

# The Impact of Covid-19 Pandemic on Effective Electronic Criminal Trials: A Comparative Study



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## ABSTRACT

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The widespread spread of COVID 19 influenced various aspects of life in all nations across the globe, including the effect on the judicial and penal systems. People were unable to appear in court because lockdowns were implemented, therefore, electronic court is a solution to such a challenge. This article aims to investigate how the widespread COVID-19 epidemic has affected the efficiency of the of electronic criminal justice proceedings. In addition, this article describes the implementation of an electronic criminal justice system in another country due to the Covid 19 pandemic. The research method employed is normative legal research through a statutory approach and a comparative approach between Indonesia and the Netherlands. The study found that the electronic criminal justice system has been implemented quite effectively, despite the fact that it was still encountering obstacles. In both Indonesia and the Netherlands, technological issues have posed obstacles to the implementation of electronic courts for criminal cases.



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## 1. Introduction

The passage of law number 1 of 2023, Indonesia currently has a new criminal law code book, which is a material criminal law in Indonesian law. What constitutes "material criminal law" includes not only the specific acts that can be punished, but also the rules for carrying out the law and the basic principles upon which it is based. The Criminal Procedure Code (KUHAP), also recognized as Law Number 8 of 1981, serves as the legal foundation for the administration of criminal justice. The criminal procedural law in KUHAP is a formal criminal law for courts within the general court environment and the Supreme Court that regulates the rights and obligations of those who are in criminal proceedings, so that the rule of law can be upheld on its fundamental basis. The Criminal Procedure Code, as a

basic guideline for the conduct of criminal cases thus far, regulates only matters of a normal nature. It is important to note that merely committing an offence does not invariably make the individual criminally liable.<sup>1</sup>

The criminal justice system<sup>2</sup> is part of the processes and agencies aimed at maintaining social control.<sup>3</sup> Pre-trial detention empowers criminal courts to imprison defendants before they have been convicted of an offence. This is a significant power which should be subject to a rigorous decision-making process.<sup>4</sup> Proof in the concept of procedural law is a very important condition, evidence to clarify a case a quo. However, the existence of a portrait of law-making which always limps along with the times, forces the law to be able to find its existence in the legal state of society.<sup>5</sup> The law relating to evidence has undergone a massive change in the recent years with different types of evidence now being deemed admissible in a court of law.<sup>6</sup>

The courts as part of Indonesian state institutions in the judicial field should not be left behind in maintaining services in the modern legal field for people seeking justice. The impression that the judicial process is haunted and closed must be eradicated through the use of technology<sup>7</sup> in the area of electronic administration and trial services. The use of technology in the trial must not interfere with the concentration of the judicial apparatus as well, particularly independent judges in examining court files, which should not be interfered with by other state powers and the public in general.<sup>8</sup>

The globalization hugely influences the nation's existence as the economic controller. Economic, social, and political issues are mostly related to the nation's

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<sup>1</sup> Mohd Safri Mohammed Na'aim, Ramalinggam Rajamanickam, and Rohaida Nordin, 'The Right of an Accused To Defence Under the Criminal Justice System in Malaysia', *Journal of Nusantara Studies (JONUS)*, 7.1 (2022), 43–58 <https://doi.org/10.24200/jonus.vol7iss1pp43-58>

<sup>2</sup> Sigurd D'hondt, 'Why Being There Mattered: Staged Transparency at the International Criminal Court', *Journal of Pragmatics*, 183 (2021), 168–78 <https://doi.org/10.1016/j.pragma.2021.07.014>

<sup>3</sup> Michael Cavadino and others, *The Penal System, The Psychology of Crime*, sixth (United Kingdom: SAGE Publications Ltd, 2009) <https://doi.org/10.1017/cbo9780511527821.011>

<sup>4</sup> Tom Smith, 'The Practice of Pre-Trial Detention in England & Wales - Changing Law and Changing Culture', *European Journal on Criminal Policy and Research*, 28.3 (2022), 435–49 <https://doi.org/10.1007/s10610-022-09504-y>

<sup>5</sup> Andi Intan Purnamasari and others, 'The Optimizing Digital Evidence: Perspective of the Criminal Procedural Law System', *Proceedings of the 2021 Tadulako's International Conference on Social Sciences (TICoSS 2021)*, 674.TICoSS 2021 (2022), 96–99 <https://doi.org/10.2991/assehr.k.220707.022>

<sup>6</sup> Harsh Mahaseth, 'WHEN CAN ELECTRONIC EVIDENCE BE ADMITTED IN A COURT OF LAW?', *Commonwealth Law Review Journal*, 8.2 (2000), 599–608 <https://doi.org/2581-3382>

<sup>7</sup> Paweł Marcin Nowotko, 'AI in Judicial Application of Law and the Right to a Court', *Procedia Computer Science*, 192 (2021), 2220–28 <https://doi.org/10.1016/j.procs.2021.08.235>

<sup>8</sup> Dewantoro Dewantoro, Achmad Busro, and Ery Agus Priyono, 'The Role of Electronic in Actualizing a Modern and Accessible Trial by a Justice Seeking Community in Indonesia', in *Proceedings of the 1st International Workshop on Law, Economics and Governance* (Semarang: EUDL European Union Digital Library, 2023) <https://doi.org/10.4108/eai.27-7-2022.2326248>

failure to undergo its roles well. As a legal institution, a state must not ignore the people into a position of incapability to fulfill their basic needs in providing basic social services.<sup>9</sup> Therefore, this has implications during the Covid-19 pandemic. Law is continuously changing, including in terms of the criminal justice system. In this case, the examination of witnesses in court must also adjust to the actual health conditions, mainly related to the Covid-19 pandemic.<sup>10</sup> The fast-paced nature of the pandemic meant that restrictions on public liberty and increased police powers to enforce the new 'rules' led to accusations of over-zealous enforcement behaviour of some officers.<sup>11</sup>

The COVID-19 pandemic has spread globally and has continued to be a public health emergency for an extended period of time.<sup>12</sup> The global<sup>13</sup> health crisis caused by the Covid-19 pandemic is an extraordinary phenomenon that fundamentally alters the order of human life, including the administration of law and justice. The government's actions in response to the COVID-19 pandemic, which has exacerbated already serious pre-existing issues. Establishing a policy of Large-Scale Social Restrictions (PSBB) is one of the Indonesian government's methods for combating the spread of Covid-19.<sup>14</sup> A state's real commitment to its international human rights obligations is never more challenged than when it faces emergency situations.<sup>15</sup>

The conditions following the establishment of the PSBB have had an impact on various aspects of people's lives, including aspects of law enforcement, particularly the criminal justice system, which must continue to be carried out in accordance with the applicable criminal justice principles, but must also adhere to the social restrictions guidelines. However, KUHP has not made legal provisions

