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Juridical Review of the Obstacles in the Letter Rogatory in the Bogor Religious Court¹

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Abstract:

This study aims to examine in depth the role and obstacles in the implementation of letters rogatory as an instrument of international legal assistance in cross-border civil justice practices at the Bogor Religious Court. A letter rogatory is an official request from one court to a court in another country to perform certain legal actions, such as the summoning of parties, the submission of documents, or the collection of evidence, which cannot be performed directly due to jurisdictional differences. In the context of religious courts in Indonesia, letters rogatory are an important mechanism in resolving cases involving foreign nationals or Indonesian citizens residing abroad, particularly in divorce cases and cross-border family disputes. This research uses a qualitative approach with a case study method. Data was obtained through in-depth interviews with two key informants: judges and clerks of the Bogor Religious Court. The results showed that the rogatory letter functions as an international legal bridge that ensures the validity and smoothness of the cross-jurisdictional judicial process. However, its implementation still faces various obstacles, such as a long bureaucracy, a lack of technical understanding from the apparatus, and non-optimal utilization of technology, including digital monitoring systems such as Rogatory Online Monitoring. Therefore, this study recommends increasing the capacity of human resources through technical training, simplifying administrative procedures, and optimizing digital systems to support the effective implementation of letters rogatory in the future.

Keywords: rogatory letter; cross-border civil; religious court; juridical constraints; international legal assistance

A. INTRODUCTION

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Cross-state contacts are becoming increasingly complex in an era of globalization. To address such issues, a strong international legal cooperation system is required. One of the essential mechanisms in international legal cooperation is the request for international legal aid, sometimes known as a letter rogatory (Asep Nursobah, 2022b).

A letter rogatory is a formal request from an Indonesian court to another country's court for assistance in gathering evidence or carrying out other procedural measures in an ongoing case. Although letters rogatory play a significant role in multinational conflicts, their use is frequently criticized for a variety of reasons, including legal system incompatibilities, bureaucracy, and a lack of procedural coherence (Asep Nursobah, 2022).

The court should include essential elements in a letter of request for international judicial assistance, such as stating the request is made in the interests of justice, a brief case synopsis with party identification and assistance details, specifying the type of case and assistance needed (e.g., testimony or evidence production), providing foreign court contact details and identifying the person abroad involved, listing any documents or questions needed, expressing prepared to give reciprocal assistance and agree to refund any costs spent by the recipient country's judicial authorities in carrying out the request (Funk, 2024).

The Rogatory Online Monitoring System is a joint endeavor of the Ministry of Foreign Affairs and the Supreme Court of Indonesia to follow cases involving private international law and allow document exchanges with other nations. The system was launched in 2018 and functions as a database for tracking legal document transfers. While acclaimed for its success, the system lacks widespread knowledge and outreach to users seeking to resolve private international law problems. This article discusses the system's history, legal underpinning, and operational operations while highlighting Indonesia's legal advances (Directorate of Treaty Law and Socio-Cultural Affairs & Ministry of Foreign Affairs, 2021).

The notion of letters rogatory, which dates back to Ancient Rome, has grown in importance as interstate interactions have become more complicated. International treaties from the nineteenth century have been formed to govern the procedures for issuing letters rogatory, including in Indonesia, where requirements may be found in several national and international statutes. These legal procedures, also known as judicial aid, are used in civil cases across several state jurisdictions via rogatory letters, letters of request, and court document delivery assistance. Rogatory letters are official requests between governments for legal technical assistance in civil matters, which includes activities such as identifying persons or assets, acquiring witness testimonies and evidence, and simplifying civil processes (Asep Nursobah, 2022a).

Document delivery services include providing a variety of civil papers, such as legal letters and court rulings. Three Hague Conventions govern international legal technical assistance for document delivery: the 1961 Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents, the 1965 Hague Service Convention, and the 1970 Hague Evidence Convention. These agreements allow legal assistance requests to be submitted directly between courts across state borders.

However, Indonesia is not a signatory to these accords, which prevents its courts from directly seeking help from other nations in summoning court papers. Indonesia currently lacks legislation governing interstate collaboration and mutual aid in civil disputes. This law would establish principles, methods, and standards for aid requests and legal proceedings in cross-border civil cases (Asep Nursobah, 2022a).

Indonesia is a democratic state of law, with legislation, international law, and customs serving as the foundation for foreign relations and policy execution. In the absence of laws and regulations governing the delivery of legal technical assistance across state jurisdictions in the civil sector, the Supreme Court and the Ministry of Foreign Affairs must agree on guidelines for dealing with letters rogatory and assisting in the delivery of judicial documents. On February 19, 2013, the Supreme Court's Registrar and the Ministry of Foreign Affairs' Director General of International Law and Agreements signed a memorandum of understanding (MoU) between the two institutions (ASEP NURSOBAH, 2022b).

