

RECONSTRUCTION OF SUPERVISION IN ONLINE TRIALS AS EVALUATED DURING THE COVID-19 PANDEMIC

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Abstract: The various problems encountered during online trials highlight an impaired supervision mechanism. This research is part of a need for a reconstruction in the supervision of online trials in Indonesia. Therefore, the formulation of the problem is: What are the problems that arise in online trials during the Covid-19 pandemic? How can the reconstruction of supervision in these trials be carried out? Furthermore, a descriptive, normative method was applied alongside a qualitative, statute approach. The results showed that problems related to the supervision of online trials include the absence of clear legal rules and procedures that have not been regulated in Indonesia Law. It is necessary to supervise judges during these trials, and this supervision has not involved the Indonesian judicial system, specifically the Judicial Commission or KY. Therefore, there is a need for reconstruction in supervision through the Revision of the Criminal Procedure Code (KUHAP), the Establishment of Special Regulations Related to the Online Trial Law, and the Formation of a Special Team for Online Trial Supervisors.

Keyword: Supervision, Online Trial, Problems.

Abstrak: Berbagai permasalahan yang ditemui selama uji coba online menyoroti lemahnya mekanisme pengawasan. Penelitian ini merupakan bagian dari kebutuhan rekonstruksi dalam pengawasan uji coba online di Indonesia. Oleh karena itu, rumusan masalahnya adalah: Apa saja permasalahan yang muncul dalam uji coba online di masa pandemi Covid-19 ini? Bagaimana rekonstruksi supervisi dalam uji coba tersebut dapat dilakukan? Selain itu, metode deskriptif normatif diterapkan bersamaan dengan pendekatan undang-undang kualitatif. Hasil penelitian menunjukkan bahwa permasalahan terkait pengawasan persidangan online antara lain belum adanya aturan dan prosedur hukum yang jelas yang belum diatur dalam Undang-undang Indonesia. Perlu adanya pengawasan terhadap hakim selama persidangan, dan pengawasan ini belum melibatkan sistem peradilan Indonesia, khususnya Komisi Yudisial atau KY. Oleh karena itu, perlu adanya rekonstruksi dalam pengawasan melalui Revisi Kitab Undang-Undang Hukum Acara Pidana (KUHAP), Pembentukan Peraturan Khusus Terkait UU Persidangan Daring, dan Pembentukan Tim Khusus Pengawas Persidangan Daring.

Kata Kunci: Pengawasan, Uji Coba Online, Masalah

Introduction

The slow handling of court cases made the Indonesian Supreme Court (MA) carry out bureaucratic reforms.¹ This reformation involved the application of ICT in line with the current digital era. The use of technology by the Supreme Court is expected to enhance case management, and increase effectiveness and efficiency.² As a public service, courts will function optimally when information technology is utilized³ due to speed in handling cases, consistency, and accuracy.⁴ Therefore, court activities become fast, simple, and cheap.⁵

Another use of technology carried out by the Supreme Court is in online trials. The application of online trials is expected to reduce and possibly eliminate the main complaints of the community over judicial services such as slow, expensive, and long-winded trial process in courts.⁶ The existence of online trials is increasingly necessary, especially during the Covid-19 pandemic

which affected the world since 2019, including Indonesia.⁷ According to statistics, in June 2022, the number of people who contracted Covid-19 is above 6 million with over 156,000 deaths.⁸ This pandemic caused the Indonesian government to enact various policies to reduce Covid-19 transmission.⁹ One of these is the social distancing policy to reduce crowds in public places, including during court proceedings.¹⁰ In addition, there is a Work From Home or WFH program for all agencies in Indonesia including courts geared towards reducing the spread of the disease.¹¹

Various policies during the Covid-19 pandemic raised significant issues related to the slow handling of cases at judicial institutions worldwide during the Covid-19 pandemic.¹² Judicial institutions carried out various developments to improve the handling of cases electronically or online. However, in the implementation of online trials, technical problems occurred such as

