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Small Claims Court Procedure in The Framework of Indonesian Law Reform: An Analysis of Community Legal Needs and Lawrence M. Friedman's Three Legal Sub-Systems Theory

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ABSTRACT

The Small Claims Court Procedure, or gugatan sederhana, is a dispute resolution system regulated under Peraturan Mahkamah Agung (PERMA) Nomor 4 Tahun 2019. It was designed to provide the public with access to justice that is quick, simple, and low-cost. As part of legal reform, this procedure aims to achieve legal objectives more effectively in civil procedural law. Understanding this reform requires analyzing the legal system. Based on Lawrence M. Friedman's legal system theory, there are three key subsystems: legal structure, legal substance, and legal culture. This research uses a socio-legal approach to examine the mechanisms of the Small Claims Court Procedure within Nomor 4 Tahun 2019, while applying Friedman's three-subsystem theory. The study concludes that these subsystems – legal structure, legal substance, and legal culture – work synergistically to support the implementation of the Small Claims Court Procedure as a form of legal reform. However, there remains room for improvement in the legal culture, particularly in encouraging greater participation from the public and legal practitioners. This procedure is expected to contribute to the development of civil procedural law, addressing challenges that may arise from the perspectives of legal structure, legal substance, and the legal culture of both society and legal professionals.

Keywords: small claims court procedure; reform; society.

INTRODUCTION

Legal reform has become one of the main priorities of the Government of the Republic of Indonesia since the reform era in 1998. The Indonesian government has undertaken various initiatives, including institutional restructuring, legislative updates, and improvements in legal services. These efforts aim to ensure that the Indonesian people receive recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law, in accordance with the mandate of the amended 1945 Constitution of the Republic of Indonesia. Reform signifies a

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change in format towards improvement, both in its structure and its "rules of the game".¹

In the context of reform, there is a dynamic dimension that encompasses efforts to overhaul and restructure. This includes dismantling the old, corrupt, and inefficient regime and reconstructing it with a new regime that is more democratic, efficient, and socially just. By transitioning from the old regime to a new one, legal reform embodies values that serve as the foundation for governance and societal processes. One of the primary agendas of legal reform prioritized by the Government of the Republic of Indonesia is to expand access to justice for all societal groups. To achieve this, an effective legal framework is needed to establish a fair and inclusive legal system. Ideally, the legal system should address the legal needs of all layers of society. However, in reality, various sectors in Indonesia still face significant challenges in accessing justice.

One of these challenges lies in the gap between societal needs and existing regulations, which has led many individuals and groups to rely on informal mechanisms, such as customary law, to resolve disputes. This reflects that, despite numerous legal policies being implemented, many do not fully accommodate the needs of the broader community. Unmet legal needs are also evident from the excessive complexity of the legal framework, which hinders access to justice in specific sectors. Certain areas lack a formal legal framework, forcing communities to turn to informal mechanisms like customary law to address their legal issues. In other words, current legal policies have yet to fully meet the legal needs of Indonesian society. Fulfilling legal needs must be viewed not only through legal policies and the institutions that implement them but also through the community's ability to understand and access the law.

Pascoe Pleasance notes that legal needs arise due to insufficient legal capacity to adequately support the resolution of legal problems.² Pascoe Pleasance further emphasizes that legal needs cannot be adequately met if legal issues are resolved inappropriately and are not supported by effective legal assistance, which should complement the lack of legal capacity. When legal needs are unmet, access to justice remains unattainable. Dispute resolution, the availability of legal assistance, and justice are interconnected elements that cannot be separated. The relationship between legal assistance and justice is reflected in the concept of the rule of law (*rechtsstaat*), where the state is obligated to recognize and protect the human rights of every citizen, including

¹ Cunningham, W. T. (ed). (1982). *Nelson Contemporary English Dictionary*. Canada: Thompson and Nelson Ltd. p. 422.

² Pleasance, Pascoe. (2018). *Legal Needs Surveys and Access to Justice*, Launch Copy. Paris: OECD Publishing. p. 22.

the right to justice and equal treatment before the law (*equality before the law*).³ Therefore, the state must provide various forms of support to ensure equal treatment for every individual in the legal process.

A brief explanation of these societal needs is reflected in the rationale behind the existence of the Small Claims Court Procedure within Indonesia's civil justice system. Historically, the concept of small claims court originates from countries adopting the common law system. In Indonesia, the Small Claims Court Procedure was introduced to address the need for expedited case resolution and to handle claims involving relatively low monetary value. This procedure is regulated under PERMA Nomor 2 Tahun 2015 tentang Tata Cara Penyelesaian Gugatan Sederhana and PERMA Nomor 4 Tahun 2019 tentang Perubahan Atas PERMA Nomor 2 Tahun 2015. The establishment of the Small Claims Court Procedure as a development in civil procedural law is rooted in the need for a fair judicial process at the first-instance courts that is accessible to all societal groups.⁴ The societal needs referred to are a fast, simple, and low-cost legal process.

Therefore, the main requirement in the Small Claims Court Procedure is a legal process that can be completed in a short time with claims of small monetary value. The existence of law that arises based on societal needs is crucial for a rule-of-law state to achieve its objectives. Gustav Radbruch stated that the purposes of law consist of three elements: (1) Justice (*Gerechtigkeit*); (2) Utility (*Zweckmassigkeit*); and (3) Legal Certainty (*Rechtssicherheit*).⁵ These three objectives are interconnected. The enforcement of law cannot be separated from these three aspects of legal goals to create an ideal rule-of-law state. Therefore, to achieve these legal objectives, law enforcement must align with these goals. In order to realize law enforcement that matches the envisioned rule-of-law state, the formation of law must be reformative, adapting to the dynamics of society.

