

A Comparative Study on Electronic Litigation

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ABSTRACT

This paper addresses the problem of electronic litigation by researching the concept of electronic litigation and its importance the development of the judicial field. Determining the procedures for filing and adjudicating cases through the electronic litigation system. The study concluded that it is necessary to implement the electronic litigation system, with the extension of its application to include all litigation procedures from beginning to end. In addition, this paper urges the necessity of regulating these procedures legislatively to comply with the general rules and principles of litigation, taking into account the special nature of electronic litigation means.

Keywords

Electronic Litigation; Electronic Court; Electronic Government.

1. INTRODUCTION

Electronic litigation is the process of electronically transferring documents to the court via e-mail, where these documents are examined by the competent employee and a decision is issued regarding them to accept or reject them and send a notification letter to the litigant informing him about these documents, the case is decided, and the judgment is issued electronically [16].

The whole world is witnessing a very rapid development in the field of communications and information technology modern communication via the Internet is a revolution in communication technology in many aspects of social and economic activity and the emergence of e-commerce and e-government, which means the use of communication and information technology to reach the optimal use of government resources as well as ensuring the provision of a distinguished government service to citizens, companies, and investors It was very important for the modern technological revolution to include the legal field in general and judicial work in particular, in light of the country's adoption of the concept of e-government [35].

Where electronic administration is defined as breaking the barrier of time and space from inside and outside to obtain services by linking information technology with the tasks and responsibilities of the administrative body and a commitment to its development and automation of all activities and simplification of procedures and speed and efficiency of completion of transactions [36].

It is also known as “the use of the product of the technological revolution to improve the performance levels of government institutions, raise their efficiency and enhance their effectiveness in achieving the desired goals” [37].

The jurisprudence has touched in many attempts to give a definition of the technology of electronic litigation, and perhaps the most important of these definitions is that it is: “The authority of a specialized group of regular judges to consider the case and initiate judicial procedures by means of new electronic means, within an integrated information system or judicial systems with parties and means, adopting a technical approach The international network (the Internet) and electronic computer file programs for hearing cases, adjudicating them and implementing judgments in order to reach a speedy adjudication of cases and making it easier for litigants [23].

Another aspect of jurisprudence defined it as: “Obtaining forms of judicial protection, through the use of electronic means to assist the human factor, through technical procedures that ensure the achievement of the principles and guarantees of litigation, in light of legislative protection for those procedures consistent with the general rules and principles in the pleading law with Taking into account the special nature of electronic means [6].

It is a technical information organization that allows litigants to register their lawsuits, present their evidence, and attend court sessions, in preparation for reaching the judgment and implementing it, through electronic means of communication, which are part of an information system that enables judges to contact litigants without their personal presence, and to initiate litigation procedures. Through this system, this system also allows, through the electronic court, transparency and speed in obtaining information [38].

2. RELATED WORK

In recent years, many experts and scholars in many countries have done a lot of research in the electronic litigation and its promotion most of research dealt with the application of the electronic litigation system in particular country according to the societal problem facing the country in [1], [3], [4], [7], [8], [10], [11], [17], [21], [24], [27], and [32]. Especially on civil litigation matter in [6], [8], [17], [23], [24], [28] and [32]. In addition, many research focused on personal status cases in [3], [4], [5], [7] and [13].

2.1 The Use of Electronic Court in the USA Legal Framework

In [8] Carl, [9] Michael and [14] E-Committee Supreme Court of India New Delhi, focused on the development stages of electronic litigation in the United States of America and the path towards moving to electronic litigation in American courts, and it passed through a few stages, including Advancement of legal methods in the California region, which passed through three stages, as follows:

The primary stage: It began with the activity of the Administrative Office of the Courts in California with the "Standard Electronic File and Technology Courts"

The subsequent stage: dispatched in 2002, with the specialized linkage project between courts, to trade data between these courts in a dependable and safe manner, utilizing the Extensible Markup Language XML framework, which is a plan language.

Web pages documentation, which is a language created from the first HTML site page plan, correspondence among them and the trading of information is simpler and more secure than previously.

The third stage: It was 2003 AD; Where the California Judicial Council received a bunch of legitimate guidelines, arranged by the Court Technology Advisory Committee of the Judicial Council of this state, and those principles characterized how to pay charges electronically, and furthermore permitted the courts to enroll common claims, hand over records, and react to demands with acknowledgment and dismissal electronically. On these standards.

