

# The Role of Electronic in Actualizing a Modern and Accessible Trial by a Justice Seeking Community in Indonesia

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**Abstract.** Courts as part of Indonesian state institutions in the judicial field should not be left behind in maintaining services in the modern legal field for people seeking justice. The impression that the judicial process is haunted and closed must be eradicated through the use of technology in the area of electronic administration and trial services. The use of technology in the trial must not interfere with the concentration of the judicial apparatus as well, particularly independent judges in examining court files, which should not be interfered with by other state powers and the public in general. For this reason, it is necessary to conceive and innovate the leaders in the Supreme Court and the Judicial Bodies under it to maintain electronic-based court services which in addition to realizing a simple, fast, and low-cost judiciary, pay attention to the dignity of the court and the neutrality of the duties of judges and courts in receiving, examining, adjudicate, and resolve cases submitted as well.

**Keywords:** Modern Courts, Use of Information Technology, Accessibility of Justice Seekers, Court Dignity

## 1 Introduction

Klaus Schwab, a German economist and founder of the World Economic Forum and the originator of the idea of the Industrial Revolution 4.0 once said, “as the physical, digital, and biological worlds continue to coalesce, new technologies and platforms will increasingly enable citizens to engage in government, voice their opinions, coordinate their efforts, and despite the fact that evade the scrutiny of public authorities” [1].

Public services in the Republic of Indonesia during this reformation period have led to the improvement of public services by utilizing information technology. Every state agency or government agency conceives and introduces public service applications that are core businesses through the use of information technology. The Central Government has maintained a legal umbrella and orders as well, hence the government system as a whole utilizes technological advances and is interconnected with other public administrators in a government agency, in the form of Presidential Regulation of the Republic of Indonesia Number 95 of 2018 concerning Electronic-Based Government Systems.

The use of information technology in public services is part of the simplification of the bureaucracy, such as cutting lengthy bureaucratic procedures in public services by utilizing human resources who are hardworking, dynamic, skilled, and mastering science and technology

[2].

Among several law enforcement agencies in Indonesia, the Indonesian National Police has introduced an *online* driving license that is integrated with the database thus residents who have an Identity Card (KTP) from a different domicile with their place of work or college can conceive and extend a driving license (SIM) from the area where he works. The Indonesian Police began to complete online tickets which were followed up by the imposition of an online as well.

The Ministry of Law and Human Rights (*Kemenkumham*) does not want to be outdone by the Indonesian Police as well, they introduce a public service application, particularly the service for making electronic passports (known as electronic passports), in the field of registration of civil legal entities, the Legal Administration Service application is as well released public (AHU) online that allows Notaries to register for civil legal entities online with a measurable time and cost.

As an implementing regulation of Law Number 11 of 2020 concerning Job Creation, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency conceived an innovation in the form of issuing electronic land documents called electronic certificates, as a substitute for conventional land certificates that have been circulating and owned by the public. Electronic certificates allow landowners to keep these documents without fear of forgetting or losing them in a flood, fire, or being damaged by a geek in the wardrobe.

The three examples of agencies above have begun to launch and implement electronic-based primary services to the public, thus services run quickly, easily, simply, and free from corruption, collusion, and nepotism. Then what about the Supreme Court and the judiciary below it in responding to the demands of this electronic-based legal service. The judiciary that utilizes information technology in each of its basic services to the justice-seeking community is called modern justice. Modern justice should not only be a discourse but must be realized in the real world [3].

The Supreme Court of the Republic of Indonesia did not remain silent in addressing this matter. The Supreme Court is based on the 2005-2035 Supreme Court Development blueprint, and the vision of the Supreme Court is to conceive a great judicial body, introducing electronic-based main services, enclosing electronic copies of decisions that have been accessible since 2007 hence the general public and justice seekers have the ability to see electronic decisions anywhere and anytime and free of charge no duplication fees. The case tracking information system (SIPP) application was released starting in 2012 hence the public and justice seekers have the ability to follow the development of cases and cases that attract public attention, with certain limits for cases that according to the law are declared closed to the public. Case registration services, case down payments, and summons have been done manually, 2018 an electronic system, that is e-court which was then added to the trial process for civil cases by electronic trial with the e-litigation system in 2019 through the issuance of Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2009 concerning Case Administration [4].

