



Effectiveness of electronic trials against children in conflict of the law at boyolali district court

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ABSTRACT

The Covid 19 pandemic is endemic throughout the world impacting the course of the judicial process. Empirical juridical research using qualitative descriptive data analysis methods and deductive conclusions on the effectiveness of electronic trials for children in conflict with the law. The legal policy for electronic trials is based on Supreme Court Regulation Number 4 of 2020 concerning the Administration and Trial of Criminal Cases in Electronic Courts. The implementation level at the Boyolali Class IB District Court in 2020 held 11 (eleven) trials of juvenile criminal cases electronically running effectively but still encountered non-technical obstacles. Therefore, the implementation of electronic criminal justice for children needs to be supported by adequate electronic systems and devices as stated in the Decree of the Director General of the General Courts of the Supreme Court of the Republic of Indonesia Number 1693/DJU/SK/HM02.3/12/2020 concerning Standardization of Trial Facilities and Infrastructure Online (In Network) in General Courts to minimize errors. Developmental demands affect policy considerations in the form of dynamic legal renewal of the court system. Supreme Court regulations are expected to be more present in the formulation of laws and regulations and included in procedural law concerning electronic criminal trial arrangements, especially against children.

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1. INTRODUCTION

Children are the nation's next generation who have the potential to turn Indonesia into a more developed country. Children are often referred to as the next generation who play an important role in determining the history of the life of the nation and state in the future. However, in principle, the psychological development of children cannot be equated with the psychological development of adults. Therefore education plays a very important role in the formation of children's character (Lubis & Putra, 2021). Every child can take responsibility in which the child must have the best possibility to grow and develop optimally both physically and mentally, socially and morally. Protection must also be provided to improve children's welfare by ensuring that all rights are respected and recognized without discrimination (Ghoni & Pujjiono, 2020).

A child who is in conflict with the law is a child in conflict with the law, becomes a victim of a crime and becomes a witness to a crime based on the provisions of Article 1 point 2 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Then the provisions of Article 1 point 3 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System state that a

child who is in conflict with the law is called a child who is 12 (twelve) years old but not yet 18 (eighteen) years old is suspected of committing a crime. Article 1 point 4 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System which is meant as a child victim is a child under the age of 18 (eighteen) years experiencing physical, mental or economic suffering and a witness to a crime is a child who is under the age of 18 (eighteen) years may provide information in the interest of investigation, prosecution, trial court hearings regarding criminal cases that are heard, seen, and personally experienced based on the provisions of Article 1 point 5 of Law Number 11 of 2012 concerning the Criminal Justice System Child.

The rise of children in conflict with the law can damage the Indonesian social system which is carried out by children under the age of 18 (eighteen) years and as a result of their delinquency a child has to deal with the law and sometimes has to enter the Juvenile Correctional Institution (Adly, 2020). Therefore, it is also necessary to change the paradigm in the processing of children regarding the roles and responsibilities of the community, government and other state institutions that have duties and responsibilities to improve children's welfare and provide special protection to children who are in conflict with the law (Prasetyo, 2020). Seeing this situation, the government must immediately consider it by acting to save the younger generation because they are experiencing a moral crisis so they dare to take reckless actions to violate the law even though these actions lead to criminal acts and target the future of children in the life of the nation and state. The government should provide them with training, guidance, education and special attention (Candra et al., 2020).

The aim of diversion is to protect and rehabilitate offenders so that children do not become adult offenders. The general explanation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System states that restorative justice is a diversion procedure. Thus all parties involved in certain crimes work together to solve problems and make a commitment to improve the situation by involving victims, children and society to find solutions and peace that are not based on revenge (Ananda, 2018).

Plato defines law as a system of positive rules that are structured and binding for all individuals within a state (Pahlevi, 2019). The provisions of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia expressly state that Indonesia is a country based on law. In line with this, the legal formation of a law must be based on the nature of law in order to be a way of advancing, protecting and prioritizing certain interests or interests over others (Widiatama et al., 2020). The law is also required to adjust the situation. The government's protection mandate is very important at this time in the form of government duties and issuing regulations as a response to a pandemic. Various legal products issued by the government are a kind of legal role to anticipate the impact of a pandemic as a legal breakthrough (Dawati & Budiastuti, 2021).

