



Reconceptualizing the Principle of Public Hearing in E-Litigation: Ensuring Procedural Justice in the Digital Era

Dwi Tirtousada

Universitas Jenderal Soedirman

DOI:

<https://doi.org/10.53697/iso.v5i2.3889>

*Correspondence: Dwi Tirtousada

Email: dwi.tirtousada@unsoed.ac.id

Received: 30-10-2025

Accepted: 30-11-2025

Published: 30-12-2025



Copyright: © 2025 by the authors. Submitted for open access publication under the terms and conditions of the Creative Commons Attribution (CC BY) license (<http://creativecommons.org/licenses/by/4.0/>).

Abstract: This study aims to analyze the normative dissonance between the spirit of the open court principle in Law No. 48 of 2009 and its technical implementation in PERMA No. 1 of 2019 regarding e-litigation. The research employs a normative legal method with a juridical-philosophical approach to evaluate the impact of judicial digitalization on the degradation of the philosophical value of openness. The results indicate that current e-litigation practices potentially reduce the meaning of 'openness' from substantive public participation to merely passive virtual accessibility. This reduction directly impacts the decline of judicial accountability and the legitimacy of decisions in the public eye due to the loss of social control functions. As a primary contribution, this study offers a model for reconceptualizing the principle of openness based on three pillars: access, transparency, and active public participation. Through mechanisms such as interactive trial live-streaming and the E-Judicial Civic Oversight (E-JCO) platform, this model ensures that digital transformation not only guarantees document access but also preserves the essence of public oversight to achieve true procedural justice in the digital era.

Keywords: E-Litigation, Principle Of Openness, Procedural Justice, Reconceptualisation Of Law, Normative Dissonance.

Introduction

The principle of open court proceedings is a fundamental pillar upholding the judicial system within the Indonesian constitutional state (Rechtsstaat). This principle is not merely a procedural formality but a manifestation of the judiciary's accountability to the public it serves. Juridically, this provision is explicitly mandated in Article 13 of Law Number 48 of 2009 concerning Judicial Power, which states that all court hearings are essentially open to the public, unless otherwise determined by law (13 Undang-Undang Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman, 2009). This principle asserts the public's right to oversee the judicial process as a form of social control and institutional accountability. Philosophically, the principle of open proceedings functions as an instrument of social control, a means of legal education for the community, and the primary foundation for public legitimacy and trust in judicial institutions. Consequently, the physical presence of the public in the courtroom has historically been viewed as an essential prerequisite to guarantee transparency and prevent arbitrary judicial practices. The advancement of digital technology has brought significant changes to various sector including the Indonesian judicial system. Electronic-based transformation, specifically e-litigation, was introduced as a solution to enhance the efficiency and accessibility of the judicial process. However, behind this convenience, serious normative

challenges have emerged regarding the principle of open court a fundamental tenet that serves as a support pillar for procedural justice in Indonesia. Openness in proceedings is not just a matter of physical access; it also guarantees transparency and the active participation of the public in the administration of justice. Thus, this principle occupies a central position in maintaining the legitimacy and accountability of judicial institutions. (Santoso, 2024, pp. 45–47).

Supreme Court Regulation (PERMA) Number 1 of 2019 regulates the mechanism of electronic proceedings (e-litigation) aimed at increasing efficiency and accessibility. However, the implementation of e-litigation shifts the paradigm of openness from physical presence and direct supervision to limited virtual access, which sometimes occurs only post-trial. (Perma Nomor 1 Tahun 2019 Tentang Administrasi Perkara Dan Persidangan Di Pengadilan Secara Elektronik, 2019) In practice, this breakthrough has reformed the procedural law order by creating significant changes in how the judicial system operates. This condition demands that legal practitioners and justice seekers adapt to a completely new digital judicial ecosystem, ranging from case registration to the evidentiary stage, which is now conducted through virtual courtrooms.

Academic discourse on the implementation of e-litigation in Indonesia has grown rapidly in recent years. Various studies have made important contributions to mapping this new landscape from diverse perspectives. Most existing research tends to focus on technical aspects, efficiency, and obstacles in implementing e-litigation, while in-depth discussions regarding the impact of digitalization on the philosophical and normative meaning of the openness principle remain very limited. The implementation of e-litigation has presented various challenges, including aspects of public understanding, technological infrastructure, and legal culture that can hinder the openness and transparency of electronic trials (Supriadi et al, 2025) This creates a significant research gap to be filled, considering that the dissonance between statutory regulations and electronic judicial practice can lead to an obfuscation of the function of openness, which has traditionally been manifested physically in the courtroom.

