

POLITICAL DIRECTION OF DIGITAL TRANSFORMATION LAW IN THE CRIMINAL JUSTICE SYSTEM (E-LITIGATION) TO REALIZE THE PRINCIPLES OF SIMPLE, FAST, AND LOW-COST JUSTICE

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Abstract

Digital transformation in the criminal justice system is a necessity along with the increasingly massive development of information and communication technology. One of the concrete forms of this transformation is the implementation of the e-litigation system in the criminal justice process. The presence of e-litigation is not only interpreted as an administrative technical innovation, but also as a manifestation of the political direction of national law in building an effective, efficient, and fair judicial system. This article aims to analyze the political direction of digital transformation in the criminal justice system in Indonesia and examine its relevance to the principles of simple, fast, and low-cost justice. This research uses normative juridical methods with legislative, conceptual, and historical approaches. The results of the study show that the implementation of e-litigation in the criminal justice system is a form of progressive legal policy that aims to strengthen access to justice, increase transparency, and reduce structural barriers in the criminal law enforcement process. However, the effectiveness of e-litigation still faces various challenges, both in terms of regulations, the readiness of law enforcement officials, and the technology gap in society. Keywords: Legal politics, digital transformation, e-litigation, criminal justice, judicial principles.

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A. INTRODUCTION

The criminal justice system is one of the main instruments of the state of law in ensuring the upholding of the rule of law and the protection of human rights. Within the framework of the state of law (*rechtstaat*), the implementation of criminal justice is not only aimed at imposing sanctions on the perpetrators of criminal acts, but also ensures that the entire law enforcement process runs in accordance with the law and upholds substantive justice.¹

In practice, the criminal justice system in Indonesia still faces various structural and cultural problems, including protracted trial processes, high case costs, and limited public access to judicial institutions. This condition is contrary to the principles of simple, fast, and low-cost justice as affirmed in Law Number 48 of 2009 concerning Judicial Power.²

The development of digital technology presents a strategic opportunity to reform the criminal justice system. Digitization of the judiciary through the application of e-litigation is

¹ Sudikno Mertokusumo, *Hukum Acara Pidana Indonesia* (Yogyakarta: Liberty, 2010) : 3.

² Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power

seen as one of the solutions to overcome these classic problems. Nevertheless, the application of e-litigation in criminal justice cannot be separated from the political direction of national law that determines how the law is formed, applied, and directed to achieve a specific goal.³

The development of digital technology has brought fundamental changes in various aspects of human life, including in the field of law and the judicial system. The criminal justice system, which has been known for formal, bureaucratic, and high-cost procedures, is required to adapt to the dynamics of the digital society. These demands are not only pragmatic, but also normative, considering that the constitution and laws and regulations affirm the importance of a judiciary that upholds the principles of simplicity, speed, and low cost.

In the Indonesian context, the Supreme Court as the holder of judicial power⁴ has taken progressive steps through the digitalization of the judiciary, one of which is by developing an e-court and e-litigation system. Initially, e-litigation was more applied in the civil justice and state administration environment. However, in its development, the concept of e-litigation began to penetrate into the realm of criminal justice, especially through electronic trials, remote witness examinations, and the use of electronic documents as evidence. Digital transformation in the criminal justice system cannot be separated from the direction of national legal politics. The politics of law determines how laws are formed, applied, and directed to achieve state goals. Therefore, the application of e-litigation in criminal justice must be understood as part of a legal policy strategy to realize a modern, effective, and socially just justice system.

