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# Political Law of Electronic System Implementation in Indonesia

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***Abstract:*** *In a rapidly evolving digital landscape, understanding the legal and political dimensions of electronic system regulation is critical to facilitating responsible, transparent, and effective governance. This research aims to explore the legal politics of implementing electronic systems in Indonesia. This regulation is crucial in the context of modern governance, as it deals with the operation and management of electronic systems, a significant aspect in contemporary society. This study examines legal aspects, assessing the compliance of Regulation No. 05/2020 with existing legislation and international standards, while also exploring its practical implications. These regulations address issues such as data protection, cybersecurity, and the role of electronic systems in public administration, requiring a careful analysis of their legal power and effectiveness. Additionally, the study investigates the political dimension of regulation, considering its implications for governance and democracy. It examines the potential impact of these regulations on citizens' rights, government control, and transparency in the digital age, focusing on how these regulations affect political power dynamics and civic engagement. Therefore, the study concludes by highlighting the importance of Regulation No. 05/2020 and emphasizing the need for a balanced approach that ensures legal compliance and political integrity, while also encouraging the growth and development of electronic systems within legal and political frameworks.*

## Introduction

In the digital era, telecommunications infrastructure and activities are the backbone of information exchange and electronic transactions between communities (Mirna et al., 2023). The digital age has ushered in a new era of governance, where electronic systems play an increasingly important role in the functioning of modern society. This digital revolution has significantly impacted the governance of various sectors of society. Interactions between individuals in the political, economic, social and cultural sectors are experiencing changes due to digital existence (Rosidi, 2022). Digitalization compels society to swiftly adapt, thereby strengthen it its influence in the digital space (Noak, 2023). Regulation No. 05/2020, issued by the Ministry of Communication and Information Technology, stands at the intersection of law and politics, regulating the operation and management of electronic systems in Indonesia. In this dynamic context, understanding the legal and political dimensions of this regulation is crucial. The advancement of technology, information and communication that is so advanced today, brings a

considerable role in human life. Technology is a weapon to expand human needs. These developments help humans both in finding information, as well as for interacting remotely. At the same time, technological advances have had a positive impact on the right to privacy, as one of the inherent rights in human beings. One form of privacy rights in the development of the world of technology, information and communication is related to the protection of personal data. Basically, privacy data encompasses a person's private space in an electronic system whether identified or deidentified or not identified alone or combined with other information. In the Personal Data Protection Law (PDP Law), it is stipulates that personal data is personal data that is stored, cared for and maintained truthfully and protected confidentially.

In the era of digitalization, data or information via electronic media is highly valueable. Apart from that, activities that take place online also have risks because they can cause problems if the data or information is leaked so that it can be misused by irresponsible parties (Sautunnida, 2018). In Indonesia, awareness of the need to protect personal data has increased increases, especially along with the growth in internet and application usage technology based. In today's digital age, almost all devices are connected and have an internet connection, everything can be managed from anywhere. Computer-based technology for information and communication has developed rapidly in society. These technological advances then help society. Protection of personal data has been carried out by various countries others, including those carried out by Singapore, Malaysia, Hong Kong, and South Korea (Anggen Suari & Sarjana, 2023).

The rapid development of information and communication technology has created various opportunities and challenges. Information technology enables humans to connect with each other without recognizing national boundaries, serving as a driving force of globalization. Various sectors of life have integrated information technology systems, such as the implementation of electronic commerce (e-commerce) in the trade/business sector, electronic education (e-education) in the education sector, electronic health (e-health) in the health sector, electronic government (e-government) in the government sector, as well as information technology used in other fields (Yitawati et al., 2022).

The era of increasingly sophisticated technology facilitates everyone to carry out their activities. Technological progress and sophistication can have both positive and negative impacts, depending on the person who makes use of it. The use of this technology is regulated in the 1945 Constitution of the Republic of Indonesia Article 28 C number 1 which states "The right to develop oneself through fulfilling needs basically, getting an education, and benefiting from science and technology, the arts and culture in order to improve the quality of life and promote the welfare of humanity (Purnama & Alhakim, 2021)."

In maintaining and protecting personal data of individuals in the development of the realm of technology, information and communication, there

needs to be a touch through laws and regulations governing personal data of individuals (Mantelero, 2016; Rahmasari, 2024). Every country certainly protects the personal data of its citizens through regulations, although in different ways (Custers et al., 2018). The implementation of regulations related to the technological protection of personal data is a governmental obligation (Hildebrandt, 2022). Because, it is very important to protect a person's personal data, so from a legal aspect this must be stated in statutory regulations (Baruh et al., 2017). However, significant challenges remain, such as communication challenges between legal experts and developers (Dickhaut et al., 2023).

