Juridical Analysis of Data Sovereignty in the Era of Digital Economy in Indonesia

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Article Info	ABSTRACT
	The rapid growth of digital platforms has given rise to new challenges in the protection of privacy rights, particularly in cases of digital slander. This study explores the intersection of privacy protection and digital slander dissemination in Indonesia, focusing on the impact of post-truth dynamics. Using a normative juridical approach, the research examines Indonesia's legal framework, including the 1945 Constitution, the Electronic Information and Transactions Law (ITE Law), and the Personal Data Protection Law (PDPL), to evaluate the effectiveness of legal mechanisms in safeguarding individuals' privacy in the digital space. The study identifies key gaps in privacy protection, particularly in the context of the post-truth environment, where misinformation and emotional manipulation often overshadow factual accuracy. Comparative analysis with international legal frameworks highlights best practices that could inform reforms in Indonesia. The study concludes with recommendations for legal reforms aimed at enhancing privacy protection and addressing the complexities of digital slander in the era of post-truth.

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1. INTRODUCTION

The digital age has transformed information dissemination, raising challenges in privacy rights and legal protection, particularly in online defamation. Social media amplifies reputational harm, necessitating an evolving legal framework. The "post-truth" society, where emotional appeals overshadow facts, further complicates balancing free speech and reputation protection. Traditional defamation laws struggle with issues like publisher identification and cross-border jurisdiction [1]. The rise of deepfakes and malicious bots worsens the spread of false information [2]. Legal frameworks such as the GDPR in the EU and CCPA in the US impose strict data management standards [3], aiming to balance protection and expression despite censorship risks [3]. Strengthening legal enforcement and leveraging encryption can mitigate defamation risks [4]. International collaboration remains key to addressing digital communication complexities while safeguarding fundamental rights [5]

The legal framework in Indonesia for protecting individuals from digital slander

and privacy violations is evolving, primarily through the Electronic Information and Transactions Law (ITE Law) and the Personal Data Protection Law (PDP Law). However, these laws face challenges in addressing the complexities of privacy rights in the digital age, as the rapid proliferation of online content and technological advancements have outpaced current legal mechanisms, leaving individuals vulnerable to harm. The PDP Law, enacted in 2022, suffers from vague legal definitions and limited enforcement mechanisms, hindering its effectiveness in protecting personal data [4]. Similarly, the ITE Law lacks comprehensive measures to safeguard data privacy rights, as it remains sectoral and fragmented [6]. Judicial decisions in defamation cases on social media often fail to fully consider victims' rights, providing inadequate compensation and justice under the ITE Law [7]. Additionally, low public awareness regarding privacy rights further exacerbates the ineffective implementation of existing laws [8]. To improve legal protections, comprehensive reforms are needed to align with international standards like the GDPR, refine existing laws, enhance enforcement, and establish a centralized data protection authority [8]. Implementing encryption and anonymization technologies, alongside public awareness campaigns and cybersecurity education, can further empower individuals to protect their personal information [9].

This paper conducts a normative juridical analysis to explore how privacy rights are protected in Indonesia in cases of digital slander dissemination. By applying the concept of "post-truth" to the legal landscape, this study seeks to examine whether current laws are equipped to address the challenges posed by digital slander, particularly about privacy.

2. LITERATURE REVIEW

2.1 Concept of Privacy Rights

Privacy rights in Indonesia are constitutionally recognized, yet the rapid advancement of digital technologies presents significant challenges to their protection. The 1945 Constitution guarantees privacy, but existing legal frameworks, such as the Electronic Information and Transaction Law, remain fragmented and insufficient for comprehensive data protection. The Personal Data Protection Bill (RUU PDP) is seen as a crucial step toward strengthening these frameworks and aligning with international standards like the GDPR [10]. Despite the enactment of the Personal Data Protection Law in 2022, issues such as vague legal definitions and limited enforcement mechanisms persist, underscoring the need for a centralized data protection authority and enhanced legal provisions for emerging technologies [6]. The digital age has intensified data collection and surveillance, raising concerns about privacy erosion [11]. Many Indonesian internet users report frequent privacy violations and data breaches, feeling inadequately protected by existing laws [11]. To address these challenges, establishing a centralized data protection authority and strengthening legal provisions for technological advancements are recommended [12]. Additionally, public awareness campaigns and educational initiatives are crucial to empower individuals to safeguard their personal information [7]

