



Understanding the Complexity of Executions in Religious Courts: Between Legal Mandates and Field Realities

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Abstract

This article examines the complexities in the implementation of rulings in religious courts, highlighting the division between legal theory and its practical implementation in the field. Religious courts, as important institutions in a country's legal system, aim to uphold justice in the legal context of Islam or other religions. However, behind the clear legal mandate, there are real challenges in the execution of judgments, reflecting the reality of social, cultural, and political complexity. The analysis in this article refers to the difference between an ideal legal theory and the often complex reality of the field. Factors such as social norms, gender inequality, and changes in societal values can affect executions in religious courts. In addition, limited resources, lack of legal infrastructure, and administrative challenges are also major obstacles. Using a multidimensional approach, this article explores various aspects that influence the effectiveness of executions in religious courts. This provides a deeper understanding of the complexities of the legal system and highlights the need for a holistic approach in understanding and addressing these challenges. In this context, the article also evaluates reform efforts that can be undertaken to improve efficiency and fairness in the implementation of rulings in religious courts. In conclusion, this article asserts that to understand and address the complexities of executions in religious courts, a comprehensive approach is needed that considers both legal aspects and social, cultural, and political realities on the ground. Thus, this article is expected to serve as a basis for further discussion and reform efforts in the religious justice system.

Keywords: religious courts, implementation, legal theory

A. Introduction

In this introductory section, we will discuss the background of the importance of the execution of religious court decisions in upholding law and justice as well as the complexities faced in the execution process in religious courts. The execution of religious court rulings is very important because it is one way to maintain legal certainty and justice for the community. However, in practice, the execution process in religious courts is often faced with various complexities and challenges, both legal, social, economic, and psychological. This often results in delays in execution which leads to legal uncertainty and injustice for litigants.

The importance of executed religious court rulings is to uphold existing law and justice. However, the execution process in religious courts is often complex. This is due to various factors, such as the inability or unwillingness of litigants to comply with court decisions, lack of human resources and infrastructure in religious courts, and weak coordination³ between



relevant agencies. The complexity of these executions presents challenges for law enforcement and the realization of justice in religious courts.¹

The execution of religious court rulings has a very important role in upholding law and justice. Through execution, court decisions can be exercised and the rights that have been established by the court can be effectively exercised. Execution also has a function to provide legal certainty for the parties involved in the case. Without effective execution, the court's decision will be a mere formality and have no real impact. Therefore, it is important for religious courts to carry out careful and effective execution of judgments, in order to ensure the fulfillment of justice for disputed communities.²

The execution process in religious courts is often complex because it involves a variety of factors. First, legal factors can lead to complexity of execution, such as weaknesses in regulations and execution procedures that do not allow judges to force the execution of judgments. In addition, social factors also play a role in this complexity, such as negative stigma against widows, patriarchal culture, and low legal awareness of society. Economic factors also contribute, such as poverty and the reluctance of those obliged to provide a living. Furthermore, psychological factors such as resentment, trauma, and fear also complicate the execution process. All these factors reflect the gap between a clear legal mandate and the complex realities of the field.³

What solutions can be proposed to address the complexities of executions in religious courts? Some solutions that can be proposed include improvements to regulations and execution procedures, including granting wider powers to judges to force the execution of judgments. In addition, it is necessary to increase the capacity of religious court officials through training and education. Strengthening coordination between relevant agencies also needs to be done through the establishment of communication forums. Finally, increasing community participation through education and socialization about the importance of complying with court rulings can also be a solution in overcoming the complexity of executions in religious courts.

Factors that contribute to the complexity of executions in religious courts include legal, social, economic, and psychological factors. Legal factors include weaknesses in regulations and execution procedures and the absence of strict sanctions for parties who do not comply

¹ C S Steiker and J M Steiker, *Courting Death: The Supreme Court and Capital Punishment* (books.google.com, 2016),

https://books.google.com/books?hl=en&lr=&id=fM11DQAAQBAJ&oi=fnd&pg=PP1&dq=complexity+of+executions+in+religious+courts&ots=KwHY_u6FH9&sig=gP2UnHc0M1x_pEtLkmUQglXPXTc.

² A Walsham, *Charitable Hatred: Tolerance and Intolerance in England, 1500-1700* (books.google.com, 2006), <https://books.google.com/books?hl=en&lr=&id=MwNIIIGnckYC&oi=fnd&pg=PR11&dq=complexity+of+executions+in+religious+courts&ots=7yPbYjXGS8&sig=uu1NVNvQVHe9X9iZUV-mUhcFIWM>.

³ R Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-First Century* (books.google.com, 2005), <https://books.google.com/books?hl=en&lr=&id=Im95I7Fjrvc&oi=fnd&pg=PR7&dq=legal+theory+and+its+practical+implementation+executions+in+religious+courts&ots=VdWTN5iAlf&sig=Vqs9br1WSuoDbEJspZBO6UgjoTQ>.



with court decisions. Social factors include negative stigma against widows, patriarchal culture, and low legal awareness of society. Economic factors are related to poverty and the unwillingness of the obliged party to provide a living. While psychological factors include resentment, trauma, and fear.⁴

The gap between the mandate of the law and the reality of the field in the execution process in religious courts is seen through several things. First, the weakness of regulations and execution procedures that do not allow judges to force the execution of judgments. When regulations are not strong enough or there are too many loopholes, litigants can avoid implementing judgments. In addition, lack of coordination between relevant agencies such as the police, prosecutors, and population and civil registration services is also the cause of this gap. Sometimes, litigants can avoid execution due to lack of cooperation among the agencies involved. In addition, the permissive culture that allows litigants to ignore court rulings is also a factor that widens the gap between legal mandates and the reality of the field in the execution process in religious courts.⁵

