

Digital Transformation in Case Handling: A Juridical Review of Technology Utilization in the Justice System in Indonesia and Malaysia

Ulfah Dwi Rahmawati, Arief Budiono, Fahmi Fairuzzaman, Ahmad Shamsul Abd Aziz

TABLE OF CONTENTS

Abstract	
Introduction	
Method	
Technology Utilization in the Justice System in Indonesia and Malaysia.....	
a. Electronic Court	
b. Electronic Lawyer.....	
c. Artificial Intelligence	
Juridical Review of Technology Utilization in the Justice System in Indonesia and Malaysia	
Conclusion	
References	

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ABSTRACT. Indonesia and Malaysia have different judicial systems, given that they differ in applying the legal system. However, Indonesia and Malaysia have implemented digitalization in the judicial process from the earliest to the final stages. The use of technology is an effort to reform and digitize to achieve modern justice that is fast and efficient while still upholding legal norms. The objectives of this research are: (1) To find out what forms of technology utilization are in the judicial system in Indonesia and Malaysia and (2) To find out how the law views and regulates this based on applicable Legislation. The writing that was written using the normative juridical method based on a literature study found that the use of technology is desired by the law as evidenced by Legislation governing digitization. The two countries' regulations still require much improvement and evaluation, both substantively and in implementation, to achieve the main objectives.

KEYWORDS. Technology Utilization; Digitalization of Legal System; Legal Comparison

Digital Transformation in Case Handling: A Juridical Review of Technology Utilization in the Justice System in Indonesia and Malaysia

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Introduction

Each country in the world has a diverse judiciary. This is based on the fact that each country has a different outlook and legal system. The culture of a society also influences the legal system that each country eventually adopts.¹ This is because the historical attachment to the formation of the law, which later became positive law, has passed through acceptance and rejection from the community. This acceptance and rejection process certainly comes from what the community experiences. The purpose of the Judiciary and legal system is to uphold the law to achieve true justice. The achievement of justice is also the Judiciary's goal, hence the court's independence. The court's independence is one of the barriers to abuse of power that will injure human rights.²

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¹ Amir Junaidi, *Hukum Acara Pidana Dalam Teori Dan Praktek (Untuk Kalangan Umum)* (Surakarta: Baskara Media, 2019), <https://baskaramedia.com/product/hukum-acara-pidana-dalam-teori-dan-praktek/>.

² Nuria Siswi Enggarani, "Independensi Peradilan Dan Negara Hukum," *Law and Justice* 3, no. 2 (2019): 82–90.

Two legal systems are generally adopted by various countries worldwide, namely the legal systems of Civil Law (Continental Europe) and Common Law (Anglo-Saxon). The difference between the two lies in what is used as a source of law. In the Civil Law legal system, the law is the primary source, while the Common Law legal system places judges as the primary source.³ An example of this is Indonesia and Malaysia. Indonesia is a country that adheres to the Civil Law legal system, and Malaysia applies the Common Law legal system.

The different legal systems between Indonesia and Malaysia impact the process and settlement of cases that are different in the realm of litigation and non-litigation. The roles and functions of the law enforcement officers involved have their specificities and uniqueness at each level of proceedings in each legal system. Nevertheless, today, both legal systems have a point of commonality, namely, utilizing technologies for fast and efficient justice. The rapid development of technology influences this. Technology, including the legal field, has become commonplace in every aspect of life.

Based on data from police reports entered on Electronic Investigation Management, there were 30,019 theft cases alone in January-April 2023.⁴ So far, authors have seen that it will take a long time if the courts resolve all cases up to the final verdict. In addition, the large number of cases will attract many law enforcement officers, resulting in a need for more human resources. Limited human resources will lead to a buildup of instances, so a case is vulnerable to being resolved quickly or fatally not being handled. Technology has tantalizing benefits because of its speed and accuracy in sorting out many files and creating files that humans often use.

This problem is also faced by Malaysian law. In his 2005 article, Bhatt outlined some of the court system's problems. The issues plaguing the justice system are delays, backlogs of cases, alleged lack of transparency and predictability in court decisions, limited access to justice, and staff shortages.⁵ Then, in 2003, Malaysia began to adopt technology in the court litigation process in the form of E-filing, which allows practitioners to file

³ Al-Habsy Ahmad and Kata Kunci, "Analisis Pengaruh Penerapan Sistem Hukum Eropa Kontinental Dan Anglosaxon Dalam Sistem Peradilan Di Negara Republik Indonesia Artikel Info Artikel History," *Jurnal Petium* 9, no. 1 (2021): 51–65, <https://uit.e-journal.id/JPetium>.

⁴ Annur and Cindy Mutia, "Pencurian, Kejahatan Paling Banyak Di Indonesia Sampai April 2023," <https://databoks.katadata.co.id/datapublish/2023/07/18/pencurian-kejahatan-paling-banyak-di-indonesia-sampai-april-2023>, July 18, 2023.

⁵ Jashpal Kaur Bhatt, "Role of Information Technology in the Malaysian Judicial System: Issues and Current Trends," *International Review of Law, Computers & Technology* 19, no. 2 (July 2005): 199–208, <https://doi.org/10.1080/13600860500131614>.

DIGITAL TRANSFORMATION IN CASE HANDLING

documents electronically which is based on the Court Act 2012. This was followed by Indonesia, marked by the issuance of Supreme Court Regulation No. 3/2018 on Electronic Court Case Administration. This moment became a new era for legal justice in Indonesia.⁶ Therefore, digitizing the justice system is an essential step of reform to achieve efficient justice in the 21st century.⁷

To see the development of digital transformation in Indonesia to the fullest, authors need to see how digital transformation is in the Judiciary in other countries. In conducting research on digital transformation in Indonesian and Malaysian courts, the author emphasizes the development of E-Courts, internet-based E-Lawyers, AI-based E-Lawyers, and Artificial Intelligence which are used as recommendation tools in courts although they are still limited to experiments. Malaysia is a country that is close to Indonesia and has cultural similarities. Indonesia and Malaysia develop laws based on customs and religion in the community. However, this comparison does not leave the background of the two countries, which have different legal systems, so authors have a view of the digital transformation of law in the judicial process in the two countries.

The development of E-lawyers either internet-based or AI-based has existed in Indonesia and Malaysia but is still undeveloped for that the author will look for whether both E-lawyers can be used in court and how the juridical basis is. The obvious technology used at the moment in Indonesia and Malaysia is Electronic Court. Electronic court is used to conduct the registration of litigants as well as the submission of documents which was previously done manually at the court causing long queues. Since the electronic court innovation in Indonesia in 2010, the number of remaining Supreme Court cases began to decrease below 10% in 2017 with a total of 1,388 cases or 7.77% of the workload. The number of remaining cases continued to decrease in the following four years. The number of remaining cases in 2018 was 906 (4.89%), in 2019 was 217 (1.07%), in 2020 was 199 (0.96%) and the remaining cases in 2021 amounted to 175 (0.90%).⁸

Malaysia adopted an e-court system similar to that of the United States and Singapore, using a technology-based system. The United States has even

⁶ Mahkamah Agung Republik Indonesia, "PERMA NOMOR 3 TAHUN 2018," Pub. L. No. 3, Mahkamah Agung RI (2018).

⁷ Hishamudin Yunus and Marcus Lee, "Working towards Digitalising the Justice System," Malaysianbar, April 22, 2020, <https://www.malaysianbar.org.my/article/news/legal-and-general-news/legal-news/working-towards-digitalising-the-justice-system>.

⁸ Mahkamah Agung Republik Indonesia, "Lima Tahun Berturut-Turut, Rasio Produktivitas Dan Ketepatan Waktu Memutus Perkara MA Menembus Angka Di Atas 90%," 2022.

developed the E-court system to protect legal documents with Digital Rights Management (DRM). However, before using E-court, Malaysia used a manual or conventional system with manual filing, paper, and handwriting, similar to Indonesia. The process of summoning the parties was done directly by the court interpreter. Since all of these things are done by humans, there are many obstacles if the officer loses his notes, forgets to call each party, or forgets to record the contents of the court until the officer's writing needs to be clarified. These small obstacles unconsciously become obstacles that cause problems for the judicial process and, of course, make the judicial process longer.

E-courts in Malaysia were introduced by the Judiciary using a trial that took place in 2004 at the Sultan Abdul Samad Building. In addition, Malaysia has introduced video conferencing in the courts of Sabah and Sarawak to conduct trials involving parties located in distant areas. This is due to Malaysia's vast geography. These experiments show Malaysia has successfully implemented video-conferencing court proceedings and cut down the distance barriers between litigants. Malaysia's e-court system adopts the green court concept, where they use little or no paper when running the court.⁹

The development of digitization in the judicial sphere departs from the interests and needs of the public, who are thirsty for legal information. Speed and accuracy in obtaining legal information are critical because of time efficiency, especially when dealing with the law. The demand for speed of information can be achieved by utilizing the latest technology in this 4.0 era. The utilization includes all stages in case handling, starting from the general administrative registration process until the court decides on the case.¹⁰ This is marked by the emergence of official websites that provide case consultation services or share knowledge about legal issues, such <https://www.hukumonline.com/> as hukumonline in Indonesia and <https://www.lexisnexis.com.my/> in Malaysia's.