Legal politics encompasses not only the will of the ruler to create legal products, more than that, legal politics functions in criticizing legal products that have been formed first. Thus, legal politics uses the principle of double movement, on the one hand, functions as a mechanism in creating policies in the field of law (legal policy), on the other hand, functions as a legitimate instrument to criticize legal products that have been promulgated. Therefore, it is important for policy makers to involve community participation in policy-making process (Perlaviciute & Squintani, 2020).

Based on the explanation above, the researcher confirms that this research is different from existing research because this research focuses on discussing the legal politics of implementing electronic systems in Indonesia. This study begins an exploration of the legal politics of implementing the electronic system in Indonesia. As technology evolves at an unprecedented pace, it addresses a number of issues, including data protection, cybersecurity, and the role of electronic systems in public administration. These aspects require an indepth examination of its legal enforceability, its compliance with existing laws, and its practical implications. This research underscores the importance of regulation in shaping the legal and political framework governing electronic systems in Indonesia. In the era of rapid digital transformation, it is important to achieve a balance between legal compliance and political integrity, fostering the growth and responsible development of electronic systems within a well-defined legal and political framework. This research aims to contribute to the ongoing discourse and policy development within the realm of electronic systems regulation, providing insight into the complex relationship between law and politics in the digital age.

## Method

In this study, a normative juridical juridical method was employed. Normative juridical research is a legal research method that focuses on the analysis of library materials and secondary data. The approach used in this study is to legal principles and comparative law. Research on legal principles involves analyzing the legal rules that guide behavior. This research primarily focuses on primary legal materials and secondary legal materials that contain legal rules. In addition, the method of legal comparison is used with reference to the legal system as the starting point for comparison.

This research was conducted on the Regulation of the Minister of Communication and Information Number 5 of 2020 concerning the Implementation of Private Scope Electronic Systems. The research method involves the study of legal norms in laws and regulations. The primary data used are the Regulation of the Minister of Communication and Information Number 05 of 2020 and Article 28 paragraph (1) of the 1945 Constitution, while the secondary data includes official documents, books, research results, theses, and laws and regulations. Data sources in this study are divided into research sources in the form of primary legal materials and secondary legal materials. Secondary data are obtained from various documents and sources relevant to the object of research. Primary data sources include the 1945 Constitution of the Unitary State of the Republic of Indonesia and the Regulation of the Minister of Communication and Information Technology. The data collection technique used in this study is a literature study, involving the search and analyzing data from various sources such as records, books, newspapers, and reports related to the issues discussed, especially related to Democracy and Human Rights.

## Results and Discussion

### Legal Politics in the Implementation of the Electoral System in Indonesia

The development of the world today is happening so fast, which is due to the development of technology and the internetization of social media in various areas of life. One of the developments in technology, information and communication occurs so fast the penetration of social media that no longer faces the boundaries of space and time to interact and exchange information through social media. Currently, social media is one of the most effective means of interacting and communicating that millennials are interested in in the virtual universe. However, these technological developments present new problems in exchanging informants and interacting through social media without meeting face-to-face, one does not necessarily grasp the full meaning of what others convey. In other words, interactions that occur in cyberspace have the potential to cause multiple interpretations of an expression or comment. So consider a comment is an act that violates the law or a crime. Thus resulting in many cases of reporting the Law related to Electronic Information and Transactions that become victims of none other than the community itself. At present, we can see how crowded the Indonesian cyber universe is due to the large number of Indonesian citizens who are entangled in cases of laws related to Electronic Information and Transactions which in the view of activists can silence the critical reasoning of citizens of the Republic of Indonesia. West Nusa Landmark is one of the provinces with the highest level of reporting on Laws related to Electronic Information and Transactions so that it needs to be noticed by Law Enforcement Officials in West Nusa Tenggara. As of October 30, 2020, there are 324 cases of citizens entangled with

the Law related to Electronic Information and Transactions, most of which are pertain to Article 27 (Ashar & Azhar, 2020).

In overcoming and curbing problems that occur in the world of social media as well as to create order in cyberspace, the government enacted Law No. 11 of 2008, which was later amended by Law No. 19 of 2016 concerning Information and Electronic Transactions (which in the next writing we call the ITE Law). Viewed from a philosophical point of view, the birth of Law Number 11 of 2008, is a legal product to prosper the community, especially to bring order to the community. Given the current context of social media interaction, it is undeniable that there is a deviation that results in the hurt feelings of others. Of course, the birth of the Law related to Electronic Information and Transactions is expected to create a comfort for the public in interacting in cyberspace (social media). More than that, manners in interacting through cyberspace must be maintained properly. It is true that freedom of expression is guaranteed by the constitution and laws that are derived from it, but behavior that that hurt others or violate the law in cyberspace must be avoided.

