

LITIGATION TRANSFORMATION IN LAW ENFORCEMENT EFFORT IN INDONESIA DURING THE COVID-19 PANDEMIC

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Article Info	Abstract
<p>Keyword: covid-19; transformation; e-litigation; new normal</p>	<p>The Covid 19 pandemic has accelerated digitization in all aspects of life. As an effort to deal with its spread, the legal realm has also transformed. The implementation of remote litigations during the Covid-19 pandemic has begun to take effect in line with the government's appeal for Physical/ Social distance. The litigations used the support of the internet network or known as e-litigation. It is nothing new in the world because previously developed countries, such as the United States, have used this method beforehand. The implementation of e-litigation in Indonesia is undoubtedly different from other developed countries that are technologically ready. The implementation of e-litigation is a development of the previously implemented e-court program. This study examined the ins and outs of virtual litigations during the pandemic with all the regulations that assist them. The research used normative and empirical juridical methods that provide explanations so that it can be used as an evaluation of implementation during the pandemic period and towards the new normal era. The secondary data were taken from the primary materials from the regulations that apply during the pandemic and the new normal era. In addition, the secondary materials used were also from journals, books, and other literacy sources. The results of this paper can be used as a reference for further research on the transformation of law enforcement that puts forward the modernization of technology and information in fulfilling justice and social welfare</p>
Article Info	Abstrak
<p>Kata Kunci: sistem hukum pidana; keadilan; kepastian; kemaslahatan</p>	<p>Pandemi Covid-19 mempercepat digitalisasi di segala aspek kehidupan. Sebagai upaya menghentikan penyebarannya, pada ranah hukum juga mengalami sebuah transformasi. Pelaksanaan sidang secara jarak jauh masa pandemi Covid-19 mulai diberlakukan sejalan dengan himbuan pemerintah Physical/Social distancing. Sidang menggunakan bantuan jaringan internet atau disebut dengan e-litigasi. Bukanlah hal yang baru di dunia karena sebelumnya di negara maju seperti Amerika Serikat sudah terlebih dahulu menggunakan metode seperti ini. Pelaksanaan e-litigasi di Indonesia tentunya berbeda dari negara maju lainnya yang telah siap secara teknologi. Pelaksanaan e-litigasi merupakan pengembangan dari program e-court yang telah dilaksanakan sebelumnya. Penelitian ini mengkaji seluk beluk persidangan virtual selama masa pandemi dengan segala regulasi yang mengaturnya. Penelitian dengan menggunakan metode yuridis normatif dan empiris dimaksudkan untuk memberikan penjelasan sehingga bisa dijadikan evaluasi dari pelaksanaan di masa pandemi dan menuju era new normal. Data diambil secara sekunder dengan bahan</p>

primer dari aturan-aturan yg berlaku selama masa pandemi dan era normal baru. Selain itu bahan sekunder juga digunakan seperti jurnal, buku, dan sumber literasi lainnya. Hasil dari tulisan ini dapat dijadikan rujukan penelitian selanjutnya tentang transformasi penegakan hukum yang mengedepankan modernisasi teknologi dan informasi dalam memenuhi keadilan dan kesejahteraan masyarakat.

Introduction

The global outbreak of Covid-19 has accelerated the use of digitalization in all aspects of life. For the problems that cannot be postponed and are related to the public interest, it should be transferred virtually. It cannot wait until the Coronavirus disappears. Even in 2021, there are still many people affected by Corona. Recently, Covid-19 has spread rapidly in Kudus district, Central Java. According to the health minister, the spike in Corona cases was due to the entry of a new variant that came from India called B.1,617. (kompas.com, 2021). The new normal life is making habits in the order of life by remaining disciplined using health protocols. The new normal era does not mean that the Corona outbreak has ended. According to Taufik & Warsono (2020), the new normal can be defined as a condition in which people can return to their routine activities, such as working and worshipping as usual, but with a new design.

In any case, law enforcement must still be implemented. Ariyanti (2019) wrote that law enforcement is a form of obligation carried out by the state as an effort to protect its citizens. This is a form of upholding the values of truth and justice. From this article, it means that during the Covid-19 pandemic and the new normal, everything related to litigations must also be enforced. The postponement of litigations without knowing when the virus outbreak will end causes legal delays for justice prosecutors. Therefore, there must be an effort to innovate the development of a safe litigation model and a predetermined time period.

The resolution of problems through the courts is required to be fast and simple. The principles of justice are simple, fast, and low cost. These three principles are contained in the law, which is also regulated by judicial power so that it shows an important role in upholding these principles in the justice system in Indonesia (Alim, 2011). With the government's appeal to stay at home and physical/social distancing, it will hamper the court's work. From that basis, innovation must be carried out because the legal process for a case in court must be handled as soon as possible. This temporary form of e-litigation is the most appropriate solution. The parties did not come directly to the court, and it suppressed the spread of Covid-19.

