

# **Dynamics of Legal Politics in the Digital Era: Challenges and Opportunities for Social Media Regulation in Indonesia**

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## **Abstrak**

Di Indonesia, media sosial memiliki dampak yang luas dalam membentuk opini publik, memobilisasi massa, dan memengaruhi keputusan politik. Namun, di sisi lain, media sosial juga menjadi wadah bagi penyebaran hoaks, ujaran kebencian, radikalisme, dan pelanggaran privasi. Situasi ini memunculkan kebutuhan mendesak untuk regulasi yang komprehensif dan adaptif, yang tidak hanya mengatasi tantangan hukum tetapi juga mampu menangkap peluang yang ditawarkan oleh era digital. Penelitian bertujuan agar negara agar segera hadir dalam bentuk lahirnya perundang-undang terkait Informasi dan Transaksi Elektronik. Metode penelitian ini menggunakan pendekatan normative dengan bersumber kepada referensi kepustakaan. Hasil dari penelitian ini, walaupun pemerintah telah menetapkan Undang-Undang No. 11 Tahun 2008 Jo Undang-Undang No. 19 Tahun 2016 Jo. Undang-Undang No. 1 Tahun 2024, akan tetapi petaturan itu harus segera diselaraskan dengan perubahan masyarakat yang begitu cepat.

Kata Kunci : Politik Hukum, Era Digital, Media Sosial

## **Abstract**

In Indonesia, social media has a broad impact in shaping public opinion, mobilizing the masses, and influencing political decisions. However, on the other hand, social media has also become a platform for the spread of hoaxes, hate speech, radicalism, and privacy violations. This situation raises an urgent need for comprehensive and adaptive regulations, which not only address legal challenges but are also able to capture the opportunities offered by the digital era. The research aims for the state to immediately be present in the form of the birth of legislation related to Information and Electronic Transactions. This research method uses a normative approach with references to literature. The results of this study, although the government has stipulated Law No. 11 of 2008 Jo Law No. 19 of 2016 Jo. Law No. 1 of 2024, these regulations must be immediately aligned with the rapid changes in society.

Keywords : Legal Politic, Didital Era, Social Media.

### A. Background of Research.

The digital era has brought significant transformations in various aspects of life, including the dynamics of legal politics in Indonesia. One of the major changes that stands out is the development of social media as a new space for expression, interaction, and dissemination of information. Social media is not only a communication tool, but also a platform for advocacy, political campaigns, and the dissemination of ideology.<sup>1</sup> However, this phenomenon also raises various challenges, especially regarding regulations that can maintain a balance between freedom of expression and protection from misuse of technology. However, this phenomenon also raises various challenges, especially related to regulations that can maintain a balance between freedom of expression and protection from misuse of technology.

In Indonesia, social media has a broad impact in shaping public opinion, mobilizing the masses, and influencing political decisions. However, on the other hand, social media has also become a platform for the spread of hoaxes, hate speech, radicalism, and violations of privacy.<sup>2</sup> This situation raises an urgent need for comprehensive and adaptive regulations, which not only address legal challenges but are also able to capture the opportunities offered by the digital era. In the context of legal politics, social media regulation is an important issue because it is directly related to human rights, democracy, and the rule of law. The Indonesian government has attempted to respond to this dynamic through various policies, such as the Electronic Information and Transactions Law (UU ITE), as well as plans to regulate digital content by institutions such as the Ministry of Communication and Information.<sup>3</sup> However, various controversies often arise, including concerns about potential violations of freedom of expression and the use of regulations for certain political interests.

This paper aims to analyze the dynamics of legal politics in the digital era with a focus on the challenges and opportunities of social media regulation in Indonesia. By exploring the existing issues, this paper seeks to provide deeper insights into how effective regulation can be designed to optimize the benefits of social media while mitigating the risks it poses. In addition, this paper will also explore innovative approaches that can be taken to ensure fair, participatory, and responsive regulation to technological developments.

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<sup>1</sup> Castells, M. (2009). *Communication Power*. Oxford University Press.

