

Application of the Simple, Fast and Light Cost Principles in the Determination of Time for Case Settlement in the Religious Court / *Syar'iyah* Court in Perspective of *Maqashid Syari'ah*

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Abstract. Courts under the Supreme Court of the Republic of Indonesia are always in the spotlight of the public and the media both about their performance and about the weaknesses and shortcomings in these institutions as judicial institutions that carry out the mandate of the provisions of the law. the determination of the time period for case settlement in various courts including the Religious Courts and the *Syar'iyah* Court quickly as mandated by the provisions of the Law which regulates that judicial procedures must be based on the principles of simple, fast and light costs. In reality, in judicial proceedings that take place in the Religious Courts and in the *Syar'iyah* Court, not always the principles of simplicity, speed and low cost can be applied. Often there are cases whose resolution takes a protracted time so that the litigants themselves certainly feel tired of undergoing all the existing judicial processes. When viewed from the point of view of Islamic law, a decision / law that is born by humans must actually be in line with the intent and purpose of the Islamic law itself or known as *Maqashid al-Syari'ah*. In this study using the type of library research (library research), the object of this research is a court decision, the nature of this research is Descriptive-analytic and Qualitative Data Analysis. The results of the study concluded that from the point of view of *Maqashid al-Syari'ah*, the application of the principles of simple, fast and light costs in case settlement in the Religious Courts and the *Syar'iyah* Court is classified as the application of *Maqashid* at the *hajiyah* level, namely to provide convenience for justice seekers in obtaining access to justice as fair as possible.

Keywords: Court; *Maqashid Syari'ah*; Principle; Religious.

1. INTRODUCTION

The courts under the Supreme Court of the Republic of Indonesia are constantly in the spotlight of the public and the media, both about their performance and about the weaknesses and shortcomings in these institutions as judicial institutions that carry out the mandate of the provisions of the law. One of the highlights is the process of case settlement under these two institutions which used to take a long time. The Chief Justice of the Supreme Court of the Republic of Indonesia Dr. Syarifuddin, SH, MH stated in the performance accountability report of the Supreme Court of the Republic of Indonesia in 2022, that one of the priority programs of the Supreme Court of the Republic of Indonesia is to always prioritize the settlement of cases quickly, simply and at low cost. In encouraging the improvement of the performance of agencies under the Supreme Court, the Supreme Court has established a road map for Judicial Reform Blueprint 2010-2035.¹

This should create the potential for the determination of the time period for case settlement in various courts including the Religious Courts and the *Syar'iyah* Court quickly as mandated by

¹Mahkamah Agung RI, (2022), *Laporan Tahunan 2022*, Jakarta: MA RI, p. 56

the provisions of the Law which regulates that judicial procedures must be based on the principles of simple, fast and light costs.² Basically, the principle of simplicity, speed and low cost is derived from the provisions of Article 24 paragraph 2 of Law No. 14 of 1970. Then the broader meaning of this principle is expressed in the general explanation and explanation of article 24 itself. As for the Simple, Fast and Low Cost Judicial Principles in Law Number 50 of 2009, the meaning and purpose of these principles are regulated in more detail in Law Number 14 of 1970, precisely in the general explanation number 5 of the 5th paragraph.³ This simple, fast and light cost principle must be the breath in every decision and settlement of cases resolved in the Religious Courts and *Syar'iyah* Courts with the aim of providing justice as fair as possible for the justice-seeking community.⁴

In order to implement effective and efficient simple trials, for example, supporting policies have been introduced in the form of the use of information technology. Thus, litigants and even the public can conduct case tracking through SIPP (Case Tracking Information System). Court schedules can also be known online and there is also a simple lawsuit model, e-Court justice system, e-litigation, efforts to optimize mediation, reward and punishment system for judges in case examination, which is a new breakthrough from the Indonesian Supreme Court, in order to realize the principles of ease, simplicity, speed and affordable financing related to case settlement in the Religious Courts. Referring to the various efforts that have been taken by the Supreme Court of Indonesia to realize the implementation of this simple, fast and light cost principle, it is supposed that judicial bodies such as the Religious Courts and *Syar'iyah* Courts can resolve cases under their authority based on this principle. The Religious Courts in carrying out their duties to uphold law and justice must fulfill the principles of simple, fast and low cost justice in accordance with Article 57 paragraph (3) of Law Number 7 of 1989 which has been amended to Law Number 3 of 2006 concerning Religious Courts.