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<sup>9</sup> Khudzaifah Dimiyati and others, 'Indonesia as a Legal Welfare State: A Prophetic-Transcendental Basis', *Heliyon*, 7.8 (2021), e07865 <https://doi.org/10.1016/j.heliyon.2021.e07865>

<sup>10</sup> Suteki Suteki, 'Examination of Witnesses in Criminal Case Trials during the Covid-19 Pandemic in Progressive Legal Perspective' (Semarang: EAI- European Union Digital Library, 2023), p. 1 <https://doi.org/10.4108/eai.27-7-2022.2326288>

<sup>11</sup> Camilla De Camargo, "'We Were the Guinea Pigs": Police Uncertainty Enforcing Coronavirus Regulations in the UK.', *International Journal of Law, Crime and Justice*, 72.November 2022 (2023), 100566 <https://doi.org/10.1016/j.ijlcrj.2022.100566>

<sup>12</sup> Marie Otilie Frenkel and others, 'The Impact of the COVID-19 Pandemic on European Police Officers: Stress, Demands, and Coping Resources', *Journal of Criminal Justice*, 72.October 2020 (2021), 101756 <https://doi.org/10.1016/j.jcrimjus.2020.101756>

<sup>13</sup> Jose M. Jose and Maria Corazon A. De Ungria, 'Death in the Time of Covid-19: Efforts to Restore the Death Penalty in the Philippines', *Forensic Science International: Mind and Law*, 2 (2021), 100054 <https://doi.org/10.1016/j.fsimpl.2021.100054>

<sup>14</sup> Kementerian Koordinator Bidang Pembangunan Manusia dan Kebudayaan, 'Pembatasan Sosial Berskala Besar | Kementerian Koordinator Bidang Pembangunan Manusia Dan Kebudayaan', *Kementerian Koordinator Bidang Pembangunan Manusia Dan Kebudayaan Republik Indonesia*, 2019.

<sup>15</sup> Jill Stavert and Colin McKay, 'Scottish Mental Health and Capacity Law: The Normal, Pandemic and "New Normal"', *International Journal of Law and Psychiatry*, 71.May (2020), 101593 <https://doi.org/10.1016/j.ijlp.2020.101593>

to address this issue, necessitating the development of a set of rules that can accommodate the process of resolving criminal cases in accordance with PSBB policies, including electronic trials. The restrictions induced by the Covid pandemic have caused to people all over the world many kinds of huge disruptions to daily life and working behaviors.<sup>16</sup> In fact, it is not the first time that a trial in Indonesia has used technology such as teleconferences. In 2002, a trial was held with Rahardi Ramelan as the defendant in criminal case number 354/Pid.B/2002/PN. The South Jakarta court questioned President B.J. Habibie as a witness, who was in Germany at the time, via teleconference.

The electronic trial is very dependent on the use of technology. The use of information technology is also a manifestation of the *salus populi suprema lex esto* principle, which states that the safety of the people is the highest law, thus it is hoped that there will be integration between the realization of shared health and the fulfilment of the needs of justice seekers in a timely, transparent, accountable, and equitable manner. The policy for conducting criminal case trials remotely (via teleconference) utilizing information technology facilities was initially based on the 27 March 2020 Letter of the Director General of the General Courts Agency Number 379/DJU/PS.00/3/2020 based on the 26 March 2020 Disposition of the Chief Justice of the Supreme Court.

The development of courts through teleconferencing is comprised of two phases: the first is the technological development phase, which refers to the natural development of information technology and its disruption of the law enforcement dimension, and the second is the disruption phase, which was triggered by the Covid-19 Pandemic. The Supreme Court has issued Supreme Court Regulation Number 4 of 2020 concerning electronic Administration and Criminal Trials in Courts to further advance the use of information technology in court operations. In addition to Court Regulation No. 1 of 2019, which provides a legal basis for the implementation of electronic civil, civil religious, and administrative cases, Court Regulation No. 4 of 2020 provides a legal basis for conducting trials, including criminal trials that are not governed by the Criminal Procedure Code.

Therefore, according to background that has been explained, this article will analyze the impact of the covid-19 pandemic on the efficacy of electronic criminal justice in Indonesia and its comparison in the Netherlands, which is envisaged to contribute new and useful knowledge to the implementation of electronic criminal justice. The Netherlands are being used as a point of comparison because their legal system is comparable to that of Indonesia. There have been a number of

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<sup>16</sup> Ilenia Bianchi and others, 'A Survey on Forensic Odontologists' Activity in Italy during the COVID-19 Pandemic', *Forensic Science International*, 345 (2023), 111638 <https://doi.org/10.1016/j.forsciint.2023.111638>

studies on similar topics, including electronic trials as an effort to modernize justice by Dewi Asimah, Implementation of Electronic Criminal Case Trials During the Covid-19 Pandemic at the Palembang City District Court by Sandy Ersa Arrasid, and the Effectiveness of Online Criminal Case Trials During the Covid-19 Pandemic Based on Supreme Court Regulation No. 4 of 2020 by Saharuddin Pangkerego et al. However, none of these articles took a comparative approach to other countries, in the way that is provided in this article.

## 2. Research Method

This paper employs doctrinal research, that focuses on legal rules and doctrines<sup>17</sup> and completed with interviews.<sup>18</sup> This article's approach, namely statutory and comparative study. Statute approach is a type of legal research approach that uses legal sources, such as statutes, as the primary source for research on legal issues, and a comparative approach that compares the laws and court rulings of one country with those of another country or countries, though it is important to note that the laws and rulings being compared must pertain to the same topic. Such comparisons are conducted with the goal of identifying similarities and differences between legal regulations or court decisions.<sup>19</sup> The data sources consist of primary, secondary, and tertiary legal materials pertinent to the article's topic, including comparisons in the Netherlands. Thereafter, the legal materials are analyzed and described in a descriptively qualitative manner in order to provide an answer to the problem formulation.<sup>20</sup>

## 3. Results and Discussion

### *The Conditions for Settlement of Criminal Acts in the Pandemic Era*

Almost all countries in the world<sup>21</sup> have now enforced coronavirus-related travel restrictions and border shutdowns.<sup>22</sup> Pandemic redefined our expectations of working, travelling and socializing. This transformative journey had been

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<sup>17</sup> Bambang Ali Kusumo and others, 'Rethinking Criminal Law Policies in Taxation to Overcome Tax Violations', *Bestuur*, 10.2 (2022), 159–82 <https://doi.org/https://dx.doi.org/10.20961/bestuur.v10i2.62064>

<sup>18</sup> Agus Raharjo and others, 'The Legal Policy of Criminal Justice Bureaucracy Cybercrime', *Bestuur*, 10.2 (2022), 105–22 <https://doi.org/https://doi.org/10.20961/bestuur.v10i2.64498>

