

## **A MODERN JUDICIAL SYSTEM IN INDONESIA: LEGAL BREAKTHROUGH OF E-COURT AND E- LEGAL PROCEEDING**

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### **Abstract**

The implementation of court in Indonesia has not fulfilled as expected because any parties involving in court has a lack of capacity, consistency, and integrity to provide legal service seriously. Some people assume that court services are not still optimal. To settle the problems, the Supreme Court just has officially issued Regulation No. 1 of 2019 regarding the Administration of Cases and Legal Proceedings in Courts via Electronic Means on 8 August 2019. This regulation is believed as an appropriate solution to face those problems. To elaborate more, this study illustrates a judicial reform in Indonesia, e-court, and access to justice, the conception of e-court including the performance of e-court and its drawbacks and challenges in the digital era. The research method uses normative research by approaching a legal review and literature study. The technique of primary data collection applies Supreme Court regulation, while means of secondary data are collected from concept or theory as set out under bibliography. Judicial reform in Indonesia is indicated by issuing new regulation regarding e-Court and e-Litigation, the implementation e-Court itself has been attributed to 32 courts consisting of general religious, and state administrative courts. Through e-Court, access to justice more transparent and accessible. Besides, justice seekers have no worries regarding distance issues as e-Court may allow them to fight in court without face to face. Parties have no doubt relating to the acceleration of the court to settle any dispute in Indonesia.

*Kinerja peradilan di Indonesia belum memenuhi harapan masyarakat. Pihak-pihak yang terlibat di pengadilan kurang memiliki kapasitas, konsistensi, dan*

*integritas untuk memberikan layanan hukum secara serius. Beberapa orang beranggapan bahwa layanan pengadilan masih belum optimal. Untuk menyelesaikan masalah tersebut, Mahkamah Agung telah secara resmi mengeluarkan Peraturan No. 1 Tahun 2019 tentang Administrasi Perkara dan Persidangan di Pengadilan secara Elektronik pada tanggal 8 Agustus 2019. Peraturan ini diyakini sebagai solusi yang tepat untuk menghadapi masalah tersebut. Penelitian ini menggambarkan reformasi peradilan di Indonesia, e-Court dan akses terhadap keadilan, konsepsi E-court termasuk kinerja E-court dan kelemahan serta tantangan di era digital. Metode penelitian yang digunakan adalah penelitian normatif dengan pendekatan tinjauan hukum dan studi literatur. Teknik pengumpulan data primer menggunakan peraturan Mahkamah Agung, sedangkan alat data sekunder dikumpulkan dari konsep atau teori sebagaimana diatur dalam daftar pustaka. Reformasi peradilan di Indonesia ditandai dengan adanya peraturan baru terkait e-Court dan e-Litigation. Pelaksanaan e-Court sendiri telah digunakan oleh 32 pengadilan yang terdiri dari peradilan umum, agama, dan administrasi negara. Melalui e-Court, akses kepada keadilan lebih transparan dan mudah dijangkau. Selain itu, pencari keadilan juga tidak perlu mengkhawatirkan masalah jarak karena e-Court memungkinkan mereka untuk bertarung di pengadilan tanpa tatap muka. Para pihak juga tidak perlu meragukan jangka waktu penyelesaian perkara melalui pengadilan karena masyarakat hanya perlu memanfaatkan digital untuk mendaftarkan dan memproses perkaranya.*

**Keywords:** Judicial Reform, Access to Justice, e-Court, e-Legal Proceeding

## Introduction

Improvement of an individual's access to court is not the meaning of access to justice. It should be defined as the capability for people to pursue and procure legal remedies as their legal rights before informal or formal institutions. Compliance with their legal rights must be conducted in line with human rights standards.<sup>1</sup> We can assume that nothing access to justice in the case of marginalized groups, fearing the

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<sup>1</sup> A.H. Monjurul Kabir, *Strengthening Judicial Integrity through Enhanced Access to Justice* (Europe and Central Asia: UNDP, 2013), p. 3.

system. The Justice system is hard to reach financially, including lawyers fee, registration fee, and verdict's execution.<sup>2</sup>