With the official announcement of the Covid-19 disease entering Indonesia on March 2, 2020, coupled with the entry of the new variant of Corona B117 on March 2, 2021, forcing physical and social restrictions on the community as a way to prevent and avoid transmission of the corona disease (covid-19). This has an impact on legal services in courts, especially in criminal cases as well. Starting from the policy of the Ministry of Law and Human Rights which refuses prisoners of criminal cases to leave the area of correctional institutions and detention centres hence as not to be infected and bring Covid-19 into prisons which can transmit diseases

amidst the density of the number of occupants of the detention house. Therefore, in 2020, the Supreme Court of the Republic of Indonesia expanded the implementation of electronic trials to criminal case trials with the issuance of the Republic of Indonesia Supreme Court Regulation Number 4 of 2020 concerning Administration and Electronic Criminal Case Trials.

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If the projector screen is installed sideways on the front side of the trial table, the Panel of Judges will allow the Panel of Judges and visitors to the session to watch the trial without the trial visitors having to turn around to look back, but the eyes of the Panel of Judges will find it difficult to see continuously to the side which conceives the panel of judges' eyes quickly tired. and unfocused attention.

The inconvenience of the court visitors witnessing the trial Remotely using electronic or online causes interference with the role of court visitors as one the guardians of the openness of the trial thus the trial can be accessed by the public, hence, a fair maintained, and hence the Panel of Judges is disciplined in completing the trial according to the pertinent procedural law as well as code of ethics and code of conduct for judges.

Trials have online received criticism from justice seekers as well, for example, in November 2020 the defendant 'Jerinx' refused to have the trial held *online* and chose to walk out on the grounds that his request for a face-to-face trial was not granted by the panel of judges. 'Jerinx' asked for the trial to be conducted face-to-face due to the reason that the voice from the Denpasar District Court sounded unclear or intermittent. Then in the pretrial case with the applicant Rizieq Shihab in January 2021, the applicant's lawyer requested that Rizieq Shihab be presented at the trial, but the South Jakarta District Court Judge who tried the case refused to present the applicant [4]. These examples show the possibility of protests by justice seekers against the conduct online for reasons of both technical and non-technical factors.

In the field of business law, the Commercial Court as the executor of judicial power in the field of business dispute resolution adapts to the needs of business development, particularly fast and modern judicial services [5]. Thus, the implementation of online are accessible to people seeking justice is important and can minimize public dissatisfaction. commercial justice service users on the implementation of online.

Based on the background of the problem, the author will prove the study of how the rule of law works in practice [6] through the formulation of the problem as follows:

## **2 Problem Formulation**

- 1) What is the best solution hence the litigants and visitors can watch the trial online smoothly?
- 2) What kind of technology can be implemented by the Court hence court visitors can watch

online smoothly, and the dignity of the court is maintained?

### **3 Method**

The approach method used in the implementation of this research is to use a combination of normative juridical and empirical juridical approaches. This approach is juridical normative, specifically research that encompasses legal principles and legal integration [7] is accomplished to analyse the use of information and communication technology in judicial services, from the aspect of legislation. The empirical juridical approach is intended to analyse the factors of formation and implementation of the use of information and communication technology in judicial services. Based on the scope and approach in this research, the data collection technique used is the rules that already exist and then viewed and associated with literature studies and observations in the field.

The data analysis method used in this study is a qualitative method, which is analysed according to the quality of the truth and then poured in the form of a description through this paper.

### **4 Finding and Discussion**

#### **4.1 Litigation Solutions and Court Visitors Witnessing Online smoothly**

##### **4.1.1 Communication to the public**

Courts are state institutions that undertake state activities in the field of providing services and law enforcement for the community. In undertaking its main task of resolving the proposed case, the Court conducts trial activities. Court hearings are open to the public, unless the law provides otherwise [8]. Failure to comply with these provisions will result in the cancellation of the decision according to law. Being open to the public means that anyone can attend the hearing. The presence of visitors at the trial constitutes 'social control'.

In order for social control of the judiciary to be maintained, it is necessary to disseminate the trial process to the public who are observers of the trial. For this reason, courts need to use communication tools as an idea generator and form public opinion on trials held online.

The implementation of this communication must use tools and some can be delivered without using tools. Tools to facilitate the communication process are called communication media or means of communication.

Communication tools function as follows:[9]

1. Facilitate the delivery of messages or information;
2. Generating communicant motivation;
3. Streamline the process of delivering information;
4. Shorten the delivery time of information;
5. Connecting communicators with distant communicants;
6. Adding the attractiveness of the information or message to be conveyed; an Clarify the content and purpose of the information to be conveyed.