The implementation of e-litigation as a complement to e-court, which was carried out several years before the pandemic, is a breakthrough by the Supreme Court in dealing with the global Corona outbreak situation. Justice will continue to run in its handling while obeying the government's program to deal with the pandemic. Indonesia uses the role of technology in the trial, but it also applies in other countries. In Lumbanraja's writing (2020), it can be concluded that America has undergone a change in the litigation method since early 2000. In 1998, the Administrative Office of the United States Courts reported that trials using the video conference model were used by dozens of courts in various states. The virtual litigation was carried out for various purposes, such as: providing witness statements, court examinations by judges, as well as counseling conducted at various different locations.

In this paper, we will discuss the implementation of e-litigation during the pandemic and new normal in Indonesia. In addition, the rules that underlie the implementation of the e-litigation are also analyzed so that even in an epidemic, the community still gets guaranteed law enforcement to create a prosperous life.

Methodology

The research method used was normative juridical. In conducting the research, the authors collected secondary data in primary and secondary legal materials by conducting a literature study.

In addition, interviews were also conducted by the authors on the respondents from the Semarang Prison and the Brebes District Attorney's Office. The interviews were conducted virtually with results which could support primary legal materials.

Discussions

Early implementation of remote litigation

The implementation of virtual/remote litigation in Indonesia has been carried out. In 2002, the South Jakarta District Court conducted remote litigation for the *Buloggate* corruption case. The criminal case litigation was on behalf of the defendant Rahardi Ramelan based on the Letter of Determination Number: 354/Pid.B/2002/PN.South Jakarta. In the agenda for the litigation of witness testimony, B.J. Habibie gave his testimony as a witness conducted remotely from Hamburg, Germany.

The virtual litigation with the other case carried out long before the Covid-19 pandemic was the case of the e-KTP project. Paulus Tannos, President Director of PT Sandipala Arthaputra, was unable to attend the litigation conducted by the Jakarta corruption court. Given these circumstances, the litigation continued to take place in a virtual way to hear the statements delivered by Paulus Tannos from the Maxwell Chamber, Singapore's arbitration building.

The two case examples above illustrate that technology can circumvent direct absenteeism through e-litigation. The success and experience of conducting remote litigations can be further developed more massively. During the new normal period, with a surge in the cases of positive Covid-19 patients that have not subsided, e-litigation can make a litigation model innovation while prioritizing health. In the future, the e-litigation method can also be applied in line with normal (offline) litigations. The variation of the existing litigation model is an effort to carry out law enforcement that is constantly improving for the better and adapting to the times.

The Constitutional Court Regulations, before the Covid-19 world outbreak, also had regulations for accepting case requests conventionally (face to face), electronically/online, and remote examination via video conference. The statement refers to the Regulation of the Constitutional Court Number 18 of 2009 concerning Guidelines for Electronic Filing and Video Conference Examination ("PMK 18/2009"). Various agencies that support each other certainly implement e-litigation achieved smoothly.

e-Court in Indonesia

Before the outbreak of the Coronavirus, the courts were familiar with e-Court. Presenting to realize the efficiency of court administration services, the e-Court system is equipped with various features, such as: e-Filing, e-Payment, e-Summons, and documentation for court documents. With these complete features, it is a form of effectiveness as an effort to simplify the long and winding path of a bureaucracy for justice seekers (Iqbal et al., 2019).

Various legal bases regarding e-Court are:

1. Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2018 concerning the Administration of Cases in Courts Electronically.
2. Decision of the Director-General of the MARI Religious Courts Number 1294/DjA/HK.00.6/SK/05/2018 concerning Instructions for the Implementation of Supreme Court Regulation Number 3 of 2018 concerning Electronic Court Case Administration.
3. Decision of the Chief of the Supreme Court of the Republic of Indonesia Number 122/KMA/SK/VII/2018 concerning Guidelines for the Governance of Registered Users of Court Information System.
4. Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2019 concerning the Administration of Cases and Litigations in Courts Electronically.

5. Decision of the Chief of the Supreme Court of the Republic of Indonesia Number 129/KMA/SK/VIII/2019 concerning Technical Instructions for the Administration of Cases and Litigations in Court Electronically.

From the various legal bases above, it can be seen that the digitalization of the court world in the form of e-Court has been implemented. Then, when the Covid-19 pandemic occurs and enters the new normal period, action is needed for the development of e-litigation.