To address the complexity of executions in religious courts, several solutions can be proposed. First, it is necessary to improve the regulations and execution procedures, including giving judges wider authority to force the execution of judgments. This will provide clarity and legal certainty in the execution process. Second, it is necessary to increase the capacity of religious court officials through training and education. With the increasing knowledge and skills of court officials, the execution process can be carried out more effectively and efficiently. Third, it is important to strengthen coordination between relevant agencies, such as the police, prosecutors, and the population and civil registration services. Good coordination between these agencies will facilitate execution. Finally, community participation also needs to be increased through education and socialization about the importance of complying with court decisions. With a better understanding of law and justice, it is hoped that the community can be more cooperative in carrying out the execution process.⁶

The purpose of this study was to analyze the factors that lead to the complexity of executions in religious courts. This study also aims to identify gaps between legal mandates and field realities in execution processes in religious courts. In addition, the study will also

⁴ E Nurlaelawati and A Salim, "Gendering the Islamic Judiciary: Female Judges in the Religious Courts of Indonesia," *Al-Jami'ah: Journal of Islamic Studies*, 2013, <https://www.aljariah.or.id/index.php/AJIS/article/view/159>.

⁵ P Allott, *The Health of Nations: Society and Law beyond the State* (books.google.com, 2002), https://books.google.com/books?hl=en&lr=&id=fZ5aPHAVWVYC&oi=fnd&pg=PA5&dq=legal+aspects+as+well+as+social+cultural+and+political+realities+that+can+affect+the+execution+process+in+religious+courts&ots=n4x-LGUOwc&sig=OpV2Az_ep0Jg2nN5ljBfRPSw2p0.

⁶ Muhammad Firdaus, Theo Aditya Pradhana, and Zulfikar Yahya Anhar, "Distribution of Cash Waqf with Debt and Receivable Mechanisms Perspective of Islamic Law and Positive Law," 2022, <https://doi.org/10.35309/alinsyiroh.v8i2.5682>.



formulate solutions that can be proposed to address the complexity of executions in religious courts.

The factors that lead to the complexity of executions in religious courts can come from various aspects. Legal factors include weaknesses in regulations and execution procedures and the absence of strict sanctions for parties who do not comply with court decisions. In addition, social factors also play a role in the complexity of execution, such as negative stigma against widows, patriarchal culture, and low legal awareness of the community. Economic factors are also important, such as poverty which makes those who are obliged reluctant to provide a living. Finally, psychological factors such as resentment, trauma, and fear can also influence the complexity of executions in religious courts.⁷

The execution process in religious courts faces a gap between the mandate of the law and the realities on the ground that affect its implementation. One contributing factor is the weakness of regulations and execution procedures that do not allow judges to force the execution of judgments. In addition, the lack of coordination between relevant agencies such as the police, prosecutors, and the population and civil registration services is also a major obstacle. Furthermore, a permissive culture that allows litigants to ignore court rulings is also a factor that needs to be addressed. To overcome the complexity of executions in religious courts, it is necessary to improve the regulations and procedures for execution so that judges have broader authority in forcing the execution of judgments.

In addition, it is important to increase the capacity of religious court officials through training and education. Strengthening coordination between relevant agencies also needs to be done through the establishment of communication forums. Furthermore, community participation is also important to solve this gap through education and socialization aimed at understanding the importance of complying with court decisions. By addressing the gap between the mandate of law and the reality of the field, it can be expected that executions in religious courts can run more effectively and efficiently.⁸

To address the complexity of executions in religious courts, several solutions can be proposed. First, it is necessary to improve the regulations and procedures for execution, including granting wider authority to judges to force the execution of judgments. This will ensure that court rulings can be carried out effectively. Second, it is necessary to increase the capacity of religious court officials through training and education. By improving the knowledge and skills of judges and clerks, the execution process can be carried out more professionally and efficiently. Third, strengthening coordination between relevant agencies is also very important. The establishment of a communication forum between religious courts, police, prosecutors, and population and civil registration services can improve coordination and cooperation in the execution of executions. Finally, community participation also needs

⁷ Nurlaelawati and Salim, "Gendering the Islamic Judiciary: Female Judges in the Religious Courts of Indonesia."

⁸ Steiker and Steiker, *Courting Death: The Supreme Court and Capital Punishment*.



to be increased through education and socialization about the importance of complying with court decisions. By raising public awareness about the legal consequences of not complying with the ruling, it is hoped that executions can be carried out more smoothly and effectively.⁹

This research uses a qualitative approach with a case study method. Data was collected through in-depth interviews with judges, clerks, and litigants. In addition, participant observations were also carried out in religious courts. Execution-related documents were also analyzed in the study. The collected data were analyzed using thematic analysis and case analysis approaches. This research methodology was chosen to understand in depth the complexity of executions in religious courts and explore the gap between legal mandates and the realities of the field in execution processes.¹⁰

This research uses qualitative research methods with a case study approach. This approach allows researchers to gain a deep understanding of the complexities of executions in religious courts through tracing concrete cases. In this study, researchers will conduct in-depth interviews with judges, clerks, and litigants to gain their perspective on the execution process in religious courts. In addition, researchers will also observe participants in religious courts to directly observe the execution process that takes place. Execution-related documents will also be analyzed to obtain relevant data. By using this research method, it is hoped that researchers can understand the complexity of executions in religious courts better and identify appropriate solutions.¹¹

This research uses qualitative research methods with a case study approach. This method is used to explore a deep understanding of the complexities of executions in religious courts. In this study, researchers conducted in-depth interviews with judges, clerks, and litigants to gain diverse perspectives. In addition, researchers also observed participants in religious courts to see firsthand the execution process. The data obtained are then analyzed using thematic analysis techniques and case analysis to identify factors that cause complexity of execution and gaps between legal mandates and field realities. This research method is expected to provide a comprehensive understanding of the issue of executions in religious courts.¹²

To collect data in this study, we will use in-depth interview techniques with judges, clerks, and litigants in religious courts. In-depth interviews will allow us to gain firsthand views from those involved in execution proceedings in religious courts. In addition, we will also

⁹ P Hodgkinson, *Capital Punishment: New Perspectives* (books.google.com, 2016), https://books.google.com/books?hl=en&lr=&id=qhvtCwAAQBAJ&oi=fnd&pg=PP1&dq=understand+and+address+the+complexities+of+executions+in+religious+courts&ots=uUBdqZOSwY&sig=c4YDhmYFLgy2oX05uS1Fn_GU-dU.

