

The Effectiveness of Mobile Court Implementation in Manado Religious Court

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Abstract

This article discusses the implementation of the mobile Court conducted by the Manado Religious Court. This research is qualitative field research using empirical legal methods. The aim is to determine the dominant factors that affect the effectiveness of the mobile court conducted by the Manado Religious Court. By using the Legal System theory proposed by Lawrence M. Friedman, the author tries to unravel the problems that often arise in the mobile court process. The results of the study indicate that there is a significant relationship between the knowledge and awareness of justice seekers who use the judiciary, especially the Religious Court. The success implementation of mobile courts is due to the coordination and readiness of judicial infrastructure, including efforts to socialize the practice of mobile courts to related agencies, which are enhanced to achieve the goals of implementation of the mobile court.

Keywords: Mobile court; religious court; effectiveness

Abstrak

Artikel ini menganalisis pelaksanaan Sidang Keliling yang dilakukan oleh Pengadilan Agama Manado. Penelitian ini merupakan penelitian lapangan yang bersifat deskriptif kualitatif dengan penggunaan metode hukum empiris. Tujuannya untuk mengetahui faktor-faktor dominan yang mempengaruhi efektivitas sidang keliling yang dilaksanakan Pengadilan Agama Manado. Dengan menggunakan teori Sistem Hukum yang dikemukakan oleh Lawrence M. Friedman, penulis mencoba mengurai permasalahan

yang sering timbul dalam proses sidang keliling tersebut. Hasil penelitian mengindikasikan bahwa terdapat hubungan yang signifikan antara pengetahuan dan kesadaran masyarakat pencari keadilan yang menggunakan badan peradilan terutama pengadilan Agama dengan keberhasilan pelaksanaan sidang keliling ditambah dengan koordinasi dan kesiapan infrastruktur peradilan termasuk didalamnya upaya sosialisasi praktek sidang keliling terhadap instansi terkait mutlak ditingkatkan dalam rangka keberhasilan tujuan pelaksanaan sidang keliling tersebut.

Kata Kunci: Sidang keliling; pengadilan agama; efektivitas

Introduction

It is stated in the provisions of article 34, in conjunction with article 27 paragraph 2 of the 1945 Constitution, that the state protects the poor society and neglected children, and every citizen has the right to a decent life. As well as in the judicial realm, article 2 paragraph 4 of Law no. 48 of 2009 concerns Judicial Powers which emphasizes the principle of administering justice in Indonesia which is easy to run easily, quickly, and at low cost. On the other hand, according to Population Census data in 2020, Indonesia's population is 270,203,917 people¹, and 27.54% are categorized as a poor society.² The Central Statistics Agency has identified 14 categories of poor families. One of those categories is people with an income that is below Rp. 600,000 per month. It is included in the category of poor families because they can only cover the cost of daily needs.³

The implementation of Article 4 of Law no. 48 of 2009 is the Supreme Court as the holder of the highest judicial power in the country, has issued PERMA no. 1 of 2014 concerning Guidelines for the provision of legal services for underprivileged communities in court. In article 1 paragraph 1, it is explained that the provision of legal services for underprivileged communities includes waiving court fees, conducting hearings outside the court, and legal aid post services (Posbakum) in court. Article 3 PERMA no. 1 of 2014 confirms the purpose of holding hearings outside the court as one of the state's efforts to facilitate access for those classified as less able to fulfill their interests in the judicial field and provide excellent service for them. It has become one of the

¹ "Sensus Penduduk 2020 - Badan Pusat Statistik," accessed November 30, 2021, <https://sensus.bps.go.id/main/index/sp2020>.

² "Badan Pusat Statistik," accessed November 30, 2021, <https://www.bps.go.id/indicator/23/183/1/jumlah-penduduk-miskin-menurut-wilayah.html>.

³ Weijiang Jiang and Jun Ye, "Decision-Making Method Based on an Improved Similarity Measure between Vague Sets," *Proceeding 2009 IEEE 10th International Conference on Computer-Aided Industrial Design and Conceptual Design: E-Business, Creative Design, Manufacturing - CAID and CD'2009*, 2009, 2086–90, <https://doi.org/10.1109/CAIDCD.2009.5374873>.

breakthroughs of the judiciary in facilitating the implementation of the judicial process to achieve justice for all Indonesian people.

The implementation of PERMA No. 1 of 2014 above is that the Supreme Court issued PERMA No. 1 of 2015 concerning Integrated Services for Mobile courts of District Courts and Religious Courts/Shari'ah Courts in issuing marriage certificates, marriage books and birth certificates. This is due to a large number of poor citizens who do not formally have valid population data in terms of providing birth certificates, marriage books, and marriage certificates, which are essential in fulfilling their citizenship rights.⁴ Article 3 PERMA no. 1 of 2015 describes the implementation of the trial outside the court, carried out by the Court at the first level, both the District Court and the Religious Court/Shari'ah Court in an integrated manner with the Population and Civil Registry Office or the Office of Religious Affairs (KUA) by considering and focusing its implementation on the cases of Marriage ratification for District Courts and Marriage Istbat for Religious Courts, as well as Birth Registration by the Population and Civil Registry Office.

