

## **"Start Simple: Using Technology to Improve Governance, Transparency and Accountability - an Indonesian Court Experience"**

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### **Abstract**

*There are some classical challenges on the implementation of technology to establish transparent and accountable courts, namely IT literacy problem, lack of sufficient funding, lack of technical skill sets, funding availability, traumatic of fail implementation, and resistance of change from the users. Based on the experience of the Supreme Court of Indonesia, court could make a simple start by focusing on the effort to fulfil public expectations: case status information, publishing court decisions and court fee accountability. Just use simple yet easy to implement data input mechanism that will eventually reduce the implementation complexity. This simple effort has enabled the Supreme Court of Indonesia to provide the information that fulfils the public expectation as above. It has also enabled the Court to be accountable on the provision of circuit court and court fee waiver to serve the poor and rural. The impact is the increasing public trust and confidence as well as increased budget allocation to serve the poor and the rural.*

### **Backgrounds**

Transparency and accountability have become both the needs and the main pressures for any public agencies, including the Court. Public as the main shareholder demands the transparency and accountability<sup>1</sup>. In the Indonesian context it is also reflected at the Law No. 25/2009 (Public Service Act) as well as the Law No. 14/2008 (Freedom of Information Act)<sup>2</sup>. The judiciaries also bounded by the specific arrangement under the new laws on the judiciaries that define the demand of the transparency and accountability of the courts<sup>3</sup>.

The transparency initiative among the Indonesian judiciaries has been started by the landmark decree of the Chief Justice on the Judicial Transparency (decree No. 144/2007). It should be well noted that the decree has been issued prior to the issuance of the new Freedom of Information Act at 2008. The decree strongly states that a transparency court process is one of the main prerequisites toward transparent and accountable court services.<sup>4</sup>

The decree said that everyone has the right to get the information from the court (article 2), and the court is eligible to provide the information that has been classified as open and accessible to the public (article 3, point 1). The decree classifies the degree of openness of the information, based on the balance of public interest the individual privacy. The decree also said the court should not enforce the requestor to explain their interest on requesting the information that already classified as open information (article 3 point 2).

The demand of transparency and accountability for the Indonesian courts also increased with the special focus of the development in the legal sector to provide better access to justice. The mid-term strategy (2010-2014) has defined the increased of law services and legal aid as one of the four priorities. The

government of Indonesia has committed to allocate more budgets to serve the poor and the rural. There are consequences for the court to be accountable and transparent on its access to justice effort. It also demands for a better data management to support better decision making in the access to justice efforts.

The international practice has also recognised the importance of the transparency, accountability and the affordable court services to win the public trust and confidence, as reflected in The International Framework of Court Excellence.

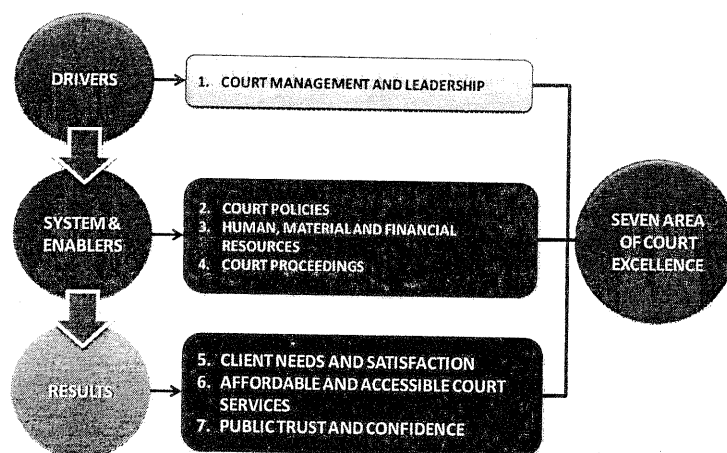


Figure 1: International Framework for Court Excellence

The Supreme Court of Indonesia fully realise that the transparent and accountable court service have become crucial factors to improve the court performance. An excellent case management is a must. Court also realise that technology could play important roles.

### The Dream of the Wonderful Machine

There are rooms for innovation on how technology could support and drive the court performance. Technology will help the data and information management, driving the accountability, as well as enable better case management. Technology could also plays important role to create better access to justice. It could resolve the geographical distance issues for the justice seekers. It could also reduce the travel cost for the court staffs to conduct the circuits to the rural areas.