The online gateway of the United System for New York State Courts addresses an incorporated model for the electronic court framework, and incorporates all electronic suit methods, beginning from documenting the claim to the issuance of the decision, in any case the matter is recorded to bid through a similar online entry. Through the specialist's scrutiny of the electronic prosecution techniques through the electronic entry of the New York State courts, and the quest for their benefits and the strategy for working with them [15], the accompanying has been traced as follows:

- The entry upholds eleven dialects, which is a high component that makes it a worldwide court.
- New York State courts exemplify the ideal e-court, which is uncommon in the present reality.
- The entryway is furnished with data the executives' frameworks and specialized and specialized help upon demand, notwithstanding progressed electronic chronicling capacities, and the framework likewise underpins multi-language highlight.
- The framework incorporates an element to gauge the recipients' fulfillment with the administrations gave through the entryway.
- Through the framework, general conclusions are taken before any advancement of enactment identified with electronic prosecution, or the extent of electronic administrations is extended to incorporate explicit local area portions (common, family, and criminal cases), to guarantee an adequate degree of local area agreement around them. Its course and activity taken.
- The electronic court framework contains an extremely progressed internet searcher, to look for any case by reference number, public number, name or by watchwords.

2.2 The Use of Electronic Court in the United Arab Emirates Legal Framework

In, [24] Hazem Elsharaa and [25] Report of the Al Ittihad (Emirati newspaper), indicated that the United Arab Emirates has developed the electronic litigation system very quickly, as it topped the list of the most transparent Arab countries in the

judicial system. It ranked first in the Arab world in the report of the International Justice Program on the rule of law, and thirteenth globally according to this global indicator. As of 2008, work began in the UAE Ministry of Justice on the electronic transformation project, which included converting manual work into automated processes in all courts, and completing and completing the electronic transformation project implemented in the Public Prosecution in 2006; Whereas, the Ministry of Justice has completed the electronic work of all its services provided to the public, in accordance with the electronic transformation program, which aims to:

1. Electronic registration of court cases.
2. Electronic archiving of cases automatically with the start of the application of the case registration program in courts.
3. Created a special program for the electronic library to provide all the rulings of the Federal Supreme Court, and the fatwas of the Fatwa, Legislation and International Agreements Department on its website, and all federal legislations were developed in Arabic and English.

Whereas the Ministry of Justice launched the electronic litigation system at the level of state courts since August 2011 within the e-justice project, which aims to:

1. Enable lawyers to submit requests to file lawsuits with different degrees of litigation on the Internet from anywhere and at any time, follow the progress of the case and its developments and pay their fees electronically.
2. Enabling citizens and residents of the country to benefit from many judicial services via the Internet to save time and effort of dealers.
3. The (IQ system) also allows customers to reduce waiting time to complete their transactions through an application on smart phones.

This system also allows payment from the appeal fees submitted to the Federal Supreme Court through the electronic payment gateway via the ministry's website using the second generation card (electronic dirham) in addition to another integrated service, where the application contains many functions and features in both Arabic and English, including: lawyers' cases, details of those cases, the meeting schedule, incoming and outgoing letters, checking the notary's document, submitting the document, and evaluating the hearings, and the application also includes: Fee calculator, list of cases, news, events, follow-up of cases and court procedures, prosecution services, and search for a lawyer.

The Ministry of Justice has made great strides in the electronic transformation of the case management system, as the Mohammed bin Rashid Center for Government Innovation in the Emirate of Dubai is one of the most important research centers that support and stimulate the culture of innovation in the UAE government sector. The center has introduced a smart litigation program, where government innovation experts developed a litigation project an innovative smart, based on enabling the parties to the litigation process to conduct an electronic direct trial in two or more directions, through a program or a smart phone application, between the judge in the courtroom and the plaintiff. With regard to the civil rights of the defendant or his representatives, witnesses, experts, translators and others who are related to the case or its parties, wherever they are, the attendance of the parties to the case is electronic and smart.

