

A Comprehensive Legal Analysis of the Regulation on a Unified Digital Identity: Implications for Strengthening Legal Accountability among Indonesian Citizens

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ABSTRACT

The advancement of technology has positioned social media as a primary necessity, primarily serving as a medium for communication and information exchange. Among the most widely used platforms in Indonesia are Instagram and TikTok. However, the widespread use of social media has also given rise to various negative phenomena, including hate speech, the spread of disinformation (hoaxes), threats, doxing, and cyberbullying. A significant challenge in addressing cybercrime is identifying perpetrators, often due to the use of fake accounts and online anonymity. Anonymity, therefore, becomes a root issue, enabling individuals to act with impunity and without fear of legal consequences. In response, the Ministry of Communication and Digital Affairs has proposed regulating a Single Digital Identity (Identitas Digital Tunggal/IDT), which would limit each person to a single social media account. This measure is designed as a strategic initiative to protect the public from cybercrime and promote user accountability. Nonetheless, such a policy may affect citizens' constitutional right to freedom of expression, raising a fundamental tension between legal protection and civil liberties. This study aims to provide a juridical review of the constitutional position of the right to freedom of expression on social media, based on the 1945 Constitution of the Republic of Indonesia and relevant legislation, including Law No. 1 of 2024 concerning the Second Amendment to Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law). Employing normative juridical research and secondary data, this study finds that while freedom of expression on social media is constitutionally protected, its exercise is subject to limitations under statutory law, particularly the ITE Law, which prohibits specific categories of content.

Keywords: single digital identity, legal accountability, freedom of expression, social media, ITE law

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Topic: Politics

Themes: Data protection and cybersecurity policies in the digital ecosystem

1. Introduction

Humans are intrinsically social beings, relying on interdependence to navigate the complexities of existence. As a result, communication emerges as a foundational component in the orchestration of everyday interactions and societal functions. Technological advancements, especially in information and communication technology, have profoundly transformed conventional communication paradigms. This evolution started with the telegraph, which revolutionized long-distance messaging, and has continued through the development of the telephone, marking significant milestones in real-time voice communication. The emergence of the internet has significantly revolutionized the communication ecosystem, facilitating user interactions across a diverse array of application-layer protocols and platforms. This includes real-time messaging systems and video conferencing solutions that leverage both asynchronous and synchronous data transmission methods to enhance connectivity and collaboration. The internet has significantly broadened the parameters of communication, functioning not merely as a vehicle for interpersonal interaction but also as a robust medium for large-scale information dissemination. This encompasses a diverse array of formats, including textual content, imagery, and video. This expansive dissemination is facilitated through a variety of social media platforms, meticulously developed and maintained by application developers.

In today's digital landscape, social media has evolved into a vital component of societal interaction, serving two critical roles: facilitating communication and disseminating information. In Indonesia, platforms such as Instagram and TikTok have gained significant traction. According to a report by We Are Social, Instagram's user base in Indonesia currently stands at approximately 100.9 million active users, while TikTok boasts an impressive user base of around 126.8 million. These figures underscore the profound impact of these platforms on user engagement and information flow within the region. The proliferation of social media platforms has led to a myriad of legal challenges associated with their misuse and abuse. Key issues include hate speech, the spread of misinformation or hoaxes, threats directed at individuals or groups, unauthorized sharing of personal data (often referred to as doxing), and cyberbullying. These offences are frequently carried out through the deployment of fake or anonymous accounts, which obscure the true

identities of the perpetrators and complicate accountability and enforcement efforts. The widespread anonymity afforded by social media platforms poses significant challenges for law enforcement agencies, particularly in identifying and geolocating offenders. This obscurity complicates efforts to enforce legal accountability and effectively investigate criminal activities conducted online.