2.2 Digital Slander and Defamation

Digital slander, a form of defamation occurring on digital platforms, presents unique challenges due to its rapid dissemination and borderless nature, complicating legal enforcement as traditional defamation laws struggle to adapt. In Indonesia, the rise of digital slander has exposed the inadequacies of existing legal frameworks in balancing privacy rights with freedom of expression [13]. The pervasive nature of digital media amplifies reputational harm, necessitating an evolving legal framework to balance individual reputation protection with free speech principles [14]. Jurisdictional issues in cross-border defamation cases further complicate the enforcement of legal

protections, while the role and liability of internet intermediaries remain unclear, requiring legal clarity for effective regulation [15]. Victims of digital slander often experience emotional distress, financial harm, and social isolation, with studies highlighting the increasing role of sophisticated tools like deepfakes and malicious bots in spreading defamatory content[3]. Addressing these challenges, Jordan's Cybercrime Law No. 17 of 2023 exemplifies proactive legislative measures against digital defamation, distinguishing between character assassination and digital slander while emphasizing deliberate moral destruction and social isolation [5]. This approach underscores the necessity for specific legal provisions to tackle the complexities of digital defamation effectively.

2.3 The Post-Truth Era

The concept of "post-truth" significantly impacts privacy rights and defamation law, particularly in the digital media landscape where misinformation can rapidly spread, damaging reputations without factual basis [16]. This environment complicates legal frameworks, as the relativism of truth in the post-truth era challenges the defense against defamatory statements [17]. Social media platforms, such as Facebook, facilitate the rapid dissemination of false information, influencing political opinions and voter behavior while exacerbating reputational [18]. Legal systems struggle to address these complexities, necessitating adaptations to protect individuals from defamation and privacy violations. Enhancing digital literacy and implementing stricter regulations are crucial to combat misinformation and safeguard privacy rights [19]. Additionally, educating individuals on the interplay between power and knowledge in post-truth contexts can empower them to challenge misinformation and understand its implications for privacy and defamation [20]. These legal and educational adaptations are essential for navigating the challenges posed by the post-truth era.

2.4 Legal Frameworks for Protecting Privacy Rights in Indonesia

Indonesia has made significant strides in protecting privacy rights in the digital age through the enactment of the Electronic Information and Transactions Law (ITE Law) in 2008 and the Personal Data Protection Law (PDP Law) in 2022, with the ITE Law addressing digital slander and the PDP Law regulating personal data. However, challenges persist in enforcing these laws, particularly concerning vague legal definitions and limited enforcement mechanisms that hinder the effectiveness of the PDP Law in protecting personal data [21]. Low public awareness further exacerbates its ineffective implementation [21]. Additionally, the ITE Law has been criticized for its potential misuse in targeting political opponents or suppressing free speech [22]. The PDP Law also significantly impacts industries like fintech, which handle large volumes of personal data, posing compliance challenges such as high costs and technical requirements [7]. Despite these difficulties, the PDP Law enhances consumer trust by providing greater protection and transparency [23]. While the 1945 Constitution of Indonesia guarantees privacy rights, existing regulations like the ITE Law remain fragmented and lack comprehensive measures [12]. The PDP Law represents a crucial step in strengthening Indonesia's legal framework for data privacy, aligning with international standards like the GDPR [12].

2.5 Challenges and Gaps in Current Legal Protections

Indonesia faces challenges in protecting privacy rights in digital slander cases due to difficulties in identifying and holding accountable perpetrators. The anonymity and cross-border nature of the internet complicate law enforcement, making it hard for courts to address such cases effectively.