Communication media can be grouped based on the tools they use, into: [9]

##### 1) Audio communication media (hearing)

Audio communication media is a communication aid that transmits audio, thus enabling

communication to be captured through the auditory channel, for example, radio and telephone;

2) Visual communication media (vision);

Visual communication media is a communication tool that can transmit writing and or images, thus enabling communication to be captured through visual channels, for example, posters, banners, and print media (newspapers, magazines, tabloids);

3) Audio-visual communication media (hearing and seeing);

Audio-visual communication media is a communication tool that can emit sound accompanied by writing and or images, thus enabling communication to be captured through auditory and visual channels, for example, television, video, and film.

Communication media can be grouped based on the target as well, they are:

a. General communication media;

General communication media are communication tools that have the ability to be shown to a single target, group, or mass, for example, telegram telephone, letter, e-mail, brochure, placard, banner, internet, magazine, radio, television, video, and film;

b. Mass communication media;

Mass communication media is a communication tool that is used specifically for the purpose of mass communication. The nature of this mass communication is one-way communication, for example, print media (newspapers, magazines, tabloids), audio media (radio), audio-visual media (television, film, video), and outdoor media (banners, posters, balloons, billboards, neon signs).

The author categorizes 'court television' as being enclosed in audio-visual media due to the reason that the communication tool can be heard and seen. The sense of sightseeing the virtual is supported by the tone of voice and intonation of the communicator. The advantage of audio-visual media is that it is not boring for the recipient of the message and the message can be more easily understood and understood, while the disadvantages of using audio-visual media are scenarios that can be ugly causing incompatibility of shows, preparation for making it takes quite a long time, and the cost is relatively expensive [9].

#### **4.1.2 Internet of Things (IOT)**

The Internet is a digital interaction between service providers and consumers, allowing more or less digital data traffic between service providers and consumers in the form of everything from messages, letters, and shops online to video broadcasts and social media services and search engines [10].

In a computer network, computers are directly connected or communicate through other computers. The Internet as a network does not have a central control point. Instead, data is sent from the source device directly to the receiver.

While the definition of the internet of things (IoT) according to McKinsey Global Institute is a technology that allows us to connect machines, equipment, and other physical objects with network sensors and accumulators to attain data and manage their own performance. Thus, enabling machines to collaborate and indeed act on newly acquired information independently [11].

How IoT works is quite easy. Every object must have an IP Address. IP Address is an identity in the network that conceives the object can be ordered from other objects in the same network. Furthermore, IP Addresses in these objects will be connected to the internet network [12].

#### **4.1.3 Live Streaming Court**

The trial service process using audio-visual has been regulated by the Supreme Court, but only in the field of audio-visual recording. Legal basis audio-visual recording in court is Supreme Court Circular Letter (SEMA) Number 4 of 2012 concerning the Recording of Court

Processes. Broadly speaking, the SEMA regulates that audio-visual recordings are additional court documents to complete the minutes of the trial which have thus far been regulated in Article 202 paragraph (1) of the Criminal Procedure Code (KUHAP) and are stored in bundle A of trial files in the court case archives. The initial act is accomplished on cases of criminal acts of corruption and other cases that attract public attention.

The audio-visual trial service is only limited to recording the proceedings. In the meantime, the provision of audio-visual court services in broadcasting court proceedings to the public has not been regulated by the Supreme Court of the Republic of Indonesia indeed.

The Central Java High Court, under the leadership of (late) Dr.Cicut Sutiarmo, SH, M.Hum., introduced a public service system using electronic means called the Joint Partnership for Village Development (*Kembang Desa*). *Kembang Desa* is a service that aims to maintain convenience and information on the services available at the Court in Central Java. Services that can be accessed by the community individually or through the village/kelurahan office where the community is domiciled. These services enclosed:

