

DIGITAL JUSTICE AND THE FUTURE OF CIVIL MEDIATION: A NORMATIVE ANALYSIS OF THE RECOGNITION OF ELECTRONIC MEDIATION AGREEMENTS

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Citation: Saur Oloan Hamonangan Situngkir., Binsar Jon Vic. Digital Justice And The Future Of Civil Mediation: A Normative Analysis Of The Recognition Of Electronic Mediation Agreements. *MALA IN SE: Jurnal Hukum Pidana, Kriminologi dan Viktimologi* 3.1.2026. 144-154

Submitted:02-01-2026 **Revised:**01-03-2026 **Accepted:**01-04-2026

Abstract

The development of information technology has encouraged the transformation of the justice system towards the concept of digital justice, which utilizes digital technology to improve efficiency, transparency, and access to justice. In the context of civil dispute resolution in Indonesia, this transformation has encouraged the emergence of electronic mediation practices, which are the mediation process carried out through digital media. However, these developments raise legal issues related to the position and legal recognition of mediation agreements made electronically, especially regarding their evidentiary and executory power in the civil procedure law system. This research aims to analyse the concept of digital justice in civil mediation, examine the legal position of electronic mediation agreements in the civil law system, and formulate a model for legal recognition of these agreements in the judicial system. This research uses normative legal research methods with a legislative and conceptual approach through literature studies on relevant laws and regulations, books, and scientific journal articles. The results of the study show that electronic mediation agreements in principle meet the legal requirements of the agreement and can be recognized as legal documents based on the provisions regarding electronic documents, but there is still uncertainty about its executory power. Therefore, a legal recognition model is needed that integrates electronic mediation agreements with the digital justice system through registration, verification, and ratification mechanisms by the courts so that it can obtain the status of an electronic peace deed.

Keyword: digital justice; electronic mediation; settlement agreement

A. INTRODUCTION

The development of information and communication technology has brought significant changes in various aspects of people's lives, including in the dispute resolution system. Digital transformation not only affects the economic sector and public administration, but also drives a paradigm shift in the judicial system that is the foundation of public governance, ensuring the protection of rights, dispute resolution, and law enforcement. Digital transformation in the legal field has given rise to the concept of digital justice that utilizes digital technology in the judicial process to improve efficiency, transparency, and access to justice. This concept is developing in line with efforts to modernize judicial institutions in various countries, including Indonesia, which face the challenge of increasing the number of cases and the need of the public for fast, effective, and low-cost dispute resolution.

In the Indonesian legal system, the settlement of civil disputes is traditionally carried out through a litigation process in court. However, the litigation process is often considered to be time-consuming, costly, and procedural. Therefore, various alternative dispute resolution

mechanisms are developed as a means to resolve disputes more efficiently. One of the most widely used alternative forms of dispute resolution is mediation. Mediation is the process of resolving disputes through negotiations between parties with the help of a neutral third party, namely a mediator, to find a mutual agreement. The mediator is not authorized to decide the dispute, but only assists the parties in the process of resolving the problems authorized to him (Umam 2010).

Mediation has become an integral part of the civil justice system in Indonesia. Mediation is seen as an important instrument in realizing the principle of simple, fast, and low-cost justice so that it must be taken during the trial process. Mediation has a strategic role in the judicial system because it is able to provide more flexible solutions and allows the parties to maintain social relations after the dispute is resolved. Mediation is a dispute resolution mechanism that emphasizes deliberation and agreement between the parties so that it can produce a more sustainable solution than a court decision (Rahmadi 2017).