¹⁰ E Kurul, "A Qualitative Approach to Exploring Adaptive Re-use Processes," *Facilities*, 2007, <https://doi.org/10.1108/02632770710822634>.

¹¹ D Turner et al., "Applying Qualitative Approach in Business Research," *Asian Journal of ...*, 2021, <https://researchonline.jcu.edu.au/76225/>.

¹² Kristin Vogelsang, Melanie Steinhüser, and U Hoppe, "A Qualitative Approach to Examine Technology Acceptance," 2013.



conduct participant observations in religious courts. By directly observing the execution process, we will gain a deeper understanding of the complexities faced in execution execution. In addition, we will also analyze execution-related documents such as court rulings and execution documents to obtain factual and concrete data.¹³

In this study, we conducted in-depth interviews with judges, clerks, and litigants in religious courts. Through these interviews, we were able to gather specific and relevant information about the complexities of executions in religious courts. From the judge's point of view, they explain the challenges and obstacles they face in carrying out the execution of religious court rulings. They also provide insight into the gap between legal mandates and the realities on the ground they face. In addition, we also interview clerks to gain an understanding of the execution process and the problems that often arise in the field. To gain perspectives from litigants, we conducted interviews with several parties involved in the execution process, such as plaintiffs and defendants. Thus, these in-depth interviews provide factual and relevant information to analyze the factors that lead to the complexity of executions in religious courts.

Participant observations in religious courts were conducted to gain a deeper understanding of the execution process and the complexity factors that occur in the field. In this observation, researchers will directly observe and record activities that occur in religious courts, including interactions between judges, clerks, and litigants. These observations will help researchers to identify concrete problems that may arise during the execution process, such as lack of human resources, inability to implement decisions, or difficulties in coordination between relevant agencies. Thus, these participant observations will provide a more complete and accurate picture of the complexity of executions in religious courts.

Analysis of execution-related documents involves examining various documents relevant to execution proceedings in religious courts. Documents that can be analyzed include court decisions, laws and regulations related to executions, execution guidelines, and other documents related to execution cases in religious courts. The analysis of this document aims to gain a deeper understanding of the legal mandate governing execution, as well as concrete problems that often arise in its implementation. The results of this analysis will be used as a basis for formulating solutions that can overcome the complexity of executions in religious courts.

Thematic analysis is one of the data analysis techniques used in this study. This technique involves searching for patterns or themes that appear in the data collected. Through thematic analysis, researchers can identify factors that lead to the complexity of executions in religious courts. In addition, case analysis is also used as a data analysis technique. In case analysis, researchers analyzed several cases of execution in religious courts to understand more deeply

¹³ C Barona-Vilar, V Escribá-Agüir, and R Ferrero-Gandía, "A Qualitative Approach to Social Support and Breast-Feeding Decisions," *Midwifery*, 2009, <https://www.sciencedirect.com/science/article/pii/S0266613807000319>.



about the gap between legal mandates and the reality of the field in the execution process. By combining these two techniques, researchers can gain a comprehensive understanding of the complexities of executions in religious courts.¹⁴

In this thematic analysis, solutions to address the complexities of executions in religious courts will be presented. Some solutions that can be proposed include improvements to regulations and execution procedures, including granting wider powers to judges to force the execution of judgments. In addition, capacity building of religious court officials through training and education can also help overcome the complexity of executions. Strengthening coordination between relevant agencies through the establishment of communication forums can improve synergy between them. In addition, community participation through education and socialization about the importance of complying with court decisions is also a solution that needs to be implemented.¹⁵

In an effort to address the complexity of executions in religious courts, several solutions can be proposed. First, improvements to regulations and execution procedures including granting wider powers to judges to force the execution of judgments. Second, capacity building of religious court officials through training and education. Third, strengthening coordination between relevant agencies through the establishment of communication forums. Fourth, increasing community participation through education and socialization about the importance of complying with court decisions.

B. Result and Discussion

Execution of a religious court decision is the execution or enforcement of a judgment that has been handed down by a religious court against a litigant. The purpose of this execution is to ensure that court decisions can be implemented and have a real impact on the parties concerned. The legal basis for execution in religious courts is contained in laws and regulations governing religious courts. The execution procedures and mechanisms that must be carried out include the granting of execution warrants, the execution of confiscation or provision of bread, to the payment of execution costs.

In the literature review, there are various factors that influence the complexity of executions in religious courts, such as legal, social, economic, and psychological factors. These factors can affect the execution process and result in a gap between the legal mandate and the reality of the field. To overcome this complexity, several solutions have been proposed, including improving regulations and execution procedures, increasing the capacity of religious court officials, strengthening coordination between relevant agencies, and increasing community participation in complying with court decisions.¹⁶

¹⁴ H Morgan, "Conducting a Qualitative Document Analysis," 2022, <https://doi.org/10.46743/2160-3715/2022.5044>.

¹⁵ Morgan.

¹⁶ A Rifai et al., "Implementation of Religious Court Judge's Decisions in Children by Husband Post Divorce," *LEGAL BRIEF*, 2022, <http://legal.isha.or.id/index.php/legal/article/view/480>.



