

IMPLEMENTATION OF E-COURT ASSEMBLY APPLICATION IN THE HANDLING OF THE CRIMINAL ACTION OF MURDER

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ABSTRACT

An electronic trial (*e-court*) is a court process carried out with the support of information and communication technology, audio-visual and other electronic means. This study aims to find out about the implementation of the *e-court* trial in handling the crime of murder and the inhibiting factors in the *e-court* trial process in the handling of the crime of murder. This research is normative legal research by applying two approaches, namely the empirical juridical approach and the normative juridical approach. The results of this study indicate that the implementation of the *e-court* trial in handling the crime of murder is carried out by examining the summons and preparing the facilities and infrastructure needed during the *e-court* trial (*online*). The inhibiting factors in the *e-court* trial process in handling the crime of murder include: evidence, the difficulty of presenting witnesses, and inadequate human resources, inadequate facilities and infrastructure.

Keywords: Implementation, E-court, Crime, Murder

INTRODUCTION

The rapid development of information technology advances is now caused and driven by globalization. The phenomenon of the speed of development of information technology has spread throughout the world. Not only developed countries, but developing countries have also spurred the development of information technology in their respective societies, so that information technology has an important position in the progress of a nation.

Information technology is believed to bring great benefits and interests to countries in the world. There are at least two things that make information technology considered so important in spurring world economic growth. First, information technology drives demand for information technology products themselves, such as computers, modems, tools for building internet networks, and so on. Second, is to facilitate business transactions, especially financial business in addition to other businesses.

Thus, information technology has succeeded in changing the order of the needs of people's lives, which previously transacted or socialized conventionally towards electronic transactions or socialization. This is considered more effective and efficient. Advances in information technology can now be said to be very helpful to humans, especially in this case in the field of law, namely the implementation of trials in district courts online (*e-court*). As we know, the judiciary in Indonesia adheres to a principle called *contante justitie*, or the principle of simple, speedy, and low-cost trials as stipulated in Law Number 48 of 2009 concerning Judicial Power. The meaning of this principle is a judicial process that is not complicated, the program is clear and easy to understand, and the costs are affordable even for the lower level of society.

The trial is one of the processes in the criminal justice system, one of which is in the criminal act of murder which is carried out to find the truth of a criminal case. The trial process for the crime of murder was carried out by bringing together the parties in one room at the courthouse. However, as the law develops, the trial process can be carried out by placing the

parties in different places. Where the litigants are in different courtrooms but still connected to each other utilizing information technology (teleconference).

In Indonesia, the application of the concept of electronic trials to criminal acts of murder is based on Supreme Court Regulation Number 4 of 2020 concerning the Administration and Trial of Criminal Cases in Courts electronically. The establishment of the Supreme Court regulation aims to optimize the judiciary in handling criminal cases, both within the Supreme Court and the judicial bodies under it, one of which is the trial of murder cases.

Starting August 19, 2019, Supreme Court Regulation Number 1 of 2019 concerning Administration of Cases and Trials in Electronic Courts (PERMA No. 1 of 2019) applies, which has been amended to become Supreme Court Regulation Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Courts electronically as an initial milestone in the breakthrough of the implementation of court information systems. This breakthrough was initiated by the Supreme Court of the Republic of Indonesia, which changed the image of court services from conventional/physical face-to-face to electronic (online/online: in-network). In the past, justice seekers filed lawsuit registration with the clerk of a court through PTSP (one-stop integrated service center), the plaintiff paid the conventional down payment for the case, and the litigants/disputed parties still met face-to-face in the courtroom, until the decision text was taken directly to the PTSP of the court, now it can be done electronically. Service users/parties who are litigating in a court are increasingly facilitated by this innovative product from the Supreme Court of Indonesia, which is called "e-Court".

E-court is a court instrument as a form of service to the public in terms of online case registration (e-filing), electronic down-payment estimates (e-SKUM), online down-payment of fees (e-payment), online party summons (e- -summons) and online trials (e-litigation). The judicial environment that provides court is the District Court, the Religious Court/Sharia Court, the Military Court, and the State Administrative Court.

Based on the description above, in this study, the author is interested in raising research entitled *"Implementation of the Implementation of E-court Trials in Handling the Crime of Murder"*.

RESEARCH METHOD

This type of legal research is descriptive and qualitative in nature, then the type of data used consists of primary data and secondary data.

RESULTS AND DISCUSSION

Implementation of E-court Trials in Handling the Crime of Murder

Along with the development of people's needs in the world, information technology (information technology) plays an important role, both now and in the future.