Anonymity has become a critical factor enabling a variety of criminal activities on social media platforms. Perpetrators often engage in unlawful behaviour with a sense of immunity, protected by the faceless nature of online interactions, which diminishes the deterrent effect of potential legal repercussions. The rising prevalence of unregulated, anonymous accounts significantly exacerbates the risk of cybercrime and complicates law enforcement efforts to address it. Considering these challenges, the Ministry of Communication and Digital Affairs (Komdigi) has proposed a regulatory framework that mandates each user be limited to a single registered social media account. This policy aims to enhance accountability and curb the rise of illicit activities online. This policy initiative is predicated on the critical need to protect the public from the growing threat of cybercriminal activity and to enhance accountability across digital platforms. While the proposed regulation aims to enhance legal responsibility and ensure public safety, it also raises significant constitutional concerns, particularly regarding the right to freedom of expression as outlined in the 1945 Constitution of the Republic of Indonesia. The tension between enhancing regulatory oversight and preserving fundamental rights warrants careful consideration and deliberation within the framework of digital governance. The restriction on creating and managing multiple accounts raises pertinent questions regarding the potential infringement on the fundamental right to free expression. This policy proposal highlights a well-established legal dichotomy between the need for public safety and accountability, on the one hand, and the need to uphold individual civil liberties, on the other.

In this context, the current study conducts a legal analysis of the proposed single digital identity policy titled "A Comprehensive Legal Analysis of the Regulation on a Unified Digital Identity: Implications for Strengthening Legal Accountability among Indonesian Citizens". This policy is presented as a mechanism designed to enhance legal accountability among Indonesian citizens as they navigate the complexities of these conflicting interests. This study addresses three central research questions:

RQ1: How do the legal frameworks in the 1945 Constitution of the Republic of Indonesia and the Electronic Information and Transactions Law regulate citizens' rights to freedom of expression and opinion on social media?

RQ2: In what ways might the proposed Single Digital Identity (Identitas Digital Tunggal/IDT) regulation affect legal accountability among Indonesian citizens in their use of digital platforms?

RQ3: What are the constitutional implications of implementing a Single Digital Identity policy, particularly regarding potential restrictions on citizens' freedom of expression in digital spaces?

2. Methods

This study adopts a normative juridical research approach to examine the constitutional and statutory dimensions of the proposed Single Digital Identity (Identitas Digital Tunggal/IDT) within Indonesia's digital governance landscape. The normative method is employed to systematically interpret legal norms, assess their coherence within the constitutional framework, and evaluate the extent to which the proposed policy aligns with principles governing freedom of expression and digital accountability. This approach enables an in-depth examination of how legal instruments regulate online behaviour and how prospective regulatory reforms may influence citizens' rights in digital spaces.

2.1 Research Design and Search Strategy

The research design is grounded in doctrinal legal analysis, which focuses on the study and interpretation of authoritative legal sources within the broader context of Indonesia's constitutional order. The initial stage involved identifying primary legal documents essential to the inquiry, including the 1945 Constitution of the Republic of Indonesia, Law No. 1 of 2024 concerning the Second Amendment to the Electronic Information and Transactions Law (ITE Law), and official regulatory materials regarding the development of the IDT policy as proposed by the Ministry of Communication and Digital Affairs.

To complement the analysis of primary materials, the study undertook a structured search for secondary legal sources. Academic databases, digital libraries, journals on constitutional and cyber law, and reputable news platforms were consulted using keywords such as "digital identity regulation," "freedom of expression in cyberspace," "constitutional limitations," "digital accountability," and "Indonesia cyber governance." This process ensured the inclusion of scholarly perspectives and contemporary discussions relevant to the legal implications of IDT. Reference lists from key publications were reviewed to identify additional sources that contribute to a more comprehensive understanding of the issue.

2.2 Inclusion and Exclusion Criteria

The selection of materials followed a clearly defined set of criteria to maintain analytical precision and thematic relevance. Materials included in the study met at least one of the following conditions:

- a. they constitute binding legal sources such as constitutional provisions, statutes, and governmental regulations related to electronic information governance;
- b. they provide substantive academic analysis on constitutional rights, cyber law, or digital identity systems;
- c. they contain authoritative policy statements or official information regarding the IDT initiative; or
- d. they offer empirically verified or widely recognized accounts of ongoing digital governance debates in Indonesia.

