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## PPIM Survey: Religious Courts Access and Equity

Jajat Burhanudin

### **Background**

In line with the socio-political changes that have swept the country throughout the Reformation era, there have been a number of developments within the religious courts in Indonesia. These developments are important to take note of because of the role of the religious courts in resolving civil matters such as marriage and divorce cases, among others.

The importance of religious courts initially rose with the introduction of Marriage Law no. 1 1974 which mainly aimed to prevent arbitrary divorces, which was viewed to be a common problem among Muslims at the time. The enactment of this law meant that divorces needed to be approved by the religious court, hence acting as a disincentive for men to divorce their wives at the drop of a hat. The impact of this law is evident: the rate of divorce for Indonesian Muslims declined from 16.7% in 1955 to 1.1% in 1990.

In 1989 religious courts were awarded equal status with the national courts. Hence similar to the national court system, religious courts were introduced at the regional level, while there was also a Higher Religious Court established which acted as a court of appeal. Furthermore, the jurisdiction of the court was expanded to include all cases of Muslim family law—marriage, divorce, repudiation, inheritance, bequests, gifts (*hibah*) and endowment (*wakaf*). In 2006, Law no. 7 1989 was amended so that the religious courts would also oversee cases related to *syari'ah* economics.

It was because of the important role of religious courts in the continued development of Indonesian society that PPIM recently undertook a survey on access to the religious courts. This survey seeks to better understand which communities do not have or want access to the services of religious courts, and provide this information to the stakeholders, including court users, the government, and judges. Access in this regard is defined as the extent to which religious court users or would be religious court users are aware of the existence and objectives of the religious courts and the degree to which they are able to access the services provided.

Designed as a national survey, a total of 1,042 respondents were chosen from a total of 162,347 individuals who had cases referred to the religious courts in the year 2006. With this sample, the maximum error margin is  $\pm 3\%$  at the 95% confidence level.

The first stage of the survey was to select religious courts as samples. In accordance with their usage, 75% of the sample is religious courts based in Java and 25% outside of Java. Furthermore, as most of the users of religious courts tend to be from rural areas, 75% of the sample was from rural (kabupaten) areas.

The next stage was the selection of respondents in each of the selected religious courts. Here, 30 respondents were selected from among the list of cases at each of the 35 courts for the year 2006. From this process, 1,042 respondents were selected, consisting of 611 [58.6%] female respondents and 431 [41.4%] male respondents. It is interesting to note that a majority of the cases which the respondents were involved in females [wives] bring cases against their husbands.

The survey looked at a range of issues related to the use of the religious courts across the nation and access to these courts. Hence the survey touched on the background of users, equity, satisfaction, accessibility, knowledge of the religious courts and the services provided, and trust in public institutions.

### **Who Tends to Use the Religious Courts and Why?**

This question is evidently one of the most important questions to be answered for it is with this information that access to the courts can partly be explained.

The survey results indicated that the majority of the religious courts' users come from the lower end of Indonesian society. That is to say, most are poorly educated (only 12.8% of the users have a ter-

tiary education) and the majority (75.9%) have a monthly income of less than 1 million rupiah (approximately \$USD 110). While 77.7% of the respondents had paid employment, the majority of them are unskilled laborers (61.4%). In fact, only 6.6% of the respondents could be categorized as professional workers (e.g. teachers, doctors, and lawyers).

At first glance, such data appears to indicate that access to the religious courts has very little to do with socio-economic status: those with a relatively low income and poor education form the majority of the courts' users, not those who are better off as has been widely assumed. However, it should be kept in mind that the profile of the respondents is not of specific significance in explaining access to the religious courts. In fact, such demographic data is simply a reflection of the socio-economic status of the whole population of Indonesia.

While the results of the survey will not be discussed at length here, one interesting finding which will be touched upon is the extent to which respondent's sex becomes a factor in the user's access, equity, satisfaction, and trust in public institutions. What was found is that females tend to display a higher level of satisfaction with the court and trust in public institutions, and tend to perceive the religious courts in a more positive light when it comes to equity and access to the religious court. This shows that sex is an important issue that must be examined closer to better understand the issue of access to the religious courts and equity of legal process in the religious courts.

This finding (i.e. greater satisfaction with religious courts on the part of female respondents) is evident from the data. For instance, 63% of the female respondents felt that the presiding judge listened to everything they had to say during the proceedings of their case, while only 37% of male respondents felt the same. Female respondents are similarly positive with regards to the fairness and transparency of the courts, with 63.3% of female respondents saying they felt the religious courts displayed the required levels of fairness and transparency.

While the question of who uses the religious courts has been discussed, the question of which factors contribute to the respondent's satisfaction with the court has less so been covered here. Some variables have already been identified here as contributory factors to the respondents' satisfaction: equity, accessibility, knowledge of the religious courts services and their legal rights, family, trust in pub-

lic institution, and gender equity. Correlation analysis, furthermore, shows that most of these variables have a significant and positive correlation with the respondents' satisfaction with the religious courts (with the exception of gender equity and knowledge). The question is which is the strongest variable?

Using multivariate analysis, we concluded that the most dominant factor that contributed to the respondents' satisfaction with the religious courts is 'equity'. This means that the respondents' evaluation of the court's performance as well as efficiency in dealing with the cases in court is the strongest factor in what ultimately leads user's of the courts' services to be satisfied and use these services again. Which variables, however, are of influence to equity?

Again multivariate analysis is used here. Three variables can be identified as having the strongest impact on the variable of equity. They are accessibility; trust in public institutions, and family support. Although varying in their degree of influence, the multivariate analysis showed that almost every item of the three variables contributed to making the respondents satisfied as is measured in the variable of equity.

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