This research argues that a shift in meaning has occurred, potentially leading to the degradation of procedural justice—an aspect that urgently requires in-depth study. Therefore, this research seeks to fill the existing gap by thoroughly examining the normative dissonance between the principle of open court in physical form and the virtual nature of e-litigation. The primary focus of this study is to provide a reconceptualization of the openness principle that is not merely confined to passive virtual access but also integrates substantial aspects of transparency and public participation to guarantee procedural justice. Thus, it is hoped that this research will provide relevant theoretical and practical contributions to the renewal of electronic judicial regulations and the improvement of the quality of legal democracy in Indonesia.

Methodology

This research employs a **normative legal research method**, focusing on the study of statutory regulations, legal doctrines, and general principles of law to examine legal phenomena in depth through theory-based and normative analysis (Soekanto, 2019) The study utilizes a **philosophical approach** to examine the fundamental values underlying the concept of justice and the principle of open court proceedings, while simultaneously adopting a **conceptual approach** to construct a comprehensive legal framework (Marzuki, 2017) This research is **qualitative** in nature; therefore, the analysis emphasizes the meanings, concepts, and interpretations of the legal values inherent in the principle of open court proceedings (Sugiyono, 2017).

Results and Discussion

Normative Dissonance: Bridging The Gap Between Physical And Virtual Trials Under The Open Court Principle

The normative dissonance arising between the spirit of the Law on Judicial Power and the implementation of the e-litigation system is rooted in a conceptual fallacy in distinguishing basic terminologies of openness. In modern judicial practice, the term "openness" is frequently reduced in meaning to be synonymous with "access," without considering the depth of meaning it entails. The transformation of the judicial process into digital spaces has further reinforced this ambiguity, where the provision of public streaming links is often deemed sufficient to satisfy the principle of open court. In contrast, this research asserts that openness in a judicial context fundamentally rests on three distinct yet complementary conceptual elements: access, transparency, and participation. The absence of a clear regulatory distinction among these three pillars ultimately gives rise to judicial practices that are substantially closed, despite appearing technically open.

The first pillar, serving as the primary foundation, is **access**, which pertains to the technical and physical ability of the public to obtain or witness judicial proceedings. In the implementation of e-litigation, access is manifested through the publication of trial schedules on official court websites and the provision of video conference links for the parties involved. Generally, the e-Court system has succeeded in realizing this aspect, particularly for internal parties to the case. However, access alone remains passive as it does not guarantee the realization of effective public oversight mechanisms. Access is merely a preliminary prerequisite for openness, but it is insufficient to ensure a judiciary that can be substantively monitored by the public.

The second pillar, **transparency**, exists at a higher level than access. Transparency demands not only the public's ability to "see" but also to "understand" the entirety of the judicial process dynamics, including the flow of legal arguments and the underlying rationality of every decision. This principle requires that essential documents—such as claims, rebuttals, rejoinders, and legal charges—be accessible to members of the public who wish to conduct oversight. A transparent judicial system ensures that justice is not only done but is also seen to be done, evaluated rationally, and held accountable. Paradoxically, e-litigation has formed a new kind of closed chamber, where these crucial documents are unavailable to the public outside of the disputing parties.

The third and most substantial pillar is **public participation**, which constitutes the philosophical core of the open court principle. This pillar reflects the constitutional spirit enshrined in Law No. 48 of 2009 concerning Judicial Power, which positions the community not as passive spectators but as active guardians of judicial integrity. Public engagement whether direct or through virtual means that allow for substantive interaction plays a vital role in creating moral pressure on legal officials to uphold honesty, independence, and professionalism. It is this active participation that provides procedural legitimacy to judicial decisions—something that cannot be replaced by passive, one-way broadcasts. As previously outlined, significant conceptual differences exist between access, transparency, and public participation within the principle of open court. Therefore, it is imperative to examine the impact of this reductionist meaning of openness within e-litigation practices, which potentially diminishes substantive public oversight.

Supreme Court Regulation (PERMA) Number 1 of 2019, along with its practical implementation, appears to interpret openness solely as the fulfillment of the first pillar: access. In contrast, the Law on Judicial Power normatively demands the attainment of the third pillar: active public participation. This reduction results in an e-litigation system that, while technologically modern, contradicts its underlying philosophical principles. The existing regulatory framework has inadvertently prioritized technical efficiency over the substantive meaning of judicial openness, thereby eroding the participatory dimension that serves as the primary guarantor of procedural justice.

