

The Use Of Electronic Evidence In Civil Jurisdiction Processes In Indonesian Law Courts

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ABSTRACT

In Law No. 11 of 2008 and Law No. 19 of 2016 on Electronic Information and Transactions, electronic evidence is an extension of legal evidence under the procedural law already applied in Indonesian courts to use it as legal evidence. Pre-trial and electronic evidence filing in court civil cases. The provision of electronic evidence is assessed by the arbitral tribunal based on whether the requirements for the form and material of electronic evidence are met, because there are no special procedural provisions for electronic evidence in the main court hearing, but there are further regulations on the form requirements of electronic evidence. It will be explained in Section 6 of the Act. Decree No. 11 of 2008 together with Law No. 19 of 2016 on Electronic Information and Transactions is considered valid as long as the information contained in it is accessible, viewable, guaranteed to be complete and interpretable to explain the situation. The substantive requirement of electronic evidence is the relevance of the evidence to the claim or disputed material. Therefore, the judge can regard electronic evidence as prima facie evidence, doubtful evidence, admission evidence, or it can be excluded or disregarded by the judge in accordance with No. 48 of 2009 on the powers of judges of the judiciary.

Key words: the use of electronic evidence, electronic evidence, civil cases.

I. Introduction

Under the current situation that people's lives are becoming more and more developed, the dynamics of individual countries, and the influence of globalization and modernization, together with the support of scientific and technological progress, are increasingly affecting people's way of life and development, making people Easier to use Access technology and digital information quickly and easily. At the National Symposium 2021, Mr. R. Benny Riyanto, Director of the Law and Regulations Department of the Ministry of Law and Human Rights of the Republic of Indonesia, said that the development of digital technology has now changed the way of life of the Indonesian people in various fields, such as business, has shifted to a wide range of e-commerce used. As a medium of exchange, easy to use in

public banking, fintech and electronic payment services, even in the medical and pharmaceutical fields, there are health technologies that are used by the community, and in the fields of law and education, there are Edu technologies and other digital applications that are easily accessible to the community (fh.unnes.ac.id. 2021).

In this case, it indirectly affects the way of life of people, especially the Indonesian people, which is characterized by the use of technology, which is increasingly used in today's society, leading to changes in different sectors of Indonesian society. According to Introducing Mr. Samuel Abrijani, Director of Information Application, when launching the Book Founders Starter Pack of the National Thousand Digital Startups and Sequoia Wave Movement in 2021, he said that changes in digital technology have changed the work and cultural mentality when using technology in Indonesia. The presence of a local area outlook in utilizing innovation is a vital aspect for making more useful, compelling and proficient exercises. The adjustment of computerized innovation today isn't just about finding the most cutting-edge innovation however about the mentality of the innovation client local area to have the option to keep on tracking down the most ideal way to get things done with the assistance of advanced innovation. It tends to be begun from aversion to issues in the day-to-day routine of Indonesian individuals and afterward give thoughts to taking care of these issues with the goal that in the process it becomes more straightforward to settle (aptika.kominfo.go.id.2021). The advancement of computerized innovation that gets huge changes individuals' regular routines has helped many individuals in different fields, however the improvement of computerized innovation can prompt benefits or can create legitimate issues when the utilization of advanced innovation is utilized for purposes that are in opposition to law and order in Indonesia. Thus, considering the improvement of advanced innovation that happens in different fields in the existences of Indonesian individuals so these progressions likewise influence the improvement of regulation in Indonesia.

One illustration of a lawful case that happened in Indonesia that uses computerized innovation is the web-based party case. The web-based Arisan case that as of now has a court choice happened in the Salatiga District Court which

chose the internet based Arisan extortion case with a 9-month jail sentence. In the preliminary cycle, the board of judges at the Salatiga District Court expressed that the respondent was viewed as at legitimate fault for perpetrating a crook demonstration of misrepresentation together in light of article 378 of the Criminal Code (KUHP) related to article 55 passage (1) 1 with a jail sentence of 9 months (inewsjateng. en. 2022). With respect to other legitimate cases that use computerized innovation which is presently still during the time spent the Tangerang District Court, in particular the instance of unlawful speculation for the benefit of the suspect Indra Kusuma or who is many times called Indra Kenz who was accused of disregarding Article 45 passage (2) related to Article 27 section (2) or potentially Article 45 a passage (1) related to article 28 section (1) of Law Number 19 of 2016 concerning Electronic Transactions, article 3 of Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering and article 378 of the Criminal Code (KUHP) (kabar24.bisnis.com.2022).