There is lots of technology that has been widely stated as very potential to help the court<sup>5</sup>, as below:

- ◆ **Workflow Based Case Management**, a system that will enforce the individual to work according to the predefined rules. There is no room for “improvisation” as well as laziness. This kind of system is definitely needed by the court, by sudden change to this stage from non existent implementation of the technology could be suicidal.
- ◆ **Data Warehouse**, a technology that attempt to collect and put all of the data in one place for further analysis. Court may use it for various needs, including helping the judges to get relevant input for the case they held up to measure the performance based on historical performance. But it will have no meaning whenever there is no electronic data preservation practice within the organisation.

- ◆ **Video Conference System** will help the Court to conduct the trial without physical appearance of the parties. Its usage ranging from serving the rural up to holding a sensitive criminal trials (e.g. gang wars, terrorism, child abuse, etc.)
- ◆ **Mobile court information system** will help the Court to establish a temporary court near the public who need it. It will be useful in providing court services at rural or poor areas, as well as at areas where people are rarely visiting the court.
- ◆ **Electronic filing system** will also help people accessing the Court services electronically (e.g. filing their cases and submitting documents).

The Supreme Court of Indonesia, just like any other organisations in the world, has to dream to implement such kind of technologies. But there are several critical challenges that should be well-addressed. Most of them are classical challenges that have been faced by the government and state agencies on the implementation of the technology, especially at the developing countries.

### **The Challenges**

The main challenges are the IT literacy problems, resistance for change, funding availability as well as lack of the internal technical skill sets.

The IT literacy problem is consisting of both the lack of skill to use the computer as well as the fact that computer has not been part of their day works for the court staffs<sup>6</sup>. Most staffs in the past still saw the computer as sophisticated stuffs that only available and usable for some people only. It not only affect the capability of the court staffs to use the technological solutions, but also triggering the resistance from the users due to the establishment of the new way of working, replacing “the good old day on doing things.”

The resistance staffs also afraid being alienated from the competition at work (especially from the new recruiters, since young people are tend to be more technology savvy), so it increase the difficulties on the introducing the new IT projects. Technology as tend to eliminate the inefficient manual processes (replaced by the automated one), raising another threat of being replaced by the machine for the staff that currently do the manual works.

It is also inevitable that technology will push and enforce the process transparency and accountability. In the end it will make it difficult or even eradicate the corruptive and manipulative behaviour on the case handling at the courts<sup>7</sup>. This also became another threat for those who tend to get the benefit from it. Those interests are uniting in the resistance of change on the technology at work at the court.

The resistance got coincidence support with the fact that there was lack of the technical personnel among the court staffs. Some implementation failures and the inability of the courts internal to manage their own IT facilities became the common reasons to resist. This also commemorates with the fact that the personnel recruitment is mostly focusing on the judicial staffs and general administration and finance position. To address the lack of technical personnel, the courts have tried to use external sources (outsourcing). But the vendor, especially bad vendors, tends to dictate the court due to the lack of understanding on the technology implementation as well as lack of the vendor management practice.

Bad vendors tend to maximise their profits by dictating the most sophisticated and expensive proprietary system without looking at their client's characteristics. The worst one is offering outdated technologies as expensive as possible. It raised the funding issues, and when it fails, it fall hard and created a traumatic experience. The dream of the wonderful machine most of times make organisations overlook the complex implementation that may follow. To make it worst, bad vendors usually less competent, so increasing the risk of fail implementation. The traumatic experience in past technology implementation make it difficult to propose a remedial action, although it is offered as better managed implementation<sup>8</sup>.

### **The Approach**

Starting year 2008, the Supreme Court of Indonesia tries a new kind of approach. Based on the result of case status audit in 2006, the Court started to record all case status in a simple yet commonly use computer program: Microsoft Excel. The tabular input style of Excel also eases the transition from the old way to update the case status (that use similar printed table). Excel could print similar tables as they have been used before. The users saw is as non significant threat, just a new way to record the case status. The learning curve is also relatively fast compare to the introducing other data input system. This could address the resistance issues of introducing a new tool for work.

