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E-Court Paradigm Shift: Problems of Legitimacy Mechanisms of Electronic Evidence in State Administrative Procedure Law

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Abstract

This study on the legitimacy mechanisms of electronic evidence within the State Administrative Procedure Law is intrinsically connected to Indonesia's ongoing efforts to modernize its legal landscape. The acknowledgment of electronic information and documents as valid evidence aligns with Indonesia's commitment to adapting its legal framework to the digital era. The legal issues explored within the context of the E-Court paradigm shift resonate with Indonesia's broader initiatives to enhance judicial efficiency and access to justice. As Indonesia grapples with the challenges of incorporating electronic evidence within its administrative procedures, the study sheds light on the specific hurdles faced within the Indonesian legal system. Regulatory complexities and resource constraints resonate with Indonesia's broader struggle to harmonize its legal infrastructure with the demands of the digital age. Moreover, the study emphasizes the importance of a proportionate mechanism in addressing legitimacy concerns, aligning with Indonesia's commitment to fostering a fair and balanced legal environment. The conclusion highlighting the critical role of the validation process reflects Indonesia's dedication to ensuring the integrity and reliability of electronic evidence within the legal proceedings.

Keywords

Electronic Evidence, Electronic Court, Legitimacy, State Administrative Procedure Law

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Introduction

THE EVOLUTION of technological advancements has precipitated noteworthy transformations across various sectors, with the judiciary system being no exception. These technological innovations have fundamentally altered the modus operandi of judicial proceedings, giving rise to the establishment of e-courts. Within these electronic court systems, there is a discernible reliance on electronic evidence, prompting questions surrounding its legitimacy within the framework of state administrative procedure law in Indonesia. The utilization of electronic evidence in the context of state administrative procedure law has engendered concerns, particularly as the judicial landscape undergoes a paradigm shift towards e-courts. It is essential to underscore that technologies assume a pivotal role in shaping judicial institutions, effectively translating formal rules and entrenched practices into the digital realm.[1]

In the context of Indonesia, a country committed to the rule of law, the assurance of justice for its citizens is meticulously upheld within the confines of the existing legal framework. The judiciary serves as a pivotal conduit, facilitated by judicial mediators. Article 24, paragraph one of the 1945 Indonesian Constitution explicitly champions the autonomy of the judiciary, designating it as a crucial entity entrusted with the administration of justice to uphold the bedrock principles of law and justice. This foundational tenet finds explicit manifestation in the essence of Article 24, paragraph (1) of the 1945

[1] Francesco Contini, and Antonio Cordella, "Law and Technology in Civil Judicial Procedures", In Roger Brownsword (ed.) et al., *The Oxford Handbook of Law, Regulation and Technology* (Oxford: Oxford University Press, 2016), pp. 246-268. *See also* Dian Latifiani, et al. "Reconstruction of E-Court Legal Culture in Civil Law Enforcement." *Journal of Indonesian Legal Studies* 7, no. 2 (2022): 441-448; Heni Rosida, et al. "The Effectiveness of The Implementation of the e-Court Justice System and The Impact on Administrative Court in Indonesia." *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 2, no. 2 (2022): 258-272.

Constitution, meticulously enshrined in the Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power.[2]

Moreover, the Supreme Court holds a paramount position as the highest judicial authority, exercising autonomy in its functions, as mandated by Article 24A of the 1945 Constitution of the Republic of Indonesia. Aligning with the delineation of the judicial framework, Chapter III of Law No. 48 of 2009 concerning the Judiciary specifically addresses individuals responsible for administering justice. Emphasized in Article 18 of this law is that the exercise of judicial power extends across various realms, encompassing the general judicial domain, religious court jurisdiction, military proceedings, state administrative court proceedings, and issues addressed by the Constitutional Court. This comprehensive scope ensures a cohesive and inclusive administration of justice across diverse legal domains.[3]

As for the State Administrative Court, its regulation is governed by Law of the Republic of Indonesia No. 5 of 1986 and Law of the Republic of Indonesia No. 9 of 2004 (Amendments to Law No. 5 of 1986 concerning State Administrative Courts), along with Law of the Republic of Indonesia No. 51 of 2009 concerning PTUN (Amendments to Law No. 5 of 1986 concerning State Administrative Courts). Within this legal framework, the court appoints both the State Administrative Court and the highest state administrative court. Furthermore, Article 9A stipulates that a special court may be established within the State Administrative Court, subject to regulation by law.[4]

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2 Adi Sulistiyono, *Sistem Peradilan di Indonesia dalam Teori dan Praktik.* (Jakarta: Prenada Media, 2018).

3 Dachran Busthami, "Kekuasaan Kehakiman dalam Perspektif Negara Hukum di Indonesia." *Masalah-Masalah Hukum* 46, no. 4 (2017): 336-342; Andi Suherman, "Implementasi Independensi Hakim dalam Pelaksanaan Kekuasaan Kehakiman." *SIGn Jurnal Hukum* 1, no. 1 (2019): 42-51; Nur Fitra Annisa, "Peranan Hakim sebagai Penegak Hukum Berdasarkan Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman." *Lex et Societatis* 5, no. 3 (2017): 157-166.

4 Titik Triwulan, *Hukum Tata Usaha Negara dan Hukum Acara Peradilan Tata Usaha Negara Indonesia.* (Jakarta: Prenada Media, 2016); Darda Syahrizal, *Hukum Administrasi Negara & Pengadilan Tata Usaha Negara.* (Jakarta: Media Pressindo, 2013); Enrico Simanjuntak, *Hukum Acara Peradilan Tata Usaha Negara: Transformasi & Refleksi.* (Jakarta: Sinar Grafika, 2021).