Balancing privacy protection with freedom of expression is also complex, especially on online platforms where opinions spread freely. The post-truth era worsens this issue, as misinformation circulates rapidly, often overshadowing factual accuracy [24]. Cross-border defamation further complicates enforcement, as jurisdictional issues arise when perpetrators operate from abroad [25]. Indonesia's legal system struggles to define free speech limits in the digital realm, a challenge shared globally [26]. The spread of misinformation adds to this difficulty, making privacy protection while upholding free speech even more challenging (Syahwami & Hamirul, 2024). To address these issues, Indonesia requires legal reforms that align with international standards [27]. Additionally, multilateral cooperation through soft law principles and model conventions has been suggested to tackle cross-border defamation effectively, emphasizing international collaboration over unilateral actions [6].

3. RESEARCH METHODS

3.1 Research Design

The research design is primarily doctrinal, centered on legal analysis of statutory provisions, legal precedents, and scholarly works that relate to privacy rights, digital slander, and post-truth phenomena. The study focuses on interpreting relevant Indonesian laws such as the Electronic Information and Transactions Law (ITE Law), the Personal Data Protection Law, and other related regulations, to understand how these frameworks address the issue of digital slander. The objective is to assess the adequacy of the legal provisions in protecting privacy rights against online defamation, especially in the context of post-truth dynamics where misinformation often prevails.

3.2 Legal Sources and Data Collection

Data for this research will be gathered from primary legal sources, including the Indonesian Constitution, the ITE Law, the Personal Data Protection Law, government regulations, decrees, and judicial rulings on privacy rights and digital slander. Legal provisions from international treaties, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, will also be reviewed for comparative analysis. Secondary sources, including academic literature, books, journal articles, and legal reports, will provide insights into privacy rights, digital slander, and post-truth dynamics. Case studies of Indonesian legal proceedings will be examined to assess judicial interpretations. Additionally, tertiary sources such as legal commentaries, reviews, and analyses by practitioners, policymakers, and human rights organizations will offer perspectives on the strengths and limitations of Indonesia's legal system in addressing these issues.

3.3 Analytical Framework

This research employs a qualitative analysis framework to interpret legal norms and principles related to privacy rights and digital slander. The doctrinal legal analysis involves reviewing legal texts and their application in digital slander cases, focusing on how Indonesian law, particularly the ITE Law and the Personal Data Protection Law, protects privacy rights and aligns with international standards. A comparative legal analysis will assess how other countries address similar issues, providing insights into the strengths and weaknesses of Indonesia's legal framework and identifying best practices from international legal systems. Additionally, a post-truth analysis will explore how misinformation and emotional appeals influence public opinion and legal decision-making in the digital space, highlighting the challenges legal systems face in addressing digital slander and protecting privacy.

3.4 Legal Case Analysis

This study will also incorporate case law analysis to investigate how

Indonesian courts have addressed privacy violations in the context of digital slander. Key cases where the ITE Law has been applied to digital defamation will be reviewed to examine the effectiveness of judicial rulings in upholding privacy rights. Additionally, case law from international jurisdictions will be referenced to compare approaches to digital slander and privacy protection.

3.5 Data Analysis

The analysis will be conducted through a critical review of legal texts and judicial interpretations, beginning with the identification of legal gaps by examining current frameworks and judicial decisions to determine whether existing laws adequately protect privacy rights, particularly in cases of digital slander, or if reforms are needed. The study will also evaluate the impact of the post-truth environment on the perception of digital slander, analyzing how misinformation and public opinion influence legal outcomes in privacy-related disputes. Based on these findings, the research will propose legal recommendations to strengthen Indonesia's framework, addressing legal gaps, ensuring a fair balance between privacy protection and freedom of expression, and adapting to the challenges posed by post-truth dynamics.

4. RESULTS AND DISCUSSION

4.1 Overview of Privacy Protection in Indonesia

Indonesia's legal framework for privacy protection has evolved significantly, primarily governed by the 1945 Constitution, the Electronic Information and Transactions Law (ITE Law), and the Personal Data Protection Law (PDPL), enacted in 2022. The Constitution guarantees privacy rights under Article 28G, ensuring protection from arbitrary interference. The ITE Law criminalizes digital slander and defamation, particularly targeting false information disseminated online. Meanwhile, the PDPL provides a more comprehensive structure for personal data protection, granting individuals greater control over their digital information. Despite these advancements, challenges remain in ensuring consistent enforcement and addressing evolving privacy threats in the digital age.