The implementation of PERMA no. 1 of 2015 in terms of Islamic law is regarded as one of the state's efforts to create benefits for the life of the nation, in the realm of creating social justice for underprivileged communities to access judicial institutions to guarantee their citizenship rights in terms of ownership of population data.

Another phenomenon is the Muslim community's massive practice of unregistered marriages. This affects the unregistered marriage at the local Religious Affairs Office (KUA), there is no marriage book for the family. In the end, children born from such marriages are difficult to obtain a birth certificate that can be used to access educational institutions, health, and other social access. This is in line with the principle of Islamic law: "*Dar'ul mafasid muqoddam 'ala jalbi al mashalih*" which means preventing damage takes precedence over seeking benefit.

The Religious Courts as one of the judicial bodies under the Supreme Court that specifically handles Islamic civil cases create the mobile courts to facilitate the Islamic community and legalize their unregistered marriages. This is done by some of the poorest Muslim communities, especially in terms of fulfilling marriage books, birth certificates, and divorce certificates for each family member.

⁴ Cate Sumner and Santi Kusumaningrum, "Studi Dasar AIPJ Tentang Identitas Hukum : Jutaan Orang Tanpa Identitas Hukum Di Indonesia," 2014.

The research conducted by Muhammad Sidik,⁵ Nurain & Mayaningsih,⁶ and Muhammad Fauzi⁷ regarding the mobile court which focused on the implementation of PERMA no. 1 of 2015 in Pulang Pisau, Ciamis, and Wonogiri revealed that it is necessary to conduct further research related to the factors that affect the effectiveness of PERMA no. 1 of 2015 which the Supreme Court has issued at the Manado Religious Court. In contrast, the object of this research is the area of the Manado Religious Court which has never been researched and focuses on the factors that affect the effectiveness of the implementation of PERMA no. 1 of 2015 at the Manado Religious Court.

Not all religious courts practice mobile courts, especially religious courts in the provincial capital.⁸ This is due to the infrastructure in the provincial capital is good enough and easily accessible to the poor. In the Manado Religious Court, this shows the opposite circumstance. Even though it is located in the provincial capital of North Sulawesi, it still has a wide jurisdiction covering the North Minahasa district and part of the Minahasa district. In 2020, Manado Religious Court has conducted a mobile court that includes the settlement of 89 cases located in the North Minahasa Regency area with a limited budget allocation. The number of cases is 12.30% of the total cases or 723 cases received by the Religious Courts in 2020.

There are several obstacles to the implementation of PERMA no. 1 of 2015. For example, the geographical location of the Manado Religious Court is still difficult to reach by the surrounding area, especially the people in North Minahasa Regency and parts of Minahasa Regency which are still under the jurisdiction of the Manado Religious Court. Second, the economic capacity of the community is less supportive. Third, the availability of an internet network found in civil registration services and the Office of Religious Affairs (KUA) is lacking.⁹ In addition, according to Kusmayanti, many civil societies are afraid to deal with the law because of their lack of understanding of the legal issues they are facing. Thus, granting power to lawyers to settle for their legal problems in

⁵ Muhammad Sidik, "Implementasi Perma Nomor 1 Tahun 2015 Tentang Pelayanan Terpadu Sidang Keliling Pengadilan Agama Pulang Pisau," *Jurnal Sosial Sains* 1, no. 8 (August 15, 2021): 800–818, <https://doi.org/10.36418/SOSAINS.V1I8.177>.

⁶ Engeng Nuraini and Dewi Mayaningsih, "Implikasi Sidang Keliling Pengadilan Agama Ciamis Terhadap Peningkatan Kesadaran Penyelesaian Perkara," *Varia Hukum* 1 (2019): 21–44.

⁷ Muhammad Latif Fauzi, "Efektivitas Sidang Keliling (Studi Di Pengadilan Agama Wonogiri)," *AL-'ADALAH* 14 (December 30, 2018): 367, <https://doi.org/10.24042/adalah.v14i2.2057>.

⁸ Hazar Kusmayanti, Sherly Ayuna Putri, and Linda Rahmainy, "Praktik Penyelesaian Sengketa Di Pengadilan Agama Melalui Sidang Keliling Dikaitkan Dengan Prinsip Dan Asas Hukum Acara Perdata," *ADHAPER: Jurnal Hukum Acara Perdata* 4, no. 2 (May 1, 2019): 145, <https://doi.org/10.36913/JHAPER.V4I2.83>.

⁹ Wawancara dengan Vahria, Panitera Pengadilan Agama Manado.

court is the main choice they made and they have to pay for the costs in order for their case to issued in the Religious Court.