Assuming we take a gander at the different legitimate cases, we can comprehend that the Indonesian government has survived and directed the progression of computerized innovation from one year to another as of recently by giving Law Number 11 of 2008 concerning Information and Electronic Transactions related to Law Number 19 of 2016 About Information and Electronic Transactions. One of the fundamental targets of these lawful guidelines is to give a conviction that all is good, equity, and legitimate sureness for clients and suppliers of data innovation. Thus, it tends to be seen that this lawful guideline is the main regulation in the field of data innovation and electronic exchanges as a truly necessary regulative item and has turned into a trailblazer that laid the reason for guideline in the field of data innovation use and electronic exchanges in Indonesia. Thus, for this situation we can see that the information presented by the executive of the House of Representatives of the Republic of Indonesia, Mr. Bambang Soesatyo in the 2021 center gathering conversation, said that legitimate cases connected with advanced innovation in Indonesia in 2020 were more lawbreaker cases than demonstrated common cases. abuses Law Number 19 of 2016 concerning Information and Electronic Transactions (detik.com.2021).

In any case, actually, at present the utilization of these lawful guidelines is encountering snags in its application in courts in Indonesia. In the choice of the Constitutional Court number 20/PUU-XIV/2016 of 2016 further reinforces article 5 passage (2) and article 6 of Law Number 19 of 2016 concerning Information and Electronic Transactions connecting with the legitimacy of proof which on a fundamental level is that the proof credibility can be ensured in portraying a case. The Constitutional Court's choice is to be sure in view of a crook case, however that doesn't imply that the choice can't be applied in taking care of common cases on the grounds that right now there are numerous common issues that frequently happen, one illustration of the legitimate instance of online party and computerized unlawful venture that hurt society. Notwithstanding, for this situation the proof from data and electronic exchanges of advanced innovation can't really be utilized as proof, so there are a few circumstances that should be met so the proof can be utilized (Sugiarto, 2016).

In light of this foundation, the exploration from this paper will examine electronic proof in common regulation cases, how the law controls electronic proof in common regulation cases and how the place of electronic proof in common regulation cases in court. The strategy utilized recorded as a hard copy this exploration is a standardizing juridical technique, to be specific a technique with research that restricts the standards contained in the regulation, lawful hypothesis and suppositions from specialists.

II. Result and Discussion

1. The Definition of Electronic Evidence and the Regulations That Govern

As a general rule, the meaning of gadgets as indicated by the Big Indonesian Dictionary is an instrument that is made in view of electronic standards and things or items that utilization these instruments and can be involved in addition to other things on electronic gadgets for individual and day to day use as well as electronic media and broad communications offices that utilization electronic gadgets. current electronic gadgets like radio, TV, and film. In this way, hardware are devices utilized by society as a medium that uses innovation. While the thought of verification is a significant interaction to have the option to decide some

unacceptable or right of an individual and furthermore the light or nonappearance of a case. In this way, the idea of confirmation is a demonstration of demonstrating so that demonstrating implies giving or showing proof, accomplishing something valid, completing connoting seeing and persuading (Eddy Army, 2020). As per Prof. Dr. Whirlpool O.S. Hiariej in a book entitled Theory and Law of Evidence that the law of verification is as arrangements with respect to prove which incorporate devices, proof, proof, how to gather and get proof to the accommodation of proof in court along with the strength of confirmation and the obligation to prove anything (Hiariej, 2012).