<sup>19</sup> Sidik Sunaryo and Asrul Ibrahim Nur, 'Legal Policy of Anti-Corruption Supervisor Design: A New Anti-Corruption Model in Indonesia', *Bestuur*, 10.2 (2022), 137–58 <https://doi.org/https://dx.doi.org/10.20961/bestuur.v10i2.65105>

<sup>20</sup> Nandang Sutrisno and others, 'The Regulation of Defendant's Religious Identity in Court Decisions', *Bestuur*, 10.2 (2022), 85–104. <https://doi.org/10.20961/bestuur.v10i2.61409>

<sup>21</sup> Tariro Kamuti, 'Covidisation of Oppression: COVID-19 and Human Rights Violations in Zimbabwe', *Social Sciences & Humanities Open*, 6.1 (2022), 100374 <https://doi.org/10.1016/j.ssaho.2022.100374>

<sup>22</sup> AKM Ahsan Ullah, Faraha Nawaz, and Diotima Chatteraj, 'Locked up under Lockdown: The COVID-19 Pandemic and the Migrant Population', *Social Sciences & Humanities Open*, 3.1 (2021), 100126 <https://doi.org/10.1016/j.ssaho.2021.100126>

ac accompanied by a series of public health measures.<sup>23</sup> According to the World Health Organization's (WHO) Coronavirus (COVID-19) Dashboard, as of 10 October 2022, over 6.5 million deaths worldwide have been attributed to the COVID-19 pandemic. In response to the pandemic, countries across the globe engaged in the rapid and mass deployment of technological measures to monitor and contain the spread of COVID-19 within and across national borders.<sup>24</sup> The government and all sectors of society took numerous measures to halt the spread of Covid-19, including the implementation of social distancing policies in the form of large-scale or micro-scale social restrictions. This policy had restricted the mobility of the community, including judges, judicial officials, and litigants to the courtroom. This policy affected both case administration service activities and trials. Therefore, The Supreme Court issued several policies in response to this situation.<sup>25</sup>

The Criminal Procedure Code<sup>26</sup> does not govern teleconference trials of criminal cases. This absence had been an impediment in the Covid-19 pandemic situation, which employs social distancing policies to effectively stop the spread of the virus. Therefore, in response to this predicament, the Supreme Court permitted criminal trials to be conducted remotely or via teleconference. This policy is outlined in the Letter of the Director General of the General Court of Justice, numbered 379/DJU/PS.00/3/2020 and dated March 27, 2020, which was issued in accordance with the Disposition of the Chief Justice of the Supreme Court, dated glo March 26, 2020. This rule establishes the first precedent for holding criminal trials through the use of teleconference. Furthermore, to facilitate the efficient remote trial of criminal cases, a cooperation agreement (No. 402/DJU/HM.01.1/4/2020 - KEP-17/E/Ejp/04/2020 - PAS-08.HH.05.05 Year 2020) was signed between the Supreme Court, the Attorney General's Office of the Republic of Indonesia, and the Ministry of Law and Human Rights on April 13, 2020.

The cooperation agreement authorizes the Supreme Court to hold trials in accordance with statutory regulations and provide adequate supporting facilities and infrastructure for district court teleconference trials. In addition, The Public Prosecutor's Office has the authority and responsibility to carry out its role as public prosecutor in accordance with statutory regulations and to provide

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<sup>23</sup> Olga Kokoulina, 'Tell Me Who Your Contacts Are, or What Can We Learn from Standard Setting in the Context of COVID-19 Tracing Apps', *Computer Law & Security Review*, 48 (2023), 105802 <https://doi.org/10.1016/j.clsr.2023.105802>

<sup>24</sup> Marie Helen Maras, Michelle D. Miranda, and Adam Scott Wandt, 'The Use of COVID-19 Contact Tracing App Data as Evidence of a Crime', *Science and Justice*, 63.2 (2023), 158–63 <https://doi.org/10.1016/j.scijus.2022.12.008>

<sup>25</sup> Arifki Budia Warman and others, 'Reforming Marriage Registration Policies in Malaysia and Indonesia', *Bestuur*, 11.1 (2023), 61–74 <https://doi.org/https://doi.org/10.20961/bestuur.v11i1.66320>

<sup>26</sup> Tanto Lailam and Nita Andrianti, 'Legal Policy of Constitutional Complaints in Judicial Review: A Comparison of Germany, Austria, Hungary, and Indonesia', *Bestuur*, 11.1 (2023), 75–94 <https://doi.org/https://doi.org/10.20961/bestuur.v11i1.70052>

adequate supporting facilities and infrastructure for teleconference trials at the Prosecutor's office. The Ministry of Law and Human Rights is responsible for carrying out the correctional sector's duties and functions in accordance with statutory regulations, preparing detainees and/or assisted citizens as defendants/witnesses in teleconference trials, and providing adequate supporting facilities and infrastructure. The cooperation agreement is in effect until the government lifts the Covid-19 outbreak emergency.<sup>27</sup>

Shortly thereafter, the Supreme Court issued Supreme Court Regulation No. 4 of 2020 regarding the Administration and Trial of Criminal Cases in Electronic Courts, which strengthened the legal basis for teleconference trial arrangements. The enactment of Supreme Court Number 4 of 2020, which applies to criminal, military, and jinayah cases, broadens access to electronic justice services to all cases. A year previously, the Supreme Court issued Supreme Court Number 1 of 2019, whose scope is limited to civil, civil and religious, military, and state administration cases. The distinction between the two lies in their respective applicability. Supreme Court Number 1 of 2019 is a choice of judicial services that applies in all circumstances, whereas Supreme Court Number 4 of 2020 is a choice of services that applies only in particular situations.

### ***Implementation of Electronic Criminal Court in Indonesia***

In Supreme Court Regulation Number 1 of 2020, the Supreme Court implemented a judicial technical reform in the area of criminal law. The ideas in Supreme Court Regulation Number 1 of 2020 for judicial technical reform include: First, Redefining criminal administration electronically. The redefinition of criminal administration electronically is the process of delegating cases, receiving and numbering cases, setting trial dates, determining trial methods, sending summons/notifications, submitting objection documents, responding to objections, decisions/interlocutory decisions, demands, defense, replica e-mail, duplicates, verdicts, excerpts of decisions, and electronic delivery of decisions to prosecutors and investigators.<sup>28</sup> Electronic trials in criminal cases are a series of procedures by which courts examine, adjudicate, and decide the cases of defendants using information and communication technology, audio-visual, and other electronic means. In context of the outbreak of COVID-19 there is a need for effective information exchange between law enforcement agencies. The need for intensified information exchange and gathering relevant data is necessary in order to tackle

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<sup>27</sup> Ahmad Siboy and others, 'Legal Social Justice in Appointment Non-Definitive Regional Heads toward Welfare State', *Bestuur*, 11.1 (2023), 144-70 <https://doi.org/https://dx.doi.org/10.20961/bestuur.v11i1.71055>