This study was descriptive qualitative with an empirical juridical approach. The sources of data were collected from interviews with participants in the object of research as primary legal sources, accompanied by a search for other supporting materials in the form of reference books, journals, magazines, websites, and regulations as secondary legal sources. The data collection was done by observation and in-depth interview techniques.

It is important to conduct this research to examine what factors affect the effectiveness of PERMA no. 1 of 2015 at the Manado Religious Court which has a wide jurisdictional area covering the City of Manado, North Minahasa Regency, and part of the Minahasa Regency area. The results were taken into consideration for the relevant institutions to maximize the implementation of the Mobile court so that it is more in line with the circumstances and wishes of litigation to create a sense of justice for the community.

Discussion

The Access of the Poor Community in the Implementation of Mobile Court

Manado is the capital of North Sulawesi Province, with a population of 451,916 people spread over 11 sub-districts and 87 sub-districts with a composition of 25,550 poor people or 5.85% of the total population¹⁰ Poverty is usually described as the lack of community income to meet the basic needs of life.^{11,12} A poor community is a condition where the community does not have access to adequate basic facilities and infrastructure as well as uncertain sources of income that cover various dimensions.¹³ The percentage of poor people in the city of Manado, North Minahasa Regency, and Minahasa Regency were respectively amounted to 5.85%,¹⁴ 6.75%,¹⁵ and 7.18%.¹⁶ These communities

¹⁰ BPS Manado, "Kota Manado Dalam Angka 2021," 2021.

¹¹ Safri Miradj and Sumarno Sumarno, "Pemberdayaan Masyarakat Miskin, Melalui Proses Pendidikan Nonformal, Upaya Meningkatkan Kesejahteraan Sosial Di Kabupaten Halmahera Barat," *Jurnal Pendidikan Dan Pemberdayaan Masyarakat* 1, no. 1 (2014): 101, <https://doi.org/10.21831/jppm.v1i1.2360>.

¹² Dahyar Daraba, "Faktor-Faktor Yang Mempengaruhi Keberhasilan Program Pemberdayaan Masyarakat Miskin Di Kecamatan Polongbangkeng Utara," *Agustus* 10, no. 2 (2015): 160.

¹³ Haditsah and Annur, "Klasifikasi Masyarakat Miskin Menggunakan Metode Naive Bayes," *Ilkom* 10, no. 2 (2018): 160.

¹⁴ Manado, "Kota Manado Dalam Angka 2021."

¹⁵ BPS Kabupaten Minahasa Utara, "Kabupaten Minahasa Utara dalam Angka 2021" (AIRMADIDI, 2021).

are the objectives of the mobile circuit implementation program conducted by the Manado Religious Court in 2020

In a report issued by the United Nations Development Program (UNDP), the injustice experienced by the poor continues to increase along with their inability to access the judiciary.¹⁷ Several issues are that are considered relevant to be raised and developed to bridge the gap between justice seekers who are classified as poor, such as the issues of non-availability of marriage certificates, birth certificates of the children, and other legal identities that every citizen should own. National Socio-Economic Survey data in 2012 estimated that more than 24 million Indonesian children aged 0-17 years do not have a birth certificate; this occupies 29% of the total number of children in Indonesia¹⁸ On the other hand, in 2013 the Constitutional Court issued a decision no. 18/PUU-XI/2013 which explains among other things, that a person who does not have a birth certificate is de jure not considered by his country of existence. The absence of birth certificates affected the low prevalence rates of children who complete 12 years of education, lack of access to basic health services, lack of access to employment services in the formal sector, and high rates of early marriage.¹⁹ This requires serious attention to overcome the citizenship problem, to build a prosperous society throughout Indonesia.

Responding to the impact caused by the absence of birth certificates, from a legal perspective, the Supreme Court of the Republic of Indonesia has issued a policy in the context of efforts to facilitate access for justice seekers who are classified as poor to be able to reach the judicial process in their area. These efforts include the issuance of PERMA no. 1 of 2014 concerning Guidelines for the provision of legal services for underprivileged communities in court. Such PERMA influence can be seen in several breakthroughs that the Supreme Court has made in the form of granting: waiver of case fee services, Legal Aid Post services (Posbakum), out-of-court trial services, and mobile court services which were respectively accumulated as 19,823 cases²⁰, 312,963 cases²¹, 41,550 cases²², and 528 cases²³. These all were carried out in 2020 and

¹⁶ BPS Kabupaten Minahasa, "Kabupaten Minahasa dalam Angka 2020" (Tondano, 2020).

¹⁷ Kementerian Perencanaan Pembangunan Nasional/Bappenas RI, "Strategi Nasional Akses Pada Keadilan 2016-2019," *Kementerian Perencanaan Pembangunan Nasional/BAPPENAS RI*, 2016, 5–6.

¹⁸ Sumner and Kusumaningrum, "Studi Dasar AIPJ Tentang Identitas Hukum : Jutaan Orang Tanpa Identitas Hukum Di Indonesia."