Materials were excluded when they addressed technical aspects of digital identity unrelated to legal interpretation, provided commentary without grounding in legal analysis, focused solely on foreign jurisdictions without direct relevance to Indonesia, or were outdated due to significant legislative amendments. This filtering process ensures that the study relies exclusively on materials that directly inform the legal and constitutional considerations surrounding the IDT policy.

2.3 Data Extraction and Analysis

Data extraction was carried out through a systematic review of each selected document to identify relevant legal provisions, doctrinal principles, and regulatory considerations. The extracted information was organized into thematic categories, including constitutional guarantees, statutory limitations, digital rights, and regulatory frameworks related to online identity and accountability. The analytical process proceeded in three interconnected stages. First, the study catalogued and synthesized legal norms regulating freedom of expression and online conduct to establish a precise mapping of the governing framework. Second, these norms were interpreted through statutory and conceptual analysis to assess their scope, limitations, and relevance to digital identity governance. Third, a comparative normative evaluation was undertaken to determine the degree of alignment or tension between the proposed IDT regulation and constitutional protections, particularly with respect to proportionality, necessity, and the balance between public safety and civil liberties.

This layered analytical process ensures a rigorous and coherent legal evaluation, allowing the study to respond effectively to the research questions and assess the potential constitutional implications of the Single Digital Identity policy for Indonesian citizens.

3. Results and Findings

3.1 The Legal Framework Governing Citizens' Rights to Freedom of Expression and Opinion on Social Media in Light of the 1945 Constitution of the Republic of Indonesia and Relevant Legislative Provisions

Communication functions as a critical mechanism for human interaction and the operational dynamics of everyday life. In the contemporary landscape, the character of communication has undergone substantial evolution, marked by increasing complexity driven by the rise of social media. These platforms have become pivotal arenas for individuals to articulate their viewpoints and engage in public discourse, facilitating a multifaceted exchange of ideas that significantly impacts social dynamics and political engagement. However, the exercise of such expression must operate within the legal boundaries established by constitutional and statutory frameworks. The 1945 Constitution of the Republic of Indonesia (UUD NRI, 1945) enshrines fundamental rights related to freedom of association, assembly, and expression. Article 28 delineates these freedoms, stipulating that "the freedom to associate and assemble, as well as to convey thoughts verbally and in writing, shall be subject to legal regulation." In conjunction with this, Article 28J(1) emphasizes the imperative for individuals to "respect the human rights of others within the context of social, national, and state dynamics." This framework establishes a balance between individual freedoms and collective responsibilities within Indonesian law. Article 28J(2) elaborates that "in exercising their rights and freedoms, every person shall be subject to the limitations established by law solely for the purpose of ensuring the recognition and respect of the rights and freedoms of others and to meet the just demands based upon considerations of morality, religious values, security, and public order in a democratic society." This establishes that the right to free expression, particularly in digital environments like social media, is not absolute. It is constrained by legal parameters designed to strike a balance between individual rights and the collective interests necessary for maintaining public order and societal norms within a democratic constitutional framework. Such limitations are critical for upholding both individual liberties and the rights of the community as a whole.

The legal framework governing social media use in Indonesia is primarily defined by Law Number 1 of 2024, which amends Law Number 11 of 2008 concerning Electronic Information and Transactions, commonly referred to as the **ITE Law**. This legislative framework explicitly prohibits the dissemination of specific categories of information classified as unlawful. These categories encompass content that undermines the dignity or reputation of individuals, acts of extortion, the proliferation of false information (commonly referred to as hoaxes), incitement to animosity toward specific individuals or groups, and threats of violence or intimidation. A more detailed elaboration of the relevant provisions is as follows:

No.	Articles	Prohibitions
1.	Article 27 (1)	Any Person who intentionally and illegally broadcasts, demonstrates, distributes, transmits, and/or makes accessible Electronic Information and/or Electronic Documents which have content which violates decency for public to know.
2.	Article 27 (2)	Any Person who intentionally and illegally distributes, transmits, and/or makes accessible Electronic Information and/or Electronic Documents that contain gambling content.