Since its enactment in 2008, various internet users have been entangled in the Law related to Electronic Information and Transactions where allegations of violations of Article 27 paragraph 3 regarding defamation have become the most reporting cases. For example, the reporting of violations of the Law related to Electronic Information and Transactions that received the most public attention was the reporting case of Prita Mulyasarai in 2009. Prita was reported by a hospital because she told about how the service was obtained when seeking treatment there. Prita was reported for writing emails related to the service and was charged with defamation. In addition, citizen conviction cases related to the Law on Information and Electronic Transactions continue to experience an increase in the number of reports. Most of them concern Article 28 paragraph 2 and Article 27 paragraph 3 of the Law related to Electronic Information and Transactions. There is also another article, namely Article 28 paragraph 1 of the Law related to Information and Electronic Transactions regarding false news. In addition, the most vulnerable groups of people who are victims of criminalization of the Law related to Electronic Information and Transactions are consumers to workers (Zuhad, 2021). Of course, what we see as the above phenomenon is inseparable from the legal politics that the government has in organizing an orderly and prosperous government in accordance with the goals of statehood stated in the country's constitution.

Legal politics is *"legal policy or official policy lines about laws that will be enforced either by making new laws or by replacing old laws, in order to achieve state goals"*. Legal politics is a choice about the laws that will be enacted as well as a choice about the laws that will be repealed or not enacted, all of which are intended to achieve the goals of a state like ours in Indonesia as stated in the 1945 Constitution (Mahfud, 2018). Indonesia adheres to a Presidential system of government, the presidential system of government means that ministers are responsible to the President. Indonesia used to adopt

a parliamentary system where ministers were responsible to parliament. And adheres to the Triaspolitica system, which divides power into executive, legislative, and judicial.

Regulation or law is a system of rules that is so complex, which covers heterogeneous societal realities, has many fields, aspects, dimensions and periods. Like an object, it is like a diamond, which gives a different impression to people who see it. Bernard Arief Sidharta said that, law originates and is formed in the communication process of relationships from various dimensions of society (poleksobud) and technology, as well as religion, formed and participate in shaping the order of community life, the model is determined by the community with various characteristics, but at the same time participates in determining the character or characteristics of the community (Syaukani & Thohari, 2013). Consequently, legal cases are inherently complex, because the methodology can be from inter-disciplinary sciences both religion, philosophy, history, sociology, anthropology, psychology, politics and so on. When it comes to law, it cannot be simply ignored from the aspect of philosophy, the history of legal methodology through such inter-disciplines has given rise to so many legal disciplines.

There are interesting things articulated by several other experts showing substantive similarities with the above presentations. Padmo Wahjono said that Legal Politics is the basic policy that determines the direction, form, and content of the law to be formed (Wahjono, 1986). In another writing, Padmo also clarified the definition by saying that legal politics is the policy of the state administrator about what is used as a criterion for punishing something which includes the formation, application, and enforcement of laws. So that indeed then what we will discuss about the politics of this law is indeed very closely related to how the process of forming the law and how then the law *inmforcement*.

## Political and Legal Relations

Law is a complex system covering the diversity of society that has many aspects, dimensions, and phases. Bernard Arief Sidharta argues that law has iti in aspen units in interactions in society (political, economic, social, cultural, technological, religious, and so on) formed and helped shape the order of society, the form is determined by society which automatically forms society itself (Syaukani & Thohari, 2013).

There is a very close correlation and interrelationship between politics and law, where law is expected to be able to make the exercise of power and politics more humane, while power politics is expected to be able to converge human behavior to be more orderly and also the hope of justice can be realized. Thus, it can be said that law plays a role in how to humanize the use of law (Sinaga, 2020).

Legal norms can be declared politically valid when their enactment is supported by factors of real political power or *riele machtsfactoren*. Even if a norm is supported by all levels of society, in accordance with the philosophical

ideals of the state, and has a clear juridical foundation, but lacks the support of the paremen, it cannot apply as law. In other words, this political role is related to *power theory*, giving legitimacy to the enactment of a legal norm only from the point of view of power. If a legal norm receives the backing of political power, the legal norm can apply, regardless of its form.

