

Communication in the Implementation of Electronic Justice Policy in the Mempawah Religious Court

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Abstract

Electronic justice (e-court) is a justice system that is implemented electronically to provide easy services for court officials and parties litigating in court through the use of information technology. Application of electronic court to answer 3 (three) main problems: delays, accessibility, and integrity. The use of e-court can prevent interactions between parties related to court officials, thereby minimizing the occurrence of ethical deviations or legal violations. Apart from that, it can also reduce time, energy, and costs so that the process is more effective and efficient. The aim of the research is to find out and analyze the factors that influence the implementation of electronic court policies at the Mempawah Religious Court using George Edward III's theory (communication, resources, disposition, and bureaucratic structure). The research method used is descriptive-qualitative. The data sources were taken from documents and interviews with related parties. The research results show that electronic courts have not been utilized by people seeking justice due to several factors, including: people do not know about electronic courts, are technologically illiterate, do not have the means to use electronic courts, do not understand electronic court mechanisms, and have internet network problems. Future projections for electronic courts to be optimally utilized by people seeking justice require massive outreach and the availability of adequate equipment.

Keywords: *Electronic Court, Implementation, Obstacles.*



A. INTRODUCTION

The right to obtain justice is a fundamental human right (human rights) that must be respected, protected, and fulfilled by the state. The implementation of the right to obtain justice by law enforcement agencies still faces various problems, leading to complaints about the performance of law enforcement officers, including the judicial system. These problems include abuse of power, lack of transparency, lengthy case resolution processes, high costs, and other issues that degrade respect for the judicial system. To address these issues, the Supreme Court has made various efforts to improve the performance of the judicial system, with the vision of "Realizing an Eminent Indonesian Judicial Institution" and four missions: maintaining the independence of the judicial body, providing just legal services to seekers of justice, improving the quality of judicial leadership, and enhancing the credibility and transparency of the judicial body. These efforts are outlined in the Judicial Reform Blueprint (MARI Blueprint) 2010-2035, which has provided a substantive foundation for the Supreme Court and its four subordinate judicial bodies to implement a transparent, accountable, and modern judicial system.

The Supreme Court has implemented various innovations, including the adoption of an electronic judicial system since 2018 through the issuance of Supreme Court Regulation of the Republic of Indonesia "Peraturan Mahkamah Agung Republik Indonesia" (PERMA) No. 3 of 2018, which was later perfected with PERMA No. 1 of 2019 and further improved with PERMA No. 7 of 2022. Through this system, various benefits can be experienced by the public, including cost savings, time efficiency, transparency, accountability, and increased access to legal services for the public. Additionally, it has become more administratively effective and efficient, ensuring the legality of case documents. The implementation of the electronic judicial system makes it easier for justice seekers to defend their rights without having to come to the court physically. Plaintiffs or applicants can register their cases through the e-court application from anywhere. The benefits of the electronic judicial system were particularly evident during the COVID-19 pandemic in Indonesia, when justice seekers were unable to physically come to court due to government-imposed restrictions "Pemberlakuan Pembatasan Kegiatan Masyarakat" (PPKM). Through the electronic judicial policy, these barriers were effectively overcome.

Considering the various benefits of the electronic judicial system, justice seekers should ideally prefer using the electronic judicial system over the traditional system. However, in reality, this system has not been fully utilized by the public, as seen in the case of the Religious Court of Mempawah. This is evident from the limited number of cases processed electronically. Over the three-year period from 2019 to 2022, only 116 cases, or 6.52% of the total 1,780 cases, were processed electronically. Based on the above phenomenon, it is interesting to conduct research to understand the factors causing the Supreme Court's policy of implementing electronic judicial systems not being well-implemented at the Religious Court of Mempawah.

B. LITERATURE REVIEW

The implementation of policy is essentially a way for a policy to achieve its goals. There are two options for policy implementation: directly in the form of programs and/or through the formulation of derivative or derived policies from public policies. Public policies in the form of laws or regional regulations (Perda) are a type of public policy that requires explanatory policies or what is often called implementing regulations.