Legal reform in law enforcement must be carried out using a legal system approach. Lawrence M. Friedman categorizes the legal system into three subsystems: legal substance, legal structure, and legal culture.⁶ Legal substance refers to the legal material found in legislation and regulations. Legal structure pertains to the institutions that implement the law, the authority of these institutions, and the personnel (law enforcement officers). Legal culture, on the other hand, relates to the behavior of society concerning the law.

³ Hutabarat, Restaria F. (2013). *Neraca Timbang Bagi si Miskin: Penelitian Skema dan Penyaluran Dana Bantuan Hukum di Lima Wilayah Indonesia*. Jakarta: Lembaga Bantuan Hukum Jakarta. p. 14.

⁴ Ariani, Nevey Varida. (2016). "Gugatan Sederhana dalam Sistem Peradilan di Indonesia". *Jurnal Penelitian Hukum De Jure*, 18(3), p. 382.

⁵ Rahardjo, Satjipto. (2012). *Ilmu Hukum*. Bandung: Citra Aditya Bakti. p. 19.

⁶ Friedman, Lawrence M. (2001). *Hukum Amerika: Sebuah Pengantar*, Terjemahan dari American Law An Introduction, 2nd Edition, *Alih Bahasa: Wisnu Basuki*. Jakarta: Tatanusa. pp. 6-8.

These three legal systems are key factors in the success of law enforcement reform within a country. They will work in synergy to achieve the objectives of law enforcement: justice, certainty, and utility. Legal reform can be carried out in both substantive and procedural law to align with the evolving needs and values of society. In civil procedural law, legal reform can be made to address the relevance of the HIR/RBg, which no longer aligns with the values of modern Indonesian society. Therefore, the Small Claims Court Procedure becomes one of the implementations of civil procedural law reform, focusing on the procedural aspect of claims to fulfill society's access to courts, based on the principles of swift, simple, and low-cost justice.⁷

The existence of the Small Claims Court as a form of legal reform must be evaluated to determine whether it meets the standards of the legal system, as proposed by Lawrence M. Friedman. Therefore, in this study, the author will analyze whether the Small Claims Court Procedure can be categorized as a legal reform that aligns with the legal needs of society. This analysis will be based on the fundamental reasons for the establishment of the Small Claims Court Procedure in Indonesia and will be examined through various theories, including Gustav Radbruch's theory of the purposes of law. Additionally, the author will analyze the Small Claims Court Procedure as a legal reform within Lawrence M. Friedman's legal system theory, focusing on its three subsystems. Thus, this article will further explore whether the Small Claims Court Procedure can be considered a reform in civil procedural law that serves the legal needs of society and analyze the societal legal needs for the Small Claims Court Procedure through the lens of the three theories proposed by Lawrence M. Friedman.

RESEARCH METHODS

In addressing the first research problem, the author needs to examine the urgency of the Small Claims Court Procedure in meeting societal needs. Therefore, a socio-legal research method is required. According to Banakar and Travers, the socio-legal approach is an interdisciplinary method aimed at integrating various perspectives from the social sciences and law into a coherent approach. In this way, the socio-legal approach seeks to combine knowledge, skills, and research experiences from multiple disciplines comprehensively, with the goal of overcoming limitations in both theory and methodology from each discipline, as well as creating a foundation for the development of new forms of analysis. For the first research problem, the author will analyze the history of the Small Claims Court Procedure and the cases that led to the idea of establishing it. In addressing the second research problem, the author will use the

⁷ Afriana, Anita. (2018). "Dasar Filosofis dan Inklusivitas Gugatan Sederhana dalam Sistem Peradilan Perdata", *University of Bengkulu Law Journal*, 3(1), 2018, p. 2.

analysis of Lawrence M. Friedman's theories, focusing on legal substance, legal structure, and legal culture. This analysis aims to delve into how these three elements interact and contribute to the effectiveness of the Small Claims Court Procedure in fulfilling the legal needs of society.

DISCUSSION

Small Claims Court Procedure as a Means to Fulfill Legal Needs of Society

The Small Claims Court Procedure was first established in 1913 by the Cleveland Court, Ohio, United States.⁸ According to Black's Law Dictionary, the Small Claims Court Procedure is an informal court (outside the usual court mechanism) with a fast process to make a decision on claims for compensation or debts with a small claim value.⁹ According to Baldwin, the Small Claims Court Procedure is an informal dispute resolution process with a simple procedure, low costs, and no binding legal power. This definition means that the concept of Small Claims Court Procedure is to avoid formal proceedings with the aim of resolving cases in a simple, fast, and low-cost manner.

The Small Claims Court Procedure is also referred to as a "people's court" in practice.¹⁰ This aligns with the purpose of establishing the Small Claims Court Procedure, which is to provide a formal dispute resolution process for cases with small claims and uncomplicated procedures, aiming to resolve simple disputes that do not require high costs for formal litigation. The concept of the Small Claims Court Procedure is designed so that the parties involved can present their cases independently, without the need for a lawyer, judge, or any other assistance that could burden them with additional costs. Therefore, the Small Claims Court Procedure (simple claims procedure) was created to bridge the gap between non-litigation dispute resolution, which does not offer binding outcomes, and litigation, which provides legal certainty. This mechanism ensures a quick, simple, and low-cost dispute resolution process with a binding decision, as it is conducted through the litigation path and a separate examination process from the usual adversarial procedure.¹¹

The Small Claims Court (SCC) has actually been implemented in several countries around the world, such as Singapore, Australia, the United Kingdom, the United States, and Hong Kong. In the United States, SCC was introduced due to the urgent need to

⁸ Grenstad, Nicoley. (1983). *Dispute Settlement in a Southern Small claims Court*. Florida: Norway's Tribunal. p. 66.

⁹ Garner, Bryan A. (ed). (2004). *Black's Law Dictionary*, Edisi Kedelapan. Minnesota: Thomson West Publishing Co.