<sup>28</sup> Nishith Prakash, Marc Rockmore, and Yogesh Uppal, 'Do Criminally Accused Politicians Affect Economic Outcomes? Evidence from India', *Journal of Development Economics*, 141.July (2019), 102370 <https://doi.org/10.1016/j.jdeveco.2019.102370>

organized crime.<sup>29</sup>

Electronic administration and trial in criminal cases may be held under certain circumstances, including conditions that make it impossible to carry out the delegation of cases, the administration of cases, or the trial of cases in accordance with the procedures stipulated in the procedural law due to distance, natural disasters, disease outbreaks, or other circumstances deemed by the government to be a state of emergency, or other circumstances which, according to the panel of judges need to conduct trials electronically. Electronic trials may be determined by the judge/judge panel due to their position, at the prosecutor's request, or at the request of the defendant/the defendant's legal counsel. Second, redefining the courtroom considering electronic trials.<sup>30</sup> In the context of electronic trials, the courtroom is redefined to include not only the courtroom itself, but also the prosecutor's office, detention center/correctional office, or other locations determined by the panel of judges/judges that are linked to one another via information technology facilities so that participants congregations can see and hear each other through audio-visual means with bright pictures and clear sound.<sup>31</sup>

This definition is clearly distinct from that of the Criminal Procedure Code, which only defines courtroom trials. However, the examination of witnesses and/or experts in electronic trials continues to be conducted in the courtroom. Third, Electronic trial model. In electronic criminal proceedings, trial participants, including judges/judges' panel, substitute clerks, prosecutors, defendants or legal advisers, witnesses, and experts, can each conduct a trial in the courtroom of the courthouse, prosecutor's office, detention center or penitentiary, or other locations determined by the panel of judges. Fourth, expansion of the electronic domicile definition. Supreme Court Regulation Number 1 of 2020 broadens the definition of electronic domiciles in terms of both users and facilities.<sup>32</sup>

The Supreme Court Regulation Number 4 of 2020 defines electronic domicile

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<sup>29</sup> Gábor Kemény and Michal Vít, 'Information Exchange of Law Enforcement Agencies within the EU in Context of COVID 19 Outbreak', *Social Sciences & Humanities Open*, 7.1 (2023), 100371 <https://doi.org/10.1016/j.ssaho.2022.100371>

<sup>30</sup> Anastasia Baan, Markus Deli Girik Allo, and Andi Anto Patak, 'The Cultural Attitudes of a Funeral Ritual Discourse in the Indigenous Torajan, Indonesia', *Heliyon*, 8.2 (2022), e08925 <https://doi.org/10.1016/j.heliyon.2022.e08925>

<sup>31</sup> Saldi Isra and others, 'Obstruction of Justice in the Effort to Eradicate Corruption in Indonesia', *International Journal of Law, Crime and Justice*, 51 (2017), 72–83 <https://doi.org/10.1016/j.ijlcrj.2017.07.001>

<sup>32</sup> Rika Kurniaty, 'The Features and Future Challenges of Indonesian Antimonopoly Policy: Lesson Learned from Japanese Experience', *Procedia Environmental Sciences*, 17 (2013), 999–1006 <https://doi.org/10.1016/j.proenv.2013.02.119>

with messaging services in the form of verified accounts for investigators, prosecutors, courts, defendants/defendant units, legal advisors, witnesses, experts, detention centers, and prisons. The definition of messaging services includes electronic mail addresses (e-mail), WhatsApp numbers, and SMS numbers as information technology facilities that qualify for messaging services. Courts, prosecutors, and prison administration all use email addresses as their electronic domicile, while a defendant's electronic domicile can be either an email address, a WhatsApp number, or an SMS number. The public prosecutor must submit information on the electronic domicile of trial participants when submitting case files to the court.<sup>33</sup>

The effects of the pandemic, the resolution of criminal cases during the Covid-19 pandemic continues with the emergence of responsive legal rules. The Judicial Powers Act requires the court to assist those seeking justice and to overcome all obstacles in order to conduct a simple, quick, and inexpensive trial. This is evidenced by the number of criminal proceedings that have been conducted electronically. During the entire year of 2020, there were 115,455 cases of criminal litigation that were resolved through the use of electronic court proceedings. This number reached 57.75% when compared to the total non-traffic offense criminal cases handled by the district courts in 2020, which totaled 199,939 cases. 379 out of 382 district courts (99.21%) conducted remote criminal case trials (teleconference).<sup>34</sup>

**Table. 1** District Court Teleconference in 2020

No.	District Court	Cases
1	Lubuk Pakam District Court	2.915
2	Medan District Court	2.553
3	Jember District Court	2.326
4	Surabaya District Court	2.294
5	Tangerang District Court	2.232
6	Makassar District Court	1.979
7	Palembang District Court	1.749
8	Sidoarjo District Court	1.410
9	Tanjung Karang District Court	1.331

<sup>33</sup> Yoni Fuadah Syukriani, Nita Novita, and Deni K. Sunjaya, 'Development of Forensic Medicine in Post Reform Indonesia', *Journal of Forensic and Legal Medicine*, 58.April (2018), 56–63 <https://doi.org/10.1016/j.jflm.2018.05.001>

<sup>34</sup> Mahkamah Agung Republik Indonesia, 'Laporan Tahunan 2020 Mahkamah Agung Republik Indonesia: Optimalisasi Peradilan Modern Berkelanjutan', 2021, 154.

10	Tulungagung District Court	1.293
11	North Jakarta District Court	1.236
12	Semarang District Court	1.115
13	Pekanbaru District Court	1.105
14	East Jakarta District Court	1.075
15	Banyuwangi District Court	1.073
16	Central Jakarta District Court	1.026
17	Bandung District Court	1.011

Source: Authors' Analysis

Table.1 provides a list of district courts that conducted more than 1,000 electronic trials of criminal cases in 2020. The Supreme Court, along with the Attorney General of the Republic of Indonesia and the Ministry of Law and Human Rights, signed a cooperation agreement on 13 April 2020 for the effective remote trial of criminal cases. The agreement is numbered 402/DJU/HM.01.1/4/2020 – KEP-17/E/Ejp/04/2020 – PAS-08. HH.05.05 of 2020. Within six months, the Supreme Court issued Supreme Court Regulation Number 4 of 2020 concerning the Administration and Trial of Criminal Cases in Courts Electronically to strengthen the legal basis for teleconference trial arrangements. In 2020, there were 115,455 criminal cases whose trials were conducted electronically. This figure reached 57.75% when compared to the total number of criminal cases involving non-traffic offenses that the district courts handled in 2020, which came to 199,939 cases. Moreover, 379 out of 382 district courts (99.21%) used video conferencing to conduct criminal trials (teleconference).