As a result, there is a tendency in law to "underestimate" social and cultural forces. However, it is this "coercive" force that political science argues that it is important to reveal political awareness and participation. This is in accordance with Hans Kelsen's opinion, that the state as a legal entity or *Rechtsperson* (*juristicperson*).

According to Bagir Manan, there are three foundations for drafting laws and regulations: juridical foundations, sociological foundations and sociological foundations.10In addition, Jimly Asshiddiqie outlined five foundations for the formation of laws and regulations, namely: (Asshiddiqie, 2006)

1. Philosophical foundations. Laws always contain idealized legal norms by a society in which the noble ideals of state society are to be directed.
2. Sociological foundation. Every legal norm set forth in the law must reflect the demands of the community's own needs for legal norms that are in accordance with the reality of people's legal consciousness.
3. Political foundation. In consideration, there must be a constitutional reference system according to the basic ideals and norms contained in the 1945 Constitution as the main policy source or political source of law that underlies the formation of the law concerned.
4. Juridical foundation. In the formulation of each law must be placed in consideration or remember.
5. Administrative foundation. This basis is fluctuating according to needs. This foundation contains the inclusion of references in order to organize administratively.

Politics and law are distinct, yet interdependent entities, especially with regard to means to achieve goals including law, which must be achieved through the political process (Imawanto et al., 2021). Similarly, politics requires law to legalize a goal so that it is legally accepted by society, although sometimes it is not true but the law can play its role in covering an issue, so that it looks right and constitutionally legal. Therefore, the relationship between law and politics is inseparable in life or state, where both complement and need each other.

## The Influence of Legal Politics in the Enforcement of the ITE Law in Indonesia

The development of social media penetration today requires rules that ensure security and order in carrying out community interactions in cyberspace. However, the existence of this ITE Law can at least curb the rate of crime in cyberspace. Nevertheless, not a few individuals use social media for personal or group interests to the detriment of other parties. For example, problems of data theft, scamming bank customers, the spread of computer viruses, hoaxes and even often used in silencing opposing political groups, for

example the JRINX case, Prita Mulia Sari case, Baiq Nuril case. With this problem, it is hoped that law enforcement through the ITE Law can provide legal certainty and benefits to the digital community.

According to Soerjono Soekanto, there are 5 (five) factors that affect the law enforcement mechanism, namely: *first*, the legal factor (*subtance*) is a law and regulation. *Second*, the factors of law enforcement officials, namely the parties involved in the process of forming and applying the law, which are related to mentality problems. *Third*, the factor of facilities or facilities that support the law enforcement process. *Fourth*, community factors, namely the social environment in which the law applies or is applied. *Fifth,* cultural factors, which shape feelings based on human charities in the association of life (Soekanto, 1983). Meanwhile, Moh. Mahfud MD revealed that legal products in Indonesia are always formed from the political configuration behind them. In other words, the product of law created by government is the crystallization of competing wills (MD, 1993). Satjipto Rahardjo stated that in the relationship between the legal sub-system and the political sub-system of law, it turns out to have a greater concentration of energy so that the law is always in a weak position (Rahardjo, 1985). Such conditions make it explicit that political travel in Indonesia is like train travel off the tracks. This means that there are many political practices that substantively contradict the rules of law.

Empiricism, the ITE Law in Indonesia cannot be separated from the issue of the effectiveness of law application in a society. According to Sacipto Raharjo, there are four factors that affect law enforcement, as discussed by Soekanto (1998):

1. Laws and regulations themselves. In this case, the occurrence of incompatibility in legislation regarding certain areas of life. In addition, there is a mismatch between laws and regulations with unwritten laws or customary laws or vice versa.
2. Law enforcement mentality. In this case, it includes judges, police, prosecutors, defenses, correctional officers, and so on. If the laws and regulations are good, but if the law enforcement mentality is not good, it will happen to the law enforcement system.
3. Facilities support law enforcement. The laws and regulations are good, and also the enforcer mentality is good, but the facilities are inadequate. Then law enforcement will not work properly.
4. Legal awareness and compliance from community members.