The principle of open court proceedings is a fundamental tenet within the Indonesian civil procedural law system, asserting that every stage of case examination in court must be conducted transparently and remain accessible to the general public (Setyawan & Kurniawan) This principle implies that the public possesses the right to attend and observe the proceedings without being restricted only to the parties directly involved. This provision is explicitly enshrined in Article 13 of Law Number 48 of 2009 concerning Judicial Power, which mandates that every court hearing must be open to the public unless the law determines otherwise (Pasal 13 Undang-Undang Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman, 2009). Furthermore, a court decision is only valid and legally binding if it is pronounced in a session open to the public. This principle of openness is also reflected in the provisions of the *Herziene Inlandsch Reglement* (HIR) and the *Rechtreglement voor de Buitengewesten* (RBg), which regulate the technical aspects of proceedings, including the requirement that courtroom doors and windows remain open as a tangible symbol of transparency toward the public. Should this principle of openness be ignored, the resulting decision is legally void and loses its executory power.

The philosophical significance of the open court principle in civil law lies in its function as a means to guarantee the objectivity and impartiality of judges through public oversight, which serves as a form of external social control over judicial power. This principle does not only lead to increased legitimacy of the resulting decisions but also strengthens public trust in the judicial process through the principle of transparency, ensuring that every legal stage can be observed openly by anyone. In its application, the principle of openness also adapts to modern technological developments, such as electronic hearings, provided that their execution remains compliant with civil procedural law requirements regarding public openness (Setyawan & Kurniawan, 2022).

The principle of openness plays a vital role as a foundation for preventing the abuse of authority, avoiding the emergence of "shadow justice", and strengthening the integrity of judicial institutions by enhancing public access and participation.

The transformation of the open court principle in Indonesia has progressed alongside technological advancements and the increasing demand for public transparency within the legal system. Historically, the implementation of openness was rooted in classical regulations such as the HIR and RBg, where a physically open courtroom was interpreted as providing access for the public to monitor the trial process (Waluyo, 2020). Gradually, digital innovations such as e-Court began to be adopted, expanding the meaning of openness to encompass aspects of case administration and the execution of proceedings processed electronically. The adoption of this technology actually reinforces the judiciary's commitment to remaining transparent, although the methods and forms have shifted from physical to digital.

In the midst of these changes, the courts also face new challenges. Supreme Court Regulations specifically PERMA No. 1 of 2019 and its amendment in PERMA No. 7 of 2022 stipulate that online proceedings conducted through the court's information system satisfy the principle of a public hearing. However, in practice, the public often only has the opportunity to access decisions or case summaries after the trial has concluded, rather than witnessing the proceedings live. Compared to the atmosphere of a physical courtroom, not all citizens can monitor the progress of a trial, as electronic systems generally grant greater access primarily to the parties involved in the case (Lestari & Hayati, 2023). This situation has sparked discussions within the digital-era judicial reform regarding a new meaning of court openness that is hindered by excessive access restrictions.

Beyond the issue of direct access, courts are also required to balance transparency with the protection of the privacy of individual litigants. The publication of court decisions through the Supreme Court website is generally designed to protect sensitive data, particularly in specialized cases such as those involving children or domestic violence (Arfiani et al, 2023). Regulations on public information services also mandate a strict selection of disseminated data to ensure that party identities remain secure. Thus, the court is not merely open but also responsible for maintaining the confidentiality of certain cases. Technology must be utilized so that openness remains the foundation without sacrificing elements of security and the integrity of the legal process. Normative dissonance arises from the inconsistency between the open court principle which demands full public access and the implementation of e-litigation, which restricts that access. The Principle of Openness, according to Article 13 of Law No. 48 of 2009, emphasizes the public's right to observe trials directly as a form of oversight over judicial power. However, the practice of electronic proceedings under PERMA No. 1 of 2019 shifts the definition of openness toward digital access, which at times only provides limited access to relevant parties rather than the public at large. This disparity creates a normative gap that potentially weakens the principle of openness as the foundation of judicial democracy. This transformation appears to sacrifice substantive transparency for the sake of procedural efficiency.

The normative dissonance between physical and virtual open court principles must be directed toward mapping the relationship between the fundamental values of procedural justice and a regulatory reconstruction that is responsive to technological advancements. Judicial modernization that relies on digitalization should not abandon the substantive values of openness; the public's right of access to monitor proceedings is a form of public participation that cannot be replaced by the mere availability of digital features. Therefore, courts and regulators must adopt a critical and progressive paradigm, ensuring that every technological innovation remains rooted in the principles of social control and accountability.

