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The Development of Procedural Law Through The E-Court System After Pandemic in Indonesia

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Technological developments and Covid 19 Pandemic "forced" the Supreme Court (MA) to make breakthrough in procedural law, namely by launching E-Court application, through MA rules Number 3 of 2018 which was exchanged for rules Number 1 of 2019 concerning Case Administration and Trial in E-Courts. E-Court is instrument in court for service of case registration depositing case money to court summons and trial and online delivery of court documents. This study aims to analyze and provide an overview to public of breakthroughs made by the MA for Development of Procedural Law through e-court system. Research method used qualitative research, normative juridical approach. The development of procedural law was initially only intended for registration and examination of civil cases through Supreme Court rules (Perma) No. 3 of 2018 was replaced with Perma No. 1 of 2019 concerning Case Administration and Trial in Electronic Courts. But then e-court is not only for civil cases, it's also to adjudicate criminal cases with issuance of MA regarding the online criminal trial file Number 4 of 2020. The application for electronic proceedings is an attempt by the Supreme Court to eliminate the obstacles commonly experienced by the judiciary, namely the lack of speed in resolving cases, the difficulty of obtaining data from the court, and the credibility of the integrity of the judiciary, especially judges

1. Introduction

The era that continues to develop causes changes in all aspects, one of which namely in the field of information technology and communication. Development Information technology has run so fast that it affects every aspect of life. Information and communication technology has made a major contribution and made it easier to carry out activities such as communication, disseminating and searching for data, teaching processes and used in supporting the effectiveness of an organization. This

development also touches on the legal line which indirectly also affects the process of implementing justice in Indonesia.¹

In its development, the process of resolving cases in court is not always carried out in a conventional way, namely the parties directly come to court, but can be done by online. This matter exists because of the issuance of an online court procedure system in Balikpapan Kalimantan by "Chairman of the Supreme Court or Chief Justice of the Supreme Court", on July 13, 2018.² The Indonesian judiciary is one step closer to judicial practice in developed countries.

E-Court is an instrument that is used in court as a service to the community in terms of filing cases electronically, predicting court fees, payment of case down payments, as well as electronic summons court proceedings sending court documents (replic, duplicate, conclusion). Electronic Courts conducted "online" This system aims to improve the court's services and functions in filing cases electronically so that the time will be short and the costs borne by people seeking justice will be less.³

The idea of using Information systems can facilitate the duties and functions of the current judiciary with judicial procedural law that can be done online. Moreover, Law No. 11 of 2008 which has been replaced by Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning ITE has emphasized legal institutions support the development of information technology facilities, while taking into account the "cultural and religious" background of the Indonesian people.⁴

In essence, The judiciary in Indonesia has adopted the principles of good justice comprehensively, namely "simple" (not complicated), "fast" (no long process), and "low cost" (affordable).. This is explicitly regulated in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power. Article 2 paragraph (4) asserts that "trials are conducted simply, quickly, and at low cost." This principle is not complicated, does not take long, and the funds are not high are very important principles in carrying

¹ Masyhudi & Sigid Suseno, (2020). Sidang Virtual: Idealime, Peluang, Tantangan, dan Implementasinya. Jakarta: Kompas Media Nusantara. 1.

² Sonyendah, N. Disriani Latifah Sorinda, V. Rouli Anita , & Kelly Manthovani. (2020). Pelaksanaan e-Court Menurut Peraturan Mahkamah Agung No 3 Tahun 2018 tentang Administrasi Perkara di Pengadilan Secara Elektronik dan Peraturan Mahkamah Agung No 1 Tahun 2019 tentang Administrasi Perkara dan Persidangan Secara online. *Jurnal Hukum & Pembangunan*. Tahun ke-50 (1). 126.

³ Mahkamah Agung Republik Indonesia. (2019) Buku Panduan E-Court 2019. Jakarta: The Electronic Justice System. 8.