B. RESEARCH METHODS

The research method used in this article is a normative juridical legal research method, which focuses on the study of legal norms related to digital transformation in the criminal justice system, especially through the application of e-litigation in order to realize the principles of simple, fast, and low-cost justice. The approaches used include the statute approach and the conceptual approach. The legislative approach is carried out by examining various relevant laws and regulations, such as Law Number 48 of 2009 concerning Judicial Power, Law Number 8 of 1981 concerning the Criminal Procedure Code, and Supreme Court Regulation Number 1 of 2019 concerning Case Administration and Trials in Electronic Courts which is the basis for the implementation of an electronic-based judicial system. Meanwhile, a conceptual approach is used to analyze doctrines and theories regarding legal politics, judicial digitalization, as well as

³ Moh. Mahfud MD, *Politik Hukum di Indonesia* (Jakarta: Rajawali Pers, 2017) : 8

the principles of simple, fast, and low-cost justice in the criminal justice system. The types and sources of legal materials used include primary legal materials in the form of laws and regulations and court decisions, secondary legal materials in the form of books, scientific journals, and relevant research results, as well as tertiary legal materials such as legal dictionaries and encyclopedias. The technique of collecting legal materials is carried out through library research, which is then analyzed qualitatively using descriptive-analytical analysis methods to obtain a comprehensive understanding of the political direction of the legal transformation of digital transformation in the criminal justice system through the e-litigation mechanism.

C. RESULTS AND DISCUSSION

1. Digital Transformation in the Judicial System

Digital transformation in the judicial system cannot be interpreted solely as the use of information technology, but as a paradigm shift in the administration of judicial power. Jimly Asshiddiqie emphasized that the modern state of law is required to develop an efficient, transparent, and accountable judicial system.⁶ Digitization of the judiciary is part of these efforts. In the criminal justice system, digital transformation includes the use of case information systems, electronic trials, remote witness examinations, and electronic document management. However, all of these innovations must still ensure the protection of the rights of the defendant and the principle of due process of law.⁴

E-litigation is a case resolution mechanism through an electronic system that includes case registration, document exchange, and online trials. This concept is basically a form of adaptation of the judicial system to the development of information technology.⁵ In criminal justice, e-litigation must still guarantee the principles of due process of law and the protection of human rights.

2. The Legal Political Direction of Digital Transformation in Criminal Justice

The political direction of digital transformation in criminal justice in Indonesia can be traced systematically through legislative policies and judicial regulations that reflect the will of the state in building a modern justice system. Legal politics in this context is not only understood as a technical policy for the use of technology, but also as a strategic choice of

⁴ Andi Hamzah, *Hukum Acara Pidana Indonesia* (Jakarta: Sinar Grafika, 2015) : 45

⁵ Sudikno Mertokusumo, *Op.Cit* : 45.

the state (legal policy) in directing legal development to be responsive to social dynamics and information technology developments. Digital transformation is thus part of the judicial reform agenda that is structural and long-term.⁶

Normatively, Law Number 48 of 2009 concerning Judicial Power affirms the principles of simple, fast, and low-cost justice as the basic principles of the administration of justice. This principle means that the state is obliged to provide justice that is easily accessible, time-efficient, and does not burden justice seekers. From a legal political perspective, the principle serves as a normative mandate that provides legitimacy for the development of an electronic-based justice system, including e-litigation, as a means to realize the effectiveness and efficiency of criminal justice.

The Supreme Court as the holder of judicial power has shown a progressive legal political direction through the issuance of various Supreme Court Regulations regarding the administration and electronic trials. This policy reflects a paradigm shift from a conventional judiciary to an information technology-based judiciary.

Although e-litigation regulations in the early stages are more focused on civil cases and state administration, the spirit of digital transformation that it carries is conceptually relevant to be applied in criminal justice with adjustments that take into account the characteristics of criminal law.⁷ In criminal justice, the political direction of digital transformation must be placed carefully considering the nature of criminal law that is directly related to the restriction of human rights and the public interest. Therefore, the adoption of e-litigation in criminal justice cannot be carried out uniformly (one size fits all), but must be gradual, selective, and measurable. This approach reflects the prudence of the country's legal politics so that judicial modernization does not compromise the principle of due process of law and the guarantee of protection of the rights of suspects or defendants.⁸

From a legal political perspective, the application of e-litigation in criminal justice is a legal policy oriented towards increasing the effectiveness and efficiency of the justice system. Effectiveness is interpreted as the ability of the criminal justice system to resolve cases in a timely and quality manner, while efficiency is related to the optimization of judicial resources, both in terms of time, cost, and administration. Within this framework, e-litigation

⁶ Moh. Mahfud MD, *Op.Cit.*: 8–9.