Policy implementation, in the context of management, falls within the framework of organizing, leading, and controlling. Once a policy has been formulated, the next steps involve organizing, providing leadership for its execution, and controlling its implementation. To understand this, it is important to examine the bureaucratic aspect of administrative implementation, as proposed by Anderson (in Putra, 2001:82), which states that every policy that has been established is always preceded by the determination of implementing units, which are public bureaucracy officials, ranging from the highest level to the lowest level.

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According to Nugroho (2008:521-523), there are four accuracies that need to be met for the effectiveness of policy implementation. First, the accuracy of the policy itself; second, the accuracy of the implementation; third, the accuracy of the target, and fourth, the accuracy of the environment. These four accuracies need to be supported by three types of support: political support, strategic support, and technical support.

Van Meter and Van Horn offer a policy implementation model using a top-down approach formulated as "A Model of The Policy Implementation." According to Van Meter and Van Horn (in Agustino, 2008:142), there are at least six variables that affect the performance of public policies: (1) the size and objectives of the policy, (2) resources, (3) characteristics of implementing agents, (4) the attitudes/tendencies (disposition) of the implementers, (5) inter-organizational communication and implementation activities, and (6) the economic, social, and political environment. Meanwhile, according to George Edward III (in Widodo, 2010:96), there are four factors that influence the success or failure of policy implementation: (1) communication, (2) resources, (3) disposition, and (4) bureaucratic structure.

Regarding the research on the implementation of electronic justice policy at the Religious Court of Mempawah, the researcher focuses on the communication factor because this factor plays a crucial role in the implementation of a new policy that has not been previously implemented, requiring clarity in the policy's content, objectives, and targets, both by the policy implementers and the target group.

C. METHOD

This research uses a descriptive approach with qualitative analysis. Descriptive-qualitative research aims to gain a general understanding of the social reality under study. The data required for this research includes both primary and secondary data. Primary data is obtained through interviews and field observations. Secondary data, on the other hand, is processed and officially published data obtained from documentation and/or official media related to electronic justice policy.

Structured interviews are conducted based on prepared written questions, while observations involve direct examination of the research subject to gather essential elements for data analysis. The data analysis technique used is the interactive model of analysis, which consists of three components: data reduction, data presentation, and drawing conclusions.

D. RESULT AND DISCUSSION

1. Electronic Justice

Electronic justice (e-court) is a judicial system implemented electronically to provide convenience in the delivery of services for the judiciary and the parties involved in court proceedings through the utilization of information technology. Investments in information technology contribute to the performance and productivity of an organization. The application of information technology offers various advantages, such as speed, consistency, precision, and reliability. (Riyan Ramdani dan Dewi Mayaningsih: 2021-225)

The rapid development of information technology usage was particularly felt during the COVID-19 pandemic in Indonesia. The implementation of the Large-Scale Social Restrictions (PPKM) policy, where most activities were conducted from home, including schooling, studying, and working, accelerated the use of information technology in providing services to the public. This situation not only triggered the bureaucracy to implement e-government but also served as a learning experience for the public to become accustomed to using information technology.

Institutions that have responded to the use of information technology in service provision from the outset include the Supreme Court of the Republic of Indonesia, as outlined in the Blueprint for the Renewal of the Supreme Court 2010-2035. Among its programs is the modernization of case management through the use of information technology to achieve effective and efficient justice. (Asep Nursobah, 2015)

As a system, the judiciary has mechanisms aimed at achieving the mission of the essence of its existence. An ideal judicial system should keep pace with the development of an increasingly advanced society, which leads to an increase in the quality and quantity of conflicts, necessitating swift and effective handling.

In the social system, the judiciary plays a significant role in modern life, and therefore, the public expects an effective, efficient, transparent, and accountable judiciary, as mandated by Law No. 48 of 2009 on the Judicial Power. Based on this, the Supreme Court has issued various regulations for the implementation of electronic justice.

The implementation of electronic justice is intended, among other things, to address three main issues that parties have faced when involved in legal proceedings, namely delay, access, and integrity. The use of e-court reduces the intensity of interactions between parties and the court apparatus, shortens the case handling time, reduces the need to physically appear in court, and addresses the lack of information about the court. (A. S. Pudjoharsoyo, 2019)

Other benefits of using e-court as a system include, firstly, making the judicial system simpler and faster. Secondly, the system can bridge the geographical challenges of Indonesia, a vast archipelago consisting of thousands of islands. Thirdly, it reduces litigation costs because the judicial process is conducted electronically. Fourthly, the electronic system enhances public trust in the judiciary. The e-court system also limits direct interactions between users of judicial services and judicial personnel, minimizing ethical deviations and legal violations (<https://www.mahkamah-agung.go.id/id/berita/3730/ketua-mahkamah-agung-e-litigasi-redesain-praktek-peradilan-indonesia>).