At the level of legal practice, especially in the judicial environment, they are familiar with the digitalization process. The most well-known evidence of the digitization process in the legal world is the virtual civil courts in Indonesia, we know them as an integrated whole into the electronic court system. (Lumbanraja, 2020). So that the law does not become an obstacle to state activities, the optimization of information technology offers a choice of options with effective and efficient controls. This is where the role of the government, the House of Representatives and the Supreme Court is urgently needed to address this backwardness in order to maintain order, security and public welfare amidst the rapid development of legal issues (Lumbanraja, 2020).

The Covid 19 pandemic that has infected all parts of the world has affected the course of the judicial process. Trial as one of the processes of the criminal justice system is carried out to find the truth of a process in a criminal case. The trial was carried out by bringing together the parties in the courtroom. However, in the case of litigation, the process can be carried out by placing the parties in different places. This is known as an electronic hearing where the parties sit in different courtrooms but are connected to each other (Purnama & Nelson, 2021).

Changes to the implementation of electronic trials had the greatest impact. This happened because the Covid 19 pandemic had an impact on society with policies that limited people's space for movement. The handling of cases during a pandemic poses a serious threat to the safety of members of the judiciary and litigants. Thus to protect all judicial apparatus and litigants by changing the conventional justice mechanism to an electronic justice process. If the trial continues

as usual, there will be a risk of contracting the Covid 19 virus, while the postponement of the trial will result in losses for the defendant because the fate and status of the judges are unclear (Anggraeni, 2020).

Based on the above, children who are in conflict with the law, in this case as perpetrators of criminal acts, must still get justice and good behavior during the legal process, even with an electronic-based judicial process in the midst of the Covid 19 pandemic. To examine more deeply the application of judicial process law to acts crimes committed by children in the midst of the Covid 19 pandemic. So how is the effectiveness of the electronic trial at the trial of children dealing with case study law at the Boyolali District Court.

2. RESEARCH METHOD

The research method using empirical juridical research is carried out to see real law in society (Handayani, 2020) carried out to study laws and regulations, concepts, theories, and implementation (Marthaningtyas, 2020) relating to the problem of juvenile criminal trial regulations dealing with the law electronically during the Covid 19 pandemic in Indonesia.

Analysis of qualitative descriptive data by way of research analyzing qualitative data that has been stated by informant respondents as subjects of Judges, Central Java Child Development Special Institutions (LPKA), Indonesian Child Protection Commission (KPAI), and Children in Conflict with the Law (ABH) both in writing or verbally to be explained and explained in detail to real events in search of value in them (Yusrizal et al., 2021) and the object of research at the Boyolali District Court Class IB.

Furthermore, based on the above in drawing conclusions deductively from the way of thinking to things that are general to specific (Israfil et al., 2021) effectiveness will be seen both in terms of written law and custom which is a gap between the norm and the reality of the law (Rosy et al., 2020) regarding the effectiveness of electronic trials for children who are dealing with the law case study at the Boyolali Class IB District Court.

3. RESULTS AND DISCUSSIONS

Since the Covid 19 pandemic spread in early 2020. Many countries in the world have implemented social or physical distancing and lockdowns. Indonesia is one of the countries that has not implemented a lockdown, but that does not mean it has no impact on legal practice. Government agencies and other institutions must adapt public relations services and a series of rules in the security of activities set by the government (Fadhilah, 2020). Several things have been regulated in the workplace during the pandemic, including the distribution of human resources through setting work from home partially or completely, measuring temperature with an infrared thermometer directed at the forehead and self-assessment to determine risk symptoms for Covid 19, not setting working hours too long which can weaken the power system. body resistance, regulation on the use of masks and nutritional food, safe, clean and healthy workplace facilities including maintaining, protecting health, prevention to control transmission, hand washing, physical distancing restrictions and clean and healthy lifestyle (Gunawan & Toni, 2020).

The application of social distancing has an impact on limiting community activities in holding trials according to normal standards such as before the Covid 19 virus pandemic. Thus the Court through several regulations within the Supreme Court enacts and implements them at various levels and fields of justice which must rely on the use of technology as a power system. supporting the implementation of the continuity of legal services provided to the community so as not to add to and reduce the risk of spreading the Covid 19 virus, especially providing access to justice services.

