

Research Article

The Convergence of Islamic Law and Technology in The Enforcement of Citizen's Constitutional Rights in The Era Society 5.0

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ORCIDSiti Fatimah: <https://orcid.org/0000-0001-8351-0097>**Abstract.**

Globalization spreading across life spheres, especially in the fields of science and technology, also affects the digitalization of law through media convergence. This digitalization of the law is not exempt from the interference of Internet users in the form of criticism, dissemination of cases or social and legal issues, as well as advice to governments or the legal system through social media platforms used by the public, either in a national or international scope. The influence of people's opinions on the Internet through social media has been remarkable in recent times on the law enforcement ruling of a case. In few cases, the decision was made due to the pressure of internet citizens on social media. The purpose of this study is to describe the convergence of Islamic law and technology in enforcing the constitutional rights of citizens in the era of Society 5.0 as an effort to create democracy and enforcement of the law that is fair and transparent through independence and freedom to express opinions, as well as the right to share and receive information by citizens of the Internet in electronic media, social media, in particular. This research is qualitative with methods of Law approach, conceptual approach, and case approach. The source of legal material used is secondary legal material, which is subsequently analyzed by deductive methods. The result of this study is that when society cannot be regulated primarily related to the use of social media, then the law can act as a law as a tool of social engineering.

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1. Introduction

Globalization has spread in almost all spheres of society's life, whether in the fields of economics, politics, science and technology, culture, education, social, and even law. Although the term of globalization has become a classical vocabulary, like it or not, societies across the globe today have lived in a global, transparent, boundless, interconnected and interdependent habitat [1]. Grotius said: "Ubi societas ubi ius (where there is society, there is law)". This is a logical consequence. That is to say, a shift toward a global society will undoubtedly give rise to global law, because changes in

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the environment surrounding the law will inevitably affect changes in how the law is created and interpreted. Against this phenomenon, Carlos Floria says: [2]

One could say, that modifications to the environment that surrounds legal phenomena - such as economics and politics, among other systems - will inevitably lead to the significant changes in jurisprudence, in the way law is approached and created.

In other words, globalization has been accepted as a social phenomenon, which empirically has occurred and will continue to occur in the lives of mankind and has become a social fact. (social fact). When globalization is understood as “the great disruption”, this condition has given rise to reconstructions of social order different from those of the previous period. The development of globalization today leads to unlimited technological development that influences the development of law. According to Satjipto Rahardjo, the law of yoga was created for man, not man for law. The development of law in this era of globalization gave rise to a sense of nationalism that spread not only directly, but also indirectly or through the Internet. According to the author, the evolution of globalization on the development of law can also be said as the digitalization of law. Radbrugh said that the purpose of law is to generate a sense of justice, utility, and legal certainty in society. This goal is sought by the state either through the creation or implementation of legislative regulations. It cannot be denied that the development of the law is influenced by the intervention of the people in order to create democracy as referred to in Article 1 paragraph (2) of the 1945 UUD, which reads, sovereignty is in the hands of people and carried out according to the Basic Law. In other words, the people have a special position in order to create a democratic country. The idea that Indonesia is a fundamentally democratic country is found in Pancasila, in particular the Fourth Law, and in UUD 1945 Article 28 which regulates freedom of opinion and assembly, which is an element of democracy. [3]

Technological changes affect the law thus leading to the digitalization of law through media convergence. According to the author, digitalization of the law means the availability of legal content such as laws or news containing law enforcement material either normatively or empirically. Digitalization of the law is already the thing of course affected by the involvement of Internet users or also called as Internet citizens or netizens. According to Mayfield, social media is one type of electronic media that is present in the middle of society, and becomes a new media idol in society. As a general overview, based on data from icrossing. In August 2008 alone, there were more than 110 million blog accounts entered in the tracking data of Technorati, a blog engine specialist. In the same period, there were 100 million videos per day viewed on YouTube, as well as more than 123 million netizens registered as Facebook users. [4] Today, the involvement of

Internet citizens in the development of law through media convergence can be criticism or advice to the performance of the government or the law enforcement apparatus through social media platforms that are widely used by both national and international communities consisting of different layers of society, from different ages, from various social status, and from various geographical regions. the widespread use of social media is not only because of the booming social media use trends such as Facebook, Twitter, Instagram, Tik Tok, Telegram and others, but also because it is supported by the increasing ease and cheapness of access to social media, and is reviewed from its supporting devices to an increasingly affordable internet connection network.