The discrepancy between the theory and practice of openness in e-litigation gives rise to serious legal and social problematic dimensions. Although online proceedings are formally declared open to the public, limited real-time access and the difficulty of public monitoring weaken the practical application of this principle. This is not merely a technical issue of access but, more profoundly, raises doubts as to whether procedural justice is truly being fulfilled. In this regard, normative dissonance demonstrates that regulations need to be redesigned so that they do not merely require digital access but demand meaningful public participation. Current regulations place excessive emphasis on procedural legality without ensuring an implementation that fully reflects the integrity of the open court principle.

The principle of openness in digital hearings must also guarantee that every judicial process can be criticized and evaluated by the public without administrative hurdles or technological restrictions. The involvement of the community, academics, and public advocacy organizations needs to be facilitated to enable them to conduct empirical studies, monitor proceedings, and identify potential deviations in e-litigation practices. Consequently, the digital trial system should move toward "**Open Justice**," allowing for substantive openness rather than mere virtual access formalities.

A critical paradigm regarding digital judicial modernization must be based on the observation that technology is an instrument, not an end in itself. Academics may argue that without the internalization of the values of openness, social control, and the enhancement of public deliberation, technology will become nothing more than reformative rhetoric that risks alienating the public from a legal process that should be inclusive and democratic. Therefore, the academic agenda for digital reform must place the principle of openness as the barometer for assessing the success of digital innovation within the judicial realm.

The Implications of E-Litigation for Public Rights and Community Involvement

The implementation of e-litigation within the Indonesian judicial system is fundamentally designed to foster efficiency and broaden access to justice. (Sutantio, 2005, p. 112) However, the shift from a conventional to a digital model has significantly impacted the public's right to monitor judicial proceedings. While physical courtrooms allow the public to attend in person and evaluate judicial independence, the digital system shifts this access to a limited scope, primarily restricted to administrative levels and the publication of decisions (Setyawan & Kurniawan, 2022). This transition eliminates the dimension of direct interaction, which was previously a vital element of public social control over judicial institutions. Consequently, the transparency generated by e-litigation remains formalistic, failing to guarantee substantive public engagement within the judicial process.

The principle of open court, within a philosophical framework, carries a meaning that transcends mere legal-formalism; it serves as a balancing instrument between state power and the people. When e-litigation is implemented without public participatory mechanisms, the substantive function of the openness principle undergoes a reduction in meaning. The presence of the public in the courtroom is not merely a symbol of transparency but also a means of preventing the abuse of authority (Waluyo, 2020). This transition potentially renders the public passive, as no forum is provided for active public oversight of the proceedings. In this context, openness—which should guarantee accountability—instead shifts into a formal legitimacy for a digital system that is substantively fragile.

Community involvement in court oversight is an essential element in maintaining the integrity of the judiciary. In an e-litigation system, access to the trial process is limited by infrastructure factors, public access policies, and the digital literacy of the society. This situation creates an access gap between tech-savvy groups and laypeople who find it difficult to navigate the online-based legal system (Harahap et al, 2025). Consequently, the principle of openness—which should unite the community with the court—instead creates new exclusions for groups with digital limitations. Thus, e-litigation without an inclusive strategy will only widen the gap between judicial institutions and the public they serve.

Viewed from the dimension of procedural justice, the loss of public participation space creates serious challenges to the legitimacy of judicial decisions. Decisions made in a virtual space, without direct oversight and active public involvement, have the potential to create negative perceptions regarding the objectivity of judges. Public legitimacy is determined not only by the final verdict but also by a process that is transparent and socially accountable. Therefore, e-litigation practices that close off opportunities for the public to observe proceedings directly can be seen as weakening the procedural justice aspects that form the foundation of a democratic constitutional state. Consequently, there is a normative urgency to review e-litigation mechanisms to ensure they remain aligned with the true principle of openness.

Field practices indicate that the limited public access in e-litigation is not only caused by Supreme Court policies but also by a system design structure that does not prioritize process transparency. For instance, the live-streaming feature of court hearings has not yet become an operational standard across all courts. The public can only access the final verdict after the case is concluded, which functionally eliminates public oversight of the trial proceedings (Harianto et al, 2022). In fact, the principle of openness demands public involvement while the process is ongoing, not after the fact. This practice demonstrates that the implementation of e-litigation tends to be oriented toward administrative efficiency rather than substantive transparency.