- 1) Electronic case registration. The public can register civil cases through the e-court of the Supreme Court of the Republic of Indonesia, either individually or using an advocate;
- 2) Application for a certificate. In the form of a certificate of having been convicted of a crime, a certificate for eligibility requirements, and others;
- 3) Information on appeal cases and district courts. The public can follow the progress of appeals and first-level cases by entering the number of cases of appeal and first-level cases on the website *Kembang Desa*;
- 4) Application for a prison visit permit. Applications for permission to visit detainees at 35 District Courts in the jurisdiction of the Semarang High Court can be conceived through the website *Kembang Desa*;
- 5) Live stream Court. The public has the ability to see or watch live trials at the Semarang High Court and 35 District Courts on the available case numbers. *Live streaming* of the trial is only available if the trial is open to the public and is fully authorized by the Court. In addition, there is a live streaming of the One Pintu Integrated Service (PTSP) lobby as well, where the public can directly see the PTSP service lobby in Courts throughout Central Java;
- 6) Resource application service. The public can apply for resource persons at certain events. This application will be directly copied to the Chairperson of the Semarang High Court;
- 7) Research permit services or research. The public can apply for research permits for academic purposes at the Semarang High Court and 35 District Courts throughout Central Java through this menu. Conceive sure the public encloses an active email address and cellphone or Whatsapp to conceive it easier for officers to respond;
- 8) Legal aid services. Consultation services and legal assistance for underprivileged communities at District Courts throughout Central Java can be attained through this menu. Please use the telephone or Whatsapp to the officers of the Legal Aid Post (Posbakum) in each court in the community area;
- 9) Call service and Whatsapp message (PTSP on Call). The public can find a list of *Whatsapp* for PTSP services at the Semarang High Court and Semarang District Court. The public can conceive phone calls or Whatsapp and through Whatsapp during working hours as well.

The nine services mentioned above can be accessed by the wider community, especially people in Central Java Province, just by clicking on the *website* <https://kembangdesa.pt-semarang.go.id>.

Point number 5 above, which is underlined by the author, is that *live streaming* court services *online* thus it can be communicated to the judicial user community, be it court visitors, students, and court observers using a social media application, that is YouTube. Direct broadcasting of the proceedings through social media applications such as YouTube is no different than the live broadcast of the proceedings broadcast by television stations, both government and private, through live broadcasts or news on their respective television channels. For some parties, the live broadcasting received a thumbs-up due to the fact that it indicated that the trial was open and accessible to anyone. Nevertheless, for some parties who are contra worried about broadcasting the proceedings of the trial directly and without boundaries, it has a negative impact, particularly it can affect the law of evidence at trial due to the fact that witnesses who have not indeed had the time to go to trial can find out the contents of previous testimony in light of the fact that they have watched the trial live on television or social media channels. This conceives the witness who will give testimony at the previous trial to be affected by the evidence of the previous witness which can change the course of the testimony in question at the trial. Live broadcasting can as well be used by buzzers to conceive memes by using witness statements that tend to insult the dignity of the court. For this reason, it is deemed necessary to have facilities and infrastructure for broadcasting the course of the trial that can prevent and eliminate the possibility of the emergence of various negative effects as mentioned earlier.

Other courts, whether in the general courts, religion, military, or state administration, are competing to conceive applications that are linked to the website or website of the court in question that can be used by people seeking justice who want to process documents in court. For example, the Kotamobagu District Court, North Sulawesi, since 2019 has conceived an application containing examples of lawsuits and application forms on the website that can be used by justice seekers who want to file lawsuits and applications who cannot afford legal counsel and minimize face-to-face meetings between court officials and people seeking justice who are feared to lead to illegal levies.

## **4.2 Technology that has the ability to be implemented by the Court thus court visitors can watch online trials smoothly and the dignity of the Court is maintained**

### **4.2.1 'Court Television'**

Courts can conceive 'court television' accounts in the name of the court on social media accounts owned by the respective Courts whether it is through youtube or Instagram or *Facebook* to broadcast the proceedings and can be accessed by the public unless the trial is determined by the court. declared closed to the public. The creation of a 'court television' account is of course low-cost due to the reason that it does not need to maintain broadcasting infrastructure and licensing like creating a public television channel. Live broadcasting of the proceedings through social media channels only requires internet quota and internet speed at the Court which can be met from the availability of the office budget in the Court's DIPA (budget execution list). In addition, this Court's television account address can be the official means of the Court to maintain information and a means of communicating with the public by utilizing information technology, facilitating access for people living far from the Court office, as well as an effective means of controlling the behavior of court officials (Judges, Public Prosecutors, Legal Counsel, Plaintiff, Defendant, and Petitioner) in the online.

In order to avoid the possibility of negative effects from using the results *online* by irresponsible parties as mentioned in section 1.c above, the Court may utilize public communication channels, whether paid or not, such as google meet, zoom meeting, Webex, or

the Court through the General Bureau of the Supreme Court can conceive *online* that can only be accessed by parties who have previously attained the account address and password maintained by the Court. Thus, those who has the ability to access the live broadcast of the trial are only court users who have a high concern for knowing the information revealed and available at the trial and have good intentions to maintain the dignity of the court by not abusing the live broadcast of the trial, both for the sake of evidence further or conceive memes that insult and demean the Court.

