



Application of E-Court in Different Countries: A Comparative Study in the Development of E-Court

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Abstract. The Supreme Court has issued Supreme Court Regulation concerning Electronic Administration of Cases in Court but in its implementation the regulation was not optimally implemented, so then the Supreme Court reissued New Supreme Court Regulation. The research method used is empirical juridical research with a qualitative approach. Data sources based on primary data are obtained through observation, and documentation techniques. This study aims to compare the system of electronic trials conducted by several countries, with the focus in the country of Indonesia which is compared with other countries. because electronic trial systems in each country have their own advantages and disadvantages so in this study try to take the advantages of electronic trial systems from some of these countries in order to find a good electronic justice system. The findings in this study are electronic justice system resulting from the comparison of electronic justice system from several countries with the reference of electronic justice system in Indonesia namely E-Court consisting of E-Filing, E-Summon, E-Payment, and E-Process, in the development of E-Filing can exemplify the application of E-Filing in America and India, E-Summoning system implemented in India and Singapore can be an innovation that can be developed, the application of E-Payment for living payments as applied by E-Syariah Malaysia through E-Nafkah can also be applied for payment of other fee provisions arising from decisions beyond the cost of the case so that the electronic justice system in accordance with the principles of simple fast and low cost.

Keywords: E-court; Electronic Trial; Electronic Justice System.

1. Introduction

The whole world is experiencing an extraordinary outbreak, namely the Covid-19 Pandemic, indeed there are many negative impacts from the outbreak, not only the impact of human health, but also education, socio-economy, and even government, the rapid spread and many activities that must be limited by imposing social distancing or physical distancing. This of course not only hampers the health sector but also the entire health sector, educational, social, cultural and even legal.[1] Because everything must be done socially distancing or physical distancing, of course, this has an impact on sectors that must meet face to face during its implementation.[2]

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A. A. Nassihudin et al. (eds.), *Proceedings of the 3rd International Conference on Law, Governance, and Social Justice (ICoL GaS 2023)*, Advances in Social Science, Education and Humanities Research 805,

https://doi.org/10.2991/978-2-38476-164-7_100

If you see the positive impact, people are forced to make the most of information and communication technology, because even though the Covid-19 pandemic is over, people must be prepared for the government's new policy, the new normal which must pay attention to health protocols in carrying out daily activities, one of which is avoiding crowds.[3]

If you see the positive impact of the existence of covid-19, people are forced to make the most of information and communication technology, because even though the covid-19 pandemic is over, technological developments that almost all areas of people's lives have taken advantage of advances in information technology, as well as the legal realm that has utilized the development of information technology in seeking justice for the community, this needs to be facilitated by the government and addressed by Good in developing justice seeker information systems, especially in court proceedings.[4]

The purpose of law is to find and seek justice, legal certainty and legal expediency.[5] Justice is a legal objective that must be sought using judicial mechanisms in accordance with laws and regulations, in the realm of the civil sector in seeking justice must be in accordance with the civil procedure law as stipulated in Article 5 paragraph (1) of Emergency Law Number 1 of 1951, both *Het Huziene Indonesisch* Reglement (HIR) for Java Madura, and *Rechtsreglement Buitengewijsten* (RBG) for outside Java Madura[6]. The trial must be conducted in a courtroom that is conducted face-to-face gathered in one room. This conventional trial will certainly trigger an increased risk of transmission of the COVID-19 virus, besides that this trial can take a long time, a complicated process, and make it difficult for people who are far from the court.[7]

Along with the development of technology, trials began to change to be carried out online even though they still could not be carried out fully online,[8] because in trials there is known to be a procedural law that must be obeyed by the judge because if it is not obeyed it will result in invalid decisions made by the judge, unless there is a procedural law reform that allows the trial to be carried out completely online,[9] in Indonesia the Supreme Court has issued a Regulation The Supreme Court Number 3 of 2018 concerning Electronic Administration of Cases in Court on March 29, 2018, but in its implementation the regulation was not optimally implemented, so then the Supreme Court reissued Supreme Court Regulation Number 1 of 2019 concerning Electronic Administration of Cases and Trials in Court on August 6, 2019.[10]

At first the regulation was still not effective in being applied in court, because the public still needed to get used to the use of this technology, and the Supreme Court also issued an e-court application, but it still had limitations because only advocates could use the application, while ordinary people could not take advantage of the e-court application, not only in Indonesia this electronic trial was developing, even these electronic trials already exist in several countries such as Malaysia, the United States, Singapore, and India.