Each dispute brought before the State Administrative Court involves direct participation by the disputing parties, encompassing every stage from registration to the adjudication of the judge's decision. The landscape of justice has been profoundly influenced by advancements in communication and information technology, notably through the establishment of an electronic court, as outlined in Regulation No. 1 of the Supreme Court of the Republic of Indonesia in 2019, governing the management of e-cases and litigation (referred to as PERMA No. 1 of 2019)[5]. Simultaneously, the enactment of Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law) not only establishes a legal framework but also facilitates the introduction of novel evidence, particularly electronic evidence, into the trial process.[6]

In alignment with the mandate outlined in Law No. 48 of 2009 concerning the Judiciary, particularly in Article 2, paragraph (4), emphasizing

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[5] Supreme Court Regulation Number 1 of 2019 on Case Administration and Trial Electronically (PERMA No. 1 of 2019) is a legal framework issued by the Supreme Court of the Republic of Indonesia. This regulation outlines the administrative procedures and trial processes for cases conducted electronically, reflecting the digital transformation within the Indonesian judicial system. The regulation covers various aspects, including electronic registration and administration of cases. It stipulates procedures for completing forms and handling relevant documents through electronic platforms. Additionally, PERMA No. 1 of 2019 emphasizes the use of designated information systems to manage case documents and related information, aiming to enhance efficiency and transparency in case handling. Furthermore, the regulation allows for electronic notifications, such as court summons, to be conducted through digital means, like email or dedicated portals. Additionally, PERMA No. 1 of 2019 may include provisions related to the use of electronic evidence in court proceedings, reflecting the changing landscape of evidentiary practices. The overarching objective of PERMA No. 1 of 2019 is to improve the efficiency and accuracy of case handling within the judicial system by embracing information technology. Consequently, this regulation represents a significant step toward a more modern and technologically integrated judicial system in Indonesia. *See also* Mira Ade Widyanti, "Implementasi PERMA No. 1 Tahun 2019 Tentang Administrasi Perkara dan Persidangan di Pengadilan Secara Elektronik Tinjauan Maslahah." *Journal of Islamic Business Law* 5, no. 2 (2021): 73-88; Dwi Wachidiyah Ningsih, and Hanifatul Hidayah. "Kedudukan Peraturan Mahkamah Agung Nomor 1 Tahun 2019 Tentang Administrasi Perkara dan Persidangan di Pengadilan Secara Elektronik Pada Sistem Peradilan di Indonesia." *Jurnal Pro Hukum* 11, no. 1 (2022): 101-107.

[6] Law Number 11 of 2008 concerning Electronic Information and Transactions has been amended by Law Number 19 of 2016. However, in relation to electronic evidence, the legal basis still refers to Law Number 11 of 2008.

the imperative of a judiciary that is conducted with simplicity, expediency, and cost-effectiveness, the modernization of the judicial system through electronic judicial procedures, hereafter referred to as electronic courts, represents a pivotal advancement in realizing the vision of the Supreme Court of the Republic of Indonesia. This vision, articulated in the 10th point of the Supreme Court's implementation plan within the framework of the judicial reform from 2010 to 2035, aspires to transform the Supreme Court into the Supreme Court of Indonesia. At its core, this transformation involves the establishment of a contemporary judicial authority grounded in integrated information technology, signifying a significant stride towards a more efficient, responsive, and technologically advanced legal system.[7]

Despite the ITE law and a number of other provisions, it cannot be said that Indonesia's procedural law regulates electronic evidence in its evidence, as agreements on electronic evidence that have been executed currently belong only to the substantive field of law. Given the nature of procedural law that binds the parties who apply it, including judges, the regulation of electronic evidence in formal law (procedural law), both civil and criminal procedural law and state administrative procedural law, is very necessary and needs to be updated to ensure legal certainty. Then, in the Supreme Court, Circular No. 4 of 2016 evidence is regulated in Article 100 of the PTUN Law, plus electronic evidence in 11 of 2008 (ITE Law).[8]

The introduction of the Electronic Court as a whole is certainly a problem for the institution of the Supreme Court. Currently, the implementation of e-justice through the submission of applications to

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[7] Supandi Supandi, *Modernisasi Peradilan Tata Usaha Negara di Era Revolusi Industri 4.0 untuk Mendorong Kemajuan Peradaban Hukum Indonesia* (Semarang: UNDIP Press, 2019). *See also* Miftakur Rohman, "Modernisasi Peradilan Melalui E-Litigasi dalam Perspektif Utilitarianisme Jeremy Bentham." *MIYAH: Jurnal Studi Islam* 16, no. 2 (2020): 288-301; Kholilur Rahman, "Modernisasi Persidangan Perkara Pidana Pasca Diterbitkannya Peraturan Mahkamah Agung Nomor 4 Tahun 2020 Tentang Administrasi dan Persidangan Perkara Pidana di Pengadilan Secara Elektronik." *Lex Renaissance* 6, no. 4 (2021): 705-718.