The implementation of electronic justice transforms the entire litigation process from a face-to-face system to digitalization. The parties involved in a case no longer need to physically come to the court but can instead make use of the facilities provided through the e-court application. This system is vastly different from conventional justice, where everything is conducted face-to-face, which has often been a source of complaints from the public, as mentioned earlier.

2. Governance of Electronic Justice

The stages involved in the electronic justice process include e-filing (Online Case Registration), e-payment (Payment of Case Fees), e-summons (Summons to Parties), e-litigation (Online Trial), and e-delivery (Delivery of Verdict Copies). All of these processes are carried out electronically.

a. *e-Filing* (Online Case Registration)

The registration of cases is done online through the e-court application using a web browser on a computer, tablet, or smartphone. Users input data and/or documents in the available menu. After completing this data, court personnel will verify it. If there are any errors or omissions, court personnel will inform the users to make corrections or additions. If the input/uploaded data is complete and accurate, the next step is to make online payments for case fees *online* (*e-Payment*).

b. *e-Payment* (Payment of Case Fees)

The steps involved in e-payment (Payment) include: obtaining an estimated calculation of case fee deposits (e-SKUM) to be paid through a virtual account provided in the e-court application. Next, make the payment of case fees according to the calculation in the e-SKUM to the court's designated bank account. After receiving automatic confirmation from the system and registering it in the Case Tracking Information System "Sistem Informasi Penelusuran Perkara" (SIPP), a case number will be issued. For those who are economically disadvantaged, they can request a waiver of case fees by uploading a request for a fee waiver along with a statement of inability to pay, unless they are already registered in the non-affordable population data information system.

c. *e-Summons* (Summons to Parties)

The next step is summoning (e-Summons) the parties to appear at the trial through electronic media to the parties' email addresses. This summon information can be viewed in the e-court application. For Defendants who are unknown or do not have an electronic address, summoning is carried out through registered mail by PT POS Indonesia, based on the Cooperation Agreement between the Supreme Court and PT POS Indonesia (Tbk). A notable difference between summons in regular (non-electronic) cases and electronic cases is the absence of transportation costs for court clerks to summon the parties. Court clerks no longer directly summon the parties but do so electronically or through registered mail. Electronic summoning does not incur a cost, while summoning through registered mail is very inexpensive according to the rates set by PT POS Indonesia.

d. *e-Litigation* (Online Trial)

The trial is the most critical stage of examination because during the trial, the parties provide statements about the legal events at the heart of the issue and submit evidence to support their statements. However, before the parties present their arguments, the Judge has an obligation to try to facilitate a peaceful settlement, either by the presiding judge or through mediation. If the parties do not reach an amicable agreement, the trial continues electronically until the verdict. Particularly for the examination of witnesses, it can be done either in person (offline) or online through teleconferencing. After the case is concluded, the judge's decision is delivered through email, and for those without an email address, it is delivered via registered mail by PT POS Indonesia.

3. Implementation of Electronic Justice at the Religious Court of Mempawah

According to Edward III in Widodo (2010:97), communication is defined as the "process of delivering information from the communicator to the communicatee." Information regarding public policy needs to be conveyed to policy implementers so that they can understand what they need to prepare and do to execute the policy, ensuring that the policy's objectives and goals are achieved as expected. Policy communication has several dimensions, namely transmission, clarity, and consistency.

The transmission dimension requires that public policy is communicated not only to policy implementers but also to the target groups of the policy and other relevant stakeholders, both directly and indirectly. The clarity dimension necessitates that the policy transmitted to implementers, target groups, and other stakeholders is clear, so that they understand the meaning, objectives, goals, and substance of the public policy. This enables each party to know what needs to be prepared and executed to effectively and efficiently implement the policy. The consistency

dimension is required to ensure that the policy decisions are not inconsistent, which could confuse policy implementers, target groups, and other stakeholders.

a. Transmission Dimension

The policy of electronic justice is fundamentally oriented towards providing better services to the justice-seeking public. With electronic litigation processes, the justice-seeking public no longer needs to physically come to the court, and the costs are significantly reduced. However, since the litigation process can only be carried out when initiated by the public, the involvement of the justice-seeking public is crucial in implementing electronic justice. Without the public initiating cases electronically, the implementation of electronic justice would not be possible.