Pandemic, e-litigation, and law enforcement

It is realized that the Covid-19 outbreak has accelerated the use of technology in all fields. It also affects the modernization of the judiciary. According to Iswantoro (2020), He stated that the Supreme Court could take the right momentum to further develop the application of e-Court and e-Litigation in criminal cases.

The interviews conducted on the respondents who were the Functional Prosecutors at the Brebes District Attorney are as follows:

Author: "Have you ever implemented a virtual litigation in 2020?"

Respondent: "I have. In 2020, there were about 15 virtual litigations that I conducted. The parties remained in court, while the remote ones were virtually the defendants. All parties remained in court while the defendants were from prisons. In court, a room had been prepared for the implementation of e-litigation. In virtual courts that I carried out, we used the zoom meeting platform".

Author: "What are the advantages and disadvantages of implementing e-litigation?"

Respondent: " the advantage was the use of the zoom meeting application, so it was familiar and easy to practice. Meanwhile, the drawback of e-litigation was in the internet network. Sometimes it crashed, and the defendant did not hear the questions from the judge and prosecutor clearly. Suppose the situation is normal again from the Covid outbreak. In that case, it is better to go back to conducting the litigation as usual because, for proof, it is better if the litigation is conducted face to face."

From the interview above, it can be concluded that the litigation is still running during the pandemic, and the use of a virtual trial is the right solution. However, the use of the internet must also have obstacles that several factors can influence. One of them is the internet network. Weather can also have an impact on the good or poor network. In addition, it is the human resource factors that regulate technology as a medium in the implementation of e-litigation.

The other interviews were with the respondents from the Semarang Prison Center. The Prison Center, according to Law Number 12 of 1995, is an institution to carry out guidance for correctional clients. The essence of the interview is as follows:

Author: "During the Covid-19 pandemic until the new normal, have you ever carried out e-litigation?"

Respondent: "During the pandemic, the litigation assistance was carried out online. However, several district courts, such as the Ungaran District Court and the Demak District Court, requested to be offline. This means that they held it offline or face to face. However, for the Demak District Court, we can still ask the prosecutor for help to perform litigation online."

Author: "what platform is used for the implementation of e-litigation?"

Respondent: "For online litigation, each PN uses their respective media/different media, such as teleconferences, zoom meetings, and so forth."

Author: "what are the advantages and disadvantages of virtual/online litigation?"

Respondent: "The advantage is that the litigation can still take place in a timely manner, it does not take a lot of time and money, and it is also more practical. The drawback is that the connection is constrained, and sometimes the sound is unclear or intermittent."

The Supreme Court is one of the institutions that are responsive to Covid-19. The Directorate General of the General Judiciary Agency issued a Circular Letter of the Director-General of the General Judiciary Agency Number 379/DJU/PS.00/3/2020 dated March 27, 2020, which allows criminal case litigations to be conducted remotely or by teleconference. The Supreme Court, the

Prosecutor's Office, and the BAS are included in law enforcement institutions. According to Wahyudi (2012), a justice with good existing regulations in the laws but without the support of good law enforcement officers is just wishful thinking. Apart from the polemic of e-litigation in deciding cases, virtual litigation is an actual implementation as an effort to enforce the law. Law enforcement is an effort to make law in a narrow formal sense as well as a broad material sense, which is used as a guide in behaving in every legal act by the subjects concerned or law enforcement officials who officially have the duties and authorities by law in order to guarantee legal norms that apply in society and the state. (Asshiddiqie, J., 2010). The article confirms that the law enforcers who have duties and authorities, such as prosecutors, judges, or law officials, are obliged to maintain the existing rules. Then, the implementation of e-litigation that is effectively implemented during the Covid-19 pandemic requires higher rules in the legal order of the Republic of Indonesia to be a strong legal basis.

Conclusions

From the explanations above, it can be concluded that the use of e-litigation is the right step so that the enforcement of justice does not drag on. Not only to suppress the high spread of Covid-19, but e-litigation is also in line with the times in the 4.0 era, prioritizing the use of technology in all fields. Apart from the shortcomings of e-litigation, every change will definitely have pros and cons. With the existing weaknesses, it is recommended that a legal umbrella or law regarding e-litigation be made immediately. When the legal rules for conducting e-litigation have been established, the courts under the Supreme Court will no longer hesitate or be awkward in carrying out e-litigation. The most undesirable thing is the time delay in delivering justice. When waiting for the epidemic to end, it will only get uncertain. In addition, according to the authors, the judiciary in Indonesia must be familiar with the application of the litigation using the remote method so that it does not rule out the possibility, such as the cases that have been presented in the discussion, that witnesses can provide statements from other countries. In the end, the use of technology and information that always experiences developments in the implementation of e-litigation must also be accompanied by supporting regulations.

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