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E-Court in Tax Dispute Resolution to Support Justice Accessibility for Taxpayers in Indonesia

ANDRE IRWANDA¹ AND MARYANO²

ABSTRACT

E-Court application is both an innovation and a form of commitment of Supreme Court of Indonesia to support justice reform in the Indonesian justice system. In this reform integrates IT in the context of procedural law (IT for judiciary). E-Court covers a series of examination and adjudication processes by the court with the assistance of IT. This study was conducted using a statutory approach, case approach, conceptual approach, and both deductive and/or inductive reasoning to reveal the phenomena being observed. This legal study systematically and comprehensively described the data and/or material retrieved from literature studies, case studies, and interviews with law enforcement officers. The results showed that electronic trials (e-court) in the New Normal Era had offered a solution to prevent the spread of Covid-19 because the parties involved in the trial, including the litigants and court officials, without having to meet directly on site. Supreme Court Regulation No. 1 of 2019 and Supreme Court Circular Letter No. 1 of 2020 allows judges and judicial officials to work from home. The Supreme Court and its subordinate courts were ready to apply the modern justice system using the advancement of information technology.

Keywords: *E-court, taxpayer, Supreme Court.*

I. INTRODUCTION

Norms in laws and regulations appear from the basic values of law referred to as the principle of law, based on the principle of trilogy of courts: simple, fast and cost-efficient [1]. Normative regulations are regulated in the provisions of Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Powers, stating that trials are carried out in a simple, fast and cost-efficient way. This process should not be convoluted and unaffordable for the subjects being involved.

Law in the society is an absolute necessity as laws regulate and bind the interactions among human [2]. Law also relates to the social order, where different groups of people have different

¹ Author is a Doctoral Student at Universitas Jayabaya, Indonesia.

² Author is an Associate Professor at Universitas Jayabaya, Indonesia.

interests that can intersect the ones of others[3].

Law must accommodate different interests in the society[4]. Law should not prioritize public's interests over personal interests as vice versa [5]. Law gives the society a protection. Rules and regulations appear as obligations for both individuals and as members of the society to comply with. Law enforcement in society is not supposed to apply only among individuals, groups and/or certain groups. Otherwise, there will be law blasphemy [6], where the law is merely text-level law (law in books) instead of law in action.

Disputes that occur among the society should be resolved based on the regulations that apply[7]. Dispute resolution process can be broadly divided into two categories namely litigation and non-litigation processes. Litigation dispute resolution applies certain procedures and tools, while the litigation dispute resolution is a forum for state institutions to resolve disputes/disputes through court institutions.

The dispute resolution processes in the court deals with the fundamental provisions of procedural law[8]. Procedural law in the litigation dispute resolution process in the court appears as a set of rules that regulate the procedures for upholding substantive law. Therefore, the law enforcement process through the court system must comply with the procedures. The binding force of the fundamental provisions of procedural law applies to the institutions and law enforcement officials. In addition, dispute resolution must not violate the fundamental provisions of procedural law.

Court decisions that declare a winning and losing party, followed by the enforcement of the court decision (execution), often trigger new conflicts. The execution of court decisions is often disrupted by dissatisfied parties. In such situation, court decisions are often perceived unresponsive, slow, and unable to resolve the problem.

The most crucial dispute resolution process in the litigation dispute resolution stage is the matter of proof. Proof is crucial as it determines whether the alleged arguments are correct. These legal facts are then used to determine the court decision that states the losing party and the winning party. Many previous narrations, stories, or legal history show the consequence of wrong evidence investigation, where innocent persons are put in prison due to the lies of the witnesses. Some perpetrators were also freed due to insufficient evidence.

The development of an increasingly dynamic society and the influence of globalization which is supported by advances in Science & Technology have changed the mindset and outlook on human life. Commercial transaction system has shifted to electronic and digital transaction system. These changes be accommodated in statutory regulations because the law must keep up

with the developments in the society.

Article 2 Paragraph (4) of Law Number 48 of 2009 states that Judicial Power as a concrete manifestation of the developments in the era of the industrial revolution requires more effective and efficient administrative services. Supreme Court Regulation Number 1 of 2019 concerning Administration Electronic Court Cases and Trials that replace Supreme Court Regulation Number. 3 of 2018 concerning Electronic Administration of Cases in Court state that E-Court system assists the public in dispute resolution in the court.

