

Conference Paper

How Should Legislation Be Made During the Digital Age? Indonesian Outlook

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ORCIDSholahuddin Al-Fatih: <https://orcid.org/0000-0003-1166-5182>**Abstract.**

This article tries to explain how legislation should be made in the digital era. Because digitalization is something that cannot be rejected or avoided. Therefore, the dynamics of the digital era must also be responded to by law, especially in the study of legislation. Using normative research methods, this article found several important things, including 1) Indonesia does not yet have many legislative products regarding the digital era, there are only a few, for example, the IET Law, the Personal Data Protection Law, and the like. 2) Indonesia needs to respond to developments in the digital era by issuing special regulations, for example, the Metaverse Bill, the Digital Money Bill, AI Bill, and the like. 3) The method for establishing legislation in the digital era must also adapt to the times. So, it does not rule out the possibility that in the digital era, there is a known method for establishing statutory regulations other than the existing conventional methods, such as RIA or omnibus law.

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1. INTRODUCTION

Digitization can be understood as the electronic storage of all characteristics and information from text, voice, images, or multimedia in a string of 0 and 1. Everything can be transformed into a form that can be stored on different digital media, such as compact discs, hard drives, and flash discs, and can be transferred to various locations around the world through a telecommunications network in the form of the Internet (international networks) in a very short period of time. Based on this comprehension, digitalization is strongly tied to the electronic storage and transfer of information via computer media, regardless of constraints related to time and location. Any information can be sent to numerous locations worldwide and stored fast and easily. This then turns into the extraordinary potential of Internet media [1].

The current state of society is characterized by the growth of industrialization and the ongoing development of global telecommunications technology relations. As a result,

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Indonesian society's unavoidable and entwined evolution in this reformation era poses several political, economic, and socio-cultural issues [2]. These crises, which cause a wide range of crises and harm, occur worldwide. There are 210 million internet users and 191.4 million social media users in Indonesia, with access times averaging 8 hours, 36 minutes each day. A more mobile-first culture is emerging in Indonesian society, as evidenced by the rise in internet usage—up to 21 million more people have signed up for digital services since the pandemic—the extended access to devices, and the predominance of mobile devices in daily life [3].

Digital technology has as one of its traits the ability to spark socially disruptive behaviors. One illustration is that using internet services by the general public entails transferring personal information such as names, e-mail addresses, passwords, and other data from service users, namely the general public, to service providers as a requirement for using the services offered [4]. The acquisition and collection of personal data by operators of electronic systems must be authorized or based on legal requirements [5]. Personal data protection is becoming increasingly crucial because it can be abused and damage the rights of the person whose data it is [6]. The event involving the disclosure of customer personal information demonstrates how critical it is to improve Indonesia's personal data protection laws. This is made worse by Indonesia's lack of legal clarity regarding protecting customers' data [7].

Due to the existence of the digital era, changes in social interaction across several sectors are not entirely regulated in the form of laws that ensure legal certainty and community protection. Digital excess problems that crop up in the field, including haphazard regulation of network-based transportation (online motorcycle taxis/online taxis), online buying and selling (e-commerce), online loan governance (financial technology) that hurts society, online investment, crypto-currency, prostitution with digital utilization, online gambling, as well as digital-based broadcasting content, and others, demonstrate the need for laws and regulations that are digitally adaptive [8].

These issues will affect Indonesia as well as the rest of the world. The Indonesian government's ability to create regulations in response to the challenges of the digital era is one of the most remarkable ways to address them. Why do laws exist? Because the government will direct the market, lessen crises, and fill the void by issuing rules. Conversely, the Indonesian government finds developing legislation for the digital age challenging. It will be hindered by several elements, including political will (particularly the parties' agreement), quality human resources (especially legal drafting specialists, IT experts who design the newest technologies, and many more), and outside suggestions.

The key is that. This essay looks at how Indonesian legislation should be developed today. As previously stated by a particular source, Indonesia successfully passed laws about the digital age, including the IET Law, the Data Protection Law, and others. Additionally, this study wants to discover how laws are created rather than just highlighting the number of laws the Indonesian government has created in the digital age. Therefore, the research questions raised by this paper are: What are the issues with the digital era, and how should Indonesian legislation be developed in the digital age?

2. METHODOLOGY/ MATERIALS

This research falls under the category of legal research, which is research done to develop theories, arguments, or new concepts as recommendations for resolving current issues. To investigate and offer organized justifications for structuring legal regulations in the digital age from an Indonesian perspective, the author undertakes legal research, by providing norm analysis with literature review from some sources.

3. RESULTS AND DISCUSSIONS

3.1. Understanding Digital Age and Its Challenge

The term “digital age,” which is used in contrast to “digital era,” is frequently misunderstood by the general public. The meaning of the term “digital age” is significantly more expansive than the term “digital era,” according to the author’s collection of literacy and comprehension. This is because the digital age began when people first used electronic devices and has continued. In contrast, most individuals in the digital era use and benefit from sophisticated technology.

Cyberspace is a brand-new type of world created due to the substantial development of information technologies. In this digital age, the virtual world—an manufactured reality—appears brand-new. The life of today’s modern humans, who use this fake reality in various professions, has many logical ramifications. Cyberspace, sometimes known as the virtual world, is a made-up place where anyone can engage in any activity generally performed by humans in daily social interaction [9].