The provisions of Article 1 number 12 of Supreme Court Regulation Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Electronic Courts explain that electronic trials are a series of processes to examine, try and decide cases against the Defendant by a Court carried out with information, communication, audio technology, visual and other electronic means. However, the implementation of electronic trials is deemed inconsistent with the provisions of Article 160 paragraph (1) letter a and Article 167 of the Criminal Procedure Code (KUHP) which require the physical presence of witnesses in the courtroom. Then the Panel of Judges also

considered the provisions of Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power which requires Judges as enforcers of law and justice to explore, follow, understand and pursue material truth in criminal law both from a formal perspective being abandoned selectively.

This provision is nothing new regarding electronic trials. Developments related to electronic trials, some of which are regulated in the provisions of Article 27 paragraph (3) concerning the Law on the Juvenile Criminal Justice System which states that in the event that the child victim and/or child witness cannot be present to provide information before the trial, the Judge can order the child victims and/or child witnesses are heard for their statements electronically or remotely using audio-visual communication devices. In addition, Article 9 paragraph (3) of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims states that witnesses or victims can hear their testimony directly via electronic means accompanied by authorized officials.

Law Number 14 of 1985 concerning the Supreme Court allows procedural rules for procedural law which only affect the institutions under them. The Supreme Court then issued a policy for holding trials electronically which had been enforced based on Supreme Court Regulation Number 1 of 2019 concerning Electronic Administration of Cases and Trials in Courts. However, these regulations are limited to the types of civil, civil and religious cases, military administration, and state administration that apply in each court environment.

Supreme Court Regulation Number 1 of 2019 concerning the Electronic Administration of Court Cases needs to be updated again to overcome various obstacles and obstacles in the process of administering justice, especially preventing the spread of the Covid 19 virus in the judicial environment. Policy of the Supreme Court of the Republic of Indonesia to issue Circular Letter Number 1 of 2020 concerning Guidelines for Implementing Duties During the Period to Prevent the Spread of the Corona Virus Disease 2019 (Covid 19) within the Supreme Court and Judiciary Bodies under it to make adjustments to the work system based on the Circular Letter of the Minister for Administrative Reform and Bureaucratic Reform.

Because some of the regulations above do not specifically regulate criminal cases. Then came the Circular Letter of the Supreme Court of the Republic of Indonesia Number 5 of 2020 concerning Guidelines for the Implementation of Work From Home and Imposition of Disciplinary Punishments for Judges and Apparatuses within the Supreme Court and Judiciary Bodies Under them during the Public Emergency of Corona Virus Disease 2019 (Covid 19) and Regulations Supreme Court Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Courts Electronically complements the previously existing Supreme Court Decision Number 1 of 2019 concerning Administration of Cases and Trials in Courts Electronically and Circular Letter Number 1 of 2020 concerning Guidelines for Implementation of Duties During the Term Prevention of the Spread of Corona Virus Disease 2019 (Covid 19) within the Supreme Court and Judicial Bodies below it.

In addition, the Attorney General's Office also issued a Letter of the Attorney General of the Republic of Indonesia Number B009/A/SUJA/03/2020 concerning Optimization of the Implementation of Duties, Functions and Authorities in the Middle of Efforts to Prevent the Spread of Covid 19 and the Ministry of Law and Human Rights issued Menkumham Circular Letter Number M.HH .PK.01.01.01.03. Followed by the Supreme Court, the Attorney General's Office, and the Ministry of Law and Human Rights signed a memorandum of understanding Number 402/DJU/HM.01.1/4/2020, Number KEP 17/E/EJP/04/2020, Number PAS-08.HH. 05.05 concerning Implementation of Trials via Teleconference.

Boyolali Class IB District Court is located at Jalan Perintis Kemerdekaan Number 2 Boyolali, Central Java. That in order to build public trust in the judiciary, efforts must be made to improve the quality of public services in accordance with the 1945 Constitution of the Republic of Indonesia, Law Number 25 of 2009 concerning Public Services and various other related regulations to carry out their duties properly. Thus the Boyolali Class IB District Court applies its vision and mission to be used as a reference in administering and providing public services to justice seekers as well as the community. The vision is to realize the Great Boyolali District Court. Mission as something that must be used as a guideline and carried out in accordance with the vision that has been set so that organizational goals are implemented and can be realized properly.