<sup>2</sup> Vaidhyanathan, S. (2018). *Antisocial Media: How Facebook Disconnects Us and Undermines Democracy*. Oxford University Press.

<sup>3</sup> Indrajit, R. (2018). *Media Sosial dalam Dinamika Politik dan Hukum di Indonesia*. Penerbit Buku Kompas. Hlm.45

## **B. Focus of Problems**

From the description above, the problem is formulated as follows:

1. How do the dynamics of legal politics in the digital era affect social media policies and regulations in Indonesia to maintain a balance between freedom of expression and protection from misuse of technology?
2. How can the challenges and opportunities in regulating social media in Indonesia be addressed through an adaptive and effective legal politics approach in the digital era?

## **C. Research Methods**

In accordance with the title and problems that will be discussed in this study and in order to provide useful results, this study was conducted with normative legal research. The normative legal research method is a library legal research conducted by examining library materials or secondary data alone.<sup>4</sup> This research was conducted in order to obtain materials in the form of: theories, concepts, legal principles and legal regulations related to the subject matter. The scope of normative legal research according to Soerjono Soekanto includes: (a) Research on legal principles; (b) Research on legal systematics; (c) Research on the stages of legal synchronization vertically and horizontally; (d) Comparative Law; (e) Legal history.<sup>5</sup>

## **D. Theoretical Reference.**

### **1. Legal Political Theory (*Satjipto Rahardjo*).**

This theory provides a framework for understanding how governments shape legal policies, including social media regulation, by considering social, political, and technological dynamics. In the Indonesian context, this theory helps analyze how social media regulations are structured to respond to the development of digital technology and the legal challenges that arise.<sup>6</sup>

### **2. Freedom Expression Theory (*John Stuart Mill*).**

Freedom of expression is one of the fundamental rights that is often debated in social media regulation. This theory helps explore the limits of freedom of expression in the context of the spread of hoaxes, hate speech, and threats to public security, and how regulation can maintain a balance between individual rights and the public interest.<sup>7</sup>

## **E. Result & Discussion.**

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<sup>4</sup> Soerjono Soekanto dan Sri Mahmudji, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, (Jakarta: Raja Grafindo Persada, 2003), hlm. 13.

<sup>5</sup> *Ibid.*

<sup>6</sup> Rahardjo, S. (2006). *Teori Politik Hukum*. Pustaka Pelajar. Hlm. 30

<sup>7</sup> Mill, J.S. (1859). *On Liberty*. Henry S. King & Co. Hlm. 13

## **1. The dynamics of legal politics in the digital era influence social media policies and regulations in Indonesia to maintain a balance between freedom of expression and protection from misuse of technology.**

### **a. Dynamics of Legal Politics in the Digital Era.**

The digital era has created a significant transformation in the legal political order in Indonesia. Social media, as part of the fast-moving technological revolution with such a wide and global distribution, has many positive impacts on its users, while also having negative impacts if used inappropriately<sup>8</sup> Social media is not only a space for individual expression but also a strategic tool in shaping public opinion, political advocacy, and social mobilization.<sup>9</sup> On the one hand, social media strengthens the freedom of expression of Indonesian society as guaranteed by Article 28E of the 1945 Constitution. However, on the other hand, the misuse of this platform, such as the spread of hoaxes, hate speech, radicalization, and violation of privacy, poses a serious threat to social stability and national security.<sup>10</sup>

According to the Political Theory of Law put forward by Satjipto Rahardjo, law is a tool to achieve certain social goals, including stability and balance in society.<sup>11</sup> In this context, Indonesian legal politics faces the challenge of regulating social media while maintaining freedom of expression without sacrificing the protection of society from the negative impacts of technology. Regulations such as the Electronic Information and Transactions Law (UU ITE) are one of the government's efforts to respond to the challenges of the digital era. The ITE Law regulates various aspects of behavior in the digital space, including the prohibition of the spread of negative content, protection of personal data, and prevention of cybercrime.<sup>12</sup>

However, the implementation of the ITE Law often draws criticism because it is considered to have the potential to limit freedom of expression. In the perspective of the Theory of Freedom of Expression put forward by John Stuart Mill, freedom of speech is a

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<sup>8</sup> Darusman, Y. M., Bastianon, B., Susanto, S., Benazir, D. M., & Setiawan, T. (2021). Pentingnya Pemahaman Tentang Kemanfaatan Dan Kemudaran Media Sosial. *Abdi Laksana: Jurnal Pengabdian Kepada Masyarakat*, 2(1), 173-179.