¹⁰ Texas Young Lawyers Association and State Bar of Texas. 2009. *How to Sue in Small claims Court*, Edisi Kelima, Texas: Texas Young Lawyers Association, p. 1.

¹¹ Fakhriyah, E. L., (2013). "Mekanisme Small claims Court dalam Mewujudkan Tercapainya Peradilan Sederhana, Cepat, dan Biaya Ringan". *Jurnal Mimbar Hukum*, 25(2), p. 267.

revise several procedures for small claims in New York City.¹²At that time, the number of disputes with small claims skyrocketed, but the resolution of small-value disputes could only be handled through the regular court procedure. The regular court procedure at that time was considered ineffective because the costs incurred to finance the court procedure and lawyers were often higher than the value of the claim, making it impossible to recover losses in small-value claims. As a result, in places like Cleveland, a specialized conciliation process was established to handle disputes with small values through a simpler process.

SCC is also implemented in Singapore. In Singapore, SCC is known as the Small Claims Tribunal, which was established on February 1, 1985, based on the legal framework of The Small Claims Tribunals Act 6. The Small Claims Tribunal was created with the aim of providing a fast, efficient, and low-cost service for resolving disputes with small claims.¹³ Currently, the implementation of the SCC in Singapore refers to the Small Claims Tribunals Act Singapore Chapter 308, which was issued by the legislative body of Singapore.¹⁴

In Indonesia, the Small Claims Court Procedure is known as "gugatan sederhana" (simple claims). According to M. Natsir Asnawi, a simple claim is a civil lawsuit that is resolved through a procedure with simplified evidence and procedures (simple procedure and evidentiary).¹⁵ The existence of the Small Claims Court Procedure in Indonesia aligns with the principle of civil procedural law, which is the principle of fast, simple, and low-cost litigation, as stated in Article 2, paragraph (4) of Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman. This principle aims to ensure that disputes can be resolved in a short period, without unnecessary complexity, and with costs that do not burden the public.

The issue underlying the idea of the Small Claims Court Procedure in Indonesia is the large number of small-value disputes, most of which are related to consumer rights, such as debts, sales of goods, claims for damaged goods, service fees, MSME disputes, and other conflicts arising from contractual relationships. For example, a case regarding the return of an overpaid parking fee of Rp1,000 illustrates that the party involved in the dispute had to go through the court process all the way to the cassation level, only to receive compensation of Rp1,000 after waiting for 3.5 years.¹⁶

¹² Ho Peng Kee. (1984). *Small claims Process: Some Reflections*. Malaya Law Review. p. 22.

¹³ Anita Afriana, An An Chandrawulan, (2019). "Menakar Penyelesaian Gugatan Sederhana di Indonesia". *Jurnal Bina Mulia Hukum*, 4(2), p. 59.

¹⁴ Tendra, Denny, Gultom, Elfrida. (2023). "Gugatan Sederhana di Indonesia, Singapore, Malaysia: Kajian Perbandingan Hukum". *Unes Law Review*. 5(3). p. 792.

¹⁵ Asnawi, Natsir. M. (2016). *Hukum Acara Perdata: Teori dan Praktik*. Jakarta: Yogyakarta UII Press. p. 648.

¹⁶ Huda, Chairul. (2013). *Penerapan Small claims Court dalam Perspektif Hukum Pidana di Indonesia*. Jakarta: Badan Pembinaan Hukum Nasional. p. 25.

In addition, there are several cases pursued by David M.L. Tobing related to consumer rights with low claims, such as the case of a Lion Air flight delay with a compensation ruling of IDR 718,500.22, and a parking management case he won with a claim of IDR 10,000.¹⁷ Moreover, the last case was strengthened by the Supreme Court into jurisprudence, and it was established that any loss of a vehicle in a parking area can be claimed for compensation from the parking operator. From this case, it is evident that even disputes with a small object value still require a long judicial process using the regular civil litigation procedure.

Hatta Ali, the former Chief Justice of the Supreme Court (Mahkamah Agung), stated that the urgency of establishing the Small Claims Court procedure was to respond to the era of free trade, which is likely to generate many commercial disputes with small material values that ultimately lead to court.¹⁸ In the context of globalization and economic liberalization, business transactions are becoming increasingly complex and often involve parties from different backgrounds, both domestic and international. With the rapid growth of small and medium enterprises (SMEs), many people are involved in contracts with relatively small values. However, despite the low value of the claims filed, the conventional dispute resolution process can take time and incur disproportionate costs, thus hindering access to justice for them.

On the other hand, the judicial system regulated under the civil procedural law generally still follows the HIR/RBg, which tends to be lengthy and complicated. In practice, court proceedings do not always run smoothly, and some cases are delayed, sometimes taking years. If this situation continues, there is a risk that the judicial institution will be increasingly avoided, especially by economic and business actors. They require a dispute resolution process that is swift and accurate, so dissatisfaction with the existing system could cause them to hesitate to use the courts as a channel for resolving disputes. Moreover, the public also desires a dispute resolution process that results in an agreement, which is a decision that has binding force on the parties involved.

The small claims court procedure, as a development of civil procedural law, has two regimes: the general civil procedural regime (formal) and the special procedural regime (material), which are explicitly regulated in PERMA Number 2 of 2015 concerning the Procedure for Simple Lawsuit Resolution and PERMA Number 4 of 2019

¹⁷ Arizona, Yance. (2010). Small claims Court: Apa Gunanya Bagi Masyarakat Adat dan Lingkungan Hidup. Dalam seminar hasil penelitian SCC yang dilakukan oleh LeIP dan Fakultas Hukum Universitas Indonesia. Depok: Kampus Fakultas Hukum Universitas Indonesia.