The mission of the Class IB Boyolali District Court is to provide legal and justice services to all people, provide broad public access to information so as to create court transparency, realize a simple, fast and low-cost case examination process, make decisions and decisions that fulfill justice, legal certainty, and can be implemented, as well as creating an honest, clean and authoritative Boyolali District Court of Class IB.

Based on the report on the implementation of the activities of the Class IB Boyolali District Court in 2019 as an effort to improve services according to the vision and mission. Boyolali Class IB District Court has a strategic plan in substance to maintain stability, efficiency, development and strategy operationally by empowering strengths while eliminating existing weaknesses, taking advantage of opportunities, and anticipating challenges faced.

The policy of the Boyolali Class IB District Court in carrying out trials of juvenile crimes electronically is based on the Republic of Indonesia Supreme Court Regulation Number 4 of 2020 concerning the Administration and Trial of Criminal Cases in Courts Electronically as an effort to prevent the spread of Covid 19 as shown in figure 1 bar chart as the following is attached:

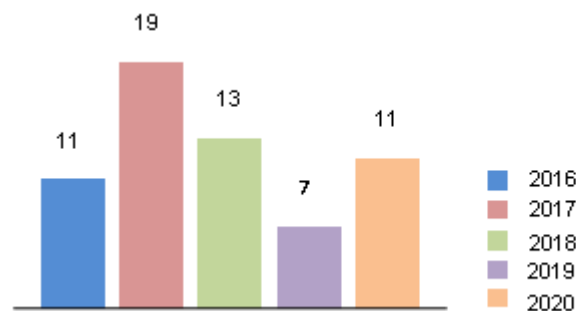


Figure 1. Data on juvenile criminal trials at the Boyolali District Court for 2016-2020.

Based on sources from the Boyolali Class IB District Court in 2021 data on juvenile crimes in 2016-2020, 61 (sixty one) cases were recorded, including in 2016 there were 11 (eleven) cases, in 2017 there were 19 (nineteen) cases, in 2018 there were 13 (thirteen) cases, in 2019 there were 7 (seven) cases, and in 2020 there were 11 (eleven) cases. From these data the implementation of trials of electronic child criminal cases at the Boyolali Class IB District Court in 2020 with 11 (eleven) cases has been running effectively. However, there are still several obstacle factors that occur during the implementation of trials, both non-technical, with unstable internet signal interruptions which greatly affect the clarity of the image quality, even the image on the screen monitor can also stop. Apart from that, the influence of the internet signal speed also has an influence on the sound quality causing it to not be heard clearly, resulting in the Registrar and Alternate Registrar to record information. Thus, for all these obstacles, repetition of sound clarity must be carried out when the signal quality is stable again. The flow of implementation of juvenile criminal trials can be described as follows: the judge opened the trial and stated that the trial was held closed to the public, Summons are made to children and parents or guardians, Legal Counsel or legal aid providers, and Community Counselors. If the child does not have his own Legal Counsel, the Judge is obliged to issue a stipulation in appointing a Legal Counsel for the child. The judge checks the child's identity. The Public Prosecutor read out the Indictment. The judge orders the Community Advisor to read the report on the results of the social research regarding the child in question without the presence of the child unless the Judge has another opinion, namely the report on the results of the social research containing the child's personal data, family, education, and social life, background of the crime committed, circumstances the victim in the event that there is a victim of a crime against the body or life, other matters deemed necessary, the minutes of diversion, as well as the conclusions and recommendations of the community advisor. The judge examines the evidence submitted by the Public Prosecutor by examining witnesses, experts if any, and documentary and other evidence. At the stage of examination of the victim's child or witness' child. Then the Judge can give an order for the child to be taken out of the courtroom. At the stage

of examination of the victim's child and or witness' child. Then parents or guardians, Legal Counsel or other legal aid providers and Community Advisors are still present.