¹⁹ Sumner and Kusumaningrum.

²⁰ Mahkamah Agung Republik Indonesia, *Laporan Tahunan 2020 Mahkamah Agung Republik Indonesia: Optimalisasi Peradilan Modern Berkelanjutan*, 2021.

²¹ Mahkamah Agung Republik Indonesia.

²² Mahkamah Agung Republik Indonesia.

have indicated a significant increase in the access of poor citizens to the world of justice in the country. In line with this, in 2015, the Supreme Court also issued PERMA no. 1 of 2015 concerning Integrated Services for Mobile courts at District Courts and Religious Courts/Shari'ah Courts for the issuance of marriage certificates, and marriage books, and birth certificates. It aims to make it easy for the poor to access the world of justice to fulfill their citizenship rights

The Effectiveness of the Mobile Court At Manado Religious Court

According to article 2 PERMA no. 1 of 2015 concerning Integrated Services for Mobile courts at District Courts and Religious Courts/Shari'ah Courts for the issuance of Marriage Certificates, Marriage Books and Birth Certificates, the implementation of integrated services carried out by the court aims to increase public access to services in the field of law, and help people who cannot afford to obtain rights to obtain marriage certificates, marriage books, and birth certificates easily, quickly and at low cost.²⁴ With this aim, the Supreme Court has made clear standards that the Manado Religious Courts must meet in conducting mobile courts in the designated area.

In assessing whether the implementation of the mobile court has run well, a more in-depth analysis is needed with the theory of legal effectiveness that has been known and developed in legal knowledge. Effectiveness, according to William Dunn is a criterion in the selection of alternative recommendations based on the consideration of whether the alternative obtains maximum results regardless of the element of efficiency.²⁵ Meanwhile, according to Amin Wijaya, effectiveness is a result obtained from decisions that lead to the right action and can help fulfill a company's mission or goals.²⁶ Steers put forward several criteria in measuring effectiveness in an activity, namely: Productivity, flexibility, satisfaction, ability, and search for resources.²⁷ In general, effectiveness is the achievement of a goal that has been recommended previously by looking at the concept of what is expected from an activity. While the effectiveness of the law is a match between what is regulated and what is carried out in the field. If the facts on the ground are by what was stipulated in the initial plan, it indicates that the regulation is relevant and effective in the community. On the other hand, if the facts on the ground indicate otherwise,

²³ Mahkamah Agung Republik Indonesia.

²⁴ "Perma1tahun2015.Pdf," n.d.

²⁵ William N. Dunn, "Pengantar Analisis Kebijakan Pulblik" (Yogyakarta: Gadjah Mada University Press, 2003). p. 75

²⁶ Amin Widjaya Tunggal, *Manajemen : Suatu Pengantar* (Jakarta: Rineka Cipta, 1993). p. 203

²⁷ Richard M. Steers, *Managing Effective Organizations* (Boston Kent Publishing, 1985). p. 290

the law is ineffective. According to Ahmad Ali,²⁸ the effectiveness of the rule of law can still be questioned the degree of its effectiveness because someone who obeys the law often depends on his interests.

Soerjono Soekanto emphasized that the effectiveness of a rule of law is determined by 5 factors; the law, law enforcement, facilities and infrastructure, society, and legal culture.²⁹ Furthermore, in the theory of the legal system, Lawrence M. Friedman describes that the rule of law can run well if it fulfills 3 absolute requirements that must be met in a legal system; the structure of law, legal substance, and legal culture.³⁰

In the implementation of the mobile court for the poor, it is seen that the state intervenes through the Supreme Court in facilitating public access to the judiciary. Is considering that there are still many poor societies in Indonesia that are constrained by various aspects, especially aspects of knowledge, economy, and geographical location in interactions, to fulfill their citizenship rights in terms of legal identity. The fulfillment of these rights can improve the standard of living of citizens, the quality of life, and the speed of the competition for quality of life, especially in today's digital age.

In the aspect of the legal structure (Structure of law), it is clear that the relationship between several state institutions such as the Supreme Court is represented by the Manado Religious Court, as well as other institutions within the executive scope such as the Ministry of Religion through the District Office of Religious Affairs (KUA), and The Ministry of Home Affairs through the Population and Civil Registration Service (Disdukcapil) in the regions have shown a good pattern through the synergy between the institutions involved in it. At this level, it can be indicated that the legal structure formed in the implementation of the mobile court in the Religious Courts has functioned well even though there are slight shortcomings in terms of coordination and digital network support where this does not have a significant effect.

In the aspect of legal culture (Legal Culture), it can be seen that the participation of the community with an interest in the Mobile court's implementation is crucial in supporting the effectiveness of the implementation of the Mobile court. Public Understanding of the rules that must be obeyed in the process of implementing the Mobile court as well as the legal culture of the community in the form of discipline, awareness, and obedience to the rules in it is essential in supporting the effectiveness of the implementation of the Mobile

²⁸ Ahmad Ali, *Menguak Teori Hukum (Legal Theory) Dan Teori Peradilan (Judicialprudence) Termasuk Interpretasi Undang-Undang (Legisprudence)* (Jakarta: Kencana Prenada Media, 2009).

