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Cyber Law Reform from the Perspective of *Pancasila*: Between Legal Certainty and Social Justice

Reformasi Hukum Siber dari Perspektif Pancasila: antara Kepastian Hukum dan Keadilan Sosial

Itok Dwi Kurniawan^{*1}

¹Faculty of Law, Universitas Sebelas Maret, Surakarta, 57126, Indonesia

*Corresponding Author: itokdwikurniawan@staff.uns.ac.id

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ABSTRACT

This article explores the reform of cyber law in Indonesia from the perspective of *Pancasila*, emphasizing the tension between legal certainty and social justice. As information technology evolves rapidly, legal challenges in the digital space become increasingly complex, demanding a legal system that is both adaptive and grounded in national foundational values. In this context, *Pancasila* serves as a normative paradigm guiding legal reform, ensuring that it does not solely prioritize legal certainty but also guarantees the fair protection of citizens' rights. The article analyses various policies and regulations concerning cyber law and examines the extent to which *Pancasila* principles are reflected in the legislative and implementation processes. Using a normative and conceptual approach, this study aims to contribute to the development of a cyber-law framework that is not only responsive to technological change but also embodies social justice for all Indonesians.

Keyword: Legal Reform, Cyber Law, Social Justice

ABSTRAK

Artikel ini membahas reformasi hukum siber di Indonesia dalam perspektif *Pancasila*, dengan fokus pada ketegangan antara kepastian hukum dan keadilan sosial. Seiring dengan pesatnya perkembangan teknologi informasi, tantangan hukum dalam ruang digital semakin kompleks dan menuntut sistem hukum yang adaptif namun tetap berlandaskan pada nilai-nilai dasar bangsa. Dalam konteks ini, *Pancasila* berperan sebagai paradigma normatif yang menuntun arah reformasi hukum agar tidak semata-mata menekankan pada aspek kepastian hukum, tetapi juga menjamin perlindungan terhadap hak-hak masyarakat secara adil. Artikel ini menganalisis berbagai kebijakan dan regulasi terkait hukum siber, serta menelaah sejauh mana prinsip-prinsip *Pancasila* tercermin dalam proses legislasi dan implementasi hukum tersebut. Dengan pendekatan normatif dan konseptual, tulisan ini bertujuan memberikan kontribusi terhadap pengembangan hukum siber yang tidak hanya responsif terhadap dinamika teknologi, tetapi juga mencerminkan nilai keadilan sosial bagi seluruh rakyat Indonesia.

Kata Kunci: Reformasi Hukum, Hukum Siber, Keadilan Sosial



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1. Introduction

The development of information and communication technology (ICT) has brought significant changes to various aspects of human life, including how individuals, society, and the state interact in digital spaces. The era of digitalization has introduced cyberspace as a new entity that not only offers opportunities but also presents complex legal challenges. In Indonesia, the emergence of various forms of cybercrime and online violations—such as hacking, digital defamation, misinformation, data manipulation, and privacy breaches—demands adequate and relevant legal responses (Putri et al., 2024).

However, the Indonesian legal system continues to face significant challenges in keeping pace with the rapid evolution of cyberspace. One key issue is the lack of harmony between existing legislation and the

realities of the digital environment. The Electronic Information and Transactions Law (UU ITE), which serves as the backbone of cyber regulation, has frequently been criticized for being ambiguous, repressive, and prone to misuse, particularly in silencing public criticism (Rahmazani, 2022). Several cases have shown that certain articles in the UU ITE, such as Articles 27 and 28, are often used to prosecute individuals for online content that should fall under protected free expression (Putri et al., 2024).

Therefore, the need for cyber law reform is urgent—not only to ensure legal certainty but also to protect the rights of society in a fair and proportional manner. Such reform cannot be purely technical or limited to updating legal norms; it must also address the philosophical and ideological dimensions of the Indonesian legal system. Within the context of *Pancasila* as the foundation and ideology of the nation, legal reform should not be aimed solely at achieving certainty and rigidity but must also reflect values of social justice and humanity. The second and fifth principles of *Pancasila*—“Just and Civilized Humanity” and “Social Justice for All the People of Indonesia”—emphasize the importance of a humanistic and justice-oriented approach to every legislative process (Kurniawan et al., 2023; Muin, 2023).

A cyber law reform process that is not only technocratic but also grounded in *Pancasila* values is essential for maintaining the balance between legal certainty and social justice. Legal certainty is necessary to provide protection and assurance for all users of digital space, while social justice demands that the law be non-discriminatory and equitable for all segments of society (Putri et al., 2024). In this regard, a *Pancasila*-based approach offers a conceptual solution to both normative and practical problems in Indonesian cyber law.