(A) Literature Review:

Electronic case administration refers to a series of processes in receiving claims, requests, objections, rebuttals, resistances, interventions, receiving payments, delivering summons or notifications, answers, replicas, duplicates, conclusions, receiving legal remedies, and managing the delivery and storage of case documents[9]. civil/religious civil/military administration/state administration using the electronic system that applies.

E-Court application is an innovation developed upon the commitment of the Supreme Court of Indonesia to carry out justice reform, where IT is widely employed with procedural law (it for judiciary) [10]. The court has the authority to accept case registration and also payment of court fees electronically on the e-Court application.

This regulation neither eliminates nor changes the applicable rules. Instead, the new regulation complements the existing rules. The electronic case administration system is inseparable from the impact of the rapid development of the court administration system, which began with interactive voice recognition (IVR) in 1996. In 2011 data communication in the application of the supreme court decision directory as outlined in the Supreme Court Circular Letter Number 14 of 2010 Which is strengthened by the Supreme Court Circular Letter Number 14 of 2014 requires the court to include electronic documents in the request for cassation and review stored in the compact disks or electronic mail.

E-Court application offers four services. The first service is e-filing where users register their cases. All files in the registration are sent online via the e-court application. The second feature is then e-payment that facilitates the payment of court fees to the Court's Virtual Account.

The third feature is the real-time online notification service (relaas) (delivered via electronic domicile or e-mail) upon agreement. The last feature is e-litigation which is delivery service and online receipt of digital case files (PDF/scans), such as Replicate, Duplicate, Conclusions and Answers, where all the files belonging to the person concerned are also sent through the e-court application.

The Supreme Court Regulation No. 1 of 2019 concerning Guidelines for Administration of Cases and Trials at Courts Electronically by the Supreme Court relating to the Article 6 Supreme Court Regulation No. 1 of 2019 concerning Guidelines for Administration of Cases and Trials at Courts Electronically is the basis professional, effective, transparent, accountable and modern court administration services.

This application is expecting to bring positive impacts for more effective and efficient E-Court system to provide convenience for legal subjects. This regulation also expands the scope of E-Court to a series of processes of examining and adjudicating cases using IT.

E-Court can be accessed by registered users (Advocates) and other users (Attorneys, State Lawyers, Government Legal Bureau/ Indonesian National Armed Forces/ Indonesian National Police, Indonesian Attorney General's Office, Directors/Management appointed by legal entities or temporary power as determined by law. E-Court process is further regulated in the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number: 129/KMA/SK/VIII/2019 concerning Technical Instructions for Administration of Cases and Trials in Electronic Courts.

E-Court is an innovative legal system that enables trials to be conducted electronically, minimizing the need for on-site interactions or physical presence in the court offices. E-Court simplifies and accelerates legal proceedings to make them more cost-efficient. Legal proceedings can be conducted online, including case management up to decision delivery. As a new application, E-Court has already brought significant impacts, particularly in electronic-based tax court context.

(B) Research Methodology:

This study was carried out using a statutory approach (statute approach), case approach (case approach) and a concept approach (concept approach) with both deductive and/or inductive reasoning in analyzing the object of the study. This legal study systematically and comprehensively describes the data and/or materials obtained from literature review, case study and interviews with relevant law enforcement officials.

(C) Research Results:

a. The Authority of the Constitutional Court in Resolving Disputes on the Authority of State Institutions

E-Court is an innovative legal system launched by the Supreme Court of Indonesia to apply IT in justice system revolution [11]. This system is the product of Supreme Court Regulation Number 1 of 2019, which replaces and revokes the Republic of Indonesia Supreme Court

Regulation Number 3 of 2018 which provides a legal framework for electronic court cases handling. E-Court has been designed to streamline legal proceedings and bring about greater efficiency in the court system. It provides a legal umbrella for the implementation of this innovative system, which is expected to transform the administration of justice in Indonesia.

E-Court facilitates Case Registration (E-Filing), Payment of Cases (E-Payment), Invitation of the parties (E-Summons) online. Supreme Court Regulation Number 1 of 2019 includes the Electronic Trial (E-Litigation) mechanism into the E-Court model.

Supreme Court Regulation Number 1 of 2019 allows sending files other than lawsuit files, including response letters in the form of replicas, duplications, conclusions, even to decision documents. Hence, Supreme Court Regulation Number 1 of 2019 provides more holistic regulation about the implementation of electronic trials than Supreme Court Regulation Number 3 of 2018, which service was limited only for electronic case administration without electronic trials.