In the context above, if it is related to the enforcement of the ITE Law, there are several things that are very important to ensure that power politics can run well, including:

1. The success of a law depends on how the enforcer is, if the enforcer is good, the substance of the rule will also be carried out well, while if the

enforcer is not good let alone there is political intervention, then what is clear is that the results will be not good,

2. Decisions in the context of enforcing the rules of the ITE Law are a means of control control for the accuracy or lack of a criminal law and regulation. These decisions are inputs to the renewal or refinement of existing regulations,
3. Criminal Law Enforcement in the ITE Law is a dynamicator of laws and regulations, through decisions in the context of law enforcement, laws and regulations become alive and applied in accordance with the needs and development of the community. In fact, even bad rules will be good in the hands of good law enforcers (Manan, 1993)

The effectiveness of criminal law enforcement in the UU-ITE cannot be separated from the role and appreciation and role of good community legal behavior. Community legal behavior will be good, if it is supported by aspirational criminal law and responsive enforcement. In a normative sense, legal certainty requires a set of laws and regulations that are operationally able to support its implementation. Empirically, the existence of legal regulations needs to be implemented consistently and consequently by supporting human resources. Therefore, the function of law in society is to know, feel and be able to explore the feelings of justice of the people (Koesnoe, 1975).

In judicial practice in Indonesia or elsewhere, it is very difficult for a judge to accommodate all three legal objectives, be it justice, legal certainty or expediency simultaneously in one decision. In dealing with this situation, the judge must choose one of these principles in deciding a case and it is impossible for all three principles to be included at once in one decision (casuistic principle of priority). If likened to a line, the judge in examining and deciding the case is between the two limiting points in the line, namely whether it is at the point of justice or the point of legal certainty, while the point of expediency itself is between the two. Therefore, law enforcement officials will have a dilemma in determining their verdict, because they have to choose between justice and legal certainty, and a verdict that satisfies both is very rare, even almost impossible. So then Barda Nawawi (2001) in his book on law enforcement issues provides an explanation related to social *welfare policy*;

Seeing from what was conveyed in Barda Nawawi's theory, that power politics plays an important role in criminal law enforcement, especially related to the enforcement of legal norms under the ITE Law, because as we all know that in the ITE Law itself there are many offenses related to the function of public control to the government, especially through social media, offended by few power political stakeholders or people who feel close with politics, they could have used the sharpness of the ITE Law to ensnare opponents who were opposite. Because in theory, power politics plays an important role in enforcing existing rules.

In the context of this study, there are several objectives of the establishment of laws and regulations in general, namely:

1. Legal certainty

With regard to the theory of legal certainty, Jeremy Betham purpose that the certainty generated by law for individuals in society is the main purpose of law. Furthermore, Betham formulated that the main purpose of the law is to ensure the best happiness to as many people as possible. In a normative sense, legal certainty requires the availability of laws and regulations that are operationally capable of supporting its implementation. Empirically, the existence of legal regulations needs consistent and consequent implementation by law enforcement officials. Therefore, the function of law in society is to know, feel and be able to explore the feelings of justice of the people (Koesnoe, 1975).

2. There is a sense of justice

Hans Kelsen in his book *general theory of law and state*, holds that law as a social order that can be declared fair if it can regulate human actions in a satisfactory way so that it can find happiness in it. Hans Kelsen's view is very positivism, the values of individual justice can be known by legal rules that accommodate general values. However, the attainment of a sense of justice and happiness is still for each individual (Kelsen, 2011). Furthermore, Hans Kelsen suggests justice as a subjective value consideration. Although a just order that assumes that an order is not the happiness of every individual, but the greatest happiness for as many individuals as possible in the sense of a group, that is, the fulfillment of certain needs, which the ruler or lawmaker, considers as needs that should be met, such as the needs of clothing, food and shelter. But which needs should come first (Kelsen, 2011).

3. Protection

Protection refers to any effort made to protect a particular subject, it can also be interpreted as a shelter from everything that threatens (Poerwadarminto, 1989). The conception of legal protection for society is based on the concepts of Rechtsaat and "Rule of the Law". The principle of legal protection against government actions rests and originates from the concept of recognition and protection of human rights because historically in the West, the birth of concepts of recognition and protection of human rights was directed to the limitation and placement of obligations of society and government (Hadjon, 1987). Philipus M. Hadjon (Hadjon, 1987) stated that: "legal protection is the protection of dignity and dignity and recognition of human rights possessed by legal subjects in a legal state based on the provisions of law in force in that country to prevent arbitrariness. Legal protection, generally in the form of a written regulation, so that it is more binding and will result in sanctions that must be imposed on those who violate it."