- ¹ Mahkamah Agung RI, *Laporan Tahunan 2006* (Jakarta: Mahkamah Agung, 2007).
- ² Diana Rahmawati, "Analisis Faktor-Faktor Yang Berpengaruh Terhadap Pemanfaatan Teknologi Informasi," *Jurnal Ekonomi Dan Pendidikan* 5, no. 1 (February 29, 2008): 107-18, <https://doi.org/10.21831/JEP.V5I1.606>.
- ³ Hadifadhillah Rusli, Iman Jauhari, and Dahlan Ali, "PENGUNAAN TEKNOLOGI INFORMASI DALAM PROSES PERADILAN DI MAHKAMAH SYAR'IAH," *Jurnal Ilmu Hukum* 4, no. 3 (2016), <https://jurnal.unsyiah.ac.id/MIH/article/view/7181>.
- ⁴ Sutarman, *Pengantar Teknologi Informasi* (Jakarta: Bumi Aksara, 2009).
- ⁵ Muhammad Jazil Rifqi, "Perkembangan Dan Pemanfaatan Teknologi Informasi Pengadilan Agama," *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam* 7, no. 1 (June 30, 2020): 70-82, <https://doi.org/10.24252/AL-QADAU.V7I1.13935>.
- ⁶ Dewi Asimah, "To Overcome the Constraints of Proof in the Application of Electronic Evidence," *Jurnal Hukum Peratun* 3, no. 2 (2021): 97-110, <https://doi.org/10.25216/peratun.322020.97-110>.

- ⁷ Rezky Panji Perdana Martua Hasibuan and Anisa Ashari, "Optimasi Peran Negara Menghadapi Pandemi Corona Virus Disease 2019 Dalam Perspektif Hukum Tata Negara Darurat," *SALAM: Jurnal Sosial Dan Budaya Syar-I* 7, no. 3 (May 25, 2020): 581-94, <https://doi.org/10.15408/SJSBS.V7I7.15379>.
- ⁸ "Informasi Terbaru Seputar Penanganan COVID-19 Di Indonesia Oleh Pemerintah. | Covid19.Go.Id," accessed December 24, 2022, <https://covid19.go.id/>.
- ⁹ Darmin Tuwu and Kota Kendari, "KEBIJAKAN PEMERINTAH DALAM PENANGANAN PANDEMI COVID-19," *Journal Publicuho* 3, no. 2 (July 3, 2020): 267-78, <https://doi.org/10.35817/jpu.v3i2.12535>.
- ¹⁰ Anggraeni, "Wabah Pandemi Covid-19, Urgensi Pelaksanaan Sidang Secara Elektronik," *'Adalah: Buletin Hukum & Keadilan* 4, no. 1 (2020): 1-6, <https://journal.uinjkt.ac.id/index.php/adalah/article/view/15264>.
- ¹¹ Ibid.
- ¹² Dudu Duswara Machmudin, "Optimalisasi Peran Hakim Agung Dalam Penyelesaian Perkara Kasasi Dan Peninjauan Kembali," *Jurnal Konstitusi* 12, no. 2 (May 20, 2016): 373-400, <https://doi.org/10.31078/JK1229>.

unstable internet which hinders the trial process. Another problem involved the limited knowledge of Indonesian people in accessing technology.¹³

Other potential problems were related to law enforcement in an online trial. These include the lack of verifiable evidence, the potential for hacking inexperienced users, and chances for violations of the code of ethics by judges. These were based on the reports received by the Judicial Commission or KY regarding violations committed by judges which totaled 1,346 in 2021, as shown below.

Image: Community Report to KY 2021¹⁴



Sources:

https://www.komisiyudisial.go.id/frontend/news_detail/15036/laporan-masyarakat-ke-ky-tahun-bertambah-dibandingkan-sebelumnya

Online trials may lead to potential maladministration such as protracted delays. The ignorance of judges in operating the sys-

tem can disrupt focus when leading a trial.¹⁵ Although online trials require honest and objective judges, in reality, there are many cases of judges' behavior that deviate from the norm.¹⁶ Referring to formal legal doctrines, an online trial does not appear to be based on the provisions of Article 160 paragraph (1) letter a and Article 167 of the Criminal Procedure Code which requires the physical presence of witnesses in the courtroom. However, the Panel of Judges at the time also considered the provisions of Article 5 paragraph (1) of Law no. 48 of 2009 concerning Judicial Power which requires judges to explore, follow, understand and pursue material truths in criminal law.¹⁷ The existence of various problems in the implementation of online trials shows that a supervisory system is necessary to control and assist the task of judges in online trials.

