

THE PRUDENCE OF ADMINISTRATIVE JUDGES IN THE DIGITAL EVIDENCE IN THE ERA OF APPLYING E-GOVERNMENT INFORMATION TECHNOLOGY

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Abstract. In this research, the use of digital evidence in courts is studied. State administrators, including the executive and the legislative, must use information technology (e-government), especially the judiciary. Digital evidence is also frequently utilised to resolve administrative disputes between states. Judges should be able to look over and evaluate cases that involve digital evidence in order to do this. The Supreme Court has issued PERMA Number 1 of 2019 concerning the Electronic Administration of Cases and Trials in Courts in order to get ready to adapt to changes in the digitalization of electronic services (e-government). This time, the Supreme Court is taking reforming the justice system's information technology field seriously as seen by the E-Court. Administrative Court Judges can make an effort, but in the digital age, Administrative Judges must pay attention to the entire e-government system. For instance, licencing now involves an integrated online system that includes components of the regional government, the provincial government, and the government centre. These factors make it possible for administrative judges to consult with web professionals. Because it is virtually difficult for an administrative judge to have good and accurate understanding of digital forensics, digital web forensic experts are required when proving matters at the Administrative Court. Web-based experts will provide insight into a case, assisting State Administrative judges in making judgements. The Supreme Court should hold education and training regarding online licensing, online registration, and online validation carried out by

the executive. Administrative judges should not hesitate to present web expert witnesses to explain an administrative case.

Keywords: Prudence, judge, Information Technology, E-Government.

INTRODUCTION

Indonesia is currently in the era of legal development, especially the development of digital law which is currently being developed rapidly. This is what we as writers believe will eventually influence people's outlook on life, their way of thinking, and the way they operate. The author of a journal article titled "Evolution of Indonesian Law Regarding Information and Communication Technology," Renny N.S. Koloay, claims that while e-mail and the Internet were relatively unknown in the 1990s, they became institutionalised and well-known ten years later. This is a component of world development (Koloay, 2016).

Development is a set of human endeavors to direct social and cultural change by the goals of national and state life, namely achieving growth in civilization, social and cultural life on the basis of the targets that have been implemented (Fuady, 2009). The ongoing Industrial Revolution includes current technical breakthroughs. The fast evolving digital era will usher in the fourth industrial revolution. The application of information technology (e-government) for state administrators, including the judiciary, the legislature, and especially the executive, is a must in the development of the Industrial Revolution 4.0, demonstrating the close relationship between the Industrial Revolution 4.0 and the governance system in Indonesia.

The government has implemented legislation and regulations relating to information technology as a sign that it is serious about promoting the implementation of e-government, including Law No. 11 of 2008 concerning Information and Electronic Transactions (UU ITE) (Law No.11 of 2008 concerning Information and Electronic Transactions, 2008); Regulation of the Minister of Administrative Reform and Bureaucratic Reform (MenpanRB) No. 06 of 2011 concerning Electronic Service Manuscripts (TNDE); and Regulation of the President of the Republic of Indonesia No.95 of 2018 concerning Electronic-Based Government Systems (SPBE). The Supreme Court has made considerable preparations for a New Era of Information Technology-Based Modern Justice from a judicial standpoint. With the Birth of Perma (MA regulation) Number 3/2018 concerning Administration of Cases in Courts Electronically. It has provided legal protection for the implementation of e-court applications. The Supreme Court then released Supreme Court Regulation Number 1 of 2019 pertaining to the electronic administration of cases and trials in courts. This time, the Supreme Court of the Republic of Indonesia has implemented the E-Court as a form of reform in the area of legal information technology (Robby & Tarwini, 2019).

The Plan to Ratify the ASEAN Agreement on Trade via Electronic Systems and the Bill on Changes to Law Number 11 of 2008 Concerning Information and Electronic Transactions are two key programmes that the DPR RI is presently seriously planning for at the legislative level (ITE). The publication of these laws and regulations, particularly Presidential Decree No. 95 of 2018 regarding SPBE, demonstrates the seriousness with which all branches of

our government are currently pursuing the realisation of effective and efficient governance through the use of information technology (e-government) as a whole. The application of e-government will later be interconnected in a government administration system and in the delivery of public services in a government agency.

The applicant at the Land Office desires returning the name of the certificate to the Land Office, to use the author's example. The applicant's conditions weren't met after the Staff at the Land Office's service counter reviewed the application files in their computerised system. The applicant's lack of an E-KTP constitutes the missing requirement. After that, the Land Office service counter officer suggests E KTP applicants go first. This is what I mean when I refer to the use of connected e-government in a system of government administration. The goal of this e-government is to improve the effectiveness, efficiency, and responsiveness of the public service delivery process from state officials to the community (faster response). E-government, or the use of information technology in governance, is another means to implement bureaucratic reform and raise the standard of public services so that they are more transparent, effective, and efficient.