¹⁸ Hukum Online. (2015). Urgensi Terbitnya PERMA *Small claims Court*. Available online from: <https://www.hukumonline.com/berita/a/urgensi-terbitnya-perma-ismall-claims-court-ilt55d71ac18056b/>. [Accessed October 22, 2024]

concerning Amendments to PERMA Number 2 of 2015 regarding the Procedure for Simple Lawsuit Resolution. These PERMAs contain provisions that highlight specific aspects different from the resolution of civil claims in general, including a fast process that aims for resolution within 25 days,¹⁹ with a material claim of up to IDR 500,000,000 (five hundred million Rupiah),²⁰ Regarding the final decision in the Small Claims Court procedure, the parties may file an objection no later than 7 (seven) days after the decision is pronounced or after the notification of the decision. This objection will be decided by the panel of judges as the final decision, and no appeal, cassation, or judicial review options are available.²¹ The special provisions outlined in the PERMA are, in fact, a response to the legal need for access to courts for all layers of society.²²

The legal needs mentioned here refer to the necessity for a fast, simple, and cost-effective legal process. The fulfillment of these principles is also beneficial for resolving contractual disputes, which are common in society, such as cases involving default or tortious acts. When a problem arises in a contract, it can lead to a dispute that needs to be resolved by the parties involved. In many cases, these disputes are settled through litigation. In such cases, the principles of a fast, simple, and cost-effective judicial process can be applied. An example can be seen in banking credit agreements. The Small Claims Court procedure can serve as an effective method for seeking justice, especially for creditors, whether from banks or individuals. Consider a scenario where the material value of a credit agreement between a creditor and debtor is below Rp. 50,000,000, but they must go through the standard civil litigation process. In such cases, the time and costs incurred would not be proportional to the value of the claim. However, after the issuance of PERMA No. 4 of 2019, which amends PERMA No. 2 of 2015 regarding the procedure for simple claims, the maximum claim amount has increased from Rp. 200,000,000 to Rp. 500,000,000. This change greatly benefits creditors, as it makes it easier for them to seek justice for smaller claims in a timely and cost-effective manner.²³

With these changes, creditors can more easily and quickly resolve disputes involving small amounts without getting caught up in long and complicated procedures. This not only reduces the financial burden on the party filing the lawsuit but also accelerates the resolution of the case, allowing them to refocus on their business or financial activities. The procedure also promotes peaceful dispute resolution, ultimately

¹⁹ Article 1 Point 1 PERMA Nomor 2 Tahun 2015 tentang Tata Cara Penyelesaian Gugatan Sederhana.

²⁰ Article 1 Point 1 PERMA Nomor 4 Tahun 2019 tentang Perubahan Atas PERMA Nomor 2 Tahun 2015 tentang Tata Cara Penyelesaian Gugatan Sederhana.

²¹ Article 21, Article 22, Article 27 dan Article 30 PERMA Nomor 2 Tahun 2015 tentang Tata Cara Penyelesaian Gugatan Sederhana.

²² Ariani, Nevey Varida. *Op. Cit.*

²³ Purnawati, Erna. (2020). "Penerapan Gugatan Sederhana Dalam Penyelesaian Perkara Wanprestasi di Pengadilan Negeri Selong". *Jurnal Juridica*, 2(1), p. 33.

increasing public trust in the judicial system. Moreover, accessibility for economically disadvantaged individuals in terms of legal costs has improved, ensuring that justice can be experienced by all segments of society.

In practice, the Small Claims Court procedure offers an opportunity for individuals and small businesses to claim their rights without facing the complexities that often accompany larger judicial processes. With procedures designed to simplify, it is hoped that more people will be encouraged to use legal channels, ensuring their rights are protected. Furthermore, the Small Claims Court procedure reduces the burden on courts handling more complex cases, allowing them to focus on matters requiring greater attention. This could speed up the overall resolution of cases, creating a more efficient judicial system.

The public also needs to be better informed about the Small Claims Court procedure so they can fully utilize it. With clear information and good accessibility, it is expected that more individuals will feel confident in filing simple claims without fear of high costs or the complexities of legal procedures. Thus, the existence of small claims lawsuits is not just an alternative but also a step forward towards a more inclusive and responsive justice system. This fosters a more equitable legal climate and ensures that everyone, regardless of their economic background, has access to justice.

Analysis of Small Claims Court Procedure as Legal Reform in the Theory of Lawrence M. Friedman.

The existence of law that arises from societal needs is crucial for a rule of law state in realizing its goals. As a state under the rule of law, it is only right that Indonesia should fulfill the objectives of law. Gustav Radbruch stated that the objectives of law consist of three aspects: (1) Justice (*Gerechtigkeit*); (2) Utility (*Zweckmäßigkeit*); and (3) Legal Certainty (*Rechtssicherheit*).²⁴ These three objectives are interconnected. Law enforcement cannot be separated from these three aspects of legal objectives in realizing an ideal rule of law state. Therefore, to establish these legal objectives, law enforcement must align with these goals. To achieve law enforcement that corresponds to the envisioned rule of law, the formation of laws must be reformative, adapting to the dynamics of society.

Reform means a change in format toward a better direction, both in its structure and in its rules of the game.²⁵ In the context of reform, there is a dynamic dimension encompassing efforts to overhaul and reorganize. This means dismantling the old regime, which is corrupt and inefficient, and reconstructing a new regime that is more

²⁴ Rahardjo, Satjipto. *Loc. Cit.*

²⁵ Cunningham, W. T. (ed). *Loc. Cit.*

democratic, efficient, and socially just. By reconstructing the old regime into a new one, legal reform incorporates values that serve as the foundation for governance and societal interaction. The brief explanation of this reform can be illustrated in the rationale behind the establishment of the Small Claims Court Procedure in Indonesia's civil judicial system. In this context, the author views the Small Claims Court Procedure as a reform in civil procedural law.