⁴ Nazir, M. Perkembangan Hukum Acara Pada Masa Pandemi Covid- 19, *Makalah*, disampaikan pada Kuliah Umum Fakultas Hukum Universitas Malikussaleh tanggal 7 Oktober 2021.

out the duties of the judiciary as a place to seek justice. These principles must be applied especially in civil procedural law throughout Indonesia by every judicial environment.⁵

The first update has been stipulated in the regulation (regulation) of the "Supreme Court" (MA) concerning judicial administration No. 3/2018, which was later revoked and refined by MA Regulation (PERMA) Number 1 of 2019 concerning Administration of Cases and Trials in Courts Electronically. So that not only case registration can be done electronically but the trial can also be done electronically.

Initially, the concept of an electronic trial (e-court) within the MA was only intended for registration and examination of civil cases, while registration and examination of criminal cases were still carried out face-to-face (trial process with procedural law regulated in the Criminal Procedure Code); However, in its development, the Covid 19 Pandemic that hit the world and began to enter Indonesia in early March 2020 has "forced" the MA to start making changes and developments in the application of procedural law, not only for civil cases but also to adjudicate criminal cases after the Supreme Court rules issued regarding online criminal trial files Number 4 of 2020.

Many studies related to legal developments during covid 19, but no one has discussed the development of procedural law in court electronically. The research was carried out by: first, Anggita Doramia Lumbanraja,⁶ this study found that since the outbreak of COVID-19 the number of e-litigation in Indonesia has not shown a significant increase. Second, Jeni Danurahman, Eny Kusdarini,⁷ this study found that the The Government has made rules and ordered the public to carry out all their activities including working from their respective homes online, so that the corona virus does not spread. Third, Nur Akmal Razaq,⁸ in this study found the state of the spread of the corona virus, the holding of a criminal trial conducted online via teleconference, is an innovation and the right

⁵ Mohammad Saleh. (2016). *Penerapan Asas Peradilan, Sederhana, Cepat, dan Biaya Ringan Pada Eksekusi Putusan Perkara Perdata*, Cet. 3, Yogyakarta: Graha Cendekia. 39.

⁶ Anggita Doramia Lumbanraja. (2020). Perkembangan Regulasi dan Pelaksanaan Persidangan Online di Indonesia dan Amerika Serikat Selama Pandemi Covid-19, *JURNAL CREPIDO: Jurnal Mengenai Dasar-Dasar Pemikiran Hukum: Filsafat dan Ilmu Hukum*. 2 (1). 46-58.

⁷ Jeni Danurahman, Eny Kusdarini. (2021). Dampak Pandemi Coronavirus Disease (Covid-19) dalam Perspektif Hukum di Era Digital. *Masalah-Masalah Hukum*. 50 (2). 151-160

⁸ Nur Akmal Razaq. (2020). Legalitas Persidangan Daring di Masa Pandemi Covid -19 Dalam Perspektif Hukum Pidana, *Jurnal Inovasi Penelitian*. 1 (6). 1227-1230.

breakthrough, must be updated by MA. Fourth, Alfiyan Mardiansyah⁹ in this study found that during the 2020 Covid-19 pandemic, court trials were conducted elektronik.

With the development of procedural law through the online court system aims to make services better in carrying out their duties and functions in accepting every case submitted electronically or online, not only during the corona virus outbreak in the covid 19 pandemic. After the COVID-19 pandemic ended, the e-court system was still used, so that people would save time and money when registering cases.¹⁰ With this e-court system, it is hoped that it Can create more efficient services by realizing the principles of justice that are simple, fast and light better services can be provided and create justice with a simple, uncomplicated, fast, and inexpensive legal process.¹¹

2. Method

The type of research used in this article is qualitative research. Qualitative research is research that produces descriptive data in the form of written or spoken words from people and observable behavior.¹² The approach used in this article is normative juridical research. The system of norms in question are principles, norms, rules of law in legislation, approvals and opinions of scholars. The nature of the research carried out is prescriptive, namely a study that aims to obtain suggestions on what to do to overcome certain problems.¹³

