marriage validation cases and additional cases pertaining to marriage registration and birth registration that have been handled by the District Court, the Religious Court, or the Syar'iyah Court; b) marriage registration handled by the District Religious Affairs Office or the Regency/City Population and Civil Registration Service; and c) birth registration handled by the Regency/City Population and Civil Registration Service Service.

In Article 4 of Perma no. 1 of 2015 regulates that beneficiaries of integrated services include: a) Community members whose births or marriages have not been registered; b) Members of the community who, due to financial or geographic barriers, are unable or find it difficult to access services at district religious affairs offices, court office buildings, and regency/city population and civil registration services; c) Members of the community who belong to vulnerable groups, such as women, children, and people with disabilities; and/or d) Members of the public who do not have access to information and legal consultation that can be served by Posbakum based on applicable provisions.

Usually the court carries out mobile hearings in court halls, sub-district offices, KUA offices, or conveniently accessible public spaces for individuals whose homes are distant from the court office. Such as the opening of the integrated marriage itsbat trial at the Giri Menang Religious Court in collaboration with the Ministry of Religion and the West Lombok Regency Population and Civil Registration Service. The integrated marriage itsbat session is a service intended for people whose marriage status is not yet legally valid, in other words they do not have a marriage certificate. Through the marriage itsbat trial, people will have a marriage book and it will be recognized by the state. The services that can be obtained from religious courts are not only regarding marriage matters but there are many other things that can be helped so that they require cooperation between the government and the community.

The integrated services of the mobile marriage court, apart from solving social and administrative problems in the community, are also health problems in an effort to prevent early marriage. A form of protection for children and women is by officially registering the marriage. Because the impact is not only a matter of administration to obtain rights such as social programs from the government or helping people who don't have the money to get married but also health problems because there is a law that limits the permissible age of marriage from a health perspective. the religious court carried out itsbat marriage for 48 (forty eight) couples in Keru village, the Department of Population and Civil Registry and the village government, there was also the involvement of the PKK in order to create prosperous families through healthy marriages, orderly administration and being citizens in social interaction. Good.

Directorate General Badilag designated 2011 as the year of justice for all, in addition to the year of bureaucratic reform. With the justice for all program, Badilag aims to provide wider access for underprivileged communities to obtain

justice through religious courts. This program is implemented in the form of free cases, mobile courts and legal aid posts.

The Giri Menang Religious Court is a Religious Court under the jurisdiction of the Mataram High Religious Court located in West Lombok Regency. The Giri Menang Religious Court serves justice-seeking communities spread across 15 (fifteen) sub-districts in West Lombok and North Lombok districts. As a newly expanded district, North Lombok does not yet have its own Religious Court. The Giri Menang Religious Court has handled many prodeo cases through mobile courts. Among the most frequently handled cases is marriage law, apart from other cases. In handling this case, the Giri Religious Court collaborated with the Regional Government and the NGO Pekka (Empowerment of Women Headed of Families). The regional government provides assistance in administrative matters such as processing KTPs, poverty certificates and others. Meanwhile, Pekka NGO tries to connect the community with the courts. People who wish to litigate are coordinated by the local village and sub-district officials, then registered and a location and time for the hearing determined.

In accordance with the original aim, the mobile court aims to serve and fulfill the community's rights to justice through court officials who go to the field. The Giri Menang Religious Court, West Lombok, has a mobile marriage itsbat trial service and this is the largest number of cases among other mobile court cases. With this mobile court, residents who apply for a marriage certificate do not need to go all the way to the Religious Court office. Because officers from the court visited the residents and held a hearing at the Religious Affairs Office (KUA) which was close to the residents' homes. But what about if the application of this mobile court is in line with the fundamentals of civil procedural law, because there are principles that are not appropriate, such as the principle that judges are passive and are related to the court costs incurred by the litigants.