The Law Number 48 of 2009 concerning Judicial Power states that trials are carried out in simple, fast and cost-efficient way. The legal basis for E-court is Supreme Court Regulation Number 1 of 2019 concerning the Electronic Administration of Court Cases therefore needs to be revised. Revisions are needed to help overcome the obstacles and constraints in the legal proceedings, especially in preventing the spread of the Covid-19 virus.

Supreme Court Regulation Number 1 of 2019 Article 1 paragraph (6) defines E-Court as the process of administering cases and trials using an electronic system that starts from receiving a lawsuit / request / objection / objection / resistance / intervention, receiving payment, submitting summons / notifications, answers, replicas, duplicates, conclusions, acceptance of legal remedies and submission of case documents electronically. E-Court consists of a series of processes of examining and adjudicating cases by courts that utilizes the advancement of information and communication technology.

E-Court can be accessed by registered users (Advocates) and other users (State Attorneys, Government Law Bureaus / TNI / POLRI, Indonesian Attorney General's Office, Directors / Management appointed by Legal Entities (in-house lawyers), temporary powers as determined by law which can be accessed at <http://ecourt.mahkamahagung.go.id>. The procedures for the E-Court process are further regulated in the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number: 129/KMA/SK/VIII/2019 concerning Technical Instructions for Administration of Cases and Trials at Electronic Court.

Justice is enforced by effective and efficient administrative management system. To make the

system more effective and efficient is challenging. E-court appears as the solution to this need that provides:

b. Validity of Electronic Evidence Based on the Electronic Information and Transactions Law

The advancement of information and telecommunication technology has made electronic evidence in the forms of electronic information and/or electronic documents acceptable. The use of electronic evidence was first regulated in 1997, namely in Law no. 8 of 1997 concerning Company Documents.

The law does not explicitly mention the term electronic evidence, yet Article 15 states that data stored on microfilm or other media are considered valid as evidence. The term “electronic” first appeared in Law Number 20 of 2001 which revised the Law No. 31 of 1999 concerning Corruption Crimes. Article 26 A states that information stored electronically is valid for evidence. The Electronic Information and Transaction law in Article 5 also states that electronic information, electronic documents and printouts are recognized as valid evidence.

Electronic evidence is define as the data stored and/or transmitted through an electronic device, network or communication system [12]. This data can be used to prove a crime case. Meanwhile, Information technology itself is defined as a technique for collecting, preparing, storing, processing, announcing, analyzing and/or disseminating information as specified in Article 1 paragraph (3) of the Electronic Information and Transaction Law.

c. Proof of Evidence using Electronic Evidence

The impact of information technology on legal proceedings cannot be overstated. It allows the recognition of electronic evidence admissible in court. This advancement, however, also increases the potential for unlawful acts, which necessitates an update in regulations to keep pace with technological advances. As electronic evidence becomes increasingly prevalent, guidelines for the submission and use of such evidence in legal proceedings should be made clear. Hence, the legal system can ensure fair and accurate adjudication of cases while also promoting technological innovation.

Unfortunately, a dilemma in evidentiary law emerges. While it is important for the law to keep up with technological advancements, it is equally crucial for various types of digital technology to be legally recognized as admissible evidence in court. To address this issue, the Supreme Court implemented Supreme Court Regulation Number 1 of 2019, allowing the electronic trials [11]. However, in the current practices, many trials are still done conventionally. Therefore, it is important to discuss the procedural law of evidence, particularly related to electronic

evidence. Ensuring that the legal system effectively incorporates electronic evidence can promote efficiency, accuracy, and fairness in legal proceedings.

Proof is a critical stage in any trial as it determines the outcome of the case. It determines the winning and losing parties in cases or disputes between parties. The use of electronic evidence must adhere to the evidentiary system and principles of procedural law that apply in Indonesia.

d. Obstacles in Proving Electronic Evidence

Electronic evidence has proof weaknesses because virtual letters/deeds are highly susceptible to being altered, forged, or created by unauthorized individuals who pose as the authorized parties[13]. This is a common occurrence in hoax news. Meanwhile, electronic information or data used as evidence in Indonesia is not yet accommodated in the current procedural law system[14]. This type of data can also be transferred rapidly all over the world.