Digitalization during court proceedings facilitates the public's access to extensive information while providing legal certainty in implementing citizens' constitutional rights to obtain justice. This is integral to modernizing

⁹ Kamal Halili Hassan et al., "The Use of Technology in the Transformation of Business Dispute Resolution," *European Journal of Law and Economics* 42, no. 2 (October 1, 2016): 369–81, <https://doi.org/10.1007/s10657-012-9375-7>.

¹⁰ Zulfia Hanum Alfi Syahr, "DINAMIKA DIGITALISASI MANAJEMEN LAYANAN PENGADILAN," in *Prosiding Seminar Nasional Pakar Ke 3 Tahun 2020*, 2020, <https://trijurnal.trisakti.ac.id/index.php/pakar/article/view/6825>.

DIGITAL TRANSFORMATION IN CASE HANDLING

the legal process to realize digital justice. With this digitization, the government is faced with setting standards for legal interpretation, minimizing errors during the judicial process, and increasing the efficiency of law enforcement.¹¹ This effort must be followed up consistently while still paying attention to the synchronization between the form of technology used and what the community needs for the law. Rapid adaptation to change with the use of technology is a must that must be owned by every country so that the welfare of its citizens can be more secure.

In Indonesia, E-court itself can be found on the website <https://ecourt.mahkamahagung.go.id/> which has been provided directly by the Supreme Court. From this E-court system, author can conduct online case registration (E-filing), online case payment (e-Payment), online party summons (e-Summons), and online trial (e-Litigation). The e-Judiciary system is a Malaysian Judiciary innovation to digitalise work processes and the handling of Court proceedings towards empowering the judicial system. The e-Judiciary system is divided into a main application system and a Court technology system to be utilised by Court personnel and Court users. The main application system contains services provided through the e-Filing System (EFS), Case Management System (CMS) dan Queue Management System (QMS). Meanwhile, the Court technology system enables Court proceedings to be recorded audio-visually through the Court Reading System (CRT).

Based on the development of technology in the field of law today, the author wants to examine how the use of technology in Indonesia and Malaysia related to internet-based electronic lawyers and artificial intelligence, electronic courts and their development, and the use of artificial intelligence in court. The author then continues the research to find out how Indonesia and Malaysia guarantee the development of these technologies based on the legal basis they have. The legal basis is necessary because the court process determines the validity of the court's decision. To see how technology is involved in the current judicial process in Indonesia and Malaysia and how the law protects the technology, the author did this research with the title "Digital Transformation in Case Handling: A Juridical Review of Technology Utilization in the Justice System in Indonesia and Malaysia."

¹¹ Yuri A Kovtun et al., "INTERNATIONAL TRENDS IN THE JUSTICE DIGITALIZATION DEVELOPMENT," *Journal Tourism Studies & Practices (RTEP 3* (2020): 1–6, <http://natal.uern.br/periodicos/index.php/>.

Method

This research is doctrinal juridical research also known as normative juridical, regarding a comparative literature study on the utilization of technology in the justice system in Indonesia and Malaysia. The data used during the writing is obtained from primary legal sources, namely Legislation, and supported by secondary legal materials in books, journals, scientific articles, reports, and other literature that discuss or relate to the issues studied in this study. In addition, this research also includes data and information from tertiary sources from the Internet with a limited amount to maintain noble goals and maintain the validity of the results of writing so that it can produce writing that can be accounted for the truth and can contribute additional knowledge to the discipline of law in the future.

Technology Utilization in the Justice System in Indonesia and Malaysia

Technology is part of science. The development of technology amid human civilization today cannot be separated from the teachings of Islam, which, of course, boils down to the most sacred Qur'an. A lot of the content of the Al-Quran verses that have been revealed to His Majesty the Prophet Muhammad SAW in the 7th century can be proven scientifically centuries later. This proves that Islam is a perfect religion that can even beat the speed of technology itself.

Today, technology is developing rapidly, including the increasingly widespread digital transformation model. One of them also occurs in the world of justice, which has begun to implement electronic systems and use artificial intelligence. This development is in line with what has been stated in hundreds of verses in the Quran. One of them is the opening of Surah Al-Alaq, which reads:

اقْرَأْ بِاسْمِ رَبِّكَ الَّذِي خَلَقَ

It means: "Recite in the name of your Lord who created!" (Q.S Al-Alaq: 1)

The verse has a deep meaning of "reading," which contains an order to gather various knowledge that human abilities can reach. This command

DIGITAL TRANSFORMATION IN CASE HANDLING

to read can also mean an order for humans to continue developing different branches of scientific disciplines, including technology.¹² According to Mukhtar Arifin and Kudzaifah Dimyati, a nation can be said to be advanced if it has a superior civilization. Transcendental thinking needs to be applied by humans to place religious values in the social sciences.¹³

The court is authorized to decide on a criminal offense committed by the community. The decision itself has great power because it can become a new law (jurisprudence) that the court emulates if the law cannot provide a sense of justice for the community. Therefore, the process in court to make decisions for people who need justice must undoubtedly be based on the law. If the process is not by the law or there is an error, it will impact the validity of the Judge's decision itself. Especially now that authors have entered the digital judicial process, authors need to know the legal basis for digital court proceedings to maintain the validity of the decision.

The administration expects human cooperation in their organization and performance to achieve the desired goals. This is supported by rational considerations based on common sense, objectivity, and procedures organized in a hierarchically arranged division of labor system. Corruption itself is an administrative disease and is included in administrative malpractice because of rational human thinking. Corruption and bureaucratic diseases prevented through an established organizational system do not have to occur. Still, corruption and various bureaucratic diseases through administration can arise if the actualization of individuals in cooperation requires it. Isn't the justification that authors state when the administration is actualized through organization and management colored by the behavior of individuals in actualizing themselves in organizational life and in the results of their work on what is called management?¹⁴ Corruption is a contemporary crime because it is organized, and many laws regulate the crime of corruption, but the rate of corruption in Indonesia remains high.¹⁵ If even a prosecutor, the victim's lawyer, can be bribed in court, then the people need transparency to continue overseeing their case.

The subsystem of the legal system in Indonesia in the form of the Judiciary has been regulated in the Judicial Power Law Number 48 of 2009.

¹² M Quraish Shihab, *Wawasan Al-Qur'an* (Bandung: Mizan, 1996).

¹³ Muhtar Arifin and Khudzaifah Dimyati, "The Role of Transcendence Values in Preventing Intolerance Behavior," *Journal of Transcendental Law* 3, no. 2 (2022): 156–69.

¹⁴ *Ibid.*

¹⁵ Alam and Amir Ilyas, *Kriminologi (Suatu Pengantar)*, 1st ed. (Jakarta: Prenadamedia Group, 2018), <https://opac.perpusnas.go.id/DetailOpac.aspx?id=1304899>.

The Judiciary itself is a derivation of justice projected on the Judiciary. It is devoted to making decisions on criminal offenses a person commits through a series of investigations and investigation processes. Administrative engineering in criminal justice has been introduced by Frank Remington from the United States and named the Criminal Justice System. Black's Law Dictionary defines the criminal justice system as a collective institution that punishes judicial decisions on a criminal offender through a series of processes.¹⁶ Indonesia's sentencing authority has been given to the Supreme Court.

Based on Law No. 48 of 2009, Indonesia's judicial bodies are under the Supreme Court, which includes judicial bodies within the general courts, religious courts, military courts and state administrative courts. The general courts are authorized to examine, hear and decide criminal and civil cases in accordance with the provisions of laws and regulations. Religious courts are authorized to examine, hear, decide and settle cases between people of the Muslim religion in accordance with the provisions of laws and regulations. Military courts are authorized to examine, hear, and decide military criminal cases in accordance with the provisions of laws and regulations. State administrative courts are authorized to examine, hear, decide, and settle state administrative disputes in accordance with the provisions of laws and regulations.¹⁷

Indonesia has religious courts that are intended for the Islamic community in resolving disputes over divorce, inheritance, wills, and other matters concerning Islam and the family. However, Indonesia has a Sharia Court which is only located in Aceh because it is a region with special autonomy. The Aceh Sharia Court handles civil cases as well as community *jinayat* cases. It is different from case management in Indonesia in general where all criminal cases for both Muslims and non-Muslims are resolved in the district court. The Aceh sharia court is based on Law Number 11 of 2006, concerning the government of Aceh Jo. Qanun No. 10/2002 on Islamic Shari'a Courts, the Province of Nanggroe Aceh Darussalam has established

¹⁶ Tolib Effendi, *Sistem Peradilan Pidana: Perbandingan Komponen Dan Proses Sistem Peradilan Pidana Di Berbagai Negara*, 1st ed. (Yogyakarta: Pustaka Yustisia, 2013), <https://simpus.mkri.id/opac/detail-opac?id=9278>.