Along with the development of digital technology, the practice of mediation has also undergone a transformation. If at first mediation was carried out face-to-face in the court's mediation room, then the development of information technology allows the mediation process to be carried out through electronic media. This practice is known as electronic mediation that utilizes digital communication technologies such as video conferencing, online platforms, or electronic dispute resolution systems. The transformation towards a digital-based dispute resolution system has gained momentum since the COVID-19 pandemic in 2020. Restrictions on face-to-face activities have encouraged judicial institutions in various countries to develop electronic justice systems. Digitization of the judiciary is an important step in reforming the justice system because it can improve the efficiency of the judicial process and expand public access to justice. The use of information technology in the judicial system is an unavoidable need in the era of digital society. The Supreme Court's initiatives, such as the launch of the e-court system and e-litigation, mark significant progress in this domain (Judijanto, et al. 2024) which allows the case administration process and trial to be carried out electronically.

This development indirectly opens up opportunities for the application of electronic mediation in civil dispute resolution. In fact, through electronic mediation, the parties can negotiate without having to be physically present in court, so that the dispute resolution process becomes more flexible and efficient, especially if the parties are in different geographical locations so that they can still participate in the mediation process. Electronic mediation is still

considered to raise a number of legal problems, especially related to the legal status of mediation agreements made electronically.

In Indonesia's civil law system, agreements reached through mediation in court are usually in the form of a peace deed (*akta van dading*) which has the same legal force as a court decision that has permanent legal force. The peace deed has executory power so that it can be implemented if one of the parties does not implement the content of the agreement. Problems arise when mediation agreements are made electronically through an online mediation process, which raises the question of whether electronic mediation agreements have the same legal status as peace deeds made in conventional mediation processes. In addition, there are also questions about the power of proof of electronic documents and the validity of electronic signatures in mediation agreements.

Normatively, the recognition of electronic documents has actually been regulated in the Law on Information and Electronic Transactions. The law states that electronic information and/or electronic documents can be used as valid legal evidence as long as they meet certain requirements. However, these regulations are more related to electronic transactions in the field of trade or digital economy activities. The regulation has not specifically regulated the position of electronic mediation agreements in the context of civil procedure law. In addition, even though Supreme Court Regulation Number 3 of 2022 concerning Mediation in Electronic Court has been enforced, this regulation has not explicitly regulated the mechanism for recognizing mediation agreements made through the electronic mediation process, so there is no legal certainty regarding the status of electronic mediation agreements, especially related to their executory power.

In practice, the lack of clarity regarding the legal position of the electronic mediation agreement has the potential to cause new disputes in the future, where if the electronic mediation agreement does not have clear executory power, the aggrieved party will find it difficult to enforce its rights if the other party does not implement the content of the agreement. This condition is certainly contrary to the main purpose of mediation as an effective dispute resolution mechanism and provides legal certainty for the parties. The development of electronic mediation has also raised various academic debates regarding the limits of the use of technology in the dispute resolution process. Some people argue that the digitalization of dispute resolution can increase access to justice, especially for people who are in remote areas or have limited access to the judiciary. However, there are also views that highlight the

potential risks of using technology in the mediation process, such as data security issues, identity authentication of the parties, and the possibility of misuse of technology.

A number of previous studies have discussed various aspects of mediation and digitalization of the justice system and the effectiveness of mediation or the implementation of technology in the dispute resolution process which shows that mediation has an important role in reducing the number of cases that must be decided through the litigation process. Most of the previous research still focused on the concept, procedure, and effectiveness of mediation as a dispute resolution mechanism using technology in case administration or electronic trials. This study highlights from the other side, which specifically examines normatively the legal position of electronic mediation agreements in the civil law system and formulates a legal recognition model for these agreements in the framework of digital justice. This research is directed to answer several legal problems related to the concept of digital justice in civil mediation, the legal position of electronic mediation agreements in the perspective of civil procedural law, and the legal recognition model for electronic mediation agreements in the civil justice system.

B. METHODOLOGY

This study uses a normative legal research methodology that focuses on the analysis of legal norms related to mediation, electronic documents, and the digital justice system. Normative legal research was chosen because this research aims to examine and analyse legal arrangements regarding the recognition of electronic mediation agreements in the civil law system and formulate a legal recognition model that provides legal certainty in the framework of digital justice. The research approaches used include the statute approach and conceptual approach, biblically the data of which are then analysed qualitatively through legal interpretation methods, with the aim of obtaining a comprehensive understanding of the legal position of electronic mediation agreements and formulating normative constructions that can provide legal certainty in resolving civil disputes in the digital justice era.