No.	Articles	Prohibitions
3.	Article 27A	Any Person who intentionally attacks the honor or good name of another person by way of accusing something with the intention that it is known to the public in the form of Electronic Information and/or Electronic Documents which are conducted through Electronic Systems.
4.	Article 27B (1)	Any Person who intentionally and illegally distributes and/or transmits Electronic Information and/or Electronic Documents with the intention to unlawfully benefit themselves or others, forcing persons with threats of violence to: a. Give any goods whose partially or entirely owned by the said person or owned by another person; or b. Grant debt, make debt acknowledgement, or write-off receivables.
5.	Article 27B (2)	Any Person who intentionally and illegally distributes and/or transmits Electronic Information and/or Electronic Documents with the intention to unlawfully benefit themselves or others, with the threat of defamation or with the threat of disclosure of secrets, forcing persons to: a. Give any goods whose entirely or partially owned by the said person or owned by another person; or b. Grant debt, make debt acknowledgement, or write-off receivables.
6.	Article 28 (1)	Any Person who intentionally distributes and/or transmits Electronic Information and/or Electronic Documents which contain false notification or misleading information that results in material losses for consumers in Electronic Transactions
7.	Article 28 (2)	Any Person who intentionally and illegally distributes and/or transmits Electronic Information and/or Electronic Documents which instigate, invite, or influence other persons so as to cause hatred or hostility against certain individuals and/or community groups based on race, nationality, ethnicity, skin colour, religion, belief, gender, mental disability, or physical disability.
8.	Article 28 (3)	Any Person who intentionally disseminates Electronic Information and/or Electronic Documents which are known to contain false notification that causes a riot in the public.
9.	Article 29	Any Person who intentionally and illegally sends Electronic Information and/or Electronic Documents directly to the victim which contain threats of violence and/or intimidation.

The utilization of social media as a means for articulating opinions is sanctioned and constitutionally safeguarded, as long as the material shared adheres to the stipulations outlined in the Electronic Information and Transactions Law (ITE Law) and does not include prohibited content.

4. Conclusions, implications, and significance

The findings of this legal analysis indicate that, although the right to freedom of expression and opinion on social media is enshrined in the 1945 Constitution of the Republic of Indonesia (UUD NRI, 1945), its application is not unrestricted and is subject to statutory constraints. Notably, the Electronic Information and Transactions Law (ITE Law) prohibits the transmission of criminal content, including defamation, the dissemination of false information (hoaxes), and threats. This framework establishes a regulatory balance between protecting free speech and maintaining public order and safety in the digital realm. The policy discussion regarding the Single Digital Identity (*Identitas Digital Tunggal*/IDT) has emerged as a pragmatic solution to the challenges posed by online anonymity, which is recognized as a significant enabler of cybercrime. This initiative seeks to bolster legal accountability within the digital environment. From a jurisprudential perspective, the implementation of the IDT policy must adhere to the constitutional principles of necessity and proportionality, ensuring that it remains within constitutional limits and does not encroach on individual rights. This policy has dual implications: while it can enhance law enforcement capabilities and promote a more structured digital ecosystem, there is a significant risk that poorly designed regulations could infringe on individuals' rights to anonymity and freedom of expression. Therefore, it is crucial to achieve regulatory harmonization to find an equitable balance between legal protection and the preservation of constitutional rights. This study provides critical insights for both the government and the legislature (DPR) in developing an IDT regulatory framework that is not only effective and legally robust but also upholds citizens' fundamental rights.

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