

# SYLLABUS OF PRIVATE PROCEDURAL LAW

## Instructor:

Laras Susanti, S.H., LL.M., Esq.

### A. GENERAL DESCRIPTION

Course	Private Procedural Law
Credit(s)	3 (four)
Prerequisite	Private Law
Status	Compulsory
Coordinator	Laras Susanti, S.H., LL.M., Esq. <a href="mailto:susanti.laras@mail.ugm.ac.id">susanti.laras@mail.ugm.ac.id</a> or larassusanti@gmail.com
Instructor(s)	Laras Susanti, S.H., LL.M.
Description	In summary, this course offers topics that relate with disputes that may arise in people' daily life. Law students, therefore, should be able to address legal issues when it comes to the disputes. Furthermore, this course examines the procedure that are available under Indonesian civil procedural law, including principles, rules, procedures, and mechanisms governing civil disputes.
Objective(s)	Students who have successfully passed the course, are aimed to have understanding on: <ul style="list-style-type: none"><li>• the principles of civil procedure;</li><li>• the detail procedure in commencing and maintaining civil claims;</li><li>• the mechanism held by judges in adjudicating and settling civil disputes in court;</li><li>• the rule of evidence;</li><li>• the procedures for enforcing judgements;</li><li>• the process and procedure on legal remedies.</li></ul>

### B. TOPIC(S) (with some modification as for comparative perspective)

1.	Introduction
	1.1. Class Overview
	1.2. Definition of Civil Procedural Law

	1.3. Sources of Civil Procedural Law
	1.3.1. Law(s)
	1.3.2. Yurisprudensi (Cases)
	1.3.3. Supreme court (Mahkamah Agung)' rules
	1.3.4. Treaty(s)
	1.3.5. Doctrine
	1.4. Principles of Civil Procedural Law
	1.4.1. <i>Nemo iudex sine actore</i>
	1.4.2. <i>Secundum allegata iudicare</i>
	1.4.3. Open to public trial
	1.4.4. <i>Audi et alteram partem</i>
	1.4.5. Judgement must contain legal reasoning
	1.4.6. Trial cost
	1.4.7. Non-compulsory attorney
	1.5. Judiciary system
	1.5.1. Principle of independency
	1.5.2. Judicial bodies
	1.5.3. Principle of objectivity
	1.5.4. Jurisdiction
	1.5.5. Supreme court as the last resort
	1.5.6. Two layers of trial
	1.5.7. Judges in panel
	1.5.8. Principle of simple, fast, and low cost trial
	1.5.9. Judicial review
	1.5.10. Executorial title
	1.5.11. Extraordinary legal remedies
	1.5.12. Officer of the court
	1.6. Non-litigation (Alternative Dispute Resolution)
	1.6.1. Negotiation
	1.6.2. Mediation inside and outside court
2.	Instituting
	2.1. Claim
	2.2. Free of Charge/ " <i>Prodeo</i> "
	2.3. Parties in litigation
	2.4. Join of claims
	2.5. Absolute and relative jurisdiction
	2.6. Preserving right

3.	Trial
	3.1. Claim modification and withdrawal
	3.2. Judgement in default/ " <i>Verstek</i> " and " <i>Gugur</i> "
	3.3. Condition of parties
	3.4. Amicable settlement/ " <i>Dading</i> "
	3.5. Expiration
	3.6. Defence/ " <i>Konvensi</i> "
	3.7. Re-claim/ " <i>Rekonvensi</i> "
4.	Proof and evidence
	4.1. Definition and purposes
	4.2. Law of evidence
	4.3. Task of judges
	4.4. Who must prove and what to be proven
	4.5. Burden of proof
	4.6. Admissibility of evidence: written evidence (documents), witnesses, suspicions/inferences, confession, oath, on the spot examination " <i>Descente</i> ", expert witnesses
5.	Court verdict
	5.1. Legal finding
	5.2. Definition of judgement
	5.3. Content, structure, and enforceability
	5.4. Types of judgment
	5.5. Legal remedies
6.	Enforcement
	6.1. Definition
	6.2. Types of enforcement
	6.3. Mechanism/procedure
	6.4. Seizure
	6.5. Detain " <i>Gijzeling</i> "

### C. LEARNING OUTCOMES

<b>1. Knowledge</b>	After completing this course, students are expected to have knowledge on definition, rules, principles, and procedure of resolving civil disputes, either in litigation.
<b>2. Skill</b>	After completing this course, students are expected to have basic skills to identify legal issues regarding civil claims. Additionally, students are also expected to understand legal reasoning based on which judgment is made.

<b>3. Value</b>	During this course, students are motivated to be discipline, critical, and well-ordered in applying their knowledge in numerous assignments and written exam.
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As for learning method, quiz will be focused in overview of materials that have been taught. Lecturers will use creative quizzes like crossword game, etc.

#### **A. RISK OF FAILURE AND ANTICIPATION**

No.	Risk of Failure	Anticipation
1.	Cancelled class due to specific reason	Re-arrangement class
2.	Students absent due to specific and permissible reason	Make up (dispensed) test

#### **B. EVALUATION AND GRADING**

To have the right to be graded, students shall attend as minimum attendance of 80% held meeting class.

Students are expected to come to class in time. Lateness more than 15 minutes will be counted as absent, but the students may enter the class.

Elements of grade	Expected outcome	Percentage
Structure assignment	Comprehension and skill ability	30
Quiz	Topics comprehension	10
Mid-term exam	Topics comprehension	30
Final exam	Topics comprehension	30
	Total	100

#### **C. MONITORING AND FEED-BACK**

Monitoring and feed back document would be questionnaire of evaluation which should be completed by students after class finished.