[8] Ali Abdullah, *Teori dan Praktik Hukum Acara Peradilan Tata Usaha Negara Pasca-Amandemen: Pergeseran Paradigma dan Perluasan Norma.* (Jakarta: Prenada Media, 2021).

electronic courts has not provided full facilitation of the procedural stages. In practice, what is done in various courts is partial electronic court (including registration, payment, subpoena, reading claims and responses, responses, duplications and conclusions electronically). As for the full e-Court (which covers all stages of procedural law and case execution), it cannot be carried out as it should. One way to optimize existing electronic courts is to implement a full electronic space that can conduct the evidentiary stage through electronic courts.[9]

Within this study, the study delves into the intricacies of two significant legal issues concerning the utilization of electronic evidence within the state administrative court system. The first issue revolves around the complexities inherent in validating electronic evidence as a means of substantiating a case. Concurrently, the second issue involves exploring the development of proportional mechanisms to address concerns surrounding the legitimacy of electronic evidence. In essence, the paper's focus revolves around an examination of the challenges encountered in legitimizing electronic evidence within the state administrative court system and the formulation of balanced mechanisms to navigate these legitimacy concerns.

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[9] The authors use the terms used by Sudarsono in dividing and describing the implementation of Electronic Justice, namely Partial Electronic Court and Fully Electronic Court. *See* Sudarsono Sudarono, *Legal Issues Pada Peradilan Tata Usaha Negara Pasca Reformasi: Hukum Acara dan E-Court.* (Jakarta: Kencana, 2019). *See also* Ni Putu Riyani Kartika Sari, "Eksistensi E-Court untuk Mewujudkan Asas Sederhana, Cepat, dan Biaya Ringan dalam Sistem Peradilan Perdata di Indonesia." *Jurnal Yustitia* 13, no. 1 (2019): 80-100; Ahmad Tholabi Kharlie, and Achmad Cholil. "E-court and e-litigation: The new face of civil court practices in Indonesia." *International Journal of Advanced Science and Technology* 29, no. 2 (2020): 2206-2213; Hary Djatmiko, "Implementasi Peradilan Elektronik (E-Court) Pasca Diundangkannya Perma Nomor 3 Tahun 2018 Tentang Administrasi Perkara di Pengadilan Secara Elektronik." *Jurnal Hukum Legalita* 1, no. 1 (2019): 22-32.

Problems Faced in Efforts to Legitimize Electronic Evidence in the State Administrative Court System

THE HISTORY of electronic evidence first existed in Law No. 8 of 1997 concerning company documents. There is no explicit mention of the word "*electronic evidence*" in the law, but Article 15 states that data stored on microfilm or other media is considered valid evidence.[10]

The development of information technology has a significant impact on the development of law. One of the investigations was the admission of electronic evidence in the evidence during the trial. However, these amendments may also increase the violation of legal norms or illegal activities, and therefore the rules must also be improved in accordance with the development of existing technological developments, in particular with regard to the presentation of evidence for use as evidence in court. In the context of the law of evidence, this poses a dilemma: on the one hand, there is an expectation that the law can keep up with the times and technology, on the other hand, it is also necessary to legally recognize different types of digital developments to act as evidence in court. The purpose of proof is to present certain evidence to the judge in order to provide confidence and certainty to the judge against the existence of controversial legal facts, then this confidence

[10] Law No. 8 of 1997 concerning Company Documents, *see* Article 15. Furthermore, it is emphasized that the transition of written data into electronic form has been previously regulated under Law Number 8 of 1997 concerning Company Documents. In the considerations section, letter F of the law explicitly states that "technological advancements have enabled records and documents created on paper to be transferred into electronic media or generated directly in electronic form." Furthermore, it is emphasized that "*company documents can be transferred onto microfilm or other media and are considered valid evidence*" as stipulated in Article 12 paragraph (1) in conjunction with Article 15 paragraph (1) of Law 8 of 1997. This implies that electronic documents, especially those related to company documents, have been recognized as valid evidence long before the enactment of the ITE Law.

and certainty will be used as a basis for the judge's consideration when formulating his decision.[11]

The Supreme Court has postponed Supreme Court Order No. 1 of 2019 concerning the administration of cases and trials by electronic means, but in its implementation, especially with regard to evidence, the purpose of the evidence is to present certain evidence to the judge in order to provide confidence and certainty to the judge on the existence of disputed legal facts, so that this confidence and certainty is used as a basis for consideration by the judge in formulating his decision. In general, research is still done manually, so it is important to discuss the procedural law of evidence, especially when using electronic evidence, in this article.[12]

The process of presenting evidence is a crucial stage in determining the course of a case, as it provides insights into the veracity of the issues or disputes between involved parties. The structuring of electronic evidence should align with the existing Indonesian legal system and the fundamental principles of evidence law. Moreover, evidence law is elucidated as a collection of procedural guidelines applicable in legal proceedings before a judge, where two disputing parties seek justice. As an integral component of procedural law, evidence law dictates the admissibility of various types of evidence, outlines the procedural

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[11] Steven Goode, "The Admissibility of Electronic Evidence." *Review of Litigation* 29, no. 1 (2009). *See also* Sonyendah Retnaningsih, et al. "Pelaksanaan E-Court Menurut Perma Nomor 3 Tahun 2018 Tentang Administrasi Perkara di Pengadilan Secara Elektronik dan E-Litigation Menurut Perma Nomor 1 Tahun 2019 Tentang Administrasi Perkara dan Persidangan di Pengadilan Secara Elektronik (Studi di Pengadilan Negeri di Indonesia)." *Jurnal Hukum & Pembangunan* 50, no. 1 (2020): 124-144; Dedi Putra, "A modern judicial system in Indonesia: legal breakthrough of e-court and e-legal proceeding." *Jurnal Hukum dan Peradilan* 9, no. 2 (2020): 275-297; Kukuh Santiadi, "Expanding Access to Justice through E-Court in Indonesia." *Prophetic Law Review* 1, no. 1 (2019): 75-89.