¹⁷ I Iswanto, Nunik Nurhayati, and Galang Taufani, *Hukum Tata Negara Indonesia: Sketsa Asas Dan Kelembagaan Negara Berdasar UUD NRI Tahun 1945* (Muhammadiyah University Press, 2017), <https://publikasiilmiah.ums.ac.id/handle/11617/9539>. Hal: 222-223

DIGITAL TRANSFORMATION IN CASE HANDLING

the Provincial Shari'iyah Court as the Religious Court of Appeal and the Municipal District Shari'iyah Court as the first level of Religious Courts.¹⁸

Similar to Indonesia, Malaysia also has a dual court system of civil and Sharia courts. The Sharia Court in Malaysia consists of a subordinate Sharia court, a superior Sharia court, and an appellate Sharia court, while the civil courts are divided into subordinate courts whose authority is based on The Subordinate Court Act 1948 and superior courts whose authority is based on The Court of Judicature Court Act 1964. The superior civil court is divided into three courts: the High Court, the Appeal Court, and the Federal Court, while the Magistrate Court and the Session Court belong to the subordinate courts. The Federal Court is Malaysia's highest court, established under Article 121(2) of the Federal Constitution, and has binding decisions for all courts below it.

The authority of the civil courts is under the rule of the Federal State, while the authority of the Sharia courts is under the State. This is based on the history of law in Malaysia, where Islam is the state religion in Malaysia, but they do not close their citizens to be able to embrace other faiths. People who are Muslims will be subject to Islamic law and undergo court proceedings in Sharia courts, while people who are non-Muslims will undergo English law and undergo court proceedings in civil courts. Not all states in Malaysia are Islamic states; if they are Islamic states, they will still be under federal rule. Based on this, if the State of Malaysia makes regulations or laws in Sharia, then they must be in line with the rules of the Federal State, and if there is a conflict between the State and federal Sharia regulations, then the Sharia regulations must be null and void.

The Sharia Court, as an Islamic court in Malaysia, experiences limited authority and difficulties because each State's regulations differ, which can lead to other court decisions in each State. The Federal Government realized this and began acting to provide the same decision for every community since 1994. The government started by revising Legislation, conducting training for judges and court officials, equipping infrastructure, and so on. The use of technology that can encourage equal decisions for every court in Malaysia is what demands digitization in Malaysian courts.¹⁹

Digital transformation means modernizing information technology to digital optimization and inventing new digital business models. From the

¹⁸ Mahkamah Syar'iyah Banda Aceh, "Sejarah Mahkamah Syar'iyah Banda Aceh," 2024, <https://ms-bandaaceh.go.id/sejarah/>.

¹⁹ Rifyal Ka'bah, *Peradilan Islam Kontemporer : Arab Saudi, Mesir, Sudan, Pakistan, Malaysia Dan Indonesia* (Jakarta: Universitas yarsi, 2009).

results, author can understand that the word transformation is a change in something to a new form to optimize its function. Digital transformation in a process must indeed be found in a renewal towards digital that makes the process function more optimal. If the transformation does not have advantages and changes for the better, of course, it needs to be questioned why there is a need for transformation.²⁰ Technological developments in the legal industry, better known as legal technology, are divided into two models: legal service technology and automatic transformation technology in legal services. Hoffmann Reim said that the emergence of technology is used to assist law enforcement officers in interpreting, identifying, and applying the law to a case.²¹

a. Electronic Court

E-court is a judicial process that has been digitalized to facilitate the public's registration of their cases in court. E-court Indonesia is on the following page: <https://ecourt.mahkamahagung.go.id/>, provided directly by the Supreme Court. From this E-court system, author can conduct online case registration (e-filing), online payment of case fees (e-payment), online summoning of parties (e-summons), and online trial (e-litigation). However, case registration in E-court can only be done by advocates because it requires advocate validity for registration.²² According to Muhammad Syarifuddin, the use of an E-court has the advantage of facilitating and expanding access to justice, fast justice, changing the way of working and the mindset of judicial officers, and minimizing the use of paper in the Judiciary, which means the Judiciary participates in protecting the environment.²³

The service provided by e-Court Indonesia itself is in the form of online case registration in all courts under the Supreme Court, which used to be a time-wasting process when going to court. In accordance with Supreme Court Regulation No. 3/2018, the courts under the Supreme Court that can register with e-Court are the District Court, Religious Court, Military Court,

²⁰ Ramisha Amika Pingki, "POSITIVISASI HUKUM ISLAM DALAM UPAYA PEMBAHARUAN HUKUM DI INDONESIA," *Academia.Edu*, 2020.

²¹ Anjar Setiarna, "Disrupsi Teknologi Hukum Terhadap Jasa Advokat Dalam Pandangan Hukum Pembangunan Mochtar Kusumaatmadja," *Reformasi Hukum* 27, no. 2 (September 3, 2023): 80–88, <https://doi.org/10.46257/jrh.v27i2.622>.

²² Mahkamah Agung, "E-Court Mahkamah Agung RI," <https://ecourt.mahkamahagung.go.id/>, July 29, 2023.

²³ Muhammad Syarifuddin, "PERADILAN MODERN," 2020, <https://www.undp.org/content/undp/en/home/sustainable->.

DIGITAL TRANSFORMATION IN CASE HANDLING

and State Administrative Court. Although e-Court is a facility for the public, only advocates can submit registration files online. Advocates can make payment of case fees, retrieve archived documents, and retrieve trial result data from this e-Court. Documents that can be further accessed in the e-Court are the answer to the lawsuit, replication, duplicates, and conclusions given by the opposing party during the litigation. The summoning of the parties has now been done online by using this e-Court. This certainly makes our court system more effective and faster than offline.²⁴

The development of e-judiciary in Malaysia started in 2010 with the digitization of court work processes. This began with the provision of equipment in the courtrooms, the development of application systems for the Judiciary, and the provision of networks and infrastructure. Then, in 2017, the Expansion of the E-court system covered criminal and civil proceedings at all levels of court. Initially, manual court processes and operations have been converted to the e-judiciary system, which has been integrated with the systems of stakeholders, namely the police, bankruptcy department, road transportation department, prison department, national registration department, procuratorate, and land and development department. Developments in court processes were made by the authorities in 2018 with the introduction of virtual court proceedings, namely online case management (e-Review), video conference proceedings at the Federal Court of Appeal (e-Appellate), online auction bidding (e-Auction), and online deposit of collateral (e-Guarantee). To improve the quality of service and efficiency of the courts, by 2021, Malaysia will scale up e-courts nationwide by implementing data storage, big data, and artificial intelligence. However, please note that in 2021, the Shah Alam Court has modeled online guilty pleas and will be expanded nationwide.²⁵

The E-court in Indonesia in the General Courts by January 2024 has been used in all General Courts. Out of 382 General Courts in Indonesia, 382 active E-Court and E-litigation services have been registered, so E-court and E-litigation have been comprehensive in Indonesia. This also applies to Religious Courts and State Administrative Courts where there are 0 inactive E-court services in all Religious Courts in Indonesia, meaning that all of these

²⁴ Sahira Jati Pratiwi, Steven Steven, and Adinda Destaloka Putri Permatasari, "The Application of E-Court as an Effort to Modernize the Justice Administration in Indonesia: Challenges & Problems," *Indonesian Journal of Advocacy and Legal Services* 2, no. 1 (2020): 39–56.

²⁵ MyGovernment, "E-Judiciary System For Courts Nationwide," 2021, <https://www.malaysia.gov.my/portal/content/31135>.

courts have implemented E-court in their administrative systems.²⁶ Suppose court effectiveness is combined with e-court facilities implemented throughout Indonesia. In that case, it will undoubtedly have a positive impact, and judicial bodies are closer to their goal of making justice simple, fast, and light by the contents of the Judiciary Law.

By 2022 in Indonesia, 95.86% of cases will be registered electronically or using E-court in the District Court, 27.28% in the Religious Court, and 97.80% in the State Administrative Court. This data shows that the Religious Courts need to catch up and have fewer registrants with E-court services than other courts that use E-court. If this continues, the Religious Courts will stay caught up in resolving cases compared to the State and Administrative Courts.²⁷ The data above also shows that the courts continue to accept files offline so that if the Internet constrains the public, they can register offline. The court recorded 118,313 electronic or teleconference trials in 2022 out of the total criminal cases. This can be a way of resolving the geographical constraints of Indonesia, which is separated between islands, so that teleconference trials can bring together parties far away in other regions.

