

Utilization of Technology towards a Modern Religious Justice System in the Field of Islamic Family Law

Ihyaul Arifin¹, Ihza Maulina²

^{1,2} UIN K.H. Abdurrahman Wahid Pekalongan

Email: ikhya.arifin@gmail.com¹, maulinaihza@gmail.com²

Abstract

The Supreme Court has established a Road Map for Supreme Court Bureaucratic Reform 2015-2019 which was published through the Decree of the Secretary of the Supreme Court, Number: 41/SEK/SK/9/2015. This policy emerged because the public wanted court performance in accordance with the principles of simple, fast and low-cost justice. The aim of this research is to describe the implementation of the principle of simple, fast and low cost, realized with a new breakthrough through the Republic of Indonesia Supreme Court Regulation (Perma) Number 3 of 2018 concerning Electronic Administration of Cases in Court. This research applies qualitative research methods. The approach used in this research is a library approach. The results of this research are that the Religious Courts innovate and accelerate the implementation of justice through digital technology-based applications to move towards a modern justice system.

Keywords: Family Law, Modern, Religious Courts, Technology

A. Introduction

The era of industrial revolution 4.0 is marked by the massive use of internet networks. The implications of the industrial revolution 4.0 are pushing human life from previously conventional into a modern direction. In this case, the changes in patterns that occur can affect almost all aspects of human life, both in terms of social, economic and cultural aspects. Therefore, almost all human life systems are connected to the massive internet network due to the industrial revolution 4.0. Based on the existing arguments, a substance can be taken from technological developments that have an impact on the government service system, namely the service approach to society. If the service is linked to technological developments, it will make the service process effective if the government can make an alternative through changing existing technology properly and correctly.

Initially, the role of information and technology in several countries was still limited to recording. However, nowadays, technology and information have been used even better, namely in order to improve court performance. The use of technology and information in courts today is a big leap made by the Supreme Court in providing fast services and low costs as a court principle (Rio Satrio, 2019, p. 1).

The use of technology and information in the justice system has positioned religious courts as modern courts. Modern justice is an excellent court. This was revealed at the Conference of the Judicial Organizations of Asia Pacific Countries in Singapore in 2011 which stated that to become an excellent judiciary is

characterized by the use of technology and information (Supandi, 2018, p. 5). With the realization of a modern religious court, it will be able to meet the needs and satisfaction of justice seekers in the litigation process so that justice seekers will easily access the courts which will also increase public trust in the existence of religious courts.

The Supreme Court's blueprint for 2010-2035 has envisaged the use of information and technology for all judicial bodies. This research tries to analyze the use of technology and information used in religious courts since the issuance of Perma Number 3 of 2018 which was amended by Perma Number 1 of 2019 concerning Electronic Administration of Cases and Trials in Courts. Through Perma Number 1 of 2019, religious courts have implemented electronic case administration services for justice seekers, including case registration (e-filing), payment (e-payment), summons/notifications (e-summons) and electronic hearings (e-litigation). All types of applications are commonly called e-court.

These electronic case administration and trial services will make it easier for justice seekers to resolve their cases. The implementation of this service is intended to answer the 3 main problems that parties have faced when litigating, namely delay, access and integrity. The use of e-court will reduce the intensity of the parties interacting with court officials, reduce case handling time, reduce the time to come to court and prevent the public from lacking information about the court itself (AS. Pudjoharsoyo, 2019, p. 3).

Based on this description, this study will limit the application of information technology, especially related to the application of e-litigation (electronic trials), especially related to electronic trial processes and the application of evidence in electronic trials in Islamic family law cases.

This research uses library research methods, namely descriptive analysis. Data sources were obtained from secondary legal materials in the form of Supreme Court Regulations (Perma) and Decrees from the Chief of the Supreme Court related to electronic administration and trials. Meanwhile, data sources from primary legal materials are based on research results spread in various scientific publications. Data collection techniques are carried out through online library searches in indexed scientific periodicals and through the portals of the Supreme Court and Religious Courts. Data analysis was carried out by collecting data on the application of e-litigation, sorting data that was relevant to the focus of the study on the application of e-litigation and analyzing data from secondary and primary materials to be narrated in the discussion. At the end, conclusions are drawn.

