

E-Court Effectiveness of Religious Courts in Indonesia

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ABSTRACT

As a place for justice seekers, Religious Courts should present the face of justice as a pillar of justice on earth. Making quality decisions, with legal arguments that have the spirit of justice, is supported by competent and highly dedicated religious court judges. The reach of technology was responded well by the Religious Courts by taking concrete steps for the sake of service to justice seekers. Unmitigated breakthroughs in the trial world, the parties no longer need to come to court as often as possible; with the e-court system, everything is made easier. Cooperation carried out with the international community was carried out by the Religious Courts as a breakthrough to improve the quality of the judges of the Religious Courts. This shows the recognition from the international world of the existence of the Religious Courts in Indonesia.

Keywords: *E-Court, Religious Court, justice, technology, service.*

1. INTRODUCTION

E-Court is an administrative management system for seeking justice case courts and minimizing the interaction of administrative officers with justice-seekers to avoid potential judicial corruption that will occur.

Enforcement through the court process will continue to pay attention to the public because this instrument will test legal consistency and continuity. Those who have a problem and break the law must be judged appropriately; whether the court will perform its function properly or not is determined by the fact that the court is in progress.

In addition to the equally important principles of "judicial independence" and "impartiality," there are several other principles, including the principle of "trials are held in a simple, fast and inexpensive manner." It is hoped that these principles will make this process easier and more affordable. "Simple" means the legal process is simple, not too complicated, easy to understand so that recipients can follow, and most of them do not know the law and legal process. Even those who are legally illiterate do not lose access to the legal process and claim rights and obligations.

What is meant by "quick" is a claim that is effective, efficient, does not take long, does not take too long, based on a determined time phase, so that it can be predicted or confirmed when the validity period expires so that you can immediately find out the official status for each court decision. What is meant by "low cost" is that the litigation process is burdened with the obligation to bear the available costs and in accordance with the legal capacity which is quite new. This system

is considered important in addition to streamlining the process of handling most of the lives below the relevant economic standards. People who are considered socially and economically feasible must also bear the costs of this case, especially in civil matters that recognize the principle of a forced "process".[1] Utilization of E-Court technology by the Supreme Court to support the improvement, efficiency, and effectiveness of the settlement of administrative services in courts related to the principles of justice quickly, simply, and at low cost. However, in implementing this system, it seems that many registered users do not understand the purpose and method of using the E-Court system. So that this system is still considered less than optimal in achieving the desired goals of making this system.

2. METHOD

The approach used is qualitative research. This can be seen from the applied procedures, where the research procedures produced are in the form of descriptive data, speech, writing, and observed behavior from the people or research subjects themselves.

Data collection techniques were carried out through observation, interviews, and documentation. At the same time, the data analysis technique is done by analyzing the data inductively. That is, departing from concrete facts and events, then generalizations are drawn. Researchers check the validity of the data by way of credibility, where the data is intended to prove the truth obtains the data obtained; there are several techniques to achieve credibility, namely extending time and data triangulation.

I. E-COURT SETTINGS IN INDONESIA

In Indonesia, the legal basis for e-court is Supreme Court Regulation Number 3 of 2018, which becomes Supreme Court Regulation Number 1 of 2019, adding a new feature called E-Litigation. The implementation of e-courts in several District Courts, in general, has been able to contribute to realizing the efficiency and effectiveness of the judiciary. This is per Article 2 of the Supreme Court Regulation No.1 of 2019, which states that e-court is implemented to realize orderly handling of professional, transparent, accountable, effective, efficient, and modern cases. It corresponds to a simple, fast, and low-cost trial.

This principle is explicitly stated in Article 2 paragraph (4) of Law no. 48 of 2009 concerning Judicial Power. Unfortunately, according to article 3 of the Supreme Court Regulation No.1 of 2019, what is allowed to proceed through e-court events is limited to general civil cases, religious civil cases, military administration, and state administration. That way, general criminal cases cannot be submitted through e-courts, but due to the coronavirus pandemic, criminal cases are inevitably carried out with e-courts; this is a breakthrough to make the process of examining general criminal cases into e-courts.

Furthermore, advocates who wish to register themselves in the e-court system must register themselves by completing the necessary documents such as Identity Card, Advocate Member Card, and Official Report of Advocate Oath by the high court. This regulation really upholds efficiency. Efficiency is meant to simplify the registration process (e-filing) and case payments (e-payment). This is because, with the e-filing and e-payment features, litigants in court can easily register cases in their respective domiciles without the need to leave the house and queue in court. Meanwhile, with the e-payment, the disputing parties can pay for the case with a gadget application, so there is no need to bother queuing at the ATM. The second advantage is related to archiving; documents regarding a case can be stored electronically to easily accessible and not easily damaged. Although it has been implemented well, it has only been limited to e-filing, e-SKUM, and e-payment features. Meanwhile, the e-summons and e-litigation features have not been implemented due to the reluctance of the parties to be summoned and have proceedings in court electronically. The obstacle to e-summons itself is the reluctance of both parties to the dispute.