## **METHODOLOGY**

This type of research is non-doctrinal or empirical legal research with a socio-legal approach. This approach works to find correct answers by proving the truth sought in or from several social facts that have legal meaning. This research critically evaluates legal rules, doctrine, concepts and legislation according to the context. The initial step taken was to carry out an inventory of sources of positive law related to the application of the principles and principles of civil procedural law, namely the principles of simple, fast and low cost through the practice of mobile courts in providing maximum service to people seeking justice as well as reviewing and assessing the results of interviews. both with the judge who handles the case through the circuit court and the parties involved in the case.

In this research, the legal approach used is the socio-legal approach. The socio-legal approach is intended as an approach in legal research that is focused on studying legal phenomena from a social science perspective. Thus, legal science has an interdisciplinary nature, which is used to help explain various aspects related to the presence of law in society. Through this socio-legal

approach, the application of the fundamentals of civil procedural procedure through the Giri Win religious court's mobile court practice is placed as empirical law (law in action) and not as written law (law in books).

Data collection in this research was carried out using several stages starting with the collection of secondary data in the form of primary legal materials and secondary legal materials related to the application of the principles and principles of civil procedural law through mobile courts at the Giri Win religious court. These legal materials were obtained through interviews with authorized officials, especially judges who handle cases through mobile court practice and litigants, as well as through literature studies, books, articles, legal journals, research reports, etc.

The secondary data that has been obtained is then analyzed qualitatively using the deductive reasoning method as a way to draw conclusions. Research material on the application of the principles and principles of civil procedural law through the use of mobile courts in the Giri Win religious court. These principles take the form of legal principles, rules, and scholarly doctrines that are methodically arranged as a set of legal facts to examine how mobile court practice is applied in relation to these principles. in Giri Religious Courts.

## **RESULTS AND DISCUSSIONS**

### **Setting the Principles of Civil Procedural Law through the Practice of Mobile Courts at the Giri Menang Religious Court**

Settlement of legal problems in civil procedural law is generally submitted based on lawsuits and requests.

In Article 10 paragraph 2 of Law Number 48 of 2009, it is explained that there are several judicial bodies which are under the auspices of the Supreme Court, namely; General Courts, Religious Courts, Military Courts and State Administrative Courts. One of the important judicial bodies is the Religious Courts. The Religious Courts are one of the judicial authorities tasked with resolving cases in the civil sector for Muslim communities. The Religious Courts are special courts that are given the authority to examine, decide and resolve cases at the first level between people who are Muslim in the fields of; marriage, inheritance, wills, grants, endowments, zakat, infaq, shodaqoh and sharia economics.

In Article 4 of Law Number 7 of 1989 concerning Religious Courts, Religious Courts are located in the Municipality or Regency and their jurisdiction includes the Municipality or Regency. Meanwhile, the High Religious Court is located in the provincial capital and its jurisdiction covers the provincial area

Supreme Court circular letter Number 10 of 2010 concerning guidelines for providing legal aid, both in the General Court environment and in the Religious Court environment and was subsequently amended in Supreme Court regulation Number 1 of 2014 concerning guidelines for providing legal aid services for people who cannot afford to go to court. This regulation has a positive impact on the mechanism for providing court fee exemption services or what are called prodeo cases based on the Supreme Court circular number 10 of 2010 concerning guidelines for providing legal aid.

In resolving cases in court, both civil and criminal cases, it must be based on the principles of speed, simplicity and low costs. So that people get justice in resolving their cases. The Religious Court as one of the executors of judicial power implements a trial system through mobile courts as a form of effort to serve people who seek justice.

A recent initiative of the Religious Courts is the use of mobile courts to facilitate access for those seeking justice. This approach aligns with the larger goal of the Supreme Court and Badilag, which is to establish an environment in which individuals seeking justice can readily obtain and utilize their legal rights. as the motto justice for the all (justice for everyone) dictates, in order to achieve justice from the judiciary.

