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# PROCEEDING

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## Foreword

*Assalamualaikum, wr., wb.,*

In the age of pandemic Covid-19 had impacts toward the humans. In relation with the humans has correlation with the development of law, and thus the committee held the 2020 International Students Colloquium with the topic of “Law and Development During Pandemic Era: Alleviating the Disadvantages to the Law that Affected by Covid-19”. The objective of the conference is to acknowledge the participants regarding how the settlement should be the problem and disadvantage that caused by the pandemic; to engage the participants to think critically to the polemic issue of law during pandemic; and as a venue for lecturer, student, and community in respond to poor resolution from each country.

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*Wassalamualaikum wr. wb.*

Editor in Chief,

Dodik Setiawan Nur Heriyanto, S.H., M.H., L.L.M., Ph.D.

## Advantages and Disadvantages of The Implementation of E-Litigation in Indonesia During the Pandemic Era

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### Abstract

*The presence of Corona Virus Disease 2019 (COVID-19) has brought significant impact on human life, such as in the fields of economic, social, law and politic. Through the Presidential Decree of the Republic of Indonesia Number 12 of 2020 concerning the Designation of Non-Natural Disaster for the Spread of Corona Virus Disease 2019 (COVID-19) as a National Disaster by President Joko Widodo, the government take the action by issued policy related to Work from Home (WHF) with the purpose to reduce the spread of COVID-19 virus, by establishing the work from home policies. In the legal aspect, one of the impacts caused by the WFH policies is to be precise in the application of the trial system called E-Litigation. So, because of that, in this paper, I will discuss related to How was the regulation regarding the implementation of E-Litigation in Indonesia during the Pandemic Era? and what are the advantages and disadvantages of Implementation of E-Litigation in Indonesia During the Pandemic Era? The methodology research that will be used in this paper is a normative legal research method in which legal research conducted by examining library materials or secondary data. By this writing, hopefully it can provide information to the society, government and law enforcement officials to be aware of advantages and disadvantages of the implementation of E-Litigation in Indonesia during the pandemic era and hopefully there will be improvements to the deficiencies faced in the application of the E-Litigation system in this pandemic era.*

**Keywords:** Covid-19, E-Litigation, Implementation, Advantages, Disadvantages.

## 1. INTRODUCTION

On December 31, 2019, World Health Organization (WHO) provide information that there was the first cluster case of pneumonia with unclear etiology that occurred in Wuhan City, Hubei Province, China.<sup>1</sup> This case continues to grow until there are death reports that continue to occur. On January 30, 2020, WHO declared COVID-19 as Public Health Emergency Concern (PHEIC).<sup>2</sup>

As quoted from the official page of the World Health Organization (WHO), until now, Friday, November 20, 2020, Globally, there have been 56,261,952 confirmed cases of COVID-19, including 1,349,506 deaths reported to WHO.<sup>3</sup> As a result, the community must apply health protocols and apply physical distancing, in which a lot of activities must be done from home, from studying to working at home.

As a result of the impact caused by the COVID-19 pandemic which has occurred for almost a year, it has had a lot of impact on human life such as in the fields of economics, social, law and politics. In the legal field for example, there are many policies and regulations that must be issued by the government to reduce the spread of COVID-19 virus. In Indonesia, one of the policies issued related in legal field is the courts in conducting trials often apply a system called E-Litigation which brings together judges, prosecutors, lawyers and defendant through online videos trial which separated by space, distance and time.

In Facing the COVID-19 pandemic situation, the Supreme Court has issued Supreme Court Circular Letter Number 1 of 2020 concerning Guidelines for Implementation of Tasks During the Prevention Period for the Spread of Corona Virus Disease 2019 (COVID-19) within the Supreme Court and the Judiciary Bodies Under it, one of it is related to the implementation of the E-Litigation system at the trial,<sup>4</sup> Of course this is not easy in its implementation, the Supreme Court and the judiciary under it will be faced with many obstacles in its implementation, both in terms of human resources, system management, security of the system itself and also its facilities and infrastructure.<sup>5</sup> Therefore in this paper I will discuss regarding **Advantages and Disadvantages of the Implementation of E-Litigation in Indonesia During The Pandemic Era.**

## 2. PROBLEM FORMULATION

- a. How was the regulation regarding the implementation of E-Litigation in Indonesia during the pandemic era?
- b. What are the advantages and disadvantages of implementation of E-Litigation in Indonesia during the pandemic era?

<sup>1</sup> dr.Fathiyah Isbaniah, dkk, "Pedoman Kesiapsiagaan Menghadapi Infeksi Novel Coronavirus (2019-nCov), (Jakarta, Direktorat Jenderal Pencegahan dan Pengendalian Penyakit, 2020, Page: 3.

<sup>2</sup> DAF, Situasi Terkini Perkembangan Novel Coronavirus (2019-nCoV) 31 Januari 2020, Access in: <https://covid19.kemkes.go.id/situasi-infeksi-emerging/info-corona-virus/situasi-terkini-perkembangan-novel-coronavirus-2019-ncov-31-januari-2020/#.X7e5FIAXW01> , on November 20, 2020 at 07.41 PM.

<sup>3</sup> WHO Coronavirus Disease (COVID-19) Dashboard, Access in: <https://covid19.who.int/>, on November 20-2020 at 07.23 PM.

<sup>4</sup> Kris Lihardo Aksana, S.H., Implementasi Asas Sidang Terbuka untuk Umum di Masa Pandemi, Access in: <https://www.hukumonline.com/klinik/detail/ulasan/lt5f85965e33a48/implementasi-asas-sidang-terbuka-untuk-umum-di-masa-pandemi/> on November 21, 2020, at 03.39 PM.