C. RESULTS OF RESEARCH AND DISCUSSION

1. Transformation of the Civil Justice System in the Digital Justice Era

The legal system cannot be separated from the evolving social dynamics, so the use of technology in the judicial system is a necessity in the era of digital society. Judicial digitalization can be seen as part of the process of adapting the legal system to social changes

that occur in society. Legal regulations that were previously based on physical documents and manual procedures, are now starting to transform towards digital to adapt to the industrial era 4.0 (Jannati and Dinata 2025). The Supreme Court as an institution that has authority in the administration of justice has made various innovations to encourage the digitization of judicial processes, which was first introduced through Supreme Court Regulation Number 3 of 2018 concerning Electronic Court Case Administration and subsequent developments in the application of e-litigation, which allows trial processes to be carried out electronically.

The emergence of digital justice is not only related to the use of technology in judicial administration, but also includes a comprehensive transformation in dispute resolution mechanisms. Digital technology allows various legal processes that were previously carried out conventionally to be carried out electronically. E-court facilitates online case submission, while e-filing makes it easier to submit documents and case administration, reduce the potential for administrative errors and improve data accuracy, and also plays an important role in minimizing the potential for corrupt practices and abuse of authority because the entire process is more open and monitorable (Sembiring, et al. 2025). The legalization of the judicial system is an important step in increasing the effectiveness of the modern justice system that helps reduce geographical barriers, speed up the case settlement process, and increase transparency in the judicial process, so that the judiciary has the potential to improve the quality of legal services for the community. Digital justice also has an important role in expanding access to justice, especially for people who are in remote areas or have economic limitations to come directly to court.

One of the fields that has undergone significant transformation in the digital justice era in the dispute resolution system is electronic mediation. Electronic mediation is a mediation process that is carried out through digital media, such as video conferencing, online platforms, or other electronic communication systems. Electronic mediation has several characteristics that distinguish it from conventional mediation. First, the communication process between the parties is carried out through electronic media, so that the physical presence of the parties is no longer the main requirement in the implementation of mediation. Second, the documents used in the mediation process are submitted in the form of electronic documents. Third, the negotiation process can be carried out synchronously or asynchronously, depending on the technology platform used. Electronic mediation has a number of advantages compared to conventional mediation. Time and cost efficiency are the main advantages of electronic mediation, the parties do not need to travel to attend the mediation process, so transportation

and accommodation costs can be reduced. In addition, the mediation process can also be carried out more flexibly because the parties can participate from different locations.

In electronic mediation, the mediator still plays the role of a neutral party who helps the parties reach a peaceful agreement, but the communication process between the parties is carried out through digital media. The success of electronic mediation remains highly dependent on the mediator's ability to facilitate communication between the parties so that an agreement that is acceptable to all parties is reached. Mediators must be able to use technology effectively to maintain the quality of communication between the parties and ensure that the mediation process continues to run fairly and transparently. Mediators involved in the electronic mediation process also need to have additional competencies in the use of digital technology, understanding how to leverage digital platforms to facilitate effective communication between the parties. Thus, the quality of the mediation process can be maintained even though it is carried out through electronic media.

On the other hand, the legal and institutional challenges in the implementation of digital justice that must be faced include how to ensure that the use of technology in the judicial process remains in line with basic legal principles, such as justice, legal certainty, and human rights protection. The principle of legal certainty is very important because the use of technology can cause various new problems that have not been clearly regulated in the existing legal system, so adequate legal arrangements are needed to ensure that the use of technology in the judicial system does not cause legal uncertainty for the parties involved in the dispute resolution process. Another big challenge is the issue of data security and confidentiality. In the mediation process, the parties often disclose sensitive information, so it is required to have a technological system used in electronic mediation that is able to ensure the security and confidentiality of the information.