The number of remaining Supreme Court cases decreased below 10% in 2017, with 1,388 cases or 7.77% of the workload. The number of remaining cases continued to decline in the following four years. The number of remaining cases in 2018 was 906 (4.89%), in 2019 was 217 (1.07%), in 2020 was 199 (0.96%), and the remaining cases in 2021 amounted to 175 (0.90%). The number of remaining cases in 2021 is the smallest in the Supreme Court's case-handling history.²⁸ The use of E-courts, which began to be promoted and has been based on the law, started in 2018, so from the data above, author can see a decrease in cases that have not been minuted by the Judiciary most in 2017 to 2018, namely when E-courts have started. In the following year, there was a periodic decline, and in 2020 and 2021, the number of cases that had not been mutated was below 1%. Author have directly seen how the effectiveness of technology in the Judiciary can become an auxiliary tool for faster case settlement in court.

Malaysia has used the E-court system for a long time to facilitate registration at the intended court. In 2003, the e-sharia innovation began

²⁶ Mahkamah Agung Republik Indonesia, "Map E-Court," 2024, https://ecourt.mahkamahagung.go.id/mapecourt_umum.

²⁷ Mahkamah Agung Republik Indonesia, "Laporan Tahunan Mahkamah Agung Tahun 2022," 2022.

²⁸ Mahkamah Agung Republik Indonesia, "Lima Tahun Berturut-Turut, Rasio Produktivitas Dan Ketepatan Waktu Memutus Perkara MA Menembus Angka Di Atas 90%."

DIGITAL TRANSFORMATION IN CASE HANDLING

when the Sharia court merged all Sharia courts across the country. E-sharia has five modules in use that have been spread across 110 Sharia courts in Malaysia as of 2013. The salient feature of e-sharia is that on one webpage, author can find all forms of sharia courts from 13 relevant states. Apart from the Sharia courts, the Malaysian civil courts have used e-courts since 2011. E-court in this civil court has four mechanisms: case management system, community and advocate portal system, video conference, and trial recording equipped with transcript option system. The system applied in this E-court is the E-filing system. This is a form of modern court to reach all people with all their needs. Providing online courts like this makes it easier for the Sabah and Sarawak regions to reduce geographical constraints between areas. The travel time required for advocates to move between courts within the Malaysian states makes the trial constrained, so it is appropriate that this system is introduced to facilitate the community's activities.²⁹ In his research, *Judicial Reform Through the Use of Technology in Malaysia*, Gan Chee Keong conducted a study on the use of technology in Malaysian Courts. The e-court system has transformed the judicial process of the system, allowing the public to benefit significantly while modernizing and globalizing the Malaysian judiciary system. However, initiatives and efforts should continue to be implemented to increase the Judiciary level's efficiency and improve the system.³⁰

E-Sharia aims to provide efficient administrative management within the Islamic Judiciary in Malaysia. After the advent of E-shariah court case management became efficient, and the time spent on case management was reduced to only 2 minutes. Overlapping cases often occurring during the manual process can be tracked and minimized. Most importantly, since the advent of E-shariah, case statistics have been easily generated, which can be used to reduce errors in court decisions. The public can immediately see the status of a case's progress. The security of a case's information has been guaranteed since it entered into the E-shariah filing system. This uniformity of court procedures can be used to provide justice for the people.³¹

²⁹ Zuhairah Ariff Abd Ghadas and Rabiatal Adawiyah Mohd Ariffin, "E-COURT SYSTEM IN THE CIVIL AND SHARIAH COURTS: MALAYSIA PERSPECTIVES," in *Proceedings of the International Conference on Islamic Civilization and Technology Management*, 2019, 141.

³⁰ Gan Chee Keong, "Judicial Reforms through the Use of Technology in Malaysia," *Penelitian Akademik Eropa*, 2017, www.euacademic.org.

³¹ Wan Satirah Wan Mohd Saman and Abrar Haider, "E-Shariah in Malaysia: Technology Adoption within Justice System," *Transforming Government: People, Process and Policy* 7, no. 2 (May 2013): 256–76, <https://doi.org/10.1108/17506161311325396>.

Malaysia's own E-sharia has been set up to provide the latest court-related information to the public through an internet web portal. The Case Management System of the Sharia Court (CMSSC) on its website offers valuable facilities for the public, such as trial registration, trial scheduling, collection and production of receipts, queries, search for case information, recording of decisions and their statistics, and also storing case databases to avoid overlapping cases in the courts. The calculation of inheritance or Faraid can also be done on this website to facilitate the Islamic community. The system is also friendly to lawyers as all lawyers can easily register their cases, obtain certificates of practice in sharia courts, and provide information on sharia law practitioners. This e-sharia facility shows the artificial intelligence technology used in the e-sharia web to facilitate human work.

If author look at www.ecourt.kehakiman.gov.my, The list of public services provided by the government for the public includes document upload services, payment for case filing, ticket purchase, online file search, document verification, commissioner of oaths, law firm filing, an online guilty plea for traffic case system and departmental summons (e-PG) along with the list of offenses, and online payment of fines. From here, author can see the digital transformation progress in the Judiciary in Malaysia, which has provided various features to facilitate the public to resolve cases online without piling up cases in the Judiciary. What will undoubtedly happen is the efficiency of the case settlement process in the Judiciary and the speed of case settlement. E-fine, a feature of E-court, can minimize corruption in the Judiciary because it does not receive money directly from the public.

b. Electronic Lawyer

E-lawyers are lawyers in electronic form based on the Internet to provide legal services.³² The development of E-lawyers in the world has been divided into two methods; the first is lawyers who work with digital strategies so that they do not meet face-to-face with clients and AI-based E-lawyers. Lawyers who work with this digital method provide services to clients online through advice or case handling. Since Article 5 of Law No. 18/2003 authorizes advocates to work in all regions of Indonesia, lawyers who work digitally are valid as long as they remain in their jurisdiction.

³² Wisdom Okereke Anyim, "E-Lawyering and Virtual Law Practice: A Paradigm Shift for Law Library System," *Jurnal Library Philosophy and Practice*, 2019, <https://digitalcommons.unl.edu/libphilprac>.

DIGITAL TRANSFORMATION IN CASE HANDLING

E-lawyers use cyberspace to develop their work so that many people can reach it. Conventional lawyers need a lot of goods to set up an office and, of course, need an employee to help them complete their work. However, even though E-lawyers can reach clients in distant places, E-lawyers must stick to the rule that lawyers can only practice in jurisdictions that have been determined by law.

Delloite, in 2017, researched the replacement of lawyers by robots and explained that 39% of low-level legal work will be replaced by automated systems, namely artificial intelligence, in the next two decades. This is because the repetitive work of a lawyer creating the same document will drive change with technology. A new competition between humans and robots will begin even though author know that robots cannot be superior to humans. Economic competition and capitalism will drive E-lawyers' continued growth due to their advantages, which will be a challenge for young lawyers in the future.³³ This is because digital signature arrangements already support e-lawyers working remotely. These digital signatures have validity requirements that the lawyer and the client must meet. However, it should be kept in mind that although the work of lawyers can be done anywhere, lawyers have a code of ethics that must be fulfilled, which is not to be outside their geographical area; if this happens, it will interfere with the work of lawyers who are in other geographical regions and cause arguments between lawyers.

Now, one of the electronic lawyers is developing in the world, namely ROSS. The artificial intelligence lawyer named ROSS himself is a lawyer employed by the Baker Hostetler law firm to assist with the bankruptcy practice of a company. ROSS can facilitate employee work that takes three days to complete in just a few seconds. Companies are also able to reduce costs for employees by using ROSS. ROSS works by using keywords, which ROSS will then process to provide results as needed.³⁴

In a study by Superlegal, Lawgeex, 20 lawyers and an AI were allowed to review a contract to find legal issues with NDAs or Standard Non-Disclosure Agreements. The lawyers used are lawyers with decades of experience and AI who have been given data on tens of thousands of contracts. The result of this study is that a human lawyer takes 92 minutes of

³³ Salvatore Caserta, "The Legal Profession in the Digital Age," *The Sydney Law Review* 43, no. 3 (2021): 411–18.