[12] *See* Eddy Army, *Bukti Elektronik dalam Praktik Peradilan.* (Jakarta: Sinar Grafika, 2020); Eko Surya Prasetyo, YA Triana Ohoiwutun, and Halif Halif. "Implikasi Yuridis Kebijakan Formulasi Alat Bukti Elektronik." *Lentera Hukum* 5, no. 2 (2018): 174-193; Sudarsono,Sudarsono, and Rabbenstain Izroiel. "Pemeriksaan Alat Bukti Elektronik Pada Persidangan Perkara Perdata dan Tata Usaha." *National Journal of Law* 3, no. 2 (2020): 353-364.

systems for presenting such evidence, and delineates the authority of judges in the acceptance, rejection, and evaluation of presented evidence.[13]

Regarding the rules of evidence, which are governed by the procedural law in force in Indonesia, there should be tools for electronic examination of evidence to enable evidence to be confirmed during the trial, as well as other evidence, in particular formal and substantive requirements. That requirement should be determined based on the type of electronic evidence presented in original or printed form. Important requirements for electronic evidence are regulated in Article 5 Paragraph (3) of the ITE Law, namely electronic information and documents are recognized as valid when using electronic systems in accordance with the provisions of the ITE Law.

Article 107 of the PTUN Law stipulates that at least two pieces of evidence are needed based on the judge's conviction to prove the validity of a fact. It serves to discover material truths where the judge can determine which evidence should be preferred in the evidence, and the strength of each evidence presented. Thus, the provision obliges the court to establish that the fact of the right is considered true. Without meeting the minimum evidentiary requirements, the fact must be invalidated and deemed irrelevant to the decision of the case.[14]

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[13] Adrian Keane, and Paul McKeown. *The Modern Law of Evidence*. (Oxford: Oxford University Press, 2022).

[14] The explanation of Article 107 states that this article regulates provisions in the context of an effort to discover material truth. Unlike the evidentiary system in Civil Procedure Law, by considering everything that happens during the examination, without relying on the facts and matters submitted by the parties, Administrative Court Judges can independently determine: (a) what needs to be proven; (b) who bears the burden of proof, what must be proven by the litigant, and what must be proven by the Judge himself; (c) which pieces of evidence are prioritized for use in proving; (d) the strength of the evidence presented. *See also* Ni Komang Dewi Novita Indriyani Weda, I. Made Arjaya, and I. Putu Gede Seputra. "Penerapan Asas Hakim Aktif (Dominus Litis) dalam Persidangan di Pengadilan Tata Usaha Negara (Studi Kasus Putusan No. 1/G/2017/PTUN. DPS.)." *Jurnal Preferensi Hukum* 2, no. 1 (2021): 27-32; Farrah Miftah, "Peran Asas Pembuktian Bebas Sebagai Beban Pembuktian Terhadap Putusan Peradilan Tata Usaha Negara." *Ulil Albab: Jurnal Ilmiah Multidisiplin* 1, no. 8 (2022): 2675-2682.

This type of proof letter or letter has a higher evidentiary value than other types of evidence. For example, in the PTUN environment, the scope and nature of evidence specified in Article 100 of the Law on PTUN include letter evidence, witness statements, expert testimony, confessions of the parties and knowledge of judges. Proof of letters or written expressions is placed first. This corresponds to the fact that letters or written letters play an important role in administrative matters. Every decision of the authority/official is made in writing to prove legal events and strengthen their legality. On this basis, in administrative cases, the most dominant and decisive evidence is letter evidence. The development of administrative law then introduced electronic decisions into Law No. thirty of 2014 on Public Administration, which expanded the form of decisions not only in the form of written decisions, but also in electronic form, which has the same legal force as written decisions.[15]

For judges of administrative justice, this means, given the predominance of documents in terms of powers due to the current development of administrative law, the introduction of various forms of electronic decisions. An electronic decision, if submitted as electronic evidence, is certainly very urgent. Electronic evidence is vulnerable to proof because virtual letters/documents are very vulnerable to alteration, forgery, or even creation by people who are not actually created by people who are not real authorities but claim to be the parties they actually created, as is often the case in the news.[16]

In contemporary society, crime has evolved to incorporate technological advancements, giving rise to the pervasive issue of cybercrime. The utilization of sophisticated information technology in criminal activities has become increasingly prevalent, necessitating a comprehensive understanding of these digital threats within the realm of law enforcement. As evidenced by numerous court cases, the judicial system must adapt to this changing landscape, recognizing and addressing the nuances of cybercrime. Judges, as key figures in

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[15] *See* Article 38 of Law Number 30 of 2014 concerning Government Administration

[16] *See* Guy Alon, Azmi Haider, and Hagit Hel-Or. "Judicial Errors: Fake Imaging and the Modern Law of Evidence." *UIC Review of Intellectual Property Law* 21 (2022): 82-120.

law enforcement, bear the responsibility of acquiring a profound comprehension of the diverse forms of cybercrime to effectively adjudicate cases that involve these digital offenses.[17]

To effectively combat cybercrime, judges must possess the ability to anticipate and navigate the intricacies associated with this modern manifestation of criminal activity. The rapid evolution of technology requires judges to stay abreast of emerging trends and tactics employed by cybercriminals. This proactive approach is crucial in ensuring that the judicial system remains agile and capable of addressing the dynamic challenges posed by cybercrime. A forward-thinking judiciary not only contributes to the fair and just resolution of cybercrime cases but also serves as a deterrent to potential offenders, highlighting the judiciary's commitment to staying ahead of the curve in the face of evolving criminal methodologies.[18]