⁷ Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, (Jakarta: Rajawali Pers, 2018) : 314.

⁸ M. Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP*, (Jakarta: Sinar Grafika, 2016) : 105.

is positioned as a policy instrument to address classic criminal justice problems, such as the accumulation of cases and convoluted bureaucratic procedures.⁹

Furthermore, the political direction of digital transformation in criminal justice also reflects the state's commitment to expanding access to justice. The use of information technology allows justice seekers to obtain easier, faster, and more transparent judicial services. In this context, e-litigation not only serves as a tool for internal efficiency of judicial institutions, but also as a means of fulfilling citizens' constitutional rights to obtain fair and equal justice before the law.¹⁰ Thus, the legal political direction of digital transformation in criminal justice must be understood as an integration between the goals of judicial modernization, the effectiveness of law enforcement, and the protection of human rights. E-litigation in criminal justice is not just a technical innovation, but a manifestation of the country's legal political choices in building an adaptive, fair, and public-interest-oriented criminal justice system. The success of digital transformation is highly dependent on the consistency of legal policies, institutional readiness, and the state's commitment to ensuring the principle of the rule of law substantially.¹¹

3. E-litigation and the principles of justice are simple, fast, and low cost

The application of e-litigation has a direct correlation with the principles of simple justice. The administrative and trial process that is carried out electronically is able to simplify procedures that have been formalistic and bureaucratic.¹² In terms of speed, e-litigation allows the acceleration of the case investigation process through the use of remote communication technology, especially in the examination of witnesses and experts. This is in line with the purpose of criminal justice to provide legal certainty in a timely manner.

E-litigation is a case resolution mechanism through the use of an electronic system that covers all stages of the litigation process, from case registration, exchange of legal documents, to the implementation of online trials. In a more substantive sense, e-litigation not only represents the use of information technology in judicial administration, but also reflects a paradigm shift in the administration of judicial power towards a modern judicial system that is efficient, transparent, and oriented towards public services.¹³

⁹ Sudikno Mertokusumo, *Hukum Acara Pidana Indonesia*, (Yogyakarta: Liberty, 2010) : 12.

¹⁰ Satjipto Rahardjo, *Hukum Progresif: Hukum yang Membebaskan* (Jakarta: Kompas, 2009) : 57.

¹¹ Barda Nawawi Arief, *Kebijakan Hukum Pidana* (Jakarta: Kencana, 2014) : 89.

¹² M. Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP* (Jakarta: Sinar Grafika, 2016) : 98.

¹³ Jimly Asshiddiqie, *Op.Cit* : 312.

Conceptually, e-litigation is a form of adaptation of the judicial system to the development of information and communication technology that has changed the pattern of social, economic, and government interactions. In a modern legal country, the law is required to be responsive to the dynamics of society in order to remain relevant and effective in carrying out its function as a means of social control and protection of citizens' rights. Therefore, the digitization of the judiciary through e-litigation can be understood as an institutional response to technology-based social change.¹⁴ In the criminal justice system, the concept of e-litigation has different characteristics compared to civil courts or state administration. This is due to the repressive nature of criminal law, directly related to the restriction of human rights, and involving a broad public interest. Therefore, the application of e-litigation in criminal justice cannot be equated *mutatis mutandis* with non-criminal justice, but must be designed more strictly by paying attention to the fundamental principles of criminal procedural law.