To review this research has novelty, namely by comparing previous research, namely in the article N. P. R. K. Sari, "The Existence of E-Court to Realize the

Principle of Simple, Fast, and Low Cost in the Civil Justice System in Indonesia,"[11], in this article focuses more on the use of E-court to realize simple principles, fast and low cost, later in F. I. Lederer's article, "Courtroom Technology: For Trial Lawyers, The Future Is Now," and G. F. Lanzara and G. Patriotta, "Technology and the courtroom: An inquiry into knowledge making in organizations," in these two studies emphasized the way lawyers use E-court, then in article I. Atikah, "Implementation of E-Court and Its Impact on Advocates in the Process of Settlement of Cases in Indonesia," similar to the previous article, which emphasizes the process of procedural advocates in the use of E-court. While in this study the author emphasizes more on the comparison of E-courts in various countries to find the ideal E-court applied in Indonesia, this is what distinguishes it from previous studies.

So there is a need for research related to electronic court systems that are studied based on the rule of law, which can then be done some comparisons in various countries that have developed and used electronic trials as a means of seeking justice, in order to find a good electronic trial system that is beneficial to people.

2. Problems

The problem in this study is how to compare the application of E-court in various countries as a basis for E-court development, the purpose of this study is the determination of the concept of E-court development from the results of comparisons from various countries.

3. Method

Seeing the problems that include this research requires a deep enough understanding to be able to understand the regulation of internet utilization which is used as a means of renewal in electronic trials, so this study uses a qualitative approach method. According to John W Cresswell [12] states that "a qualitative research approach is basically a process of inquiry to understand social problems holistically which is formed by a series of words, describes the view of information in detail, and is arranged in a natural background".

The data analysis used in this study is a case study data analysis that is descriptive analysis. Parsudi Suparlan in Farouk Muahammad and Djaali [13] states that case studies must use anthropology, which requires researchers to live or be among the subjects they will study in sufficient time so that researchers can live connected or side by side with the object to be studied.

In obtaining data to support the preparation of this study, the following data were used:

a. Primari legal materials

Is a binding document and determined by the competent authority. In this study include:

- 1) Constitution of Republic Indonesia 1945;
 - 2) Presidential Regulation Number 95 of 2018 concerning Electronic-Based Government System;
 - 3) Regulation of the Minister of State Apparatus Empowerment & Bureaucratic Reform of the Republic of Indonesia Number 5 of 2018 concerning Guidelines for Evaluation of Electronic-Based Government Systems;
 - 4) Presidential Regulation Number 39 of 2019 concerning One Indonesian Data;
 - 5) Presidential Instruction of the Republic of Indonesia Number 3 of 2003 concerning *National Policy and Strategy for e-Government Development*;
 - 6) Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2018 concerning Electronic Administration of Cases in Court;
 - 7) Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2019 concerning Electronic Administration of Cases and Trials in Court;
- b. Secondary legal materials

That is, all documents are studies or information related through aspects of civil procedural law, magazines, legal journals, newspapers, and some sources from the internet related to research problems.

- c. Tertiary legal materials

Any document that contains concepts and explanations that provide material support for secondary and primary legal materials, such as encyclopedias, dictionaries, etc..

- d. Field research is carried out to obtain primary data practically as a secondary data support, by conducting *in-depth interviews*.

The data collection techniques used in this study are:

- a. Library research, this research is carried out through the review of library materials in order to obtain secondary data in the form of books both owned by the researcher himself and from articles, libraries, both obtained from electronic media, print media and state documents, including laws and regulations; and
- b. Document study, document review is a way of collecting data carried out through the review of existing documents so that they can be studied in terms of facts or knowledge to be researched.[13]

4. Discussion

4.1. Application of E-Court in Indonesia

The application of E-Court in Indonesian courts as stated in Supreme Court Regulation number 3 of 2018 consists of electronic registration and recording (E-filing), electronic estimation (E-SKUM), electronic payment (E-payment), electronic summons (E-Summon), and electronic issuance of copies of judgments. E-filing is a menu for online case registration carried out by registered users by selecting courts that are already actively conducting E-Court services and then sending files that have been registered electronically through the Supreme Court of the Republic of Indonesia E-Court application. The registered users in the religious court environment as stipulated in the Decree of the Director General of Badilag number 1294/DjA/Hk.00.6/SK/05/2018 are advocates. Advocates in filling out E-filing carry out the following stage mechanisms:

- a. Determine the court competent to adjudicate;
- b. Register a power of attorney between the client and the advocate in the E-Court application;
- c. Pay the PNPB fee for registering a power of attorney;
- d. Get the sequence number of a list done online
- e. Enter data on litigants or litigants;
- f. Upload lawsuit/application documents and approval for the event electronically; and
- g. Get an estimated tuition fee (e-SKUM) and make payments online (E-payment).