To reduce the complexity, the Court deliberately request the user to input the main data only, like case registration number, common case identities (e.g. name of the parties), important processing dates (registration dates, decision dates, etc), and the judgement itself. Those are kind of data that they have been used and have before to manage the case administration, so it met their need as well as eliminating the issues of having no data to enter. The habit of using the electronic data can be started. When the dependencies of the electronic data availability to store and find the case status, the culture of using electronic data has been built.

Those kinds of data are also the required information that has been the public concerns as well. Public and court's clients want to know there is the status of their cases, has it been decided or not, and what is the decision. There is a melting point between public demand (on the transparency of process) and the internal demand (to control the process). The knowledge of the processing point of every case helps the Supreme Court to address the backlog problem and redistribute the case handling accordingly.

The existence of that simple solution also enables the Court to fulfil its own regulation on the Transparency of Information at the Court as in the decree of Chief Justice No. 144/2007. The electronic data at the Excel has been transformed into a database and published on the Internet. The Court now could publish their case status.

The Court also simultaneously publishes their decisions on the Internet. Initially there is a problem that not all decisions have the electronic file. Scanning the hard copy is not really viable due to the large archives that need to be addressed. To create and maintain the momentum on building the new culture, the Court decided to move on by using the available data. As long as it not classified as privacy cases (like sexual harassment or domestic violence), the decision files will be published to the Internet<sup>9</sup>.

The very same principle also applied to fulfil the demand of the court fee transparency and accountability in Indonesia. The vast geographical conditions and lack of affordable data communications network as well as low IT literacy in rural areas became major challenges in

implementing the technology to collect the data from 800+ courts all from all over Indonesia. The Supreme Court of Indonesia comes with the idea to use the short messaging services (SMS) as the mechanism to input and send the data. Just like the case status information, the first focus is also to the aspects that become public interest: how much court fee received by courts, how much being used for court processes, and how much are being returned back to the parties.

The SMS solution also helps the Supreme Court to monitor the court services to the poor and rural. There is also a demand for the Court to be accountable, not only to the public but also to the relevant state agencies like the Ministry of National Development Planning as well as the Ministry of Finance. The focus of the data input are also on the main data: how much budget being allocated to each court, how much is used to serve the poor and rural, and how much cases or trials being held using that budget. The availability of such data also help the Supreme Court to analyse the individual court's need and make the appropriate budget redistribution and allocation. By being transparent and accountable, the Supreme Court maintains the sustainability of the budget allocation for access to justice services.

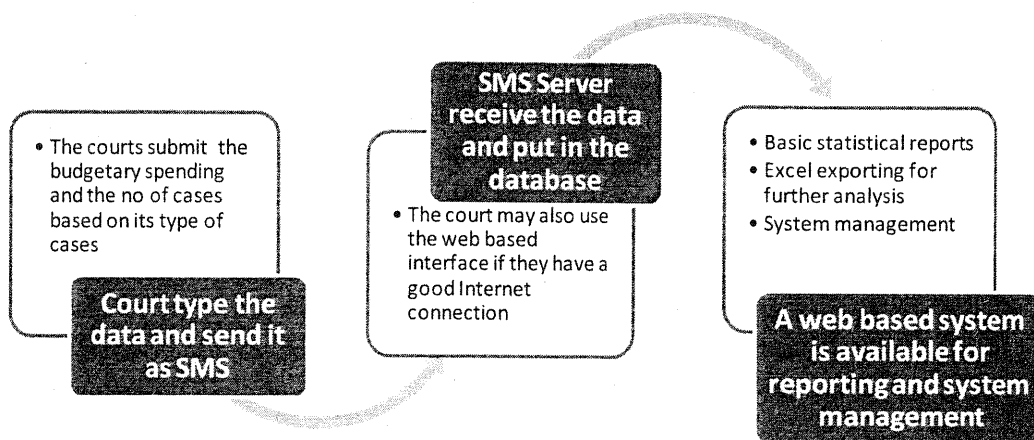


Figure 2. The flow of the SMS system

By using the SMS system, the Court eliminate the need of computers, training of the systems, and the need of reliable electrical supply to run the computer at rural areas. Due to the large coverage of the cellular network – up to all districts in Indonesia, it also resolves the data communications network problem.

### The Results

Turning any technological implementation into business results is always a daunting task for every IT projects. By using those simple approaches, there are several results being achieved by the Supreme Court of Indonesia.