Poor people face major financial obstacles in accessing the Religious Courts, which are related to court fees and transportation costs to come to court. The Supreme Court then responded to these findings by paying great attention to holding circuit courts and waiving case fees through free proceedings. To realize the principles of fast, easy and low-cost justice, the Religious Courts continue to make efforts to pick up the ball to make it easier for the public to access legal services. The efforts that have been made are: a) Prodeo, namely the provision of free legal services to poor people on the condition that the people are truly unable to access their cases to court due to economic incapacity which is confirmed by; certificate of incapacity/poor from the village head and acknowledged by the local sub-district head; direct admission from the plaintiff at the trial regarding the plaintiff's economic situation; testimony from witnesses stating that the plaintiff and his family are poor/poor people whose income is only enough for daily food; b) mobile court, namely through a mobile court, people who live far from the religious court office and are unable to access their cases to the religious court because of poverty and high transportation costs.

The issuance of Supreme Court Circular Letter number 10 of 2010 concerning guidelines for providing legal aid, both in the General Courts and in the Religious Courts, aims to implement the principles of justice that is fast, easy and low cost. By implementing a mobile court, it can serve ordinary cases and prodeo cases.

Mobile courts are held according to SEMA Number 10 of 2010, in Articles 11 and 12 which read: Article 11 paragraph (1) "Mobile courts are held in locations far from the religious court office or in locations that make it difficult for justice seekers both in terms of costs, transportation and process. if the trial is held at the religious court office"; (2) Mobile hearings can be held at government offices such as sub-district offices, sub-district KUA offices, village offices or other buildings; (3) The mobile court room is endeavored to comply with the decorum of the court room in order to maintain the dignity of the court. Article 12 paragraph (1) "A circuit court may be conducted by at least one panel of judges; (2) Mobile court hearings can be attended by mediator judges and other religious court officials and staff as needed.

People who have barriers to attending court – such as those related to cost, transportation, or distance – are meant to benefit from mobile courts, which are judicial proceedings conducted offsite. Typically, the court organizes mobile

hearings in public spaces that are easily accessible to those who live distant from the court office, such as court halls, KUA offices, sub-district offices, or other locations. The aim is to make the trial location closer to the residence of the parties filing the case. The public can save time in the dispute resolution process and only incur lower transportation costs. All courts do not hold mobile hearings like courts in provincial capitals. The implementation of the mobile court that the researchers observed was located in an area in West Lombok. The proceedings were carried out in several remote areas so that justice could be accessed by the local community without visiting the court building which was initially difficult to reach.

One of the useful tools established by the Supreme Court of the Republic of Indonesia to ensure justice for all societal levels is the mobile court at the Religious Courts. It is hoped that the implementation of the mobile court practice will enable the realization of the principles of simplicity, speed, and low cost. These principles dictate that justice must be served promptly, simply, affordably, freely, honestly, and impartially, and that they must be consistently applied at all judicial levels.

Perma Number 1 of 2015 concerning integrated services for circuit courts at District Courts and Religious Courts/Syar'iyah Courts in the context of issuing marriage certificates, marriage books and marriage certificates is a new regulation regarding circuit courts. The purpose of this regulation is that the difficult and convoluted system can become a factor for justice seekers who are reluctant to deal with the law. A convoluted and lengthy system opens up opportunities for corruption. So that many poor people can be reached by the law. With these problems, the religious court finally made a breakthrough to reach poor groups and marginalized people who experienced family law cases, through mobile courts and providing free services through legal aid posts.

In the explanation of Article 4 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power, it is explained that the simple principle is a procedure that is clear and easy to understand, not complicated and dispute resolution can only be resolved through one judicial institution (one stop service). The simpler and fewer formalities required or required in court proceedings, the better. On the other hand, there are too many formalities that are difficult to understand, which allows for various interpretations, does not guarantee legal certainty and causes reluctance and anxiety to proceed in court.