<sup>5</sup> Muhammaf Adiguna Bimasakti, 2019 "Hukum Acara Peradilan Elektronik pada Peradilan Tata Usaha Negara", Spasi Media Publishing, Makassar, Page:114.

### 3. ANALYSIS

#### a. Regulation and Concept of E-Litigation in Indonesia Legal System

A brief understanding of E-Litigation is a trial conducted electronically by minimizing the parties to meet face to face and come to the Court office, in order to realize the principle of simple, fast and low cost itself. In technical implementation, the parties can conduct several series of trial events in front of their own laptop or personal computer.<sup>6</sup> Related to the concept of the E-Litigation trial in the Indonesian legal system, this is regulated in the Supreme Court Regulation No.1 of 2019, in article 2 explained that this regulation is intended as a legal basis for the administration of cases and trials electronically in court to support the realization of an orderly professional, transparent, accountable, effective, efficient and modern case handling.

Based on the Decree of the Chief of Supreme Court Number 271/KMA/SK/VII/2019 which is contained in the General Provisions point 2 it is written that the e-court application is an application used to process claims, simple claims, denials of applications, payment of court fees, making court summons and notifications, trials, decisions and legal remedies electronically as well as other case application services established by the Supreme Court that are integrated and inseparable from the case tracking information system.

##### 1) Regulation Regarding the Implementation of E-Litigation During the Pandemic Era

On April 13, 2020, President Joko Widodo officially declared COVID-19 as a national disaster. This is based on the Presidential Decree of the Republic of Indonesia Number 12 of 2020 concerning the Designation of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (COVID-19).<sup>7</sup> As a result of this decision, the government take the action by asked their citizens to Work from Home (WFH), this is aimed to reduce the spread of COVID-19 virus. In relation to this policy, the Supreme Court issued ideas related to the court electronically through the Supreme Court Circular Letter Number 1 of 2020 concerning Guidelines for Implementing Tasks During the Prevention Period of the Spread of Corona Virus Disease (COVID-19) within the Supreme Court and the Judiciary Bodies Under it.<sup>8</sup>

#### b. The Advantages and Disadvantages of Implementation of E-Litigation in Indonesia During the Pandemic Era

Regarding the disadvantages, of course the main thing that becomes an obstacle in implementing the E-Litigation system is because in its application the trial is carried out via online video so that some areas are sometimes constrained by having a signal that is

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<sup>6</sup> Rafli F Achmad, Mengenal Lebih Jauh Bentuk Persidangan Bernama E-Litigation, Access in: <https://www.hukumonline.com/berita/baca/lt5ddb56f5b594c/mengenal-lebih-jauh-bentuk-persidangan-bernama-e-litigation-oleh-rafli-f-achmad/> on November 22, 2020, at 12.12 AM.

<sup>7</sup> Agus Wibowo, Presiden Tetapkan COVID-19 Sebagai Bencana Nasional, Access In: <https://bnpb.go.id/berita/presiden-tetapkan-covid19-sebagai-bencana-nasional>, On November 22, 2020. At 1.20 AM.

<sup>8</sup> Bernadetha Aurelia Oktavira, S.H. Perubahan Persidangan dan Sistem Kerja di MA karena COVID-19, Access in: <https://www.hukumonline.com/klinik/detail/ulasan/lt5e789a4b6c205/perubahan-persidangan-dan-sistem-kerja-di-ma-karena-covid-19/>, On November 22, 2020. at 02.08 AM.

not so strong and good which of course this will hinder the trial took place. Second, the disadvantages that are owned in the application of E-Litigation are many parties in the court who still do not really understand the use of this online video-based technology, because in its application it seems that there are also many parties in the court who have never tried this system before.<sup>9</sup> Third, the disadvantages that are owned are the lack of maximum proof in the trial, which is usually in the trial directly, the flexibility of a judge to ask questions related to the evidence can be easier in asking and showing it directly to the defendant and the parties in the trial, while with In implementing the E-Litigation system, judges sometimes experience difficulties in this regard.

#### **4. CONCLUSSION**

As a result of the presence of COVID-19, have bring significant impact on human life both in the fields of economics, social, law and politics. To reduce the spread of COVID-19 virus, the government issued a Work from Home (WFH) policy which also affects legal aspects in the application of the trial system known as E-Litigation. The application of the E-Litigation system is based on the issuance of ideas related to the court electronically through the Supreme Court Circular Letter Number 1 of 2020 concerning Guidelines for Implementing Tasks During the Prevention Period of the Spread of Corona Virus Disease (COVID-19) in the Supreme Court and the Judiciary Bodies Under it. Of course, in the application of E-Litigation system, there are advantages and disadvantages in its implementation, related to the advantages we can see from the context of cost savings, time efficiency and most important thing the application of this E-Litigation system during a pandemic, of course it can reduce the spread of the COVID-19 virus because this online trial separates the cast of the trial. But besides of that there are also disadvantages, the main obstacle is that sometimes there are some areas that have less strong and good signal constraints, still do not really understand the use of this online video-based technology and lack of maximum proof in court.

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<sup>9</sup> Agus Priyono, Sistem Peradilan Online E-Court miliki Kelebihan dan Kekurangan, Access in: <https://www.borneonews.co.id/berita/126319-sistem-peradilan-online-e-court-miliki-kelebihan-dan-kekurangan>, On November 22, 2020 at 03.02 PM.

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