Access to justice must emphasize the accessible legal system that may create fairness for all parties, either for individuals or groups. The legal systems itself comply with social justice and are available for citizens without looking at any social status.<sup>3</sup> The settlement of cases over the Indonesian court has not fulfilled as expected because any parties involving in court have a lack of capacity, consistency, and integrity to provide legal service seriously. One of the bad criteria may be measured by how some people assume that court services are not still optimal. It is indicated by knowing how slowly the settles case, illegal charge, and many delayed cases.<sup>4</sup> Court also forces parties to spend much money to accomplish their case and it is also impartial to settle cases.<sup>5</sup> Besides, it tends to take sides of certain groups, the court decision does not resolve cases and issues new problems instead.<sup>6</sup> This practice is contradicted with the principle states that the justice must be carried out with a simple, fast, and lightweight as governed under Article 2 of Paragraph (4) Law Number 48 of 2009 concerning Judicial Power. These are local justice problems that have to face together. Understanding legal rights for people is that obligation of government should have. This, indeed, needs to concentrates on how people may address their legal rights in a cost-efficient, fair, timely, and effective manner.<sup>7</sup>

Courts are expected that may to keep and cultivate large volumes of information and documents in civil proceedings. Collecting, editing, holding, and delivering this information in the form of paper

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<sup>2</sup> A. H. Monjurul Kabir, *Strengthening Judicial Integrity...*, p. 5.

<sup>3</sup> Sofyan A. Djalil, *Strategi Nasional Akses pada Keadilan 2016-2019*, (Jakarta: BAPPENAS RI, 2009), p. 1.

<sup>4</sup> Basuki Rekso Wibowo, *Pembenahan Administrasi Peradilan* (Jakarta: Pusat Penelitian dan Pengembangan Sistem Hukum Nasional, 2012), p. 80-81.

<sup>5</sup> Mochamad Basarah, "Prospektif Sistem Peradilan di Indonesia", *Jurnal Ilmu Hukum*, vol. 9, no. 3 (2007), p. 262.

<sup>6</sup> Yahya Harahap, *Beberapa Tinjauan mengenai Sistem Peradilan dan Penyelesaian Sengketa*, (Bandung: Citra Aditya, 1997), p. 153.

<sup>7</sup> Elisabetta Foco, *Leveraging the SDGs for Inclusive Growth: Delivering Access to Justice for All* (Paris: OECD, 2016), p. 9.

documents produces considerable cost, is time-consuming, and becoming a barrier for flexibility and timeliness in the running of any disputes. Generally speaking, judiciary, practitioners, and academics may accept it for a pressing need to deliver ‘mess for less’ by ‘digitizing’ the current system. The judiciary must be enabled how we perform cases to make public expectations in line with the settlement ways. It is our turn to grasp the concept of the paperless court. Wasting time and cost in preparing and presenting before court institution seriously unacceptable. In the past, the judiciary and many members of the profession still utilize documents in paper form which facilitates underlining, highlighting, cross-referencing, commenting, etc. Now legal professions do not depend on such thing since we prefer to use the concept of the paperless court. This concept may be helpful for practitioners and judges to settle cases to be more accessible, efficient, less costly, and other hand, this technologically proficient system also reflects the digital era in which people live.<sup>8</sup>

Anne Wallace, in her article entitled “E-Justice: An Australian Perspective” identifies several breakthroughs made by Australian courts, such as the use of Case Management, Judgment Publication and Distribution, Litigation Support, Evidence Presentation, Electronic Courtrooms, Knowledge Management, Video-Conferencing, Transcripts, Electronic Filing, Electronic Search, and E-court systems.<sup>9</sup> Australian court has launched a website; that is, <http://www.austlii.edu.au>. The website is well known and it provides information relating to legal materials for free in Australia for primary public legal information such as laws and court decisions, as well as secondary sources such as journals and legal studies. The High Court of Australia has published on the website official decisions of the court from 1903 until the latest court decisions. These are Special Leave Dispositions, transcripts in trial, and

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<sup>8</sup> Lord Justice Gillen, “Should there be a co-ordination and Review of Court Procedures with a View to Promoting Efficiency within a Digital context?”, *Irish Judicial Studies Journal*, vol. 2, no.1 (2018), p. 77.

<sup>9</sup> Anne Wallace, *E-Justice: An Australian Perspective* (Australia: University of Canberra, 2009), p. 19.

three Bulletins of High Court in 2008, 1994, and 1996 respectively.<sup>10</sup> Moreover, in 1998, Glasgow Caledonian University in Scotland has taught their student to learn procedural law by practicing virtual court action. The virtual court action was developed by utilizing HotDocs an intelligent document assembly application. The HotDocs are connected with standardized word-processing programs; that is, MS Word 6. Lectures from the University ensured their students to know how the virtual court action operated.<sup>11</sup>

In Indonesia, the Supreme Court (SC) just has officially issued Regulation No. 1 of 2019 regarding the Administration of Cases and Legal Proceedings in Courts via Electronic Means (*Regulation 1*) on 8 August 2019. Regulation 1 is believed as an appropriate solution to face local justice problems. Other than that, Regulation 1 is a new legal basis to create a new framework for the implementation of the electronic court (*e-Court*) system. Back to 2018, administration cases in courts have set out under Regulation of the SC No. 3 of 2018 on the Administration of Cases in Courts via Electronic Means (*the Regulation 3*). The Regulation 3 was revoked by Regulation 1 because the Regulation 3 might not provide completely administration of cases in courts.