For instance, in many cases of netizens being criminalized for criticizing public officials or government institutions on social media, law enforcement has often been carried out without considering the principle of proportionality or the constitutional right to freedom of expression. Under a legal paradigm based on *Pancasila*, law enforcement must strike a balance between rights and obligations while upholding human dignity (Harahap et al., 2023). Thus, every regulation and public policy related to cyber law should be assessed not only through legal but also moral and philosophical lenses to avoid structural injustice.

On the other hand, a *Pancasila*-based reform of cyber law must also consider Indonesia's pluralistic and diverse society. Values such as deliberation, mutual cooperation, and respect for human rights—embedded in *Pancasila*—must be reflected in the policymaking process of cyber regulations. This is crucial to ensure that cyber law is not only responsive to technological development but also aligned with the socio-cultural character of the Indonesian people (Al-Ulamai et al., 2025; Harahap et al., 2023; Putri et al., 2024).

The gap between technological advancement and the capacity of national law also presents implementation challenges. Law enforcement officers often find it difficult to interpret and apply legal norms that do not specifically address cyber-related acts. This strengthens the argument that cyber law reform must be comprehensive, involving regulatory restructuring, institutional strengthening, and human resource development (Widodo, 2024). In this context, the normative framework of *Pancasila* plays a vital role in guiding the reform process with a clear philosophical direction (Putri et al., 2024).

Furthermore, *Pancasila*-oriented legal reform must emphasize the role of public participation in the legislative process. Inclusive and participatory lawmaking is a prerequisite for developing legitimate legal norms that align with the needs of society (Kurniawan et al., 2023). The involvement of academics, legal practitioners, civil society, and the digital industry is essential to prevent cyber law reform from becoming elitist and sectoral.

In addition, cyber law reform must also take into account transnational challenges, such as cross-border cybercrime and the dominance of global digital platforms. This requires Indonesia not only to rely on a national approach but also to foster international legal cooperation that is in line with *Pancasila* values, particularly the principles of peace and global justice (Desinta, 2024). *Pancasila* can serve as Indonesia's ethical contribution to the international community in building a fair and humane model of cyber governance.

Thus, this article aims to analyze the reform of Indonesia's cyber law within the framework of *Pancasila* values, focusing on two main aspects: legal certainty and social justice. This approach is expected to offer both conceptual and practical contributions to the development of a cyber-legal system that is adaptive, responsive, and equitable. The article employs a normative and conceptual approach by examining relevant

legislation, legal literature, and existing academic research. By positioning *Pancasila* as both an epistemological and normative framework, this study seeks to bridge the gap between the demand for legal modernization and the ideals of social justice embedded in the national philosophy.

2. Method

This study employs a qualitative approach with a normative-juridical method, focusing on the analysis of legal norms, principles, and values relevant to cyber law reform in Indonesia within the ideological framework of *Pancasila*. The normative-juridical approach is particularly appropriate because cyber law issues involve not only technical legal regulations, but also deeper philosophical and ethical considerations derived from the nation's foundational ideology.

Normative legal research views the law as a system of norms and rules that are systematically examined to understand legal phenomena and resolve legal issues (Soekanto & Mamudji, 2001). This study analyzes various legal instruments, particularly Law No. 11 of 2008 on ITE and its amendments, along with derivative regulations, constitutional provisions, and judicial decisions. It also includes academic literature and legal theories relevant to the theme of reforming cyber law with reference to *Pancasila* values.

The legal materials used in this study consist of primary, secondary, and tertiary sources. Primary legal materials include statutory regulations such as the 1945 Constitution of the Republic of Indonesia, the ITE Law and its amendments, and government regulations. Secondary legal materials consist of scholarly books, journal articles, and expert commentaries that provide interpretation, critique, and contextual analysis of the primary sources. Tertiary legal materials consist of legal dictionaries and encyclopedias used to support conceptual understanding and clarify key terms.

Data were collected through document study, which involves systematically examining official legal texts, court decisions, journal publications, and academic commentaries. This method allows researchers to critically evaluate legal development, implementation gaps, and value inconsistencies in the current cyber law framework (Moleong, 2017). The document analysis method is suitable for research that focuses on legislation, legal reasoning, and the normative foundation of the legal system.

The data analysis technique used in this research is descriptive-analytical. The descriptive aspect involves explaining and categorizing legal materials to describe current legal provisions and practices in cyber regulation. The analytical aspect is used to assess the compatibility of existing norms with the principles of *Pancasila*, particularly the balance between legal certainty and social justice (H. S. & Nurbani, 2014). This includes identifying areas where current legal rules fall short in protecting fundamental rights, ensuring justice, or providing clarity in digital legal contexts.

Given that this research seeks to propose a model for cyber law reform that integrates the values of *Pancasila*, the normative-juridical method is supported by an interdisciplinary approach. In this context, legal philosophy and political theory are used to explore the ideological underpinnings of law. This is in line with doctrinal legal research that positions the law not merely as a set of enforceable rules but also as a moral and philosophical construct embedded in a nation's values (Marzuki, 2017).