³⁴ Catherine Nunez, "Artificial Intelligence and Legal Ethics: Whether AI Lawyers Can Make Ethical Decisions," *Tul. J. Tek. & Intel. Prop.*, 2017, http://www.altmanweil.com/dir_docs/resource/1c789ef2-5cff-463a-863a-.

work with 85% accuracy, while AI only takes 26 seconds of work with 95% accuracy. These results are very comparable when judged by the accuracy and time required. If society and government need a legal servant, of course, society and government will choose AI because of its level of efficiency and accuracy.

c. Artificial Intelligence

Artificial intelligence in Indonesia is more commonly known as Artificial Intelligence. According to KBBI (Big Indonesian Dictionary), artificial intelligence is a computer program imitating human intelligence, such as making decisions and providing basic reasoning and other human characteristics. Artificial Intelligence itself is created or created to perform activities desired by humans. If humans have a problem, then, of course, humans are looking for ways to solve that problem, and then this artificial intelligence is created and set up to work according to what humans want. The use of AI in the realm of law can be said to be one of the efforts to achieve sustainable development goals (SDGs) to realize a peaceful judiciary, accountable agencies, inclusive, effective, and easily accessible to the broader community.

There are three reasons why AI is the consumption of modern society. Namely, AI can help load a lot of information in this digital era, AI can recommend things that people need according to the data available to them, and AI promises efficiency from various repetitive operational systems. The government sector uses AI to organize society or the tasks of the government itself, such as those used in the courts.³⁵ According to Themeli, rather than AI having public procedures, AI algorithms should be made publicly accessible or public.³⁶

The use of AI in Malaysia is still limited to trials conducted in the Sabah and Sarawak Courts, but decisions have been made with the help of AI. The AI used in these courts only contributes to providing recommendations for the sentence length or the sentence's severity for the defendant in accordance with previous court cases. This is important for decision-making for the Malaysian State because it avoids different sentences for the same crime. Previous court decisions are important as a reference for future decisions

³⁵ Alfred Boediman Ridi Ferdiana, *IDIOT ENGINEERING*, 1st ed. (Jakarta: Kesaint Blanc, 2020).

³⁶ Erlis Themeli, Stefan Philipsen, and Philipsen@uu.nl, "AI in Courts AI as the Court: Assessing AI Deployment in Civil Cases," *SSRN*, 2021, [www.euciviljustice.eu/Electroniccopyavailableat:https://ssrn.com/abstract=3791553](https://ssrn.com/abstract=3791553).

DIGITAL TRANSFORMATION IN CASE HANDLING

because the Malaysian way of making court decisions is to find the legal basis of the crime coupled with consideration of previous choices.

386 law firms have engaged AI in their services by 7.5%. McKinsey Global Institute has estimated that as much as 23% of lawyers' work could be done by AI by 2017.³⁷ Looking at developed countries that regularly apply AI gives us an idea that using AI has excellent functions and benefits in the legal world. AI-based lawyers themselves are still controversial on their positive and negative impacts. Author can see the positive effects of E-lawyers, who can work faster, cheaper, and more thoroughly than humans because they have been programmed for it. At the same time, the negative impact of AI-based E-lawyers is the reduced number of employees due to the use of AI. Of course, if this continues, many employees will find it challenging to find work or even become unemployed. In Malaysia, the first artificial intelligence-based lawyer was named Askaila. However, after its appearance, if seen from its Instagram account (@ask.aila), this AI lawyer still needs to provide a history of its contribution to helping the community.³⁸

In Indonesia alone, Artificial Intelligence has been utilized to facilitate humans in handling legal cases. UMBRA law firm is the first adopter of AI lawyers created by Luminance AI. Indonesian Law Firm UMBRA has also announced that they have adopted AI created by Luminance to help legal practitioners. Luminance is software based in London and has been trained by mathematicians and legal experts from Cambridge University. Luminance itself can understand the language used in documents based on content and context, so this AI does not only select words in a document.³⁹ Cases that have few conflicts and can be handed over to AI should be handed over to AI to streamline judicial work. AI can be improved and tested regularly to create a system that can help law enforcement.

According to Rachel Gong, Malaysia has previously tested the use of AI in the court system in Sabah and Sarawak. Artificial Intelligence Sentencing System (AISS), is an AI developed by the Sabah and Sarawak

³⁷ Saskia Dinda Ratna Pratiwi, "Mungkinkah Profesi Hakim Dan Pengacara Di Indonesia Akan Digantikan Dengan Artificial Intelligence (AI)?", Heylawedu, May 3, 2023, <https://heylaw.id/blog/mungkinkah-profesi-hakim-dan-pengacara-di-indonesia-akan-digantikan-dengan-artificial-intelligence-ai>.

³⁸ Malaysiakini authors, "AskAILA, Malaysia's First Artificial Legal Assistant: An AI That Specializes in Labor Law," Malaysiakini.com, December 12, 2020, <https://www.malaysiakini.com/announcement/554776>.

³⁹ UMBRA, "UMBRA Law Firm Adopts Luminance's Artificial Intelligence in Indonesia," 2018, <https://umbra.law/2018/07/06/luminance/>.

courts with the SAINS E-court system in 2020.⁴⁰ AI is used in a predictive statistical system that analyzes previous cases from 2014 to 2019 to get predictions of decisions that will come out in court. Judges can use these predicted decisions as a reference for sentencing defendants to avoid inconsistencies. If it continues to occur, this inconsistency will lead to legal uncertainty and make it easier to abuse the defendant's punishment. Although AI has been implemented in real life in the courts of Sabah-Sarawak, Malaysia does not yet have rules on artificial intelligence.

According to Dennis WK Khong and Chiung Ching Ho, this AI trial was conducted on the drug possession case in Dennis WK Khong and Chiung Ching Ho : PP v Denis P Modili has variables that need to be highlighted, namely:⁴¹ (1) The case data used was from 2014 to 2019; (2) The case facts provided were the drug weight, age, and employment record of the defendant; (3) Sentencing recommendations were fines, imprisonment, or both; (4) The percentage of recommendations by the AI to the Judge to be followed. The percentage given by the AI was 54.31%, and the defendant was sentenced to 10 months' imprisonment. The result of this identification is a recommendation of punishment that the Judge will process again to be used or abandoned. AI can give a number in fines or imprisonment because it is programmed with linear regression.

The use of AI in the Sabah and Sarawak courts was only sometimes smooth, but officers found some programming that needed to be improved to avoid bias. The existence of bias itself can lead to different predictions of decisions in some cases. Just like the case of AI being used to recruit workers above, AI in the courts has the potential to do the same. Another problem also arises when in a rape case, AI cannot predict the psychological stress that has different degrees on the victim. Mathematical terms to detect variables also need help to identify what justice is. Subjective matters of the defendant would also be challenging to convert into mathematical terms. Due to these weaknesses, the courts only use AI as a recommendation to make decisions. However, AI may recommend a different sentence if there is an admission of crime by the defendant, which AI will use as a variable to determine the sentence recommendation. These biases can be avoided with

⁴⁰ Rachel Gong, "NAVIGATING CHALLENGES, REALISING OPPORTUNITIES OF DIGITAL TRANSFORMATION," *Khazanah Research Institute*, 2020, https://www.krinstitute.org/assets/contentMS/img/template/editor/KRI - NetworkedNation - Navigating Challenges, Realising Opportunities of Digital Malaysia_latest.pdf#page=13.

⁴¹ Dennis W K Khong and Chiung Ching Ho, "Artificial Intelligence in Malaysian Courts: PP v Denis P Modili," *Asian Journal of Law and Policy* 2, no. 2 (July 8, 2022): 127–36, <https://doi.org/10.33093/ajlp.2022.9>.

DIGITAL TRANSFORMATION IN CASE HANDLING

improvements in the AI system and when the AI has received much experience reviewing cases.

Juridical Review of Technology Utilization in the Justice System in Indonesia and Malaysia

Indonesia, a country with the legal basis of Pancasila, is unique from other countries because the Indonesian people created their legal basis as the future goal of the nation. Dirji Darmodiharjo revealed that Pancasila democracy is an understanding of democracy whose source is the personality and philosophy of life of the Indonesian people embodied in the Preamble of the 1945 Constitution. The second principle of Pancasila, which reads "Just and civilized humanity," has a vision that the Indonesian nation holds humanitarian values in anticipating future challenges.⁴² Therefore, the policy movement in Indonesia needs to be accompanied by human values interpreted in justice and manners. Government policies such as providing legal containers and flexibility in entering the era of globalization must also be based on Pancasila. If seen in the use of E-court and E-lawyers that have developed in Indonesia, of course, these two forms of technology are based on Pancasila because the purpose of the creation of E-court and E-lawyers is to provide convenience for the people to resolve their legal cases and is an interpretation of the 5th principle of Pancasila. The transparency promised by technology is an interpretation of the second principle of Pancasila because it is fair to every citizen. Technology can realize Indonesian unity because it minimizes the impact of Indonesia's geography, which has a large area to litigate in one place.