E-filing described above serves to register cases online, besides that E-filing can also function in court filing, namely in the form of lawsuit documents / applications from the plaintiff or applicant, answers to claims from the defendant, replicas of responses from the defendant's answers sent by the plaintiff, defendant duplexes which are responses from the plaintiff's replica, and conclusion documents from the parties both plaintiff and defendant. While E-payment is a menu of case payments made online using the virtual account code provided in the E-court application. The virtual account is in collaboration with state banks, namely Bank Syariah Indonesia (BSI), Bank Negara Indonesia (BNI), Bank Mandiri, and Bank Tabungan Negara (BTN), the E-payment menu is used to pay PNPB for the list of power of attorney, and the case guide or estimated cost of the case which includes the cost of the court process, sending the plaintiff's summons, sending the defendant's summons, as well as stamp and redaction fees.

The E-payment mechanism is carried out with the first, the advocate as a legal representative after registering on the E-filing menu will get an e-SKUM (power of attorney to pay) and a virtual account of the case he interprets, the two advocates or legal representatives make payments of case fees in accordance with the nominal

stated in the e-SKUM (power of attorney to pay) using an available virtual account, the three advocates or legal representatives wait for confirmation from the system which is done automatically or manually by scraping the formular available in the E-court, the four advocates or legal representatives will get a case number for the case they have registered which has been registered in SIPP (case tracing information system), then the lawyer or advocate gets proof of payment and can print the proof of payment.

The Junior Committee of the lawsuit / application is tasked with confirming payment, receiving case files uploaded by advocates, and providing case numbers for cases that have been registered by giving verified status to the case. If there is a shortage of case guidance fees, the legal representative or advocate will receive a notification and immediately make payment of the case handling shortfall through the virtual account provided, after the case financial journal in SIPP (case tracing information system) is closed by the advocate or legal representative will get a notification and the remaining case handling fees are automatically sent to the account of the advocate or legal representative.[11]

E-summon is the process of summoning the parties, both plaintiff and defendant, or through legal representatives carried out online in the form of electronic calls (e-pgl) or electronic case information notifications (e-pbt). Electronic summons are sent to the electronic domicile of the registered user, which is meant by the electronic domicile of the litigants, namely the electronic mail address and / or telephone number that has been verified in the E-summon system, the summons of the litigants is based on an order from the Chief Judge to the substitute bailiff / bailiff in the E-court application, it is done after checking the scheduled hearing schedule by the clerk henceforth upload and send the signed and legalized summons relaas sent to the electrnk domicile as stated in the E-court domicile.

The summons made electronically at the first hearing are only made to the plaintiff or applicant, while the first court summons to the defendant or respondent are made manually, namely the summons delivered by the substitute bailiff to the domicile address of the defendant or respondent, but after the first hearing is carried out the defendant or respondent can be summoned electronically if the defendant or respondent agrees and Signing an agreement regarding an electronic trial, the summons shall be deemed valid and proper as long as the electronic summons is sent to the electronic domicile of the defendant or respondent that has been previously granted, but if the defendant or respondent does not consent to the electronic trial being conducted, then the summons and subsequent proceedings shall be conducted conventionally or manually.

As for the copy of the decision or determination of the case that has been heard, it can be sent electronically 14 days after the decision or determination is pronounced by the Panel of Judges through the E-court application using a link that can be used as access to documents Copy of the decision or determination. Related to the administrative management of information related to the recording of litigants, the type of case being heard, the stages of the trial process have reached the end of the papa, the judge's decision in deciding the case being heard, the execution of the decision, and legal remedies taken by the parties if they disagree with the decision of

the court of first instance, and other data are managed in the case tracing information system (SIPP).