Furthermore, the research takes into account the socio-political and technological developments in Indonesia that impact the effectiveness and legitimacy of cyber laws. This broader context is essential to evaluate whether current regulations meet the dynamic demands of digital society, and whether they align with *Pancasila's* humanistic and justice-oriented ideals. In essence, this study not only examines what the law is but also what it ought to be, in light of the guiding national ideology.

By combining normative legal research with value-oriented legal theory, this study aims to produce recommendations for reforming cyber law that are not only legally sound but also philosophically and culturally grounded.

3. Result and Discussion

The development of Indonesia's cyber law, particularly the Law No. 11 of 2008 on ITE has been subject to intense academic and public scrutiny due to its perceived inability to adapt to the rapid evolution of digital technology and the growing demands for democratic governance and human rights protection. The reform discourse is not merely technical or regulatory in nature, but deeply philosophical, involving the question of

whether the legal regime reflects Indonesia's foundational ideology—*Pancasila*. A key finding in this research is that current cyber legal norms tend to overemphasize legal certainty and state authority while marginalizing the principles of justice, humanity, and deliberative democracy as mandated by *Pancasila*.

One of the core criticisms of the ITE Law is its vague and overbroad provisions, particularly concerning defamation and the spread of so-called fake news. These ambiguities have led to arbitrary law enforcement and a chilling effect on freedom of expression (Advitama et al., 2025). Article 27 and Article 28, for instance, have often been used as legal instruments to criminalize dissent or public criticism, especially on social media platforms. While legal certainty is vital in any legal system, its application in this context has disproportionately favored the interests of state apparatus or certain elite groups, at the expense of citizens' rights to participate freely in public discourse (Feka et al., 2025; Ufen, 2024). This contradiction undermines the second and fifth principles of *Pancasila*—just and civilized humanity, and social justice for all Indonesians.

An equally important issue is the lack of inclusivity and transparency in the formulation of cyber law. Despite the increasing digital literacy of the population, the legislative process remains technocratic and dominated by bureaucratic and security-oriented paradigms. This approach contrasts sharply with the fourth principle of *Pancasila*, which emphasizes democracy guided by inner wisdom through deliberation among representatives. Several studies have shown that public participation in cyber legislation is often minimal, and civil society voices are frequently sidelined in regulatory debates (Fitri, 2022; Kurniawan et al., 2023). The result is a cyber-legal framework that is perceived as disconnected from societal needs, particularly those of vulnerable groups such as journalists, activists, and minorities, who are most at risk of being targeted under criminal provisions.

Moreover, Indonesia's cyber law enforcement often demonstrates inconsistencies that further erode public trust. Selective enforcement is common, where political connections or affiliations can influence the decision to investigate or prosecute certain cyber cases (Feka et al., 2025; Rahmazani, 2022). This phenomenon is particularly dangerous in the digital age, where digital footprints are permanent and misinterpretations of intent can lead to severe legal consequences. The lack of equal treatment before the law not only violates legal certainty but also disrupts the principle of equality, a core tenet of the *Pancasila*-based legal system.

A significant aspect revealed through this research is the technological determinism that underpins many cyber legal policies in Indonesia. Lawmakers tend to perceive technology as a threat rather than as a tool for social progress. This mentality is reflected in the predominant use of punitive measures in the ITE Law, which criminalizes a wide array of digital behaviors. While protection from cybercrime is undeniably essential, the excessive criminalization of online activity is contrary to the humanist orientation of *Pancasila* (Lubis, 2021). Cyber law should be designed not only to maintain order but to promote digital empowerment, literacy, and ethical conduct among citizens.

Reform efforts must therefore seek to realign cyber law with the normative values embedded in *Pancasila*. The first principle—belief in the one and only God—underscores the ethical dimension of legal regulation, implying that the law should foster moral responsibility rather than instill fear. The current repressive approach to cyber governance lacks this ethical grounding and instead perpetuates a punitive legal culture. Many citizens, particularly from marginalized communities, refrain from expressing their concerns online for fear of being criminalized, even when such expressions are within the bounds of constructive criticism (Afisa et al., 2024).

From a jurisprudential standpoint, the *Pancasila*-based legal system is pluralistic, progressive, and responsive to societal dynamics. However, current cyber regulations have not adequately embodied these attributes. The rigidity and legal formalism embedded in the ITE Law fail to accommodate the diversity of digital experiences and cultural contexts in Indonesia. According to (Gustryen & Sulaiman, 2025), there is an urgent need to develop adaptive legal frameworks that are sensitive to local values and practices, especially in outer island communities where digital access is rapidly expanding but legal literacy remains low.