2.3 The Use of Electronic Court in the Saudi Legal Framework

In [26], [27], [28] Jafar and Hatem, [29] Otani and Safaa, [30] Suleiman and Dadyar and [31] Hassan El Sheikh, indicated that the Kingdom of Saudi Arabia has significantly developed in the judicial facility and the electronic litigation system, as King Abdullah bin Abdulaziz, may God have mercy on him, issued his supervisor order approving the minutes of the committee, the statute of the Royal Court No. 4/28 dated 2/6/1428 AH to develop the judicial facility, where the Ministry By building its own information center using cloud computing technology, and moving all operating systems and services to a virtual (virtual) environment. This technology allows to save resources, get the system back up and running faster, and ensure that firewalls are available to the center. Information provides a high degree of security and maintains business continuity. It also re-engineers procedures and then completely transforms them into electronic processes that operate within integrated electronic systems to provide the following electronic litigation services:

- The ministry has provided all judges with access to court systems, viewing and dealing with cases remotely, via the Internet at any time, and the user's identity is determined by sending short text messages to the user's mobile, in addition to entering its Password.
- Group video calling service application in more than 40 courts. Help hold meetings and train employees in different locations visually and easily.
- Launching the Ministry's external portal (the external portal), with a set of electronic services that serve the Ministry's employees and auditors, where the beneficiary can inquire about: authorized persons, lawyers, claims sheet, forms, final courts.
- The work of an internal portal that includes a set of electronic services that serve the Ministry's employees, the fingerprint verification service, which allows virtuous judges and notaries to verify that the ID number matches the fingerprint. To appear before them during the consideration of cases or the issuance of powers of attorney in order to eliminate the crimes of impersonation.
- Remote litigation service for the prisoner while he is in his place of imprisonment, without the need to move him and the consequent guarding and risks.
- Remote commission service for another judicial department to conduct one of the lawsuit procedures: such as hearing the testimony, interrogating the opponent, taking an oath, or examining the disputed. Via videoconference via videoconference using "video conference" software and under judicial supervision.
- Translation service, where it was agreed with a university to establish an integrated translation center, and to provide more than forty translators for the most famous languages in the world.
- The ministry has created an application for smart phone users on the Android system, through which inquiries about agencies, names of lawyers and marriage permits are submitted, and the application also allows auditors to inquire about their cases and meeting dates.
- Self-service screens (KIOSK), where the beneficiary can easily choose the required service, such as: querying a transaction-by-transaction number, identity card number or commercial registry number, and employee or management inquiry service. , or certified marriage officials.
- Text message service (SMS): for the purpose of alerting and reminding the beneficiaries, and the informational phone service to identify all the services provided by the courts, notaries and the Ministry, accompanied by information on the procedures, papers and documents required.

2.4 The Use of Electronic Court in the Jordanian Legal Framework

In [32] Al Omar and Tarek, indicated that the Jordanian Ministry of Justice focused on providing an integrated electronic litigation system, as it established a website for the electronic judicial service, through which the following electronic services can be provided:

- Inquiry about all transactions, information related to cases brought before courts in Jordan of all kinds and degrees, and the schedule of sessions according to the specified date, which allowed the parties to the case and their agents to obtain the required information in the shortest possible time and without going to the courtroom.
- Fee calculator service, which is related to calculating the fees for all cases in addition to the execution fees.
- This comes in implementation of Article of the System of Using Electronic Means in Civil Judicial Procedures, which states that "each lawyer has an electronic account on his approved electronic portal for the purposes of registering judicial and executive cases, application and filing regulations, and a list of evidence and all judicial and executive correspondence and papers".

It can also be said that the website of the Jordanian Ministry of Justice offers a semi-comprehensive electronic litigation system, through inquiries from the public and lawyers, where citizens, companies, institutions and lawyers can know many details about their requests and claims by name, national number, date of the next session, the last session, reasons for postponing the next session, in addition to a classification Case.

2.5 The Use of Electronic Court in the France Legal Framework

France began work on establishing electronic litigation in mid-2007, when an agreement was concluded between the Ministry of Justice and the National Council of the Bar on electronic communications between courts and lawyers, and a communication network was established between the two parties, according to which courts and judicial councils were provided with a scanning and digitizing device. To enable the lawyer to view the file, follow up the procedures, send and receive electronic messages related to documents and procedures, and write the seizures without going to the court building. Looking at the applications of the electronic administrative judiciary in France, we find that it has gone through the following stages [11].

- Work began in France in 1999 on the implementation of electronic administrative litigation, through the launch of a project related to special cases, which is presented

to the French Council of State, known as the (Mantil) system.