Table. 2 Teleconference Criminal Trials in 2021

No.	High Court	Cases
1	Surabaya District Court	2.915
2	Medan District Court	2.553
3	Bandung District Court	2.326
4	Banten District Court	2.294
5	Central Java District Court	2.232
6	District Court Palembang	1.979
7	Makassar District Court	1.749
8	Pekanbaru District Court	1.410
9	Tanjung Karang District Court	1.331
10	East Kalimantan District Court	1.293

11	Jambi District Court	1.236
12	DKI Jakarta District Court	1.115
13	Banjarmasin District Court	1.105

Source: Authors' Analysis

Table.2 depicts the number of High Court electronic trials in 2021. The two tables demonstrate that the number of cases resolved by electronic trial is consistent, despite some challenges to its effectiveness. According to Soejono Soekanto, the effectiveness of law is influenced by five factors: legal or statutory factors, law enforcement factors, which include parties who make up or apply the law, factors of facilities or facilities that support law enforcement, community factors where the law applies or is applied, and cultural factors as a result of work, creativity, and emotions felt by humans in social life.<sup>35</sup> As a result of the Covid-19 pandemic on electronically conducted criminal trials,<sup>36</sup> the legal factor in achieving legal effectiveness was extremely influential, as the Criminal Procedure Code initially only regulated the trial of criminal cases in courtrooms, necessitating a regulatory basis for electronic trials. At that time, the most likely option was to issue a Supreme Court Regulation, although there was also the option to revise the Criminal Procedure Code, which would have taken a considerable amount of time while the number of criminal cases in court continued to rise. The emergence of Supreme Court 4 of 2020 has a significant impact on the implementation of law enforcement because it serves as the legal foundation for electronic or teleconference criminal trials.

According to Soerjono Soekanto's theory of legal effectiveness, the effectiveness of electronic trial proceedings is influenced by a number of factors, such as the implementation of Supreme Court 4/2020, which has consequences for differences from the Criminal Procedure Code, particularly those related to the implementation of electronic trials, which are still relatively closed because access to follow the trial process electronically is restricted to the parties to the dispute and their attorneys. This is contrary to Article 153 Paragraph 3 of the Criminal Procedure Code and Article 13 Paragraph 1 of the Law on Judicial Power, which mandate that trials be held in public, with the exception of cases involving decency and juvenile crime, for which the law specifies otherwise.<sup>37</sup> According to interviews conducted with law enforcement officers on March 16, 2023, electronic trial of criminal cases has not been supported by adequate facilities. Moreover, electronic trials are susceptible to vulnerabilities, such as the security of sending electronic documents, technical audio, and network disturbances, which can occur during a

<sup>35</sup> Fuzi Narindrani, 'Penyelesaian Korupsi Dengan Menggunakan Restoratif Justice (Corruption Settlement Using Justice Restoratives)', *Jurnal Penelitian Hukum De Jure*, 20.4 (2020), 605–17 <https://doi.org/http://dx.doi.org/10.30641/dejure.2020.V20.605-617>

<sup>36</sup> Joko Sriwidodo, 'PerkembanganRegulasi Dan Urgensi E-Litigasi Di Era Pandemi Corona Virus Disease-19', *Kertha Patrika*, 3.2 (2021), 267 <https://doi.org/10.35817/jpu.v3i2.12535>

<sup>37</sup> Dimiyati and others.

trial.<sup>38</sup> According to Giovanni, the Kotamobagu District Court Judge of North Sulawesi, electronic or teleconference case trials were necessary because of the COVID-19. However, in practice, the limitations encountered were more related to the facilities or resources employed, such as inadequate equipment in terms of quantity and unstable connectivity, which led to the postponement of several trials. According to the Ombudsman's 2020 annual report, 215 complaints were about postponement of cases that were resolved slowly, 117 were about the District Court's incompetence in justice system performance, and 115 were about the postponement of hearings.<sup>39</sup>

The effectiveness of electronic criminal trials is also impacted by insufficient technology and internet infrastructure, which is a common topic of discussion in online forums that examine the limitations of electronic criminal trials.<sup>40</sup> According to Judge Jerry Thomas of the North Penajam Paser District Court, even though there has been a change in the situation and conditions as a result of Covid-19 with the shift from traditional courtroom trials to electronic means, law enforcement officials and members of the public who are litigating in court are required to switch to using electronic means in accordance with Regulation 4/2020. In addition to the devices used, conducting electronic trials involves coordination during trial preparation, as trial coordination involves the prosecutor's office and prisons, necessitating expertise in the field of technology to carry out electronic trial preparations in a timely manner and with minimal technical disruption.

According to Afdalis, a lawyer at the Kalinta & Co Law Firm in Jakarta, electronic trials are very appropriate during the Covid-19 pandemic, although there are a few challenges for lawyers in the form of not all things being able to be discussed electronically by clients and lawyers, requiring him and his client to meet in person under certain circumstances. The obstacles encountered by Afdalis as a legal advisor indicate that electronic criminal trials also have an impact on the fulfillment of suspects' rights, where the suspect and legal counsel are not enabled direct consultations in virtual court.<sup>41</sup> In fact, such a trial violated the accused's rights under the fair trial principle. This is essentially comparable to what Nurul Mutmainna, an attorney with NM & Partners Law Office in Makassar City, said. However, Nurul Mutmainna believes that electronic trials are extremely helpful despite implementation issues caused by unstable internet networks and the

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<sup>38</sup> Ferry Fathurokhman, 'The Necessity of Restorative Justice on Juvenile Delinquency in Indonesia, Lessons Learned from the Raju and AAL Cases', *Procedia Environmental Sciences*, 17 (2013), 967–75 <https://doi.org/10.1016/j.proenv.2013.02.115>

<sup>39</sup> Sabrina Umi Khabibah, Ma'rifatul Ula, and Gandar Mahojwala, 'Psychological Autopsy: Future Implementation in Indonesia?', *Forensic Science International: Mind and Law*, 3, July 2021 (2022), 100107 <https://doi.org/10.1016/j.fsimpl.2022.100107>

<sup>40</sup> Julie Sherman and others, 'Orangutan Killing and Trade in Indonesia: Wildlife Crime, Enforcement, and Deterrence Patterns', *Biological Conservation*, 276, November 2021 (2022), 109744 <https://doi.org/10.1016/j.biocon.2022.109744>

<sup>41</sup> Natalia Widiasih Raharjanti and others, 'Translation, Adaptation, Validity and Reliability of Multidimensional Emotion Questionnaire for Indonesian Forensic Psychiatry Context', *Heliyon*, 9.3 (2023), e13787 <https://doi.org/10.1016/j.heliyon.2023.e13787>

limited ability of the accused to meet with his legal representation in person. However, electronic trials as a result of Covid-19 are thought to be a win-win solution because the client must right away obtain legal certainty through a court decision.<sup>42</sup>