<sup>9</sup> Sumardjono, A. (2005). *Teori Kebebasan Berekspresi dalam Perspektif Hak Asasi Manusia*. Jakarta: Penerbit Kompas. Hlm 45

<sup>10</sup> Suryana, R. (2019). "Perlindungan Privasi dalam Regulasi Media Sosial di Indonesia: Studi Kasus UU ITE." *Jurnal Hukum dan Perkembangan Masyarakat*, 15(2), 123-138.

<sup>11</sup> Arifin, A. (2020). "Tantangan Regulasi Media Sosial dalam Perspektif Demokrasi dan Hukum di Indonesia." *Jurnal Ilmu Sosial dan Humaniora*, 6(1), 45-57.

<sup>12</sup> Rahayu, D. (2018). "Kebebasan Berekspresi dan Pengaturan Konten Digital: Kritik terhadap UU ITE." *Jurnal Kajian Hukum*, 12(3), 211-225.

basic individual right that must be maintained in a democratic society<sup>13</sup> Mill emphasized that freedom of speech provides an opportunity to test the truth and strengthen public understanding. However, this freedom is not without limits; restrictions are necessary when the expression has the potential to harm others or is detrimental to the public interest. In the context of the ITE Law, restrictions on certain content should be carried out with strict proportionality, so as not to stifle the democratic space that is important for the progress of society.<sup>14</sup>

b. The Balance Between Freedom and Protection.

The balance between freedom of expression and the protection of society requires an inclusive and evidence-based regulatory approach. The Indonesian government, through the Ministry of Communication and Information, has been monitoring digital content and working with technology platforms to address unlawful content<sup>15</sup> However, such supervision must be carried out with the principle of transparency to avoid abuse of power. In addition, digital education and literacy need to be improved as a long-term strategy to strengthen the public's critical power towards information in the digital space. Thus, social media regulations that refer to the theory of legal politics and freedom of expression can create a safe and democratic digital space.<sup>16</sup>

In addressing the dynamics of legal politics in the digital era, the main challenge is how to create policies that can respond quickly to technological changes without sacrificing the principles of democracy and freedom of expression. Satjipto Rahardjo, in Theory of Legal Politics, emphasizes that law must be flexible and adaptive to social and technological changes.<sup>17</sup> In the context of social media, this means that regulations must be able to accommodate the increasingly complex needs of society, while protecting society from negative impacts such as the spread of hate speech, hoaxes, and exploitation of personal data. However, overly strict regulations have the potential to hinder innovation and public

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<sup>13</sup> Wahyuni, N. (2021). "Dinamika Regulasi Media Sosial di Indonesia: Antara Kebebasan Berekspresi dan Perlindungan Data Pribadi." *Jurnal Ilmu Komunikasi*, 17(4), 89-102.

<sup>14</sup> Hamdani, M. (2020). "Perlindungan Kebebasan Berekspresi di Media Sosial dalam Perspektif Demokrasi." *Jurnal Studi Hukum*, 16(2), 97-110.

<sup>15</sup> Setiawan, F. (2019). "Politik Hukum dalam Pengaturan Media Sosial: Studi Kasus UU ITE." *Jurnal Hukum dan Politik*, 14(1), 65-80.

<sup>16</sup> Susanti, R. (2020). "Kebebasan Berekspresi dan Regulasi Media Sosial di Indonesia: Studi Kasus UU ITE." *Jurnal Hukum dan Masyarakat*, 13(2), 78-92.