Legal reform must be carried out with an approach grounded in the legal system. Paisol Burlian states that a legal system is a unity of various legal components that are interconnected and work together to achieve the objectives of law, namely justice, order, and utility in societal interactions.²⁶ Lawrence M. Friedman, in his book *American Law: An Introduction*, presents the **Legal System Theory**, stating: "A legal system in actual operation is a complex organism in which structure, substance, and culture interact. A legal system is the union of "primary rules" and "secondary rules." Primary rules are norms of behavior, secondary rules are norms about those norms- how to decide whether they are valid, how to enforce them, etc."²⁷

Based on what was proposed by Lawrence M. Friedman, the legal system is categorized into three (3) subsystems: legal substance, legal structure, and legal culture. Legal substance encompasses the legal materials contained in legislation and regulations. Legal structure refers to the institutions responsible for implementing the law, their authority, and personnel (law enforcement officers). Legal culture pertains to the (legal) behavior of society. The explanation of these three subsystems will be outlined as follows:

a) Legal Structure

Legal structure is the legal institution that supports the enforcement of the legal system. This section relates to the legal order, legal institutions, law enforcement officers and their authority, legal apparatus, and the processes and performance of these entities in implementing and enforcing the law.²⁸ Lawrence M. Friedman defines legal structure as "The structure of a system body of the system, the tough, rigid bones that keep the process flowing within bounds. We describe the structure of judicial system when we talk about the number of judges, the jurisdiction of courts, how higher court are stacked on top of lower courts, what persons are attached to various courts, and what their roles consist of "²⁹ This

²⁶ Burlian, Paisol. (2015). *Sistem Hukum di Indonesia*. Palembang: NoerFikri Offset. hlm. 68-69.

²⁷ Friedman, Lawrence M. (1975). *The Legal System: A Social Science Perspective*. New York: Russel Foundation. hlm. 6.

²⁸ Barkatullah, Abdul Halim. (2013). "Budaya Hukum Masyarakat dalam Perspektif Sistem Hukum". *Jurnal UKSW*, hlm. 1-18.

²⁹ Friedman, Lawrence M. (1975). *Op. Cit.* hlm. 16.

means that the structure of a system is the solid and rigid core that keeps the process running within certain limits. This structure includes the number of judges, the jurisdiction of courts, how higher courts are placed above lower courts, who is involved with various courts, and what their roles are.

b) Legal Substance

Legal Substance according to Lawrence M. Friedman is "*The substance is composed of substantive rules and rules about how institutions should behave.*³⁰ *Structure and substance are real components of a legal system, but they are at best a blueprint or design, not a working machine.*"³¹ Legal substance encompasses all legal rules, both written and unwritten, including principles and norms of law as well as court decisions that serve as guidelines for society and the government, resulting from the legal system. Legal substance and legal structure are tangible components of the legal system, but these two aspects function only as blueprints or designs, not as tools used in daily practice.³²

c) Legal Culture

According to Lawrence M. Friedman, legal culture is influenced by disruptions in the legal structure and substance, which occur due to their static nature. The external social world provides input into this process. The legal system is not closed or isolated but is highly dependent on external input. Social forces continuously alter the legal order, update it, select which parts of the law to apply and which to disregard, and determine what should be changed. This is what is referred to as legal culture.

Legal culture is a crucial aspect of law enforcement. Essentially, legal culture encompasses the views, customs, and behaviors of society regarding the values and expectations towards the prevailing legal system. In other words, legal culture is the social climate regarding how law is applied, violated, or enacted. Every society, country, and community has a distinct legal culture, influenced by the cultural values present within that society, whether derived from ethnicity, customs, or religious influences.

Friedman also states, "It is the element of social attitude and value. The phrase 'social forces' is itself an abstraction; in any event, they have needs and make demands; these sometimes do and sometimes do not invoke legal process, depending on the culture".³³ Which means, "It is the element of social attitude and

³⁰*Ibid*, hlm. 15.

³¹ *Ibid*.

³² Friedman, Lawrence M. (1975). *Loc.cit*.

³³ *Ibid*.

value. The phrase 'social forces' is itself an abstraction; in any event, they have needs and make demands; these sometimes do and sometimes do not invoke legal process, depending on the culture." This means that the implementation of law depends on legal culture, which consists of the values, views, and attitudes of the society in question. If legal culture is ignored, it can lead to potential failure in the legal system, marked by several signs, including:³⁴

1. There is a misinformation regarding the content of legal regulations that should be communicated to the public as legal users.
2. There is a gap between the ideals of law and the practices of society.
3. Society tends to behave according to the values that are adopted as their way of life.

Regarding the explanation of the three elements of law in Lawrence M. Friedman's theory, it can be stated that the development of law will influence the development of the judicial system. The development of the judicial system in a country like Indonesia can be seen from how the judicial institutions, as an element of legal structure, and law enforcement officers, as an element of legal culture, synergize in balance to serve the public and seekers of justice by producing the latest legal products as an element of good legal substance.

These three legal subsystems are determining factors in the success of legal reform in a country. In the context of the small claims court procedure, the author will analyze these three legal subsystems with the following elaboration:

1. Legal Substance

The legal substance referred to in this context is the creation of a new procedural law with a reform system from the general civil procedural law. The intended reform of civil procedure is the procedure within the small claims court procedure, which utilizes civil lawsuits but with specific distinctions. These distinctions include the resolution of disputes through a fast procedural process. The author analyzes that the existence of the small claims court procedure can serve as a reconstruction in the development of civil procedural law, as well as establish a new legal procedure to realize the principles of justice that are swift, simple, and cost-effective. "Simple" means the process is straightforward without unnecessary complications, "swift" means that case hearings are conducted without taking too much time, and "cost-effective" means that the legal process does not require significant costs.³⁵

³⁴ Shalihah, Fithriatus. (2017). *Sosiologi Hukum*. Depok: PT RajaGrafindo Persada. pp. 62-64.