The Supreme Court wishes that e-Court reduces issues related to the inefficiency of court proceedings in Indonesia, including the issue of slow processes in handling cases, the difficulty of accessing the courts and the poor quality and integrity of the judicial apparatus all of which lead to a reputation for the low quality of the judicial process itself. By using the e-Court system, can connect 910 courts all over Indonesia.<sup>12</sup> The distance is no longer issue to provide quality and modern court services. The modern court cannot be separated from the spirit of modernization in the Supreme Court that is driven by the vision to

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<sup>10</sup> Cerrillo I Martinez Agusti, *E-Justice: Using Information Communication Technologies in the Court System*, (Australia: Hershey, 2009), p. 104.

<sup>11</sup> Karen Barton and Patricia McKellar, "The Virtual Court Action: procedural facilitation in law", *Research in Learning Technology*, vol. 6, no. 1 (1998), p. 89.

<sup>12</sup> Sahira Jati Pratiwi, Steven, and Adinda Destaloka Putri Permatasi, "The Application of e-Court as an Effort to Modernize the Justice Administration in Indonesia: Challenges & Problems" *Indonesian Journal of Advocacy and Legal Services*, vol. 2, no.1 (2020), p. 43.

create the superb Indonesian judicial body through the administration of justice which is simple, fast, and low cost. It has also been carried out by supporting functions of the judiciary such as building the Republic of Indonesia Supreme Court Information System (SIMARI) which includes the Personnel Information System (SIKEP), and the Supreme Court Supervisory Information System of the Republic of Indonesia (SIWAS MA RI).

This study aims to provide how e-Court brings a good impact on the Indonesian court. This research will discuss what component of the e-Court system is, who may become e-Court users, and what legal proceedings may operate. This paper also illustrates what obstacles and challenges may involve during the implementation of e-Court and legal proceedings. This research may involve regulatory and literature review from academic and practitioner perspectives.

### **Judicial Reform in Indonesia**

Reforming the legal framework may increase the quality and timeliness in court processes, including furnishing a constant social milieu within which market activity can thrive, by preserving public order and safety.<sup>13</sup> A primary characteristic of the rights-based on comings is judicial reform projections that concentrate on correcting access to justice and reducing, as well as promoting good governance.<sup>14</sup>

The two models are not necessarily inconsistent; organizations such as the World Bank explicitly incorporate both rationales into their programs, with its concept of ‘inclusive liberalism.’ However, the relationship between them and the extent to which both can be successfully accommodated within judicial strengthening programs is a subject of debate. Some research suggests that even where a bottom-up approach is explicitly mandated in reform agendas and supported by development funding, there will be a tendency to revert. In the implementation of such an initiative, to conventional, ‘top-down’ state-

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<sup>13</sup> David Pogue, “Asia-Pacific Regional Conference, Bogor, Indonesia, 13-16 March 2011: Asia Pacific Conference in Indonesia”, *LACA* (4 October 2011), available on <http://www.iaca.web.id/>, accessed 5 June 2020.

<sup>14</sup> Armytage and Dory Reiling, *Technology for Justice - How Information Technology Can Support Judicial Reform*, (Netherland: Leiden University Press, 2009), p. 6.

centric activities such as ‘developing case management systems, training clerks, renovating court infrastructure and so on.’<sup>15</sup>

Indonesia’s judicial reform process has been gradual and has involved resistance from power holders and its institutional base. As a consequence, quite remarkable change has been achieved in less “sensitive” areas but reform in other areas is sorely lacking. Financial support for the court is not apart of international donors since the court’s budgetary is difficult to predict it. The ongoing involvement of civil society organizations in the reform process could be compromised without such support. Judicial reform may define as a change for legal institutions which is not intended to make a reformation. In contrast, many young judges still have some hopes for such reform. The implementation of judicial reform requires more energy and appropriate strategies. It is also needed support from the public and other institutions.<sup>16</sup>