To obtain data and research materials obtained by conducting library research, namely research that examines various literatures and laws and regulations. The source of data in this study is the literature data. Data analysis was carried out in the following ways: secondary data obtained in the study were analyzed prescriptively and descriptively qualitatively, namely general data about legal conceptions in the form of legal principles, postulates and teachings (doctrine) and expert opinions which

⁹Alfiyan Mardiansyah. (2021). Pelaksanaan Persidangan Perkara Pidana Secara Elektronik Pada Masa Pandemi Covid- 19 Di Pengadilan Negeri Kota Palembang. *Jurnal LEGISLASI INDONESIA*. 18 (2). 222-232

¹⁰Mahkamah Agung. (2018) *Buku Panduan E-Court Pendaftaran Online untuk Pengguna Terdaftar*. Jakarta: Mahkamah Agung RI. 3.

¹¹Susanto, Muhamad Iqbal & Wawan Supriyatna. (2020). Creating an Efficient Justice System with E-Court System in State Court and Religious Court of Rights. *International Journal of Arts and Social Science*. 3 (3), 354.

¹²Ahmad Tanzeh. (2011). *Metodologi Penelitian Praktis*. Yogyakarta: Teras. 64.

¹³Soerjono Soekanto. (1986). *Pengantar Penelitian Hukum*. Jakarta: Universitas Indonesia.¹⁵

were arranged systematically as a compilation of facts. This research analysis method uses deductive logic.¹⁴

3. Analysis and Results

3.1. E-Court System

Proceeding in court electronically is one way to serve everyone who submits his case electronically regarding costs, summons the parties needed for examination of the case and sends court files electronically (Replic, duplicate, conclusion, answer).¹⁵ The scope of e-court application is as follows:¹⁶

1) Register cases electronically

To register a case electronically for the first time only for claims, objections, disputes that are not disputes and requests for stipulation of something that is registered for the general court and courts that adjudicate for the Islamic religion courts and State Administrative Courts which in its registration several ways are needed and led to the birth of an online trial, including: it is easier to do business. The advantages of registering cases electronically can be obtained through the system, namely: 1. Time and money efficient in filing cases; 2. Deposit case advances can be deposited in various banks; 3. Administration is stored securely and can be opened anywhere with an online application; 4. Access to obtain data is very fast.

2) Electronic Case Payment

Online litigants will receive a code after registering. The cost of the case is determined according to each stage that has been determined by the court and the determination of case money that must be paid. Then the parties who register the case can pay the court down payment online through the account number that has been determined online.

3) Electronic Summons (e-Summons)

Based on Supreme Court Regulation No. 3 of 2018 that summons whose cases are registered online, summons for registered parties online are sent to the online domicile of the registered parties. However, for the defendant, for the first summons to be made by letter and when the defendant is present at the first trial, an opinion will be asked about whether the summons will be summoned online or fixed by letter.

4) Trial for online

The electronic court system can support online proceedings and all court files for each stage can be provided electronically and can be opened by both the judiciary and the parties who file the case.

¹⁴ *Ibid.*

¹⁵ Mahkamah Agung. (2019). *Buku Panduan E-Court*, Jakarta: Mahkamah Agung RI. 6.

¹⁶ *Ibid.*

Through e-court, it can simplify the court administration process where parties can register cases online using the system.¹⁷ In addition to simplifying the court administration process, the existence of this e-court is certainly in line with the industrial revolution that demands technology-based performance.