The meaning and purpose of the principle of fast, simple and low-cost justice is not just to emphasize fast and low-cost elements, such as case examinations which are carried out like a spinning tire. Apart from that, this principle is not aimed at ordering judges to examine and decide cases within an hour or half an hour, but what is envisioned is a process that does not take a relatively long period of time, up to years, in accordance with the simplicity of the procedural law. What is already simple and should not be complicated by the judge through a convoluted process. In this case, what is required of judges in its application is an attitude of moderation. Do not carry out an extreme examination which tends to be rushed like a machine, so that the examination process is not in accordance with the dignity and level of humanity, but rather

carry out a fair, thorough, rational and objective examination by providing a balanced and appropriate opportunity to the parties involved in the case in accordance with the principles *audi et alteram partem*.

The simple meaning of Law Number 48 of 2009 concerning Judicial Power is that the process of examining and resolving cases is carried out in an efficient and effective manner. In this regard, the principle of fast, simple and low-cost justice has been formulated in Article 4 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power which requires that justice must be carried out simply, quickly and at low cost.

Article 5 of Law Number 48 of 2009 concerning Judicial Power states that:  
1). The court judges according to the law without discriminating between people;  
2). The court helps justice seekers and tries to overcome all obstacles and obstacles to achieve justice that is simple, fast and low cost.

According to Sudikno Mertokusumo, the meaning of the principle of simple, fast and low cost is that the word fast refers An excessive amount of formality impedes the administration of justice. In this instance, it concerns not only the fairness of the examination conducted prior to the trial but also the completion of the examination minutes during the trial until they are signed by the judge and its implementation. It is not uncommon for cases to be delayed for years because witnesses are not present at the trial or the parties are not present, even if the case is continued by the heirs. It can be concluded that the speed of the judicial process will increase the authority of the court and increase public trust in the court. The principle of fast law in its implementation is faced with various forms of legal action such as *verzet*, appeal, cassation and judicial review, so that what appears in civil justice practice is that trials are complicated, convoluted and take a long time. The principle of fast procedural law does not have any influence on civil justice practice, especially appellate court practice. The appellate court is unable to limit the number of civil cases in which cassation is sought.

Furthermore, Sudikno Mertokusumo, stated that: "Too many formalities are an obstacle to the course of justice. In this case, it is not only the course of justice in the examination before the court, but also the completion of the minutes of the examination at the trial up to the signing of the decision by the judge and its implementation. It is not uncommon for a case to be delayed for years because witnesses are not present at the trial or the parties are not present or the trial is postponed. "The speedy course of justice will increase the authority of the court and increase public trust in the court."

Community satisfaction is the spearhead or key to the success of providing mobile court services in implementing the principles of simplicity, speed and low costs. Satisfaction is a strategic factor in service and has received dominant attention. Public service providers must truly serve on time and understand and understand the needs of the community. Managers of public service providers must also know whether the quality of the services provided meets standards and is in accordance with the wishes of the community or vice versa.

According to Article 1 number 1 PERMA Number 1 of 2015 concerning integrated mobile court services, namely a series of activities carried out jointly and coordinated at a certain time and place between the District Court or Religious Court/Syar'iyah Court, the District Population and Civil Registration Service /City, Subdistrict Religious Affairs Office, in mobile services to provide marriage validation services and other cases in accordance with the authority of the District Court and marriage itsbat in accordance with the authority of the Religious Court/Syar'iyah Court and to fulfill marriage registration and birth registration.

According to Article 3 paragraph (1) PERMA Number 1 of 2015 concerning integrated services for circuit courts, the objectives are: to increase access to services in the legal field; and assisting people, especially those who are less fortunate, in obtaining the rights to marriage certificates, marriage books and birth certificates which are done simply, quickly and at low cost.

District Courts or Religious Courts/Syar'iyah Courts, Regency/City Population and Civil Registration Services and Subdistrict Religious Affairs Offices, are realized in the form of mobile court service activities in Article 3 paragraph (2) PERMA Number 1 of 2015. The integrated mobile court services according to Article 4 of PERMA Number 1 of 2015, namely: trials of marriage validation cases and other related cases by the District Court or marriage itsbat by the Religious Court/Syar'iyah Court relating to the interests of marriage registration and birth registration; marriage registration by the district/city population and civil registration service or the District Religious Affairs Office; and Birth Registration by the Regency/City Population and Civil Registration Service.