- The e-mail program was launched in 1999 to replace the Al-Mantal system, so that through an identification number and case file number provided to them by e-mail, the parties to the lawsuit can monitor the status of their cases at all stages of the case.

France has witnessed a tremendous development in the use of information and communication technology in the scope of electronic litigation, which came after the launch of the e-mail program project and the project to test remote procedures. In it, he stressed the importance of moving towards the immateriality of judicial procedures, given the importance of using technology for the parties to the case, and for developing the work of the courts.

2.6 The Use of Electronic Court in the Malaysia Legal Framework

Malaysia is one of the countries that has explored the concept of electronic litigation to speed up the litigation process, especially in personal status cases, and the E-Shariah project is one of the seven pilot projects in Malaysia's electronic Government application. The project, worth RM39 million, began in July 2002 and was completed in September 2005. E-Shariah is a web-based communication framework for Muslims [13],[22], and [3].

1. Shariah Court Case Management System (SPKMS).
2. Shariah Lawyers Management System.
3. Office Automation.
4. Library Management System.
5. E-Shariah Portal – contains a lot of information online, online services, forms downloading etc.

The e-Sharia framework was carried out to swap the manual framework for all Sharia court activities. Before the presentation of e-Sharia, all business measures were done physically from case enrollment to removal. This brought about shortcoming and failure. With the expanding number of enlisted Sharia cases every once in a while, delays in the event that administration turned out to be more genuine. A solitary case requires months or even a long time to settle, which makes challenges for the gatherings in question. With the presentation of e-Sharia, more cases are mediated in an ideal way, and case the executives is being carried out more effectively and efficiently.

Online administrations incorporate common cases pre-enlistment, case status checking, one-of-a-kind record, downloading structures, looking for Syarie's lawyer, Syarie's lawyer data, a compromise administration and criminological lawful references. Guidelines are at present being refreshed from the primary version of e-Sharia to the issuance of Sharia [3], [4], [5] and [7].

2.7 The Use of Electronic Court in the India Legal Framework

India is one of the first countries to introduce modern technology in the judiciary facility and to do so beginning in 1990, through the cooperation of the Ministry of Justice and the Ministry of Communications, it set a deadline for itself a five-year time frame for training court workers and citizens on how to use modern methods in the judiciary interests[1], [6] and [11].

2.8 The Use of Electronic Court in the Texas Legal Framework

The same thing was taken by the State of Texas in 2010. In its experience, it reviewed the prepared report with the knowledge of the President of the Supreme Court in the state [15] and [16].

2.9 The Use of Electronic Court in the Victorian Legal Framework

The Victorian Supreme Court can boast its 13th court – one of the world's most modern courtrooms, specially equipped in 1999 for high-tech cases. Although some major cases have been conducted in that court using world-leading technology, and it was revealed at the time that court's then-new Practice Note No 1 of 2002 Guidelines for the use of Technology in any Civil Matter, was published on 29 April 2002. That note was in turn replaced by the Current Practice Note, No 1 of 2007 Guidelines for the Use of Technology in any Civil Litigation Matter [17], [18] and [19].

2.10 The Use of Electronic Court in the New South Wales Legal Framework

The position in New South Wales has been similar, with the technology used in some of the Royal Commissions of Inquiry, as for example the Special Commission of Inquiry into the Glenbrook Rail Accident (Glenbrook Inquiry) and the Special Commission of Inquiry into the Waterfall Rail Accident (McInerney Inquiry) although in real terms it is still the case that a very limited number of hearings have been conducted electronically. and has the Supreme Court of New South Wales published Practice Note No 105 Use of Technology.

in Civil Litigation in March 1999 That set the scene for the use of technology as an everyday tool in civil litigation in New South Wales. The New South Wales Note was used to some extent as a starting point for other jurisdictions although there are significant variations across jurisdictions. The note has been replaced several times since, with the current note being Practice Note No SC Gen 7 Supreme Court – Use of Technology, which commenced on 1 September 2006 [20].