3.2. E-Court System Delivers Fast, Simple and Low Cost Justice.

Law Number 48 of 2009 concerning Judicial Power, in Article 2 paragraph (4) states that, "Judgments are carried out simply, quickly, and at low cost". Based on the explanation of Article 2 paragraph (4) of the Law on Judicial Power, what is meant simply is that the examination and settlement of cases is carried out in an efficient and effective manner. And what is meant by low costs is that the cost of the case can be reached by the community, the principle of solving cases quickly where the examination is carried out quickly, meaning that the examination of cases in court is not carried out in a long and protracted time. The existence of this principle in the implementation of the judicial process at the examination level of the court is of course to guarantee the three basic values that are the objectives of the law, namely justice, expediency, and legal certainty. In addition, the application of the simple, fast, and low-cost principle in relation to the judicial process is interpreted in a broad sense, which includes the judiciary in terms of its regulatory, institutional and judicial processes.¹⁸

Courts have an important role for someone in seeking justice where the court must also apply the principles of simplicity, speed and low cost.¹⁹ A simple trial should not be deliberately complicated by the judge in the direction of a complicated examination process until the examination "continues backwards" for various reasons that are not legally valid.²⁰ The principle of simplicity, speed, and low cost is an important principle because it is the law that underlies all stages of justice, the first court, the high court and finally the Supreme Court.²¹

¹⁷Sari, Ni Putu Riyani Kartika. (2019). Eksistensi E-Court Untuk Mewujudkan Asas Sederhana, Cepat dan Biaya Ringan Dalam Sistem Peradilan Perdata di Indonesia. *Jurnal Yustitia*. Bali: Universitas Ngurah Rai. 13 (1).

¹⁸Amir Hamzah, Moh. (2013). *Hukum Acara Perdata Peradilan Tingkat Banding*. Malang: Setara Press. 54.

¹⁹Y. Anggita, Karina Luana Pramesti widodo,& Imam Budi Santoso. (2021). Pelaksanaan e-Court dan e-Litigati di Pengadilan TUN Berdasarkan Perma No 1 Tahun 2019. *JUSTITIA : Jurnal Ilmu Hukum dan Humaniora*. 8 (6). 1532

²⁰ Amir Hamzah, Moh, *Op, Cit*, 54.

²¹ *Ibid.* 51.

What is meant by electronic case administration implementation of procedural law starting from filing cases, answering answers between the parties, conclusions and administrative filing for all types of courts in Indonesia, all done online. By referring to the rules determined by the Supreme Court behind the presence of procedural law electronically to make it easier for the public to file cases in court using online applications starting from the registration stage until the decision can be made online.²²

This MA e-court system regulates starting from the use of all services carried out are regarding administration, registration of case administration, summons "the parties, issuance of a copy of the decision, and administration, payment of court fees", all of which are done electronically (online).²³

The MA Rules issued by Supreme Court Number 3 of 2018 concerning Case Administration in Electronic Courts in its preamble states to achieve the principle of a simple, short, and affordable cost in litigation in court, it is necessary to reform in overcoming obstacles to the judicial administration process, which according to the demands and developments of the times requires the existence of case administration services in courts effectively and efficiently so it is necessary to enforce administrative services in courts electronically.

The obstacles or obstacles experienced in the conduct of both civil and criminal trials electronically include:²⁴

1. Facilities and infrastructure at the Court and in other Agencies that are still not fully adequate, both in terms of equipment and internet network;
2. The ability and knowledge of court officials on supporting technology for electronic courts is still minimal;
3. There are rules that allow parties to hold proceedings online by not using the services of an advocate which affects human rights, the guilty party and everyone who will be involved in a case.

With the e-court system, the Court Proceedings and Code of Conduct for Law Enforcers have also become more transparent and have an impact on reducing extortion practices in courts, thereby increasing public trust in the judiciary.

Good performance of the duties carried out by the courts must be given to all justice seekers, and provide information to everyone, provide legal

²² *Op, Cit.*

²³ *Op, Cit.*

²⁴ *Ibid.*

assistance by resolving every case brought to court. With the presence of procedural law in online courts, it can provide information easily and resolve cases filed with the online system.

3.3. The Development of Procedural Law in Courts With Electronic Apps in Indonesia

The pace of development of the development of information technology requires the judiciary in every country including Indonesia to use information technology. If previously cases in court done "manually" (not online) and takes a long time and high costs, given directly with a long time and high cost, the use of information technology seeks to speed up, simplify and make court fees cheaper.