²⁹ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Jakarta: RajaGrafindo Persada, 2007).

³⁰ Lawrence M. Friedman, *Sistem Hukum: Perspektif Ilmu Sosial*, ed. M. Khozim and Nurainun Mangunsong (Bandung: Nusa Media, 2018).

court. If these things are not carried out properly, it can negatively affect the implementation of the Mobile court. According to Mufi Ahmad Baihaqi, the implementation of the Mobile court conducted by the Manado Religious Court in 2020, in general was gone well, because the awareness of the people who are litigating in the implementation of the Mobile court is classified as good by following all the formal procedures that the Religious Court has determined³¹

In terms of Islamic law, it is necessary to pay close attention to the use of *maslahah mursalah* as part of the *ijtihad* of ulama in determining the rules of Islamic law against something that is not regulated in the Qur'an and the Hadith. According to Abdul Wahab Khalaf, *maslahah* where the Shari'a does not stipulate its law to create benefit and no evidence shows its acknowledgment or cancellation.³² Meanwhile, Muhammad Abu Zahra defines *maslahah mursalah* as all benefits that are in line with the goals of *syar'i* and there is no specific argument for it that shows whether or not an act of *maslahah* itself³³ In Islamic terminology, according to Al-Ghazali in Asmawi explained as an effort to maintain and realize the goals of shari'a. ' either in the form of maintaining religion, soul, mind, lineage, and wealth.³⁴ Meanwhile, according to the purpose of its use in Islamic law, Islamic jurists divide the levels of *maslahah* in terms of legal force as evidence in the application of law in the community in the form of *maslahah dharuriyah*. It emphasizes benefit in aspects related to basic needs or basic human needs; *maslahah al-hajiyah* which emphasizes benefit on aspects related to secondary human needs; *maslahah tahsiniah*, which emphasizes benefit in aspects related to complementary needs.³⁵

The existence of a marriage book, divorce certificate, and birth certificate for every citizen in Indonesia is necessary for gaining access to social life, especially in education, health, and trade and economic transactions. The application of mobile courts makes it easier for the public to get access to this. In the study of Islamic law, it can be said as a breakthrough that is beneficial for the benefit of the Muslim community of Manado in supporting their lives, especially in terms of self-identity.

Regarding the aspects of Islamic law, the application of the mobile court in Manado Religious Court is included in *maslahah al-hajiyah*, which emphasizes the secondary needs of the Islamic community in Manado and its surroundings,

³¹ Wawancara dengan Ahmad Mufi Baihaqi, Ketua Pengadilan Agama Manado

³² Abdul Wahab Khalaf, *Ilmu Ushul Fiqh Teji. Nur Iskandar Albarsany Kaedab-Kaedab Hukum Islam*, 8th ed. (Raja Grafindo Persada, 2002), p.123.

³³ Muhammad Abu Zahrah, *Ushul Fiqih: Muhammad Abu Zahrah; Penerjemah Saefullah Ma'shum* (Pustaka Firdaus, 1994), p. 424.

³⁴ Asmawi Asmawi, "Konseptualisasi Teori Maslahah," *SALAM: Jurnal Sosial Dan Budaya Syar-I* 1, no. 2 (2014): 314.

³⁵ Firdaus, *Ushul Fiqh: Metode Mengkaji Dan Memahami Hukum Islam Secara Komprehensif* (Rajawali Pers, 2017), p. 83.

especially in fulfilling the rights of having marriage books, birth certificates, divorce certificates, and so on.

The implementation of the mobile court at the Manado Religious Court

According to Indonesian law, the concept of dispute resolution is divided into dispute resolution through the courts (litigation) and dispute resolution outside the court (non-litigation). Dispute resolution through the judiciary can be regarded as a conventional dispute resolution method or model, which has developed and is applicable.³⁶ The Religious Courts are places or facilities for Muslim people to settle cases submitted to them. The main duties and functions of the judiciary, according to the concept of the Religious Courts are similar to the duties and functions of the judiciary in the General Courts, which are only limited to civil cases based on the applicable Civil Procedure Code.³⁷

According to Kusmayanti, the judiciary is the main way in resolving disputes experienced by the community where everyone has the same legal rights in the court.³⁸ On the other hand, with the increase in various methods of recovery in modern countries, it can be seen that the concept of access to the judicial process has developed progressively to include other forms of 'justice' that make it easier for people to reach it..³⁹ In general, the government and state administration has been running well in Manado, especially the judiciary that carries out judicial tasks for the community.

