

The Quality of Democracy in the Digital Era: A Normative Juridical Study

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Abstract

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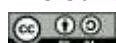
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Digital transformation has fundamentally reshaped the nature of democracy and electoral governance. This study aims to analyze the quality of democracy in the era of technological disruption through a normative juridical approach, focusing on the relevance and application of three key legal frameworks: Law No. 7 of 2017 on General Elections, Law No. 11 of 2008 jo. No. 19 of 2016 on Electronic Information and Transactions, and Law No. 14 of 2008 on Public Information Disclosure. Findings reveal that while these regulations remain relevant as the foundation of digital democracy, they face significant limitations in adapting to technological changes. Major challenges include weak cyber oversight, overlapping norms, and low levels of digital legal literacy. Therefore, legal reconstruction that is responsive, transparent, and grounded in digital public ethics is needed to strengthen justice, participation, and the protection of citizens' digital rights. Digital legal reform thus becomes essential to sustain democratic substance in the technological era.



1. Introduction

The development of digital technology in the last two decades has fundamentally changed the way citizens interact, participate and assess the democratic process. This phenomenon is known as the era of technological disruption, where the speed of digital innovation exceeds the ability of social and legal systems to adapt. In the context of Indonesian democracy, this dynamic has profound implications for the quality of elections and democratic practices that are carried out based on the principles of transparency, participation, and public accountability. Technological disruption has opened up great opportunities for increasing political participation through social media, online platforms, and digital information systems, but on the other hand, it also poses serious challenges such as the spread of disinformation, algorithmic-based identity politics, and the manipulation of public opinion through big data and artificial intelligence (AI).¹

Indonesia's democracy rests on a complex legal framework, especially through Law No. 7 of 2017 concerning General Elections, Law No. 11 of 2008 jo. 19 of 2016 concerning Information and Electronic Transactions (*Informasi dan Transaksi Elektronik/ITE*), and Law No. 14 of 2008 concerning Public Information Disclosure (*Keterbukaan Informasi Publik/KIP*). These three regulations serve as the foundation in maintaining election integrity amid the penetration of digital technology. Law No. 7/2017 regulates the holding of elections based on transparency and public participation, the ITE Law upholds digital communication

¹ Nasir Tamara. *Demokrasi di era digital*. Jakarta: Yayasan Pustaka Obor Indonesia, 2021.

ethics and responsibility in the use of information, while the KIP Law ensures data disclosure and public access to government information.² However, the effectiveness of the implementation of the three is often faced with the problem of adapting to new technologies that continue to develop.

Various studies show that the digitization of public space triggers ambivalence towards democracy. On the one hand, it expands citizens' access to political information and enables two-way communication between the government, election organizers, and voters.³ But on the other hand, digital media also creates information disorder, which is a condition in which fake news, hate speech, and data manipulation spread faster than official information.⁴ As a result, the quality of public deliberation, which is the core of deliberative democracy, has begun to be eroded by the logic of virality and click.⁵ This phenomenon shows that digital democracy is not always synonymous with substantive democracy, as technological penetration can actually weaken ethical control and legal responsibility in the practice of political communication.

Within the legal framework, digital disruption requires the state to adjust its regulatory approach. The enforcement of the ITE Law, for example, is often criticized for its ambiguous interpretation and its application that is not always

² Budi Gunawan and Barito Mulyo Ratmono. *Demokrasi di Era Post Truth* (2021). Kepustakaan Populer Gramedia, 2021.

³ Muhammad Rizal Baihaqi. *Demokrasi digital: Memahami dampak dan tantangan*. Jawa Barat: Penerbit Adab, 2020.

⁴ Muhammad Rizal Baihaqi. *Demokrasi digital: Memahami dampak dan tantangan*. Jawa Barat: Penerbit Adab, 2020.

⁵ Andi Setiawan. "Jejaring kelembagaan Bawaslu dalam penanganan pelanggaran pemilihan umum serentak." *Jurnal Academia Praja: Jurnal Magister Ilmu Pemerintahan* 3, no. 02 (2020): 322-340.

balanced with the principle of freedom of opinion.⁶ On the other hand, the KIP Law faces challenges in balancing the need for public information disclosure with personal data protection in the era of big data governance.⁷ Meanwhile, the Election Law requires adjustments so that the implementation of digital elections still ensures the validity of votes, data security, and fairness of competition between participants. This shows the need to reconstruct legal norms that are more adaptive to technological changes without sacrificing democratic values.