In addition to the public and the judiciary, another party that plays a role in the implementation of electronic justice is PT POS Indonesia, a document delivery service provider appointed by the Supreme Court through a cooperation agreement. Therefore, the role of PT POS Indonesia is crucial in implementing electronic justice.

Given the various parties involved in the implementation of electronic justice, the transmission dimension in communication becomes essential. The policy of electronic justice must be transmitted to both implementers, target groups, and other relevant parties to ensure a clear understanding of the policy's objectives and content. This is crucial to ensure that the implementation proceeds smoothly, especially when there are unclear policy elements or unforeseen obstacles.

Based on interviews with the Chief Justice and Registrar of the Religious Court of Mempawah, the policy of electronic justice has been disseminated by the Supreme Court to all court personnel on various occasions to ensure a good understanding and adherence to the established guidelines. The Religious Court of Mempawah has also communicated the policy to the public through various media, including websites, banners, brochures, and other social media platforms.

Given that the primary target of electronic justice is the justice-seeking public, it is essential to transmit this policy to them. However, according to interviews with lawyers and members of the public, many of them are unaware of the existence of electronic justice because they have not received proper information or training. Some individuals know about electronic justice when they visit the court and receive explanations from court employees but still choose to file their cases manually because they cannot use the technology or lack the required smartphone. Additionally, some people do not have smartphones.

This situation aligns with the Registrar of the Religious Court of Mempawah's statement that many members of the public are not tech-savvy, do not own smartphones, and do not fully understand the e-court mechanism. Some areas within the jurisdiction of the Religious Court of Mempawah also face network instability, which poses a challenge to the implementation of electronic justice.

According to data from the Religious Court of Mempawah, over the three-year period from 2019 to 2022, only 116 cases out of a total of 1,780 were initiated electronically, accounting for approximately 6.52%. This data indicates that very few

members of the justice-seeking public in the jurisdiction of the Religious Court of Mempawah have utilized electronic justice.

As for the communication with PT POS Indonesia, the Registrar of the Religious Court of Mempawah mentioned that communication has occurred, but it has not been maximally executed due to various constraints, including time limitations. Nonetheless, the implementation of electronic justice has run smoothly so far, and any challenges have been effectively resolved.

When asked whether all areas within the jurisdiction of the Religious Court of Mempawah can be reached through registered mail delivery by PT POS Indonesia, or whether the delivery time exceeds the stipulated 6 days as per PERMA No. 7 of 2022, the Registrar of the Religious Court of Mempawah could not confirm as they had not received information from PT POS Indonesia. It is essential for the Religious Court of Mempawah to engage in intensive communication with PT POS Indonesia to avoid potential errors or obstacles in delivering summons to areas that are unreachable within the prescribed time frame and to find solutions for areas with delivery times exceeding the 6-day limit.

Similarly, when asked whether PT POS is aware of SUPREME COURT REGULATION (SEMA) Number 1 of 2023, which refines the registered mail delivery mechanism, the Registrar of the Religious Court of Mempawah stated that they are aware of it. However, further coordination is needed because there are instances where the implementation does not align with the provisions of SEMA Number 1 of 2023.

Transmitting SEMA Number 1 of 2023 to PT POS Indonesia is crucial because it contains new, more technical guidelines that were not covered in Cooperation Agreements Number 02/HM.00/PKS/V/2023 and Number PKS106/DIR-5/0523. With the issuance of this SEMA, PT POS must make adjustments. If PT POS continues to rely on the Cooperation Agreements and the Implementation Guidelines (Juklak) for Handling Registered Document Shipments issued by PT POS Indonesia, it could lead to errors in summoning the parties involved or even render the process invalid. If this happens, the implementation of electronic justice policy may face obstacles, as stated by Winarno (2002:127), including disagreements between implementers and the orders issued by decision-makers.