The principle of due process of law is the main foundation in the implementation of criminal justice, which requires that each stage of the judicial process be carried out in a fair, transparent manner, and guarantee the rights of suspects or defendants. In the context of e-litigation, this principle requires a guarantee that the use of electronic systems does not reduce the defendant's right to defend himself, obtain legal assistance, present witnesses, and submit evidence freely and equally before the court.¹⁵

Furthermore, the implementation of e-litigation in criminal justice must also be placed within the framework of human rights protection. The right to a fair trial is part of human rights guaranteed in both national and international legal instruments. Therefore, any technological innovation in the criminal justice process must ensure that there is no reduction in the substance of human rights in the name of efficiency or acceleration of the judicial process.¹⁶

The concept of e-litigation is also closely related to the principles of simple, fast, and low-cost justice as stipulated in Law Number 48 of 2009 concerning Judicial Power. The use of electronic systems in criminal trials has the potential to simplify litigation procedures, speed up the examination process, and reduce costs that must be borne by the parties. However,

¹⁴ Satjipto Rahardjo, *Hukum dan Perubahan Sosial* (Bandung: Alumni, 2009) : 45.

¹⁵ M. Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP* (Jakarta: Sinar Grafika, 2016) : 98.

¹⁶ Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana* (Jakarta: Kencana, 2014) : 56.

the achievement of these principles must be balanced with the quality of case investigations and the guarantee of substantive justice.

From a legal political perspective, e-litigation in criminal justice is part of a national legal policy oriented towards modernizing the judicial system. This policy reflects the state's desire to build a judicial system that is adaptive to technological developments while strengthening the legitimacy and public trust in the judiciary. In this context, e-litigation serves not only as a technical instrument, but also as a means of structural reform in the national legal system.¹⁷

Thus, the concept of e-litigation in criminal justice must be understood as an integration between the technological dimension, the criminal procedural law dimension, and the human rights dimension. The ideal e-litigation is one that is able to improve efficiency and access to justice without overriding the principles of the rule of law, due process of law, and the protection of human rights. It is within this framework that e-litigation can function as a strategic instrument in the reform of the criminal justice system in Indonesia.¹⁸ The principle of low costs can also be realized through e-litigation because of the reduction in transportation, administration, and time costs that must be spent by the parties. Thus, e-litigation has the potential to expand public access to justice without sacrificing the quality of case investigations.¹⁹

4. Challenges and Prospects of E-Litigation in Criminal Justice

The main challenges in implementing e-litigation in criminal justice include the readiness of technological infrastructure, the quality of human resources of law enforcement officials, and the guarantee of human rights protection. In addition, the digital divide in society is also a factor that needs to be considered so that e-litigation does not cause new injustices.²⁰ The implementation of e-litigation in the criminal justice system faces serious challenges from the aspect of technological infrastructure readiness. Uneven information technology infrastructure, both between regions and between law enforcement agencies, has the potential to cause inequality in access to and quality of judicial services. In the context of criminal justice, network instability, hardware limitations, and suboptimal cybersecurity

¹⁷ Moh. Mahfud MD, *Politik Hukum di Indonesia* (Jakarta: Rajawali Pers, 2017) : 15.

¹⁸ Sudikno Mertokusumo, *Hukum Acara Pidana Indonesia* (Yogyakarta: Liberty, 2010) : 7.

¹⁹ Jimly Asshiddiqie, *Peradilan Konstitusi* (Jakarta: Konstitusi Press, 2011) : 210.

²⁰ Barda Nawawi Arief, *Kebijakan Hukum Pidana* (Jakarta: Kencana, 2014) : 77.

systems can have a direct impact on the legitimacy of the trial process and the legitimacy of court decisions.²¹

In addition to the infrastructure aspect, another crucial challenge lies in the quality and readiness of human resources of law enforcement officials. Judges, prosecutors, legal advisors, and other judicial officers are required not only to understand the criminal procedural law normatively, but also to have adequate digital literacy. Without sustained capacity building, litigation risks being reduced to mere administrative formalities without being able to substantively improve the quality of criminal law enforcement.²²

An equally important challenge relates to ensuring the protection of human rights, especially the rights of suspects and defendants. In criminal justice, any use of technology must be proportionate so as not to diminish the right to self-defense, the right to communicate effectively with legal counsel, and the right to a fair and impartial trial of cases. Therefore, the application of e-litigation must be strictly monitored so as not to cause mechanistic judicial practices and ignore the humanitarian dimension in criminal law.