The Indonesian Supreme Court continuously renew access to justice to fulfill justice seekers’ expectations. In 2018, the Indonesian Supreme Court has been issued Regulation 3 which orientates on the information technology system. Moreover, the implementation of Supreme Court Regulation Number 9 of 2017 regarding Template and the Guidance of Verdict Writing is considered to be able to scale up the acceleration of verdict completion significantly, and generating the verdict is paperless.<sup>17</sup> Implementation of e-Court in public court, religious court, and state administrative court have launched when court accreditation has been delivered on 13 July 2018. Nowadays, the activation of e-Court in those three courts has reached out 100%. Meanwhile, the most registered cases in e-Court fallen to Palembang

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<sup>15</sup> Anne Wallace and Leisha Lister, “Accessing the Courts”, *Canberra Law Review*, vol. 10, no. 2 (2011), p. 32.

<sup>16</sup> Rifqi Assegaf, “20 Years of Judicial Reform: Mission Not Yet Accomplished”, *Indonesia at Melbourne* (27 May 2018), available on <https://indonesiatmelbourne.unimelb.edu.au/20-years-of-judicial-reform-mission-not-accomplished/>, accessed 27 June 2020.

<sup>17</sup> Tim Pokja Laporan Tahunan MARI, “Laporan Tahunan 2018; Era Baru Peradilan Modern berbasis Teknologi Informasi”, ISBN: 978-979-8512-99-5, p. 137.

District Court accounted for 43 cases, Cikarang Religious Court around 46 cases, and the State Administrative Court of Makasar with 15 cases.

### **Creating Transparency and Fairness through e-Court**

Human life recently has changed by coming to the digital era. As of now, people carry out their activities involving tablets, laptops, smartphones, and nay smartwatches. The public not only expects simple access to information but also looks forward it to be prompt, wherever one is located. Refutably, as the last analog profession that it clings to the digital less past are gradually missing their eccentric charm. The justice system must be associated with digital and also, the law profession must not obtain left behind. The advent of the photocopier, email, texting, and our increasing tendency to make communication in written form with each other has fed a propensity to put everything. History will record our current subservience to many papers and it has changed a lot as we already know technology. Sir Brian Leveson, President of the Queen's Bench Division, speaking in 'Modernizing justice through technology' in June 2015 said: *'We cannot go on with this utterly outmoded way of working ... it is a heavy handed, duplicative, inefficient and costly way of doing our work.'*<sup>18</sup>

Many parties may face a barrier to access justice in the legal system. It is indicated by people who live in inaccessible areas including for poor people. Some people make an argument regarding how technology change significantly the justice system and related legal professions. The technology is hoped that may help people to identify and to comprehend each legal obligations and rights. Moreover, the information technologies will increase the capture, continuity, and spread of legal insight and in the end, it will improve access to justice.<sup>19</sup>

In particular, a study has discovered that mediating technologies may be able to reduce costs. It facilitates access to translation services.

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<sup>18</sup> Sir Brian Leveson, "Modernizing Justice through Technology", *the Judicial Office Communications Team* (24 June 2015), available on <https://www.judiciary.uk/announcements/speech-by-president-of-the-queens-bench-division-modernising-justice-through-technology/>, accessed 18 June 2020.

<sup>19</sup> Benjamin H. Barton, "Middle Income Access to Justice", *University of Toronto Law Journal*, vol. 65, no. 4, (2015), p. 436.

Courtroom technologies provide a variety of features such as digital evidence presentation, digital recording, digitization of court records, and filing systems. The study also recognizes many concerns in connection with the process of the court's digitization including privacy issues, the security of information systems, and the impact of video conferencing on the courtroom processes. The impact of video conference contains confronting the witness, assessment of demeanor, and impact on cross-examination. To make it real, we are required to amend rules to cover up technological change.<sup>20</sup>

We need to do this because it is important to follow the change in information technology. Information technology has changed dramatically for the last 15 years and has led to the information revolution. It has imposed an inevitable transformation in every aspect of human lives.<sup>21</sup> Many people think that technology is often assumed as a tool. However, technology is not just a piece of equipment. It needs to consider more nuanced approaches to analyze the consequences of information communication technology in the developing justice system.<sup>22</sup>

One of our concerns is to create a fair trial in the justice system that may escalate transparency of information. Therefore, it may crack convoluted bureaucratic procedures in which all this time, it has become a barrier for people to reach their rights via formal law institutions.<sup>23</sup> The Indonesian Ombudsman has reported that the district court received many complaints from 2014 to 2016. Grievances contained 394 maladministration, 215 delayed cases, 117 of court's incompetence,

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<sup>20</sup> Jane Baily and Jacquelyn Burkell, "Implementing Technology in the Justice Sector: A Canadian Perspective", *Canadian Journal of Law and Technology*, vol. 11, no. 2 (2013), p. 255.