B. METHODS

This research uses a descriptive qualitative method with a case study approach. This method was chosen because this research aims to deeply understand complex and contextual legal phenomena, namely the implementation of rogatory letters in cross-border cases at the Bogor Religious Court. According to (Sugiyono, 2015), a qualitative approach is used to examine the conditions of natural objects, where the researcher acts as the main instrument, data is collected through triangulation techniques, is descriptive and is analyzed inductively. This research is also exploratory and interpretative because it seeks to explore in depth the meaning, perceptions, and obstacles faced by parties related to the implementation of letters rogatory, such as judges, clerks, and foreign parties. In this study, researchers applied three data collection techniques to ensure the accuracy and completeness of the data obtained, namely observation, interviews, and documentation. The time used by researchers in conducting this research was for two months, from April to May 2025, at the Bogor Religious Court.

C. RESULTS AND DISCUSSION

This study aims to identify and analyze the role and constraints in the implementation of letters rogatory at the Bogor Religious Court. Through a qualitative approach and case study method, data were obtained from in-depth interviews with three key informants: judges, court clerks, and court administrative staff.

1. The Role of Rogatory Letters

Rogatory letters serve as an important instrument in strengthening cross-border legal cooperation, particularly in international civil cases involving Indonesian citizens and foreigners. At the Bogor Religious Court, letters rogatory are used as a "legal bridge" to enable the summoning of parties, examination of witnesses, and collection of evidence from foreign jurisdictions. It also plays a role in maintaining the principles of legality and accountability in cross-border proceedings.

The data obtained shows that judges and court clerks utilize letters rogatory as part of efforts to fulfill the principle of a speedy and fair trial, although their use is still limited due to the complexity of the procedures and lack of public understanding.

2. Implementation Constraints and Challenges

The research revealed several key constraints to the implementation of the rogatory letter:

- a. Differences in legal systems between countries, leading to difficulties in the interpretation and processing of applications;
- b. Administrative constraints, including lengthy bureaucracy involving the Supreme Court, Ministry of Foreign Affairs, and embassies;
- c. Lack of understanding by court officials, which slows down the process of drafting letters rogatory;
- d. Lack of socialization and technical training on rogatory procedures;
- e. Unclear follow-up from the recipient country, due to the absence of an adequate tracking system;
- f. Lack of utilization of digital systems, such as the Rogatory Online Monitoring system.

These findings confirm that while the rogatory letter has a strong legal basis and strategic role, its implementation still faces practical obstacles at the local level.

D. CONCLUSION

The conclusion of this research highlights the urgency and significance of surat rogatory in the context of cross-border civil litigation, particularly at the Bogor Religious Court. Based on a qualitative approach with a case study method, this research found that Surat Rogatori has a fundamental role as an interstate legal bridge that allows the judicial process to continue according to procedures even though it involves parties who are outside the national jurisdiction.

As a formal legal instrument, a letter rogatory is understood by judges, clerks, and administrative staff as an official request to carry out cross-border legal actions, such as the summoning of parties, collection of evidence, and submission of documents. In practice, letters rogatory ensure the legality and completeness of the judicial process, thereby preventing additional legal disputes arising from unauthorized procedures. In cross-border civil cases, such as interstate divorce, child custody, and property division, the rogatory mechanism guarantees the validity of summons, minutes of examination, and other evidence conducted abroad. However, the implementation of letters rogatory in the Bogor Religious Court still faces a number of significant challenges. One of the main obstacles is the layered bureaucracy that slows down the request and implementation process. The surat rogatory procedure must pass through long stages through the Supreme Court, the Ministry of Foreign Affairs, and the embassy in the destination country. This complex process often leads to delays in proceedings and even legal uncertainty.

Another obstacle is the lack of technical and procedural understanding among the judicial apparatus. Most administrative staff and even court clerks have not received specialized technical training on drafting, sending, and tracking letters rogatory. This has led to low efficiency and effectiveness of implementation, as well as an increased risk of formal errors in the documents sent. The lack of internal and external socialization is

also an obstacle to rogatory implementation. Justice seekers who wish to use the rogatory mechanism often do not understand the procedures and costs involved, leading to confusion and additional burdens. In addition, the absence of an effective tracking system exacerbates this situation. Many rogatory letters sent cannot be monitored in real-time because the Rogatory Online Monitoring system has not been optimized for use by all courts. Differences in legal systems between countries are another source of obstacles. Different formats, languages, and legal systems mean that rogatory letters are often not responded to or rejected by the destination country. This shows the importance of harmonizing international law and establishing bilateral agreements within the framework of mutual legal assistance.

In this context, the main conclusion of this study is that letters rogatory have a strategic position in cross-border civil justice, but their effectiveness is greatly affected by technical, administrative, and institutional factors. Therefore, it is necessary to reform the system and increase the capacity of human resources so that the letter rogatory does not only become a formal document, but becomes an instrument that truly supports cross-jurisdictional justice. Policy interventions are needed in the form of standardized rogatory SOPs, continuous training for officials, and updating information technology systems to support rogatory monitoring. In addition, international cooperation should be enhanced to create a more efficient and legally and diplomatically accountable mechanism.

By paying attention to these matters, rogatory letters can function optimally and become part of a modern justice system that is inclusive and accountable, especially in accommodating the increasing complexity of international civil cases in line with globalization.

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