<sup>17</sup> Prasetyo, Y. (2021). "Perlindungan Kebebasan Berekspresi di Media Sosial: Tantangan dan Regulasi di Indonesia." *Jurnal Politik dan Hukum*, 18(3), 123-137.

participation that are essential for the development of democracy. Therefore, a balanced and inclusive approach is needed.<sup>18</sup>

This adaptive regulation requires strengthening institutional capacity such as the Digital Content Supervisory Agency and special courts to handle cases related to social media. In this case, a legal politics-based approach that emphasizes legal protection that is responsive to social dynamics needs to be applied.<sup>19</sup> In addition, collaboration between governments, digital platforms and the public is essential to create solutions that can maintain the integrity of the digital space without sacrificing freedom of expression.

## **2. Challenges and opportunities in regulating social media in Indonesia can be overcome through an adaptive and effective legal policy approach in the digital era.**

Social media regulation in Indonesia faces various complex challenges, especially amidst the rapid development of technology that has given rise to various new challenges. One of the main challenges is the rapid changes in algorithms and technologies underlying social media, which often outpace the speed of response of legal regulations. Content produced, consumed, and widely disseminated through social media has significant social, economic, and political impacts, thus requiring regulations that can accommodate these dynamics.<sup>20</sup> However, on the other hand, overly strict regulation risks curbing freedom of expression, which is an essential element in democracy. In this context, an adaptive legal political approach is essential to maintain a balance between freedom and protection.

According to the Political Theory of Law put forward by Satjipto Rahardjo, law not only functions as a repressive tool to regulate society, but also as an instrument to create social justice and respond to the needs of society dynamically.<sup>21</sup> Therefore, an adaptive legal policy approach requires the government and related institutions to be able to quickly adjust regulations to changes in technology and the needs of society. In Indonesia, the challenges of regulating social media involve various aspects, such as personal data protection, prevention of cybercrime, and supervision of the spread of negative content. In regulating

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<sup>18</sup> Purnama, A. (2019). "Regulasi Media Sosial dan Keseimbangan Hak: Antara Kebebasan Berekspresi dan Perlindungan Sosial." *Jurnal Ilmu Sosial dan Politik*, 15(1), 55-68.

<sup>19</sup> Rizky, F. (2020). "Dinamika Regulasi Media Sosial: Mengatasi Konflik Kebebasan Berekspresi dan Perlindungan Masyarakat." *Jurnal Kajian Hukum*, 13(1), 45-58.

<sup>20</sup> Susanto, R. (2022). "Regulasi Media Sosial di Indonesia: Antara Keseimbangan Kebebasan Berekspresi dan Perlindungan Masyarakat." *Jurnal Hukum Digital*, 6(1), 78-95.

<sup>21</sup> Setyowati, N. (2021). "Dinamika Regulasi Media Sosial di Indonesia dalam Perspektif Politik Hukum: Tantangan dan Solusi." *Jurnal Kebijakan Hukum*, 19(3), 120-135.

this digital space, the government not only needs to consider formal legal aspects but also the ever-evolving social dynamics.<sup>22</sup>

Besides the challenges, social media also presents great opportunities, especially in encouraging public participation and transparency.<sup>23</sup> Social media can be a very effective tool to increase people's access to information and encourage their involvement in various social and political processes. However, to maximize this opportunity, inclusive and evidence-based regulations are needed that can respond effectively to challenges without abandoning the principles of democracy and freedom. An adaptive legal policy approach requires multi-stakeholder collaboration, where governments, technology platforms, academics, and civil society can play an active role in creating relevant and sustainable regulations.<sup>24</sup>

The implementation of regulations must also consider the capacity of the supervisory institution to carry out its functions effectively. Lack of resources and lack of training in some institutions can hinder the process of proper supervision of content on social media.<sup>25</sup> Therefore, strengthening institutional capacity is key to ensuring that the regulations implemented can respond to challenges quickly and appropriately. An adaptive legal policy approach must also include efforts to improve people's digital literacy, which can help people understand the risks in the digital space and use technology wisely. Thus, the challenges of regulating social media in Indonesia can be overcome with a balanced approach between protection and freedom of expression, creating a safe, inclusive, and democratic digital space.