<sup>21</sup> Musa Kayrak, "Information Technology Audit and the Practice of the Turkish Court of Accounts", *Alphanumeric Journal*, vol. 2, no. 1 (2014), p. 14.

<sup>22</sup> Francesco Contini, "Artificial Intelligence and the Transformation of Humans, Law, and Technology Interactions in Judicial Proceedings", *Law, Technology and Humans*, vol. 2, no. 2 (2020), p. 5.

<sup>23</sup> Wim Voermans, "Judicial Transparency Furthering Public Accountability for New Judiciaries", *Utrecht Law Review* (3 May 2007), available on <https://www.utrechtlawreview.org/articles/abstract/10.18352/ulr.42/>, accessed 30 April 2020.

and 115 procedural irregularity.<sup>24</sup> Roadmap of Indonesian judicial reform for 2010 until 2035 focuses on the modern court based on digital law. This reform may support the transparency process with fair and speedy trials. Fair, speedy trials are essential for small enterprises involved in many disputes. Enforcing contracts still become matters of small and medium-size businesses even if they try to evade settling cases by courts. Business disputes that need more time being settled by courts push small firms having strength financial to help them out despites all trial outcomes.<sup>25</sup> Settling any disputes by court efficiently may reduce informality and also improve access to credit as well as increase trade because this has gained a trust from many businessmen, especially for investors.<sup>26</sup>

An e-court is a sequence of services that requires using paper at a minimum from the moment a case is filed until its disposal. With e-courts, information is captured and passed digitally, data exchange is not fragmented and case histories are complete and ready on demand, case management is automated, correspondence is exchanged electronically, fee payments are dealt with through dedicated websites and forms that simplify and streamline court proceedings are available to court users online. Attorneys or other users can file lawsuits electronically. Lawsuits are automatically registered through the electronic case a filing system and then assigned to a judge who can access the corresponding files, organize, and schedule cases and start processing claims.<sup>27</sup>

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<sup>24</sup> Pepy Nofriandi, "Aparatur Peradilan Harus Melayani Dengan Sepenuh Hati", *Mahkamah Agung Republik Indonesia* (28 August 2017), available on <https://mahkamahagung.go.id/id/berita/2688/kma- Aparatur-peradilan-harus-melayani-dengan-sepenuh-hati>, accessed 28 June 2020.

<sup>25</sup> Sri Mulyani Indrawati, *Doing Business 2014: Understanding Regulations for Small and Medium-Size Enterprises* (Washington DC: The World Bank, 2013), p. 15.

<sup>26</sup> Sri Mulyani Indrawati, *Doing Business 2014...*, p. 30.

<sup>27</sup> Sri Mulyani Indrawati, *Doing Business 2014...*, p. 66.

## **The Conception of e-Court**

### **1. Area of e-Court System**

Regulation 1 has extended e-Court system by highlighting the following matters.<sup>28</sup>

- 1) The electronic administration of cases may include:
  - (a) receipting claims, petitions, objections, rebuttals, oppositions or interventions;
  - (b) accepting payments;
  - (c) submitting summonses, response, rejoinders or conclusions;
  - (d) accepting legal remedies; and
  - (e) managing, handling, and keeping case documents.
- 2) E-litigation is defined as a series of examination procedures followed by the handing down of judgments relating to cases that are undertaken by courts. It is also supported by information and communication technologies. The practitioners may run out the e-litigation with the following stages:
  - (a) submission of claims, petitions, objections, rebuttals, oppositions, interventions, and their amendments;
  - (b) submission of answers, replies, rejoinders, and conclusions;
  - (c) inquisitorial process; and
  - (d) issuance of the verdict.

The comparison between Regulation 3 and Regulation 1 can be seen in the complex services provided by Regulation 1. It has accommodated the receipt of payments and legal remedies, as well as e-litigation.<sup>29</sup> Nevertheless, the types of cases are also the same as the types as set out under Regulation 1: that is, civil, religious, military administrative, and administrative cases.<sup>30</sup> Furthermore, Regulation 3 does not require e-Court to be utilized consistently, while Regulation 1 emphasizes that e-Court has to be implemented steadfastly at the

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<sup>28</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases and Legal Proceedings in Courts via Electronic Means, Article 1.

