

Urgency OG Consitutional Amendement to Regulate Human Rights Protection in the Context of Digitalization

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ABSTRACT

The digital world's quick development has had a significant and wide-ranging effect on contemporary civilization. But this technical advancement also presents significant obstacles to the defense of human rights, especially in the areas of privacy, freedom of speech, and defense against cybercrimes. Despite the fact that Indonesia has a number of human rights laws, both domestic and international, the application of these laws in cyberspace frequently encounters difficulties. As a result, changing Indonesia's constitution is essential to guaranteeing the protection of people's fundamental rights online. The importance of revising Indonesia's constitution to protect human rights in the digital age is covered in this article, along with the opportunities and difficulties of putting these amendments into effect.

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INTRODUCTION

The fast development of information and communication technology (ICT) has caused significant changes in almost every element of human existence around the world. The advent of technologies like the internet, social media, cloud computing, and artificial intelligence (AI) has ushered in the digital age, which has changed how people connect, communicate, work, and even think. An integrated ecosystem where information is shared quickly and globally has been created as a result of these technologies. Digital technology-driven interconnection has fundamentally changed civilizations, bringing with it both new potential and difficulties.

The degree to which cyberspace has permeated every aspect of our social, political, cultural, and economic lives is among the most astounding aspects of the digital age. Digital technology have changed how we view relationships, power dynamics, and governance in recent decades, in addition to revolutionizing commonplace activities like commerce, education, and entertainment. For example, the emergence of social media platforms has transformed communication by allowing people to communicate over great distances, but it has also brought forth new issues with misinformation, privacy, and the consolidation of power in the

hands of a small number of tech companies.

While there are many advantages to digital technologies, including better communication, more information availability, and creative business models, there are also serious disadvantages, particularly with regard to the defense of basic human rights. Legal systems have frequently been unable to keep up with the rapid rate of digital innovation, leaving people open to a variety of abuses. Protections for human rights, which are guaranteed by international agreements and state constitutions, are often insufficient in the digital sphere. In the digital age, important concerns have emerged, particularly those pertaining to the right to knowledge, freedom of speech, privacy rights, and defense against increasingly complex cybercrimes.

Even though the 1945 Indonesian Constitution (UUD 1945) protects a number of human rights, such as the freedom of speech and privacy, these rights are not always adequately safeguarded online. In Indonesia, the contrast between the swift advancement of digital technologies and the inertia of the legal system is especially noticeable. Despite the fact that there are several laws protecting individuals' rights, the expanding power of digital platforms has created new issues that the current legal system has not sufficiently addressed. For instance, although if freedom of expression is guaranteed by Article 28E(3) of the 1945 Constitution, online behavior usually demonstrates how this right is violated by censorship by the state, tech companies, or other parties. Furthermore, there are also major worries about the erosion of privacy rights due to the gathering and exploitation of personal data by digital corporations and third parties without the required consent.

In addition, new dangers have surfaced as a result of the internet's integration into contemporary life, such as cybercrimes, which can entail highly advanced tactics and present a formidable obstacle to law enforcement. Because of the anonymity of the digital world, cybercriminals may operate more easily without being discovered, and it is more challenging to hold them accountable because they can hide their identities using encryption and other technology. Existing laws have not kept up with the growing prevalence of cybercrimes such identity theft, online fraud, data breaches, hacking, and the dissemination of harmful content like child pornography and hate speech. These problems highlight the urgent need for more robust human rights safeguards in the digital era.

Legal frameworks must change to meet the particular difficulties presented by cyberspace as the globe grows more interconnected due to digital technologies. Protecting human rights is mostly dependent on a nation's constitution, which is its highest law. In this regard, the constitution must be flexible in order to maintain its applicability as new technology advancements occur. To guarantee that human rights are sufficiently safeguarded in the digital sphere, Indonesia's 1945 Constitution may need to be reviewed and amended. A legal basis for regulating digital rights, shielding people from online harassment, and striking a balance between defending the public interest and preserving individual liberties can be found in constitutional amendments.

When it comes to matters like freedom of speech, privacy rights, and safeguarding citizens against cybercrimes, Indonesia's constitutional revision is very urgently needed. Constitutional reforms, for instance, might strengthen protections for free expression while tackling the difficulties of preventing undesirable content, like hate speech and disinformation, from spreading quickly online. Similar to this, constitutional changes that guarantee more robust protections for people's digital identities could improve the protection of privacy rights, which are increasingly threatened by the extensive gathering and use of personal data.

Constitutional amendments can help the state regulate digital platforms and tech businesses more actively while also bolstering protections for individual liberties. The government must have the power to control and monitor these platforms' operations as they become more ingrained in people's lives in order to stop abuses, guarantee transparency, and shield the public from damaging practices. Although Indonesia has passed legislation like the Personal Data Protection Law (UU PDP) and the Electronic Information and Transactions Law (UU ITE), these regulations are occasionally insufficient or ineffectual in addressing the entire range of issues brought about by the digital age. This vacuum can be filled with constitutional amendments, which offer a more thorough legal framework for dealing with new digital challenges.