In addition, there are also challenges related to the digital divide and access to technology, especially in remote areas. Not all people in Indonesia have adequate access to digital technology, have physical access to technological devices, stable and fast internet connections, or have the ability to use this technology. This condition can be an obstacle to the widespread implementation of electronic mediation, which widens the gap in access to justice, especially for people living in areas with limited technological infrastructure (Pakaya 2025).

2. Legal Status and Recognition of Electronic Mediation Agreements in the Civil Law System

A peace is a written agreement in which the parties to a dispute give each other concessions, either to surrender, promise, or withhold goods, to end an ongoing case or prevent the emergence of new disputes, as stipulated in Article 1851 of the Civil Code. In Indonesia's civil law system, if the parties succeed in reaching an agreement in the mediation process in court, the agreement can be stated in the form of a peace deed (*akta van dading*) which has the same legal force as a court decision that has permanent legal force. A peace deed has the same legal force as a binding court decision and cannot be appealed, so that there is legal clarity for the parties to the dispute and can be enforced if one of the parties fails to fulfil its commitment (Rizky 2024).

Normatively, the validity of an agreement in Indonesian civil law is regulated in Article 1320 of the Civil Code which requires four elements, namely the agreement of the parties, the competence of the parties, certain objects, and *halal* causes. If these four elements are met, then the agreement is considered valid and binding on the parties. In the context of electronic mediation agreements, these four elements can in principle still be fulfilled. The agreement of the parties can be reached through electronic communication, the competence of the parties does not depend on the form of communication medium used, the object of the fixed agreement can be clearly determined, and the reason for the fixed agreement must be in accordance with the applicable law. In addition, the recognition of electronic documents as legal evidence has also been regulated in the Electronic Information and Transactions Law, which basically states that electronic documents have the same legal force as written documents as long as they meet certain requirements. This shows that the Indonesian legal system has basically recognized the existence of electronic documents in various legal transactions. However, recognition of electronic documents in the context of electronic transactions does not necessarily solve the problem of the legal status of electronic mediation agreements. This is because mediation agreements in court have special characteristics, namely they can be expressed in the form of a peace deed that has executory power.

In the electronic mediation process, the agreement of the parties is expressed in the form of electronic documents that are digitally signed, but until now there is still debate about the power of proving electronic documents in the context of civil disputes, especially related to electronic signature authentication. In the civil law system, a signature has an important function as proof that a document was actually created by the party concerned. In the context of electronic documents, electronic signatures must meet certain requirements in order to be recognized as valid evidence. This is then related to the execution mechanism if one of the

parties does not carry out the content of the agreement. If there is no clear mechanism for electronic signing, then electronic mediation agreements have the potential to lose their effectiveness as a dispute resolution instrument, so it is important to have clear provisions to ensure that electronic mediation agreements have adequate legal force.

3. Legal Recognition Model of Electronic Mediation Agreements in the Judicial System

Clear legal recognition of the agreement produced through the electronic mediation process is fundamental, because without a firm recognition mechanism, the agreement reached by the parties has the potential to lose practical legal force, especially when there is a violation of the content of the agreement. Based on the analysis of the legal issues that arise in the implementation of electronic mediation, what is needed is a legal recognition model that not only provides legitimacy to electronic mediation agreements, but is also able to ensure legal certainty, implementation effectiveness, and integration with the existing judicial system. One model that can be developed is the integration between electronic mediation and the digital justice system. This model is in line with the development of digital justice that encourages the integration of digital technology and the judicial system which has advantages, namely allowing electronic mediation agreements to obtain clear legal recognition in the civil law system, while maintaining the role of the court as an institution that has the authority to provide executive power to the agreements of the parties.

The agreement of the parties is outlined in a digital document signed using an electronic signature. In a digital system, the authenticity of documents and the identity of the parties must be ensured through adequate technology. Therefore, the use of certified electronic signatures is one of the important elements in ensuring the validity of electronic mediation agreements. Certified electronic signatures allow the identity of the parties to be digitally verified and guarantee that documents are not altered after signing.