One major challenge is the inconsistent application and enforcement of these laws, particularly in cases of digital slander. The PDPL, while comprehensive, suffers from vague legal definitions and limited enforcement mechanisms, making its practical impact uncertain [28]. The ITE Law, though addressing online defamation, is often misapplied, leading to concerns about free speech suppression. Additionally, sectoral challenges persist, such as limited internet access and preparedness in managing electronic medical records under the Ministry of Health Regulation No. 24 of 2022 [29]. High-profile data breaches, including the leak of voter data from the Indonesian Elections Commission, underscore vulnerabilities in data protection systems and the urgent need for improved cybersecurity measures [30].

To strengthen privacy protection, several improvements are necessary. Establishing a centralized data protection authority would enhance the enforcement of privacy laws and better address technological advancements [31]. Public engagement and awareness campaigns are crucial for ensuring the effective implementation of privacy regulations. Additionally, strengthening cybersecurity task forces and refining legal frameworks will help prevent data breaches and protect personal information across various sectors [12]. These measures will be essential for ensuring Indonesia's privacy laws remain robust and effective in the face of digital challenges.

4.2 Legal Challenges in Addressing Digital Slander

One of the central findings of this study is that, although Indonesia has legal provisions aimed at protecting privacy

from digital slander, significant challenges remain in effectively addressing these violations. The ITE Law has been criticized for its broad and vague language, which has led to misuse and raised concerns over freedom of expression. While the law allows individuals to file complaints against defamatory content, its wide application has resulted in cases where it was used to silence political dissent or unfairly target individuals who were not directly responsible for spreading harmful content. This raises concerns about its potential for abuse, particularly when digital slander is leveraged for personal or political gain [29].

While the Personal Data Protection Law (PDPL) offers a stronger legal framework for data protection, its focus is primarily on personal data management rather than defamation and slander. This creates a gap in legal protection for individuals who are victims of false online statements that damage their reputations. Despite its role in enhancing privacy rights, the PDPL lacks specific provisions to address digital slander, making it insufficient in protecting individuals from reputational harm [30]. Furthermore, enforcement challenges, such as vague definitions and limited regulatory mechanisms, reduce the law's effectiveness in addressing privacy violations. As a result, legal practitioners and privacy advocates argue that additional reforms are needed to bridge these gaps and adapt Indonesia's legal framework to the evolving digital landscape.

To strengthen legal protections, several reforms have been proposed. Revising the ITE Law to clarify its provisions and prevent misuse is crucial to ensuring it does not infringe upon democratic values [32]. Additionally, legal experts suggest introducing new criminal provisions, such as the confiscation of profits from criminal acts and compensation for victims, to provide stronger protection and tangible benefits

to those affected by digital slander [12]. Establishing a centralized data protection authority and enhancing legal measures to address technological advancements would also improve Indonesia's data protection landscape and ensure that individuals' privacy rights are adequately safeguarded [33]

4.3 Post-Truth Dynamics and Its Influence on Digital Slander

The post-truth era, characterized by the dominance of emotions and beliefs over factual accuracy, presents significant challenges in addressing digital slander. The rapid spread of misinformation and fake news on social media makes it difficult to distinguish truth from falsehood, leading to reputational harm for individuals and organizations. This issue is compounded by the inadequacy of traditional defamation laws, which struggle to keep up with the speed and scale of digital slander, particularly in Indonesia. The interplay between digital media and defamation law requires a nuanced legal framework to balance reputation protection with free speech principles. The concept of hyperreality further complicates digital interactions, as the lines between reality and digital representations blur, making it easier for misinformation to spread unchecked [34]. The prevalence of emotions and personal opinions over facts amplifies digital slander, reinforcing the need for legal and regulatory responses to combat these challenges effectively [34].