As we know that from year to year until now, these acts have greatly changed the order of human life so that the procedure for carrying out trials for the crime of murder must also be changed, where trials are held face-to-face at the District Court, and during the Covid 19 pandemic implemented in e-court (online).

The e-court (online) trial system is an innovation in the judicial process. The use of sophisticated technology through the internet network, namely by using a teleconference system in carrying out trials for criminal cases of murder, is an undeniable choice.

The trial process for criminal cases which were conducted online for the first time was based on a notification letter from the Supreme Court Number: 379/DJU/PS.00/03/2020, the letter was issued by the Supreme Court as a guide in the trial process for criminal cases, one of

which is the crime of murder. As time went on, to further ensure the e-court (online) trial process for this murder case, the Supreme Court followed up on the letter by enacting Supreme Court Regulation Number 4 of 2020 concerning the Administration and Trial of Criminal Cases in Electronic Courts, Court Regulations Agung is still trying to prioritize the implementation of criminal case trials, especially in cases of murder, which are carried out face-to-face as usual by applicable laws and regulations, but if under certain circumstances, trials must be carried out in e-court (online). In connection with the e-court (online) criminal case trial mechanism, the Supreme Court through the Directorate General of the General Courts Agency (or hereinafter abbreviated as the Director General of Badilum), has issued Letter Number 379/DJU/PS.00/3/2020 dated 27 March 2020 concerning Trial of Criminal Cases by Teleconference. The letter from the Supreme Court conveyed to the Leaders of the Court of Appeal and especially the Court of First Instance, that in certain circumstances or emergencies, trials of criminal cases, especially cases of murder, can be conducted in e-court (online). In addition, the Supreme Court also appealed to the court leadership to coordinate with the District Attorney and State Detention Centers and Correctional Institutions (Rutan/Lapas) related to arranging e-court (online) trial mechanisms, while still paying attention to the provisions of the applicable law. Apart that the same thing also came from the Ministry of Law and Human Rights, the Ministry of Law and Human Rights requested that if an extension of detention is no longer possible, the trial of criminal cases can be held at District Courts, State Detention Centers, and Correctional Institutions (Rutan/Lapas), open to the public through internet media (live streaming) or conducting trials via video conferences, so that the principle of trials open to the public is fulfilled.

The e-court (online) trial for murder has been carried out at the local District Court and is running efficiently. Based on the data that has been obtained, there have been 132 (one hundred thirty-two) cases of criminal acts of murder which were carried out in e-court (online). It was further explained since the e-court (online) trial was conducted, the position of the parties in the District Court is that there are Judges, Public Prosecutors at the Prosecutor's Office, the accused is in Detention, while Advocates/legal advisers are at their offices or can accompany where the accused is detained. When the defendant participates in e-court (online) trials, he can be accompanied by his advocate and must follow the established Standard Operations. Technically, trials of electronic homicide cases have a legal basis that has issued rules which, like the parties, can use the e-court system but the evidence is still collected, but in the crime of murder it continues to take place using the online trial system, when the implementation of specifies or general crimes, for example in the case of corruption, has special tools which are placed in the main room and the middle room, but there is no difference in the technical terms of the trial because it is the same as usual. During the e-court (online) trial of the crime of murder, the defendant remains in detention, namely detainees at the State Detention Center and the Polres handling the case. In the case of implementation at the Rutan/LPKA or LAPAS, the defendant used the media video call or teleconference provided by the LPKA/Rutan.

The e-court (online) trial of the crime of murder is carried out with the stages or procedures described as follows:

1. Coordination with the Attorney General of the Republic of Indonesia regarding the trial schedule.

In carrying out the e-court (online) trial of the criminal act of murder, it coordinates actions with the Attorney General's Office of the Republic of Indonesia (District Attorney). Coordination with the Attorney General's Office of the Republic of Indonesia in matters

related to the trial schedule of detainees or defendants who are in the Detention Center to attend e-court (online) trials of murder cases.

2. Examine the court summons sent by the Attorney General's Office of the Republic of Indonesia.

The judiciary in carrying out e-court (online) trials of murder cases first examines and reviews summons from the Attorney General's Office of the Republic of Indonesia for detainees or defendants who will undergo e-court (online) trials of murder cases.

3. Prepare facilities and infrastructure related to the e-court (online) trial of the criminal act of murder.

The Judiciary in carrying out the e-court (online) trial of the crime of murder, prepares facilities and infrastructure for the implementation of the e-court (online) murder case. The supporting facilities and infrastructure for the implementation of the e-court (online) crime of murder case include online criminal trial courtrooms, internet networks, computer equipment, cameras, and trial Zoom Id as trial teleconference media.