<sup>29</sup> Supreme Court Regulation No. 3 of 2018 regarding the Administration of Cases in Courts via Electronic Means, Article 1 paragraph 5.

<sup>30</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 3.

appeal, cassation, and judicial review if the e-Court system was originally used at the first level of legal proceedings.

## **2. e-Court Users**

The e-Court system may be used by other parties other than advocates at this moment. However, they have to meet some requirements.<sup>31</sup> If the user is an advocate, then he or she has to own:

- 1) a citizenship identity card (*KTP*);
- 2) an attorney membership card; and
- 3) official records of the advocate's oath-taking ceremony.

While others are required to provide the following documents such as:

- 1) an employee identification card/membership card, power of attorney and/or assignment letter from ministries/institutions/business entities if he or she acts on behalf of other parties;
- 2) *KTP*, passport, or other identified documents; and
- 3) a decree issued by the court chairman for incidental legal proceedings which involve familial relationships with prospective users who register through court information system (*SIP*).

All registered users will subject to the terms and conditions of the e-Court system.<sup>32</sup> In case of users violate the terms and conditions, then they may get the following sanctions that may apply sequentially:

- 1) warning;
- 2) temporary suspension of access rights;
- 3) permanent removal of access rights (account deletions); and
- 4) e-court proceedings.

The SC has the authority to verify all registered data, modify data, suspend access rights, and revoke user statuses.<sup>33</sup> The e-Court system

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<sup>31</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 5.

<sup>32</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 6.

<sup>33</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 7.

may be utilized for legal proceedings starting from registering cases to issuing verdicts as reflected under Table 1. Legal Proceedings.

**Table 1.** Legal Proceedings

No	Legal Proceedings	Remarks
1	Registration of cases	<ul style="list-style-type: none"> <li>a. Users may register cases through the SIP.<sup>34</sup></li> <li>b. The registration has to conduct along with a lawsuit and its electronic evidence via the SIP.<sup>35</sup></li> <li>c. The registration requires case payments (<i>panjar perkara</i>) in advance and the payment may transfer to the bank in accordance.<sup>36</sup></li> </ul>
2	Summoning of parties	<ul style="list-style-type: none"> <li>a. Electronic summonses shall deliver to the following parties:<sup>37</sup> <ul style="list-style-type: none"> <li>(1) plaintiffs who involve in online case registrations; and</li> <li>(2) respondents or other parties who have expressly consent to use electronic summon unless for administrative cases.</li> </ul> </li> <li>b. The bailiff has obligation to summon parties in line with each domicile electronically via the SI.<sup>38</sup></li> </ul>
3	E-litigation	<ul style="list-style-type: none"> <li>a. In the case of the mediation process will not reach out to a conclusion, e-litigation will be performed and it still requires consent between claimants and respondents.<sup>39</sup></li> <li>b. The chairman of the judge or judge may explain rights and obligations relating to e-Court at the first trial.<sup>40</sup></li> <li>c. The presiding judge or judge determines the e-litigation schedules for the submission of answers,</li> </ul>

<sup>34</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 8.

<sup>35</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 9.

<sup>36</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 10-12.

<sup>37</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 15.

<sup>38</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 16.

<sup>39</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 20.

<sup>40</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 19.

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		replies, and rejoinders, right up until the handing down of judgments/stipulations. <sup>41</sup>
	d.	The e-Court must be organized by submitting claims, answers, replies, rejoinders, and conclusions, and it must be subject to the following procedures: <sup>42</sup>
		(1) All parties are required to submit electronic documents at least the date and time of the scheduled proceedings. If not, the parties shall be deemed not exercised their right to submit documents; and
		(2) Judges chairman or judges have the rights to forward the submitted electronic documents to the relevant counterparts.
	e.	Third parties have an opportunity to hand over intervention petitions for cases that proceed via the e-Court system and must agree to adhere to the legal proceeding through the e-Court system. <sup>43</sup>
	f.	Inquisitorial hearings, especially to examine witnesses and/or expert witnesses, may carry out via long-distance communication by using audio-visual equipment, as provided by the relevant courts. This process may require approval from each party. Nevertheless, any fees arising of this means may be borne to the relevant claimants. <sup>44</sup>
4	Passing of judgments or stipulations	a. All verdicts or stipulations must be pronounced electronically by judges/presiding judges. <sup>45</sup>
		b. All verdicts or stipulations as set forth the copies version in digital signing must be published via the SIP.

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### **The Performance of e-Court in Indonesia**

SC has appointed 32 Courts of general, religious, and State Administrative courts to carry out trials of e-court implementation with

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<sup>41</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 21.