The Manado Religious Court, a judicial institution that carries out its main judicial duties for those who are Muslim in Manado, has received 723 cases in 2020 and resolved and decided a total of 718 cases in 2020, which is 99.31% of the total cases.⁴⁰ Meanwhile, the composition of cases by type is divided into 518 types of lawsuits and 175 application cases, plus the remaining cases in 2019 amounted to 30 cases.⁴¹ The jurisdiction of the Manado Religious Court includes Manado City, which consists of 11 sub-districts, North Minahasa Regency which consists of 10 sub-districts, and part of Minahasa Regency (which includes Pineleng, Tombulu, and Mandolang sub-districts).

³⁶ Hashim Sofyan Lahilote et al., "The Litigation Aspects in Solving Banking Disputes in the Sharia Sector," 2019, <https://doi.org/10.7176/PPAR>.

³⁷ Hasyim Lahilote, "Legal Transplant in the Substance of the Authority of Religious Courts in Indonesia," *Journal of Law, Policy and Globalization*, January 2020, <https://doi.org/10.7176/JLPG/93-14>.

³⁸ Kusmayanti, Putri, and Rahmainy, "Praktik Penyelesaian Sengketa Di Pengadilan Agama Melalui Sidang Keliling Dikaitkan Dengan Prinsip Dan Asas Hukum Acara Perdata."

³⁹ AW Bedner et al., "An Analytical Framework for Empirical Research on Access to Justice," *Scholarlypublications* ..., n.d.

⁴⁰ PA Manado, "Laporan Pelaksanaan Kegiatan Tahun 2020."

⁴¹ "Statistik Perkara – Pengadilan Agama Manado," accessed December 5, 2021, <https://pa-manado.go.id/statistik-perkara/>.

With such a wide jurisdiction, the Religious Courts can hold hearings outside the Court to implement the provisions of Article 1 letter 5 PERMA no. 1 of 2014. Furthermore, in Article 14 of the PERMA, the Manado Religious Court can conduct hearings outside the Court to facilitate justice seekers who are unable and difficult to access the location of the Court due to cost constraints or geographical location. Article 16 of the PERMA implies that implementing a trial outside the Court only applies to cases whose proof is easy and simple.

In implementing PERMA no. 1 of 2014, the Manado Religious Court has carried out many mechanisms that facilitate access for citizens who are classified as poor in accessing the world of Justice, especially the Religious Courts, this has been carried out both in the form of services through the Legal Aid Post (Posbakum) in the Religious Courts, and the implementation of mobile courts conducted in three separate places in North Minahasa district, as well as *prodeo* cases.

The number of cases carried out through the Legal Aid Post (Posbakum) mechanism at the Manado Religious Court can be seen in Table 1 below :

Tabel 1. The Total Cases through the Legal Aid Post (Posbakum)

No.	Case	Frequency
1	Making a divorce suit	353
2	Making a divorce application	151
3	Making a joint property claim	4
4	Making a child custody application	3
5	Making an application for guardianship	2
6	Making a child adoption application	2
7	Making an application for heirs	9
8	Application for marriage dispensation	46
9	Marriage cancellation lawsuit	3
10	Consultation	7
11	Istbat marriage	113
Total		691

Sumber data : Pengadilan Agama Manado 2020

The data above reflects the implementation of the Legal Aid Post (Posbakum) through the assistance provided by the Religious Courts to facilitate public access to the world of Justice, which has a significant influence in helping the community in the legal field. This is evidenced by the number of cases using the Legal Aid Post service (Posbakum) at the Manado Religious Court, which amounted to 691 cases out of 723 cases received by the Manado Religious Court in 2020. It means that Posbakum services occupy 95.57% of the total cases accepted by the Religious Courts in 2020.

And for the number of cases carried out through the mobile court mechanism, can be seen in Table 2 below:

Tabel 2. The Total Cases through Mobile Court

No	Location	Time	Case		The number of Certificates/books issued	
			Rejected	Accepted	Husband	Wife
1.	KUA Subdistrict of Dimembe	26 March 2020	8	-	8	8
2.	KUA Subdistrict of Wori	20 July 2020	18	7	18	18
3.	KUA Subdistrict of Likupang	March-april 2020	50	4	50	50
Total			76	11	76	76

Sumber : Pengadilan Agama Manado 2020

The data above shows the implementation of mobile courts conducted by the Religious Courts on 76 cases through the mobile court mechanism, this is 10.51% of the total number of cases received by the Manado Religious Court in 2020, as well as an increase in the number of marriage books issued by the Office Religious Affairs (KUA) in three sub-districts in North Minahasa Regency. This indicates that the Manado Religious Court makes efforts in facilitating public access to the judiciary in the city of Manado, although the budget for the mobile court funds provided in the Manado Religious Court DIPA tends to be small, ranging from Rp. 17,500,000⁴²

As for the Prodeo case, the Religious Courts in 2020 received 15 divorce cases and 82 marriage legalization cases through the Prodeo case mechanism

⁴² PA Manado, "Laporan Pelaksanaan Kegiatan Tahun 2020."

based on the provisions of PERMA no. 1 of 2014.⁴³ It means that the free cases received by the Manado Religious Court amounted to 97 cases which occupied 13.41% of the total cases received by the Religious Courts in 2020.