One of the main legal challenges in the digital age is that traditional defamation laws are ill-equipped to handle complexities such as cross-border defamation and the identification of online publishers [35]. The need for an evolving legal framework is critical to protecting reputations while safeguarding free speech [35]. Social media algorithms further exacerbate the problem by amplifying misinformation, making it difficult to control the spread of false and defamatory content [36]. This highlights the necessity of strategic

communication and public education to counter disinformation effectively [36]. In response, strategic communication efforts should focus on directing audiences to reliable sources and leveraging big data and AI to counter misinformation [5]. Companies, particularly those vulnerable to digital slander, can mitigate reputational risks by promoting official channels and responding swiftly to misinformation [20]

This phenomenon is particularly problematic in Indonesia, where social media plays a central role in daily life, allowing misinformation to spread rapidly. The increasing number of digital slander cases, affecting both public figures and ordinary citizens, underscores the urgency of addressing these challenges. Legal frameworks must take a more proactive approach in managing the rapid dissemination of false information, ensuring a balance between privacy protection and freedom of speech. Strengthening regulatory mechanisms, enhancing digital literacy, and fostering cooperation between the government, social media platforms, and civil society will be crucial in mitigating the harmful effects of digital slander in the post-truth era.

4.4 Comparative Analysis with International Legal Frameworks

The comparative analysis of privacy protection and digital slander laws in the United States, the United Kingdom, and Germany provides valuable insights for Indonesia's legal reforms. The U.S. prioritizes free speech, requiring strict criteria for proving defamation, while the UK and Germany enforce strong privacy protections through laws like the GDPR [37]. Indonesia's ITE Law No. 19 of 2016 addresses digital defamation but faces criticism for inconsistent application and limited victim protection [5].The law also requires defamation to be "known to the public" to be criminalized, with exceptions for public interest and self-defense [8]. To improve Indonesia's legal

framework, integrating digital technology, local customs, and stronger victim protection measures could enhance adaptability and justice outcomes [38].

While international models offer guidance, Indonesia needs a tailored approach that reflects its socio-political and cultural context. The expansion of digital platforms demands a balanced legal framework that upholds free speech while protecting reputations. Reforms should strengthen enforcement, clarify legal definitions to prevent misuse, and enhance accountability for online defamation. Public awareness and digital literacy are also crucial in combating misinformation and digital slander. By adapting international best practices to local needs, Indonesia can develop a more effective and just legal system [39].

4.5 Gaps in Legal Protection and Recommendations for Reform

This study identifies several key gaps in Indonesia's legal framework for privacy protection. The first gap lies in the ITE Law's lack of clarity regarding digital slander and defamation, as its broad and vague language makes consistent application difficult, necessitating more precise legal definitions and clearer guidelines. Secondly, enforcement of privacy rights and defamation laws remains problematic, as the legal process under the ITE Law is often slow and costly, discouraging victims from pursuing legal action due to systemic complexities and fear of backlash. To address this, more accessible redress mechanisms, such as online reporting platforms or specialized courts for digital defamation, should be considered. Lastly, in response to the post-truth era, legal reforms must tackle the rapid spread of misinformation by focusing not only on defamation penalties but also on prevention and containment. This could include measures such as social media platform accountability, mandatory fact-checking mechanisms, and stronger

penalties for those who deliberately spread false information.

5. CONCLUSION

This study highlights the growing need for robust legal mechanisms to protect privacy rights in Indonesia, particularly in cases involving digital slander in the context of the post-truth era. While existing laws such as the ITE Law and the Personal Data Protection Law provide some protection, significant gaps remain in their enforcement and application. The proliferation of misinformation and emotionally driven content in the digital space presents a unique challenge, as the distinction between fact and falsehood becomes increasingly blurred. Drawing from international legal practices, the study suggests that Indonesia's legal framework must evolve to better address the rapid spread of digital slander while balancing the right to free speech. Future reforms should focus on creating more precise legal definitions, enhancing enforcement mechanisms, and incorporating measures to combat misinformation effectively. These steps are crucial for ensuring that privacy rights are adequately protected in the digital age, where the rapid spread of digital content can have far-reaching and often irreversible consequences for individuals' reputations.

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