If the child of the victim and/or the child of the witness cannot be present to testify before the court session. Then the Judge can order the victim's child and/or witness' child to be heard for testimony, namely outside the court session through electronic recording carried out by the Community Advisor in the local jurisdiction in the presence of the Public Prosecutor and Legal Counsel or other legal aid provider, with direct examination via a distance connection away with an audio-visual communication tool accompanied by parents or guardians and Community Counselors or other companions, then the child's trial is continued after the child is informed about the information that has been given by the child victim or child witness when the child is outside the courtroom. Examine the testimony of witnesses a de charge or favorable witnesses, if any, checking the child's statement, the judge provides an opportunity for parents or guardians and/or companions to be able to state things that are beneficial to the child, in certain cases the child victim is given the opportunity by the Judge to express his opinion regarding the case in question, the Public Prosecutor reads the charge sheet, children's Legal Counsel to submit pledoi or requests, the Public Prosecutor responds to pledoi or requests from the child's Legal Counsel, the reading of the Verdict in court hearings is open to the public.

In essence, criminal cases can be carried out through electronic trials during the Covid 19 pandemic. The judge's decision in an electronic trial is the same as the judge's decision during a face to face trial. *Res Judicata Pro Veritate Habetur* means that the judge's decision must be considered correct (Prayitno et al., 2020) because the decision was made based on the For the sake of Justice Based on Belief in the One and Only God.

Since the outbreak of the Covid 19 virus, the Boyolali Class IB District Court has conducted trials of juvenile crimes electronically with the aim of preventing the expansion of the spread of the Covid 19 virus. The electronic trial is based on the provisions of the Republic of Indonesia Supreme Court Regulation Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Electronic Courts. Thus the Judge carries out orders from the state to uphold justice in the Covid 19 pandemic. The implementation of electronic trials of juvenile criminal cases will be more effective if equipped with the support of a set of adequate systems as stated in the Decree of the Director General of the General Judiciary Agency of the Supreme Court of the Republic of Indonesia Number 1693/DJU /SK/HM02.3/12/2020 concerning "Standardization of Online (In-Network) Court Facilities and Infrastructure in General Courts. The implementation of electronic juvenile criminal trials in making improvements is the hope with maximum system support and the development and development of laws and regulations that are not only the Supreme Court Regulations but also renewal as a trial system that will be used in Indonesian procedural law.

4. CONCLUSION

Class IB District Court of Boyolali Regency in carrying out trials of child criminal cases electronically based on the provisions of Supreme Court Regulation Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Courts Electronically with the aim of preventing the spread of the covid virus 19. These regulations apply and are complementary on some of the previous regulations. It was recorded that from 2016 to 2020 61 (sixty one) trials of child criminal cases were held, including in 2020 as many as 11 (eleven) electronic trial of children's criminal cases. The electronic trial of juvenile criminal cases at the Class IB Boyolali District Court has been running effectively. However, of course there are still some problems with non-technical signal problems with image and sound quality that occur during the trial.

The implementation of electronic trials of juvenile criminal cases must be supported by a set of systems as in the Decree of the Director General of the General Court of the Supreme Court of the Republic of Indonesia Number 1693/DJU/SK/HM02.3/12/2020 concerning "Standardization of Online Court Facilities and Infrastructure (In Networks)) At the General Court which is sufficient to run effectively the same as a child criminal trial which is carried out directly in the courtroom at the stage of examination of the case until the decision is still attended by the Judge examining the child's case, the Public Prosecutor, parents of the child, Legal Counsel, Correctional Center , as well as witnesses to minimize mistakes that are feared will influence the judge's decision.

The benefits of the contribution of the results of this research as information material for knowledge to academics, practitioners, and the wider community in the implementation of electronic criminal proceedings, especially juvenile crimes at the Boyolali Class IB District Court without being burdened by complicated processes and interrelated with one another must be integrated. In addition to law enforcers within the Supreme Court, especially also in the Boyolali Class IB District Court environment as the person in charge of continuity of justice for effective and efficient settlement of cases referring to the demands of community development in accordance with the times that are developing rapidly in the use of technology and information in providing court services modern quality. Thus changes in the procedure in the judicial environment will undergo changes according to these developments. The next form of policy consideration as a form of dynamic legal renewal of a trial system. Supreme Court regulations are expected to be more present in the formulation of laws and regulations and included in Indonesian procedural law regarding the regulation of criminal trials, especially against children electronically.

This research is certainly expected not to repeat research material absolutely which can be used as reference material for future researchers regarding the phenomenon of the existence of electronic justice in Indonesia in the development of the juvenile criminal trial process in terms of criminal law renewal, the working system of law on structure, substance, legal culture and achievement of ideals. the law of justice, certainty, benefit to society is also resolved according to the principles of simple justice, fast, and low cost.

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