Another critical dimension concerns restorative justice. The punitive orientation of cyber law does not provide sufficient space for non-litigious dispute resolution. This contradicts the communitarian spirit of *Pancasila*, which emphasizes harmony and reconciliation over retribution. Studies by (Widodo, 2024) argue

that many cyber defamation or insult cases could be better resolved through mediation or community-based dialogue, thereby reducing the burden on the judiciary and enhancing community trust in the legal system.

Furthermore, the economic implications of cyber law reform must also be addressed. The digital economy in Indonesia is one of the fastest growing in Southeast Asia, but overregulation can deter innovation and investment. The legal uncertainty caused by ambiguous cybercrime provisions can discourage startups and SMEs from expanding their online operations. Digital entrepreneurs often struggle to navigate complex legal risks, especially regarding content liability and data protection (Laksmana & Permana, 2023). Such legal climate is inconsistent with the fifth principle of *Pancasila*, which envisions equitable economic development and social welfare.

The incorporation of *Pancasila* into cyber law reform also requires the state to ensure equitable educational and technological access for all citizens. Equal access to digital infrastructure and literacy is a prerequisite for fair and meaningful participation in digital society. However, current regulations tend to assume a homogenous level of digital competence across the population, leading to exclusion of those in rural or underdeveloped areas (Serah et al., 2025). A *Pancasila*-based cyber policy must take these disparities into account and prioritize inclusive digital development.

In light of the above, reforming cyber law from the perspective of *Pancasila* requires a multi-dimensional strategy. It involves legislative revisions, institutional capacity-building, and value-based legal education. The state must shift from a security-centered approach to a rights-based, dialogical, and inclusive model of digital governance. In practice, this could mean narrowing the scope of criminal provisions, establishing independent oversight bodies, enhancing public participation in policy-making, and promoting digital literacy programs rooted in national values.

Importantly, the philosophical foundation of *Pancasila* should not be treated merely as a rhetorical device, but as a practical legal framework that guides normative priorities and policy decisions. Legal reform is not solely about altering legal texts but transforming the ideological lens through which law is interpreted and enforced. This transformation requires sustained academic engagement, political will, and civic participation (Arafat et al., 2025; Harahap et al., 2023).

To conclude, the current state of Indonesia's cyber law demonstrates a misalignment between normative ideals and regulatory practices. The law, in its present form, prioritizes state control and formal legalism, often at the expense of democratic and humanist principles. By grounding legal reform in *Pancasila*, Indonesia has the opportunity to construct a cyber-legal framework that is not only legally certain but also socially just, ethically responsible, and culturally resonant.

Bridging cyber law reform with the philosophical foundation of *Pancasila* requires that legal developments in the digital sphere remain firmly rooted in Indonesia's core values. Cyber law reform should not be viewed solely as a response to technological change but as an effort to uphold human dignity, social justice, and collective welfare in the digital era. The principle of humanity (*kemanusiaan yang adil dan beradab*) can guide the protection of privacy and human rights online, while the principle of social justice (*keadilan sosial bagi seluruh rakyat Indonesia*) ensures fair and equitable access to digital resources. Furthermore, the principle of democracy rooted in deliberation (*kerakyatan yang dipimpin oleh hikmat kebijaksanaan dalam permusyawaratan/perwakilan*) can inspire participatory and transparent policymaking in the field of cyber governance. In this way, cyber law reform becomes both a legal and philosophical mandate, ensuring that technological regulation aligns with the nation's ideological foundation.

4. Conclusion

In conclusion, the reform of Indonesia's cyber law requires not merely technical amendments but a profound reorientation toward the philosophical foundation of *Pancasila*. The current ITE Law demonstrates an excessive focus on state control and formal legal certainty, often at the expense of freedom of expression, human dignity, and social justice. Such an imbalance contradicts Indonesia's constitutional identity, which mandates that law must embody both order and humanity. A reformed cyber law must therefore harmonize authority with accountability, regulation with empowerment, and security with freedom.

Cyber law reform should also address the dangers of vague and overly broad provisions that have been used to suppress democratic participation and silence criticism. Legal certainty must be balanced with

fairness and inclusiveness, ensuring that the law protects citizens rather than intimidating them. This requires a participatory legislative process that actively engages civil society, academia, and the public, ensuring that the resulting framework reflects collective aspirations and remains resilient against selective enforcement and political misuse.

Ultimately, a *Pancasila*-oriented cyber law must be adaptive to technological change while remaining grounded in moral, humanist, and democratic values. It should prioritize digital literacy, restorative approaches, and equitable access to technology, particularly for marginalized communities. By embedding these principles, Indonesia can build a cyber-legal framework that not only regulates but also empowers, creating a just and sustainable digital ecosystem that strengthens national identity and demonstrates that effective cyber governance can coexist with inclusivity, justice, and humanity.

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