The development of the procedural law in courts in Indonesia is carried out by the MA through the MA Regulation concerning Electronic Trials. This is because the three points of public protest against the court (slow, complicated and expensive) are the dark history of the judiciary in Indonesia. To answer the complaint, the MA as one of the highest judicial power holders has issued a MA Regulation,²⁵ namely:

3.3.1. Supreme Court Regulation on litigation electronically No. 3 of 2018

The Indonesian MA through MA Regulation Number 3 of 2018 has started using information technology for the electronic registration process and settlement of civil cases to help improve judicial performance. The birth of Perma Number 3 of 2018 is in line with the Vision of the MA to become Creating modern justice based on technological developments.

The implementation of the Electronic proceedings are a major development from the overall "efforts of the Supreme Court in making administrative changes in court", especially for the court documentation system is not open to all parties (difficult to access or open).

3.3.2. MA Regulation Number 1 of 2019 concerning Electronic Case Administration and Trial in Courts.

In its development, the MA continues to strive to improve and renew the implementation of Perma Number 3 of 2018, this is done by the revocation of Perma Number 3 of 2018 and replaced with MA Regulation Number 1 of 2019 concerning Case Administration and Electronic Court Trials.

²⁵ Beni Kurniawan, M. (2020). Implementation of Electronic Trial (E-Litigation) on the Civil Cases In Indonesia Courts a Legal Renewal of Civil Procedural Law. *Jurnal Hukum dan Peradilan*. 9 (1). 45.

The regulation of electronic case administration and trial in Perma Number 1 of 2019 applies to types of civil cases, religious civil cases, state administration. Since the enactment of these regulations, the process of case registration and payment of fees in each court is mandatory using the E-Court service system. Meanwhile, the electronic trial will be conducted with the agreement of the parties because the mediation was not successful.²⁶

In Perma Number 1 of 2019 there are improvements to the procedural law that were not previously contained or accommodated in Perma Number 3 of 2018, including:

a) Improvements to the Information System:

In Perma Number 3 of 2018 registration electronically with the existence of an e-court can only be done by advocates (registered users), but in Perma Number 1 of 2019 registration can be done by legal advisors and others.

b) Trial electronically (e-litigation)

Previously, Perma Number 3 of 2018 only regulated the administration of cases electronically, but in Perma Number 1 of 2019, the scope of civil procedural law is not only about electronic administration but also regulates e-litigation, and includes legal remedies carried out electronically.

One of the basic differences found in Perma Number 1 of 2019 and cannot be found in Perma Number 3 of 2018 is the existence of the e-litigation feature or electronic trial.²⁷

3.3.3. Supreme Court Rules Regarding Case Files in Criminal Procedure Number 4 of 2020

Initially, the concept of an electronic trial (e-court) within the MA was only intended for registration and examination of civil cases, while registration and examination of "criminal cases" were still carried out face-to-face (trial process with procedural law regulated in the Criminal Procedure Code);

However, in its development, the Covid 19 Pandemic²⁸ that hit the world and began to enter Indonesia²⁹ in early March 2020 has "forced" the MA to

²⁶Rizkia Ramadhana & Muzakkir Abubakar, (2021). Efektifitas Sistem Layanan E-Court Dalam Perkara Perdata di Pengadilan Negeri Banda Aceh, *JIM Bidang Hukum Perdata*. 5, (.2). 282.

²⁷ *Op, Cit.*,

²⁸Atika Ismail. (2021). Analisis Alternatif Restruturisasi Utang Atau Penutupan Perusahaan Pada Pandemi Covid-19 Melalui PKPU, Kepailitan Dan Likuidasi. *Jurnal Kepastian Hukum Dan Keadilan*. 3 (1). 43-56.

start making changes and developments in the application of procedural law, not only for civil cases but also to adjudicate "criminal cases" with the issuance of Regulations. MA Number 4 /2020 concerning Electronic Criminal "Administration and Trial".