³⁵ Noor, Muhamad. (2020). "Penyelesaian Gugatan Sederhana di Pengadilan Berdasarkan Peraturan Mahkamah Agung Nomor 2 Tahun 2015", *Yudisia: Jurnal Pemikiran Hukum dan Hukum Islam*, 11(1), p. 53.

Legal substance consists of all legal rules, both written and unwritten, including principles and legal norms, as well as court decisions that serve as guidelines for society and the government, resulting from the legal system.³⁶ The legal substance in the small claims court procedure can be analyzed through the principle of judicial power, which is based on the principle of swift, simple, and cost-effective justice as emphasized in Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman. This principle means that the court will assist those seeking justice in realizing a judicial system that is quick, simple, and affordable.

The aspiration of this principle is then realized through the establishment of the small claims court procedure mechanism in PERMA Nomor 2 Tahun 2015 tentang Tata Cara Penyelesaian Gugatan Sederhana; PERMA Nomor 4 Tahun 2019 tentang Perubahan Atas PERMA Nomor 2 Tahun 2015 tentang Tata Cara Penyelesaian Gugatan Sederhana. Although, according to Undang-Undang Nomor 12 Tahun 2011 tentang Tata Cara Pembentukan Peraturan Perundang-Undangan, PERMA is not included in the hierarchy of formal legislation, it still holds binding legal authority.

This is because Article 8, paragraph (1) of Undang-Undang Nomor 12 Tahun 2011 tentang Tata Cara Pembentukan Peraturan Perundang-Undangan states that "Other types of regulations, as referred to in Article 7, paragraph (1), include regulations set by the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Supreme Audit Agency, the Judicial Commission, Bank Indonesia, Ministers, agencies, institutions, or commissions established by law or government based on law, Provincial Regional People's Representative Council, Governors, District/Municipal People's Representative Council, Regents/Mayors, Village Heads, or those of equal rank." Therefore, the PERMA regulating the small claims court procedure holds binding legal force as a positive legal product.

2. Legal Structure

The Small Claims Court within the legal structure serves as a bridge between abstract moral values and the concrete reality of the judicial process. Judges play a crucial role in interpreting these ideas through the decisions they make, ensuring that general legal principles can be applied to specific situations. Each case presented before a judge will be thoroughly examined to determine if the events presented truly occurred and to identify the relevant legal relationships.

³⁶ Barkatullah, Abdul Halim. *Op.Cit.*

In carrying out their duties, judges use evidence to ensure that the events that transpired can be classified and linked to existing legal provisions. This process involves searching for the appropriate legal provisions to apply to the case at hand. Therefore, judges not only apply the law but also assess the situation and ultimately make a decision that is expected to bring justice.

The existence of justice in the legal system heavily relies on the active role of judges in applying the law. The concept of justice can only be realized if judges understand the social dynamics present in society. In this context, Article 14 of PERMA Nomor 2 Tahun 2015 tentang Tata Cara Penyelesaian Gugatan Sederhana emphasizes that judges must take an active role in various aspects. This includes providing a balanced explanation of the simple lawsuit process to all parties, striving to resolve disputes amicably by encouraging mediation during the trial, and guiding the parties in terms of evidence and explaining the legal options available to them.³⁷

3. Legal culture

Legal culture refers to the public's attitudes or values, moral commitments, and awareness that drive the functioning of the legal system, or the entire set of factors that determine how the legal system finds a logical place within the cultural framework of society.³⁸ In the context of SCC, what needs to be considered is the level of public trust in implementing SCC as a form of legal reform in their country. For example, the SCC established in the United States received a positive response from the public and was widely used by parties because it was considered successful in addressing the issues of the previous legal system that was ineffective.³⁹ The success of the implementation of SCC in the United States has also led several regions to adopt the SCC system in their areas, with as many as 28 jurisdictions adopting SCC.⁴⁰ Then, in 1970, the American court system underwent a wave of reform aimed at addressing various shortcomings in the existing system. This reform reflected an acknowledgment of the need for continuous change to ensure that the legal system remains relevant and just. In the period from 2021 to

³⁷ Article 14 Perma Nomor 2 Tahun 2015 tentang Tata Cara Penyelesaian Gugatan Sederhana: "In resolving simple claims, the Judge must play an active role in doing the following: a. providing a balanced explanation regarding the simple claims procedure to the parties; b. making efforts to resolve the case amicably, including suggesting to the parties to settle outside of court; c. guiding the parties in the process of proving the case; and d. explaining the legal remedies available to the parties. The active role of the Judge as referred to in paragraph (1) must be carried out in hearings attended by the parties."

³⁸ Friedman, Lawrence M. (1990). *The Republic of Choice: Law, Authority, and Culture*. Cambridge: Harvard University Press. p. 48.

³⁹ Levine. (1918). *Conciliation Court of Cleveland*. 2 Am. Jud. Society. p. 10.

⁴⁰ Ho Peng Kee. (1984). *Small claims Process: Some Reflections*. Malaya Law Review. p. 22.

2022, the number of SCC lawsuits in California, one of the U.S. states, reached 66,821 cases.⁴¹

In addition, in Singapore, when the SCC was first established (referred to as the Small Claims Tribunal in Singapore), there was a significant increase in the number of SCC cases. In 1985, there were 3,788 claims, and by 2001, the number rose to 33,768 claims,⁴² And in 2023, the total number of Small Claims Tribunal cases amounted to 10,288.⁴³ The phenomena in the United States and Singapore show a strong legal culture in terms of public trust and awareness regarding the presence of legal reform.