In addition, attention must be given to electronic evidence that is either obtained illegally or tampered with during the evidentiary process. Such evidence may encompass a summary of legal arguments crucial for evaluating a decision. Consequently, it is imperative to affirm the reliability of electronic evidence during the review process. The significance of electronic evidence in ascertaining the accuracy of decisions, which ultimately concludes the review, cannot be overstated. It is paramount that the judge neither deems evidence as invalid nor valid without adequate scrutiny, as a case cannot be decided without sufficient proof. Thus, the validation of electronic evidence stands as a crucial

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[17] Michelle Rezky, and Aji Lukman Ibrahim. "Fake Accounts on Social Media as a Criminal Act of Electronic Information Manipulation in Indonesia." *Yuridika* 37, no. 3 (2022): 615-632. *See also* Eoghan Casey, and Benjamin Turnbull. "Digital evidence on mobile devices." *Digital Evidence and Computer Crime* 3 (2011): 1-44.

[18] *See* Yehezkiel Lemuel, "Internet and Crimes: How the Law Responds to Internet Based Crimes? A Book Review of" Aspek Hukum Penipuan Berbasis Internet", Maskun & Wiwik Meilarati, CV Keni Media, Makassar, 2016, 238 Pages, ISBN 978-602-74375-5-5." *Journal of Indonesian Legal Studies* 4, no. 2 (2019): 343-350; Hartoto Suci Rahayu, and Diana Lukitasari. "The Concept of Corporate Criminal Liability in the Law on Information and Electronic Transactions." *IJCLS (Indonesian Journal of Criminal Law Studies)* 6, no. 1 (2021): 83-92.

initial step in unraveling the truth behind a contentious issue, underscoring the importance of the electronic evidence review process.[19]

Proportional Mechanism Faces the Problem of Legitimizing Electronic Evidence in the State Administrative Court System

LEGITIMACY, as acknowledged, refers to information that conclusively affirms the identity of the data subject. It denotes a statement of legal validity or authenticity. In the realm of electronic evidence, legitimacy entails the verification of data and information authenticity, integrity, and accessibility. This process ensures the precision and reliability of the electronic evidence's contained data and information.[20]

The validation mechanism is largely determined by the type of electronic evidence itself. For this reason, it is important to first understand the scope of electronic evidence to determine the most appropriate validation mechanism. The legal basis for electronic evidence is regulated by Law Number 11 of 2008 concerning (ITE Law). Electronic information and/or electronic documents and/or results are a continuation of valid evidence in accordance with the applicable procedural law in Indonesia. Expansion here means adding evidence required by laws and regulations and expanding the scope of evidence required by laws and regulations.[21]

In practice, in the country's own administrative courts, the use of electronic evidence in disputes involving specific events is regulated in a

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[19] Humaira Arshad, Aman Bin Jantan, and Oludare Isaac Abiodun. "Digital Forensics: Review of Issues in Scientific Validation of Digital Evidence." *Journal of Information Processing Systems* 14, no. 2 (2018): 346-376

[20] *See* M. Zhafran Fares IS. "Kekuatan Pembuktian Alat Bukti Elektronik Sebagai Alat Bukti". *Thesis* (Jambi: Universitas Jambi, 2022); Army, *Bukti Elektronik dalam Praktik Peradilan*.

[21] *See* the provisions of Article 5 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions.

number of Supreme Court rulings on guidelines, for example positive fictitious statements, statements assessing elements of abuse of power, disputes over the acquisition of land in the public interest, disputes over public information and disputes over electoral procedures, where this type of electronic evidence can be used. Electronic evidence has also been used in disputes involving ordinary events such as environmental, land, permitting and other disputes. This means that court practice already allows the use of electronic evidence.[22]

Article One of the ITE Law states that electronic information is one or a series of electronic data, including, but not limited to, written records, sounds, map images, images, photographs, electronic data exchange (EDI), email (e-mail), telegram, telex, telecopier, etc., letters, signs, numbers, access codes, symbols or perforations that have been processed, which have been or can be understood by people, who understand them.[23]

In order to be admissible in legal proceedings, electronic evidence must meet the formal and substantive requirements of the ITE Law. With regard to this requirement, Section 5(4) of the ITE Law stipulates that formal requirements for electronic information or electronic documents do not include documents or letters required by the Act to be in writing. With regard to substantive requirements, the provisions of Articles 6, 15 and 16 of the ITE Law stipulate that electronic information or documents must be guaranteed authenticity, integrity, and accessibility. To ensure that these material requirements are met in many ways, digital forensics is necessary. By complying with this provision, emails, recorded chat files, and various other documents can be used as valid evidence.[24]

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[22] Dewi Asimah, "Menjawab Kendala Pembuktian dalam Penerapan Alat Bukti Elektronik (To Overcome the Constraints of Proof in the Application of Electronic Evidence)." *Jurnal Hukum Peratun* 3, no. 2 (2020): 97-110.

[23] *See* Article 1 number 1 of Law Number 11 of 2008 concerning Electronic Information and Transactions.