Normatively, Supreme Court Regulation (PERMA) No. 1 of 2019 states that electronic proceedings are deemed to have fulfilled the principle of a trial open to the public. However, this statement raises conceptual issues as it fails to explain how the public can realistically participate in monitoring online judicial processes. The meaning of openness in a digital context cannot be understood merely as access to documents; it must encompass public involvement in the deliberative process. The loss of public deliberative space causes the judiciary to lose its educational aspect and its function as an arena for socio-legal learning.

Therefore, a regulatory redefinition of the concept of openness is required to align it with the demands of substantive justice in the information technology era. A philosophical analysis of this phenomenon shows that electronic justice has not yet fostered equal access between the state and the public in the context of legal transparency. The "open justice" principle, which ideally guarantees the public's presence as witnesses to the course of justice, is now reduced to an information-based system confined within the judiciary's internal network (Jumadi & Sarah, 2025). Consequently, the court is no longer a pedagogical instrument connecting law and society. Thus, the success of judicial digitalization should not be measured solely by administrative acceleration, but by the extent to which the system can maintain the participatory values and social legitimacy inherent in the principle of open court. In this context, reinforcing the meaning of participatory openness becomes the primary priority in electronic judicial reform.

The impact of delegitimization and the weakening of public rights previously discussed normatively are now clearly evident in various practical issues experienced by civil society and the press. The transformation toward a virtual trial system is proven to be more than just a neutral technical change; it is a process that brings forth new challenges to the function of public oversight. (Ihwan & Nugraheni, 2021, pp. 93–98) Reports and case studies from independent judicial monitoring agencies confirm a decline in the substantive quality of openness and accountability within the legal process (Ihwan & Nugraheni, 2021). Non-governmental organizations (NGOs), which have long served as the public's "eyes and ears" in monitoring strategic cases, now face significant hurdles in exercising their supervisory roles amidst the digitalization dynamics of the judicial system.

For instance, in monitoring corruption cases of high public interest, organizations such as Indonesia Corruption Watch (ICW) frequently highlight the issue of inconsistent access. (Abdullah, 2022, pp. 7–10) Trial streaming links are often not shared publicly, remain unstable, or are abruptly disconnected without adequate explanation from the court. (Ihwan & Nugraheni, 2021, pp. 94–95) Furthermore, crucial documents such as indictments or prosecutorial requisitions, which are accessible to monitors in a physical courtroom, are now entirely locked within the e-Court system. This procedural opacity obstructs real-time analysis of prosecutorial integrity and judicial considerations, thereby undermining oversight in cases that most require public attention (Ihwan & Nugraheni, 2021).

Significant difficulties are also experienced by stakeholders handling broader public interest cases, such as environmental disputes and agrarian conflicts. (Indonesian Centre for Environmental Law, 2022) Legal Aid Institutes (LBH) and WALHI, which have traditionally relied heavily on the physical presence of affected communities as a form of moral support and public pressure, face strategic limitations in their advocacy due to the shift to virtual trials (Rahmawati, 2024). This trial model transforms judicial dynamics—which were previously rich in social interaction—into a cold technical process that is emotionally unresponsive. Such a shift tends to benefit parties with greater resource power while further silencing the voices of communities striving to defend their fundamental rights.

Reconceptualizing the Principle of Open Court in the Digital Era

The debate regarding the need to reformulate the principle of open court in the digital era has become highly relevant following the development of e-litigation practices in Indonesia. The paradigm shift from physical to digital openness has created both normative and substantive gaps in the interpretation of the principle of openness itself.

While courts previously guaranteed that the public could be physically present in the courtroom as a form of transparency, this participation has now shifted toward mere virtual broadcasting without genuine public interaction. Thus, the e-litigation system does not yet fully represent the spirit of openness as mandated by Article 13 of Law Number 48 of 2009 concerning Judicial Power, as public access remains restricted primarily to the parties involved in the case.

The reformulation of the openness principle should begin with an understanding that justice in the digital era possesses a dynamic character. The essence of openness does not merely pertain to technical access; it also includes the guarantee that public participation exerts a substantive influence on judicial integrity. On a normative level, openness is perpetually intertwined with the principles of legal accountability and the public's right to obtain information regarding judicial policies and processes, as emphasized in Article 18 of Law Number 14 of 2008 concerning Public Information Disclosure (18 UU Nomor 14 Tahun 2008 Tentang Keterbukaan Informasi Publik, 2008) Therefore, the reformulation of this principle must lead toward the institutionalization of an e-justice system capable of integrating digital transparency with tangible forms of public participation.