Concept of Execution of Religious Court Verdicts

The execution of religious court decisions is the process of implementing decisions issued by religious courts. The purpose of these executions is to uphold law and justice. The execution of judgments in religious courts has a legal basis governing the procedures and mechanisms for their implementation. An important part of execution is ensuring that litigants abide by court rulings. This is done to ensure justice for all parties involved in the religious justice process.¹⁷

The purpose of execution in religious courts is to uphold law and justice by enforcing the rulings of religious courts. Executions are carried out to carry out the contents of court decisions that have decided cases under the jurisdiction of religious courts. This includes the payment of money damages, recovery and return of rights, and the fulfillment of obligations stipulated in court decisions. The execution process itself involves various stages that must be passed, ranging from identifying and tracing the ownership of the assets involved, to the execution of physical actions to execute the decision.¹⁸

Legal basis for execution in religious courts

The legal basis for executions in religious courts is found in various laws and regulations. Some important legal bases in the execution of religious court decisions include Law Number 3 of 2006 concerning the Third Amendment to Law Number 7 of 1989 concerning Religious Courts, Supreme Court Regulation Number 1 of 2015 concerning Procedures for Execution of Religious Court Decisions, and Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Settling Civil Cases in Religious Courts. This legal basis regulates the execution procedure and mechanism, including the position and authority of judges in ordering the execution of judgments. In addition, there are also rules regarding sanctions that can be given to parties who do not comply with court decisions. All of these regulations form the legal basis that must be obeyed and applied in the execution process in religious courts.¹⁹

Execution procedure and mechanism

Execution procedures and mechanisms in religious courts involve a series of steps to enforce court rulings. First, the court will issue a writ of execution to the obligated party. Furthermore, the obligated party will be given time to fulfill the judgment. If the obligated party does not comply with the judgment, the interested party may apply to the court for execution. The court will hear the application and if deemed valid, will issue an execution

¹⁷ D Anagnostou, *European Court of Human Rights: Implementing Strasbourg's Judgments on Domestic Policy* (books.google.com, 2013), <https://books.google.com/books?hl=en&lr=&id=DV2rBgAAQBAJ&oi=fnd&pg=PP1&dq=actors+that+may+aff+ect+the+execution+process+in+religious+courts&ots=H9cyDbdg10&sig=5QnC7tF89DFRi699kpFxmZvpuh4>.

¹⁸ M S Collins, "Involuntary Medicating Condemned Incompetents for the Purpose of Rendering Them Sane and Thereby Subject to Execution," *Wash. ULQ*, 1992, https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/walq70§ion=52.

¹⁹ A D Nugroho, A Suganda, and ..., "Revitalization of the Execution of Religious Court Decisions through Engineering Compliance with the Implementation of Execution of Judgments Related to the ...," *International Journal of ...*, 2023, <https://ijssr.ridwaninstitute.co.id/index.php/ijssr/article/view/341>.



warrant. The execution is carried out by the execution officer of the court. Execution mechanisms may include confiscation of property, detention, or transfer of property rights. During the execution process, the litigant may also file an objection or appeal against the judgment.²⁰

Factors Affecting Execution Complexity

Factors affecting the complexity of executions in religious courts consist of legal, social, economic, and psychological factors. In terms of law, weaknesses in regulations and execution procedures are obstacles in carrying out the execution of court decisions. In addition, the absence of strict sanctions for parties who do not comply with the ruling is also a problem. From a social perspective, negative stigma against widows, patriarchal culture, and low legal awareness of the community are factors that complicate the execution process. Economic factors also play a role, such as poverty and the reluctance of those who are obliged to provide a living. While psychological factors such as resentment, trauma, and fear also affect the execution. All these factors contribute to the complexity of executions in religious courts.

Legal factors

Legal factors that cause the complexity of executions in religious courts include weaknesses in execution regulations and procedures and the absence of strict sanctions for parties who do not comply with court decisions. Inadequate regulations and execution procedures make it difficult for judges to force the execution of judgments. In addition, the absence of strict sanctions for parties who violate court decisions is also an obstacle in the execution process. These things lead to complexities and challenges faced in upholding law and justice in religious courts.²¹

Social factors

Various social factors influence the complexity of executions in religious courts. Negative stigma against widows is one of the factors that complicate the execution of court decisions. The patriarchal culture that is still thick in society also contributes to this complexity. In addition, the low legal awareness of the community is also an obstacle in the execution process. The public needs to be given education and socialization about the importance of obeying court rulings in order to be able to carry out executions more smoothly.²²

²⁰ Y Sezgin and M Künkler, "Regulation of 'Religion' and the 'Religious': The Politics of Judicialization and Bureaucratization in India and Indonesia," *Comparative Studies in Society and History*, 2014, <https://www.cambridge.org/core/journals/comparative-studies-in-society-and-history/article/regulation-of-religion-and-the-religious-the-politics-of-judicialization-and-bureaucratization-in-india-and-indonesia/B27C5735A52986D2B42174FEAE9566D1>.

²¹ P J Klemp, *The Theatre of Death: Rituals of Justice from the English Civil Wars to the Restoration* (books.google.com, 2016), https://books.google.com/books?hl=en&lr=&id=3fAIDQAAQBAJ&oi=fnd&pg=PR7&dq=complexity+of+executions+in+religious+courts&ots=QBeATx5xWb&sig=kQ91aq9JzuesPmqTPBtws6cJw_0.

²² Klemp.