The presence of the small claims court procedure in Indonesia can, in fact, serve as a means to ease the public's access to justice by simplifying and speeding up the trial process for easier dispute resolution. Indonesian society seems to be quite familiar with SCC and is beginning to trust it as a solution to resolve their disputes. This is evidenced by the fact that in 2023, a total of 6,453 small claims cases were successfully resolved in the district courts, and 206 small claims cases related to sharia economic disputes were successfully resolved by the Religious Courts.⁴⁴

However, there are several factors that need to be evaluated regarding the implementation of the SCC, particularly concerning the culture and behavior of society, which have not yet fully supported the effective application of the law. This is evidenced by the fact that there are still parties, both the defendant and the plaintiff, who are not cooperative, such as their failure to appear in court. The reasons for their absence vary, ranging from issues related to the location of residence to a lack of legal awareness among the parties involved.

For example, in a simple lawsuit based on an unlawful act between Lion Air and its passenger, as reflected in the decision number 3/Pdt.G.S/2017/PN Pal, the defendant, Lion Air's Palu branch, did not appear in court. As a result, the judge issued a decision in the defendant's absence. The judge ruled that Lion Air's Palu

⁴¹ Judicial Council of California. (2023). "2023 Court Statistics Report Statewide Caseload Trends". p. xv. Diakses dari: <https://courts.ca.gov/sites/default/files/courts/default/2024-12/2023-court-statistics-report.pdf>. [Accessed December 11, 2024].

⁴² Anne Durray. (2002). The Small Claims Tribunal Subordinate Court Republic of Singapore: Some Thoughts on Current Issues of Natural Justice and Tribunals. Paper Presented at the 5th Annual AIJA Tribunals Conference, Melbourne. p. 4.

⁴³ SG. Courts. (2023). "Caseload Statistic 2023". Diakses dari: <https://www.judiciary.gov.sg/who-we-are/statistics/caseload-statistics-2023>. [Accessed December 11, 2024].

⁴⁴ Mahkamah Agung Republik Indonesia. (2024). Pidato Ketua Mahkamah Agung RI Sidang Istimewa Laporan Tahunan Mahkamah Agung Republik Indonesia Tahun 2023. accessed from: <https://www.mahkamahagung.go.id/id/pengumuman/6153/undangan-sidang-istimewa-mahkamah-agung-laporan-tahunan-2023>. p. 8. [Accessed December 9, 2024].

branch was guilty of committing an unlawful act and ordered them to pay material damages to the plaintiff amounting to IDR 300,000.⁴⁵ The absence of the parties involved has led to a backlog of default judgments (*verstek*), which ultimately hinders the resolution of cases. This occurs because society still tends to overlook the judicial process, considering formal dispute resolution as a last resort. People often perceive that small disputes can be settled on their own, without realizing that a legal issue has already arisen.⁴⁶

CONCLUSION

Based on the sociological foundation and analysis of Lawrence M. Friedman's theory, the small claims court procedure can indeed be categorized as a legal reform, especially in the field of civil procedural law. This can be seen in the judicial mechanism regulated by the small claims court procedure, which emphasizes the principles of a swift, simple, and cost-effective trial with the aim of fulfilling the legal needs of society. These needs include access to courts for all layers of society, the increasing number of cases with small material values, and the development of legal relationships in the economic and civil sectors. The existence of the small claims court procedure, which follows the dynamic legal needs of society, will help realize the legal objectives as proposed by Gustav Radbruch, namely justice, legal certainty, and utility.

The small court claims procedure, when analyzed from the three theories in Lawrence M. Friedman's legal system, which include legal substance, legal structure, and legal culture, has met the public's need for a more efficient trial process. The legal substance of the small claims court procedure incorporates special procedures to speed up the trial process, supported by regulations that have binding legal force. The legal structure places judges as key players in applying the principles of swift, simple, and cost-effective justice, while the legal culture demonstrates that specific steps in the small claims court procedure can help the public obtain justice more quickly and easily. The legal culture in Indonesia, in terms of trust in the SCC, has also developed well. However, there remains a need to enhance legal understanding and awareness, particularly in fostering cooperative behavior during the process. Therefore, an evaluation is needed to improve the understanding and awareness of the public regarding the presence of the SCC in Indonesia.

The small claims court procedure can be categorized as a reform of civil procedural law that serves the legal needs of the public by providing easy access for

⁴⁵ Arifianti, Estu Dyah. (2017). "Perluasan Akses terhadap Keadilan Melalui Gugatan Sederhana: Sebuah Refleksi", *Jurnal Jentera*, 1(2), pp. 149-150.

⁴⁶ Huda, Chairul. (2013). *Op. Cit.* p. 55.

resolving disputes with small values and a quick trial process. However, according to the author, there are several areas that need to be improved for the small claims court procedure to be more effective in meeting the public's legal needs, including expanding the scope of cases. An evaluation is necessary to widen the range of cases that can be adjudicated, particularly in common disputes such as consumer disputes or labor issues with limited amounts in controversy.