#### **D. REFERENCES**

Harahap, M. Yahya, 2005, *Hukum Acara Perdata: Gugatan, Persidangan, Penyitaan, Pembuktian, dan Putusan Pengadilan*, Sinar Grafika, Jakarta.

Harahap, M. Yahya, 2005, *Ruang Lingkup Permasalahan Eksekusi Bidang Perdata*, Edisi Kedua, Sinar Grafika, Jakarta.

Mertokusumo, Sudikno, 2007, *Penemuan Hukum*, Cetakan Kelima, Liberty, Yogyakarta.

Mertokusumo, Sudikno, 2006, *Hukum Acara Perdata Indonesia*, Edisi Ketujuh, Cetakan Pertama, Liberty, Yogyakarta.

Sriro, Andrew I., 2008, *Sriro's Desk Reference of Indonesian Law*, Equinox Publishing, Jakarta-Singapore.

Indonesian Civil Code as non-official translation of Burgerlijk Wetboek voor Indonesia, translated by Rany mangunsong from BRM Law Office in 2008, published by Gramedia Pustaka Utama, Jakarta.

**As for recommended readings:**

Mulyadi, Lilik, 2009, *Putusan Hakim dalam Hukum Acara Perdata Indonesia: Teori, Praktik, Teknik Membuat dan Permasalahannya*, Citra Aditya Bakti, Bandung.

Prinst, Darwan, 2002, *Strategi Menyusun dan Menangani Gugatan Perdata, Cetakan Ketiga Revisi*, PT. Citra Aditya Bakti, Bandung.

Soeroso, R., 2009, *Praktik Hukum Acara Perdata: Contoh Bentuk-Bentuk Surat (Di Bidang Kepengacaraan Perdata)*, Edisi Kedua, Sinar Grafika, Jakarta.

Sutantio, Retnowulan, dan Oeripkartawinata, Iskandar, 2009, *Hukum Acara Perdata: dalam Teori dan Praktek*, Mandar Maju, Bandung.

Syahrani, H. Riduan, 2008, *Buku Materi Dasar Hukum Acara Perdata*, Edisi Revisi, Citra Aditya Bakti, Bandung.

Uzelac, A., van Rhee, C.H., et. al., 2007, *Public and Private Justice: Dispute Resolution in Modern Societies*, IntersentiaAntwerpen-Oxford.

**And other materials assigned by instructors for specific topics**

## WEEKLY LEARNING ACTIVITIES

Coordinator/ Instructor:

Laras Susanti, S.H., LL.M.,

No	Topic	Sub-topic	Learning Method/Reading Materials
1.	Introduction	Class Overview: class rules, schedule, assignment, and grading system	Lecturing and class discussion
		Definition of private procedural Law	
		Relation of private and private procedural Law	
		Principles of private procedural law	
2.	Introduction	Principles of private procedural law	Lecturing and class discussion
		Judiciary system and related institutions	
		Overview trial proceeding/ Parties in litigation	
		Absolute and relative jurisdiction	
3.	Instituting Proceedings	Power of authority	Lecturing and class discussion
4.	Instituting Proceedings	Free charge/ Prodeo/ Justice for the poor	Lecturing and group discussion
5.	Instituting Proceedings	Claim	Lecturing and class discussion (assigning students to bring sample of claim) —reading claim to find parties the parties.
		Types of claim	
		Parties in litigation	
6.	Instituting Proceedings	Modification and withdrawal of claim	Lecturing and class discussion
		Join of claim	
7.	Instituting Proceedings	Preserving rights	Lecturing and group discussion
		Condition of parties	
		Motion to dismiss or <i>Eksepsi</i>	

8.	Instituting Proceedings	Judgement in default " <i>verstek</i> " and " <i>gugur</i> "	Lecturing and class discussion
		Legal remedy to " <i>verstek</i> ": <i>Verzet</i>	
		Amicable settlement " <i>dading</i> "	
9.	Instituting Proceedings	Expiration	Lecturing and quiz
		Defense to " <i>konvensi</i> "	
		Re-claim " <i>rekonvensi</i> "	
		Wrapping up	
		Quiz	
10.	Proof and evidence	Definition of the law of evidence	Lecturing and class discussion
		Purpose of the law of evidence	
		Positive law of evidence	
		Task of judge	
		Who must prove and what to be prove	
		Burden of proof	
11.	Proof and evidence	Admissibility of evidence	Lecturing and class discussion
		Valuation of evidence	
12.	Proof and evidence	Types of evidence	Lecturing and class discussion
		According to legal science	
		According to Pasal 164 HIR	
13.	Proof and evidence	The development of types of evidence	Lecturing and group discussion
		Comparison civil and criminal evidence	
14.	Judgement	Discovery of law	Lecturing and class discussion
		Sources of discovery	
		Schools of thought in Discovery of Law	
		The methods of interpretation	
		The methods of legal construction	
15.	Judgement	Definition of judgement	Lecturing and group discussion (assigning students to bring court judgement/ verdict)
		Content, structure, and enforceability	
16.	Judgement	Legal remedy	Lecturing and class discussion
		Type of legal remedy	
		Mechanism on legal remedy	
17.	Enforcement	The purpose of judgement enforcement	Lecturing and class discussion

		Types of judgement enforcement	
		Enforcable things	
18.	Enforcement	Seizure	Lecturing and class discussion
		Legal remedy to Seizure	
		Detain " <i>gijzeling</i> "	
19.	Enforcement	Foreclosure	Lecturing and class discussion
		Arbitral award	
20.	Adding material	Alternative dispute resolution	Lecturing and group discussion
21.	Closing	Wrapping up and quiz	In class quiz