The need to reconceptualize the principle of openness is increasingly urgent because the old paradigm still relies on the concept of "physical access" to the courtroom. Meanwhile, the digitalization of the judiciary through e-court has created a new mediative space which, conversely, generates exclusivity of access restricted to the litigants. This condition results in the public being marginalized from their social oversight role in the judicial process. When public participation lacks legitimacy, openness tends to degrade into a mere administrative formality devoid of substantive meaning. Consequently, new mechanisms are required to revitalize the principle of openness within the context of inclusive digital connectivity.

The principle of openness, previously manifested physically, can be reinterpreted as a form of "communicative openness"—that is, openness that encourages active interaction between the public and judicial institutions through digital platforms. This approach does not end with the publication of verdicts but also encompasses process transparency and the provision of deliberative spaces for the community. Public openness in the digital era should be interpreted as "ease of rational access" rather than a symbolic gesture through the mere uploading of electronic documents. (Setyawan & Kurniawan, 2022, p. 6) In this way, digital openness can transform into an instrument for legal learning while substantially strengthening judicial accountability. The integration of digital access and public participation demands e-litigation policies that are adaptive and responsive to societal needs. The Supreme Court, as the highest judicial institution, could develop independent live-streaming features in every court so that the public can witness trial proceedings in real-time.

The concept of "e-court live" serves as an alternative means for the public to follow proceedings without physical presence (Nurselly & Baried, 2021) Such a model provides a balance between digital efficiency and active participation, thereby maintaining judicial legitimacy in the eyes of the public.

The application of the digital openness principle must also consider security aspects and data protection to prevent privacy violations and information misuse. The reformulation of this principle must not neglect the private rights of the litigants, particularly in cases involving morality or minors.

Therefore, it is necessary to design ethical guidelines for digital case publication in accordance with the principle of informational proportionality as regulated in Law 14/2008. Oversight of its implementation could involve the Judicial Commission and independent institutions as representatives of social control over public openness. Substantively, public participation cannot be limited merely to the passive access of "viewing," but must be expanded into the active interaction of "assessing." True transparency will only emerge when the public has the opportunity to directly evaluate the integrity of judicial officials. Consequently, the digital openness system needs to include the disclosure of trial metadata, lists of presiding judges, and periodic court accountability reports. (Setyawan & Kurniawan, 2022, p. 5) Under such a model, openness is no longer formal in nature but becomes the very substance of true justice.

The Supreme Court holds a constitutive role in ensuring that the principle of openness operates adaptively amidst technological developments. Although Supreme Court Regulation (PERMA) No. 1 of 2019 serves as an important milestone in judicial digitalization, Article 27 which states that the uploading of electronic verdicts is deemed a trial open to the public remains symbolic (Setyawan & Kurniawan, 2022) Further reforms need to broaden the definition of openness so that it does not stop at the administrative level, but becomes part of the system of public legitimacy toward the judiciary, as mandated by Article 13 of Law 48 of 2009 concerning Judicial Power (13 Undang-Undang Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman, 2009) As an ethical foundation, the principle of digital openness must be supported by interactive policy mechanisms between the state and the community. One option is the establishment of a "digital public discourse forum" under the supervision of the Supreme Court to accommodate public feedback on court decisions. This model builds two-way transparency: from the judicial institution to the public and vice versa. Thus, openness is no longer a one-way communication but evolves into a democratic, educational, and accountable social dialogue.

The reconceptualization of the openness principle should position technology, policy, and law as a complementary organic unity. Technology functions to create efficiency, policy guarantees accountability, while law provides normative legitimacy for its practice. In this integrated system, the public assumes a role not just as observers, but as constitutional rights-holders of openness. Therefore, the Supreme Court needs to integrate digital openness values into judicial training and provide incentives for courts that implement the best transparency practices.

The reformulation of the digital openness principle must also consider the infrastructural disparity between regions. Many courts in underdeveloped areas still face connectivity constraints and limited technological facilities, which potentially hinder the

implementation of the openness principle. Therefore, the re-conceptualization of this principle must be accompanied by a strategy for the equitable distribution of technological tools and digital literacy across all judicial jurisdictions. Implementing regulations derived from PERMA (Supreme Court Regulations) need to establish technical guidelines on virtual openness to ensure that the principles of inclusivity and equality are truly realized.