First is the availability of the case status information at the Supreme Court of Indonesia's website ([www.mahkamahagung.go.id](http://www.mahkamahagung.go.id)). Court's clients and the public could find the case status based on its registration number, originating courts, name of the parties, type of cases as well as the original court letter number.

**Search**

Registration No.

Originating Court

Parties

Case Type

Originating Letter No.

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 Type of Appeal: K  
 Case Type : PDT.SUS

Applicant: XXXX Co.  
 Defendant: YYYY Co.  
 Status : In Process  
 Judgement : -  
 Judgement Date:  
 Date Sent to the Originating Court : -

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No Surat Pengantar :  
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Amar Putus  
 Tgl Putus  
 Tgl Kirim ke Pengadilan Pengaju

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Figure 3. The (translated and anonymised) screen shot of the case status info

Currently there is more than 49 thousands case status online. Those consist of cases since 2005, based on the data that have been collected thru the case status audit on 2006.

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The Verdict Directory was first developed in year 2007, by publishing the 1397 decisions that has the electronic files (as the result of the 2006 case status audit). The system was upgraded in the mid 2010 to add several features and to improve the file management and search engine performance due to the escalating file being managed by the system. Currently there are more than 19 thousands files available in the Internet.

The Supreme Court of Indonesia also make cooperation with the Sydney based Asian Legal Information Index (AsianLII) to provide the decision on their legal information index ([www.asianlii.org](http://www.asianlii.org)).

The SMS based data collection also makes it easier for the Supreme Court to be accountable on the court fee and the access to justice budget issues. The Supreme Court now could provide major data for the all district and appellate court in Indonesia. The Court also has more accurate data on the number of cases and trials being held using the access to justice budget. The data help the Court to refine the budget planning and resources planning to serve the poor and the rural. This help the Court in winning the public trust and confidence from both public and other relevant state agencies, that in turn help the budget allocation to meet the needs and the demand of the public itself.

The National Information Commission appreciates the Supreme Court effort by awarding it as the innovative state agencies on the public information transparency. The issuance of the Chief Justice Decree No. 144/2007 is the main reason, since it has been issued before the Law of Public Information being available, the day when public agencies were hesitate to be open to the public. The Court also implements subsequent efforts implement judicial transparency in the court. Appreciations were also coming from national and international institutions that get the benefit from the transparency in that judicial information.

The non government organisations (NGOs) that are working on the legal aid sector also appreciate the effort to serve the poor and rural better. They also provide important contributions to help the Court make better budgetary allocation to serve the poor and the rural. Starting this year, the NGOs will supply the demand side data based on the inquiries that are coming to them. The Supreme Court will compare it with the budgetary usage data from the SMS to make a better resource planning. Starting 2011, the Court will develop a system that enables data exchanges between demand and supply data on serving the poor and the rural.

### **The Future Plan**

The upcoming plan is to expand those implementation to the lower courts, both district and appellate courts under the administration of the Supreme Court of Indonesia. The integration with external parties as above also inevitable<sup>10</sup>. The Supreme Court Blue Print of Reform also addresses it as one of the destiny, to enable a fully collaborative environment across the justice sector. The strategic IT directions in the Blue Print highlight several important targets for the technology implementation at the courts:

- ◆ Improving process efficiency by eliminating manual yet clerical processes. This will be gradually implemented, starting with those simple steps.
- ◆ Embedding performance control in the business process support. The process automation will include the element of performance monitoring and control using the technology. The approach is needed to fulfil the Court goal to be a performance based organisation.

- ◆ Improving the access to justice. Technology will be fully utilised in the future to make the court closer to its client. There are lots of potential technology supports in this field, ranging from electronic filing system, remote trials up to the provision of information on court services.
- ◆ Improving the quality of the decisions. Starting with the Verdict Directory, the Court plan to build a system that will help judges all over Indonesia, including the new recruiters, to get the knowledge and information on similar cases being heard in other part of the country, including from the past verdicts. This will also help the Court in providing the training and continuing education for judges and court apparatus from all over Indonesia.
- ◆ Provision of the e-learning facilities for both the self development and to fulfil the need to provide the training and continuing education for all judges.