4. The existence of usefulness

According to Bentham (1748-1832), every human being is under 2 (two) sovereign rulers: displeasure (*pain*) and pleasure (*pleasure*). By their nature, man avoids displeasure and seeks pleasure. Happiness is achieved, if he has pleasure and is free from distress. Therefore, happiness is man's main goal in life, so an action can be judged good or bad, insofar as it can increase or decrease the happiness of as many people as possible. The morality of an act must be determined by weighing its usefulness to the happiness of mankind, not the happiness of selfish individuals as classical hedonism suggests. Thus, Bentham arrived at the main principle of utilitarianism: the greatest *happiness of the greatest* number. This principle became the norm for personal actions as well as for government policies for the people. Law is essentially an abstract thing, although in its manifestations it is usually concrete. Therefore the question of whether the law is always a question for which the answer cannot be one. Consequently, perceptions of law vary depending on one's perspective. Judges will look at the law from their point of view as judges, legal scientists will look at law from the point of their scientific profession, small people will look at law from their point of view and so on.

The content of the ITE Law, which can be grouped, is part of one contained illegal content, including SARA, hate speech, hoaxes, pornography, online gambling, and defamation. The second sub-section deals about hacking. The third subsection deals with illegal interception, and the fourth subsection deals with data *interference*. In the context of enforcing the ITE Law, there is a dilemma between the community and law enforcement. In this case, if enforced, it contradicts human rights in relation to freedom of opinion. And/or expressing opinions through social media there is a blockage of communication between the people and the state. It could be, a criticism is a solution to improve the work of the government which has been considered not in line with the will of the people. Conversely, social media that is not well regulated and clear can be used as a means to bring down opponents, irresponsible opinions, hate speech, insults, insults to lead to SARA attacks that often cause tension.

There are several problems in the application of the UU-ITE, especially related to Article 27 paragraph (3) as follows (Setiawan, 2021):

1. The legal layer of article formulation is not strict / rigid / multiinterpretation. It is not a new legal norm so there are duplications of articles in many laws and the Criminal Code.
2. Layer of application of Law Enforcement Officers' incomprehension in the field about BEE (Electronic Evidence). The summoning of ITE expert witnesses is not in investigation and court, misappropriation of absolute complaint offenses and naturlijkpersoon in defamation cases and deviation of hoax prohibitions in hate speech cases.
3. This layer of impact has unintended consequences because it is in the ITE Law community. The social impact of the widespread effects of fear, for example, the ITE Law is used for revenge, barter cases, *shock*

*therapy tools*, silence criticism and persecution. The political impact of politicians and powers using the ITE Law to bring down their opponents.

In enforcing the law in Indonesia, related to the ITE Law, it cannot be separated from socio-culture (Mahfuz, 2019). Humans are inherently social creatures that cannot be separated from their daily lives together and interact with fellow humans, from there then arise conversations directly or indirectly. From this fact, humans are naturally creatures that cannot be separated from life with others. Likewise, in the context of social media, which also has implications for law enforcement of the ITE Law, the socio-culture referred to here is also related to how people know the existing regulations so that their nudity is not blind in doing, because everything we do on social media has consequences.

The ITE Law is a legal umbrella that covers the activities of cyberspace electronic transactions or commerce. However, since the birth of Law Number 11 of 2008 concerning the Law, problems in the law and the defamation or reputation offenses in the law have many congenital defects and inconsistencies in the criminal law. Mahfud MD has highlighted that legal politics in Indonesia aims to create order (MD, 2018), using methods or procedures that are arranged in such a way. With the existence of laws based on the principles of expediency, justice, protection and legal certainty, it is hoped that through the enforcement of the UU-ITE to create order in Indonesian society.

In law enforcement of the ITE Law, it causes pros and cons in the community, sometimes law enforcement officials are said to be very sharp to small communities and sometimes very blunt to those who have super *power* positions in society, we can then see how ITE cases that ensnare like Baiq Nuril reported by his own former principal so that he must languish in bars, there are also now we seeing some activists reported by Cabinet Minister Joko Widodo whose cases are currently being processed at Police Headquarters. And there is also a recent example at this time one of the famous preachers Habib Bahr Bin Smith was also once a suspect immediately thrown into prison. This is an example of how sharp the ITE Law is to the public and political opponents of the government or opponents of people in power. So that the current situation is very much in line with what was conveyed by Daniel S Lev, Sacipto Raharjo, and Sri Sumantri, where the legal position when faced with politics is in a very weak and helpless position. In order to enforce the ITE Law in Indonesia, there are two patterns of approach that can be taken by the government (Kasenda, 2018). First, preventively the public must be educated about the ITE Law, so that it is not entangled sharply with the ITE Law. Second, repressively by applying the ITE Law related to defamation, pornographic content, SARA and Hoaxes. Prior to implementing repressive efforts are requested, law enforcement officials must socialize to the

community so that they are not easily entangled with the crimes of the Law-ITE.