Basically, the supervision of trials, including judges, is carried out by two state institutions, namely the Supreme Court and the Judicial Commission. This is as stipulated in Article 24B paragraph (1) of the 1945 Constitution.¹⁸ However, the rise of various prob-

¹³ Siti Amatil Ulfiah, Vena Lidya Khairunissa, and Dian Latifiani, "Urgensi Pelaksanaan E-Litigasi Dalam Persidangan Perkara Perdata Pada Masa Pandemi Covid-19," *Jurnal Surya Kencana Satu : Dinamika Masalah Hukum Dan Keadilan* 12, no. 2 (December 15, 2021): 150-62, <https://doi.org/10.32493/JDMHKDMHK.V12I2.15864>.

¹⁴ "KY | Laporan Masyarakat Ke KY Tahun 2021 Bertambah Dibandingkan Sebelumnya," accessed December 24, 2022, https://www.komisiyudisial.go.id/frontend/news_detail/15036/laporan-masyarakat-ke-ky-tahun-bertambah-dibandingkan-sebelumnya.

¹⁵ Miftakhul Ihwan and Prasasti Dyah Nugraheni, "Urgensi Sistem Pengawasan Dalam Pelaksanaan Persidangan Secara Online," *Jurnal Al Azhar Indonesia Seri Ilmu Sosial* 2, no. 2 (August 30, 2021): 93-98, <https://doi.org/10.36722/JAISS.V2I2.555>.

¹⁶ Wahyu Wiriadinata, "Komisi Yudisial Dan Pengawasan Hakim Di Indonesia," *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum* 48, no. 2 (December 2, 2014): 513-25, <https://doi.org/10.14421/AJISH.2014.48.2.513-525>.

¹⁷ Dewi Rahmaningsih Nugroho and Suteki Suteki, "Membangun Budaya Hukum Persidangan Virtual (Studi Perkembangan Sidang Tindak Pidana via Telekonferensi)," *Jurnal Pembangunan Hukum Indonesia* 2, no. 3 (August 28, 2020): 291-304, <https://doi.org/10.14710/JPHI.V2I3.291-304>.

¹⁸ Umi Laili, "PERAN KOMISI YUDISIAL DALAM PENGAWASAN PELANGGARAN KODE ETIK DAN PEDOMAN PERILAKU HAKIM," *LEGALITAS: Jurnal Ilmiah Ilmu Hukum* 2, no. 1 (September 12, 2017): 16-33, <https://doi.org/10.31293/LG.V2I1.2837>.

lems during online trials shows that the existing supervision system has been significantly impaired. This highlights the need for a reconstruction of online trial supervision in Indonesia. The formulation of the problem in this research is: What are the problems that arise in online trials during the Covid-19 pandemic? How can the reconstruction of supervision in these trials be carried out? Furthermore, a descriptive, normative method was applied alongside a qualitative, statute approach.

Results and Discussions

Evaluation of Online Trial Problems During the Covid-19 Pandemic

Basically, online trials are regulated by various law enforcement agencies. The implementation of online criminal trials within the scope of the Ministry of Law and Human Rights, specifically the State Detention Center, is carried out based on M.HH.PK.01.01.04 dated March 24, 2020. The Attorney General of the Republic of Indonesia also formulated B-049/A/SUJA/03/2020 concerning the Implementation of Duties, Functions, and Authorities amidst Efforts to Prevent the Spread of Covid-19, dated March 27, 2020. Additionally, the Supreme Court issued No. 379/DJU/PS.00/3/2020 regarding Teleconference Case Trials and Supreme Court Regulation or PERMA No. 4 of 2020, concerning Administration and Electronic Trial of Criminal Cases. Eventually, the three law enforcement institutions formed a partnership as outlined in the Cooperation Agreement Number: 402/DJU/HM.01.1/4/2020, Number: KEP-17/E/Ejp/04/2020, Number: PAS-08.HH.05.05 of 2020 dated April 13, 2020 regarding the Implementation of the Teleconference Trials.¹⁹

¹⁹ S Suhendra, E Salia, and S Sulastri, "Penerapan Sistem Persidangan Pidana Secara Online Pada

Online trials have effected major changes regarding empirical conduct. There are four factors that have the potential to reduce the objectivity of the panel of judges in deciding cases during these trials, as indicated in Table 1 below:²⁰