[24] Bambang Soebiyantoro, et al. *Praktik dan Wacana Seputar Persidangan Elektronik (E-Litigation) di Peradilan Tata Usaha Negara.* (Yogyakarta: Deepublish, 2020). *See also* Siti Washilatul Bariroh, "Sinergitas E-Court dalam Perwujudan Asas Peradilan Sederhana, Cepat, dan Biaya Ringan di Pengadilan Tata Usaha Negara Surabaya". *Thesis* (Jember: UIN Kiai Haji Achmad

Of course, with complete electronic forensic evidence, confirmation of evidence cannot be done in the same way as ordinary evidence. There are at least four principles underlying various electronic evidence to ensure that evidence is valid for submission to the court:

a. The principle of maintaining data integrity
   Maintain data integrity by maintaining all measures taken based on electronic evidence without altering or damaging the data stored therein;
b. Principles of competent staff
   Personnel working with genuine electronic evidence must be competent, trained and able to explain all decisions made in the process of identification, security and collection of electronic evidence.
c. Principles of audit trails
   A control or supply chain (CoC) trail should be maintained by recording all actions against electronic evidence to ensure that it produces the same results as the forensic investigator's previous findings.
d. Principles of regulatory compliance
   Staff responsible for handling cases relating to the collection, acquisition, electronic examination and analysis of evidence shall be able to ensure that procedures are carried out in accordance with applicable law and prior guidelines.

Therefore, in order to implement the entire electronic court, where the evidentiary phase is carried out by an electronic court, two options can be created. *First*, the internal decision of the agency, the Supreme Court conducted an electronic evidence review process and prepared additional components that will further support the process of reviewing electronic evidence with digital forensics in the future, including:

a. Regulatory aspect

Siddiq Jember, 2023); Dian Aries Mujiburohman, *Hukum Acara Peradilan Tata Usaha Negara.* (Yogyakarta: STPN Press, 2022).

Procedural provisions must be established in the form of laws, which means that these provisions must be amended by revision of the existing Law of the State Administrative Court. However, to fill legal loopholes, the Supreme Court may issue Supreme Court regulations as guidelines for the admission and examination of electronic evidence in electronic courts. Among them are legal instruments in the form of Standard Operating Procedures for judicial officials.

b. Aspects of human resources and skills
Electronic evidence validation must certainly be carried out by competent and specialized human resources. This can be achieved by increasing the capacity of the judiciary's existing human resources and then equipping themselves with knowledge and skills.

c. The technical guidelines for electronic evidence examination are set out electronically in the annex to the Regulation on Technical Guidelines for the Conduct of Cases and Judicial Proceedings Point E, which explains that evidence is carried out in an electronic procedure where parties are required to upload stamped letter documents to the judicial information system, then the original letter will be displayed before the scheduled hearing. Upon closer inspection, it can be concluded that the evidentiary guidelines in Decision No. 129/KMA/SK/VIII/2019 still apply to partial electronic courts where evidence is received through normal procedures (face-to-face hearings). Therefore, such evidence recommendations are certainly irrelevant if such evidence is provided in your electronic court.

d. Aspects of electronic devices
What is meant by electronic devices includes hardware, software, and *brainware*. All three components are interconnected, so their operation is carried out without problems. Therefore, appropriate electronic device components are needed to perform digital forensics, especially with regard to the management of electronic evidence. Judges and court staff should, as a priority, have sufficient knowledge of the management and examination of electronic evidence. It is possible that if the parties are then required to

present electronic evidence at the beginning of litigation, the process of confirming the evidence and its numbering will be carried out by the judge who will conduct the case together with the secretary.

Second, the external decision of the institution, in which case the MA can cooperate with other institutions (external institutions) that are considered competent for the process of confirming electronic evidence. Including cooperation in the form of expert transfer and knowledge transfer. It is expected that over time the MA can carry out the validation itself, after preparing all the additional aspects previously needed. It can be argued that this is a short-term solution that is temporary and can also serve as a trigger for the mechanism. In contrast to this policy, it is necessary to develop rules that can be used as guidelines for validation procedures by relevant agencies until electronic evidence is submitted to the court. The results of validation by external authorities can be recorded in the form of forensic reports describing the state of electronic evidence and assessing its reliability.

If the Supreme Court and its subordinate judicial systems adeptly implement robust electronic court systems, they stand to redefine the paradigm of evidentiary law within the judiciary. This departure signifies a shift away from the conventional reliance on manual evidence rooted in historical practices, towards a more contemporary and rational approach grounded in electronic information and transparent disclosure processes. The successful integration of these advanced evidentiary mechanisms by the Supreme Court represents a groundbreaking development in the Indonesian justice system.[25] It not only marks significant progress in legal evolution but also ensures that

[25] Djamaludin Djamaludin, et al. "Assessing the Impact of Electronic Court Systems on the Efficiency of Judicial Processes in the Era of Digital Transformation." *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 6, no. 1 (2023): 1-18; 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; Aju Putrijanti, and Kadek Cahya Susila Wibawa. "The implementation of e-court in administrative court to develop access to justice in Indonesia." *Journal of Environmental Treatment Techniques* 9, no. 1 (2021): 105-109.

justice is more readily accessible to those seeking it, thereby bringing the legal system closer to the populace it serves.

Conclusion

FINALLY, this study concluded and highlighted that in the context of presenting electronic evidence in e-court, the verification process emerges as a critical undertaking, essential for assessing the legitimacy and precision of evidence. This safeguards against judicial decisions rooted in inaccurate legal premises, stemming from reliance on flawed electronic evidence. The optimal approach to validate electronic evidence involves the implementation of thorough digital forensic procedures. To fortify the efficacy of e-courts, it becomes imperative for the Supreme Court to establish a robust digital justice support infrastructure. Successfully integrating electronic evidence into the judicial framework would not only revolutionize the prevailing legal paradigm, which predominantly hinges on traditional, outdated forms of evidence, but also usher in a more contemporary and rational understanding of truth based on electronic information. This signifies a remarkable evolution in the Indonesian justice system, not only advancing procedural law within the courts but also bringing the pursuit of justice closer to society through enhanced accessibility.