B. Discussion

1. Modernization of the Supreme Court Judicial System

The new era of modern justice began in 2008, this is a revolution in changing the way of working so that it can adapt to developments in technology and information to provide the best service for justice seekers. The Religious Courts Agency, with all its innovations, shows that they are ready to adapt to

developments in technology and information in providing the best service to the community. I am impressed and appreciate all the innovations created by the Religious Courts Agency.

Public trust in the judicial environment requires the Supreme Court to continue to provide excellent service. As an institution or public institution that is directly in contact with the community, it will of course give rise to a response from the community about whether or not the quality of court services and products is good. The image of the judiciary in the eyes of the public must be shaped as well as possible, so that the public trusts the judicial institutions to resolve their cases. However, the judiciary has experienced a negative image in terms of slow public services and information on case developments. To improve this, the Supreme Court has taken several strategic steps related to public services by preparing progressive quality of the judiciary which is formulated in short-term, medium-term and long-term policies.

In order to formulate medium and short term policies, the Supreme Court has established a Road Map for Supreme Court Bureaucratic Reform 2015-2019 which is a derivative of the Blueprint for Judicial Reform 2010-2035. This policy was issued through the Decree of the Secretary of the Supreme Court, Number: 41/SEK/SK/9/2015. This Road Map describes improving the quality of public services achieved by 5 (five) reform programs, including service standards, excellent service culture, complaint management, assessment of satisfaction with services, and use of information technology. Various innovations have been launched, both in the nature of public services in the focus of cases as well as management and secretariat.

In the field of cases, these include e-litigation (electronic trials), trial queue innovation, barcode embedding in court products, integration of the justice system with related agency systems and functionalization of information desks and post office as well as trauma healing facilities in court for litigants, while updates in the field of management and secretarial services include e-learning, e-test, badilag command center and integration of personnel support data systems.

The public wants court performance in accordance with the principles of simple, fast and low-cost justice. This principle is a legal principle that applies to all four judicial environments. The collective desire for the judicial process to take place quickly and effectively must not ignore the essence of the judicial process. The essence in question is the realization of the trigatra of law enforcement (justice, certainty and usefulness of the law). The implementation of the simple, fast and low-cost principle is realized with a new breakthrough through the Republic of Indonesia Supreme Court Regulation (Perma) Number 3 of 2018 concerning Electronic Administration of Cases in Court.

From the changes in the current digital era, the Religious Courts have responded by innovating and accelerating the implementation of justice through digital technology-based applications as manifested in 9 superior badilag applications (currently 11 applications), the use of SIPP, e-Court, e-litigation, e-Register and

other applications are an effort to improve the quality of public services and the court administration system to be better and ready to make religious justice a modern justice system.

2. Implementation of Technology in the Field of Islamic Family Law

The electronic trial stage (e-litigation) begins with case registration, summons, trial for peace efforts, trial at the answer and answer stage, trial at the evidentiary stage, trial at the conclusion stage and reading of the verdict as well as legal remedies. All these stages are carried out electronically.

a. Case registration process

Register cases electronically using the e-Court application, namely on the website link <https://ecourt.mahkamahagung.go.id>. Registration of lawsuit cases in court using E-Filing media is a type of case registered in general courts, religious courts and state administrative courts whose registration requires more effort. Next, down payment using E-Payment media. In conventional case registration, the prospective plaintiff/applicant faces the cashier by submitting a lawsuit/petition letter along with a power of attorney to pay (SKUM).

b. Summoning process (E-Summons)

Before the electronic trial begins, the court will summon the plaintiff electronically. The summons is sent via e-court to the plaintiff's electronic domicile. Electronic domicile is defined as the domicile of the parties which contains a verified mailing address (Tarsi, 2019, p. 5).

If the party summoned is outside the area of the religious court examining the case (outside its jurisdiction), then the head of the religious court examining the case will request assistance from the religious court in the area of the litigant through the SIPP application which is integrated with e-court (Anonymous, 2019, p. 3).

In the electronic summons stage, the e-litigation application has made the summons process easier. The parties will receive a summons via the e-summon application which can be known by the parties themselves (Ifah Atur, 2019, p. 177). This step makes it very easy for the court not to make manual calls to the domiciles of the parties which could require a lot of time in the midst of so many bailiff duties. This summons application has been connected to 910 courts throughout Indonesia which will create a positive image for the Supreme Court.

c. Mediation process

The trial for peace efforts is carried out at the first hearing when both parties appear personally at the hearing. The panel of judges will strive for peace at the first trial. If the panel of judges fails to reconcile the parties at the trial, the next process will be mediation. (MARI, 2019, p. 3).