Table 1. Potential Points for Judges' Objectivity in Online Trials

No	Point	Description
1)	Court location	The online method changed the domain of trials, based on the provisions in Article 230 paragraphs (1) and (2) of the Criminal Procedure Code that court trials are held in the court building in the courtroom, and Judges, Public Prosecutors, Legal Counsels, and Registrars wear court clothes and their respective attributes. Provisions related to the courtroom are further detailed in the provisions of Article 230 paragraph (3) of the Criminal Procedure Code.
2)	Witness presence	Based on Article 160 paragraph (1) of the Crimi-

Masa Pandemi Covid 19 (Studi Kasus Pada Rumah Tahanan Negara Kelas I Palembang)," *Doktrinal* 6, no. 2 (2021): 84-99, <https://jurnal.um-palembang.ac.id/doktrinal/article/view/3897%0Ahttps://jurnal.um-palembang.ac.id/doktrinal/article/download/3897/2591>.

²⁰ Dewi Safitri and Bambang Waluyo, "TINJAUAN HUKUM ATAS KEBIJAKAN SISTEM PERADILAN PIDANA SECARA ELEKTRONIK DI MASA PANDEMI COVID-19," *National Conference on Law Studies (NCOLS)* 2, no. 1 (November 19, 2020): 806-19, <https://conference.upnvj.ac.id/index.php/ncols/article/view/1522>.

	nal Procedure Code, the summoning of witnesses to the courtroom is carried out sequentially.
3) Defendant's presence	The provisions governing the presence of the defendant in Articles 154 and 196 of the Criminal Procedure Code generally mean the obligation to be physically present. This is also found in Article 12 of the Law on Judicial Power which states that the Court examines, tries, and decides on criminal cases in the presence of the defendant unless the law stipulates otherwise.
4) Openness of the trial to the public	Based on Article 195 of the Criminal Procedure Code, all court decisions are valid and have legal force only when pronounced in a trial open to the public. This is also confirmed through Article 13 paragraphs (1) and (2) of the Law on Judicial Power which state that all court hearings are open to the public, unless the law and court decisions stipulate otherwise.

Table 1 above shows that these four points highlight a substantive juridical weakness in online trials. This is related to the weakness of the virtual system itself which naturally cannot present situations and conditions as directly as the conventional trial system. Furthermore, this is exacerbated by the assumption that there are still technical obstacles in the field, such as internet instability that can possibly disrupt pro-

ceedings.²¹ The implementation of online criminal trials encounters several obstacles and problems which include:²²

Table 2. Problems in Online Trials

No	Problems	Description
1)	Facilities and infrastructure	The problem that often occurs in online criminal trials is an unstable internet that may sometimes disconnect. This occurred during a trial due to damage to the tower at one of the national providers. It was impossible to continue this trial which was postponed until a predetermined date. The positive side is its speed and cost-effectiveness. Therefore, other agencies need to adjust their budget, including Police or Prosecutor's Office. Unlike the Palembang District Court, e-court has been conducted/implemented which renders it cheaper and easier. According to the Registrar of the Palembang District Court, online trials will become preferable as it is much safer and the parties are connected together. Therefore, there is little

²¹ *Ibid.*

²² Neisa Angrum Adisti, Isma Nurilah, and Alfiyan Mardiansyah Kantor Wilayah Kementerian Hukum dan Hak Asasi Manusia Sumatera Selatan, "PELAKSANAAN PERSIDANGAN PERKARA PIDANA SECARA ELEKTRONIK PADA MASA PANDEMI COVID 19 DI PENGADILAN NEGERI KOTA PALEMBANG," *Jurnal Legislasi Indonesia* 18, no. 2 (June 30, 2021): 222-32, <https://doi.org/10.54629/JLI.V18I2.768>.