The use of information technology in every element of governance is also one of the supports for the state civil apparatus (ASN) to be more qualified, innovative, competitive, effective and efficient in carrying out their duties. To do this, a new innovation that can enable and integrate information technology in e-government quickly, conveniently, and successfully is required. With the introduction of the OSS (Online Single Submission) licencing service, the community is currently experiencing the effects of this electronic service (e-government). The benefits of using OSS are the following (Taqiyya, 2021):

1. Facilitating the central or regional management of numerous business licences, business permits, and operational permissions for business operations with a method for satisfying obligations to permit requirements, including licences relating to location, environment, and buildings;
2. Facilitate commercial participants in establishing connections with all interested parties and securing permissions promptly, safely, and in real time;
3. Facilitate business participants in reporting and solving licensing problems in one place;
4. Facilitate business participants to store licensing data in one business identity (NIB).

OSS is used in obtaining business licenses by business participants with the following characteristics: in the form of business entities or individuals; micro, small, medium and large enterprises; individual businesses/business entities both new and those that were already established prior to the operationalization of OSS (Kusnadi & Baihaqi, 2020). Businesses where the majority or all of the capital is foreign or comes from within the nation. As a result, electronic records such as emails, chat logs, and other types of papers can be used as proof in court. With the aforementioned context in mind, the purpose of this study is to determine how the Supreme Court is getting ready to react to the expansion of e-government and the digitalization of electronic services.

RESULTS AND DISCUSSION

Law is generally understood as a system of rules created and enforced through social or

governmental institutions to regulate behavior, although the exact definition is a matter of long debate. It has been variously described as the science and art of justice. Laws enacted by the state may be made by the legislature and produce laws, by the executive through decrees and regulations, or formed by judges, usually in common law jurisdictions. Private individuals may enter into legally binding contracts (*pacta sunt servanda*), including arbitration agreements that may choose to accept arbitration as an alternative to normal litigation. The formation of the law itself can be influenced by the constitution, written or tacit, and the rights enshrined in it. Law acts as a bridge between individuals and influences politics, economy, history, and society in a variety of ways.

Comparative law examines how different legal systems in various nations compare. Legislative bodies or other organisations consolidate and codify laws in countries under civil law. In the common law system, judges create conclusive case law, however occasionally a higher court or legislature may overturn a judge's decision. Religious rules have historically had an impact on secular issues and are currently applied in some religious groups. In several nations, notably Iran and Saudi Arabia, the principal legal system is sharia law, which is founded on Islamic precepts.

The legal scope can be divided into two domains. Public law concerns government and society, including constitutional law, administrative law, and criminal law. Civil law deals with legal disputes between individuals and/or organizations in areas such as contracts, property, torts/delicts and commercial law. This distinction is stronger in civil law countries, particularly those with separate administrative court systems; conversely, the public-private law distinction is less pronounced in common law jurisdictions (Penyederhanaan Izin Usaha Masih, 2018).

We believe that sooner or later, the manner of life, mindset, and way of working in Indonesia will change as a result of the rapid advancement of digital law, which is presently under development. The Supreme Court has significantly prepared for a New Era of Information Technology-Based Modern Justice in order to adapt to the development of the digitalization of electronic services (e-government). The Supreme Court issued Supreme Court Regulation Number 1 of 2019 concerning Electronic Administration of Cases and Trials in Courts. This time, the Supreme Court of the Republic of Indonesia has changed its approach to justice by implementing the E-Court, an information technology-based reform.

The application of e-government will later be interconnected in a government administration system and in the delivery of public services in a government agency. Given how quickly state administrators are digitising electronic services (e-government), it is possible that state administrative disputes may likewise grow in size. It is important to strike a balance between the potential for state administrative disputes in the area of (e-government) and the courts' capacity to research and evaluate cases with a digital component, particularly administrative judges (Ginting et al., 2022).

Administrative judges in state administrative disputes should pay attention to and weigh the opinions of electronic/website experts, especially government-owned websites. Considering that the application for government administration at this time is almost completely done online (for example: OSS, fiduciary, Mortgage Certificates, auctions, etc.). Via the OSS portal, the government has created a new national scale system called OSS

that is utilised for business licencing and commercial licence registration. An information technology-based licencing system called Online Single Submission (OSS) unifies licencing at the central and regional levels. The launch of the OSS system is a follow-up to Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services. Once again, the authors emphasize that the main purpose of the OSS system is to facilitate business activities in Indonesia. Thus, that it can increase investment and business (Presiden Resmikan Peluncuran OSS Berbasis Risiko, 2021; Setyowati, 2018).