Although the digitally signed peace deed can be normatively recognized as evidence based on regulations on electronic information and transactions, its status does not automatically have the same executory power as a peace deed produced in conventional mediation. This is because the civil procedure law still places the court as an institution authorized to provide executory power to a peace agreement. The agreement reached through the electronic mediation process does not stop at the stage of agreement between the parties alone, but continues with the registration process or official recording in the digital court system. This registration process can be done through an e-court platform that has been developed by the Supreme Court as part of the digitization of case administration, which is

verified by the mediator and the authorized judge. This verification aims to ensure that the agreement is truly made voluntarily by the parties, does not contain elements of coercion, and does not contradict the law, public order, or morality. Once the verification process is completed, the court can certify the agreement in the form of an electronic peace deed that has the same legal force as a peace deed in a conventional mediation process.

In addition, the document storage system is also designed in such a way as to ensure the integrity and confidentiality of data. Electronic mediation agreement documents should be stored in a digital archive system managed by the court so that they can be accessed again if needed in the evidentiary process in the future and minimize the risk of manipulation or loss of documents. From a broad perspective, the development of a legal recognition model for electronic mediation agreements is also part of the transformation towards a more modern digital justice system that is responsive to technological developments. By making the right use of digital technology, the justice system can not only increase efficiency in dispute resolution, but also expand people's access to justice. Therefore, strengthening the legal framework for electronic mediation is an important step in ensuring that technological innovations in the judicial system can provide real benefits to society and remain in line with the basic principles of the law.

D. CONCLUSION

Based on the results of the normative analysis of the development of the digitalization of the judicial system and the practice of electronic mediation as described in this study, it can be concluded that the transformation towards digital justice has driven significant changes in the mechanism of civil dispute resolution, especially through the application of electronic mediation as part of a technology-based dispute resolution system. The main findings of the study show that agreements produced through electronic mediation meet in principle the validity of agreements in civil law and can be recognized as valid legal documents based on the provisions regarding electronic documents and signatures, but such recognition does not fully provide legal certainty regarding its executory power in the civil procedure law system. This research emphasizes the importance of developing a legal recognition model that integrates electronic mediation agreements with the digital justice system through the mechanism of registration, verification, and ratification by the court so that the agreement can obtain the status of an electronic peace deed that has legal force equivalent to a court decision. This research has limitations because it uses a normative legal approach, so the findings still

require further testing in the context of implementation to strengthen the integration of electronic mediation in the civil justice system in the digital era.

E. RECOMMENDATION

Based on the results of this study, the author conveys recommendations for judicial institutions, especially the Supreme Court, to strengthen regulations that expressly regulate the legal position of electronic mediation agreements and their ratification mechanism as electronic peace deeds that have executory power in the civil procedure law system, accompanied by the development of judicial technology infrastructure that is secure and integrated with the e-court system. For legal practitioners and mediators, it is necessary to improve competence in the use of digital technology so that the implementation of electronic mediation still upholds the basic principles of mediation such as neutrality, confidentiality, and voluntariness of the parties. From the academic side, to overcome the limitations of this normative research, future research can combine normative and empirical approaches to produce a more comprehensive analysis, as well as comparative studies with other countries that have implemented electronic mediation more advanced, in order to strengthen the validity of findings in the development of the legal framework of electronic mediation in the civil justice system.

THANKYOU

The author expresses his deepest gratitude to his family, colleagues in the profession, and friends studying at the Doctor of Law, Borobudur University for providing enthusiasm in the implementation of this research. Special thanks are extended to the reviewers who have provided input, criticism, and constructive suggestions in the process of developing ideas and writing this article. The author also appreciates the contributions of academics and researchers whose works are important references in the study of mediation and digital justice. Hopefully this research will provide benefits for the development of legal science.

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