		chance of a budget markup.			pared to ensure that there are no problems from any party. These trials will then be considered more credible to determine the sentence of an individual. Although the online trial of criminal cases is open, it may seem contrary. This explains the reason behind large screens present in large District Courts to ensure that all visitors can witness.	
2)	Online evidence	evi-	During online criminal trials, the Judge decides with 2 pieces of evidence and adds the conviction. As a legal advisor, it may be difficult to see the information presented by the defendant and whether it is true. In this case, there is considerable doubt from the Judge and Legal Counsel as this material truth is the most fundamental and renders it difficult in the conduct of online trials. Furthermore, offline evidence is required because to determine the material or the actual truth based on Article 184 of the Criminal Procedure Code, the evidence in question is a witness and expert testimony, letters, instructions, and statements from the defendant. The use of any evidence is based on the strength of this piece of evidence as assessed by the limits justified by law.	4)	Fulfillment of the suspect's rights	Consultation between the defendant and the Legal Counsel is not directly possible as this right is not fulfilled in online trials. Legally, proof and formal truth are sought in civil cases. Civil evidence is not provided online as it is physically in the custody of the parties and the judge.
				5)	Fulfillment of the rights of victims and the public in court information	During online trials, only the location of the defendant and law enforcers is regulated. Meanwhile, public access including victims to witness the online trial of criminal cases is not strictly regulated.
3)	Legal Basis		The legal basis that guides the implementation of online trials is not detailed, although the Supreme Court aims to issue a new regulation to guide these trials. It is also hoped that in the future all parties must be ready before a policy is decided. The infrastructure must also be pre-			

Based on Table 2 above, there are 5 categories of problems in the hitherto implementation of online trials. However, apart from these, there are other problems as highlighted by the Indonesian Ombudsman which consists of:²³

²³ Ismail Koto rwin Asmadi, Padian Adi Selamat, Benito Asdhie Kodvat. "Efektivitas Pemanfaatan

- a. Unclear time for the trial.
- b. Limited facilities and infrastructure such as limited courtrooms with teleconference equipment.
- c. The internet network is less stable which delays the trial process.
- d. The judge has limited knowledge of technology operations.
- e. Less coordination between parties.
- f. Legal advisors are not side by side with the defendant.
- g. Inability to ensure witnesses and defendants with the pressure.

Based on these weaknesses, online trials are considered not contrary to the principle of open trials to the public and the principle of direct and oral examination of judges. As regulated in Article 17 Supreme Court Regulation or PERMA No. 4 of 2020, if there are obstacles, the Panel of Judges will postpone the trial and resume according to the schedule of the next trial.²⁴ However, PERMA No. 4 of 2020 does not explain what kind of technological interference gives judges the authority to postpone a trial. Technological disruption has a broad definition, which can be in the form of networks, systems, applications, software, and hardware. Furthermore, if not explained in detail, the judge can postpone the trial at any time under the guise of technological interference but this may be due to the unpreparedness of the online court officer. This is significantly detrimental to the defendant.

There are still no clearer rules regarding the supervision of judges in online trials. The supervision of law enforcers in the judiciary is not carried out properly due to the absence of clear legal rules and procedures that have not been regulated. Consequently, it is difficult for the public, advocates, and law enforcement agencies to carry out supervisory functions.²⁵ This necessitates supervision for judges during online trials.

Basically, the duties and authorities for the supervision of judges are regulated in Article 12A of Law Number 50 of 2009, which states that internal control over the behavior of judges is carried out by the Supreme Court. Meanwhile, external supervision to maintain and uphold the honor, dignity, and behavior of judges is carried out by the Judicial Commission or KY.²⁶ The Judicial Commission's supervisory function faces several problems including limited funds, human resource capabilities, management systems, and administration. In addition, the existence of the Judicial Commission Liaison (PKY) and the Judicial Commission Network (JKY) to enhance the duties of the Judicial Commission is still not optimal. People tend to report judges suspected of violating the code of ethics to non-governmental organizations (NGOs), not to the Judicial Commission.²⁷

Teknologi Informasi Dalam Persidangan Perkara Pidana Selama Pandemi Covid-19," *DE LEGA LATA: Jurnal Ilmu Hukum* 6, no. 2 (February 21, 2022): 465-75, <https://doi.org/10.30596/DLL.V6I2.9431>.

²⁴ I Gede Suastika, Putu Eva, and Ditayani Antari, "Mekanisme Persidangan Secara Daring (Online) Dalam Penyelesaian Perkara Pidana Pada Masa Pandemi Covid-19 Di Wilayah Pengadilan Negeri Denpasar," *Jurnal Analisis Hukum* 4, no. 2 (September 28, 2021): 283-93, <https://journal.undiknas.ac.id/index.php/JAH/article/view/3022>.