References

Abdullah, Ali. *Teori dan Praktik Hukum Acara Peradilan Tata Usaha Negara Pasca-Amandemen: Pergeseran Paradigma dan Perluasan Norma.* (Jakarta: Prenada Media, 2021).

Alon, Guy, Azmi Haider, and Hagit Hel-Or. "Judicial Errors: Fake Imaging and the Modern Law of Evidence." *UIC Review of Intellectual Property Law* 21 (2022): 82-120.

Annisa, Nur Fitra. "Peranan Hakim sebagai Penegak Hukum Berdasarkan Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman." *Lex et Societatis* 5, no. 3 (2017): 157-166.

Army, Eddy. *Bukti Elektronik dalam Praktik Peradilan*. (Jakarta: Sinar Grafika, 2020).

Arshad, Humaira, Aman Bin Jantan, and Oludare Isaac Abiodun. "Digital Forensics: Review of Issues in Scientific Validation of Digital Evidence." *Journal of Information Processing Systems* 14, no. 2 (2018): 346-376

Asimah, Dewi. "Menjawab Kendala Pembuktian dalam Penerapan Alat Bukti Elektronik (To Overcome the Constraints of Proof in the Application of Electronic Evidence)." *Jurnal Hukum Peratun* 3, no. 2 (2020): 97-110.

Bariroh, Siti Washilatul. "Sinergitas E-Court dalam Perwujudan Asas Peradilan Sederhana, Cepat, dan Biaya Ringan di Pengadilan Tata Usaha Negara Surabaya". *Thesis* (Jember: UIN Kiai Haji Achmad Siddiq Jember, 2023).

Busthami, Dachran. "Kekuasaan Kehakiman dalam Perspektif Negara Hukum di Indonesia." *Masalah-Masalah Hukum* 46, no. 4 (2017): 336-342.

Casey, Eoghan, and Benjamin Turnbull. "Digital evidence on mobile devices." *Digital Evidence and Computer Crime* 3 (2011): 1-44.

Contini, Francesco, and Antonio Cordella, "Law and Technology in Civil Judicial Procedures", In Roger Brownsword (ed.) et al., *The Oxford Handbook of Law, Regulation and Technology* (Oxford: Oxford University Press, 2016), pp. 246-268.

Djamaludin, Djamaludin, et al. "Assessing the Impact of Electronic Court Systems on the Efficiency of Judicial Processes in the Era of Digital Transformation." *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 6, no. 1 (2023): 1-18.

Djatmiko, Hary. "Implementasi Peradilan Elektronik (E-Court) Pasca Diundangkannya Perma Nomor 3 Tahun 2018 Tentang Administrasi Perkara di Pengadilan Secara Elektronik." *Jurnal Hukum Legalita* 1.1 (2019): 22-32.

Fares IS, M. Zhafran. “Kekuatan Pembuktian Alat Bukti Elektronik Sebagai Alat Bukti”. *Thesis* (Jambi: Universitas Jambi, 2022).

Goode, Steven. "The Admissibility of Electronic Evidence." *Review of Litigation* 29, no. 1 (2009).

Keane, Adrian, and Paul McKeown. *The Modern Law of Evidence*. (Oxford: Oxford University Press, 2022).

Kharlie, Ahmad Tholabi, and Achmad Cholil. "E-court and e-litigation: The new face of civil court practices in Indonesia." *International Journal of Advanced Science and Technology* 29, no. 2 (2020): 2206-2213.

Latifiani, Dian, et al. "Reconstruction of E-Court Legal Culture in Civil Law Enforcement." *Journal of Indonesian Legal Studies* 7, no. 2 (2022): 441-448.

Lemuel, Yehezkiel. "Internet and Crimes: How the Law Responds to Internet Based Crimes? A Book Review of" Aspek Hukum Penipuan Berbasis Internet", Maskun & Wiwik Meilarati, CV Keni Media, Makassar, 2016, 238 Pages, ISBN 978-602-74375-5-5." *Journal of Indonesian Legal Studies* 4, no. 2 (2019): 343-350.

Miftah, Farrah. "Peran Asas Pembuktian Bebas Sebagai Beban Pembuktian Terhadap Putusan Peradilan Tata Usaha Negara." *Ulil Albab: Jurnal Ilmiah Multidisiplin* 1, no. 8 (2022): 2675-2682.

Mujiburohman, Dian Aries. *Hukum Acara Peradilan Tata Usaha Negara*. (Yogyakarta: STPN Press, 2022).

Ningsih, Dwi Wachidiyah, and Hanifatul Hidayah. "Kedudukan Peraturan Mahkamah Agung Nomor 1 Tahun 2019 Tentang Administrasi Perkara dan Persidangan di Pengadilan Secara Elektronik Pada Sistem Peradilan di Indonesia." *Jurnal Pro Hukum* 11, no. 1 (2022): 101-107.

Prasetyo, Eko Surya, YA Triana Ohoiwutun, and Halif Halif. "Implikasi Yuridis Kebijakan Formulasi Alat Bukti Elektronik." *Lentera Hukum* 5, no. 2 (2018): 174-193.

Pratiwi, Sahira Jati, 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.

Putra, Dedi. "A modern judicial system in Indonesia: legal breakthrough of e-court and e-legal proceeding." *Jurnal Hukum dan Peradilan* 9, no. 2 (2020): 275-297.

Putrijanti, Aju, and Kadek Cahya Susila Wibawa. "The implementation of e-court in administrative court to develop access to justice in Indonesia." *Journal of Environmental Treatment Techniques* 9, no. 1 (2021): 105-109.