Similarly, the *Syar'iyah* Court is authorized to examine, hear, decide and resolve cases as stipulated in Article 49 of Law Number 7 of 1989 which has been amended and supplemented by Law Number 3 of 2006 concerning Religious Courts and cases in the fields of *ahwalusy alsyakhsyah* (family law), *muamalah* (civil law), *jinayah* (criminal law) based on Islamic *Syar'iyah* as stipulated in Article 128 paragraph (3) of Law Number 11 of 2006 concerning the Government of Aceh and *Qanun* Number 10 of 2002 and *Qanun* Number 11 of 2002.⁵ In this case, the *Syar'iyah* Court is the same as the Religious Court in carrying out judicial procedures, which must adhere to the principles of simplicity, speed and low cost.

The enforcement of Aceh *Qanun* No.7 of 2013 on *Jinayat* Procedure Law, and Aceh *Qanun* No.6 of 2014 on *Jinayat* Materil Law rests also on Article 2 letter (f) of the Law on *Jinayat* Procedure. Article 2 letter (f) (The implementation of *Jinayat* procedural law is carried out based on the principles of: a. legality; b. justice and balance; c. protection of human rights; d. presumption of innocence; e. compensation and rehabilitation; f. thorough, simple, fast, and low cost justice; g. open court to the public; h. legitimate, independent and permanent authority of the judge; i. legal assistance for the accused; and j. learning to the community or *tadabbur*).

In reality, in judicial proceedings that take place in the Religious Courts and in the *Syar'iyah* Court, not always the principles of simplicity, speed and low cost can be applied. Often there are cases whose resolution takes a protracted time so that the litigants themselves certainly feel tired of undergoing all the existing judicial processes. The author found several examples of decisions that were decided within a period of approximately 5 (five) months, where the case decided was a Request for *Talak*, precisely at the Stabat Religious Court. If you pay attention, it is clear that in this case, from the start of the register until the issuance of the decision it took approximately 5 months, where the Petitioner registered his Petition in February 2023 but only

² Mardani, (2009), *Hukum Acara Perdata Peradilan Agama & Mahkamah Syar'iyah*, Cet.I, Jakarta: Sinar Grafika, 43.

³ Yahya Harahap, (2005), *Kedudukan Kewenangan dan Acara Peradilan Agama*, Jakarta: Sinar Grafika, 60.

⁴ Mahkamah Syar'iyah Simpang Tiga Redelong, 2018 Annual Report.

⁵ Guidelines for the Implementation of Duties and Administration of Religious Courts Book II, Supreme Court of the Republic of Indonesia. Director General of Badilag 2014) p. 56

broke up in July 2023. In fact, with the various facilities that the author has described above, case settlement should be able to run faster. The same thing also happened at the Medan Religious Court with decision No. 108/Pdt.G/2023/PA.Mdn where this case was a lawsuit for inheritance which was registered on January 6, 2023 but only decided on July 26, 2023. In this case starting from the register until the decision takes approximately 6 months. In fact, with the digitalization system plus if the mediation process is really optimized, the settlement of this kind of case should be faster.

If seen from the point of view of Islamic law, then a decision / law that is born by humans must actually be in line with the intent and purpose of the Islamic law itself or known as *Maqashid al-Syar'iah*. The purpose of the legislation of Islamic law by Allah the Shari' is none other than to bring *mashlahah* to humans and keep *mudharat* away from human life.

In this regard, the question arises as to what exactly are the obstacles faced by judges in the Religious Courts and in the *Syar'iyah* Court in resolving cases simply and quickly. What makes the determination of time between one hearing and another sometimes takes a long time, whether the conveniences in the form of digitalization in the religious judicial environment are not enough to realize a judicial procedure that is based on simple, fast and light costs. Then how does the Supreme Court respond to the various obstacles that exist, what efforts are taken to realize this principle. In addition, it is also important to analyze the application of the principles of simple, fast and light costs in determining the time for case settlement in the Religious Court from the perspective of *Maqashid Syari'ah*.