<sup>42</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 22.

<sup>43</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 23.

<sup>44</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 24.

<sup>45</sup> Supreme Court Regulation No. 1 of 2019 regarding the Administration of Cases ..., Article 26.

the detailed under Table 2. Appointment of Courts regarding the Use of e-Court.<sup>46</sup>

**Table 2.** Appointment of Courts regarding the Use of e-Court

No	Pilot Courts	No	Religious Courts	No	State Administrative Courts
1	Central Jakarta	1	Central Jakarta	1	Jakarta
2	North Jakarta	2	North Jakarta	2	Bandung
3	South Jakarta	3	South Jakarta	3	Serang
4	East Jakarta	4	East Jakarta	4	Denpasar
5	West Jakarta	5	West Jakarta	5	Makassar
6	Tangerang	6	Depok	6	Tanjung Pinang
7	Bekasi	7	Surabaya		
8	Bandung	8	Denpasar		
9	Karawang	9	Medan		
10	Surabaya				
11	Sidoarjo				
12	Medan				
13	Makassar				
14	Semarang				
15	Surakarta State				
16	Palembang State				
17	Metro State				

By using electronic e-summons, we do not need to make such *relaas* to guide disputed parties to court. It reduces cost and eliminates delegation procedures for the parties that have disparate jurisdictions. In the end, the figure keeps the cost to be minimum. The Annual Report of SC illustrates 907 cases submitted to e-Court containing 445 cases for general issues, 422 cases for religious matters, and 20 cases for administrative problems. In the course of 2018, SC has completed 17,638 cases by utilizing E-court. SC has reported the number of cases submitting to e-Court around 18,544 cases containing 17,156 cases and remained ones about 1,388 disputes in 2018 and 2017 respectively. The number of cases that have been settled on time reaches out 96,33% with the detail; 26,922 of 17,638 cases within 1-3 months averagely. To sum up, 3,67% of cases has accomplished more than 3 months as of the

<sup>46</sup> Kukuh Santiadi, "Expanding Access to Justice Through E-Court in Indonesia" *Prophetic Law Review*, vol. 1, issue. 1 (2019), p. 80.

disputed parties file the cases. SC, indeed, has surpassed its own target; that is 75% of cases must be settled on time.<sup>47</sup>

If we put the settlement of cases in order, then the number of registered cases has increased by 10.65% in 2017. These are followed by the cost of cases administration improving around 3.82% and these settlements go up 7.07% while the number of remaining cases diminished 34.73%. It has changed as of 2018 SC using e-Court. That year is the smallest amount of remaining cases during the track record of SC. Back in 2012, the amount of remaining cases is 10,112 that has settled by SC around 9.206 cases. The ratio of settling those cases was raised around 95.15% in 2018. It equals to improve 92.23% in the year 2017. At the end of 2018, SC has declared that the e-Court number users have escalated until 11,224, together with an increasing number of cases using e-Court accounted for 389 cases for general issues, 289 cases for religious matters, and 17 cases for administrative problems. Hence, the total number of cases registered to e-Court reaching out to 695 cases.<sup>48</sup>

### **Drawbacks and Challenges in the Digital Era**

The development of information technology in industrial revolution 4.0 shows that the law seems to move slowly and it can be said that the law has difficulty keeping up with these developments. Meanwhile, as mandated in the constitution, Indonesia is a country based on law. As a consequence, law plays an important role in the survival of the nation and state. Technological advances in the Industrial Revolution 4.0 era have changed the way people in the digital age interact with one another. This fact not only forces regulators to change their approach, legal professionals and law enforcement officials must also adapt. There are 3 reasons why legal professionals and law enforcement officials must be able to adapt, namely the presence of artificial intelligence, the commodification of law, and the increasingly easy communication. Artificial intelligence is a program design that allows computers to do a task or make decisions by imitating a way of

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<sup>47</sup> Kukuh Santiadi, *Expanding Access to...*, p. 81.

<sup>48</sup> Kukuh Santiadi, *Expanding Access to...*, p. 83.

thinking and human reasoning. Artificial intelligence or intelligence that is added to a system that can be arranged in a scientific context. In the context of the application of electronic courts in Indonesia, law enforcement officials and justice seekers must adapt to the new system. The following are the challenges and problems in implementing the electronic court.<sup>49</sup>

E-Court system still has some drawbacks, either in terms of technical or substantive barriers. The major concern is inadequate internet network access for many isolated areas of Indonesia. According to data from the National Development Planning Board<sup>50</sup>, throughout Indonesia, 4,474 villages have no internet access.<sup>51</sup> These villages are mostly underdeveloped, close to borders, and located at the outer edges of the Indonesian archipelago. The solution is to build an internet network for those areas. Once the matter is settled, we face another problem; that is knowledge of court employees and the mindset of the internal or external parties of the court to take the initiative and be willing to make routine changes from the status quo to more modern ways of doing things.