Beneficiaries of integrated services are regulated in Article 4 of PERMA Number 1 of 2015, namely: members of the community whose marriages or births have not been registered; community members who are unable and find it difficult to access services at the Court office building, Regency/City Population and Civil Registration Service and District Religious Affairs Office both economically and geographically; community members from vulnerable groups including women, children and people with disabilities. and/or members of the public who do not have access to information and legal consultation that can be served by posbakum based on applicable provisions.

#### **Implementation of the Mobile Session Practices of the Giri Menang Religious Court in Connection with the Principles of Civil Procedure Law**

The Civil Procedure Law has not yet been regulated in law. The Draft Law on Civil Procedure Law within the General Courts which was approved by the 13th BPLHN plenary session on 12 June 1967, has not yet been passed into law. Currently, several procedural law rules are still scattered, some of which are contained in the HIR which applies specifically to the Java and Madura regions, while the RGB applies to other islands in Indonesia. Several principles of civil procedural law in each judicial body still refer to HIR and Rbg.

Judges in circuit courts do not discriminate and do not take sides with one party and have acted fairly towards the parties involved in the case. The judge has listened to statements from both parties and provided assistance to those seeking justice by adjudicating the parties' cases as fairly as possible in order to

achieve the principles of justice that can be implemented simply, quickly and at low cost and can be accepted by both parties. Apart from that, the judge's decision does not only hear the statement of one of the parties, except if the defendant has been properly summoned twice (2) in a row and is not present and has not sent his representative or attorney and has not exercised his right to have his statement heard, the judge can give a decision *vertek*. If the judge has given a *verstek* decision and there is resistance (*verzet*) from the defendant, then the judge has also listened to the defendant's statement and given a decision that is as fair as possible (Article 121 paragraph (2), 132 a HIR in conjunction with Article 145 paragraph (2) , 157 Rbg, jo. Article 47 Rv. Jo Article 4 Law No. 48 of 2009 concerning judicial power.

Article 54 of Law Number 7 of 1989 states that "The procedural law that applies to courts in the religious court environment is the civil procedural law that applies in the general court environment, except as specifically regulated in this law." According to this article, religious court procedural law is broadly based on two rules, namely: (1) those contained in law number 7 of 1989 and (2) those that apply within the General Courts.

Law number 7 of 1989 and the civil procedural law do not mention or regulate mobile courts. This is because the implementation of circuit courts is regulated in SEMA number 10 of 2010 which was only stipulated by the Supreme Court on 30 August 2010.

In general, mobile courts are running in almost all Religious Courts in Indonesia. The legal assistance that has been provided is not only limited to providing facilities to the community but is able to provide education and learning for the community, especially people who need it. Apart from that, it also aims to create a trial process that is simple, fast and low cost as well as increasing public legal awareness, especially Islamic law, which is one of the duties and functions and authorities of the court, including the implementation of divorce trials, so that the mobile court is present to provide benefits to people seeking justice.

The mobile court is one of the work programs of the Giri Menang Religious Court. The aim of holding the mobile court is to provide convenience for the community. In practice, mobile court legal services at the Giri Menang Religious Court have been running for a long time using almost the same implementation method every year, except that there are some changes in implementation due to funding conditions, community conditions, the condition of the panel of judges, and case conditions each year. There are several forms of services for conducting mobile trials at the Giri Menang Religious Court, including: 1. A simple, fast and low cost judicial process; 2. Limitation of the location of the mobile court according to needs; 3. Consider the distance between the parties; 4. Legal aid services for people who cannot afford it.

The Giri Menang Religious Court in implementing mobile court legal services, basically aims to realize the principles of justice that is simple, fast and low cost. This principle is clearly stated in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power. Simple means that the examination and resolution of cases is carried out in an efficient and effective manner. The fast

principle means that case resolution is carried out quickly and without complications, and the low cost principle means that case costs can be afforded by the public.