In the United States, the systematic application of E-Court began to be launched in 1998 in the Courts of Los Angeles and Indianapolis through the "Courtroom 21" program connected to 8 state institutions and 32 states. The "Courtroom 21" program consists of virtual examinations, virtual law firms, online payment of traffic fines, remote testimony, remote forensic expert testimony, and electronic presentation of evidence.[14] "Courtroom 21" and now to be Public Access to Court Electronic Record (PACER).[15]

In the United States the E-Filing program can be accessed through the PACER application. One of the advantages of the PACER application is the security of uploaded data and documents. The login display used by PACER uses software that can encrypt and protect information. If the user switches to an unsafe web page after accessing the PACER page, the user will get a notification that the user is accessing the unsafe web page. In the PACER application, users who will register are classified into PACER, NextGen Attorney Fillers, NextGen Non Attorney Fillers, Appellate or District/Bankruptcy, and Firm Billing. Users who register as PACER can only access the menu to read, search and print certain documents of a Court. Users who register as NextGen Attorney Filler are lawyers.

In addition to being able to access files as users who register PACER can also file electronically (E-Filing) in all Courts of first instance, District Courts and Bankruptcy Courts. Users who register as NextGen Non Attorney Filler are whistleblowers in certain cases, court reporters, interested parties, filing agents, creditors, trustees, U.S. Trustees, and other parties who are not attorneys. NextGen Non Attorney Filler users have similar access to NextGen Attorney Filler users. However, not all courts accept NextGen Non Attorney Filler and some courts can only access certain things. While Appellate or District/Bankruptcy users have access to the NextGen Attorney Filler and are also allowed to appear in the intended Court.

The Firm Billing menu is used for payment processes that are almost similar in use to E-Payment in the Indonesian E-Court system. On the Firm Billing menu, registered users besides being useful for case payments can also be used to pay fines. In addition, payments through firm billing can also be made by deducting directly from debit and credit cards so that it can make it easier for litigants. In European countries, E-Court has been implemented with various variations and functions since 2001. In the Supreme Court of Norway and the Finnish Criminal Court, the E-Court covers the case management system from prosecution, relationship with the police and court decisions.[16]

4.2. The current E-Court system has also been developed in Asian countries.

Malaysia has a type of E-court system called E-syariah, this was developed by Malaysia since 2002, in the E-syariah application there are several menus, and has been developed to date, in which includes SPKMS which is a functional case management application like SIPP in Indonesia, then Malaysia also developed SPSS which is a sharia lawyer management system used by lawyers in handling their cases,

E-talk or audio text record, even Malaysia has also developed an inheritance calculation system to make it easier for the public to calculate their inheritance and can determine the amount of rights obtained by heirs, namely in the form of E-faraidh, there is also E-nafkah which is a system used to make online payments, and a system that manages libraries as a source of reference in a way.[17] While in Singapore the application is similar to the E-court application currently connected to the E-litigation system, the application is the result of the development of the filing service (EFS) system. E-litigation can provide services in the form of an electronic case file recording menu (EFS), as well as information management related to cases being processed (CIR), even E-litigation also facilitates the sending of case files between law offices (E-service), and is also equipped with notifications and information on case notification, processed case hearing schedules, financial statements related to cases, answers and court information and application menus in looking for things.[18]

In Singapore, calls and notifications are no longer released but through notifications received from SMS or email of the advocate at the event. This notification via SMS or email can be set to be enabled or not enabled. In addition to SMS and email, notifications are also sent through RSS Feeds. Similar to Indonesia, India divides their E-Court system into two interconnected applications.

The two applications are Case Information System (CIS) and E-Court. CIS in the administrative process is almost similar to the SIPP system in Indonesia where CIS is the master application in administering cases. In addition, CIS also functions as an application for E-Filing, E-Payment and E-Process. While E-Court is an application that functions as an information system where the public can browse the status of cases, court decisions, and case lists online.

In India, E-filing is done in two stages. In the first stage the file is uploaded through the www.efiling.E-Court.gov.in portal. After that the uploaded file will be processed by CIS. Users who can upload files on India's e-filing portal are advocates and registered in-person parties. To perform the e-filing process, registered users log in with their user id. After that the user selects the add new case menu, then fills in the related data.

After the data is filled in, forms will appear that must be filled consisting of petitioner form (applicant / plaintiff form), respondent form (respondent / defendant form), extra information form (additional information form), act / section form (case type form), and extra party form (additional party form). After filling out these forms, users upload related documents, power of attorney and advocate cards. While the second stage is data consumption by CIS from connected online portals.