Philosophically, the principle of openness asserts that the court is not merely an arena for dispute resolution, but also a forum for public learning regarding morality and justice. In the context of legal digitalization, an open court functions as a social laboratory that can be observed and evaluated by the public. Consequently, every technological innovation in the judiciary must remain aligned with the mandate of Article 13 of Law 48/2009 as a symbol of the moral legitimacy of the public legal system. The reform of the digital openness principle is essentially not just a procedural change, but an effort to restore the substantive meaning of justice that is open to the community.

As an innovative solution, the establishment of an **E-Judicial Civic Oversight (E-JCO)** platform is proposed as an interactive forum for social control over digital court proceedings. This platform would be designed with official authentication and digital verification by the Supreme Court, allowing the public to serve as observers or "civic reviewers" who assess the openness and judicial conduct through streaming systems. The results of these public evaluations would be compiled into a Transparency Index for each court and judge, accessible to the public as an accountability indicator. Through this mechanism, the digital openness principle shifts from mere passive access toward constructive active participation.

The integration between E-JCO and the national judicial dashboard opens opportunities for a more comprehensive application of big data technology in the ethical oversight process within the judicial environment. Data obtained from public reports can be used to map potential ethical violations, which then serve as the basis for recommendations to the Judicial Commission and the Supreme Court. This approach underscores the principle of **co-governance**, where judicial institutions collaborate with academics and independent agencies to ensure objective transparency and judicial accountability. Overall, the E-JCO model combines the values of openness, accountability, and public participation within a framework of "collaborative transparency." Through this paradigm, technological transformation does not only change judicial procedures but also rebuilds the social relationship between the public and judicial institutions based on meaningful participation. Thus, strengthening the digital openness principle is not only about increasing information access but also about establishing a judicial system that is truly inclusive, fair, and characterized by integrity.

While this platform offers a new paradigm in deeper openness and public participation, its implementation is not without complex obstacles. The transition from a passive access approach to active participation opens dimensions of data management, security, and social dynamics that demand readiness and adaptation from various stakeholders. Therefore, it is also crucial to observe the structural, technical, and normative challenges that could potentially affect the effectiveness and sustainability of the E-JCO's function as an instrument of democratic oversight.

These challenges include, among others, the uneven distribution of technological infrastructure across various regions, which may hinder the platform's functionality, as well as low digital literacy among judicial officials and the general public, potentially limiting active participation. Furthermore, data security and privacy protection remain top priorities given the sensitivity of the information involved, alongside the resistance to change from users accustomed to conventional systems. Strong regulatory support and transparency governance are also essential to ensure that public reports integrated into the Transparency Index are reliable and yield tangible impacts, rather than becoming mere formalities.

The implementation of intensive openness and public participation through E-JCO demands a collaborative approach between judicial institutions, academics, and civil society to maintain a balance between accountability and judicial independence. The management of healthy public opinion must be pursued to ensure that social pressure does not undermine judicial objectivity. By understanding and anticipating these challenges, the implementation of E-JCO can be continuously developed into a significant milestone that not only transforms the judiciary technologically but also strengthens public trust in a more open, fair, and responsible judicial system.

Conclusion

This study concludes that a significant normative dissonance exists between Law No. 48 of 2009 and PERMA No. 1 of 2019, as the current implementation of e-litigation has shifted the "open court" principle from a substantive mechanism of public oversight to mere passive virtual accessibility. This shift results in a degradation of the philosophical value of procedural justice, as the public's role as a guardian of judicial integrity is increasingly marginalized by digital administrative formalities. The results emphasize that to maintain the legitimacy of the judiciary, the principle of openness in the digital era must be reconceptualized through three essential pillars: meaningful access, radical transparency, and active public participation.

Practically, this study recommends that the Supreme Court of Indonesia revise technical regulations to expand digital transparency, ensuring public access not only to final verdicts but also to essential court documents such as claims, rebuttals, and rejoinders, while strictly implementing data privacy protocols. Furthermore, the development of an "E-Judicial Civic Oversight" (E-JCO) platform and interactive live-streaming services is crucial to restoring the essence of social control in the digital paradigm. Future research should empirically investigate the digital literacy gap and the readiness of technological infrastructure in remote jurisdictions to ensure that this judicial transformation remains inclusive and equitable across the Indonesian legal ecosystem.