2. RESEARCH METHODS

In this study using the type of library research, legal research is usually referred to as normative research or doctrinal research.⁶ The object of this research is a court decision, so normative research or doctrinal research is research whose object of study is basic rules, both laws and regulations, court decisions, comparative law and so on.⁷ In addition to library research this research also uses the type of field research, researchers will take several decisions in the North Sumatra Religious Courts including, Medan Religious Court, Lubuk Pakam Religious Court, and Satabat Religious Court, where in this research the author will ask for opinions on several Religious Court judges in North Sumatra. The nature of this research is Descriptive-analytic, In this study the focus is related to the application of the principles of simple, fast and light costs to the determination of case settlement time.⁸ Primary Data Sources are data sources that the authors make as the main reference in discussing and researching this issue which has legal force,⁹ Secondary data sources are data obtained from the results of research or other people's preparations that have become forms of books, scientific works, and other sources that support the writing of this research. The data analysis used in the preparation of this research is Qualitative Data Analysis,¹⁰ With the Deductive thinking method, namely after the compiler obtains data on the application of the simple principle of fast and light costs in determining the time for case settlement in the Religious Court, then the author analyzes the data starting from general matters and then tries to draw specific conclusions to then be presented in descriptive form, namely by describing the phenomena that occur both those that take place today and those that have occurred in the past. According to furchan descriptive research tends to describe a phenomenon in an organized way and prioritizes objectivity and is carried out carefully and carefully.¹¹

⁶Peter Mahmud Marzuki, (2006), *Penelitian Hukum*, Jakarta: Kencana, 2006, p. 24

⁷ Soerjono dan H. Abdurrahman, (2003), *Metode Penelitian Hukum*, Jakarta: Rineka Cipta, p. 57

⁸ *Ibid*

⁹ Soerjono Soekanto, (2007), *Pengantar Penelitian Hukum*, Jakarta: Universitas Indonesia, UI-Press, p. 52

¹⁰ Qualitative is a way of analyzing data without using numerical calculations, but using relevant sources of information to complement the data the compiler wants, See: Soerjono Soekanto, *Pengantar Penelitian Hukum*, Jakarta: Universitas Indonesia, UI-Press, p. 58

¹¹ A. Furchan, (2004), *Pengantar penelitian dalam Pendidikan*, Jogjakarta: Pustaka Pelajar Offset, p.54

3. RESULT AND DISCUSSION

3.1 Application of the Simple, Fast, and Light Cost Principles in the Timing of Case Settlement at the Religious Court/ *Syar'iyah* Court

The Religious Courts and the *Syar'iyah* Court are guided by Law No. 3/2006, specifically Article 49, which regulates the absolute authority of the Religious Courts. Therefore, all Religious Courts in Indonesia, including the *Syar'iyah* Court in Aceh, are subject to this law. Religious Courts and *Syar'iyah* Courts are essentially places to seek justice for every citizen. This institution is an independent and autonomous institution in which one of the important elements is a judge. Judges in this case have a major role and function in providing justice to every person who litigates in court. Therefore, judges are expected in examining, resolving and deciding cases to be free from the intervention of any party in order to provide the fairest possible decision to every person litigating in court.

In resolving cases in the Religious Court / *Syar'iyah* Court, judges are required to resolve cases by paying attention to several principles, one of the important principles that must be considered by a judge is the principle of simple, fast and low cost as mandated by Law Number 48 of 2009 concerning Judicial Power, precisely in Article 4 paragraph (2) which stipulates that "The court helps justice seekers and tries to overcome all obstacles and obstacles to achieve a simple, fast and low cost trial."

The principle of simple, fast and low cost is also known as informal procedure and can be moved quickly.¹² The official explanation of the principle of simplicity, speed and low cost in Article 4 paragraph (2) of Law No. 48 of 2009 explains that "simple" means that the settlement of cases is carried out in an efficient and effective manner, while "low cost" means that the case fees charged to the public can be afforded by the justice-seeking community.¹³ Regarding the application of the principles of simple, fast and low cost in case settlement in the Religious Court / *Syar'iyah* Court, then to find out how the details of its application, according to the author, it is necessary to first explain the Standard Operating Procedure (SOP) for case settlement in the Religious Court / *Syar'iyah* Court from case registration to case decision, so that it is clear how long it takes from the registration stage to the issuance of a decision.