Furthermore, e-litigation also faces challenges in the form of a digital divide in society. Not all parties dealing with the criminal justice system have equal access and ability to use information technology. This condition has the potential to cause new injustices, especially for vulnerable groups, such as people in remote areas, weak economic groups, and those who have limited digital literacy.

From a regulatory perspective, the challenge of e-litigation lies in the lack of a comprehensive and harmonious legal framework in criminal justice. Existing e-litigation regulations are still sectoral and have not explicitly regulated all stages of criminal procedure law. The absence of clear arrangements has the potential to cause differences in interpretation and legal uncertainty in the practice of electronic trials.

Despite these challenges, the prospects for the development of e-litigation in criminal justice are huge. Conceptually, e-litigation has the potential to improve the efficiency of the criminal justice system through simplifying procedures, accelerating the examination process, and optimizing case administration management. Thus, e-litigation can be a

²¹ Jimly Asshiddiqie, *Perkembangan dan Konsolidasi Lembaga Negara Pasca Reformasi* (Jakarta: Konstitusi Press, 2019) : 287.

²² Moh. Mahfud MD, *Membangun Politik Hukum, Menegakkan Konstitusi* (Jakarta: Rajawali Pers, 2012), : 145.

strategic instrument in realizing the principles of simple, fast, and low-cost justice more effectively.

In addition, e-litigation has the potential to strengthen the transparency and accountability of criminal justice. Digitally documented trial processes allow for broader public scrutiny of the performance of the judiciary. In the long run, this can increase public trust in the criminal justice system and strengthen the legitimacy of judicial power.

From a legal political point of view, the development of e-litigation reflects the direction of national legal policy oriented towards the modernization of the judicial system. The state through judicial power is required to build a criminal justice system that is adaptive to technological developments without sacrificing the principles of the rule of law and the protection of human rights. In this context, e-litigation should be positioned as part of the structural reform of the criminal justice system, not just a short-term technical innovation.³⁵ With the strengthening of comprehensive regulations, the increase in the capacity of law enforcement apparatus, and the equitable distribution of access to information technology, e-litigation has the prospect of becoming a major pillar of the modern criminal justice system in Indonesia. E-litigation designed and implemented proportionately can bridge the demands of judicial efficiency with the state's obligation to guarantee substantive justice and the protection of human rights.

D. CONCLUSION

The conclusion of this study shows that the political direction of digital transformation in the criminal justice system through the implementation of e-litigation is a strategic step in realizing the principles of simple, fast, and low-cost justice. Digitizing the case and trial administration process provides easy access, increases time efficiency, and reduces costs that must be borne by justice seekers. The policy is in line with the principle of the administration of judicial power as stipulated in Law Number 48 of 2009 concerning Judicial Power which emphasizes the importance of effectiveness and efficiency in the judicial process. In addition, the implementation of electronic trials regulated in Supreme Court Regulation Number 1 of 2019 concerning Case Administration and Trials in Courts Electronically shows the commitment of judicial institutions in adapting to the development of information technology in the digital era. However, the success of the digital transformation still requires strengthening regulations, the readiness of technological infrastructure, and increasing the capacity of human

resources so that the implementation of e-litigation in the criminal justice system can run optimally, ensure legal certainty, and maintain the principle of justice for all parties to the case.

E. RECOMMENDATIONS

Policymakers and judicial institutions, especially the Supreme Court and lawmakers, are advised to strengthen the political direction of digital transformation in the criminal justice system through the establishment of more comprehensive and explicit regulations regulating criminal e-litigation. At the implementation level, it is recommended that the implementation of e-litigation in criminal justice be accompanied by increasing the capacity and professionalism of law enforcement officials through education and continuous training in the field of criminal procedural law and information technology. In the perspective of future development, it is suggested that the government and judicial institutions make efforts to equitably distribute technology infrastructure and digital access, especially for people in disadvantaged areas and vulnerable groups. In addition, periodic evaluations of the application of e-litigation in criminal justice are needed to identify empirical challenges and formulate appropriate corrective policies.

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