SEMA is essentially an internal implementation guideline for the lower judicial body, SUPREME COURT REGULATION (SEMA) Number 1 of 2023. It is not binding on other institutions. However, since the content of SEMA is related to the delivery of case documents through registered mail carried out by PT POS Indonesia, it is imperative to transmit SEMA to PT POS Indonesia. This ensures that PT POS Indonesia, in performing its duties, does not solely adhere to the Cooperation Agreements but adjusts its procedures in accordance with the provisions outlined in SEMA Number 1 of 2023.

b. Clarity Dimension

This dimension emphasizes the need for policies to be transmitted clearly to implementers, target groups, and other stakeholders so that they understand the

purpose, objectives, targets, and substance of the public policy. This clarity ensures that each party knows what needs to be prepared and executed to successfully implement the policy effectively and efficiently.

Public policy is a decision related to the common good and is the responsibility of the state/government to provide the best for the community. Every policy must always be oriented towards a better future, or at the very least, it must address the problems at hand so that the policy has a clear direction and purpose. The clarity of a policy's direction and objectives is crucial in determining the success of policy implementation.

A policy with an unclear or vague direction and objectives can be difficult to implement and may even lead to failure. Therefore, every policy should be developed through a thorough planning process. As Silalahi (2002:159) pointed out, formal planning is a process of setting objectives to be achieved and deciding on the strategies and tactics to achieve them.

A critical factor to consider in policy development is that policies must be implementable, as policy implementation is the key to the entire policy-making process. A policy that cannot be properly implemented will only serve as a silent witness to the failure of the established program. Failure in policy implementation not only wastes time, money, energy, and thought, but more importantly, it delays the agenda of addressing public issues, potentially causing the best opportunities to achieve societal well-being to be postponed or lost.

With respect to the electronic justice policy, the Supreme Court, as the highest judicial authority, has issued Regulation Number 1 of 2019 on the Administration of Cases and Hearings in Courts Electronically, further perfected by Supreme Court Regulation Number 7 of 2022. To implement this regulation, implementation guidelines were issued through the Chief Justice's Decision Number 363/KMA/SK/XJJ/2022 on Technical Instructions for the Administration and Proceedings of Civil, Religious Civil, and Administrative Cases in Electronic Courts. Additionally, the Supreme Court issued a Circular Letter (SEMA) Number 1 of 2023 on the Procedure for Summons and Notifications via Registered Mail.

The electronic justice policy has been in development for a long time, dating back to the 2000s when Bagir Manan led the Supreme Court. This policy was included in the Blueprints of the Supreme Court's 2010-2035 Strategic Plan, with the goal of achieving modern justice. To realize this program, the Supreme Court has introduced various innovations, utilizing information technology as a supporting tool in the execution of its duties and authority.

The implementation of electronic justice, as explained by the Chief Justice of Mompawah Religious Court, was carried out gradually by the Supreme Court. It began with the digitization of cassation and judicial review documents, as regulated by SEMA Number 14 of 2010 and further improved by SEMA Number 1 of 2014. Afterward, the electronic case administration, as regulated by PERMA Number 3 of 2018 and further perfected by PERMA Number 1 of 2019, was introduced. Finally,

full-fledged electronic justice, as specified in PERMA Number 7 of 2022, was implemented.

The regulations mentioned above pertain to case proceedings at the trial and appellate levels, whereas regulations for cassation and judicial review are separately governed by Supreme Court Regulation Number 6 of 2022 on the Administration of Legal Remedies and Proceedings in Cassation and Judicial Review. Before the issuance of Supreme Court Regulation Number 6 of 2022, provisions were already in place, as outlined in the Chief Justice's Decision Number 271/KMA/SK/XII/2019 dated December 31, 2019, concerning Technical Guidelines for Electronic Case and Hearing Administration in Appellate, Cassation, and Judicial Review Courts.

Based on the above explanation, it can be observed that the Supreme Court's policy to implement electronic justice was meticulously planned, commencing with the planning process since 2010 as outlined in the 2010-2035 Supreme Court Blueprint. The implementation followed a gradual approach, beginning with the use of electronic documents as an introduction to utilizing information technology in legal proceedings. This was followed by the implementation of electronic case administration at the first-instance court level, culminating in the comprehensive application of electronic justice.