Economic factors

Economic factors also play an important role in the complexity of executions in religious courts. The high level of poverty can be an obstacle for those who are obliged to provide a living in accordance with court decisions. Their reluctance or inability to provide financial support to the rightful party can make execution difficult. Financial problems can also affect the execution process due to the costs involved in carrying out this task. In some cases, the litigant may not have sufficient resources to pay the execution fee, and this may lead to a delay or even cancellation of execution.²³

Psychological factors

Several psychological factors can influence the complexity of executions in religious courts. Resentment is one of the factors that can arise, especially in divorce cases. This resentment can make the losing party in the trial reluctant to obey the court decision and carry out its obligations. In addition, trauma can also be a psychological factor that affects execution. For example, in cases of domestic violence, victims may be traumatized making it difficult for them to proceed with executions and seek protection from the authorities. Fear is also an important psychological factor in executions in religious courts. The litigant may fear the possible consequences or reaction of the opposing party losing the trial. All of these psychological factors can complicate the execution process in religious courts.²⁴

The Gap Between Legal Mandate and Field Reality

Weaknesses in regulations and execution procedures do not allow judges to force the execution of judgments. Lack of coordination between relevant agencies, such as the police, prosecutors, and population and civil registration services. A permissive culture that allows litigants to ignore court rulings.

Weaknesses in execution regulations and procedures in religious courts can be one of the factors of complexity in carrying out executions. Existing regulations are not strong enough and execution procedures have not been effective to ensure the enforcement of court decisions. One of the visible weaknesses is the absence of strict sanctions for parties who do not comply with court decisions. This resulted in a lack of coercive executions that could be carried out by judges. In addition, weaknesses in execution procedures also complicate the implementation of religious court rulings. Complicated and convoluted execution processes hinder law enforcement and justice efforts in religious courts. Therefore, it is necessary to

²³ M J Perry, *Toward a Theory of Human Rights: Religion, Law, Courts* (books.google.com, 2006), https://books.google.com/books?hl=en&lr=&id=ekTvyLbtmYEC&oi=fnd&pg=PA1&dq=complexity+of+executions+in+religious+courts&ots=v8nKHsx9Ug&sig=0Oxt_s8tPMQRBAcBlkYNBk21590.

²⁴ C Haney, *Death by Design: Capital Punishment as a Social Psychological System* (books.google.com, 2005), <https://books.google.com/books?hl=en&lr=&id=0GvnBwAAQBAJ&oi=fnd&pg=PR7&dq=understand+and+address+the+complexities+of+executions+in+religious+courts&ots=V1zP3QHekr&sig=NgM1vSiuUYp15ea20S1LVDtITBI>.



improve regulations and execution procedures so that the execution process can be carried out more effectively.²⁵

In the process of execution in religious courts, there are problems arising from the inability or unwillingness of litigants to comply with court decisions. Some of the reasons that cause this to happen include lack of legal awareness from litigants, financial inability to implement court decisions, and negative perceptions or stigma towards court decisions. In addition, there are also psychological factors such as resentment, trauma, and fear that also become obstacles in carrying out executions. These conditions create complexities in the conduct of executions in religious courts and require efforts to find solutions that address the problem.²⁶

Religious courts are faced with the complexity of executions due to lack of human resources and adequate infrastructure. In carrying out their duties, religious courts often lack competent and experienced judges, clerks, and administrative staff. In addition, there are also limited facilities and adequate infrastructure to support the execution process. Lack of courtrooms, lack of sophisticated equipment and technology, and limited funds are real challenges faced by religious courts in carrying out the execution process. The inability to deal with heavy workloads and limited adequate infrastructure is one of the main factors leading to low effectiveness of executions in religious courts.

The complexity of executions in religious courts is also due to weak coordination among relevant agencies. For example, lack of coordination between religious courts, police, prosecutors, and population and civil registration services can cause obstacles to executions. For example, if a religious court has issued a ruling requiring police assistance in carrying out executions, but there is no good coordination between the two agencies, then the execution process can be hampered or even not carried out properly. Therefore, it is necessary to strengthen coordination between relevant agencies through the establishment of an effective and regular communication forum, so that all parties can cooperate in carrying out their duties and responsibilities in the execution process in religious courts.

Solutions to Overcome Execution Complexity

There are several solutions that can be proposed to address the complexity of executions in religious courts. First, it is necessary to improve regulations and execution procedures. A clearer and firmer regulation will provide clear guidelines for judges in forcing the execution of judgments. In addition, granting wider powers to judges also needs to be considered so that they can take more effective steps in executing court decisions. Second, it is necessary to increase the capacity of religious court officials through training and education. Religious court officials need to have adequate knowledge and skills to deal with the complexities of

²⁵ B Z Tamanaha, *Realistic Socio-Legal Theory: Pragmatism and a Social Theory of Law* (books.google.com, 1997),

https://books.google.com/books?hl=en&lr=&id=4SD1ElaHab0C&oi=fnd&pg=PR11&dq=legal+theory+and+its+practical+implementation+executions+in+religious+courts&ots=agXDDsiv7_&sig=mnHN58u5xyx42BCRQCXeJWG6Lb4.

²⁶ Steiker and Steiker, *Courting Death: The Supreme Court and Capital Punishment*.

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the execution process. Third, strengthening coordination between relevant agencies is also important.²⁷

Success in the execution of verdicts depends not only on religious courts, but also involves parties such as the police, prosecutors, and population and civil registration services. The establishment of an active communication forum and good coordination between relevant agencies can speed up and facilitate execution. Fourth, community participation is also very important. The public needs to be educated and socialized about the importance of complying with court rulings in order to support and participate in the execution process. With these solutions, it is hoped that the complexity of executions in religious courts can be effectively overcome.