Without the parties' consent to be called electronically, the e-summons will not be able to be carried out. Likewise, in the case of litigation, without an agreement or approval from the parties to convene electronically, of course, the submission of answers, replicas, duplicates, examination of witnesses or experts electronically to reading the verdict electronically as part of e-litigation certainly cannot be carried out, except in administrative cases. Country. This is in line with Article 15 Paragraph (1) Letter b in conjunction with Article 20 Paragraph (1) Regulation of the Supreme Court Number

1 of 2019, which indeed requires the parties' consent in the use of e-summons and e-litigation. In practice, the parties will be asked to fill out and sign the "Consent of the Parties to Advise Electronically" form. The parties' reluctance to be summoned and have proceedings electronically is due to a lack of understanding that causes judicial users to become worried when court summons or case documents do not arrive because everything is not in physical form but is electronically based or online. Actually, e-litigation has been explicitly regulated in Supreme Court Regulation No. 1 of 2019. Still, in practice, there are obstacles from the disputing parties so that both parties agree more to carry out conventional court processes.

In Chapter V, the articles explaining the electronic trial are explained. The first time the member judge or presiding judge explains the rights and obligations of the parties related to the online trial. Furthermore, the online trial is carried out through mediation until it is completed, as for cases that do not require mediation, the online trial can be carried out immediately. In this e-litigation, the parties do the trial process electronically, starting from the answers, replicas, duplicates, and conclusions. The trial schedule has been integrated with the trial delay in the Case Investigation Information System (SIPP). Documents are sent after there is a trial delay and closed according to the trial schedule. The control mechanism (receiving, checking, forwarding) of all documents uploaded by the parties is carried out by the panel of judges/judges, which means that when both parties send documents and as long as they have not been verified by the panel of judges, both parties cannot view or download the documents sent. by the opposite party.

However, this Supreme Court Regulation has several weaknesses, such as the regulation regarding Verification or the matching of documentary evidence with the original document. Article 1888 of the Civil Code states: "The strength of proof of a written evidence is in the original deed." The legal rules of the decision of the Supreme Court of the Republic of Indonesia No. 112 K/Pdt/1996 dated 17 September 1998, as follows: "A photocopy of a letter is submitted by one of the parties to the civil court trial to be used as "evidence of the letter".

It turns out that the photocopy of the letter is not accompanied by the "original letter" to be adjusted to the original letter or without being corroborated by witness statements and other evidence. In such circumstances, the photocopy of the letter according to the law of proof of civil procedure cannot be used as valid evidence in the trial." In addition, documents relating to courts can be transmitted quickly, which is an advantage of e-court.[2]

In addition, for the widespread implementation of e-court, there is no need for the parties' approval to approve the implementation of the e-court trial. It should be in the formulation of future regulations that it is enough for the head of the District or High Court to determine which cases can be carried out by e-court.

II. THE ROLE OF E-COURT IN THE ADMINISTRATION OF CASES IN RELIGIOUS COURTS

Based on the provisions of article 2 paragraph (4) of Law no. 48 of 2009 concerning judicial power states that trials are carried out in a simple, fast, and low-cost manner. To realize this, reforms need to be carried out to overcome obstacles and obstacles in administering the judiciary. Therefore, there is a need for new breakthroughs combined with today's technological sophistication. The online system is a new breakthrough in the administration of justice. Utilizing the sophistication of technology in the form of an internet network can create a system in the form of an application called E-Court. As a result, people seeking justice do not need to register by coming directly to the religious court with the online operating system.

The Supreme Court has issued a regulation regarding the administration of cases electronically, namely the Regulation of the Supreme Court of the Republic of Indonesia No. 3 of 2018 concerning Electronic Court Case Administration. The purpose of this regulation is stated in Article 2 of the Regulation of the Supreme Court of the Republic of Indonesia No. 3 of 2018 concerning Administration of Cases in Courts Electronically, namely as a legal basis for administering case administration in courts electronically to support the realization of professional, transparent, accountable, effective, efficient and modern case administration.[3]

E-Court itself is a Court instrument as a form of service to the community regarding online case registration, online payments, sending trial documents (Repic, Duplication, Conclusion, Answer), and online summons. The case e-court application is expected to improve services in its function of accepting online case registration where the public will save time and costs when registering cases.