In the Guidelines for the Implementation of Duties and Administration of Religious Courts, Book II of the 2013 revised edition, it is explained in detail about the procedure for resolving cases at the first level, namely in the Religious Court / *Syar'iyah* Court, starting from the registration process to the issuance of a decision, which is more or less as follows: 1) Case Registration, 2) Trial preparation, 3) Appointment of Substitute Clerk, 4) Determination of hearing day, 5) Summoning of the Parties, 6) Conduct of the hearing, 7) Consultative Meeting of the Panel of Judges¹⁴, 8) Settlement of verdict, 9) Notification of the contents of the decision to the parties.¹⁵

Religious Courts and *Syar'iyah* Courts in Indonesia in carrying out their duties and administration. When considered as a whole, it is clear that the Supreme Court made these guidelines by setting clear timeframes at each stage. According to the author, the establishment of this firm and clear time is in order to apply the principles of simplicity, speed and low cost.

In general, the parties to litigation in the Religious Courts/*Syar'iyah* Courts must want the cases they bring to the Court to be resolved quickly. This is because delays in case resolution can lead to uncertainty. There is even a phrase in the community "it is better to lose in court as long as the problem is resolved quickly". This shows that the community in general really wants a fast process so that there is legal certainty for them, especially in divorce cases. There is even a

¹²Krisna Harahap, (2008), *Hukum Acara Perdata Mediasi, Class Action, Arbitrase dan Alternatif*, Bandung: PT. Gafitri Budi Utami, p. 14

¹³Sukarno Aburaera, (2012), *Kekuasaan Kehakiman*, Makassar: Arus Timur, p. 13

¹⁴Mahkamah Agung RI, *op.cit*, p. 41-42

¹⁵*Ibid*

pameo in the literature which reads "justice delayed justice denied" which means that delaying justice is the same as denying justice itself.¹⁶

As for the SOP, the Supreme Court, in order to ensure that the principles of speed, simplicity and low cost are well applied in each Religious Court and *Syar'iyah* Court, then makes a guide to carry out tasks for judges and all ranks in charge of the Religious Court / *Syar'iyah* Court which contains operational work standards that must be applied in carrying out tasks and also judicial administration. These guidelines set time limits for each procedure in order to provide time certainty and to avoid negligence and abandonment of a case.

In addition to time, in general the public also wants relatively low costs in litigating in the Religious Courts and *Syar'iyah* Courts. As is known, litigation in the Court, especially in civil cases, is subject to fees. The basis for the cost of this case is the provisions of Article 121 paragraph (4) HIR and Article 145 paragraph (4) RBg. In this provision, the principle of "no fee, no case" is adopted, except for the situation of not being able to pay case fees so that it can be litigated free of charge as stipulated in Article 237 HIR and Article 237 RBg.¹⁷ With regard to the provisions of Article 121 paragraph (4) HIR and Article 145 paragraph (4) RBg, for the implementation of this Article but still within the corridor of the principles of simplicity, speed and light costs, the Manual for the Implementation of Duties and Administration stipulates the cost of case fees and the payment of case fees. It also sets out all the considerations in assessing case costs so that the public can know in detail what costs they are incurring. The Guidebook makes it clear that the assessment of case costs must be based on the operational needs of the case and no other costs are permitted.

If carefully considered, it will be understood that in order to realize the principle of simple, fast and light costs, the Supreme Court has determined that every case submitted to the Religious Court / *Syar'iyah* Court, especially those relating to cases in the field of marriage, must be examined no later than 30 days after the case is registered by the Plaintiff / Applicant at the Registrar's Office. This 30-day time limit is determined by the ratio that no later than 7 days after the case is registered, the case file must have reached the President of the Court and no later than 7 days after the file is received by the President of the Court, a Panel of Judges must be appointed to resolve the case, and no later than 7 days after that the case file must be submitted to the judge or Panel of Judges for study and then no later than 7 days after that the Panel of Judges through the Stipulation of the President of the Court has set the day of the hearing with the provision that between the day of the hearing and the day of making the deposit cannot be less than 3 working days.¹⁸

Based on this, it is understood that no more than 30 days are used to prepare the case file until the case is ready for trial. While in the trial itself, sometimes a case cannot be decided directly in the first hearing so that the examination hearing must be postponed or postponed no later than 7 days later. Thus, all stages of the case settlement process in the trial, starting from the replication of duplicates, evidence to the reading of the decision, are determined no later than 7 days later.