Improvement of execution regulations and procedures is one solution that can be proposed to overcome the complexity of executions in religious courts. It is necessary to update and update clearer and firmer rules regarding the process of executing religious court decisions. This regulation shall set out the steps to be followed by all relevant parties to carry out execution effectively and efficiently. In addition, improvements to execution procedures also need to be carried out. In this case, a simpler, clearer and understandable procedure for all parties should be adopted in order for the execution process to be carried out smoothly. With the improvement of regulations and execution procedures in accordance with field conditions, it is hoped that the complexity of execution can be minimized and the objectives of law and justice can be more achieved in religious courts.²⁸

Capacity building of religious court apparatus

Increasing the capacity of religious court officials is one solution that can be proposed to overcome the complexity of executions in religious courts. In carrying out their duties, religious court officials require adequate knowledge, skills, and competencies. For this reason, continuous training and education are needed to improve their ability to handle the process of executing court decisions. In addition, the procurement of adequate facilities and infrastructure is also needed so that religious court officials can carry out their duties effectively and efficiently. With the increase in the capacity of religious court officials, it is hoped that the execution process in religious courts can run more smoothly and court decisions can be more easily implemented in a timely manner.²⁹

Strengthening coordination among relevant agencies is one solution that can be proposed to overcome the complexity of executions in religious courts. In the execution process, there needs to be good cooperation between religious courts, police, prosecutors, and the

²⁷ L R Helfer, "Redesigning the European Court of Human Rights: Embeddedness as a Deep Structural Principle of the European Human Rights Regime," *European Journal of International Law*, 2008, <https://academic.oup.com/ejil/article-abstract/19/1/125/430843>.

²⁸ Rifai et al., "Implementation of Religious Court Judge's Decisions in Children by Husband Post Divorce."

²⁹ A Gofar, "The Reform of the Procedural Religious Court Law Based on Islamic Law in Indonesian Legal System," *Sriwijaya Law Review*, 2017, <http://journal.fh.unsri.ac.id/index.php/sriwijayalawreview/article/view/37>.



population and civil registration services. Good coordination between these agencies can speed up and optimize the process of executing decisions. The establishment of a communication forum between relevant agencies is also important in order to share information with each other and overcome obstacles that may arise during the execution process. Thus, strengthening coordination among relevant agencies can help reduce the complexity of executions in religious courts and ensure effective application of the law.³⁰

Increased community participation can be a solution to overcome the complexity of executions in religious courts. In this context, the public needs to be given a better understanding of the importance of complying with court rulings. Effective education and socialization can be carried out through campaigns involving various parties, such as religious courts, religious institutions, and civil society. In addition, it is also necessary to establish a communication forum between religious courts and communities, which aims to establish dialogue and strengthen coordination between the two sides. Thus, the community can play an active role in the implementation of the execution of religious court decisions, so as to achieve a better understanding of the rule of law and compliance with court decisions.³¹

To address the complexity of executions in religious courts, several solutions can be proposed. First, it is necessary to improve the regulations and execution procedures, including granting wider authority to judges to strictly enforce the execution of judgments. Second, it is necessary to increase the capacity of religious court officials through training and education. Third, the importance of strengthening coordination between relevant agencies, such as the police, prosecutors, and population and civil registration services, to ensure the effectiveness of the execution process. Fourth, community participation through education and socialization on the importance of complying with court decisions also needs to be improved.

Factors Leading to Execution Complexity

Factors that contribute to the complexity of executions in religious courts include several things. First, legal factors such as weaknesses in regulations and execution procedures and the absence of strict sanctions for parties who do not comply with court decisions. Second, social factors such as negative stigma against widows, patriarchal culture, and low legal awareness of the community. Furthermore, economic factors also play an important role, such as poverty and the reluctance of those who are obliged to provide a living. Lastly, psychological factors such as resentment, trauma, and fear can also influence the complexity

³⁰ N Hosen, *Shari'a & Constitutional Reform in Indonesia* (books.google.com, 2007), <https://books.google.com/books?hl=en&lr=&id=JIq9bY1yaSIC&oi=fnd&pg=PR5&dq=reforming+indonesia%27s+religious+courts&ots=VpawrdvfBh&sig=mTFyW4tjlgah-1vMdpfAYfIFWes>.

³¹ A Salim, *Challenging the Secular State: The Islamization of Law in Modern Indonesia* (books.google.com, 2008), <https://books.google.com/books?hl=en&lr=&id=pnUI036m3tUC&oi=fnd&pg=PR1&dq=reforming+indonesia%27s+religious+courts&ots=5sKvAAo9E3&sig=BgbkI9PrioytoJLt5VvMAeA46M>.



of execution. All these factors interact with each other and make the execution of religious courts complex.

Weaknesses in regulations and execution procedures are one of the legal factors that cause the complexity of executions in religious courts. The current regulations are not clear and detailed enough to regulate the execution process, causing ambiguity and uncertainty in their implementation. In addition, the absence of strict sanctions for parties who do not comply with court decisions is also an obstacle in the execution process in religious courts. This causes some litigants to pay less attention to court decisions and do not carry out their obligations. Improvements in regulations and execution procedures are needed, as well as tougher sanctions arrangements to ensure compliance with court rulings.³²

Social factors are one of the factors that cause the complexity of executions in religious courts. One social factor at play is the negative stigma against widows. Widows are often regarded as weak and vulnerable individuals, so they often face difficulties in carrying out the execution of religious court rulings. In addition, patriarchal culture is also a social factor that influences executions in religious courts. This culture prioritizes the interests of men in the family and often makes it difficult for women, including widows, to obtain their rights. In addition, the low legal awareness of the community is also an obstacle in the execution process. Many communities do not understand their legal rights and obligations, so they tend not to obey religious court rulings. All of these social factors lead to the complexity of executions in religious courts and need to be addressed through more intensive education and socialization efforts.³³

One of the factors that led to the complexity of executions in religious courts was the economy. Poverty is one of the obstacles often faced in the execution process, where those who are obliged to provide a living often do not have adequate financial capacity. This can make it difficult to provide for those who are entitled to receive it, thus adding complexity to the execution process. In addition, the reluctance of the obliged party to provide a living can also be an obstacle in the execution of the execution. The refusal or non-compliance of the party causes the execution cannot be carried out smoothly. Thus, to overcome this complexity, a more comprehensive approach and solution is needed to address the problem of poverty and the reluctance of those who are obliged to provide a living, both through economic empowerment efforts and stronger regulations.³⁴

Resentment, trauma, and fear are psychological factors that influence the complexity of executions in religious courts. The resentment held by the aggrieved party can influence their

³² M Van Hoecke and M Warrington, "Legal Cultures, Legal Paradigms and Legal Doctrine: Towards a New Model for Comparative Law," *International & Comparative Law ...*, 1998, <https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/legal-cultures-legal-paradigms-and-legal-doctrine-towards-a-new-model-for-comparative-law/3073DF9B3CF2ED4FF0097D4E937B8790>.