Online case registration in the e-court application is currently only open for registration for lawsuits and will continue to grow. The registration of lawsuits in court is the type of case registered in the General Court, Religious Court, and State Administrative Court, which requires more effort in its registration. This is the reason for creating an e-court, one of which is the ease of doing business.[4]

III. E-COURT AS A SIMPLE, FAST, AND LOW-COST JUDGMENT

The principle of simple, fast, and low-cost justice is one of Indonesia's most important principles in judicial practice.[5] In Law No. 19 of 1964 concerning the basic provisions of judicial power, the principle of simple, fast, and low cost still uses the "cheap" diction, which later changed to "light fees" in Law No. 14 of 1970 concerning the main provisions of power justice.[5]

Various countries in the world actually know the principle of a fast and good judiciary.[6] This is a general

principle used, but in Indonesia, with simple terms and low costs, it becomes a unique thing. Although various countries do not use the same term, it basically has the same goal with "simple principles, fast, and low cost." The international standard on fast justice (constant justice or speedy justice) states that a fast trial starts from the stage of the suspect being arrested, trial until the judge's decision is obtained (*in kracht van gewijsde*). The concept of speedy justice is regulated in Article 9 paragraph (2) of the International Covenant on Civil and Political Rights (ICCPR). Meanwhile, simple, fast, and low-cost justice principles are regulated in the *Herziene Inlandsch Reglement* (HIR).[7]

In essence, the principle of a simple, fast, and low-cost trial is the right of a suspect or defendant regarding various actions such as investigation, prosecution, and examination.[8] The mechanism in the criminal justice system so that it can be implemented 'immediately.' For example, an investigator who receives a report or complaint that constitutes a criminal act is obliged to immediately carry out an investigation, conduct an investigation immediately, submit an investigation file immediately, and be put on trial immediately. This is contained in the provisions of Article 50, Article 102, and Article 106 of the Criminal Procedure Code.

The concept of electronic justice is expected to be able to resolve cases that are constrained in certain circumstances or emergencies.[9] It is not uncommon for obstacles to occur in a law enforcement process, such as the often postponed trial, the high cost of the trial, and the complicated process. This, of course, needs to be resolved by creating an effective and efficient simple judiciary. So, the principle of simple, fast, and low cost is a principle that will not go away. In fact, this principle will give birth to further legal regulations.[10]

Electronic Courts (e-court), which is a reflection of a simple, fast, and low-cost trial, are as follows:

- Electronic case administration. The administration of cases in electronic trials to Prosecutors (Public Prosecutors from the Prosecutor's Office, the Corruption Eradication Commission, Military Authorities, and High Military Oditurats) and Investigators (according to statutory regulations) in conducting electronic trials is carried out electronically, such as being scanned. These processes will be sent to each electronic domicile.
- Electronic documents. Electronic documents are case and trial administration documents received, stored, and managed in the Court Information System. Therefore, case handling is carried out in an integrated manner so that law enforcement agencies can easily exchange data and are faster in filing documents electronically because they utilize information technology.

- Efficient. This electronic trial can improve work quickly, efficiently, and effectively. This also affects trials that can be carried out using the abovementioned schemes, both at the examination of the accused and witnesses/experts. Time and distance constraints in this electronic trial can minimize undue delays in adjudication.

However, electronic courts can make trials simple, fast, and low-cost. This is because the information technology-based administration trial that is applied can speed up the process at each stage. This is in line with the opinion of Indriyanto Seno Adji, where the e-court concept fulfills the requirements of the judiciary based on the applicable legal process.[11]

Thus, the electronic trial can meet the provisions of a good trial. For example, there are uncertain conditions due to natural disasters, distance, disease outbreaks, other conditions determined by the government as an emergency, and other circumstances that, according to the Panel of Judges by stipulation, it is necessary to conduct an electronic trial. This is an effort to be tried without undue delay.

On the other hand, this electronic trial also reflects a good trial because it fulfills the following provisions: First, court policies that seek to apply electronic justice in the midst of an uncertain situation due to the pandemic. Second, public trust and confidence (resources, trial process, satisfaction of justice seekers, affordable costs and access to courts, and public trust) are mostly met in conducting this electronic trial.

The concept of an electronic trial must be balanced with the “management and leadership” of each sub-criminal justice system. Thus, the law enforcement process carried out by each of the sub-criminal justice systems requires good management and leadership. This must be realized with a work ethic, discipline, professionalism, and integrity.