The guarantee of the validity of electronic evidence presented in court is of paramount importance. This validity can only be examined through correct procedures to ensure that the evidence is not altered and everything remains intact. Electronic evidence retains its evidentiary value during trial. Unfortunately, such mechanism has not yet been implemented in Indonesia.

In practice, the examination of electronic evidence is handed to each institution. Consequently, the procedures can vary among institutions. Furthermore, it will be difficult for the Judge to see whether an electronic evidence has been examined with the right procedures that it has evidentiary value.

The recognition of electronic information as evidence in court is not always straightforward. In some cases, the validity is often doubted. For instance, the decision No. 1751/P/1989 of the South Jakarta Religious Court, dated 18 May 1990 recognized a marriage certificate issued by the Office of Religious Affairs for a marriage conducted online. The groom was in the US, while the bride was in Indonesia when they took the vow. While the court deemed the certificate legal and possessing legal force, the subsequent development of the case was deemed by some to be less acceptable

II. CONCLUSION

As previously explained based on the results of this study, electronic trials (e-court) propose a solution in the New Normal Era to prevent the spread of Covid-19. E-court allows litigants and court officials to held the trial without meeting on-site. The Supreme Court and its Judiciary have shown readiness to implement this system as evidenced by the issuance of Supreme Court Rules No. 1 of 2019 and Supreme Court Circulation No. 1 of 2020. Specific procedural law (*in*

de wet) should be made to ensure the effectiveness of e-court. The procedural law serves as strong legal basis for electronic trials to prevent conflicts with other laws and regulations. In addition, facilities, infrastructure, and resources for the court apparatus must be improved to support the implementation of this system. electronic trials.

III. REFERENCES

- [1] J. Daci, “Legal Principles, Legal Values and Legal Norms: are they the same or different?,” *Acad. Int. Sci. J.*, vol. 2, 2019.
- [2] P. I. Ogugua, “Philosophy, Law and Society (A Multi-Disciplinary Approach),” *Int. Lett. Soc. Humanist. Sci.*, vol. 59, 2015.
- [3] G. K. Hadfield, “The Problem of Social Order: What Should We Count as Law?,” *Law Soc. Inq.*, vol. 42, no. 1, 2017.
- [4] D. U. Akmal, “Indonesian State of Law is an Aspired Concept,” *Nurani Huk.*, vol. 4, no. 1, 2021.
- [5] T. Zhao, “On the Limitation of Public Interest to Private Interest in Administrative Law,” 2018.
- [6] V. I. W. Nalle, “Blasphemy Law and Public Neutrality in Indonesia,” *Mediterr. J. Soc. Sci.*, vol. 8, no. 2, 2017.
- [7] D. E. Putri, “APPLICATION OF ONLINE DISPUTE RESOLUTION (ODR) IN INTERNATIONAL AND INDONESIA DOMAIN NAMES DISPUTES,” *Lampung J. Int. Law*, vol. 1, no. 1, 2020.
- [8] A. A. Ajeti, “The Right to Use Legal Remedies Against Court Decisions in Contested Procedure,” *Sriwij. Law Rev.*, vol. 4, no. 1, 2020.
- [9] A. E. Tirtakusuma and A. P. Putri, “Building Modern Justice Based On Information Technology,” *Selisik J. Huk. dan Bisnis*, vol. 7, no. 2, pp. 1–15, 2021.
- [10] V. S. Yuniar, J. S. Sulistyanti, and D. Latifiani, “The Court Role in Providing E-court System Education to Community: Post-Enactment of Supreme Court Regulation Number 1 of 2019,” *UNIFIKASI J. Ilmu Huk.*, vol. 8, no. 1, pp. 34–42, 2021.
- [11] S. J. Pratiwi, S. Steven, and A. D. P. Permatasari, “The Application of e-Court as an Effort to Modernize the Justice Administration in Indonesia: Challenges & Problems,” *Indones. J. Advocacy Leg. Serv.*, vol. 2, no. 1, 2020.
- [12] A. F. Moussa, “Electronic evidence and its authenticity in forensic evidence,” *Egypt. J. Forensic Sci.*, vol. 11, no. 1, 2021.
- [13] M. Roscini, “Digital evidence as a means of proof before the international court of justice,” *J. Confl. Secur. Law*, vol. 21, no. 3, 2016.
- [14] A. D. Tarring and K. Karim, “Civil Evidence Using Electronic Documents in Indonesia,”

Int. J. Multicult. Multireligious Underst., vol. 9, no. 11, pp. 250–256, 2022.