Administrative judges should pay attention to the Online Single Submission (OSS) licensing system, because licensing now involves an integrated online system, which involves elements of regional government, provincial government and central government. It is these things that allow administrative judges to involve Web experts (Dawud et al., 2020). Because it is difficult, in our opinion, for administrative judges to have good and accurate understanding of digital forensics, digital web forensic professionals are required to prove cases at Administrative Court. Web expert witnesses will shed light on an administrative case, making it easier for State Administrative judges to make decisions (Mahfud, 2009).

Experts according to the Big Indonesian Dictionary are people who are proficient, fully versed in a science (intelligence). Web is a system for accessing, manipulating, and downloading hyperlinked documents contained in computers connected via the internet; networking; network. Hence, a person who is knowledgeable with methods for accessing, modifying, and downloading hyperlinked documents located in computers connected via the internet; networking; and complete networks is what is meant by a web specialist.

Law Number 11 of 2008 respecting Electronic Information and Transactions establishes the formal and substantive standards for electronic evidence's admissibility in court, as well as its legal weight. Electronic Evidence is Electronic Information and/or Electronic Documents that meet the formal requirements and material requirements regulated in the Electronic Transaction Information Law. Article 5 paragraph (1) of the Electronic Transaction Information Law stipulates that Electronic Information and/or Electronic Documents and/or their printouts are valid legal evidence. One or more electronic data, such as but not limited to writing, sound, images, maps, plans, photographs, electronic data interchange, electronic mail, telegrams, telexes, or the like, letters, numbers, signs, symbols, or processed perforations that have meaning or can be understood by those who are able to understand them, are referred to as "electronic information" (Article 1 point 1 of the Electronic Transaction Information Law).

What is meant by "Electronic Documents" is any Electronic Information that is created, forwarded, sent, received, or stored in analogue, digital, electromagnetic, optical, or the like, and that can be seen, displayed, and/or heard through a computer or other electronic system, including but not limited to writing, sound, pictures, maps, plans, photographs, or the like, letters, signs, numbers, Access Codes, symbols, or perforations with meaning or that can be understood by people (Article 1 point 4 of the Electronic Transaction Information Law).

In principle, Electronic Information can be distinguished but cannot be separated from Electronic Documents. Electronic Information is data or a collection of data in various forms, while Electronic Documents are containers or 'packages' of Electronic Information. For example, when we talk about music files in mp3 form, all information or music that

comes out of these files is Electronic Information, while Electronic Documents from these files are mp3s. Article 5 paragraph (1) of the Electronic Transaction Information Law can be grouped into two parts. First, Electronic Information and/or Electronic Documents. Second, printouts of Electronic Information and/or printouts of Electronic Documents. The Electronic Information and Electronic Documents will become Electronic Evidence (Digital Evidence). While the printed results of Electronic Information and Electronic Documents will be proof of letters.

According to Article 5 Paragraph (2) of the Electronic Transaction Information Law, Electronic Information and/or Electronic Documents and/or their printouts are an expansion of admissible legal evidence in accordance with Indonesian procedural law. The expansion must be related to the type of evidence covered by Article 5 Paragraph (1) of the Electronic Transaction Information Law. Expansion in this context refers to both the addition of evidence that has been subject to Indonesian criminal procedural law regulations and the broadening of the evidence that is subject to those regulations.

The expansion of evidence regulated in the Criminal Procedure Code has actually been regulated in various scattered laws. For example, the Company Documents Law, the Terrorism Law, the Corruption Eradication Law, the Money Laundering Law. The Electronic Transaction Information Law confirms that electronic information and documents, along with their prints, are admissible as proof in all instances where Indonesian procedural law is in effect. According to the Electronic Transaction Information Law, formal and material standards must be fulfilled. Article 5 paragraph 4 of the Electronic Transaction Information Law governs the formal requirements, stating that electronic information and documents are not considered letters or documents that must be in writing. Articles 6, 15, and 16 of the Electronic Transaction Information Law govern the material requirements, which essentially state that electronic information and documents must be guaranteed for their availability, authenticity, and integrity. In many instances, digital forensics is required to ensure that the material criteria in question are fulfilled.

CONCLUSION

Preparation of the Supreme Court to respond to the development of digitalization of electronic services (e-government), the Supreme Court has significantly prepared for a New Era of Information Technology-Based Modern Justice. With the Birth of Perma (MA regulation) Number 3/2018 concerning Administration of Cases in Courts Electronically, which has given the use of e-court applications legal protection. The Supreme Court then published Supreme Court Regulation Number 1 of 2019 about Electronic Administration of Cases and Trials in Courts. This time, the Supreme Court of the Republic of Indonesia has changed its approach to justice by implementing the E-Court, an information technology-based reform.

SUGGESTION

The Supreme Court should conduct Education and Training regarding online licensing, online registration, online support by executives, and administrative judges. Ideally in digital matters to avoid hesitation when presenting expert web witnesses to support a case.

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