It can be concluded that electronic criminal case trials have proceeded as stipulated in The Supreme Court Number 4/2020 as the legal basis for electronic criminal case trials. However, there are still constraints on aspects of implementation, such as devices and internet networks. In the future, it is hoped that the government will make efforts to support the implementation of electronic criminal trials by providing adequate facilities, strengthening the legal substance that forms the basis for holding electronic criminal trials in the Draft Criminal Procedure Code, and enhancing the technological proficiency of human resources and law enforcement officials. Thus, that criminal law enforcement through electronic trials becomes more effective.<sup>43</sup>

#### *The Impact of The Implementation of the E-Court on Criminal Cases in the Netherlands*

The COVID-19 pandemic has significantly affected healthcare systems and daily well-being.<sup>44</sup> The extension of remote forms of employment, education and communication during the Covid-19 pandemic was expected to bridge the digital divide in 2020. However, more digitally developed countries have shown a reduction of Internet use.<sup>45</sup> The call to work from home was one of the measures taken by the Dutch government. Almost 50% of the Dutch workers did so. Although working from home was already common in the Netherlands, the number of homeworkers and the number of hours they worked from home increased significantly. This paper provides an overview of changes in working conditions and health of homeworkers in the Netherlands between 2019 (pre-COVID-19) and March 2021.<sup>46</sup>

Electronic courts have emerged as a top priority for judicial systems all over the world. When a delegation from the Supreme Court visited the Hoge Raad in the Netherlands, they expressed their commitment that they would digitize the

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<sup>42</sup> Mercedes Rosello, 'Regional Fishery Management Organisation Measures and the Imposition of Criminal and Administrative Sanctions in Respect of High Seas Fishing', *Marine Policy*, 144.June (2022), 105213 <https://doi.org/10.1016/j.marpol.2022.105213>

<sup>43</sup> Maryja Šupa, Vytautas Kaktinas, and Aistė Rinkevičiūtė, 'Computer-Dependent or Computer-Assisted? The Social Context of Online Crime in Lithuanian Court Judgements', *International Journal of Law, Crime and Justice*, 73.November 2022 (2023), 100577 <https://doi.org/10.1016/j.ijlcj.2023.100577>

<sup>44</sup> X. D. Yao and others, 'Impacts of COVID-19 Pandemic on Preterm Birth: A Systematic Review and Meta-Analysis', *Public Health*, 213 (2022), 127–34 <https://doi.org/10.1016/j.puhe.2022.10.015>

<sup>45</sup> Grishchenko Natalia, 'An Inverted Digital Divide during Covid-19 Pandemic? Evidence from a Panel of EU Countries', *Telematics and Informatics*, 72.June (2022), 101856 <https://doi.org/10.1016/j.tele.2022.101856>

<sup>46</sup> Noortje Wiezer and others, 'Special Session 52 Young Workers - Our Future Workforce Needs OSH Attention Now!', *Safety and Health at Work*, 13 (2022), 578 <https://doi.org/10.1016/j.shaw.2021.12.983>

courts beginning in February 2017.<sup>47</sup> In the Netherlands, victim awareness grew from the 1970s onwards owing to emancipation and the increase in crime and victimization rates. Since 1994, the Netherlands have laid the foundation for a discussion of the use of information technology in its courts. The Association of Dutch Judges NVVR took the initiative to lay this foundation, which was then utilized by the Ministry of Justice, which is responsible for providing information technology to the courts in the Netherlands.<sup>48</sup>

The implementation of teleconferencing in the criminal case process in the Netherlands is not new phenomenon, as it was in Indonesia, but its use has increased since the outbreak of Covid-19. The use of teleconferences in the Netherlands is governed by Article 78a of the Dutch Criminal Code and Article 131a of the Dutch Criminal Procedure Code. Staatsblad 2006 Number 610 was amended by Staatsblad 2020 Number 101, which permits the use of teleconferences in the negotiation of various types of criminal case settlements. In the Dutch inquisitorial system, judges rely heavily on the case file containing all evidence collected in the pretrial investigation. In contrast to adversarial jurisdictions where the evidence is presented during a trial in accordance with strict rules of evidence, Dutch criminal judges are instantly exposed to all information relevant both for the decision about guilt and for subsequent decisions about criminal responsibility and sentencing.<sup>49</sup>

However, the use of teleconferences is also problematic in the Netherlands because they are deemed to violate the accused's right to appear before the court in person.<sup>50</sup> The Dutch government passed the Temporary Law on Justice and Security for Covid-19 in the midst of the pandemic (*Tijdelijke wet Covid-19 Justitie en Veiligheid*). In this provision, it is stated that physical examination in civil, administrative, and criminal proceedings may be conducted temporarily through the use of electronic means.<sup>51</sup> The Justice and Security Temporary Law COVID-19, which went into effect on April 24, 2020, has expanded the scope of video conferencing. Prior to this regulation, in accordance with Article 2(1) of the Videoconference Decree, the accused had a right of consent as a condition for the

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<sup>47</sup> Pengadilan Tinggi Tata Usaha Negara Denpasar, 'Untuk Digitalisasi Pengadilan Di Belanda Dan Belgia, Sejumlah UU Diubah - Ptun-Denpasar', *PTUN Denpasar*, 2016.

<sup>48</sup> Nieke A. Elbers and others, 'The Role of Victims' Lawyers in Criminal Proceedings in the Netherlands', *European Journal of Criminology*, 19.4 (2022), 830–48 <https://doi.org/10.1177/1477370820931851>

<sup>49</sup> Roosmarijn van Es and others, 'The Effects of Forensic Mental Health Reports on Decisions about Guilt in the Netherlands: An Experimental Approach', *International Journal of Law and Psychiatry*, 8.1 (2022), 12 <https://doi.org/https://doi.org/10.1016/j.ijlp.2021.101760>

<sup>50</sup> Edwin Ligasetiawan and Febby Mutiara Nelson, 'Prinsip Kehadiran Terdakwa Pada Persidangan Pidana Elektronik Di Masa Pandemi Covid-19: Perbandingan Indonesia Dan Belanda', *Undang: Jurnal Hukum*, 5.1 (2022), 69–103 <https://doi.org/10.22437/ujh.5.1.69-103>

<sup>51</sup> Ligasetiawan and Nelson.

use of videoconference in both his arraignment and in the substantive hearing in front of the three-judge chamber. However, as a response to COVID-19, the Temporary Law on Justice and Security does not apply this rule anymore.