While in Law Number 11 of 2008 concerning Information and Electronic Transactions related to Law Number 19 of 2016 concerning Electronic Information and Transactions in article 5 section (1) it is made sense of that electronic proof is electronic data as well as electronic reports or potentially the printed outcome is substantial legitimate proof which should meet the conventional necessities and material prerequisites. So in view of the regulations and guidelines, there are extra kinds of proof in court, in particular electronic data as well as electronic records. In the general arrangements of these principles, we can take note of that the sorts of electronic information are like composition, photographs, sounds, pictures which are electronic data. This sort of electronic proof has been depicted in Article 5 of Law Number 11 of 2008 concerning Electronic Information and Transactions related to Law Number 19 of 2016 concerning Electronic Information and Transactions which contains that electronic data as well as electronic reports or potentially their printed results are legitimate lawful proof. Thus, the electronic data or potentially electronic reports as well as their printed results as alluded to in Article 5 passage (1) is an augmentation of legitimate proof as per the procedural regulation in force in Indonesia. As per Paton in his book a course reading law, proof can be oral, narrative, or material. Oral proof here is the words expressed by somebody at preliminary by declaration about an occasion and letters including narrative proof while material proof is proof of actual merchandise that are noticeable or should be visible other than archives/material proof (Mertokusumo, 1996).

In the event that you take a gander at the past guideline, to be specific Law Number 11 of 2008 concerning Electronic Information and Transactions, it is still too broad in making sense of the sorts of electronic proof which later in its revision to Law Number 19 of 2016 concerning Electronic Information and Transactions is made sense of in more insight about what sorts of electronic proof as electronic data and electronic reports, among others, in article 1 of the guideline expresses that electronic data is one or a bunch of electronic information, including yet not restricted to composing, sound, pictures, maps, plans, photos, electronic information trade, electronic mail, wire, message, telecopy or something like that, handled letters, signs, numbers, access codes, images, or holes that have meaning or can be perceived by individuals who can grasp them. In the mean time, electronic exchanges in these guidelines are lawful demonstrations completed utilizing PCs, PC organizations, or potentially other electronic media. In the mean time, electronic report is any electronic data that is made, sent, sent, got, or put away in simple, computerized, electromagnetic, optical, or comparable structures, which should be visible, showed, or potentially heard through a PC or electronic framework, including yet not restricted to composing, sound, pictures, maps, plans, photos or something like that, letters, signs, numbers, access codes, images or holes that have significance or importance or can be perceived by individuals who can grasp them.

Seeing the different implications of electronic data, electronic exchanges and electronic records as per Law Number 11 of 2008 concerning Information and Electronic Transactions related to Law Number 19 of 2016 concerning Information and Electronic Transactions referenced above, in the legitimate equity proof framework in Indonesia decided here are bound to legitimate proof, and that implies that judges may just decide or pursue choices in view not entirely settled by regulations and guidelines and proof in common methods referenced by regulation is controlled in article 164 HIR/284 RBg which directs in a limitative or prohibitive way in regards to confirm in common cases with respect to prove, including letter proof, witnesses, doubts, admissions and vows. So beyond this proof, there are confirmations that can be utilized to acquire conviction in regards to the reality of an occasion that is questioned in court, specifically in nearby

assessments managed in Article 153 HIR/180 RBg and master declaration/master observers as directed in Article 154 HIR. /181RBg.

So juridically in the law of confirmation in Indonesia, both in HIR and in the Civil Code, electronic records have not yet obliged electronic reports as proof, while a portion of the new regulations have directed and perceived electronic proof as legitimate proof, specifically, among others in the Law Number 8 of 1997 concerning Company Documents, Law Number 36 of 1999 concerning Telecommunications, Law Number 40 of 1999 concerning the Press, Law Number 20 of 2001 concerning Eradication of Criminal Acts of Corruption, Law Number 19 of 2002 Regarding Copyright and Law Number 11 of 2008 concerning Information and Electronic Transactions related to Law Number 19 of 2016 concerning Information and Electronic Transactions.

Thus, in electronic proof in the improvement of regulation in Indonesia as of now has numerous regulations and guidelines that manage this, yet despite the fact that there are rules administering electronic data and exchanges as well as a few different guidelines as of now it can't really be said that the procedural regulation in Indonesia is both common. what's more, criminal demonstrations have plainly managed electronic proof in common proof in light of the fact that the game plan of electronic proof that has been completed is a material regulation which ought to likewise be joined by formal regulation or in the procedural regulation.

2. The Position of Electronic Evidence in Cases in Court

In M. Yahya Harahap's book on common procedural regulation it is said that proof in common procedural regulation has a vital and extremely complex position or spot during the time spent settling questions through the courts. This present circumstance has an inexorably perplexing intricacy since evidence is connected with the capacity to recreate previous occasions or occasions as truth. Albeit reality that is looked for and acknowledged in the common equity process isn't unadulterated fact of the matter yet is relative truth or even very likely, to look for such truth actually faces hardships (Harahap, 2017).