Rahayu, Hartoto Suci, and Diana Lukitasari. "The Concept of Corporate Criminal Liability in the Law on Information and Electronic Transactions." *IJCLS (Indonesian Journal of Criminal Law Studies)* 6, no. 1 (2021): 83-92.

Rahman, Kholilur. "Modernisasi Persidangan Perkara Pidana Pasca Diterbitkannya Peraturan Mahkamah Agung Nomor 4 Tahun 2020 Tentang Administrasi dan Persidangan Perkara Pidana di Pengadilan Secara Elektronik." *Lex Renaissance* 6, no. 4 (2021): 705-718.

Republic of Indonesia. *Law No. 8 of 1997 concerning Company Documents.* (Jakarta: Sekretariat Negara, 1997).

Republic of Indonesia. Law Number 11 of 2008 concerning Electronic Information and Transactions has been amended by Law Number 19 of 2016. (Jakarta: Sekretariat Negara, 2016).

Republic of Indonesia. *Law Number 11 of 2008 concerning Electronic Information and Transactions*. (Jakarta: Sekretariat Negara, 2008).

Republic of Indonesia. *Law Number 30 of 2014 concerning Government Administration.* (Jakarta: Sekretariat Negara, 2014).

Republic of Indonesia. *Supreme Court Regulation Number 1 of 2019 on Case Administration and Trial Electronically (PERMA No. 1 of 2019).*

Retnaningsih, Sonyendah, et al. "Pelaksanaan E-Court Menurut Perma Nomor 3 Tahun 2018 Tentang Administrasi Perkara di Pengadilan Secara Elektronik dan E-Litigation Menurut Perma Nomor 1 Tahun 2019 Tentang Administrasi Perkara dan Persidangan di Pengadilan Secara Elektronik (Studi di Pengadilan Negeri di Indonesia)." *Jurnal Hukum & Pembangunan* 50, no. 1 (2020): 124-144.

Rezky, Michelle, and Aji Lukman Ibrahim. "Fake Accounts on Social Media as a Criminal Act of Electronic Information Manipulation in Indonesia." *Yuridika* 37, no. 3 (2022): 615-632.

Rohman, Miftakur. "Modernisasi Peradilan Melalui E-Litigasi dalam Perspektif Utilitarianisme Jeremy Bentham." *MIYAH: Jurnal Studi Islam* 16, no. 2 (2020): 288-301.

Rosida, Heni, et al. "The Effectiveness of The Implementation of the e-Court Justice System and The Impact on Administrative Court in Indonesia." *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 2, no. 2 (2022): 258-272.

Santiadi, Kukuh. "Expanding Access to Justice through E-Court in Indonesia." *Prophetic Law Review* 1, no. 1 (2019): 75-89.

Sari, Ni Putu Riyani Kartika. "Eksistensi E-Court untuk Mewujudkan Asas Sederhana, Cepat, dan Biaya Ringan dalam Sistem Peradilan Perdata di Indonesia." *Jurnal Yustitia* 13, no. 1 (2019): 80-100.

Simanjuntak, Enrico. *Hukum Acara Peradilan Tata Usaha Negara: Transformasi & Refleksi.* (Jakarta: Sinar Grafika, 2021).

Soebiyantoro, Bambang, et al. *Praktik dan Wacana Seputar Persidangan Elektronik (E-Litigation) di Peradilan Tata Usaha Negara.* (Yogyakarta: Deepublish, 2020).

Sudarsono, Sudarono, *Legal Issues Pada Peradilan Tata Usaha Negara Pasca Reformasi: Hukum Acara dan E-Court.* (Jakarta: Kencana, 2019).

Sudarsono, Sudarsono, and Rabbenstain Izroiel. "Pemeriksaan Alat Bukti Elektronik Pada Persidangan Perkara Perdata dan Tata Usaha." *National Journal of Law* 3, no. 2 (2020): 353-364.

Suherman, Andi. "Implementasi Independensi Hakim dalam Pelaksanaan Kekuasaan Kehakiman." *SIGn Jurnal Hukum* 1, no. 1 (2019): 42-51.

Sulistiyono, Adi. *Sistem Peradilan di Indonesia dalam Teori dan Praktik.* (Jakarta: Prenada Media, 2018).

Supandi, Supandi, *Modernisasi Peradilan Tata Usaha Negara di Era Revolusi Industri 4.0 untuk Mendorong Kemajuan Peradaban Hukum Indonesia* (Semarang: UNDIP Press, 2019).

Syahrizal, Darda. *Hukum Administrasi Negara & Pengadilan Tata Usaha Negara.* (Jakarta: Media Pressindo, 2013).

Triwulan, Titik, *Hukum Tata Usaha Negara dan Hukum Acara Peradilan Tata Usaha Negara Indonesia.* (Jakarta: Prenada Media, 2016).

Weda, Ni Komang Dewi Novita Indriyani, I. Made Arjaya, and I. Putu Gede Seputra. "Penerapan Asas Hakim Aktif (Dominus Litis) dalam

Persidangan di Pengadilan Tata Usaha Negara (Studi Kasus Putusan No. 1/G/2017/PTUN. DPS.)." *Jurnal Preferensi Hukum* 2, no. 1 (2021): 27-32.

Widyanti, Mira Ade. "Implementasi PERMA NO. 1 Tahun 2019 Tentang Administrasi Perkara dan Persidangan di Pengadilan Secara Elektronik Tinjauan Maslahah." *Journal of Islamic Business Law* 5, no. 2 (2021): 73-88.

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