IV. E-COURT EFFECTIVENESS OF RELIGIOUS COURTS IN INDONESIA

The implementation of an electronic trial (e-Court) in Indonesia was first carried out in 2002. The Supreme Court has granted permission for former President Bacharuddin Jusuf Habibie to testify by teleconference in the case of irregularities in non-budgetary funds from the Logistics Affairs Agency (Bulog) on behalf of the defendant Akbar. Tandjung and Rahadi Ramelan. The practice of electronic trial developed until it was carried out in other cases such as Abu Bakar Ba'asyir and Ali Gufron.[12]

The concept of an electronic trial or teleconference is still not clearly structured. This makes judicial bodies or institutions under the Supreme Court carry out trials electronically in their own ways. Only then did the Supreme Court issue Supreme Court Regulation Number

4 of 2020 concerning Administration and Trial of Criminal Cases in Courts Electronically (Regulation of the Supreme Administrative Court and Trial of Criminal Cases in Courts Electronically). With the Regulation of the Supreme Administrative Court and the Electronic Criminal Court, the concept of an electronic trial is clearer. Starting with the case administration process, the examination of defendants, witnesses, experts, and evidence is regulated in the Regulation of the Supreme Administrative Court and Electronic Criminal Case Trials.[13]

The presence of the Supreme Administrative Court Regulations and Electronic Criminal Case Trials is an effort by the judiciary to assist justice seekers and try to overcome obstacles and obstacles to realize a simple, fast, and low-cost trial. In addition, the teleconference trial can create a modern justice based on information technology that will resolve problems quickly even though certain circumstances are constrained by respecting human rights.[14]

The concept of an electronic trial as stated in the Regulation of the Supreme Administrative Court and the Trial of Criminal Cases in the Electronic Court has two trial schemes, namely: First, the trial scheme for the defendant; and Second, the trial scheme for the examination of witnesses/experts. The two schemes are further divided into the following:[15]

- Scheme of trial against the defendant, namely: a) Implementation in the courtroom, the seat of each Judge or Panel of Judges in the courtroom, the Prosecutor in the prosecutor's office, and the defendant in the detention center or prison; b) Court courtroom and prosecutor's office; the defendant attends an electronic trial at the prosecutor's office because the detention house or correctional institution does not have an electronic trial facility (teleconference); and c) Electronic courtroom elsewhere; The defendant who is not detained will attend the trial electronically at the prosecutor's office, courtroom or another place with the determination of the Judge or the Panel of Judges.
- Scheme for examination of witnesses/experts, namely: a) Public prosecutor's office; The judge or panel of judges is in the courtroom while the witness or expert witness can testify at the prosecutor's office; b) In the courtroom; a witness or expert witness may give their statement through the courtroom of the court hearing the case or outside the jurisdiction of the court adjudicating the case; c) Indonesian embassy or consulate offices abroad; This scheme is carried out if the witness or expert is abroad. These witnesses or experts can give their statements at the embassy or consulate through the determination of the judge or panel of judges and a recommendation from the

Minister of Foreign Affairs; and d) Other places with the determination of the Judge or the Panel of Judges.

The regulation of electronic trial practice through Supreme Court Regulation Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Electronic Courts is perfect for filling legal voids because it is under the authority of the Supreme Court to exercise independent powers to administer justice to uphold law and justice. . So this needs to be regulated in the Criminal Procedure Code, the Law on General Courts, and other Judicial Laws that require an electronic trial mechanism. The application of e-court represents a simple, fast, and low-cost trial, especially in emergency conditions (certain circumstances) such as an outbreak of an infectious disease that must conduct a trial without being present in the courtroom. Even though it has realized a simple, fast, and low-cost trial, electronic trials must still be supported by a good information technology system such as qualified human resources and information technology, such as word processing applications, database applications, network system-based technology, flow management systems—employment and relationship management systems with court users.

3. CONCLUSION

The regulation of electronic trial practice through Supreme Court Regulation Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Electronic Courts is perfect for filling legal voids because it is following the authority of the Supreme Court to exercise independent powers to administer justice to uphold law and justice. . So this needs to be regulated in the Criminal Procedure Code, the Law on General Courts, and other Judicial Laws that require an electronic trial mechanism. The application of e-court is a representation of a simple, fast, and low-cost trial. Especially in emergency conditions (certain circumstances) such as an outbreak of an infectious disease that must conduct a problem without being present in the courtroom. Even though it has realized a simple, fast, and low-cost trial, electronic trials must still be supported by a good information technology system such as qualified human resources and information technology, such as word processing applications, database applications, network system-based technology, flow management systems. Workflow management systems and customer relations management systems. In Indonesia, it is possible to apply e-court to all criminal cases, and it's just that the application of e-court in Indonesia requires a distinction of severe crimes or with a maximum threat of 10 years, 15 years, 20 years, and life or the death penalty.

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