The Supreme Court's intention in determining the stages of examination in multiples of 7 days, according to the author, is to provide certainty that the travel time of the judicial process can be known with certainty and does not exceed the latest limit for the settlement of each case submitted to the Court. This is also to avoid abandonment of cases and the accumulation of remaining cases at the end of the year that have not been decided. With timeliness, it is possible to avoid the accumulation of undecided cases in the courts.

Based on the above discussions of case settlement procedures and administration in the Religious Courts and *Syar'iyah* Courts, it can be concluded that the application of the principles

¹⁶Widowati, (2021), Hambatan Dalam Implementasi Asas Sederhana, Cepat dan Biaya Ringan, *Jurnal Hukum Yustitiabelen*, Vol. 7 No. 1, p. 100

¹⁷Widowati, *op.cit*, p. 101

¹⁸*Ibid*, p. 102-103

of simplicity, speed and low cost in determining the time for case settlement in the Agam Courts and *Syar'iyah* Courts has been carried out. This is evident from the existence of guidelines for all Religious Courts and *Syar'iyah* Courts regarding work and administrative operational standards that contain time limitations for each case settlement process. The time limitations set by the Supreme Court are intended to ensure that case resolution is as effective and efficient as possible, in the sense that it is timely but still ensures aspects of justice. In general, all Courts and *Syar'iyah* Courts are subject to this established SOP.

Although there is a clear SOP that regulates the stages and procedures of work and administration accompanied by time limitations for the Religious Courts and *Syar'iyah* Courts, in real practice in the Courts there are certainly found either in many cases or in certain cases obstacles and constraints in implementing this simple, fast and light cost principle. Sometimes, there are several obstacles either from internal factors of the court itself or factors from outside the court which ultimately cause the failure of this simple, fast and light cost principle to be applied. This then causes case settlement to take a protracted period of time and of course the longer the case settlement, the greater the costs that must be incurred by the litigants. The obstacles and constraints faced in implementing the simple, fast and light cost principle will be discussed in the next sub-chapter which will also be complemented by a discussion of the response of the Supreme Court in dealing with existing obstacles and constraints.

3.2 Obstacles of Judges in the Application of the Principles of Simple, Fast and Light Costs on the Timing of Case Settlement in Religious Courts / *Syar'iyah* Courts and the Attitude of the Indonesian Supreme Court in Responding to Such Obstacles / Constraints

Constraints of Judges in the Application of the Principles of Simple, Fast and Light Costs in the Determination of Time for Case Settlement in the Religious Court / *Syar'iyah* Court

Although the Supreme Court has established Standard Operating Procedures for the implementation of Tasks and Administration in the Religious Courts and *Syar'iyah* Courts through a guidebook, where all Religious Courts and *Syar'iyah* Courts are guided by this SOP in carrying out their duties and authorities, but in real conditions when various cases are examined and resolved, there are still various obstacles and obstacles that cause the SOP to not always be applied perfectly so that the implementation of the principles of simple, fast and low cost can also not always be applied optimally. In fact, in many cases there are cases that take a long time to resolve, both due to internal and external factors. In addition, each case itself basically has different characteristics and of course also has a different level of difficulty to be resolved. For example, an application case such as *itsbat nikah* or dispensation of marriage, of course, cannot be equated with a lawsuit case such as divorce or contested divorce, both the level of difficulty and the length of the examination process.

In the author's opinion, cases that enter the Religious Court or the *Syar'iyah* Court can basically be categorized into 3 types based on the level of difficulty. First, light cases such as petition cases (*itsbat nikah*, dispensation of marriage, etc.). Second, medium cases such as divorce and contested divorce cases. Finally, there are difficult cases, namely cases whose examination and resolution require special attention and take a long time, such as inheritance cases and *Syar'iyah* economic disputes. In these three types of cases, a different time span is required because the settlement is also different. For example, between a petition case and a lawsuit case, the time span for completion is different. This is because, in a petition case, there is usually no need for an answer, while in a lawsuit case such as divorce and contested divorce, there is a need for an answer between the parties.

The length of the case settlement process is sometimes also caused by factors such as one of the litigants not being in his domicile or living outside the jurisdiction of the Religious Court handling the case, such things also make the case settlement process longer because it is

necessary to make a legal and proper summons to the party concerned, while the party concerned is far within the reach of the Religious Court handling the case.