Seeing Law Number 11 of 2008 concerning Information and Electronic Transactions related to Law Number 19 of 2016 concerning Electronic Information and Transactions, there is another guideline with respect to electronic archive proof. In light of the arrangements of Article 5 passage (1) in the guideline, it is resolved that electronic data or potentially electronic archives and additionally their printed results are lawful proof. Moreover, in article 5 section (2), it is resolved that electronic data or electronic records or potentially their printed results as alluded to in passage (1) is an expansion of legitimate proof and is as per the procedural regulation in force in Indonesia. In this way, Law Number 19 of 2016 concerning Electronic Information and Transactions has confirmed that electronic records and additionally their printed results are legitimate proof and are an augmentation of lawful proof as per procedural regulation that has been applied in Indonesia so it tends to be utilized. as proof in court. Besides, in light of the arrangements of article 5 passage (3) it is resolved that electronic data or potentially electronic reports are pronounced legitimate assuming they utilize an electronic framework as per the arrangements contained in Law Number 11 of 2008 concerning Electronic Information and Transactions related to the Act. Number 19 of 2016 concerning Information and Electronic Transactions.

Hence the utilization of electronic records as proof that is viewed as substantial assuming that involving an electronic framework as per the arrangements as specified in Article 6 of Law Number 11 of 2008 concerning Information and Electronic Transactions related to Law Number 19 of 2016 concerning Electronic Information and Transactions which discovers that an electronic report is viewed as legitimate as long as the data contained in it tends to be gotten to, showed, dependable its respectability, and can be represented to make sense of a circumstance. What's more, electronic records whose position can be comparable to reports made on paper as determined in the overall clarification of the law. In view of the arrangements of Article 5 passage (4) of the regulation, there are exemptions, so if the gatherings have any desire to go with a conventional understanding, it is viewed as invalid on the off chance that it has not been recorded physically, either in that frame of mind of a confidential deed or a valid deed. Instances of formal arrangements remember the Peace Agreement for

Article 1851 of the Civil Code, Article 1682 of the Civil Code and the understanding and deed of offer and buy with land objects in Government Regulation Number 24 of 1997 concerning Land Registration. . For this situation, what is major in the introduction of electronic proof in court is the issue of the legitimacy of the electronic proof, the credibility of the electronic proof should be evaluated by the adjudicator by directing an assessment to satisfy the formal and material necessities of the electronic proof. The necessities for electronic proof to be legitimate in court have been made sense of overall in Article 6 of Law Number 11 of 2008 concerning Information and Electronic Transactions related to Law Number 19 of 2016 concerning Information and Electronic Transactions, however actually or officially there are no guidelines to control it. briefly to keep up with the trustworthiness of the electronic proof confirmation in view of Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions.

The rules that can be applied in dealing with electronic proof to guarantee its respectability and responsibility are four fundamental standards in computerized criminology. These four fundamental standards are given by the Association of Chief Police Officers. The main guideline is that a policing as well as its officials are denied from changing computerized information put away in an electronic stockpiling medium which will then be brought and represented in court. (learninghub.id. 2019). In completing the most common way of handling advanced proof, keeping up with information integrity is likewise essential. For this situation, it plans to safeguard the realness of the information during the information reinforcement cycle and information show. As well as doing the interaction, it is additionally to keep up with the genuineness of the information when it is submitted as computerized proof at the preliminary so no information changes regardless of whether for instance something changes so there is as yet the first (rahmanarinur.wordpress.com.2013). The subsequent guideline is connected with the capability of an individual. For somebody who necessities to get to advanced information put away in proof capacity media, that individual priority skill and have the option to make sense of the relationship and effect of the

moves made during the assessment and examination of the proof (bppk.kemenkeu.go. en.2019).

The third guideline is that there is a specialized and useful record of the means applied to the media for putting away proof during the assessment and examination so that when the proof is inspected by an outsider, the outsider ought to come by the very results as the outcomes that have been done by the outsider. past scientific examiner/investigator. What's more, the fourth standard is that the individual accountable for case examinations as well as the assessment and investigation of electronic proof should have the option to guarantee that the cycle that happens is as per relevant regulation and the past essential standards can be applied appropriately. (learninghub.id. 2019).