Criticism is like oxygen that sustains life. Without criticism, the maintenance of common life, governance, and the development of science would suffer isolation or depletion. Argumentative and rational criticism is very necessary as a bounce point for conducting qualitative discussions, as well as to initiate the necessary improvements related to the implementation of common interests [5]. Technological development is not apart from the interactive media that connects a communication system, both between humans and between human beings and the computer or the media itself. Meanwhile, what is meant by interactive media is the media that allows the participation or interaction of the media audience. Despite theories that say interaction is a two-way communication process, events that describe human-computer interaction can already be categorized as interactive media [6]. In this case, when netizens or citizens respond to each other's comments, social media comments are collapsed.

The presence and acceptance of social media, of course, does not only affect the individual life of its users directly, but also appears to have an impact on the life of related states. Look at how the case of the famous singer Virgoun who was unleashed by his own wife, Inara Rusli, cheated evidence of conversation to evidence of transfer to his deceit [7]. The above examples of cases show the impact of social media on the development and enforcement of law is enormous. Public opinion can be formed in society through the power of social media, and it is very likely that public opinion that is awakened through social media is able to move public policy or other related judgments. Article 28(3) states that "Everyone has the right to freedom of association, assembly and opinion." Article 28 of the Constitution states that "Everyone has the right to communicate and obtain information for the development of his or her personal and social environment, as well as to seek, obtain, possess, store, process and communicate information using all available channels." This means that everyone in these two articles can mean Indonesian internet citizens. Thus, the author can emphasize that the development of globalization resulted in the digitalization of the

law and the evolution of the above articles can also be applied to every citizen of the Internet by means of the transmission of opinions through the social media used. On the other hand, the virality of the case is socially viewed as an unprofitable act of embarrassing himself, including embarrassing his own family. In Islam, it is a crime, because Allah loves to cover up the disgrace of His servant when he commits sin, and Allah does not like a servant who reveals his own disgraces.

On the national level, freedom of expression is one of the human rights guaranteed in Article 28 of the 1945 Basic Law, which reads, “The freedom to associate and assemble, to express opinions orally and in writing and so forth is stipulated by law.” In addition, the right to information has also been established as the Constitutional Right of every citizen, as stipulated in Article 28F of the Basic Law of the Republic of Indonesia of 1945 that “everyone has a right to communicate and obtain information for the development of his personal and social environment, as well as the right of seeking, obtaining, possessing, storing, processing, and transmitting information using all kinds of channels available”. According to this provision, the public may seek, acquire, possess, store, process, and communicate the information it needs without exception [8]. The author emphasizes that either legally or socially the state can regulate rules about anything that can or should not be uploaded to social media.

The influence of people’s opinions on the internet through social media has been remarkable in recent times on the law enforcement ruling of a case. Not a few cases that the decision was made due to the pressure of internet citizens on social media. According to Gustav Radbruch, the purpose of the law is to give a sense of justice, certainty, and satisfaction to the society through the process of law enforcement by the law-enforcement apparatus from the police to the judiciary. The development of globalization in the incredible use of the Internet today, gives the Indonesian people the opportunity to become the “Night Watch” of the country through the development of this media convergence. Legal oversight by Indonesians through social media today seems to provide a sense of justice and legal certainty in some cases. Not only are published legal cases “judged” and virtualized by Internet citizens, which puts tremendous pressure on law enforcement and affects the determination of judgments in a case. However, this has a positive impact on law enforcement in Indonesia because the positive response of the government to internet citizens has an impact on the handling of cases becoming transparent and feels fair and can give satisfaction to the public. That is, the development of globalization in the use of social media has changed the way people live in the search for justice and legal certainty. Social media is seen as a means of democracy and more effectively provides justice in law enforcement.