A *mobile court* is a court process that is carried out outside the court where the service is made for members of the community who are constrained by geographical location and economic conditions in litigation in court.⁴⁴ In optimizing the settlement and easiness of cases in issuing marriage certificates, marriage books, and birth certificates, the Manado Religious Court implemented PERMA no. 1 in 2015 by conducting a mobile court. According to M. Sidik PERMA no. 1 of 2015 has a fundamental position in creating justice for a group of people experiencing difficulties in accessing the law.⁴⁵ Furthermore, Wilda emphasized that the PERMA benefits the community in accessing the judiciary because transportation costs are lighter and more efficient. On the other hand, Muwahid indicated that the mobile court was part of a concrete form of public policy carried out by the Religious Courts.⁴⁶

Factors that influence the effectiveness of the Implementation of the Mobile court at the Manado Religious Court

The implementation of the mobile court at the Manado Religious Court, from a legal point of view, is carried out based on the provisions of PERMA no. 1 of 2015, which regulates the Integrated Services for Mobile courts at the District Court and Religious Courts/Shari'ah Courts in the context of issuing Marriage Certificates, Marriage Books and Birth Certificates. With this provision, Manado Religious Court has provided steps to facilitate access for justice seekers to access the world of justice in fulfilling their citizenship rights in terms of obtaining marriage certificates, marriage books, and birth certificates.

In general, the implementation of the Mobile Court held by the Manado Religious Court in 2020 has been running well, although, in some parts, there are still various obstacles faced by the Manado Religious Court in the implementation of the mobile court:

1. Coordination of the implementation of the mobile court with related institutions that have not been maximized.

⁴³ PA Manado.

⁴⁴ Hazar Kusmayanti, Eidy Sandra, and Ria Novianti, "Sidang Keliling Dan Prinsip-Prinsip Hukum Acara Perdata: Studi Pengamatan Sidang Keliling Di Pengadilan Agama Tasikmalaya," *Jbaper.Org* 1, no. 2 (2015).

⁴⁵ Sidik, "Implementasi Perma Nomor 1 Tahun 2015 Tentang Pelayanan Terpadu Sidang Keliling Pengadilan Agama Pulang Pisau."

⁴⁶ Fahmi Muwahid and Riyan Ramdhani, "Batasan Waktu Perkawinan Dalam Perkara Isbat Nikah Pada Sidang Keliling Di Pengadilan Agama Cianjur," *Al-Ahwal Al-Syakhsiyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 1, no. 1 (September 2, 2020): 27–38, <https://doi.org/10.15575/AS.V1I1.7800>.

2. Public awareness to take advantage of mobile court access is still low.
3. Internet network that is not optimal.⁴⁷

The above constraints have resulted in the implementation of the mobile court conducted by the Religious Courts in one respect being less effective than the purpose of the mobile court itself.

Several factors influence the implementation of the mobile court within the Religious Courts, which effectively influence the success of the objectives achieved in the implementation of the mobile court. Among them :

1. Regulatory Factors

The issuance of PERMA no. 1 of 2015 has made it justice seekers easy to access the world of justice in the context of fulfilling their citizenship rights in terms of issuing Marriage Certificates, Marriage Books, and Birth Certificates which are very useful in the availability of their legal identity. As a result, the public can take advantage of their legal identity documents for use in government services and services in the private sector which require valid identity documents in their interactions. On the other hand, this regulation has opened further space for Religious Courts in various regions in Indonesia to open the widest possible access for the community to reach the Court process in fulfilling their citizenship rights. It has implications for the Office of Religious Affairs (KUA) that it affects the welfare of the community. With the PERMA, Manado Religious Court has a strong base in facilitating access of the poor in the jurisdiction by conducting mobile courts, especially in the case of itsbat marriage. The public can access and obtain a marriage book at the Office of Religious Affairs (KUA) which is one of the requirements for obtaining birth certificates for their children.

2. Budget Factor

The mobile court conducted by the Religious Courts in 2020 was carried by using the funds from Manado Religious Court's DIPA, which amounted to Rp. 17.500.000- This fund is used to reach out to the location of the meeting held in North Minahasa Regency, as well as coordination efforts between Manado Religious Court and related agencies in North Minahasa Regency, including The Office Ministry of Religion of North Minahasa Regency and the Office of Religious Affairs (KUA) in Dimembe District, KUA in Wori District and KUA in Likupang District. The larger the budget used from the DIPA fund, the larger the area covered by the mobile court. Thus, it can cover most of the justice seekers who are constrained by distance, time, and cost in accessing the justice system within the jurisdiction of the Manado Religious Court. With

⁴⁷ Wawancara dengan Vahria Khan, Panitera Pengadilan Agama Manado

the availability of funds, the implementation of the Mobile court in Manado Religious Court runs well and effectively based on the objectives that have been proposed in the initial planning for the implementation of the Mobile court.