Regulation No. 4 of 2020 is intended, among other things, to assist justice seekers in overcoming which is an obstacle to the creation of the word fair, achieving justice that is affordable by the community with the hope that the settlement cases constrained by "certain circumstances" (including the COVID-19 pandemic) or the coronavirus require settlement with continue to respect human rights;

The development of online procedural law can reduce the delay in the process of examining cases in court in forced circumstances so that the legal process can still be carried out.

Breakthroughs in the Procedural Law contained in Perma Number 4 of 2020 include:

- a) Expansion of meaning related to the court room (electronic courtroom) where judges, prosecutors and legal advisors can be carried out in each place in accordance with the rules in this Perma;
- b) Electronic domicile, namely messaging services in the form of verified accounts belonging to Investigators, Public Prosecutors, Defendants, Legal Counsels, Witnesses, Experts, Detention Centers, and Prisons;
- c) Electronic case administration, starting from the process of delegating cases to decisions;
- d) Trial electronically;
- e) Electronic proof;
- f) Electronic documents, in the form of documents related to Case Administration and trials that receipt, storage, and management in the Court Information System; as well as.
- g) Calls electronically;

The advantages of the trial being conducted electronically during the current Covid-19 pandemic include:

- a) Can provide security for judges, prosecutors and other parties who are hearing certain cases involving large masses;
- b) Breakthroughs against criminal procedural law and civil procedural law in Indonesia which will be the basis for starting a comprehensive digitalization of litigation processes in Indonesia.

²⁹Tiara Almira Raila, Sinta Dewi Rosadi Rika, Ratna Permata. (2020). Perlindungan Data Privasi Di Indonesia Dan Singapura Terkait Penerapan Digital Contact Tracing Sebagai Upaya Pencegahan Covid-19 Serta Tanggung Jawabnya. *Jurnal Kepastian Hukum Dan Keadilan*. 2 (1). 1-16.

Implementing the development information technology regarding the trial conducted "online" is a step in creating the principle of justice that is not complicated, not long, costs are affordable and is an effort to encourage the development of management and administration improvements towards modern Judiciary. This development must also be included in the material for the Indonesian Civil Procedure Code.³⁰ This is a major development of the Supreme Court's efforts to eliminate obstacles commonly faced by the judiciary, namely the slow settlement of cases, the difficulty of obtaining data from the courts, and the credibility of the integrity of the judiciary, especially judges. The development of proceedings in the courts is also an effort to create a superior and transparent court in the process and mechanism for resolving cases by the judiciary.

4. Conclusion

Technological developments and the Covid-19 pandemic have "forced" the MA (MA) to make a breakthrough in procedural law, namely by launching an e-court application, through Perma Number 3 of 2018 which was revoked and replaced by Regulation No 1 / 2019 concerning "Administration (documents) of Cases and Trials in Electronic Courts" (online). E-Court is an instrument in court for case registration services, depositing case money, summons and trial and sending case files online. The Development of the Procedural Law Initially, the electronic trial was only intended for registration and examination of civil cases through The Supreme Court Regulation concerning the online proceedings in court No. 3 of 2018 which was exchanged for Regulation No. 1 of 2019. Then followed by the Supreme Court Regulation which is not only for proceedings in court but also regarding case administration in online criminal trials, namely Regulation MA Number 4 of 2020. The e-court system is an effort by the MA to overcome the obstacles faced by the judiciary, namely the slow handling of cases, the difficulty of accessing court information, the integrity of the judicial apparatus, especially judges.

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³⁰ Faisal Luqman Hakim. (2019). Simplikasi Prosedur Beracara dengan Pemanfaatan Teknologi dalam Rancangan Undang-Undang Hukum Acara Perdata. *JHAPER: Jurnal Hukum Acara Perdata*. 5 (1). 1.

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