Notwithstanding the interest in planning fitting legitimate contemplations, an appointed authority likewise has a commitment to verify electronic proof in light of the *ius curia novit* guideline. This guideline is a rule that connects the commitment to judges to assume a functioning part in tracking down regulations, creating regulations, or framing new regulations, assuming there is no composed regulation or a legal guideline whose rules are not yet clear. The utilization of this standard is contained in Article 10 section (1) of Law Number 48 of 2009 concerning Judicial Power. This arrangement joins the commitment to the court to inspect, hear, and settle on a case that is submitted despite the fact that the law doesn't exist or is indistinct. As to confirm, as of not long ago there is no definite commitment for judges to guarantee the verification of electronic proof with specific instruments. Taking into account the unpredictable idea of electronic proof with the goal that it can possibly make changes meta information or information values to change assuming the assessment is helped out straightforwardly through a capacity gadget. Accordingly, the assessment of the confirmation of electronic proof is significant for judges. This is on the grounds that in this setting there is a commitment for judges to apply the right component in looking at the confirmation of electronic proof in light of the *ius curia novit* rule (www. Hukumonline.com.2017).

Proof in common procedural regulation is directed in articles 164, 153, 154 *Herzien Inlandsch Reglement* (HIR) and Articles 284, 180, 181 *Rechtreglement*

voor de Buitengewesten (RBG) (Efa Laela Fakhriah.2021). The HIR and RBG don't straightforwardly direct or characterize electronic proof as one of the kinds of proof under the steady gaze of the court. Electronic proof is then explicitly directed in Article 5 passages (1) and (2) of Law Number 11 of 2008 concerning Electronic Information and Transactions as portrayed previously. Thus, it very well may be seen in common cases in courts in Indonesia that electronic proof has frequently been tracked down presented by the gatherings in the preliminary, including printed WhatsApp screen captures, Instagram prints, SMS prints, photograph prints, bank move proof prints and recordings. In analyzing and deciding the legitimacy and position of the proof, a few phases are required, to be specific after the gatherings present the electronic proof at preliminary, the board of judges should guarantee the validation or realness of the electronic proof by checking out at the formal and material prerequisites of the proof. The proper prerequisites for electronic proof are not plainly characterized in the law, but rather the conventional necessities for electronic proof can be deciphered further in Article 6 of the Law on Electronic Information and additionally Electronic Documents as long as the data contained in that can be gotten to, showed, ensured. respectability, and can be represented in order to make sense of a circumstance. The material necessity for electronic proof is the pertinence of the proof to the material of the claim or questioned. The place of electronic proof is surveyed by the board of judges in view of the satisfaction of the formal and material prerequisites of the electronic proof. Since there are no unique standards administering the procedural law of electronic proof at preliminary, the adjudicator can consider the electronic proof to be fundamental proof, proof of doubt, proof of admission and can likewise be precluded or can't be viewed as by the appointed authority as per the appointed authority's clout in Law Number 48 of 2009 concerning Judicial Power (lbhpayoman.unpar.ac.id. 2021).

III. Conclusion

In short, Law Number 11 of 2008 related to Law Number 19 of 2016 concerning Electronic Information and Transactions has managed electronic proof which is an extension of legitimate proof as per procedural regulation that has

been applied in Indonesian courts. so it tends to be utilized as legitimate proof before the preliminary and the place of electronic proof in common cases in court. The place of electronic proof is evaluated by the board of judges in view of the satisfaction of the formal and material prerequisites of the electronic proof since there are no unique principles overseeing the procedural law of electronic proof at preliminary, however the conventional necessities for electronic proof can be deciphered further in Article 6 of the Law. Number 11 of 2008 related to Law Number 19 of 2016 concerning Electronic Information and Transactions is viewed as substantial as long as the data contained in it very well may be gotten to, showed, dependable its trustworthiness, and can be represented in order to make sense of a circumstance. The material prerequisite for electronic proof is the pertinence of the proof to the material of the claim or questioned. So the adjudicator can consider the electronic proof to be primer proof, proof of doubt, proof of admission and can likewise be precluded or can't be viewed as by the appointed authority as per the adjudicator's clout in Law Number 48 of 2009 concerning Judicial Power.

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