Due to the vulnerability of the ITE Law to be misused by state officials through the government APH led by the Indonesian National Police, the Attorney General and the Minister of Communication and Information of the Republic of Indonesia, made a Joint Agreement Letter (SKB) which aims to equalize perceptions in the application and enforcement of criminal articles contained in the ITE Law. There are several articles that are the concern of this decree are article 27 paragraph 1, article 27 paragraph 2, article 27 paragraph 3, article 27 paragraph 4, article 28 paragraph 1, article 28 paragraph 2, article 29 and article 36.40 The above are articles that actually cause a lot of trouble to the community and on average those who are exposed to the entanglement are those whose power relations are weak. So that with the issuance of the decree, which is expected to reduce the misuse of articles that have the potential to kill Indonesian democratic reason. Interestingly, the decree is a broad public insistence so that legal politics come out to provide a sense of comfort and order to the community through the percentages made by the government.

## Legal Politics of Human Rights Protection System on Personal Data Supervision in Indonesia

Human rights are guaranteed by the constitution of a country, including Indonesia (Wiratraman, 2007). Both national and international laws and policies have guaranteed the constitutional right to privacy. However, the digital era brings new impacts in the use of information technology that potentially threaten individual privacy rights. As technology advances, the use of the internet and social media is becoming more widespread, allowing easy access to one's personal information and data. This has resulted in more and more privacy violations. Violation of the constitutional right to privacy is an act that harms individuals by violating their privacy (Muslim, 2021).

Changes in social media usage can significantly impact human development (Büchi et al., 2020). For example, a breach of customer data in an online shopping service causes customer data to be lost and misused by irresponsible people (Chakraborty et al., 2016). Therefore, someone who is worried that their privacy will be misused by others will be very careful and tend not to use online services to share personal information (Baruh et al., 2017; van Schaik et al., 2018). The use of social media in various countries has differences, both in terms of number, gender, age and so on (Reuter et al., 2019).

In today's digital age, violations of the constitutional right to privacy have become prevalent as technological advances have made personal information more accessible and processable. Some forms of violation of the constitutional right to privacy in the digital age include:

1. Identity Theft
   It occurs when a person uses someone else's personal information such as identity number, date of birth, or financial information to carry out illegal activities such as purchasing goods or services.
2. Misuse of Data
   Data taken from users on the internet can be misused by companies or third parties. This may impact user privacy, such as the use of personal information for advertising or marketing purposes.
3. Unauthorized Monitoring
   Unauthorized monitoring is the act of monitoring a person's activities without their consent, for example through surveillance, wiretapping or surveillance of CCTV cameras.
4. Information Theft
   Information theft can occur when hackers access someone's personal data without permission.

Violation of the constitutional right to privacy can harm individuals significantly, which can threaten their identity, as well as their finances and reputation (Lubis, 2022). Therefore, it is crucial for individuals to be more careful in sharing their personal information, as well as take steps to protect their data, such as using security software or choosing trustworthy services. In addition, it is important for governments and organizations to take appropriate action to protect individual privacy and enforce laws regarding violations of the constitutional right to privacy in the digital age. One is the use of data encryption which can help protect personal information from unauthorized access (Munawar & Putri, 2020). In addition, privacy policies on digital platforms can also help individuals to control and restrict access to their personal information. However, the use of digital technology can also be a threat to individual privacy. For example, the use of algorithms and monitoring technology can allow companies or other parties to monitor individual behavior and preferences without their permission or knowledge (Jamaludin et al., 2020). This can affect the constitutional right to privacy and freedom of individuals. Nonetheless, some efforts have been made to protect individuals' privacy rights in the digital age. One of them is by issuing regulations related to personal data protection, such as Law No. 11 of 2008 concerning Electronic Information and Transactions and Regulation of the Minister of Communication and Information Technology No. 20 of 2016 concerning Personal Data Protection in Electronic Systems (Priliasari, 2019). To protect the constitutional right to privacy, the government can adopt several policies, such as making regulations governing the use of personal data by companies and organizations, and setting sanctions for privacy violators. Additionally, the government can strengthen institutions responsible for privacy protection, such as the Information Commission and the Financial Services Authority. In addition, internet users are also advised to raise their awareness of possible security and privacy risks, as well as take steps to protect their personal data, such as changing passwords periodically and not sharing personal information

with unknown people. There are several constitutional rights to privacy in the digital age including:

1. Right to keep communications confidential
2. The right not to be snooped on and not to be recorded in any form without permission.
3. The right to safeguard personal data
4. The right to keep personal information such as name, address, telephone number, and other personal information from being used or disseminated without permission.
5. Right to object to supervisory measures
6. The right to object to unauthorized surveillance such as unauthorized taking of photos or videos, and use of spying equipment.
7. The right to control information.
8. The right to determine who can access personal information and how that information is used.
9. Right to be forgotten
10. The right to request deletion of irrelevant or expired personal information.
11. Right to fight invasion of privacy
12. The right to report privacy violations and claim damages in case of damage or loss resulting from privacy violations.
13. The right to identity privacy.
14. The right to maintain identity privacy and avoid using personal data for inappropriate purposes.