3. Place of Implementation Factors

Place of Implementation is one of the important factors that influenced the implementation of the Mobile court conducted by the Manado Religious Court. In general, the implementation of the mobile court is adjusted to the number of cases by identifying the domiciles of the applicant and the respondent. The determination of the venue for the mobile court is the task of the Religious Courts, which is coordinated with the KUA-KUA in the jurisdiction of the Manado Religious Court. Considering that the area of North Minahasa Regency which Muslim community is relatively small, the concentration of the Muslim population is significant and supports the implementation of the mobile court. The mistakes in determining the location of the Mobile court will result in a waste of budget and less effective implementation of the Mobile court.

4. Coordination factor with related agencies

Coordination with other agencies is essential for the Manado Religious Court in carrying out the mobile court. This is considering the provisions of Article 3 PERMA no. 1 of 2015 which requires cooperation between the Religious Courts and other government agencies, including the Office of Religious Affairs (KUA) where the mobile court is held, and the Population and Civil Registration Service (Disdukcapil) in the North Minahasa Regency area. An equal perception of the implementation of the mobile court must be carried out between the relevant agencies, both in terms of socializing the implementation of the mobile court to the public, budget support owned by each relevant institution, and technical matters in the implementation of the mobile court. It includes coordination of the applications needed to support the implementation of these activities.

5. The factor of public awareness.

The community discipline and public understanding of the world of justice are one of the most important factors in the implementation of mobile courts in the Religious Courts. This is because public awareness and knowledge of the implementation of the mobile court will support the process of implementing the mobile court. Given the limited time and place for the court, it is expected that the community will know and prepare themselves for the implementation of the trial and discipline in complying with various forms of mechanisms provided by the Religious Courts. The public's knowledge of the legal world, especially the procedural law issues used in the Religious Courts, is important in facilitating the trial process.

6. The communication line support factor (Internet).

This factor is a supplement (additional) factor in the implementation of the mobile court, considering that government administration tasks in the current era involve digital applications that help and ease the work of government agencies in serving the community. These applications include the form of E-Court and E-Litigation applications and the SIMKAH application in every Office of Religious Affairs (KUA). This application requires a good internet network during the mobile court process. The availability of the internet network will increase the effectiveness because the results of decisions issued by the Religious Courts can be directly updated on the SIMKAH application at the Office of Religious Affairs (KUA) so that it is easier for the community to fulfill their legal identity.⁴⁸

Meanwhile, Mekka et al indicated that there were four supporting factors for the mobile court:

1. Availability of funds provided by the government;
2. Good service obtained from the team that conducts the mobile court;
3. The pattern of good cooperation between the Religious Courts and the Office of Religious Affairs (KUA); as well as
4. The orderliness of the litigants in the mobile court.⁴⁹

On the other hand, according to Hasbi, three factors hinder the effectiveness of the implementation of mobile courts in the Religious Courts:

1. Indiscipline of the public in attending the trial;
2. The insufficient knowledge of the public about what must be prepared to support the running of the mobile court;
3. Inadequate access for remote communities to the venue for the mobile court, resulting in delays in the time for the mobile court to be held.⁵⁰

To produce a high level of effectiveness in the implementation of the mobile court at the Manado Religious Court, according to the author, the availability of funds, the knowledge, and the discipline of the community are the dominant factors affecting the effectiveness of the mobile court implementation at the Manado Religious Court.

⁴⁸ Wawancara dengan Mufi Ahmad Baihaqi, Ketua Pengadilan Agama Manado

⁴⁹ Marzuki Mekka, Imran Ismail, and Sitti Aminah, "Efektivitas Sidang Keliling Dalam Penerapan Asas Sederhana, Cepat Dan Biaya Ringan Di Pengadilan Agama Sengkang," *Jurnal Ada Na Gau: Public Administration* 2, no. 1 (June 30, 2021): 328.

⁵⁰ Muh. Nasharuddin Chamanda, "Efektivitas Sidang Keliling Kaitannya Dengan Asas Sederhana, Cepat, Dan Biaya Ringan (Studi Kasus Di Pengadilan Agama Sungguminasa Kelas II B Tahun 2013-2015)" (Makassar, UIN Alauddin, 2016), p. 25.

Conclusions

The author concluded that the implementation of the Mobile court conducted by the Manado Religious Court has been running well. The six factors that support the effectiveness of the implementation of the mobile court in 2020 have been based on PERMA no. 1 of 2015 concerning Integrated Services. Mobile courts at the District Court and Religious Courts/Shari'ah Courts in issuing marriage certificates, marriage books, and birth certificates at the Manado Religious Court have been carried out properly. It is necessary to increase the allocation of mobile court funds at each Religious Court, thereby facilitating access for justice seekers. Also, it must be more significant efforts to increase public understanding of the legal aspects of litigation in Religious Courts.

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