#### **4.2.2 Public Ways to Access Online Through Webinar Applications**

Courts have the ability to conceive a google form and enclose it in the content on the website as a location for trial visitors who want to witness the trial to register to be able to watch the online with what case number and trial date. Registration on the application is accompanied by filling in the personal data of the KTP and an active electronic mail address. Then the Court's information technology manager the day before the trial sends a link or link that can be accessed by prospective trial visitors who have registered earlier, with or without their password. Then on D-day at the appointed time, the trial visitors can access the link that has been distributed to each of the electronic mail.

In the event that the Court uses a paid webinar application, of course, the image quality of the trial broadcast will be better, without distortion, and can be enjoyed by court visitors online [13]. Becomes more qualified where the Judge can hear clearly the voices of the witnesses who are in the Plaintiff's legal counsel office, the defendant, and the voice of the witnesses who are at home or at the office.

Commercial civil courts online, paid webinar applications or webinar applications conceived by the government and free of charge can improve the quality of civil evidence. The litigants or interested parties are business people. Hence, e-litigation is really interpreted as a commercial civil trial process without the parties coming to court. Due to thus far process of providing witness and experts in commercial civil cases is indeed optionally held in the trial room at the court office.

#### **4.2.3 Court Obligations to Provide Access to Online Trials Online**

In the event that the Supreme Court of the Republic of Indonesia issues a regulation regarding the provision of online thus it can be watched online by the court-visiting community, then it is an obligation for the Courts in Indonesia to provide both material and human resources to provide facilities and infrastructure for online.

The Court can maintain a special place in the Court as well, particularly the visitor's room Court which is equipped with television facilities connected to the internet (smart TV). This is done hence the public who are not technologically literate, either due to the fact that they are old or have never attended school, can continue to watch the trial which is open to the public through the facilities and infrastructure of 'court television' in the visitor's room at the Court office.

The cost of providing these infrastructure facilities is provided by the Supreme Court's DIPA budget or through non-binding cooperation with local governments or non-governmental organizations, universities, or the private sector that is concerned with law enforcement in the community through corporate social responsibility (CSR) programs.



## 5 Conclusion

In realizing the vision of the Supreme Court, specifically to conceive a Supreme Indonesian Judiciary Agency and to succeed in the program of the Head of State of the Republic of Indonesia, particularly electronic-based government which is a necessity in this reform era. Courts as state administrators in the field of providing justice through trials for justice seekers must provide electronic-based judicial services as the embodiment of modern courts that are free and free from corruption, collusion, and nepotism.

The Supreme Court of the Republic of Indonesia has issued PERMA Number 1 of 2019 for electronic administration and civil proceedings which must be applied in the registration and examination of civil and business cases and PERMA Number 4 of 2020 for administrative and electronic criminal proceedings.

With the COVID-19 pandemic, attendance in the courtroom is minimized directly in the courtroom. Instead, broadcasting the proceedings electronically is expected to be able to provide information and as a means of communication between the Court and the justice-seeking community.

The provision of information and communication facilities utilizing information technology is an effort hence the community participates in creating a modern judiciary [14]. In spite of the fact that there is a health pandemic, social control over the course of the judiciary must be maintained indeed, thus, justice is truly realized through legal means (due process of law).

'Court Television' can be established by the Court as a means of communication and audio-visual means of communication, by utilizing social media channels through paid or unpaid webinars. Broadcasting the proceedings online must pay attention to the positive and negative impacts of broadcasting the trial online itself.

In providing the facilities and infrastructure for the live broadcast of the trial, it is necessary to have competent human and material resources of the judiciary. For this reason, it is necessary to support funding, technology, and training for court officials through training provided by interested institutions, both from the Supreme Court itself and external parties, such as universities, non-governmental organizations, and the private sector through social responsibility companies, as well as donor agencies that are non-binding. The business world is helped by the process of registering commercial civil cases and commercial case trials electronically in light of the fact that they have the ability to simplify procedures and speed up the implementation of commercial civil courts in a transparent and accountable manner.

The electronic trial process to improve business processes in the private world is always evolving following the development needs of the business world itself along with changes in the business world that take place continuously [12]. Usually the rapid changes in the business sector cannot always be followed by written laws and regulations, therefore it is necessary for the Court to continue to innovate in the development of electronic justice to help provide a fast and modern space for justice with reference to the business world and the general public.

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