In general, according to the circumstances of the case and the level of case settlement, there were cases that could be resolved within 1 to 6 months and cases that could only be resolved after more than 6 months and even cases that had not been resolved for more than 6 months. This data reveals that there are cases that can be resolved by the courts quickly and there are cases that are slow to be resolved.

The fact that the court is slow in resolving cases submitted to it is due to various obstacles that prevent the court from applying the principles of simplicity, speed and low cost in the implementation of its main judicial duties. These obstacles arise due to several factors, both internal and external to the court.

The Attitude of the Supreme Court of Indonesia in Responding to Obstacles/Constraints in the Implementation of the Principles of Simple, Fast and Light Costs

The Supreme Court is basically the highest court that has several functions, one of which is the supervisory function. The Supreme Court exercises supreme supervision over the course of the judiciary with the aim that the judiciary carried out by the Courts is organized carefully and reasonably guided by the principles of simplicity, speed and low cost, without reducing the freedom of judges in examining and deciding cases as stipulated in Article 4 and Article 10 of Law Number 14 of 1970 concerning the Basic Provisions of Power.¹⁹

The Supreme Court also supervises the work of the courts and the behavior of judges and the actions of court officials in carrying out tasks related to the implementation of the main tasks of judicial power, namely in terms of receiving, examining, adjudicating and resolving each case submitted to it, and requesting information on matters related to judicial technicalities such as giving warnings, warnings and instructions needed without reducing the freedom of judges as stated in Article 32 of Supreme Court Law Number 14 of 1985.²⁰

Based on this, it is clear that the Supreme Court has a great responsibility in terms of supervising and also regulating the administration of justice in various courts. Regarding the obstacles and barriers encountered by various courts including the Religious Courts and *Syar'iyah* Courts as discussed above, the Supreme Court also responded to these obstacles by providing various policies as solutions. The various efforts made by the Supreme Court of Indonesia in order to overcome the various obstacles that exist and for the implementation of simple, fast and light principles, among others, are as the author describes as follows: 1) Issuing Regulations and Policies Related to the Implementation of E-Court, 2) Implementation of Simple Lawsuit, 3) Issuance of Rules on the Procedure of Summons and Notice by Registered Mail, 4) Optimization of Mediation.

Application of the Simple, Fast, and Light Cost Principles in the Determination of Time for Case Settlement in Religious Courts / *Syar'iyah* Courts Viewed from the *Maqashid Syari'ah* Perspective

As discussed in passing in the background of the problem, it must be understood that all laws that are born by humans (mujtahid), must be in line with the purpose of the law by Allah SWT as Shari'. This concept in Islamic law is known as *Maqashid al-Syari'ah*, where the laws that are born by mujtahid must not conflict with the objectives of the law by Allah SWT as contained in the Qur'an and Sunnah.

Muhammad *al-Yubi* who defines *Maqashid Syari'ah* as the meanings and wisdoms that have been determined by Allah SWT in each of his laws, both specific and general, which have the aim of realizing the welfare of servants. *Wahbah al-Zuhaily* defines *Maqashid Syari'ah* as the

¹⁹Mahkamah Agung RI, (2023), *Tugas dan Fungsi Mahkamah Agung RI* dalam <https://www.mahkamahagung.go.id> Accessed October 28, 2023 at 5:30 am

²⁰*Ibid.*

meanings and purposes that can be understood / recorded in every law and to glorify the law itself, or it can also be defined as the ultimate goal of Islamic law and the secrets set by *al-Syari'* in every law that He establishes.²¹

From some of these definitions, it can be understood that what is meant by *Maqashid Syari'ah* is basically the secret and the ultimate goal desired by Allah SWT as *al-Syari'* in every *Syar'iyah* that he stipulates. By knowing it, a mujtahid can be helped in deriving the law of a case correctly in accordance with the main sources of Islamic teachings, namely the Qur'an and Sunnah.

In determining a law, a mujtahid must pay attention to the objectives and wisdom contained both in the Qur'an and in *al-Sunnah*, so that it can be used as a reference by mujtahids to determine a new law. In general, the purpose of the law enacted by Allah SWT in the concept of *Maqashid Syari'ah* is the creation of *mashlahat* for humans and avoiding humans from harm. Therefore, in general, the law established by a mujtahid must also consider these aspects of *mashlahat* for humans. The rulings made by the mujtahid must bring goodness, *mashlahat* and convenience to humans and avoid human difficulties from *mudharat* and difficulties. This is in line with the following verses and traditions: Qur'an Surat *al-Baqarah*: 185

... ۱۸۵ ۞ يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ ...