The parties attending the peace trial will be given an explanation regarding the trial electronically. Electronic hearings at the next hearing can be carried out after

obtaining the consent of both parties. The peace trial does not appear to have been conducted via teleconference as one of the characteristics of an electronic trial. Peace efforts trials are still carried out with the parties present directly in court.

Electronic mediation is naturally carried out by religious courts to integrate electronic trials into the court trial phase. This is not the case in criminal trials. Carrying out trials by teleconference in criminal cases according to Articles 160 and 168 of the Criminal Procedure Code, witness statements must be stated at the court hearing. If a witness is not present at the trial in court then the witness's statement has no evidentiary value. This is the first legal problem with teleconference trials in criminal cases. (Muhammad Haris, 2020, p. 17)

d. Answering process

The trial at the answer and answer stage is the right of the parties to defend their rights. The trial schedule at the answer and answer stage is sent via SIPP. The schedule at SIPP is integrated with e-court. In electronic trials (elitigation), the parties to the case are required to provide copies and copies according to a predetermined schedule. Documents containing replicas and duplicates are created in PDF or rtd/doc format. If the parties do not use this answer-and-answer process without a reason that is justified according to law, then the party in the case is not exercising their rights. Verification of documents sent by the parties by the panel of judges is carried out via e-court. The document will be sent to the defendant after verification. (KMA, 2019, p. 5)

e. Evidence process

Electronic trials carry out evidentiary examinations in accordance with procedural law. Documentary evidence must be uploaded with a stamp via e-court. The originals of these letters will be examined in a trial that has been determined through SIPP (Perma Number 1 of 2019). Evidence of letters submitted by the plaintiff and defendant together with answers will be submitted via the PTSP officer at the e-court desk. After that it will notified to the parties via the Court Information System to the electronic domicile address. At the request of the parties, examination of witness evidence can be carried out remotely. The facilities for the examination use court facilities. The witnesses gave statements under oath before the judge. However, electronic evidence in criminal cases is a complement to existing evidence (Ashadi L. Diab, 2014, p. 112).

f. Decision reading process

The hearing for the reading of the decision/determination is pronounced by the presiding judge in a hearing which is declared open to the public electronically. The reading of the decision/determination is deemed to have been carried out legally by conveying the electronic decision to the parties. The reading of a decision like this is considered legally valid and is considered to be attended by the parties (Perma Number 1 of 2019). The trial process which was carried out

using the e-litigation application in e-court clearly changed the old paradigm regarding access to the courts which was previously bureaucratic, difficult to understand and took a long time to become an easier and more transparent process. This change is theoretically in line with the function of law, namely the law is used by the government to encourage development. At this stage, the law must be updated for the progress of a country (Ineu Fauziah, 2017, p. 199)

3. Benefits of Technology in Handling Islamic Family Law Cases

The positive impact of implementing information technology innovation on handling Islamic Family Law cases includes:

- a. real procedural mechanisms and governance of judicial institutions time and open access . With these two characteristics, gaps in corrupt behavior and the tendency towards delays (delays in handling cases) can be closed or at least minimized.
- b. Judicial accountability is realized through information technology because every case handling process and institutional governance can be seen quickly by leaders and interested stakeholders . Information technology makes it possible to realize checks and balances continuously. Therefore, every process and policy in the judiciary must be based on rational and comprehensive considerations.
- c. Accessibility of judicial institutions can be increased significantly through the application of information technology. This is because information technology can provide applications that are a means for parties to access judicial information quickly. Modern justice represents the profile of a judicial institution that implements developments in information technology to support the main tasks and functions of the court.

C. Conclusion

Using technology and information as per MA Number 1 of 2019 concerning Electronic Administration of Cases and Trials in Courts, religious courts have implemented electronic case administration services for justice seekers who wish to litigate Islamic family law matters, such as divorce, marriage dispensation, child custody , requests for determining heirs, requests for marriage isbat and so on. Several technological innovations in the modern justice system that have been implemented in the Religious Courts include case registration services (e-filing), payments (e-payment), summons/notifications (e-summons) and electronic trials (e-litigation). Technology within the management framework of government agencies will provide many benefits, such as improving the quality of government services to the community, improving the process of transparency and accountability among government administrators, reducing transaction, communication and interaction costs that occur in government processes, creating a society based on a higher quality information community, and so forth.

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