When the democratic system is applied to the Indonesian State, the power of the Indonesian government is based on the people's interests. So, the policies implemented by the government must be considered by the government and decided by the people through a system. The people choose because the policy's purpose is for the benefit of the people. So that if the people feel that a policy is not profitable and causes problems, then the people have the right to request the abolition of the policy. A modern court that aims

⁴² I. Iswanto, Nunik Nurhayati, and Galang Taufani, *Hukum Tata Negara Indonesia: Sketsa Asas Dan Kelembagaan Negara Berdasar UUD NRI Tahun 1945* (Surakarta: Muhammadiyah University Press, 2017), <https://publikasiilmiah.ums.ac.id/handle/11617/9539>.

to provide effectiveness, transparency, convenience, and justice for the community is undoubtedly a good policy for the people.⁴³

Therefore, in terms of the digital transformation of law in the judicial environment, of course, the Supreme Court has a significant share because they are the ones who are authorized to take care of the judicial process. The three primary functions of the Science of Legislation are to fulfill legal needs in society, nation, and State, constantly develop and bridge unwritten customary law, and fulfill unwritten legal certainty for the community.⁴⁴ The Supreme Court answered this by issuing Supreme Court Regulation No. 3/2018 on Electronic Court Case Administration and Chief Justice Decree No. 122/KMA/SK/VII/2018 on Guidelines for Managing Registered Users of Court Information Systems.⁴⁵

This is by the considerations in Regulation of the Supreme Court of the Republic of Indonesia No. 7/2022 above that this regulation was made based on the provisions in Article 2 Paragraph 4 of Law No. 48/2009 concerning judicial power, which states that justice is carried out simply, quickly, and at low cost. To realize this, reforms are needed to overcome obstacles in the administration of justice. Renewal is adjusted to the demands and developments of the times, which require effective and efficient case administration services. The Aceh sharia court is based on Law Number 11 of 2006, concerning the government of Aceh Jo. Qanun No. 10/2002 on Islamic Shari'a Courts, the Province of Nanggroe Aceh Darussalam has established the Provincial Shari'iyah Court as the Religious Court of Appeal and the Municipal District Shari'iyah Court as the first level of Religious Courts.⁴⁶

Based on Law No. 48 of 2009 on judicial power, the principles of the exercise of judicial power are found in Articles 2-17. First, the Judiciary is conducted in the name of justice based on the Almighty God. Second, judicial power must be based on justice and truth. Third, the Judiciary must be conducted quickly and cheaply. The Judicial Power Law explains that the

⁴³ Faried Ali, Anwar Sulaiman, and Femmy Silaswaty Faried, Op. Cit, Hlm. 38.

⁴⁴ Aziz Syamsudin, *PROSES & TEKNIK PENYUSUNAN UNDANG-UNDANG*, ed. Tarmizi, 2nd ed., vol. xiv (Jakarta Timur: Sinar Grafika, 2014), <https://opac.perpusnas.go.id/DetailOpac.aspx?id=861066>.

⁴⁵ Pengadilan Agama Purwokerto, "Informasi/Definisi Tentang E-Court Mahkamah Agung RI," <https://www.pa-purwokerto.go.id/layanan-hukum/e-court/informasi-definisi-tentang-e-court-mahkamah-agung-ri#:~:text=Dasar%20Hukum%20e%2DCourt%20%3A&text=Peraturan%20Mahkamah%20Agung%20RI%20Nomor,3.,2018>.

⁴⁶ Mahkamah Syar'iyah Banda Aceh, "Sejarah Mahkamah Syar'iyah Banda Aceh," 2024, <https://ms-bandaaceh.go.id/sejarah/>.

DIGITAL TRANSFORMATION IN CASE HANDLING

Supreme Court is the perpetrator of judicial power, as referred to in the 1945 Constitution of the Republic of Indonesia.⁴⁷ According to Muhammad Syariffudin, the advantages of this modern judiciary system are that the community will quickly obtain justice, the principle of simple justice will be implemented, transparent and accountable judicial bodies will be established, and substantive justice will be realized.⁴⁸ Article 4 of the Judicial Power Law explains that the court helps justice seekers and tries to overcome all obstacles to achieve simple, fast, and low-cost justice. The authority given to Supreme Court is an institution that can hear cases in the community; of course, the Supreme Court needs to make the process of reading better for the community, and for that, the Supreme Court is authorized in digital transformation in the courts.

In 1988, the Federal Constitution of Malaysia, before amendment, vested judicial power in the High Court and lower Courts to administer federal law (Article 121 section 1). After the 1988 amendment, Mahathir Mohamad, as Prime Minister, removed the term 'judicial power,' and the term was given in Article 121 Section 1. The 1988 amendment was the culmination of the judicial crisis, which led to much criticism of the constitutional crisis and unwarranted interference with the independence of the courts. The Judiciary can be implied from other constitutional provisions to provide judicial power, and the 1988 amendment should be interpreted in a limited way to protect individuals.⁴⁹

Malaysian courts have developed Malaysian Common Law in the past and continue to do so. Any English law the Malaysian courts have accepted or partially accepted will crystallize into Malaysian Common Law. There is nothing wrong with accepting English law but it must be done by section 3(1) of the Civil Law Act 1956. If there is a lacuna in Malaysian law, the courts can apply English law to it, provided all the hurdles in section 3(1) are met. In this way, English law crystallized into Malaysian Common Law through the statutory door of section 3(1). Judges have done this in many cases in the past.⁵⁰ This becomes dangerous if the Judge, in making the decision, is negligent in choosing a reference for his decision. If the references used are inappropriate, it will lead to different choices for the same case. This will

⁴⁷ Bambang Waluyo, *Viktimologi (Perlindungan Korban Dan Saksi)*. (Jakarta Timur: Sinar Grafika, 2018), <https://opac.perpusnas.go.id/DetailOpac.aspx?id=201272#>.

⁴⁸ Muhammad Syarifuddin, Op. Cit., Hlm. 21

⁴⁹ Yvonne Tew, "The Malaysian Legal System: A Tale of Two Courts," *Commonwealth Jud. J.*, 2011, 3–7, <https://scholarship.law.georgetown.edu/facpub/1922>.

⁵⁰ Defrim Shabanaj, "Common Law of Malaysia: A Practical Approach," *E-Journal of Law* 2, no. 2 (2017): 42–68.

also cause legal injustice and weaken the Common Law system. To cover this human weakness need to be assisted by technology to select each similar case for a more accurate reference. The suitable technology for this is Artificial Intelligence, which can be programmed to determine cases with the data provided.

In article 1 number 2 of Regulation of the Supreme Court of the Republic of Indonesia No. 7/2022, author can see what electronic services the Supreme Court provides, namely Administration, Case Services, and Electronic Trials, which are united in an internet-based Court Information System (CIS). This CIS is integrated into the One Stop Integrated Service (OSIS), which combines the service process of court service products from the initial to the completion stage. Electronic case administration and trial arrangements apply to courts of first instance and appeal for civil, remarkably civil, religious civil, military administration, and state administration cases.

The contents of the amendments to Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2018 Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2019, and Regulation of the Supreme Court of the Republic of Indonesia Number 7 of 2022 are Electronic trials can still be carried out even without the consent and presence of the defendant, Expansion of the applicability of electronic trials which began to touch exceptional civil cases, namely objections to KPPU decisions and management of bankruptcy assets, Expansion of electronic domicile so that parties can choose electronic domicile, Expansion of registered users not only advocates but also curators and administrators, Electronic case administration services that provide pro bono case accommodations so that people who cannot afford it do not need to pay a fee in advance, Electronic summons of the defendant whose electronic address has been entered. These changes refine the rules of the electronic case administration and trial system by the Supreme Court and their efforts to make the judicial system better than before.

The electronic court in Malaysia has existed since 2003 based on a proposal to create a single case management system for the Sharia Courts at the Malaysian cabinet meeting. This electronic system connects the country's Sharia courts through JKSN and MSN. The effort in establishing this system was to improve the efficiency of administration and management in the Sharia judiciary institutions from all regions in Malaysia. The electronic

DIGITAL TRANSFORMATION IN CASE HANDLING

system continues to be used by the sharia judiciary to this day.⁵¹ According to Ramly, there are positive effects of e-Sharia on the community.⁵²

The E-filing arrangement used in the Malaysian civil and Sharia e-courts is regulated in the Malaysia Rules of Court 2012 precisely in section 63A. In this regulation, author can see the regulation regarding who is involved in the E-filing process, both from the service bureau and registered users. In section 63A lift 1(4), there is a regulation where not everyone can become a registrant in E-filing but users who have received approval from the registered clerk. Authentication codes for electronic filing, authority of authorized agents, confidentiality of authentication codes, submission to the registrar, form of documents, and date of submission are also regulated in this section.