The simple, fast and low-cost judicial process is realized in the implementation of mobile courts, especially at the Giri Menang Religious Court. In its implementation, it is in line with the objectives of the mobile court based on the Decree of the Deputy Chairman of the Supreme Court of the Republic of Indonesia regarding the scope of the Religious Courts Number 01/SK/Tuada-AG/1/2013 which explains the objectives of the mobile court, namely: 1. Providing easy service to people seeking justice in get legal and justice services (justice for all and justice for the poor); 2. Realizing a simple, fast and low cost judicial process, and; 3. Increasing public legal awareness of Islamic sharia law.

The simple and fast judicial process through the mobile court service at the Giri Menang Religious Court has been implemented quite well because its implementation does not take a long time and the judicial system is carried out as simply as possible, which can be an important point in implementing the principles of simple, fast and low-cost justice. However, what is currently most frequently faced by litigants in mobile courts is the burden of case costs, which there is no difference between the implementation of mobile courts and the implementation of trials held in the Giri Menang Religious Court office. The main aim of holding a mobile court is to lighten the burden on the parties and also the principle of implementation includes low costs, but in reality the opposite is true. Various efforts have been made to realize the principles of simple, fast and low-cost justice, by making changes to the existing rules governing the implementation of mobile courts, especially regarding the costs of conducting mobile courts and efforts to increase the quota for pro-bono cases so that less fortunate people can litigate with costs borne by the state. The court is very open to anyone who wants to be covered by the state's costs in pro-bono cases, but with limited budgets, not all cases submitted can be served, in addition to the lack of people who know about the existence of pro-bono cases in civil cases, especially in the Giri Win religious court. This results in many deserving people but their applications not being submitted.

The importance of socialization and providing knowledge to relevant governments such as Village Heads, Subdistrict Heads, Heads of KUA, and other related parties, so that the synergy between the Religious Courts and the relevant governments is very good and they will definitely need each other, even though the Religious Courts are not subordinate agencies. The authority of the Regional Government but the court is a place of public service to seek justice which is certain that some people will need it.

Basically all cases can be submitted through the mobile court, but due to limitations in the services of the mobile court, there are several cases that are limited to the mobile court, including: Marriage registration, namely legalization/registration of marriages for marriages that are not registered with the KUA; A contested divorce is filed by the wife; Divorce talak is a request for divorce submitted by the husband; merging the itsbat case and divorce suit/divorce talak if the marriage is not registered and will apply for divorce;

Child custody, filing a lawsuit or requesting custody of a minor child; and Determination of heirs, namely a request to determine the legal heirs.

The mobile court held by the Giri Menang Religious Court in several sub-districts, is a form of service to the community that can be felt immediately, without visiting the court which is more than tens of kilometers away, but the Giri Menang Religious Court team comes directly to the location where the community lives, such as in the sub-district. Middle Sekotong. There were 35 trials in Sekotong Tengah District and 34 cases were granted in the judge's decision and one case was dismissed due to the absence of the parties at the trial. The trial was presided over by a Panel Judge and two Member Judges, besides that there were also two Substitute Registrars and a Bailiff.

Integrated services through a mobile court held by the Giri Menang Religious Court, also held at the North Lombok Regent's Hall in collaboration with the North Lombok Regency Population and Civil Registry Service, namely the mobile marriage itsbat court. Many married couples attended the marriage itsbat trial because they wanted to legalize their marriage by having their marriage certificate validated. The implementation of the integrated service marriage itsbat mobile court was attended by the Chair of the Giri Menang Religious Court, the Head of the North Lombok Regency Civil Registry Population Service and the Regent of West Lombok represented by the North Lombok Regional Secretary.

The Giri Menang Religious Court, in collaboration with the West Lombok Regency Ministry of Religion, also carried out marriage itsbat activities in Sesela Gunung Sari village, by presenting 50 married couples who did not yet have a marriage certificate. The implementation of the mobile court practice is part of the excellent service quality of the Giri Menang Religious Court and will continue to run according to the schedule that has been prepared and always involves the Ministry of Religion as the party issuing marriage certificates.