References

- Abdullah, A. (2022). *Indonesia Corruption Watch: Laporan tren penindakan korupsi dan pengawasan persidangan*. Jakarta: Indonesian Corruption Watch.
- Arfiani, A., Syofyan, S., Delyarahmi, S., & Nadilla, I. (2023). Urgensi asas keterbukaan dalam pembentukan peraturan perundang-undangan di Indonesia. *Pagaruyuang Law Journal*, 6(2), 212–234. <https://doi.org/10.31869/plj.v0i0.4067>

- Harahap, A. F., Raehana, S., & Maryati. (2025). Implementasi persidangan secara elektronik (e-litigasi) dalam menyelesaikan perkara perdata di Pengadilan Agama Makassar Kelas 1A. *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial*, 3(1). <https://doi.org/10.5281/zenodo.15881494>
- Harianto, H., Husen, L. O., & Ilyas, M. (2022). Implementasi Peraturan Mahkamah Agung No. 1 Tahun 2019 tentang administrasi perkara dan persidangan secara elektronik (studi kasus di Pengadilan Agama Maros). *Qawanin Jurnal Ilmu Hukum*, 3(1). <https://doi.org/10.56087/qawaninjih.v3i1.379>
- Ihwan, M., & Nugraheni, P. D. (2021). Urgensi sistem pengawasan dalam pelaksanaan persidangan secara online. *Jurnal Al Azhar Indonesia Seri Ilmu Sosial*, 2(2), 93. <https://doi.org/10.36722/jaiss.v2i2.555>
- Indonesian Centre for Environmental Law. (2022). *Citizen lawsuit di Indonesia: Terhadap substansi, prosedur, serta eksekusi*. Jakarta: ICEL.
- Jumadi, J., & Sarah, S. (2025). Transformasi digital sistem e-court dalam modernisasi persidangan kasus hukum pidana, perdata, dan hukum Islam di Indonesia. *Jurnal Ilmu Hukum, Humaniora dan Politik*, 5(3), 1986–2003. <https://doi.org/10.38035/jihhp.v5i3.3381>
- Lestari, T. Y., & Hayati, A. A. S. (2023). Implementasi asas peradilan terbuka untuk umum pada masa pandemi Covid-19 terhadap pemeriksaan perkara pidana di Pengadilan Negeri Donggala. *Journal on Education*, 5(4). <https://doi.org/10.31004/joe.v5i4>
- Marzuki, P. M. (2017). *Metodologi penelitian kualitatif*. Bandung: Remaja Rosdakarya.
- Nurselly, I. E., & Baried, R. R. (2021). Implementasi persidangan elektronik (e-litigation) terhadap asas persidangan terbuka untuk umum. *Literasi Hukum*, 5(2). <https://doi.org/10.31002/lh.v5i2.4765>
- Rahmawati, D. (2024). Hukum di era digital: Pelaksanaan e-court dan e-litigasi sebagai bentuk efisiensi pada ruang lingkup peradilan perdata. *Jurnal Hukum Lex Generalis*, 5(4). <https://doi.org/10.56370/jhlg.v5i4.537>
- Republik Indonesia. (2008). *Undang-Undang Nomor 14 Tahun 2008 tentang keterbukaan informasi publik*.
- Republik Indonesia. (2009). *Undang-Undang Nomor 48 Tahun 2009 tentang kekuasaan kehakiman*.
- Republik Indonesia. (2019). *Peraturan Mahkamah Agung Nomor 1 Tahun 2019 tentang administrasi perkara dan persidangan di pengadilan secara elektronik*.
- Santoso, B. (2024). *Prinsip keterbukaan persidangan dalam sistem peradilan Indonesia*. Jakarta: Rajawali Press.
- Setyawan, V. P., & Kurniawan, I. D. (2022). Pemenuhan asas persidangan terbuka untuk umum dalam persidangan secara elektronik. *Sol Justicia*, 5(1). <https://doi.org/10.54816/sj.v5i1>
- Soekanto, S. (2019). *Pokok-pokok metodologi penelitian hukum*. Jakarta: Rajawali Press.
- Sugiyono. (2017). *Metode penelitian kuantitatif, kualitatif, dan R&D*. Bandung.
- Supriadi, M. M., & Suratman. (2025). Legal effectiveness of e-litigation implementation on case settlement: Evidence from the Malang City Religious Court. *Lex Publica*, 12(1). <https://doi.org/10.58829/lp.12.1.2025.281>

Sutantio, R. (2005). *Hukum acara perdata dalam teori dan praktek*. Bandung: Mandar Maju.

Waluyo, B. M. (2020). Asas terbuka untuk umum dan kehadiran fisik para pihak dalam sidang di Pengadilan Negeri pasca Peraturan Mahkamah Agung Nomor 1 Tahun 2019. *Veritas et Justitia*, 6(1), 237–250. <https://doi.org/10.25123/vej.3883>