Notwithstanding, the e-Court was trialed gradually in 32 first-tier courts throughout Indonesia, the Director-General of the General Judiciary Body through Circular Letter No. 4 of 2019 concerning Obligations to Register Civil Cases through e-Court now requires 56 courts under the Supreme Court to implement e-court. This SEMA applies to all District Courts of Special Class 1A, Class 1A, and all District Courts (PN) in the Banten High Court (PT) Territory, PT Jakarta, PT Bandung, PT Semarang, PT Yogyakarta, and PT Surabaya. These 56 PN's in all PTs are required to use e-court since the issuance of this SEMA on June 10, 2019. Meanwhile, the policy implementation in the religious court (PA) includes the Religious Courts of Central Jakarta, North Jakarta, South Jakarta, East Jakarta, West Jakarta, Depok,

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<sup>49</sup> Sahira Jati Pratiwi, Steven, and Adinda Destaloka Putri Permatasi, *The Application of e-Court...*, p. 48.

<sup>50</sup> Badan Perencanaan Pembangunan Nasional, *Rencana Pembangunan Jangka Menengah Nasional 2020-2024* (Jakarta: Kementerian Perencanaan Pembangunan Nasional, 2019), p. 163.

<sup>51</sup> Kukuh Santiadi, *Expanding Access to...*, p. 82.

Surabaya, Denpasar, and Medan. The application of SEMA in State Administrative Courts (TUN) includes PTUN Jakarta, PTUN Bandung, PTUN Serang, PTUN Denpasar, PTUN Makassar, and PTUN Tanjung Pinang.<sup>52</sup>

Moreover, many defendants may not let themselves become easier to be sued. They do not provide approval as the first requirement to continue e-litigation. Therefore, the process of the legal proceeding may be obstructed. E-Court may encourage the parties to disclose their confidential information as legal documents contains such information. Nothing guarantees an external electronic system may keep data security. Moreover, some lawyers may reject the request of taking e-court in the courtroom. This system may decrease lawyers' income because e-litigation will cut off accommodation and transportation processes in which those can be attorneys' earnings. However, these potential barricades can be accomplished by SC In the future. E-Court may bring efficiency and transparency to the litigation process especially savings in terms of time and money. Furthermore, the geographical distance has been handled by this e-Court system in that the parties no need to get in touch face to face to settle their case. E-Court has made close access to justice indirectly.

## **Conclusion**

Electronic Court is a court instrument as a form of service to the community in terms of online case registration, online payment, sending trial documents (replicas, duplicates, conclusions, answers) and online summons. E-Court is also an answer to the complaints of justice seekers and law enforcement officials because the court proceedings are faster, more transparent, and will significantly reduce judicial costs. The implementation of e-Court is regulated Regulation 1 as completion of Regulation 3. This completion is expected to result in the implementation of law enforcement which gives satisfaction to justice seekers.

This application has a positive impact on justice in Indonesia. With this application, meetings between litigants and court employees are

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<sup>52</sup> Kuku Santiadi, *Expanding Access to...*, p. 84.

limited to minimize the bribery crime that has been rife in the courts. The application of e-Court can also minimize deficiencies in the judicial process in Indonesia, such as acts of harassment of the court (Contempt of court). The application of e-Court is a good step to modernize the administration of justice in Indonesia. However, there are still many challenges and problems that must be faced. The government and law enforcement officials must take appropriate steps to provide understanding to the public and legal professionals regarding the use of e-Court. To be clear, SC may conduct socialization regarding how to apply e-Court and electronic legal proceedings for all involved parties. This may reduce miss-communication and inappropriate operations conducted by the parties. Furthermore, the Government is required to eliminate the requirement of consent in using electronic legal proceedings. The judge may provide a choice for involved parties to use electronic legal proceedings or not. If one of the parties reject to use electronic legal proceeding, then the case may be settled through the conventional method. This means that electronic legal proceedings shall be useless if the Government does not eliminate the consent's requirement. Last but not least, the Government is recommended to issue new provisions regarding civil procedures law in connection with e-Court and electronic legal proceedings. This is because those still referred to HIR/Rbg as the legal basis of civil procedures law.

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