²⁵ Romualdus Telaumbanua, "URGENSI PENGAWASAN TERHADAP HAKIM DALAM RANGKA PELAKSANAAN E-COURT DAN E-LITIGATION DI INDONESIA," *Jurnal Hukum & Pembangunan* 50, no. 1 (July 13, 2020): 124, <https://doi.org/10.21143/JHP.VOL50.NO1.2486>.

²⁶ A. H. (Abdul) Talli, "Sistem Pembinaan Dan Pengawasan Hakim Pengadilan Agama Pasca Lahirnya UU No. 50 Tahun 2009," *Al-Hikmah Journal for Religious Studies* 15, no. 1 (2014): 22-35, <https://www.neliti.com/id/publications/30615/>.

²⁷ Nimas Masrullail Miftahuddini Ashar, "Hukum Internasional Tentang Genosida Dalam Perspektif Fikih Dauly," *Al-Daulah: Jurnal Hukum Dan Perundangan Islam* 4, no. 01 (April 1, 2014): 1-24, <https://doi.org/10.15642/AD.2014.4.01.1-24>.

Due to these problems, it is evident that the Judicial Commission has not effectively supervised judges. In summary, these problems are linked to the limited supervisory authority and the absence of a firm dissection related to judicial techniques and behavior.²⁸ The Judicial Commission must further improve in supervision and introspect its institutions to prevent deviation from the basic supervisory functions.²⁹ The role of the Commission is highly significant in the supervision of every trial, including online. However, the rules or implementation of online trials in the Indonesian justice system have not involved the Judicial Commission as an external supervisory body for judges. Therefore, the supervision carried out by the Judicial Commission in online trials is minimal.³⁰ This necessitates a reconstruction in the supervisory process of online courts which may involve:

Revision Criminal Procedure Code (KUHP)

Online trials within the Supreme Court will not be effective if law number 8 of 1981 concerning the Criminal Procedure Code (KUHP) is not modified.³¹ The revision of

the Criminal Procedure Code and the establishment of a separate law are needed to provide a legal stand concerning electronic court proceedings. Meanwhile, to overcome technical obstacles, it is necessary to provide human resources in the IT field with optimal competencies and numbers, increase the understanding of law enforcers in the field of technology, as well the availability of facilities that support an electronic trial process.³²

The principle of the defendant's presence (*in absentia*) in the Criminal Procedure Code is contrary to the practice of online trials when specifically applied to criminal cases. The Circular Letter of the Supreme Court of the Republic of Indonesia, Number 1 of 2020, does not allow criminal cases to be examined through the e-Litigation application. These render the implementation of online trial proceedings in Indonesia to be ineffective, where regulatory developments are stagnant and there is disharmony between regulations. If the stakeholders do not address it immediately, this problem will become quite complicated in the future. Furthermore, online trials are the only way out during the COVID-19 pandemic for the settlement of criminal cases to prevent stagnation of the Supreme Court.³³

Establishment of Special Regulations Regarding the Online Trial Law

There is a need for special provisions related to the implementation of online trials. With the existence of an online court system with-

²⁸ Oddie Moch Ikhsan, Habib Muhsin Syafingi, and Dyah Adriantini Sintha Dewi, "EFEKTIFITAS PENGAWASAN HAKIM OLEH KOMISI YUDISIAL," *Varia Justicia* 13, no. 1 (January 30, 2017): 10-17, <https://doi.org/10.31603/VARIAJUSTICIA.V13I1.1861>.

²⁹ Nur Kautsar Hasan et al., "Efektifitas Pengawasan Komisi Yudisial Dalam Mengawasi Kode Etik Profesi Hakim," *Kertha Patrika* 40, no. 3 (December 31, 2018): 141-54, <https://doi.org/10.24843/KP.2018.V40.I03.P02>.

³⁰ Telaumbanua, "URGENSI PENGAWASAN TERHADAP HAKIM DALAM RANGKA PELAKSANAAN E-COURT DAN E-LITIGATION DI INDONESIA."

³¹ Iwan Taufik Firdaus, "KEABSAHAN ALAT BUKTI PADA PERSIDANGAN PERKARA PIDANA MELALUI TELECONFERENSI DI MASA PANDEMI COVID 19," *Al-Adl: Jurnal Hukum* 12, no. 1 (April 13, 2021): 151-71, <https://doi.org/10.31602/AL-ADL.V12I1.4324>.