Electronic communication is now generally permitted to be used more frequently by the judiciary. Since video call technology is sufficient, video links or video conferencing are already used for oral proceedings and may be used more frequently in the future, for example, to eliminate the need for attorneys or other parties to appear in person. The Netherlands relied heavily on videoconferencing prior to the corona crisis to hear witnesses and experts, aid interpreters, make decisions on pretrial detention, and seek legal aid for hearing witnesses in the setting of global cooperation.<sup>52</sup>

### *The Electronic Criminal Trials in the Netherlands: Challenges or Opportunities?*

The videoconferencing increased during Covid 19, lawyers and court reporters, however, began to criticize it in the (social) media. In a letter to a national newspaper, criminal defense attorney Tamara Buruma argued that the use of videoconferencing in courtroom proceedings violated the principle of a fair trial, particularly the principle of equality of arms.<sup>53</sup> The principle of equality of arms is based on the notion that every individual is entitled to equal interest and equal respect from the state; consequently, all parties to a dispute must be treated equally and should be afforded equal trial opportunities.<sup>54</sup> Therefore, in a criminal<sup>55</sup> case, both the public prosecutor and the defendant must have equal opportunities before the court. This shares the same views as the European Court of Human Rights, which has ruled that an accused's right to be present at his trial is one of the accused's most fundamental rights in a criminal proceeding.<sup>56</sup> Therefore, a violation of human rights occurs when such rights are not fulfilled. It is believed that videoconferencing puts defendants in a disadvantageous position because it reduces their ability to convince jurors and judges during the

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<sup>52</sup> Pierpaolo Gori and Aniel Pahladsingh, 'Fundamental Rights Under Covid-19: An European Perspective on Videoconferencing in Court', *ERA Forum*, 21.4 (2021), 561–77 <https://doi.org/10.1007/s12027-020-00643-5>

<sup>53</sup> Gabry Vanderveen, 'Remote Justice: A Visual Essay on the Response of the Dutch Justice System to the COVID-19 Pandemic', *De Rechtspreek*, 0.0 (2022), 1–4 <https://doi.org/10.1080/1472586X.2022.2050941>

<sup>54</sup> Akif Yıldırım and Ayhan Kılıç, 'Anayasa Mahkemesi ve Avrupa İnsan Hakları Mahkemesi Kararları Işığında Silahların Eşitliği İlkesi', *Journal of Penal Law and Criminology / Ceza Hukuku ve Kriminoloji Dergisi*, 9.2 (2021), 341–411 <https://doi.org/10.26650/jplc2021-1010290>

<sup>55</sup> David Bright, Russell Brewer, and Carlo Morselli, 'Reprint of: Using Social Network Analysis to Study Crime: Navigating the Challenges of Criminal Justice Records', *Social Networks*, 69. February (2022), 235–50 <https://doi.org/10.1016/j.socnet.2022.01.008>

<sup>56</sup> Matt Pollard, *Videoconferencing, Courts and COVID-19 Recommendations Based on International Standards* (Switzerland, 2020).

proceedings. Significant cybersecurity and threat intelligence analysts agree that online criminal activity is increasing exponentially.<sup>57</sup>

Researchers from the universities of Leiden, Utrecht, and Radboud found that the vast majority of criminal law detainees had a negative reaction to the transition from in-person to online hearings. Along with connectivity issues and time constraints, detainees also cited the absence of direct and private communication with the attorney as a significant drawback.<sup>58</sup> In a survey by Free Trials and Justicia European Rights Network, lawyers voiced similar concerns, saying that while screens were put up between police and suspects, they were not given the same facility when meeting with their clients.<sup>59</sup> This trend tends to violate Article 14 (3) (b) of the International Covenant on Civil and Political Rights, which states that "everyone charged with a criminal<sup>60</sup> offense has the right to adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing". According to a study conducted by *leidenlawblog* in partnership with *Advocatenblad* and the research firm Tangram, approximately 485 lawyers responded to a shared questionnaire regarding the satisfaction level with video hearings.<sup>61</sup> The figure will be shown below.

#### Graphic. 1

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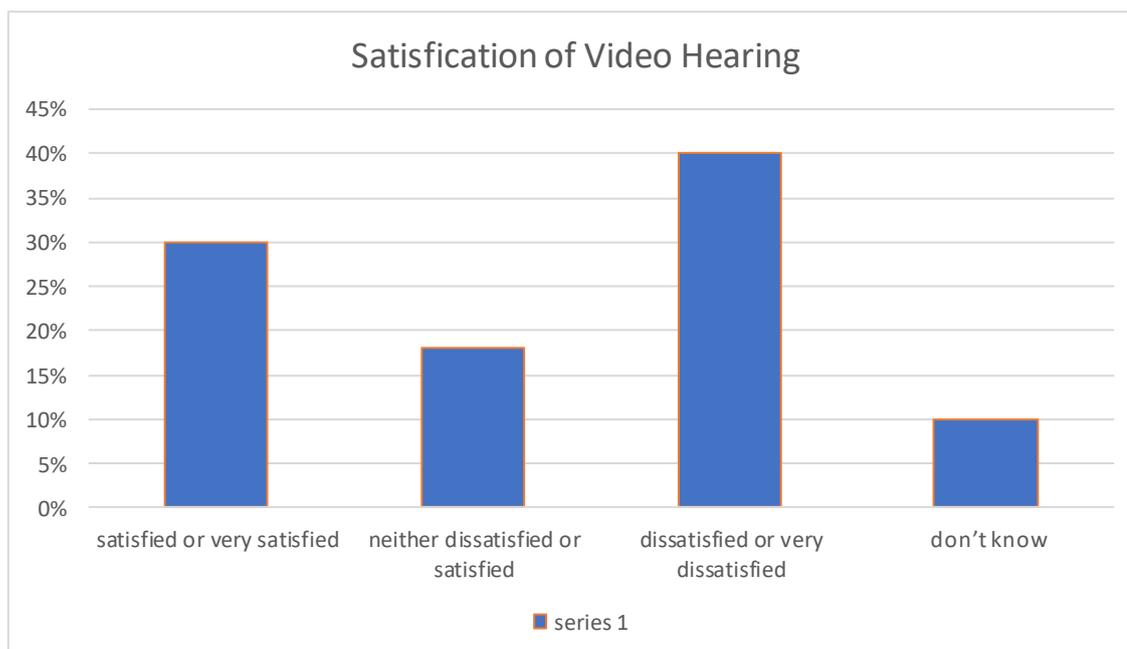
<sup>57</sup> Giuseppe Cascavilla, Damian A. Tamburri, and Willem Jan Van Den Heuvel, 'Cybercrime Threat Intelligence: A Systematic Multi-Vocal Literature Review', *Computers and Security*, 105 (2021), 102258 <https://doi.org/10.1016/j.cose.2021.102258>

<sup>58</sup> University Utrecht, *Courts Had to Improvise during the Corona Crisis - News - Utrecht University* (The Netherlands: Utrecht University, 2022).

<sup>59</sup> Fair Trials JUSTICIA, *Justice Under Lockdown in Europe: A Survey on the Impact of COVID-19 on Defence Rights in Europe* (London, 2020).