The provision of a robust and adaptable legal framework that can accommodate the changing digital context is a significant advantage of constitutional reform. A constitutional amendment can offer a long-term solution that guarantees human rights protections in cyberspace are respected consistently and comprehensively, in contrast to incremental legislative measures that may be limited in scope and susceptible to political swings. An amendment like this would make it abundantly evident that the state must protect its citizens' fundamental rights online and make sure that the quick advancement of technology does not compromise those rights.

Furthermore, a constitutional revision might demonstrate Indonesia's determination to take the lead in the global discussion on human rights in the digital sphere. Indonesia has a chance to improve its standing in international debates on how to defend human rights in cyberspace as more nations review and amend their constitutions to incorporate digital rights. By proactively tackling the issues brought about by the digital era, Indonesia can significantly influence international norms and standards for the defense of digital rights.

Indonesia must revise its constitution in order to handle the intricate and changing problems brought about by digital technology. Legal structures, including the constitution, must change as the digital era continues to change societies around the world in order to guarantee the protection of human rights both online and offline. Indonesia may make sure it stays dedicated to protecting its citizens' rights and freedoms in the actual world as well as the increasingly important digital one by amending the constitution to take into consideration the particular difficulties of cyberspace. In addition to strengthening the legal protection of individual rights, such constitutional amendments will help create a more just and equal society in the digital era.

Fundamentally, a responsive and adaptable constitution that offers a framework for the defense of freedom of speech, privacy, and cybercrime prevention is essential to guaranteeing that human rights are respected in the face of technological advancements. Protecting Indonesians' welfare and dignity in the physical world and online, where decisions on human rights will increasingly be made, will be made possible by this constitutional amendment.

RESEARCH METHOD

This study examines the necessity of revising Indonesia's constitution to safeguard human rights in the digital age using a qualitative approach and a normative study methodology. Because the issues under investigation pertain to legal rules and conceptual, normative issues that necessitate a consideration of fundamental legal principles and human rights, the qualitative technique was used. By using this method, the author is able to investigate current legal issues in greater detail and obtain a wider viewpoint on the necessity of constitutional amendments in light of digitization.

Several laws, legal precepts, and pertinent theories pertaining to the defense of human rights in the digital sphere are examined using the normative study technique. This normative study focuses on examining written legal sources, including the Republic of Indonesia's Constitution (UUD 1945), human rights laws, regulations pertaining to the protection of personal data, and other laws pertaining to social media and digital technology. The author can evaluate the effectiveness of the current legal system in defending people's fundamental rights online by using this document analysis.

A number of Indonesian legislation, such as the Electronic Information and Transactions Law (UU ITE), the Personal Data Protection Law (UU PDP), and the UUD 1945 constitutional provisions pertaining to the defense of human rights in the digital sphere, are also discussed as part of the study process. A comparison with laws in other nations that have previously modified their laws or changed their constitutions to address human rights issues in cyberspace is also included in this study.

As part of this approach, the author also examines a number of online court cases pertaining to human rights abuses, including data breaches, freedom of speech violations, and the dissemination of false information (hoaxes). These instances shed more light on legal loopholes and emphasize how crucial it is to amend the constitution to guarantee the protection of human rights online.

Additionally, this study makes reference to a number of earlier studies that have addressed topics pertaining to digitalization and human rights in order to investigate public opinions regarding the protection of human rights in the digital sphere. Academic publications, reports from global organizations like the United Nations (UN) and Human Rights Watch, and materials about data protection laws and human rights in the digital sphere are among the works consulted for this study.

By using this strategy and research methodology, the author hopes to fully comprehend the necessity of revising Indonesia's constitution and offer suggestions for actions to improve the defense of human rights online. It is anticipated that the findings of this study would favorably influence the creation of legal regulations in Indonesia that are more sensitive to the demands of human rights protection in the digital age and more flexible to digitalization.

RESULT AND DISCUSSION

The importance of changing the Indonesian constitution to govern the protection of human rights (HR) in the context of digitization will be thoroughly explained in this conversation. The conversation will be broken up into four major topics, each of which will address important facets of the necessity of updating the constitution to address contemporary digital issues.

Almost every element of society is impacted by changes in social, political, and economic systems in this quickly evolving digital age. Digitalization presents new human rights (HR) concerns that need for a more flexible and forceful legal response. Given the substantial effects of technology on privacy, freedom of expression, cybercrime, and the state's role in monitoring digital platforms, the Indonesian Constitution, which serves as the highest legal foundation of the state, must take into account the necessity for human rights protection in the digital sphere.

Challenges in Privacy Protection in the Digital Era

One of the human rights that is most at risk in the age of digitalization is privacy protection. In the digital age, it is simple for careless people to access, gather, and abuse personal information. Despite being passed in 2022, Indonesia's Personal Data Protection Law (UU PDP) still has a lot of holes in it, particularly when it comes to monitoring and enforcement of infractions. People frequently provide their personal information without giving their express agreement, and this information can be misused for a number of reasons, such as identity theft, cybercrime, or exploitation by tech corporations.