The founding of the Advanced Research Projects Agency Network (ARPANET) in 1969, which initially had the straightforward mission of exploring network technology that connected researchers at the time with various resources that were far from research sites, such as computer systems and large databases, cyberspace in its

historiography was born. At first, the Internet was only sparingly utilised for military and defence functions that connected people via computers. This research has discovered that the Internet is rapidly developing as a network superstructure that can be exploited for commercial and military objectives [9].

As a phenomenon that affects society, digitalization with internet media can benefit and harm that community. The adverse effects include but are not limited to, the availability of immoral shows accessible to everyone, including children. The internet can also be utilized by individuals who aim to disrupt public order to engage in “misbehaving” [1].

The public can quickly access information from all over the world via the internet, and it's not unusual for this information to address issues of race, religion, ethnicity, and sect that have the potential to spark conflict and endanger the sovereignty of the country and state. Using internet media in education, such as for organizing teaching and learning processes electronically via the internet (e-learning), is one example of how digitization positively impacts people's lives if used effectively [1].

Digitization can be used as a medium for disseminating laws and regulations, monitoring the performance of government officials, in terms of carrying out development, serving the community, and developing policies, concerning the administration of law and governance. Additionally, all transactions have become more straightforward in today's digital age; unlike traditional transaction patterns, you no longer need to be face-to-face. Electronic commerce (e-commerce) or “electronic commerce” refers to business operations utilizing Internet technologies [10].

Regarding the adverse effects of digitalization, several nations have started to adopt laws that protect their residents' rights by addressing privacy concerns and enforcing privacy restrictions. Due to the controversy surrounding Cambridge Analytica's data theft in the middle of 2018, Facebook became a hot topic of conversation. Now, a related case is coming to light once more. This social media platform. Facebook revealed yesterday that some 30 million users have been victims since mid-September 2018. The target object is personal data, such as names, email addresses, phone numbers, and other personal data [11].

Indonesia is also a country affected by problems in the online world [12]. From September 2019 to September 2022, Kominfo handled 67 reports of Personal Data Protection Act violations. Details on 41 of these allegations came from the business sector and 26 from the governmental sector. Thirty-three reports have been completed with sanctions and recommendations, 19 did not violate personal data protection, and 15 reports are being searched [3].

The Best Way to Make a Legislation in the Digital Age; Indonesian Experience

Indonesia has made every effort to submit legal documents that have been updated to reflect global trends, and on November 11, 2008, it published a piece of legislation titled Law Number 10 regarding information and electronic transactions [12].

Due to the absence of legislation and regulations regulating the e-commerce industry, Indonesia's potential for significant sales has not been adequately fostered. The sole government regulation on e-commerce released thus far is a draught known as RPP E-Commerce, which proposes changes to government regulation number 82 of 2012 regarding the implementation of electronic systems and transactions. Law No. 11 of 2008 Concerning Information and Electronics (UU ITE) continues to serve as the primary legal framework for e-commerce activities as long as the draught regulation has not been ratified [11].

The current ITE Law in Indonesia is thought to be insufficient to defend against the various forms of cybercrime that are becoming more common [11]. Additionally, the Trade Law's derivatives and Indonesia's e-commerce roadmap also include specific requirements for e-commerce. Utilising consumers' personal information could provide issues, such as tracking their internet transactions for various objectives [11].

One of the five directions for accelerating digital transformation given by the President of the Republic of Indonesia in 2020 is completing the 2021–2024 Digital Indonesia Road Map. The 2021-2024 Indonesia Digital Roadmap aims to explain policy directives, execution, and achievement targets in driving Indonesia's digital transformation. A strategic roadmap for facilitating Indonesia's digital transformation in four areas is the Indonesia Digital Roadmap [13]. The attempts to create a digital government, where digital communities can subsequently conduct their business and economic activities digitally, will be the main focus of the Indonesian Digital Map.

The Digital Indonesia Map must be backed by pertinent laws and procedures to move more quickly. Due to efficacy and efficiency issues that are viewed as less adaptable to advancements in the digital era, the Indonesian government can no longer rely on the traditional approach. The author thinks that a combination of the omnibus law and regulatory effect assessment methods will be the two ways that are more commonly employed in creating rules in the future to embrace the quickly emerging digital age. According to the author, both are more useful and effective when utilised to react to the creation of regulations in the digital age.

The omnibus law, which was heavily opposed due to the Job Creation law (and at the time this article was written, was once again opposed due to the most recent health law), is thought to be more efficient at codifying and bringing together rules under one

roof based on a particular topic. Although the omnibus law is frequently employed in the common law tradition, nations with a civil law system are also free to utilise it. The RIA (regulatory impact assessment) method, popular in OECD nations, is analogous. RIA will categorise products related to the law according to their usefulness. The National Legislation Programme's (PROLEGNAS) priorities will only include legislation the public needs.

In the meantime, if we examine the draught legislative products required, such as examining social phenomena, in embracing the digital age, at the very least, Indonesia needs to make regulations on the Crypto Bill, the AI Bill, the Digital Money Bill, the Cyber Crime Bill, the Cyber Security Bill, the Metaverse Bill, and similar legislation. Of course, the draft bill was made using a combination of the omnibus law or RIA.

4. CONCLUSION AND RECOMMENDATION

Indonesia does not yet have many legislative products regarding the digital era, there are only a few, for example, the IET Law, the Personal Data Protection Law and the like. Indonesia needs to respond to developments in the digital era by issuing special regulations, for example, the Metaverse Bill, the Digital Money Bill, AI Bill and the like. The method for establishing legislation in the digital era must also adapt to the times.

So, it does not rule out the possibility that in the digital era, there is a known method for establishing statutory regulations other than the existing conventional methods, such as RIA or omnibus law.

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