2.11 The Use of Electronic Court in the Australia Legal Framework

Application Note 17 on the Use of Technology in Litigation in a Civil Matter was distributed by the Australian Federal Court in April 2000. This Note remains under update as it provides a toolkit to replace the existing Practice Note and Guidelines for the Use of Innovation in Litigation in Any Matter Considered so that this update applies on public action in the entire South Australian courts. Where practical guidance is given from the 2006 Supreme Court Guidelines (SA) Electronic Technology Use Guidelines on activities managed by the Civil Rules of the Supreme Court "electronic document management" where the details of various practice notes have changed or addresses changed as it urges government communities to use the information electronic records (or data sets) to make arrangements for their discoverable reports, urge communities to trade electronic variants of records such as pleadings and statements, and urge congregations to provide revelations through trade data sets made according to an agreed agreement. They are also urging congregations to consider leveraging innovation, including the e-court book, first [2], [10], [21] and [23].

3. A Comparison Between Some Countries of the World that Use Electronic Litigation Services

In this section, we will review a comparison between some countries of the world that use the electronic litigation systems in a table of compared according to several difference ways as shown in Table 1, to evaluate the use of the system in terms of its characteristics, advantages, and services that it provides to litigants and lawyers with high efficiency. Given the following table and actual access to the e-government portals of these countries, it can be said that it is optimal to have short videos explaining how to use, register and deal

with the services provided on the portal. Judicial services must be integrated, starting with the registration of the lawyer or the litigant and the filing of the lawsuit remotely. The service of paying fees, claims and fines must be done electronically with the different payment methods and allowing the service to inquire about claims by the national number and name as well as inquiring in the name of the lawyer and following up on the progress of the sessions, as it is interesting to provide these services in the form of smart phone applications, leading to the trial remotely, as well as the availability of Public Prosecution services, which gives great strength and more comprehensive integration to the e-government services porta..

Table 1 Comparison of Some Countries using Electronic Litigation Services

Country Dimensions	United States of America	United Arab Emirates	kingdom of Saudi Arabia	Jordanian	France
Electronic Gate	www.pacer.gov www.nycourts.gov	www.dc.gov.ae	www.moj.gov.sa	www.moj.gov.jo	www.justice.gouv.fr
Information Leaflets on The Website	√	√	X	X	X
News and Events	√	√	X	√	X
Using more than One Language	√	√	√	√	√
Application on Smart Phones	√	√	√	√	√
Registration of Cases Electronically	√	√	√	√	√
Review Requests	√	√	√	√	√
Time to Review Requests	7 days	7 days	10 days	7 days	7 days
Electronic Archive	√	√	√	√	√
Electronic Library	√	√	√	√	√
Pay Fees Electronically	√	√	√	√	√
Follow Up on The Progress of Cases	√	√	√	√	√
Enquiry	√	√	√	√	√
Inquiry For A Lawyer	√	√	√	√	√
Find a Lawyer	√	√	√	√	√
Schedule of Sessions	√	√	√	√	√
Public Prosecution Services	√	√	√	√	√
Transferring Cases and Files Between Courts Electronically	√	√	√	√	√
Remote Trial	√	√	√	√	√

4. CONCLUSION

In this research, the general framework of electronic litigation for civil courts was addressed, in the context of the Egyptian state's adoption of the idea of digital government and the extent of the benefits and gains that will be achieved if the judicial facility is developed using modern technological means, whether for litigants or lawyers or for the public interest, which is the basis for the establishment of any public

facility, which It is to provide the right of litigation to all litigants easily and smoothly with the realization of the idea of prompt justice. The researcher has reviewed many scientific researches for many countries that have been interested in the idea of electronic litigation, and it turns out the following:

First, the use of modern electronic means in the judiciary facility provides solutions to all the challenges facing the state in general and the judiciary in particular, such as the small

number of employees, the delay in the time for adjudication of cases, the lack of advertisements reaching the defendants, and many of the advantages mentioned in detail in the research.

Second, it allows lawyers and litigants to register the civil lawsuit, present evidence, follow up their lawsuits, attend hearings, arrive at the judgment, and implement it through electronic means of communication, which is part of an information system that makes judges in contact with litigants without their personal presence.

Third, electronic litigation allows direct electronic communication with court officials and judges, without their personal presence, and what is distinguished by it is transparency and high speed in obtaining information and implementing the necessary procedures for this.

Finally, the use of electronic litigation prevents the issuance of two successive judgments by the same court or judicial circuit between the same litigants and in the matter, which can happen in practice by refusing the electronic registration of the subject matter of the case twice through the electronic program designed for that purpose.

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