The owner of personal data has the right to maintain the confidentiality of his personal data and can file a complaint if there is a violation of the confidentiality of his personal data by the electronic system operator to the minister. Additionally, individuals have the right to update their personal data without disrupting the data management system, unless specified otherwise by laws and regulations. In addition, the owner of personal data is also entitled to gain access and view the history of his personal data that has been submitted to the electronic system operator, as long as it is still in accordance with statutory provisions. Finally, the owner of personal data has the right to request the destruction of his personal data in an electronic system managed by an electronic system operator, as long as it is in accordance with laws and regulations (Lubis, 2022).

Violations of the constitutional right to privacy in the digital age can have serious legal repercussions for perpetrators. Parties who commit such violations can be processed legally and sanctioned based on applicable laws and regulations. In Indonesia, Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE) has regulations relating to violations of the constitutional right to data privacy. Article 26 of the ITE stipulates that any person who without the right to access electronic systems or damage electronic systems can be subject to a maximum prison sentence of 7 years and/or a maximum fine of IDR 1 billion.

Meanwhile, Article 27 of the ITE also stipulates that anyone who intentionally and without rights distributes and/or transmits electronic information that has the content of insult and defamation may be subject to a maximum prison sentence of 6 years and/or a maximum fine of IDR 1 billion. In addition to Article 26 and Article 27 of the ITE, there are still several other articles that regulate violations of the constitutional right to data privacy, such as Article 28 on Hate Speech, Article 29 on the Dissemination of Pornographic Content, and Article 31 on the Dissemination of Misleading Information. Perpetrators of violations who are proven to violate these provisions may face criminal sanctions in the form of imprisonment and/or fines in accordance with the violated article. In addition, victims of privacy violations also have the right to claim compensation for losses suffered as a result of the violation (Salsabila et al., 2022). The impact of this law is expected to be a deterrent for perpetrators not to commit actions that violate the constitutional right to privacy in the digital age.

An illustrative case of a case of violation of the constitutional right to privacy in the digital age is the Cambridge Analytica case that occurred in 2018. The company used Facebook users' personal data unlawfully and without permission to influence the outcome of the 2016 United States presidential election. The data obtained is used as a basis for creating advertising campaigns tailored to users' political preferences. As a result, the company was sanctioned by privacy supervisory authorities in the United Kingdom and the United States, as well as experiencing a decline in reputation and loss of clients. The CEO of Cambridge Analytica was also accused of privacy violations and spreading false information, resulting in the company eventually going bankrupt. The penalties applied in this case are fines and business restrictions for the company, as well as investigations and lawsuits against its CEO. This shows that violations of the constitutional right to privacy in the digital age can have serious consequences for the perpetrators, both in terms of law and in terms of business and reputation (Rumlus & Hartadi, 2020).

## Conclusion

Regulation No. 5 of 2020 by the Minister of Communication and Information regulates activities of Public Service Electronic (PSE) providers, including content moderation and access to user data, extending to termination of access. However, this also slightly disturbs the privacy of electronic media users due to the freedom to enter privacy data by the authorities without an official letter from the court only based on the feared regulation of the Minister of Communication and Information No. 05 of 2020 It is precisely misused by certain individuals. In addition, legal politics in the human rights protection system against the supervision of personal data in Indonesia, getting criticism from various elements of society through social media platforms can be categorized as conveying opinions that have been guaranteed in article 28e paragraph (3) of the 1945 Constitution, in enforcing the ITE Law freedom of opinion is also part of the human right to obtain information through social

media that there is a blockage of communication between the people and country. In the enforcement of the ITE Law, there are many obstacles because there are indeed many interests here, so it often happens that the law is powerless in front of politics. Therefore, the need for legal rules that protect the aspirations of citizens who dare to speak on social media in accordance with the facts that occur so that the existence of people who begin to dare to voice the situation that occurs in society directly through social media.

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