Those targets need a solid base to move on. The culture on using and managing the data need to need to be established. So does the culture of using technology as part of the day to day works. The provision of the data will help to improve the performance and compliance, while the cultural development is needed to ensure that the human resources are ready to follow the organisational transformation<sup>11</sup>.

Based on the Supreme Court of Indonesia's experience, such a solid base is very needed in the case of the judiciaries has no or minimum technological implementation before. The melting point between public interest and internal needs will help us to define the starting point. The existence of such a melting point will help to reduce internal resistance as well as prioritising the action plan.

Court could start simple and continuously refine it furthermore. It is important not to be distracted by the lure of the technology. Start focusing to the functionalities and business goals and manage the change and transformation smoothly. Don't be afraid of being left off by the technology. There is always room for innovation and refinement, as long as we could fulfil the main interests of our stakeholders.




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<sup>1</sup> Public organisations operate under greater public scrutiny and are subject to unique public expectations for fairness, openness, accountability, and honesty. The value of the organisations will be judged against citizens' expectations for justice and fairness as well as efficiency and effectiveness (Rainey, 2009; Moore, 1995)

<sup>2</sup> The article 7 Point 3, Law No. 14/2008 on the Freedom of Public Information said that to fulfil the obligation in provision of accurate information, public agencies shall develop an information and documentation system to manage the public information efficiently and make it easily accessible. According to the article 23 Law No. 25/2009 on Public Services, a public service provider shall also provide an information system for its processes.

<sup>3</sup> Article 32B Law No. 3/2009 on the Second Amendment to the Law No. 14/1985 on the Supreme Court said that the Supreme Court shall provide access to the public to get the information on: (a) Supreme Court decisions; and/or (b) court fee. The article 52A of the Law No. 49/2009 on the Second Amendment of the General Courts also added that court shall give the decision file to the parties 14 (fourteen) days after the judgment has been decided. Similar wording also available at the Law for other jurisdictions (religious laws and state administrative law)

<sup>4</sup> See the consideration part of the Chief Justice Decree No. 144/2007 on the judicial transparency.

<sup>5</sup> To see some potential technological solutions for the court, please see the elaboration at book from Anja Oskamp, A., Lodder, A. R. and Apistola, M. (eds.), *IT Support of the Judiciary: Australia, Singapore, Venezuela, Norway, The Netherlands and Italy*, TMC Asser Press/ Cambridge University Press, 2004

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<sup>6</sup> Many factors involved in why people resist, but often merely focus on the perception that people don't want to change. Organisations tend to overlook structural issues related to the new process, learning of the technology, social inertia of existing culture, inadequate skill sets, and the behaviour of senior managers. Change needs time, and management needs to be persistent to reinforce the desired behaviour. The leadership also sometimes too focus on the beauty of the goal; forget those employees need to know how to get there. Organisations sometimes also fail to recognise that employees as shareholders like to see the return of their personal investment (Luftman, 2004).

<sup>7</sup> Eradicating corruptive behaviour by maintaining the integrity is one of the three important roles of the technology at the court. The other two are reducing case delay and increasing access to justice (Reiling, 2009)

<sup>8</sup> About 30% of software development projects face the problem of cost/time overrun and changes of scope. The sign of failure has been seen when the scope of work is ill defined (Glass, 1999).

<sup>9</sup> Maintaining the momentum is very important in initialising the change. Start with minimum intervention, focus on the ultimate desires while building the competence to cope with the change, and clarify the relevance of change for all parties are very essential to address the challenges in the initial stage of change (Senge et al., 1999)

<sup>10</sup> The greater results could be achieved if we could reengineer across the organisations, to the whole ecosystem. We could establish technology-enabled processes to connect businesses with other businesses, and companies with their customers to achieve dramatic improvements in efficiency and create value for everyone involved (Champy, 2002). Technology will give great impact if we could build a collaborative community for the business (Applegate, Austin and McFarlan, 2007).

<sup>11</sup> It is important on any technology based transformation to fulfil some mandatory steps prior to move to strategic or turn around initiatives that give big impact to the organisation (Applegate, Austin and McFarlan, 2007). It is not easy to define the steps, but courts could use the tips to focus more on addressing the vulnerabilities than seeking the opportunities. Innovate when risk are low or manageable (Carr, 2004).

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