³³ Klemp, *The Theatre of Death: Rituals of Justice from the English Civil Wars to the Restoration*.

³⁴ Steiker and Steiker, *Courting Death: The Supreme Court and Capital Punishment*.



decisions and actions related to the execution of court decisions. In addition, trauma resulting from unpleasant experiences in the judicial process can also make it difficult for litigants to continue the execution process. Fear of the consequences of execution, such as the fulfillment of subsistence obligations, is also a psychological factor that complicates the execution process in religious courts. These psychological factors need to be considered in order to find appropriate solutions to overcome the complexity of executions in religious courts.³⁵

The Gap Between Legal Mandate and Field Reality

Weaknesses in regulations and execution procedures do not allow judges to force the execution of judgments. Lack of coordination between relevant agencies, such as the police, prosecutors, and population and civil registration services. A permissive culture that allows litigants to ignore court rulings.

Weaknesses in regulations and execution procedures in religious courts are one of the factors that do not allow judges to force the execution of verdicts. There are flaws in the regulations governing the execution process, so difficulties occur when trying to force litigants to carry out the decision. In addition, inadequate execution procedures can also cause difficulties in the process of implementing court decisions. This condition makes the judge do not have enough power in carrying out his duties to force the execution of the verdict. Therefore, there is a need for improvements in regulations and execution procedures to give more power to judges in enforcing religious court decisions.³⁶

One factor in the complexity of executions in religious courts is the lack of coordination among relevant agencies, such as the police, the prosecutor's office, and the population and civil registration services. When a religious court decision must be executed, cooperation and coordination between various relevant agencies is required to carry out the process of removal or implementation of the decision. However, there are often coordination problems between these agencies. For example, police tasked with arresting those who disobey religious court rulings may not be provided with sufficient information from the court or prosecutor's office about persons to be arrested. In addition, the lack of communication between the population and civil registry offices and religious courts can also cause difficulties in tracking down supporting data required for the execution of judgments.

³⁵ S Staszak, *No Day in Court: Access to Justice and the Politics of Judicial Retrenchment* (books.google.com, 2014), <https://books.google.com/books?hl=en&lr=&id=gxg-BQAAQBAJ&oi=fnd&pg=PP1&dq=actors+that+may+affect+the+execution+process+in+religious+courts&ots=qmrCCQ2wrH&sig=JOSAaEHEumBdANRWgpCMZRZzUlg>.

³⁶ J A Segal, H J Spaeth, and S C Benesh, *The Supreme Court in the American Legal System* (books.google.com, 2005), https://books.google.com/books?hl=en&lr=&id=FFnvtPRFkiAC&oi=fnd&pg=PR8&dq=actors+that+may+affect+the+execution+process+in+religious+courts&ots=NpKaxhux9e&sig=l6ymFWqUEOIMC_9p9yFGvSHWQOw.



Therefore, it is necessary to improve coordination and communication between relevant agencies to improve the effectiveness of the execution process in religious courts.³⁷

The permissive culture that exists in society allows litigants to ignore court decisions. This is because in the existing culture, there is often a misconception that court decisions can be ignored or not executed. Some parties may feel that they can violate a court ruling without consequences, especially if they have sufficient power or influence. In addition, the existence of different views in society towards the implementation of religious court rulings can also be a contributing factor to this permissive culture. In fact, as good citizens, we should all respect and obey court rulings so that justice and legal certainty can be realized.³⁸

To overcome the complexity of executions in religious courts, one solution is to improve execution regulations and procedures. This can be done by giving judges broader powers to force the execution of judgments. In addition, it is also important to increase the capacity of religious court officials through training and education. By improving the knowledge and skills of court officials, the execution process can be carried out more effectively and efficiently. Furthermore, it is also necessary to strengthen coordination between relevant agencies, such as the police, prosecutors, and the population and civil registration services. With good coordination between agencies, the execution process can run smoothly. Finally, it is important to increase community participation in the execution process. This can be done through education and socialization about the importance of obeying court decisions. By involving the public in the execution process, it is expected that awareness and compliance with court rulings will increase.³⁹

In overcoming the complexity of executions in religious courts, one solution that can be proposed is to improve execution regulations and procedures. This can be done by identifying and addressing weaknesses contained in existing regulations. In addition, it is necessary to give wider powers to judges to force the execution of judgments. By having greater authority, judges can take effective and decisive steps in the execution of judgments. Improving regulations and granting wider powers to judges are important steps in ensuring the execution of religious court rulings can be carried out effectively and in accordance with the mandate of the law.⁴⁰

³⁷ M R Salzman, *The Making of a Christian Aristocracy: Social and Religious Change in the Western Roman Empire* (books.google.com, 2009), <https://books.google.com/books?hl=en&lr=&id=9JGzYaUQyt4C&oi=fnd&pg=PR7&dq=legal+aspects+as+well+as+social+cultural+and+political+realities+that+can+affect+the+execution+process+in+religious+courts&ots=u46M3zB11c&sig=sWTiqbPR6D7a-fNjCkg6BP3FmA>.

³⁸ Chembea and Suleiman Athuman, "Ambiguities between Islamic Charity and Financing ' Terror ': The Dilemma of Muslim Civil Society in Kenya," 2017.