There are several stages in implementing a circuit court which are generally not regulated in statutory regulations. The stages in proceeding at a circuit court include: 1). Looking for mobile court information, this information is obtained through the local court office, court website, telephone, sub-district office or village office, which includes; traveling time, location of the circuit court, court fees, and procedures for filing a case through the mobile court. 2). Completing administrative requirements, such as: making a lawsuit or application letter; complete several documents required according to the case submitted; pay the down payment of case fees determined by the Court. For people who cannot afford to pay, they can apply for free; At the time of the trial the Petitioner/Plaintiff must bring a minimum of two witnesses who are familiar with the Plaintiff/Plaintiff's problems; submit all the completed requirements to the court office either personally or by an appointed representative and after the requirements are submitted then ask for proof of payment (SKUM) as well as a copy of the lawsuit/petition letter which has been given a case number; 3) Participate in the trial process by appearing on time at the designated mobile court location accompanied by 2 witnesses bringing SKUM and a copy of the lawsuit/petition letter. Follow the entire court process in an orderly manner and

dress politely and if you do not attend the mobile court then the hearing will be postponed; 4) After the case is decided, a copy of the decision can be taken at the Court or at the circuit court location.

Table 1. The Isbat Marriage Session through a Mobile Court Conducted by the Giri Menang Religious Court is as follows Year 2022

No	Month	Number of Cases	Location	Information
1	January	-		
2	February	100	1. Kantor Desa Kuripan Utara 2. Kantor Desa Sandik	-
3	March	105	1. Kantor Desa Pesisir Emas Sekotong 2. Kantor Desa Cendi Manik Sekotong	-
4	April	48	Kantor Desa Kebon Ayu	-
5	May	54	Kantor Desa Presak Kecamatan, Narmada	-
6	June	49	Kantor Desa Tegal Maja, Kecamatan Tanjung	-
7	July	162	1. Kantor Desa Sekotong Tengah 2. Kantor Desa Dasan Baru, Kecamatan Kediri	-
8	August	156	1. Kantor Desa Guntur Macan, Kecamatan Gunung Sari 2. Kantor Desa Banyu Urip, Kecamatan Gerung	-

9	September	163	1. Kantor Desa Lingsar 2. Kantor Desa Kedoro, Kecamatan Sekotong	-
10	October	279	1. Kantor Desa Pakuan, Kecamatan Narmada 2. Kantor Desa Gelangsar, Kecamatan Gunung Sari 3. Kantor Desa Meninting, Kecamatan Batu Layar	-
11	November	178	1. Kantor Desa Segarakaton, Kecamatan Gangga 2. Kantor Desa Sambik Bangkol, Kecamatan Gangga	-
12	December	-		-
	Amount	1.294		

Table 2. Year 2023

No	Month	Number of Cases	Location	Information
1	January	-		-
2	February	120	Kantor Desa Langko, Kecamatan Lingsar	-
3	March	120	Kantor Desa Sesela, Kecamatan Gunungsari	-
4	April	29	Kantor Desa Bagik Polak,	-

			Kecamatan Labuapi	
5	May	109	Kantor Desa Rempek Darussalam, Kecamatan Gangga	-
6	June	83	Kantor Desa Kuripan, Kecamatan Kediri	-
7	July	59	Kantor Desa Lembah Sempage, Kecamatan Narmada	-
8	August	180	1. Kantor Desa Sedau, Kecamatan Narmada 2. Kantor Desa Sekotong Tengah, Kecamatan Sekotong 3. Kantor Desa	-
9		-		-
Amount		700		

In the mobile court, the ongoing examination of cases does not take place in a protracted manner through complex processes, meaning that because the trial is only held for a day, it is not finished and ends in the middle of the examination phase. It is possible to prevent a number of issues that impede the trial process, including lack of witnesses, improper behavior on the part of the parties, difficulty proving evidence, and some judicial institution officers are not professional, whether judges, attorneys or other law enforcement officers. Most parties who file lawsuits or applications with religious courts prefer to have their cases decided quickly, so that the case does not become complicated for a protracted duration. It takes a while to examine matters at trial since legal advice is another source of the ill faith issue. The parties may, if they so want, be helped or represented by their proxies, according to Article 123 HIR/ Article 142 Rbg.