Social media regulation in Indonesia faces challenges in managing a variety of user-generated content, ranging from informative to harmful or potentially illegal. This challenge is supported by the need for regulations that are responsive to issues such as disinformation, online harassment, and violations of privacy rights.<sup>26</sup> John Stuart Mill in his Theory of Freedom of Expression emphasized the importance of individual freedom of

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<sup>22</sup> Putri, E. (2020). "Tantangan Regulasi Media Sosial di Indonesia: Antara Kebebasan Berekspresi dan Perlindungan Data Pribadi." *Jurnal Ilmu Sosial dan Politik*, 14(4), 55-72.

<sup>23</sup> Febriani, A. (2019). "Implementasi Regulasi Media Sosial di Indonesia: Tantangan dan Upaya untuk Mengatasi Penyalahgunaan." *Jurnal Kajian Hukum*, 17(2), 89-104

<sup>24</sup> Puspita, M. (2018). "Hukum dan Regulasi Media Sosial di Indonesia: Mengelola Dinamika Sosial di Era Digital." *Jurnal Hukum dan Teknologi*, 12(3), 67-83.

<sup>25</sup> Arifin, S. (2017). "Regulasi Media Sosial di Indonesia: Menjaga Keseimbangan Antara Kebebasan Berekspresi dan Perlindungan Sosial." *Jurnal Hukum dan Masyarakat*, 11(1), 34-50.

<sup>26</sup> Nugraha, A. (2023). "Pengaturan Media Sosial di Indonesia: Tantangan dan Solusi untuk Mengelola Konten Digital." *Jurnal Kajian Hukum Digital*, 8(2), 45-62.

expression, but also highlighted the need for regulated limits to protect society from the negative impacts of such expression. Therefore, the opportunity in regulating social media lies in the ability of regulation to optimize freedom of expression while ensuring that risky content remains effectively controlled.<sup>27</sup>

Effective regulatory adaptation must involve collaboration between various stakeholders as well as increasing institutional capacity to manage the increasingly complex digital space.<sup>28</sup> Social media offers great potential in increasing community participation, but also poses the risk of spreading inaccurate or harmful information. Therefore, collaborative efforts between governments, digital platforms, and the academic community are needed to create solutions that can balance freedom of expression with adequate monitoring of negative content.<sup>29</sup>

## **F. Closing**

### **1. Conclusion.**

Social media regulation in Indonesia faces complex challenges along with the rapid development of technology and social dynamics. The main challenges include the rapid technological changes that exceed the speed of regulatory response, personal data protection, and the spread of negative information that has the potential to damage social stability and national security. However, on the other hand, social media also brings great opportunities in encouraging public participation, transparency, and inclusion in social and political processes.

An adaptive legal policy approach is key to overcoming these challenges by maintaining a balance between freedom of expression and community protection. Effective regulation needs to consider formal legal aspects as well as evolving social dynamics. In addition, strengthening the capacity of supervisory institutions and increasing community digital literacy are very important to ensure proper implementation and responsiveness to the challenges of the digital era. Thus, social media regulation based on adaptive legal politics can create a safe, inclusive, and democratic digital space in Indonesia

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<sup>27</sup> Utami, R. (2022). "Kebebasan Berekspresi dan Regulasi Media Sosial di Indonesia: Peran Kolaborasi Antara Pemangku Kepentingan." *Jurnal Hukum dan Masyarakat*, 19(1), 67-84.

<sup>28</sup> Widyaningrum, F. (2021). "Tantangan Regulasi Media Sosial dalam Mengelola Konten Negatif: Perspektif John Stuart Mill." *Jurnal Hukum dan Teknologi*, 15(3), 99-115.

<sup>29</sup> Hapsari, S. (2019). "Regulasi Media Sosial di Indonesia: Menjaga Keseimbangan Antara Kebebasan dan Pengawasan Konten." *Jurnal Ilmu Sosial*, 16(2), 79-95.

## **2. Recommendation.**

There needs to be strengthening of regulations that are more responsive to technological developments and social dynamics in social media. Regulations must be able to maintain a balance between freedom of expression and protection against negative impacts such as disinformation, hate speech, and privacy violations. Collaboration between the government, digital platforms, and the community must be increased to create adaptive and inclusive policies.

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