³² Mery Christian Putri and Erlina Maria Christin Sinaga, "DISRUPSI DIGITAL DALAM PROSES PENEGAKAN HUKUM PADA MASA PANDEMI COVID-19," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 10, no. 1 (April 29, 2021): 79, <https://doi.org/10.33331/RECHTSVINDING.V10I1.625>.

³³ Anggita Doramia Lumbanraja, "PERKEMBANGAN REGULASI DAN PELAKSANAAN PERSIDANGAN ONLINE DI INDONESIA DAN AMERIKA SERIKAT SELAMA PANDEMI COVID-19," *CREPIDO* 2, no. 1 (May 26, 2020): 46-58, <https://doi.org/10.14710/CREPIDO.2.1.46-58>.

in the Indonesian judiciary, the supervisory mechanism needs to be regulated to highlight the rules and proceedings. Although online trials are shown to be insignificantly different from offline or in-person trials, mechanisms in the context of supervision are still necessary. This ensures that the instrument of supervision is not removed from the judiciary, but can be a measure of the success of the Supreme Court in the implementation of online trials. Furthermore, harmony in terms of supervision will enhance the judiciary ability to solve legal problems and uphold justice in society.³⁴

The reconstruction of online court supervision can be carried out by establishing a separate law that regulates electronic trials in detail. Therefore, it is important for the House of Representatives of the Republic of Indonesia to propose a bill on online trial proceedings or amendments to the Criminal Procedure Code to enhance proper regulation.³⁵ This Online Trial Law requires provisions that regulate a clear mechanism of supervision by the Judicial Commission. This will prevent inefficiencies in terms of realizing a fast, simple, and low-cost judiciary.³⁶

Special Team Formation for Online Trial Supervisors

The various problems that arise in online trials as mentioned in this study can render the evidence process ineffective and potentially interfere with the principle of an honest and fair trial. Therefore, there must be standardization of facilities and infrastructure for

online trials in court by adding IT personnel in all court institutions. It is also necessary to form an independent special team to supervise and evaluate the implementation of online trials.³⁷ Regarding the formation of a competent Human Resources team in the IT field, it is necessary to include the role of the Judicial Commission or cooperate with other supervisory institutions.³⁸

Conclusions

There are four factors that potentially reduce the objectivity of the panel of judges in deciding cases in online trials. These include the location of the trial, the presence of witnesses as well as defendants, and the openness of the trial to the public. These constitute a substantive juridical weakness in the online trial process. During implementation, these trials encounter further problems in several aspects such as facilities and infrastructure, online verification, legal basis, fulfillment of suspect rights, fulfillment of the rights of victims, and the public in-court information.

Additionally, other problems affect online trials where there are no clear regulations and supervisory procedures. This necessitates the presence of supervision for judges during these trials. In the Indonesian judicial system, this supervision has not involved the Judicial Commission. Therefore, this study highlights the need for a reconstruction of the supervisory mechanism of online trials through the Revision of the Criminal Procedure Code (KUHAP), the Establishment of Special Regulations Related to the Online Trial Law, and Special Team Formation for Online Court Supervisors.

³⁴ Telaumbanua, "URGENSI PENGAWASAN TERHADAP HAKIM DALAM RANGKA PELAKSANAAN E-COURT DAN E-LITIGATION DI INDONESIA."

³⁵ Dian Cahyaningrum, "PERSIDANGAN SECARA ELEKTRONIK PADA MASA PANDEMI COVID-19," *Info Singkat Bidang Hukum: Kajian Singkat Terhadap Isu Aktual Dan Strategis* 14, no. 12 (2021): 1-6.

³⁶ Telaumbanua, "URGENSI PENGAWASAN TERHADAP HAKIM DALAM RANGKA PELAKSANAAN E-COURT DAN E-LITIGATION DI INDONESIA."

³⁷ Hanafi Hanafi, Muhammad Syahril Fitri, and Fathan Ansori, "EKSISTENSI PERSIDANGAN ONLINE DITENGAH PANDEMI COVID19 DALAM PERKARA PIDANA DI INDONESIA," *Al-Adl : Jurnal Hukum* 13, no. 2 (May 21, 2021): 320-41, <https://doi.org/10.31602/AL-ADL.V13I2.4493>.

³⁸ Ihwan and Nugraheni, "Urgensi Sistem Pengawasan Dalam Pelaksanaan Persidangan Secara Online."

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