Basically, case examination according to HIR allows that in accordance with Article 159 paragraph (1) HIR, the case examination will be finished during the initial hearing. When mobile courts are used, the case examination procedure

moves along swiftly, and the trial is never postponed – either by the judge acting *ex officio* or at the request of the parties. Although in practice at trial the judge is less firm when a request for a postponement of the trial is submitted by the parties or their legal representatives.

Apart from that, the principle of low costs in case examinations for mobile court services is also applied proportionally. People who cannot afford it can submit a lawsuit for free. In principle, to litigate, court fees are charged, This is covered under Law Number 48 of 2009's paragraphs (2) and (3) on judicial power in Articles 4 and 5. Costs associated with the case include witness, expert, and interpreter fees; clerkship and stamp fees; summons fees; notification of the parties; and oath fees., local examination fees and so on.

The mobile court held by the Giri Menang Religious Court contained several factors that hampered the proceedings, namely: 1). There are no standard guidelines for implementing circuit courts. Mobile courts are a priority program and mainstay of religious courts, the procedures for which are not yet orderly and uniform between one religious court and another. This lack of uniformity has resulted in the regulation of implementation procedures such as the implementation administration process starting from implementation preparation to reporting, giving rise to legal uncertainty regarding the implementation of the mobile court. Based on interviews regarding the procedures for the mobile court held by the Giri Menang Religious Court, it shows that the implementation of the mobile court is in accordance with the guidelines in Law number 7 of 1989 concerning religious courts, as amended by Law number 50 of 2009 and HIR, but by means of several adjustments that lead to the simplification of case examination procedures; 2). Restrictions on the types of cases that can be examined in the mobile court, at the Giri Menang Religious Court, only examine Nikah Itsbat cases for couples who want to legalize their marriage with a valid marriage certificate; 3). Budget limitations in implementing circuit courts. Due to the limited budget, the mobile court held by the Giri Menang Religious Court solely deals with non-prodeo instances. Due to the annual funding constraints, a large number of persons actually want free legal representation but must wait for their turn; 4). limited infrastructure and facilities to enable the use of mobile courts. The Giri Menang Religious Court is not far from people's homes, so the use of government buildings or other agencies, like village halls, sub-district offices, KUA offices, or public facilities, is used to execute mobile courts.

## **CONCLUSIONS AND RECOMMENDATIONS**

Based on the discussion in the previous chapters, conclusions can be drawn as answers to the research problems as follows:

1. The regulation of the fundamentals of civil procedural law by use of the Giri Menang Religious Court's mobile court practice is regulated in the Supreme Court Circular Letter Number 10 of 2010 concerning guidelines for providing legal assistance both in the General Courts and in the Religious Courts and subsequently amended in Supreme Court Regulation Number 1 2014 concerning guidelines for providing legal aid

services for people who cannot afford to go to court and have a positive impact on the mechanism for providing services for waiving case fees or what are known as *prodeo* cases.

2. Implementation of the practice of mobile court at the Giri Menang Religious Court when connected to the principles of civil procedural law basically aims to realize the principles of justice that is simple, fast and low cost. This principle is clearly regulated in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power. In its implementation, it is in line with the objectives of the mobile court based on the Decree of the Deputy Chairman of the Supreme Court of the Republic of Indonesia regarding the scope of the Religious Courts Number 01/SK/Tuada-AG/1/2013 which explains the objectives of the mobile court, including: Providing ease of service to people seeking justice in obtaining services law and justice, realizing a simple, fast and low-cost judicial process and increasing public legal awareness of Islamic sharia law.

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