Data consumption by CIS is necessary for securing files and avoiding software speed down. In CIS E-Filing will be allocated into 6 menu options according to the purpose of the user registering. The six menu options are E-Filing View Document Option, Plead Guilty (PG), First Information Report (FIR), Public Data Entry (PDE), Regional Transport Officer (RTO), and National Service and Tracking of Electronic Process (N-STEP), and E-Filing View Document Option menu is a menu used to view E-Filing documents in a court by the relevant court.

PDE is a menu that makes it easy for parties to enter case data from anywhere to the intended court. PG is a menu used for people who commit violations to admit mistakes and pay fines. FIR is a menu that allows police record data to be known directly by the Court. N-STEP is a menu that allows to check the state and status of the electronic process of a case. While RTO is a menu connected to the traffic department that makes it easier for the Court to find out vehicle data related to cases.

In India almost similar to Indonesia, official notifications and summons are implemented using *relaas*. However, the *relaas* are no longer submitted manually, but have gone through the E-Summon system in CIS 3.0. In the CIS application there is a special template accompanied by a case QR code. To create *relaas* through the CIS application, party address data is inputted from party data available in CIS. After filling in the data and address of the party, the *relaas* data is stored and uploaded in the CIS. After uploading, click publish, then the *relaas* will be delivered to the party's electronic address. *Relaas* that have been published are then printed as archives.

The E-court application used by Indonesia has several service menus, namely E-Filing, E-Summon, E-Payment, and E-Process. However, when compared to several other countries that have similar applications to E-court, it still has limitations in service, so it can adopt some good systems, namely in the development of E-filing can emulate the application of E-filing in India and America.[19]

The PACER application applied in America can use good security, while the distribution mechanism can be modeled on the one applied in India so that it can protect case files in the E-filing application, in addition to being able to connect with documents that become court files related to other agencies, this can also be a good breakthrough in making it easier for justice seekers to run the justice system and agencies Related, with a fixed note there must be a clear limit on which documents can be accessed with confidential documents.

The call system or E-summoning used in Singapore and India can also be adopted by Indonesia, namely making other applications beyond personal email can also make it easier for sensitive parties to get timely and targeted court calls. The use of QR codes in every call can protect the summons from individuals who want to manipulate the validity of the call, and minimize misadministration. In addition, QR code can also facilitate bailiffs or substitute bailiffs in finding the domicile addresses of the parties, and the development of E-payment applied in Indonesia can also be developed again, which not only serves PNPB and case costs, but can be made for payments related to other cases, both in the form of decisions and case determinations. For example, like E-payment applied in Malaysia, the E-syariah application can accommodate other payments arising from decisions or determinations, such as *mut'ah*, *kiswa*, *hadhanah* or child support through E-*nafkah*. [20]

The transaction of payment of case fees through E-payment can maintain transparency and supervision by the court in executing judgments, even the development of E-court can also be developed to complete applications, namely in the form of audio text recorders and video conference records so that the trial can be

easily carried out both for mediation hearings and for the purposes of evidentiary hearings of the parties so that E-court can fully facilitate online trials.[21]

5. Conclusion

The implementation of E-Court in Indonesia consists of E-Filing, electronic estimation (e-SKUM), E-Payment, E-Summon, and electronic issuance of copies of judgments. The implementation of E-Court in Indonesia requires further development that can be obtained from the application of E-Court in various countries, namely being able to emulate the United States E-Filing system with high document protection and E-Payment in the form of Firm Billing which is useful for paying case fees, fines and can be accessed using debit and credit cards. Malaysia has an E-Sharia system that includes a case management application (SPKMS), Sharia Lawyer management system (SPPS), Audio Text Record (E-Talk), online income payment (E-Bread), online inheritance calculation (E-Faraidh) and a library management system. In Singapore, the application of E-Court is currently integrated in the E-Litigation system which includes electronic document recording applications (EFS), case information repositories (CIR), submission of case documents between law firms (E-Service), case notifications, case schedule information, case financial transaction reports, court answers and notices, and case search applications. E-Summon in India uses QR Codes as a special identity on relaas and as a way to make it easier to find party addresses. In Indonesia, the development of the E-Court system as described above is needed as a means of creating a fair, fast, simple and low-cost Indonesian judiciary.[6]

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