Meaning: "...Allah wants ease for you, and does not want hardship for you..." (QS. *Al-Baqarah*: 185)

Hadith from Abi Hurairah ra:

عن أبي هريرة رضي الله عنه قال، قال رسول الله صلي الله عليه وسلم إن هذا الدين يسر و لن يشاد الدين احد الا غلبه، فسدوا و قاربوا و أبشروا و يسروا و استعينوا با لغدوة و الروحة و شئ من الدلجة.²²

Meaning: "Abu Hurairah (may Allah be pleased with him) reported that the Prophet (peace and blessings be upon him) said: "Verily, religion (Islam) is easy, and no one who is hard on religion will be defeated, so be upright and modest, give good news, make things easy, and ask for help in the morning and evening and a little of the night." (Nasa'i)

If we pay close attention to the content of the above verse and hadith, it can be understood that the verse and hadith above illustrate that the Islamic *Syari'ah* is basically an easy *Syari'ah* and does not want any difficulties for humans who practice it. Muslims cannot be given by Allah SWT a burden beyond their ability, where Islam makes the *Syari'ah* easy to practice and avoids difficulties in its implementation is a necessity. It can also be understood from the verse and hadith above that there is an indication that the teachings of Islam boil down to *mashlahat*, namely realizing benefits and avoiding *mafasadat*.²³ Based on this interpretation, *Maqashid Syari'ah* basically aims to present the good, which is believed to have a strong foundation in its discovery and development. As for when it is associated with the settlement of cases in the Religious Courts and the *Syar'iyah* Court, the judge in this case can be equated with a mujtahid who is tasked with issuing and determining the law on the issues submitted to him. Therefore, it is the duty of a judge to be able to provide the fairest possible law to the justice-seeking community.

The justice in question is justice that is as fair as possible, by giving a quick decision so that the litigants quickly get certainty. The settlement of the problem / case must also be carried out as simply as possible so that no difficulties arise for the parties seeking justice and most importantly at the lowest possible cost. This in the principles of civil procedure law is a manifestation of the principle of simple, fast and light costs. The application of the principles of simple, fast and low cost itself, when viewed from the perspective of *Maqashid Syari'ah*, is actually in line with the ideals and objectives of the Islamic law, namely to realize *mashlahat*

²¹Wahbah al-Zuhaily, (1986), *Ushul al-Fiqh al-Islami*, Damaskus: Dar al-Fikr, p. 1017

²²Abu Abd al-Rahman Ahmad ibn Syu'ayb ibn 'Ali al-Syairy al-Nasa'i, (1998), *Sunan al-Nasa'i*, Riyadh: Maktabah al-Muarif, p. 764

²³Busyro, *op.cit*, p. 27-28

for humans. *Mashlahah* here can be in the form of various conveniences and avoidance of humans from various difficulties. The application of the principles of simple, fast and light costs can provide various conveniences for the justice-seeking community when resolving problems / cases that they submit to the Religious Courts and / or *Syar'iyah* Courts.

In the concept of *Maqashid al-Syar'iah*, there is a division of *Maqashid* based on the interests and desires of *al-Syari'*, one of which is *Qashdu al-Syari' fi Wadh'i al-Syar'iah* (The intention of Allah SWT in establishing *Syar'iyah*). From this side, the purpose of *Syar'iah* in establishing *Syar'iyah* is for the benefit of His servants in this world and in the hereafter. Allah SWT wants convenience and goodness in every human life. So it is impossible for Allah SWT to establish laws that can cause harm to humans.

Al-Syatibi as quoted by Ahmad *al-Raisuni* explained that the burden of law was actually held in order to maintain the purpose of law in creatures. This *Maqashid* consists of three namely *dharuriyah*, *hajjiyyah*, and *Tahsiniyyah*. *Maqashid dharuriyyah* consists of five things that must be maintained, namely protecting religion, protecting the soul, protecting offspring, protecting property and protecting the mind. As for *Maqashid hajjiyyah* is to eliminate the distress of the life of mukallaf and *Maqashid Tahsiniyyah* as a refinement of the previous two *Maqashid*.²⁴

Based on *Al-Syaribi's* opinion, it can be understood that the law is presented by Allah SWT with the aim of maintaining *mashlahat* for every human being as a creature. Therefore, none of the laws of *Syar'iyah* aims to provide harm and difficulty for humans, it's just that sometimes it takes a deep understanding to arrive at the intent and purpose intended by Allah SWT itself.