The analysis of the small claims court procedure as a legal reform in relation to the three theories of Lawrence M. Friedman has addressed the aspects of his theory, but there are still several aspects that need to be addressed, particularly in terms of legal culture (legal culture) that need to be evaluated. These include the public's legal awareness and the commitment and competence of law enforcement, which remain issues in SCC implementation. Public awareness of the law and the commitment of law enforcement should be improved. The public must be more cooperative during trials, while law enforcement must remain committed and expand court access. To support awareness, understanding, and public trust, several steps need to be taken, such as expanding information and socialization about the SCC. Courts can provide information through official websites or posters and banners displayed directly in the courthouse. Information dissemination can also be conducted through legal outreach to improve public understanding and participation in SCC matters

REFERENCES

Books

- Asnawi, Natsir. M. (2016). *Hukum Acara Perdata: Teori dan Praktik*. Jakarta: Yogyakarta UII Press.
- Burlian, Paisol. (2015). *Sistem Hukum di Indonesia*. Palembang: NoerFikri Offset.
- Cunningham, W.T. (1982). *Nelson Contemporary English Dictionary*. Canada: Thompson and Nelson Ltd.
- Friedman, Lawrence. M. (2001). *Hukum Amerika: Sebuah Pengantar*, Terjemahan dari American Law An Introduction, 2nd Edition, Alih Bahasa: Wisnu Basuki. Jakarta: Tatanusa.
- Friedman, Lawrence M. (1990). *The Republic of Choice: Law, Authority, and Culture*. Cambridge: Harvard University Press.
- Friedman, Lawrence. M. (1975). *The Legal System: A Social Science Prespective*. New York: Russel Foundation.
- Garner, Bryan A. (ed). (2004). *Black's Law Dictionary*, Edisi Kedelapan. Minnesota: Thomson West Publishing Co.

- Grenstad, Nicoley. (1983). *Dispute Settlement in a Southern Small claims Court*. Florida: Norway's Tribunal.
- Huda, Chairul. (2013). *Penerapan Small claims Court dalam Perspektif Hukum Pidana di Indonesia*. Jakarta: Badan Pembinaan Hukum Nasional.
- Hutabarat, Restaria F. (2013). *Neraca Timpang Bagi si Miskin: Penelitian Skema dan Penyaluran Dana Bantuan Hukum di Lima Wilayah Indonesia*. Jakarta: Lembaga Bantuan Hukum Jakarta.
- Kusumaatmadja, M. (2006). *Konsep-Konsep Hukum Dalam Pembangunan*. Bandung: Alumni.
- Pleasance, Pascoe. (2018). *Legal Needs Surveys and Access to Justice*, Launch Copy. Paris: OECD Publishing.
- Rahardjo, Satjipto. (2012). *Ilmu Hukum*. Bandung: Citra Aditya Bakti.
- Shalihah, Fithriatus. (2017). *Sosiologi Hukum*. Depok: PT RajaGrafindo Persada.
- Texas Young Lawyers Association and State Bar of Texas. 2009. *How to Sue in Small claims Court, Edisi Kelima*, Texas: Texas Young Lawyers Association.

Journals

- Afriana, Anita. (2018). "Dasar Filosofis dan Inklusivitas Gugatan Sederhana dalam Sistem Peradilan Perdata". *University of Bengkulu Law Journal*, 3(1).
- Ariani, Nevey Varida. (2016). "Gugatan Sederhana dalam Sistem Peradilan di Indonesia". *Jurnal Penelitian Hukum De Jure*, 18(3).
- Arifianti, Estu Dyah. (2017). "Perluasan Akses terhadap Keadilan Melalui Gugatan Sederhana: Sebuah Refleksi", *Jurnal Jentera*, 1(2).
- Barkatullah, Abdul Halim. (2013). "Budaya Hukum Masyarakat dalam Perspektif Sistem Hukum". *Jurnal UKSW*.
- Ho Peng Kee. (1984). "Small claims Process: Some Reflections". *Malaya Law Review*.
- Noor, Muhammad. (2020). "Penyelesaian Gugatan Sederhana di Pengadilan Berdasarkan Peraturan Mahkamah Agung Nomor 2 Tahun 2015". *Yudisia: Jurnal Pemikiran Hukum dan Hukum Islam*, 11(1).
- Purnawati, Erna. (2020). Penerapan Gugatan Sederhana Dalam Penyelesaian Perkara Wanprestasi di Pengadilan Negeri Selong. *Jurnal Juridica*, 2(1).
- Tendra, Denny, Gultom, Elfrida. (2023). "Gugatan Sederhana di Indonesia, Singapore, Malaysia: Kajian Perbandingan Hukum". *Unes Law Review*. 5(3).

Regulations

- Peraturan Mahkamah Agung Nomor 4 Tahun 2019 tentang Perubahan Atas Peraturan Mahkamah Agung Nomor 2 Tahun 2015 tentang Tata Cara Gugatan Sederhana.

Peraturan Mahkamah Agung Nomor 2 Tahun 2015 tentang Tata Cara Gugatan Sederhana.

Other Sources

Arizona, Yance. (2010). Small claims Court: Apa Gunanya Bagi Masyarakat Adat dan Lingkungan Hidup. Dalam seminar hasil penelitian SCC yang dilakukan oleh LeIP dan Fakultas Hukum Universitas Indonesia. Depok: Kampus Fakultas Hukum Universitas Indonesia.

Hukum Online. (2015). Urgensi Terbitnya PERMA *Small claims Court*. Available online from: <https://www.hukumonline.com/berita/a/urgensi-terbitnya-perma-small-claims-court-i-lt55d71ac18056b/>. [Accessed October 22, 2024]

Judicial Council of California. (2023). "2023 Court Statistics Report Statewide Caseload Trends". p. xv. Diakses dari: <https://courts.ca.gov/sites/default/files/courts/default/2024-12/2023-court-statistics-report.pdf>. [Accessed December 11, 2024].

Mahkamah Agung Republik Indonesia. (2024). Pidato Ketua Mahkamah Agung RI Sidang Istimewa Laporan Tahunan Mahkamah Agung Republik Indonesia Tahun 2023. diakses dari: <https://www.mahkamahagung.go.id/id/pengumuman/6153/undangan-sidang-istimewa-mahkamah-agung-laporan-tahunan-2023>. Hlm. 8. [Accessed December 9, 2024].

SG. Courts. (2023). "Caseload Statistic 2023". Diakses dari: <https://www.judiciary.gov.sg/who-we-are/statistics/caseload-statistics-2023>. [Accessed December 11, 2024]