The policy of implementing electronic justice is considered a highly phenomenal success because initially, this policy was deemed implausible due to the complex nature of legal proceedings. However, the Supreme Court managed to realize it. Through the implementation of electronic justice, all parties involved in legal cases can engage in the judicial process without the need to physically visit the courthouse. Instead, they can utilize the internet-based e-court application. This allows individuals seeking justice to engage in legal proceedings from anywhere without having to appear in person at the courthouse.

When examining this policy from the perspective of public policy planning, the Supreme Court's decision to implement electronic justice, which had been planned since 2010 and gradually implemented, reflects a well-executed public policy planning process that aligns with the available resources and the advancement of information technology proficiency, particularly among judicial personnel. Similarly, in terms of policy clarity, it can be described as very clear and detailed, facilitating both implementers and users in its execution.

c. Consistency Dimension

Consistency (consistency) is necessary to ensure that the policies taken are clear and not conflicting, which can cause confusion among policy implementers, target groups, and other stakeholders. Decisions that change frequently or contradict each other can have a detrimental impact on their implementation. It may hinder the execution of decisions and, in some cases, render them unenforceable.

One issue that posed a challenge in the implementation of electronic justice was the discrepancy between the provisions in PERMA No. 7 of 2022 and the Chief Justice of the Supreme Court's Decree No. 363/KMA/SK/XJJ/2022 regarding the appropriate method of notifying parties involved. PERMA No. 7 of 2022 stipulated that the

procedure for summoning the parties involved should adhere to statutory regulations, specifically the HIR or R.Bg, which specified a minimum notice period of 3 working days before the trial. However, the Chief Justice's Decree No. 363/KMA/SK/XJJ/2022 referred to calendar days rather than working days. This difference in implementation resulted in a lack of legal certainty that could disadvantage the parties involved. Recognizing this situation, the Supreme Court subsequently issued SEMA No. 1 of 2023, which established working days as the reference for summoning.

E. CONCLUSION

Electronic justice, from a perspective of benefits, is a digital-based judicial system that can provide more effective and efficient services. Electronic justice makes the litigation process faster, more accurate, cost-effective, user-friendly, and transparent, thus embodying the principles of a simple, speedy, and cost-effective justice system.

The implementation of the Electronic Justice (e-court) policy at the Religious Court of Mempawah, in general, has been carried out in accordance with the applicable legal regulations. However, there are still some obstacles that prevent it from being effectively implemented. Some of the factors contributing to these challenges include the following: many individuals are unaware of the electronic justice system and do not understand it due to a lack of awareness or education, lack of access to information technology tools such as smartphones, unstable internet connections, and, in some cases, the complete absence of internet access.

Another hindrance to the effective implementation of electronic justice is the insufficient dissemination of SEMA No. 1 of 2023, which provides guidance on sending registered mail to PT POS Indonesia. This lack of proper dissemination has resulted in errors during its implementation. Additionally, there has been no coordination between the Religious Court of Mempawah and PT POS Indonesia to map out areas that exceed the limits for sending registered mail and areas requiring longer delivery times, as specified in PERMA No. 7 of 2022.

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31. Peraturan Mahkamah Agung Republik Indonesia Nomor 7 tahun 2022 Tentang Perubahan Atas Peraturan Mahkamah Agung Nomor 1 Tahun 2019 Tentang Administrasi Perkara dan Persidangan di Pengadilan Secara Elektronik
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33. Keputusan Ketua Mahkamah Agung Republik Indonesia Nomor 363/KMA/SK/XJJ/2022 Tentang Petunjuk Teknis Administrasi Dan Persidangan Perkara Perdata, Perdata Agama, dan Tata Usaha Negara di Pengadilan Secara Elektronik
34. Perjanjian Kerja sama Antara Mahkamah Agung Republik Indonesia dengan PT POS Indonesia (Persero) tentang Pengiriman Dokumen Surat Tercatat Nomor 02/HM.00/PKS/V/2023 dan Nomor PKS106/DIR-5/0523.
35. Petunjuk Pelaksanaan (Juklak) Penanganan Kiriman Dokumen Surat Tercatat Mahkamah Agung Republik Indonesia