Since privacy is now an essential component of human rights in both the physical and digital spheres, it should be more strongly and explicitly guaranteed at the constitutional level. More specific clauses, such as prohibitions on the acquisition of personal information without agreement, more stringent rules on the processing of personal information, and more robust enforcement against misuse of personal information, can be added to the constitution to improve privacy protection.

A constitutional amendment would allow the state to better enforce stringent controls on tech firms and online platforms that gather personal information, guaranteeing the best possible protection of its residents' right to privacy. Given the growing amount of digital services and apps that affect people's daily life, such as social media and e-commerce platforms, this is essential.

Freedom of Expression in the Digital World and Its Abuse

Freedom of expression has become a critical problem in the digital age. The 1945 Constitution's Article 28E, paragraph (3), protects everyone's freedom to free speech and communication. However, misuse by people or organizations disseminating hate speech, hoaxes, or hate speech that can incite social unrest or even pose a threat to national security sometimes jeopardizes the right to free speech in cyberspace.

One major issue in the digital age is the proliferation of hate speech and hoaxes on social media, which can undermine social cohesion and skew public perception. Despite efforts to control the misuse of freedom of expression in cyberspace through laws such as the Electronic Information and Transactions Law (UU ITE), these laws are frequently overly broad and occasionally used to impede legitimate freedom of expression, which is a violation of an individual's right to freely express their opinions.

In order to establish a clear legal foundation for striking a balance between the protection of public interests, such upholding public order and national security, and freedom of expression, a constitutional amendment is therefore essential. With explicit restrictions on hate speech, defamation, and disinformation that injures people or threatens national unity, this amendment could highlight that digital freedom of expression is still protected.

Furthermore, the state will be required to provide venues that promote healthy and constructive freedom of speech while also guaranteeing control of the exploitation of technology for detrimental ends, as the constitution's clearer regulations will make explicit. In order to monitor hazardous content that circulates on the internet, the state should work with tech corporations to build better moderation systems.

Protection from Cybercrime

One significant problem that is getting worse as technology advances is cybercrime. Hacking of personal information, online fraud, website piracy, identity theft, and the dissemination of malware and viruses are all considered forms of cybercrime. Law enforcement procedures are made more difficult and complex by the fact that these crimes sometimes involve criminals acting from overseas.

In this situation, a constitutional amendment is required to give the government a solid legal basis for safeguarding its citizens against cybercrime. Given that many cybercrimes are transnational, this change may help promote the development of more potent international tools to tackle them. To create a more complete cybersecurity system, the Indonesian government can improve collaboration with other nations and international organizations by amending the constitution.

Clear legislation pertaining to the duties of digital platform providers to guarantee data security for their users must also be implemented in order to increase individual protection. Increasing the strength of the cybercrime legal sector can expedite the processing of cybercrime cases and deter offenders.

The Role of the State in Regulating and Monitoring Digital Platforms

Technology firms and digital platforms are important in people's lives in this digital age. Applications such as social media, e-commerce, and others gather personal information, sway public opinion, and even guide public conversation. But there is sometimes little control over these businesses, both in terms of protecting personal information and keeping an eye on their social impact.

In order to guarantee that digital platforms are not merely profit-driven but also take into account their effects on society and human rights, Indonesia might alter its constitution to make clearer the role of the state in regulating and overseeing these platforms. The state needs more power to hold internet businesses responsible for data breaches, platform abuse for commercial or political ends, and the societal effects of

algorithms these platforms use.

The state will be able to create more focused and efficient laws and have greater power to take preventative measures against the harm caused by big businesses abusing technology if the constitution contains clearer provisions. Companies that are found to be violating their citizens' rights online may also face harsher penalties from the state.

CONCLUSION

There is an urgent need to amend the Indonesian constitution to govern the defense of human rights in the context of digitalization. Many facets of human rights, including freedom of expression, privacy, and protection against cybercrime, are more susceptible to abuse in the quickly evolving technology age. Even with laws like the Electronic Information and Transactions Law and the Personal Data Protection Law, there is still a big gap between new technology and the current legal system that can be used to abuse people's rights. For the protection of digital rights, including the privacy of personal data, the prevention of cybercrime, and the monitoring of the misuse of freedom of expression in cyberspace, constitutional reforms are required in order to establish a more robust and transparent legal framework.

Furthermore, constitutional revisions will strengthen the government's authority to control and monitor the digital platforms that are taking over social life. To ensure that Indonesian digital businesses are accountable for the data they handle and the societal impact their platforms have, the state needs more power to regulate them. With this constitutional amendment, Indonesia may fortify its cyber-human rights protection framework, strike a balance between personal liberties and the general welfare, and maintain social cohesion while navigating the difficulties of the digital age. Indonesia will be able to handle the legal issues brought on by digitalization and forge a better basis for a more secure and inclusive future in the digital sphere by enacting an adaptable constitutional reform.

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