Unlike in the past, where democracies are judged by observers and the fighting for democracy are experiencing stagnation, erosion and even recession. In addition to the incompatibility between culture and democracy, some judge the backward positioning of democracies is because the focus of Democracy always speaks about elections and there are no other essential features of democracy.

With the increasing modern age, the use of electronic media such as social media today is growing widespread and even becoming a means of communicating opinions and disseminating information which has a strong impact on law enforcement. This is supported by the birth of Law No. 19/2016 on ITE which accommodates the enforcement of the constitutional rights of citizens in particular the right to independence and freedom to express opinions as well as to receive and disseminate information electronically. Recognizing that media convergence has an impact on so many aspects and has such a wide range on law enforcement in Indonesia, it can be concluded that the urgency of the influence of media konvergence on enforcing the constitutional rights of citizens is to safeguard the values of democracy through digital media given the horrors of law-enforcement through the participation of public voices on social media today are so extraordinary in responding to cases and government policies.

However, all of the above-mentioned laws comprehensively did not give the citizens space and protection in the enforcement of their constitutional rights as set out in Article 28F UUD 1945. For example, specifically the constitutional rights of these citizens are regulated in Article 26 of the ITE Act which states that “the use of any information through electronic media concerning a person’s personal data must be done with the consent of the person concerned.” Based on the paragraph, if seen the facts in the field of electronic media use such as social media by citizens ignored the provisions. However, on the other hand, citizens’ involvement in sharing information or posts supports transparency of law enforcement and fairness and provides legal certainty and citizen satisfaction with law. In addition, it can not be denied the presence of a buzzer in a negative connotation, which can control cases that are viral on social media often exploited by certain interested parties to be able to curb opinions, even eliminate (take down) the viral news. Therefore, based on the background description of the problems and legal issues above, the author considers the need to formulate a legal umbrella related to the enforcement of the rights of independence and freedom of citizens in expressing opinions as well as the right to share and receive information on electronic media in particular social media in order to support the transparency, fairness and legal certainty of law enforcing. Convergence of Islamic Law and Technology in the Enforcement of Constitutional Rights of Citizens in the Age of Society 5.0 in an effort

to create democracy and fair and transparent law enforcement through freedom and freedom to express opinions as well as the right to share and receive information by Internet citizens on electronic media in particular social media.

2. Method

The method used in this research is qualitative research, using a conceptual approach, a statute approach, and a case approach. (case approach). The problems formulated are answered with the case approach and the statute approach to examine all regulations and regulations related to the problems (legal issues) that are facing. After the problem is analysed with the regulations of the laws and regulations related then in accordance with the conceptual approach to be the basis of the policy building legal arguments used in solving the legal issues faced as answers. The data in this research is obtained from secondary data which is all publications about the law that is informal law. The publication consists of: (a) textbooks dealing with one and/or several legal issues, including dissertation, thesis, and legal dissertations, (b) legal dictionaries, (c) legal journals, (d) comments on judges' decisions. The publication is a guidance or illustration of primary or secondary legal materials from the Quran and Hadiths, dictionaries, encyclopaedias, journals, newspapers, and others [9]. In writing this article, deduction methods are used to analyse the legal materials to be obtained. The use of this method begins with the submission of a major premise which is a withdrawal from the rule of law. Then followed by submitting the minoe premise which is the legal fact found. Both premises will then be drawn into a conclusion.

3. Results and Discussion

Convergence comes from the English word convergence, which means merger or integration. Conceptually, convergence refers to two things or more meeting and uniting at a point. Convergence is the progressive integration of several different network platforms to channel similar services or different services, which are channeled on the same network platform. According to the Indonesian Great Dictionary, convergence is the state of one point of meeting [10]. Convergence activities in technology are key technologies that converge with each other generally classified as telecommunications, computerization or computing technologies and content or loads. (content). Information and communication technology convergence includes the integration of information

technology hardware and software into telecommunications systems, network digitalization, as well as the improvement of the Internet network. The convergence of technologies consisting of communication, computing, content and community (4C) is essentially the availability of different types of technologies, which have the same barrier function, where with these technologies a synergistic combination between voice, data, and video services can be processed and exchanged using only one type of network. Compared to previous technologies, each of which has to use separate networks, now everything can be done in one type of network, thus enabling each other to use resources simultaneously, thereby being more efficient. The Internet and computers play a huge role here, but one thing to remember is that although the media always changes over time, the old media will not be left alone. But living together and interacting with new media incoming. The era of convergence of communication, computers, contents and communities (4C) is driving the process of globalization of telecommunications and information services. It will accelerate the world without limits. (borderless world).