To protect government activities that have begun to be digitized, Malaysia has regulations since e-sharia joined e-government, namely: 1) *Electronic Government Activities Act 2007*, 2) *Public Sector Data Dictionary 2002*, 3) *ICT Security Policy Version 5.3*, 4) *Biometric User Guidelines for Public Sector Agencies*, 5) *Information Technology Instructions*, 6) *Malaysian Public Sector ICT Security Management Guidelines*, 7) *Government General Circular No. 3 Year 2000: Information and Communication Security Policy Framework*, 8) *The Malaysian Government Interoperability Framework for Open-Source Software (My GIFOSS)*.⁵³

The electronic messages used to support the electronic court in Malaysia are found on the websites (www.kehakimangov.my) and (www.malaysianbar.org). These electronic messages are used for the court's communication with the bar council, bar committee, police department, prison department, lawyers, and the public. These online messages are sent for notifications, renewal requests, and reminders for lawyers who post online. Such electronic messages have been recognized by the EGAA (The Electronic Government Activities Act 2007) in section 10 to the effect that they shall not be denied legal effect, validity, and enforceability on the ground that they are electronic. So, if there is a direction for the use of written documents, electronic documents are as valid as they are the same as physical documents in the eyes of the law and their enforcement.

⁵¹ Zulzaidi Mahmud and Ahmad Hidayat Buang Professor, "Perkembangan Penggunaan Teknologi Maklumat Di Mahkamah Syariah Malaysia," *Journal of Shariah Law Research* 7, no. 1 (2022): 85–106, <https://ijps.um.edu.my/index.php/JSLR/article/view/37285>.

⁵² Norlida Ramly et al., "Analysing Factors That Affect *E-syariah* Adoption by Shar'ie Lawyers," *Jurnal Pengurusan* 43 (2015): 89–96, <https://doi.org/10.17576/pengurusan-2015-43-08>.

⁵³ Saman and Haider, "E-Shariah in Malaysia: Technology Adoption within Justice System."

Notices regarding the electronic filing of documents into the E-filing system are given to all members and lawyers in each State separately. For example, the States of Sabah and Sarawak have issued a notice in Circular No. 29 dlm.JUD/134/jld.5 dated July 31, 2012. Thus, this experiment has been based on an official order to use AI in court. This is not an illegal endeavor by the court, as the purpose of using AI is to facilitate the work of law enforcement officers.

Audio and video conferencing in Malaysia is in line with the Rules of Court 2012 content. In civil cases, order 1 Rule 4 of the Rules of Court 2012 has provided for the validity of the electronic presence of any person in a court case. Therefore, the electronic presence contained in the E-court has a valid legal basis. What is essential in this conference is that each party joins the ICT application or other application provided by the court so that each party is in the same conference room. Section 272B of the Criminal Procedure Code (CPC) provides that the acquisition of evidence from live video or live television will be considered evidence. From this author can see that the Malaysian government has allowed criminal trials to be conducted by conference. If a party cannot attend the trial, then the party can be presented electronically after obtaining permission from the presiding Judge.⁵⁴

Although there is no AI regulation in Malaysia, Malaysia has regulated the data stored in AI using the Personal Data Protection Act (PDPA) regulation. Section 6 of the PDPA holds that the processing and use of a person's data is prohibited except with the data owner's consent, so the data owner must be in direct custody. The data collection itself should also be, at most, what is needed. So from this, author know that to process data, it is necessary to have valid data, consent to use data, and minimize the use of data. Therefore, this regulation is also a regulation to maintain the privacy of the data owner.

Suppose in E-court, the regulations that must be enforced are regulations that coexist with the administration. In that case, the regulation of E-lawyers is in the form of rules that directly coexist with a person who works as a lawyer. The development of e-lawyers can be categorized into two types: AI-based lawyers and lawyers who provide consultations electronically or via the Internet. Then, there is a need for regulations that

⁵⁴ Ani Munirah Mohamad, "Legal Aspects Of Electronic Communication Involving The Malaysian Courts," in *The European Proceedings Of Social & Behavioural Sciences* (Cognitive-Crcs, 2017), 247–53, <https://doi.org/10.15405/epsbs.2018.12.03.23>.

DIGITAL TRANSFORMATION IN CASE HANDLING

cover the whole. However, Indonesia has the Law of the Republic of Indonesia 18 of 2003; in articles 1 and 2, author can see that the so-called advocate/lawyer must be a human being who meets the requirements, has undergone higher legal education, and has received training specifically for advocates.

This means that E-lawyers in the form of AI is not a technology that can replace lawyers. The AI is only used as an aid to the completion of files by lawyers and must be scrutinized and corrected by lawyers. However, lawyers using E-lawyers with websites on the Internet can still provide consultations as long as they stay within the territorial limits set by the law. In the above law, Indonesian lawyers can provide their services in all parts of Indonesia. According to Article 23 of Law 18/2003, a foreign lawyer cannot appear in court if society want a consultation with a foreign lawyer across borders.

The virtual trial becomes a *Lex Specialis* provision determined outside the Criminal Procedure Code. This provision has created a new legal basis regarding victims and child witnesses who cannot attend the trial to provide information before the Judge can order the court to hear their testimony through audio-visual communication devices or electronic recording. Then Article 9, paragraph 3 of Law No. 31 of 2014 concerning Witness and Victim Protection has provided information that victims/witnesses can be heard either directly or electronically with the assistance of authorized officials. So, the development of legal services in E-court for the search for justice is done in person and online.

The validity of this virtual trial is reinforced by the existence of Regulation of the Supreme Court of the Republic of Indonesia No. 4 of 2020 concerning Administration and Electronic Trial of Criminal Cases in Courts in article 11 that in certain circumstances from the beginning of the trial or during the trial, the panel of judges/judges because of their position or at the request of the public prosecutor and the defendant or legal counsel can determine the trial electronically with separate provisions.⁵⁵ However, the procedure for examining witnesses and experts is carried out and based on the provisions of the Law of Procedure. Although the trial is conducted electronically, questioning witnesses and experts is shown in the courtroom.

⁵⁵ Dewi Safitri and Bambang Waluyo, "TINJAUAN HUKUM ATAS KEBIJAKAN SISTEM PERADILAN SECARA ELEKTRONIK DI MASA PANDEMI COVID-19," *Proceeding: Call for Paper National Conference For Law Studies: Pembangunan Hukum Menuju Era Digital Society*, 2020, 1–14, <https://conference.upnvj.ac.id/index.php/ncols/article/download/1522/980>.

In Malaysia, the legality of video broadcasting of proceedings, television broadcasting, and other electronic broadcasting is provided for in Section 3 of the Courts of Justice Act 1964, Section 2 of the Subordinate Courts (Amendment) Rules Act 2020, and Section 2 of the Subordinate Courts (Amendment) Act 2020. Other electronic broadcasting further includes telephone, email, text messaging, video conferencing, and social media. Article 15A [1] states that the Court may, without limiting itself to Article 15, conduct hearings or trials on any matter or request, whether civil or criminal, through remote communication technology to ensure access to justice for the public.

Decision-making is one of the public policies because it can create a new regulation for the community on what the Judge decides. The guarantee of general information disclosure for the public is regulated in Law Number 14 of 2018 concerning Public Information Disclosure. Article 3 of this law guarantees citizens' right to know the government's process and reasons in making decisions for the public and to include the public in decision-making. Court decisions are public information based on the Decree of the Republic of Indonesia Chief Justice Number 1-144/KMA/SK/I/2011.

The obstacle to using technology in Indonesia, namely the uneven quality of technology obtained between regions in Indonesia, is one of the biggest obstacles in transforming courts into digital forms. Of course, someone who will be faced with technology must be technologically literate. Still, if government face rural tribes in Indonesia who choose not to accept technology, the justice gap in transforming courts to digital will be challenging. Even law enforcement officers who come from small areas must be given special training to accept the transformation. If the community cannot access the transparency that is the goal of judicial digitization, then the goal will become mere words. This will reduce the effectiveness of the Public Service Information System and E-court services themselves.⁵⁶

In the use of E-lawyers, the case that users must always observe in the use of AI in the legal profession besides bias is the risk of spreading personal data by AI itself. Author know that to make AI work and generate data, data must be entered into the AI system. This data comes from thousands of previous cases that have been decided by judges manually and is impossible to separate from the suspect's data because it requires accuracy like the original data. Moreover, if a company outside the government owns AI, this personal data can be sold. Therefore, legal rules regarding personal data in

⁵⁶ Muhamad Edo Khoirul Majid, Naura Hafiza Ainayyah, and Naila Amrina, Op. Cit, Hlm. 37

DIGITAL TRANSFORMATION IN CASE HANDLING

AI need to be created and strengthened. The potential for data theft in court AI is also supported for the benefit of the opposing party because the concept of court for both parties is winning and losing.⁵⁷

But author also need to know that every legal profession has an oath of loyalty to its position not to disseminate client data. This also requires a lawyer to safeguard client data even if he or she works using AI systems in every action. A lawyer must ensure that his employees adhere to the same principles and always check the programs in the technology they use. These are the challenges of using AI that need to be resolved by experts to ensure that AI does not harm legal practitioners, their clients, the State, and society at large.