<sup>60</sup> Alicia Bannon and Janna Adelstein, *The Impact of Video Proceedings on Fairness and Access to Justice in Court*, Brennan Center For Justice (New York, 2020).

<sup>61</sup> Sigid van Wingerden and Gabry Vanderveen, 'Lawyers' Experiences with Remote Justice - Leiden Law Blog', *Leidenlawblog*, 2020.



Source: Author's Analysis of Leiden Law Blog

According to the graph, the number of lawyers who were dissatisfied with video conference in case proceedings outnumbered those who were satisfied. Moreover, the study reveals that nearly one-fourth of the attorneys were dissatisfied with their participation in determining the type of hearing and the scheduling of video court sessions. And nearly a third were dissatisfied due to technological issues, such as poor connections, poor sound, or the inability to capture all parties on screen. The 45-minute time limit set by prisons for court hearings was another source of discontent.<sup>62</sup> The Dutch attorneys also provide instances of a hurried hearing where the lawyer was unable to question a witness over the video conference, and another where the hearing went on without the suspect.<sup>63</sup> As a result, the suspect and his attorneys are in a worse position, given that the attorneys play a significant part in defending the suspect's rights and also in examining evidence, including statement from witnesses. During the trial, if the attorney and the defendant are kept physically apart from one another, it will, without a doubt, make it more difficult for the attorney to communicate in confidence with the client. Since both parties will not be in the same location, it will be significantly more challenging to communicate with one another and ask questions during the trial.<sup>64</sup>

<sup>62</sup> Wingerden and Vanderveen.

<sup>63</sup> JUSTICIA.

<sup>64</sup> D. L. F. de Vocht, 'Trials by Video Link after the Pandemic: The Pros and Cons of the Expansion of Virtual Justice', *China-EU Law Journal*, 8.1-2 (2022), 33-44 <https://doi.org/10.1007/s12689-022-00095-9>

The trend toward digitization cannot be overlooked. However, the lack of face-to-face contact caused by electronic trials eliminates nonverbal cues such as body language, tone of voice, and facial expression, which are important in some cases, particularly criminal cases.<sup>65</sup> In court, especially when hearing the statements of witnesses, victims, or suspects, body language and other physical gestures are necessary for determining the veracity of the evidence given. Opponents may claim that this belief is bizarre. In some ways, virtual hearing was superior to in-person communication, for example when examining the witness. The gesture can be seen very clearly from the virtual hearing, in contrast to the physical courtroom, where it is difficult to see from many meters away.<sup>66</sup>

Referring to psychological principle, these nonverbal signals can indicate whether a statement is true or false. Nonetheless, this will be a challenge in electronic trials. This does not imply that the judges cannot see the victim's or suspect's gesture through videoconferencing. However, the accuracy of the gesture in relation to their initial psychological state is open to question. Being physically present at a trial has a different atmosphere than simply watching it on a screen, as if it were being conducted digitally. Therefore, it is daunting to determine whether a given expression represents the actual manifestation of psychological conditions. According to Professor Sara Landstrom, who studied children's video testimonies and coined the term "vividness effect," face-to-face immediacy makes testimonies more vivid, credible, and memorable.<sup>67</sup> Given the digitalization of critical societal services and the increased use of digital devices by individuals.<sup>68</sup> One of the most important manifestations of the use of computer and communication technologies is the creation of an electronic trial system.<sup>69</sup>

Other obstacles to video conferencing in Dutch criminal courts include technological issues and equipment malfunctions. A recent study by the Research and Documentation Centre (WODC), the knowledge center of the Dutch Ministry of Justice and Security, found that technology, equipment, connection, prison layout, protocols, and staff training must be improved to guarantee a suspect's rights. Technical issues appear to be a problem in all countries. Video hearings

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<sup>65</sup> Emma van Gelder, Xandra Kramer, and Erelis Themeli, *Access to Justice in Times of Corona* (Netherlands, 2020).

<sup>66</sup> Giulia Pinzauti and Philippa Webb, 'Litigation Before the International Court of Justice During the Pandemic', *Leiden Journal of International Law*, 34.4 (2021), 787–800 <https://doi.org/10.1017/S0922156521000406>

<sup>67</sup> Bannon and Adelstein.

<sup>68</sup> Radina Staykova, 'The Right to a Fair Trial as a Conceptual Framework for Digital Evidence Rules in Criminal Investigations', *Computer Law & Security Review*, 49.1 (2023), 33 <https://doi.org/https://doi.org/10.1016/j.clsr.2023.105801>

<sup>69</sup> V.A.R.Barao and others, 'Requirements for Electronic Trial about Juveniles', *Political Sociology Research*, 33.1 (2022), 1–12 <https://doi.org/10.30510/PSI.2022.349315.3647>

cannot reach their full potential unless they are supported by adequate technical equipment and software that is both stable, user-friendly, and secure.<sup>70</sup>

However, electronic trials, particularly in the form of video conferencing, present opportunities in addition to the challenges they present. Videoconferencing can improve the efficiency and effectiveness as found by a survey conducted by Gary Vanderveen and Sigrid van Wingerden. Dutch attorneys believe that the use of videoconferencing in the judicial system could have a number of benefits, including a reduction in the amount of time spent waiting as well as increased speed and accuracy in decision-making. Moreover, some criminal attorneys claim that their clients enjoy advantages, such as an alleviation of the stress associated with the journey from the prison to the courthouse. Another benefit to using video proceedings is the savings they can provide financially. The cost of transporting inmates to and from the courtroom can be reduced significantly through the use of video conferencing.<sup>71</sup> This will also lead to safety by eliminating any potential dangers or disruptions that may be posed to imprisoned accused, court staff, or law enforcement personnel.<sup>72</sup> This is extremely important, particularly for the case that garners a lot of public attention.

#### 4. Conclusion

The establishment of rules within the judicial system that are able to react to Covid 19 is absolutely necessary, and one of these rules should be the use of electronic court. It is a generally accepted fact that electronic trials contribute to increased productivity and accuracy as shown in Indonesia and the Netherlands. Nevertheless, the challenges must not be disregarded. Both Indonesia and the Netherlands face the challenge of having to deal with technological problems and a lack of appropriate facilities. However, the responses given by the suspect and the attorneys make a significant difference. Electronic court was seen as beneficial by attorneys practicing in Indonesia; however, attorneys practicing in the Netherlands argued that it violates the rights of the accused. Even though videoconferencing at the time of covid 19 was necessary, further research should be conducted on its long-term adoption.

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<sup>70</sup> Anne Sanders, 'Video-Hearings in Europe Before , During and After the COVID-19 Pandemic', *International Journal of Court Administration*, 12.2 (2020), 1–21 <https://doi.org/10.36745/ijca.379>

<sup>71</sup> Jenia I Turner and others, 'Remote Criminal Justice', *Texas Tech Law Review*, 53.197 (2021).

<sup>72</sup> Ibid

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