The convergence era will drive information, industry, investment and individual customers (information, industries, investments and individual clients known as 4-i) without limits. Such conditions will result in the attraction in these 4i between national interests and the interests of other parties in the global world [11]. This is one of the effects of technological convergence, in which there is a merger or integration of existing media to be used and directed to a single target point. Media convergence essentially accommodates the development of such conventional media, but not partially or separately, but integrated and overall, and in turn gives rise to new concepts in the field of communication. This media convergence also forces conventional media to integrate with each other in order to survive in the midst of technological advances, and the greatest impact is to cause the evolution of traditional media into digital form, then the birth of what is called social media [12]. The interactive nature of convergent media use has exceeded the potential feedback capacity, as a converged media access audience directly gives feedback on the messages delivered.

The characteristics of traditional mass communication in which feedback is delayed have disappeared due to the convergent media's interactive capabilities. Therefore, a new approach is needed to look at the phenomenon of mass communication. Because of the nature of new communication media interactivity, the elements of the linear approach (SMCRE = source – message – channel – receiver – effect/feedback) mass communication seem less relevant for convergent media. In a wider context, media convergence really does not only show rapid technological development. Convergence

changes the relationship between technology, industry, markets, lifestyle and audiences. In short, convergence changes patterns of production and consumption relations, the use of which has a serious impact on a variety of fields such as economic, social, legal, political, educational, and cultural. Media convergence provides new opportunities for the public to expand media access options according to their tastes. Where this is not independent of the interference of those who use the media as a form of the realization of their rights as citizens [13].

Social media that also known as social networks, are part of the new media. Clearly, the interactive load in the new media is very high. Social media, cited from Wikipedia, is defined as an online media, with its users able to easily participate, share, and create content including blogs, social networks, wiki, forums and the virtual world. Blogs, social networks and wiki are the most common forms of social media used by communities around the world. New media is a medium that offers digitization, convergence, interaction, and development of networks related to the creation and delivery of messages. The ability to offer this interactivity allows users of new media to choose what information to consume, while controlling the output of information generated and making the choices they want. The ability to offer an interactivity is the central concept of understanding new media [14]. Social media facilitates everyone to network as widely as possible to communicate with unimaginable effectiveness. Social media enables everyone to be the subject of himself, the source of speech and opinion.

The use of new media such as social media is also supported by the Government in accordance with the Regulations of the Minister of State Apparatus and Bureaucratic Reform of the Republic of Indonesia Number 83 of 2012 on the Guidelines for the Use of Social Media of Government Instances. One of the main tasks of the government is to disseminate information and government policies in accordance with the respective institutions / agencies to the public, to accommodate and develop the aspirations of the community, as well as to build public trust in order to preserve the image and reputation of government. For this, creative and persuasive efforts are needed in the execution of the mission. Government officials should communicate policies, work plans, and performance access to the general public, through traditional media, conventional media, and new media. Communications using new media or Internet technologies can reach all parties directly and quickly. In this Ministerial Regulation No. 83 of 2012, social media is two-way and open, allowing its users to easily participate, share, and create content.

Social media has grown rapidly with the growth of Internet-based applications, which are built on the basis of two-way Internet ideology and technology (Web 2.0), enabling

the creation and exchange of interface content. Communication through social media can be carried out between individuals, individuals and institutions, institutions and individuals, as well as inter-institutions. The presence of social media has added means of dissemination of information, public opinion, dynamics of conversations and discussions, and has even changed the behavior and lifestyle of people, especially in areas that have access to communication and information technology infrastructure. The use and use of social media is one way in promoting and disseminating government programs and policies as well as interacting and absorbing public aspirations so as to mutual understanding for common interests between government and society.