Maqashid as stated by *al-Syatibi* above is divided into three categories, namely *dharuriyat*, *hajjiyyat* and *tahsiniyyat*. Here the author provides an explanation of these three forms of *Maqashid*: 1) *Daruriyyat*, 2) *Hajjiyyah* and 3) *Tahsiniyyah*.

When viewed from the point of view of the division of *Maqashid dharuriyyat*, *hajjiyyat* and *tahsiniyyat*, then according to the author, the settlement of cases in the Religious Court and the *Syar'iyah* Court is basically classified as *Maqashid dharuriyyat* where the settlement of cases in it is in the context of maintaining religious law (*al-din*), protecting the soul (*al-nafs*), protecting the intellect (*al-'aql*), protecting offspring (*al-nasl*) and protecting property (*al-mal*). This can be seen from the various kinds of cases resolved through court decisions which include *munakahat* issues, children's *nasab*, and also disputes relating to property (*al-mal*) such as inheritance issues and *Syar'iyah* economic disputes. These cases, if not resolved by judges in court with justice, will lead the parties to harm at the *dharuriyyah* level.

As for the application of simple, fast and low cost principles in case settlement in the Religious Courts and the *Syar'iyah* Court, it is classified as *Maqashid* at the *hajjiyyah* level, namely things that are needed to realize convenience and eliminate difficulties that can cause danger and threat, namely if something that should exist becomes absent. The application of the principle of simple, fast and low cost is the main goal is to provide convenience for the justice-seeking community to get justice. With the optimal application of this principle in case settlement, the fairest justice will be realized. Therefore, it can be concluded that in terms of *Maqashid Syar'iah*, the application of the principle of simple, fast and low cost is in line with *Maqashid Syar'iah* at the level of *hajjiyyah*.

Meanwhile, the presence of policies and regulations issued by the Supreme Court in supporting the implementation of the principle of simple, fast and low cost, can be categorized as *Maqashid Tahsiniyyah*. *Tahsiniyyah* itself is a *Maqashid* that supports the establishment of *Maqashid* at the *hajjiyyah* level, so its nature is complementary. This is also the nature of various rules and policies issued by the Supreme Court. Rules such as e-court, e-litigation, the implementation of simple lawsuits, the procedure for summons and notification by registered mail and the optimization of mediation, are basically a set of rules that complement the obligation for the Court to carry out case settlement in a simple, fast and light cost manner.

²⁴Ahmad al-Raisuni, (1992), *Nadariyat al-Maqashid 'Inda al-Imam al-Syatibi*, Beirut: Muassasah al-Jami'ah, p. 116

Through these rules and policies, the application of the principles of simplicity, speed and low cost can be implemented more optimally.

4. CONCLUSION

Obstacles or obstacles in implementing the application of the principles of simple, fast and low cost in determining the time of case settlement in the Religious Courts / *Syar'iyah* Courts consist of two kinds of obstacles, namely internal factors and external factors. Internal court factors include the lack of professionalism of judges and their staff at the Court in resolving incoming cases as well as the integrity of judges and other staff. External obstacles relate to the discipline of the litigants. In addition, there are also obstacles in the event of extraordinary events that force the Religious Court / *Syar'iyah* Court to stop operating. The response of the Supreme Court in overcoming the existing obstacles and barriers was taken by the Supreme Court by issuing various rules and policies ranging from rules related to the implementation of e-courts, presenting e-court applications, issuing rules regarding procedures for resolving simple lawsuits, issuing rules regarding the Procedure for Summons and Notices by Registered Mail, and issuing rules related to optimizing mediation efforts in case settlement. Seen from the point of view of *Maqashid al-Syari'ah*, the application of the principles of simple, fast and light costs in case settlement in the Religious Courts and the *Syar'iyah* Court is classified as the application of *Maqashid* at the *hajiyah* level, namely to provide convenience for justice seekers in obtaining access to justice as fair as possible.

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