According to Sukawati's research, AI user like goverment and society can learn from the European Union AI from cybercrime risks like this; members of the European Union who use AI in their work must apply several principles to maintain human ethics. In the 2019 European Parliament, author can find the requirements for trustworthy AI, namely:⁵⁸ 1) Human agency and supervision, 2) Robustness and security, 3) Privacy and data governance, 4) Transparency, 5) Diversity and non-discrimination, 6) Community and environmental welfare, and 7) Accountability.

To facilitate the understanding of digital transformation in Indonesia and Malaysia, the author has created the following table:

Table 1

	Indonesia	Malaysia
1. Existing technology	1) Electronic Court 2) Electronic Lawyer 3) AI-based Electronic Lawyer	1) Electronic Court 2) AI-based Court 3) Electronic Lawyer 4) AI-based Electronic Lawyer

⁵⁷ Chaitral K Kotwal, "Impact of Artificial Intelligence on the Confidentiality in Legal Profession," *Page 1 RABINDRA BHARATI JOURNAL OF PHILOSOPHY*, 2022, <http://210.212.169.38/xmlui/handle/123456789/10758>.

⁵⁸ Maheswara Perbawa Sukawati, "EUROPEAN UNION POLICY ON ARTIFICIAL INTELLIGENCE RELATED TO CYBER CRIME HANG TUAH LAW JOURNAL," *TUAH LAW JOURNAL*, vol. 4, 2020.

Diatur dalam	a. Supreme Court Regulation No. 7 of 2023 on Electronic Case Administration and Court Proceedings b. Indonesian Law No. 18/2003 on Advocates c. Indonesian Law No. 48 of 2009 on Judicial Power d. Indonesian Law No. 31 of 2014 on Witness and Victim Protection	a. Court Act 2012 b. The Electronic Government Activities Act 2007 c. Criminal Procedure Code
2. Benefits of The creation of a judiciary that using technology	• Transparent • Easy to reach • Cheap • Efficient	The creation of a judiciary that • Transparan • Easy to reach • Cheap • Efficient
3. Features in e-court	1) E-Filling 2) E-Payment 3) E-Summons 4) E-Litigation	1) E-Review 2) E-Appellate 3) E-Lelong 4) E-Jamin
4. Development of E-Lawyers	There is already a web-based E-Lawyer to reach the wider community and has developed such as hukumonline.com	There is already a web-based E-Lawyer to reach out to the broader community, and it has developed such as eLawyer.com.my.

DIGITAL TRANSFORMATION IN CASE HANDLING

5.	Development of AI-based E-Lawyers	UMBRA was introduced as the first AI Lawyer in Indonesia, but no progress has yet to be made.	Askaila has been introduced as the first AI lawyer in Indonesia, but there is still no progress.
6.	Use of AI in the courtroom	None yet	Has been introduced in Sabah and Sarawak as a verdict recommendation tool for judges to avoid different verdicts in cases of similar gravity
7.	E-court difference	E-court Indonesia only provides payment services for case filers in the electronic registry.	Malaysia's E-court features court case payments and E-fine payments.
8.	Constraints on the use of technology	Lack of human resources to accept technological transformation	The technological transformation by experimenting with some courts impacted every citizen's slow pace of justice.
9.	Pros	Indonesia's vast territory can be reached by electronic courts, which makes it faster for defendants to get a verdict on their cases.	After procuring an AI-based Electronic Court, the Sabah and Sarawak Courts can minimize the disparity in decisions and injustice to the public. Electronic Court can equalize case management procedures.
10.	Disadvantages	Lack of human resources that can support the	The use of AI in courts has yet to spread to all states.

effectiveness of the
electronic court system

So the similarity of technological development in Indonesia and Malaysia is that both countries use digital systems in their Judiciary to create justice for the community, provide transparency of cases, the efficiency of the judicial process, unite one region and another, and, of course, minimize circumstances that weaken state law such as overlapping cases. The difference between the two countries towards digital transformation in the Judiciary is that in Malaysia, digital transformation is more effective, which can see from the experience of E-shariah, which has existed since 2003, and the features of the Malaysian E-court are more complete than Indonesia. However, Indonesia, which only started E-court in 2019, has prepared itself to digitize every court in Indonesia simultaneously so that the encouragement of justice for the community will be achieved more quickly.

Digital transformation justice in handling cases in court can be seen from the fulfillment or not of the right to justice for the litigants. The right to justice is a human right to ensure respect, protection and fulfillment of the rights of every person before the law that is equal, equal and dignified. The right to justice as stipulated in Article 17 of Law Number 39 of 1999 concerning Human Rights (Human Rights Law), includes several procedural and substantial rights, namely a free and impartial judicial process (fair trial) that upholds the principle of due process of law and the right to obtain a good and correct legal decision.⁵⁹ Substantive justice is justice related to the content of the judge's decision in examining, adjudicating and deciding a case which must be made based on considerations of rationality, honesty, objectivity, *impartiality*, without discrimination and based on conscience (judge's belief) while procedural justice is justice related to the protection of the legal rights of the plaintiff / defendant / interested parties at every stage of the procedural process in court.⁶⁰

The procedural rights of the applicant in court can be enforced because electronic technology or digital tools used in court do not recognize preferences and feelings so that litigants can be brought to trial in order so that it will reduce the level of nepotism. Technology also does not recognize laziness, for example if an officer has a personal problem, justice seekers can accept the problem because the file is slow to be processed. If the judge has a need then the hearing is postponed but if technology is used then this does not happen.

⁵⁹ KOMNAS HAM REPUBLIK INDONESIA, "Standar Norma Dan Pengaturan Tentang Hak Memperoleh Keadilan," 2016, 1–23.

⁶⁰ M Syamsudin, "Keadilan Prosedural Dan Substantif Dalam Putusan Sengketa Tanah Magersari," *Jurnal Yudisial* 7, no. 1 (2014): 18–33, <https://law.uui.ac.id/wp-content/uploads/2017/08/9.-Keadilan-Prosedural-dan-Substantif-dalam-Putusan-Sengketa-Putusan-Tanah-Magersari.pdf>.

DIGITAL TRANSFORMATION IN CASE HANDLING

Substantial rights for subjects in court are difficult to enforce because technology has a weakness, namely that it cannot reach substantial justice so that only the technicalities can be handled by technology, not the substance. The kleptomania case is a psychological case that can only be measured by humans and people who are experts in their fields, so if technology is used to give decisions in kleptomania cases, technology may not be able to find the fact that kleptomania steals goods because of pleasure not because of urgency. Justice should provide its own considerations regarding the severity of the punishment that should be given to defendants if they commit crimes because of urgency or because they enjoy committing crimes. However, something that can be obtained is procedural justice but collaboration on technical and substantive issues would be a good collaboration so that judges do not need to think about procedural matters so that they can focus on the case or the substantial aspects of a case.

Conclusion

The utilization of technology in case handling in Indonesia and Malaysia currently includes various innovations that facilitate legal access and efficiency. In Indonesia, there are internet-based e-Lawyers services such as hukumonline.com, which provides legal consultations for people who are having difficulty litigating in court. In Malaysia, LexisNexis.com.my offers a similar service. In addition, artificial intelligence (AI)-based e-Lawyers, such as those developed by UMBRA in Indonesia and ask.aila focusing on labor law in Malaysia, are under development to assist legal practitioners in finalizing case documents. In the area of e-Courts, Malaysia has implemented this system for case registration and virtual trials across state and federal courts, including the Malaysian Sharia Court. In contrast, in Indonesia, e-Court has been implemented in all courts under the Supreme Court.

The use of AI in court proceedings in Indonesia is not yet developed, while in Malaysia, AI has been used as a recommendation tool for judges based on previous decisions. The development of technology in case handling in Indonesia is regulated by Regulation of the Supreme Court of the Republic of Indonesia No. 7 of 2022 on Electronic Case Administration and Court Proceedings, Law No. 48 of 2009 on Judicial Power, Law No. 31 of 2014 on Witness and Victim Protection, and Law No. 18 of 2003 on Advocates. In Malaysia, this is regulated by the Court Act 2021, The Electronic Government Activities Act 2007, and the Criminal Procedure Code. This legal foundation ensures that the use of e-Courts and e-Lawyers

in both countries is legitimate and protected by law, thus providing legitimate digital services to the public.

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