³⁹ A Widyawati et al., "Application of The Juridic-Scientific Religious Approach Model in Execution of Penal Law Enforcement," ... *Research Law* ..., 2022, <https://journal.unnes.ac.id/nju/pandecta/article/view/35812>.

⁴⁰ J Christoffersen, *Fair Balance: Proportionality, Subsidiarity and Primarity in the European Convention on Human Rights* (books.google.com, 2009), https://books.google.com/books?hl=en&lr=&id=z_J5DwAAQBAJ&oi=fnd&pg=PR5&dq=understand+and+add

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Increasing the capacity of religious court officials through training and education is one solution that can be proposed to overcome the complexity of executions in religious courts. Targeted training and quality education can help religious court officials understand their duties and responsibilities better. With enhanced knowledge and skills, judges and clerks of religious courts will be able to better deal with the challenges of the execution process. Training and education can also provide a deeper understanding of the mandate of the law and improve the ability to conduct case analysis and decision making. Thus, increasing the capacity of religious court officials through training and education is an important step to improve the effectiveness and efficiency of executions in religious courts.⁴¹

To overcome the complexity of executions in religious courts, strengthening coordination between relevant agencies needs to be done through the establishment of communication forums. This communication forum can be in the form of regular meetings between relevant agencies, such as religious courts, police, prosecutors, and the population and civil registration office. This regular meeting aims to discuss and overcome various obstacles and obstacles that arise in the execution process. Through this communication forum, relevant agencies can coordinate, exchange information, and cooperate in law enforcement and execution of religious court decisions. With the strengthening of coordination between relevant agencies through the establishment of communication forums, it is hoped that the execution process in religious courts can run more effectively and efficiently.⁴²

Communities need to be empowered and actively involved in the execution process in religious courts through effective education and socialization on the importance of complying with court rulings. Litigants need to be informed of the consequences that can arise if they do not comply with court rulings, such as legal sanctions or delays in execution proceedings. In this regard, legal counseling and socialization organized by religious courts and related institutions, such as educational institutions and civil society, can play an important role. Through effective counseling and socialization, the community will better understand the importance of respecting and implementing religious court rulings, thereby reducing complexity in the execution process. In addition, there is also a need for educational activities to increase legal awareness and public understanding of their rights and obligations in the religious justice system, so that they can be more active and responsive in implementing court decisions.⁴³

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RKXI.

⁴¹ Y S Y Pallavicini, "Interfaith Education: An Islamic Perspective," *International Review of Education*, 2016, <https://doi.org/10.1007/s11159-016-9571-8>.

⁴² Anagnostou, *European Court of Human Rights: Implementing Strasbourg's Judgments on Domestic Policy*.

⁴³ W F Murphy, *Elements of Judicial Strategy* (books.google.com, 2016), https://books.google.com/books?hl=en&lr=&id=GvNFDAAQBAJ&oi=fnd&pg=PT7&dq=actors+that+may+affect+the+execution+process+in+religious+courts&ots=Ap7_oIn3gv&sig=B_I AF_cTWg6419INP3_cmvPIUSo.



The complexity of executions in religious courts is due to a variety of factors including: legal, social, economic, and psychological factors. Legal factors related to weaknesses in regulations and execution procedures, as well as the absence of strict sanctions for parties who do not comply with court decisions. Social factors include negative stigma against widows, patriarchal culture, and low legal awareness of society. Economic factors include poverty and the reluctance of those obliged to provide a living. Psychological factors include resentment, trauma, and fear. There is a gap between the mandate of the law and the reality of the field in the execution process in religious courts. To overcome the complexity of execution, it is necessary to improve regulations and execution procedures, increase the capacity of religious court officials through training and education, strengthen coordination between relevant agencies through the establishment of communication forums, and increase community participation through education and socialization on the importance of complying with court decisions.

C. Conclusion

The complexity of executions in religious courts is caused by various factors, both legal, social, economic, and psychological factors. There is a gap between the mandate of the law and the reality of the field in the execution process in religious courts. Efforts need to be made to overcome the complexity of executions in religious courts, such as improving regulations, increasing apparatus capacity, strengthening coordination between agencies, and increasing community participation.

The complexity of executions in religious courts is due to several interacting factors. Legally, this complexity can occur due to weaknesses in regulations and execution procedures, as well as the absence of strict sanctions for parties who do not comply with court decisions. Socially, negative stigma against widows, patriarchal culture, and low legal awareness of society are also factors that influence this complexity. In addition, economic factors also play a role, such as poverty and the reluctance of those who are obliged to provide a living. Psychological factors such as resentment, trauma, and fear can also complicate the execution process in religious courts.

Executions in religious courts are often not in accordance with established legal mandates. One of the gaps that occurs is the weakness of regulations and execution procedures that do not allow judges to force the execution of judgments. In addition, lack of coordination between relevant agencies such as the police, prosecutors, and population and civil registration services is also a factor causing this gap. The permissive culture that still exists in society also allows litigants to ignore court decisions. To overcome this gap, efforts are needed to improve regulations and execution procedures so that judges have wider authority in forcing the execution of judgments. In addition, it is also necessary to strengthen coordination between relevant agencies and increase community participation through education and socialization on the importance of complying with court decisions.



To address the complexity of executions in religious courts, several attempts can be made. First, improving regulations and execution procedures can help clarify the procedures that must be followed by all parties involved. This can reduce confusion and misunderstanding in execution execution. Second, increasing the capacity of religious court officials, such as judges, clerks, and administrative officers, is essential to improve the efficiency and quality of the execution process. Third, strengthening coordination between relevant agencies, such as the police, prosecutors, and population and civil registration services, needs to be carried out so that the execution process can run smoothly and be well coordinated. Finally, increasing community participation through education and socialization on the importance of complying with court rulings can help reduce the rate of violations and increase compliance with the execution of religious court rulings.

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