Implementing the e-court (online) murder trial indirectly changes the role of the judiciary as a place to conduct face-to-face trials. The judiciary is now getting a new role in e-court (online) murder trials, namely as a place to carry out online criminal trials

Inhibiting Factors in the E-court Trial Process in Handling the Crime of Murder

Modern electronic trials (e-courts) which are the result of more sophisticated and modern technological advancements are not without obstacles. However, the biggest obstacle in the implementation of e-court trials is that electronic trials have not yet been regulated in procedural law. 1 of 2020 and PERMA No. 1 of 2019. It can lead to problems of harmonization of law in the future because e-court trials have not yet been regulated in procedural law, both civil, criminal, religious, military, and state administrative procedural law, so they do not yet have a strong legal basis. Soerjono Soekanto and Purnadi Purbacaraka define procedural law as the law that provides guidelines on how to enforce or maintain substantive law in practice. Sudikno Mertokusumo stated that procedural law is a legal regulation that regulates how to guarantee compliance with the material law through the mediation of a judge, which concretely regulates how to apply for rights, examine and decide on them and implement the decision. The procedural law is not just a compliment but has an important position in implementing or enforcing material law. The form of procedural law arrangements must be in law (in de wet). As outlined in Article 28 of the Judicial Power Act as follows:

"The composition, powers and procedural law of the Supreme Court and the judicial bodies under it as referred to in Article 25 are regulated in the Law"

Based on these provisions, procedural law arrangements may not be in the form of statutory regulations other than laws. Supreme Court regulations may contain procedural law provisions if there is an attribute/delegation van wetgevings from the law or formed based on the authority of the Supreme Court to fill a legal vacuum.[11] E-court (online) homicide trials should be regulated by a separate law that regulates electronic trials or by reforming the procedural law to achieve legal harmonization. E-court (online) murder trials are also constrained by problems of proof because evidence and evidence have a very important meaning in a trial From a formal juridical point of view, evidentiary law in Indonesia (in this case procedural law as formal law) has not yet accommodated electronic documents as evidence, while several new material laws [13] have regulated and recognized electronic evidence as evidence that is legitimate. That the evidence presented in e-court (online) murder trials is often not clearly accessible. In addition, the defendant also cannot be presented or confronted directly in court but undergoes trial while remaining in the penitentiary. As a result, it is difficult for public prosecutors, judges, and legal

advisers to find out facts by asking questions to the accused.

The e-court (online) trial of murder is still relatively closed because access to follow the e-court (online) trial process is only given to the parties to the case and is not yet open to the public. The implementation of an e-court (online) trial for murder which is open to the public is important because it is part of transparency and an effort to carry out a due process of law. With transparency, the public can monitor the course of the trial, and know the legal facts that exist in the e-court (online) trial of the crime of murder.

Supreme Court Regulation No. 1 of 2019, Article 20 states that electronic trials for civil, civil, and religious cases, military administration, and state administration are not mandatory, but require the approval of the plaintiff and the defendant. This means that electronic trials, especially the crime of murder in an e-court (online) manner, cannot proceed by themselves without the consent of the litigants. In cases at the State Administrative Court, the Defendant in case of State Administrative Officers often refuse to use the e-court trial by giving reasons including the internet network in the area is unstable and if using the e-court there is no use of official travel money and the inability to use the application e-courts. Obstacles come from other external factors, namely from society, where people in Indonesia are mentally still not ready and able to face the digitalization process. Smartphone users and social media applications are still massively used in various circles of society. However, the public does not fully know and is ready to use applications related to important aspects of their lives, one of which is the litigation application to provide legal services for justice seekers.

Technical constraints related to the lack of facilities and infrastructure such as an unstable internet network for the implementation of electronic trials, lack of resources or judicial personnel in carrying out electronic trials, and limited courtrooms with teleconference devices, so that the electronic trial process cannot run properly

CONCLUSION

The trial process for criminal cases which were conducted online for the first time was based on a notification letter from the Supreme Court Number: 379/DJU/PS.00/03/2020, this letter was issued by the Supreme Court as a guide in the trial process for criminal cases, specifically, the crime of murder, The stages of carrying out e-court trials include coordinating with the Attorney General's Office of the Republic of Indonesia regarding the trial schedule, examining summons for trial and preparing facilities and infrastructure.

The inhibiting factors in the process of e-court trials in handling the crime of murder include: evidence, the difficulty in presenting witnesses, human resources that are not sufficiently prepared inadequate facilities and infrastructure.

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