Nowadays, almost all government agencies have used one or more social media as one of the means of social communication. Social media has proven to be able to actively engage the audience and network input from various groups so as to create the wisdom of the crowd. However, if its not managed well and wisely, the use of social media as a tool of human communication can have a negative impact. Various input and comments, both positive and negative, can enter uncontrollably affecting the image of the institution [15]. Article 28F of the UUD 1945 states that everyone has the right to communicate and obtain information in order to develop his or her personal and social environment, as well as to seek, obtain, possess, store, process and transmit information using all available channels [16].

Nevertheless, the Information and Electronic Transaction (ITE) Act has already regulated what content can be uploaded and what should not be posted on social media. In Article 26 of the ITE Act, paragraph 1, it is stated that “unless otherwise stipulated by the Legislative Regulations, the use of any information through electronic media concerning a person’s personal data must be done with the consent of the person concerned” [17]. Citizens tend not to think about it, so they can spread news that is not necessarily true or false without thinking it’s good or bad, benefiting or not, and can harm themselves or others. These things often happen in the world of maya, so include in the spread of humiliation of someone.

Along with our personal observations and experiences, media materials help us create our own individual notions of reality. Much of what we see as reality comes from the media we’ve experienced, and it is sometimes difficult to distinguish between our personal experiences and the world of the media. When we read newspapers, watch TV, and surf the web, we need to be aware that what we are seeing and hearing is not reality, even so-called reality TV. Rather, media materials are created with specific purposes in mind. They are constructions, that is, human creations that present a kind of script about the culture. Even when media materials appear to be particularly “natural” or

reflective of reality, many different business decisions and constraints have contributed to the way they are constructed [18].

The law of Islam prohibits people from spreading disgrace, whether it be to themselves or to others. In Islam he taught his people to be a good Islamic ambassador in everything, including in social media. How much better to think well and mature before uploading, sharing, commenting, or criticizing something that can cause quarrels, misunderstandings, or rhetoric. Surely in Islam this is not taught, for it is clear that fitnah is crueller than murder. Islam teaches to always be careful in giving news or receiving news of unclear origin. This is for the sins of those who commit evil, or for those who do evil. God will not forgive the sins of those who do evil. The Prophet (peace be upon him).

“All my people are forgiven, except those who are clearly at fault. Indeed, a person who does a great deed in the night, then in the morning reports his deed, and Allah has covered it. He said, “Oh Fulan! Last night I did that and that.” Thro the night his Lord covered his shame, but in the morning he opened the cover that God had covered him. (by HR. Bukhari and Muslim

Allah SWT also says,

“Indeed, those who desire to spread this abomination among the believers will have a painful punishment in this world and in the Hereafter. And Allah knows, while you do not know.” and QS. None of them: 19

4. Conclusion

Advances in technological development make it easier for humans in an era of increasingly widespread communication, especially through social media. In the presence of human rights, everyone is free to express their thoughts and opinions through various media as a reflection that Indonesia is a democratic country, without exception through social media. However, it is not uncommon to find that many Internet citizens use the media less wisely and do not exclude the possibility of harming themselves and others. The law in the social life of a society is essential to regulate the behaviour of the society itself, including in the use of social media. When socially society cannot be arranged to consider or not understand how to think all things related to everyday problems, especially related to social problems in the life of society, then the law can act. This is what is said by the sociology of law or law as a tool of social engineering, where law is used as an instrument to create innovation in society, especially social values in society. In addition to the use of social media, there are also limits on what

is allowed to upload and what is not allowed to load, which is also regulated in the ITE Act No. 19 of 2016 Article 26. In Islamic law also see social media as a means to generate mercy, disseminate information, teaching, education, recreation, and for positive activities in the field of education, religion, politics, social, economic, and cultural. A Muslim who interacts through social media is prohibited from spreading, producing, making accessible information that is untrue to the society, ghibah, hoax, blasphemy, contempt, hate speech or other things related to personal matters to others. In social media, you should pay attention to things that are vulnerable to maximization and should be able to capture social media content that contains the right and wrong things. Whether right or wrong is not necessarily beneficial and deserves to be spread in the public sphere.

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