The quality of democracy in the era of technological disruption is no longer only measured by procedural aspects such as the holding of periodic elections, but also by the extent to which the law is able to regulate and protect digital ethics, civil liberties, and information disclosure. Digital democracy demands a balance between technological innovation and responsive legal governance. Therefore, strengthening digital literacy, media ethics, and legal institutional capacity is key to ensuring that digital transformation goes hand in hand with the principles of a healthy democracy.⁸

In this context, this study seeks to understand the relationship between the quality of democracy and the electoral legal framework in the midst of digital technology disruption. The normative juridical approach is used to examine the compatibility between the applicable legal norms and the social phenomena that develop in the digital era. Based on this focus, this research is directed to answer two

⁶ Rahmat Ferdian Andi Rosidi. "Kebebasan Berekspresi Di Era Digital." *Scripta: Jurnal Kebijakan Publik dan Hukum* 1, no. 1 (2018): XIII-XXIV.

⁷ Mahpudin Mahpudin. "Pemanfaatan Teknologi Pemilu Di Tengah Era Post Truth: Antara Efisiensi dan Kepercayaan." *Jurnal PolGov* 1, no. 2 (2019): 157-197.

⁸ Al Araf Assadallah Marzuki S. H. "Penguatan demokrasi cyber di Indonesia pasca pemilu 2019." *Masyarakat Indonesia* 45, no. 1 (2019): 33-46.

main questions, namely how the phenomenon of technological disruption affects the quality of democracy and the implementation of elections based on the applicable legal framework, as well as what are the main challenges in the implementation and reconstruction of relevant legal regulations to maintain the integrity of democracy in the digital era.

2. Methods

This research uses a normative juridical approach, which is an approach that examines law as a system of norms that live in society and functions as a guideline for behavior in state life. This approach focuses on the analysis of laws and regulations, legal principles, doctrines, and normative concepts that govern the relationship between democracy, elections, and the development of digital technology. The main objective of this approach is to identify the compatibility between the applicable legal norms and the changing social realities due to technological disruption, as well as to assess the extent to which positive laws are able to respond to the challenges of digital democracy.

The normative juridical approach places law as the main object of study through the analysis of primary and secondary legal materials. The primary legal materials in this study include three main laws that are the basis of the study, namely Law Number 7 of 2017 concerning General Elections, Law Number 11 of 2008 jo. 19 of 2016 concerning Information and Electronic Transactions (ITE), and Law Number 14 of 2008 concerning Public Information Disclosure (KIP). These three regulations are analyzed to understand how their normative substance regulates

democratic governance in the midst of information technology developments. Meanwhile, secondary legal materials consist of scientific literature such as books, journals, and the results of previous research that discuss the topics of democratic quality, digital ethics, and electronic election governance.

The analysis method used in this normative juridical approach is qualitative descriptive, namely by interpreting the meaning of the law based on the text and the context of its application. Data obtained from various legal sources are systematically analyzed to find the relationship between legal norms and empirical phenomena that arise due to technological disruption. The analysis is carried out through three stages: first, the inventory of relevant positive laws; second, legal interpretation of the norms that govern digital democracy; and third, normative evaluation of the conformity between legal principles and democratic practices in the context of modern technology.

This approach also uses legal hermeneutic techniques to understand the meaning and purpose of law formation, as well as the extent to which these norms are able to adapt to the social dynamics generated by digital developments. The results of this normative analysis are then used to formulate the idea of legal reconstruction that is more responsive to social change, without ignoring basic democratic principles such as transparency, fairness, and public participation. Thus, the normative juridical approach in this study not only aims to describe the legal text, but also to provide a critical evaluation of the effectiveness of legal norms in maintaining the quality of democracy in the era of technological disruption.

3. Results and Discussion

3.1. The Phenomenon of Technological Disruption on the Quality of Democracy Based on the Applicable Legal Framework

The era of technological disruption has brought significant changes to the dynamics of democracy and the implementation of elections in Indonesia. Digital technology, especially social media, big data, and artificial intelligence, is not only a tool of political communication but also a new medium in shaping public opinion, mobilizing voters, and supervising the course of democracy. In the context of positive law, this phenomenon requires a new interpretation of existing regulations, especially the three main laws, namely Law No. 7 of 2017 concerning Elections, Law No. 11 of 2008 jo. 19 of 2016 concerning ITE, and Law No. 14 of 2008 concerning KIP. These three laws form the juridical pillars for electoral democracy in the digital era, but their implementation faces the challenge of adapting to the evolving nature of technology.⁹

In the perspective of substantive democracy, digital technology has opened up new spaces for political participation. Citizens are now not only the object of political policy, but also active subjects in shaping public narratives through the digital space. Social media provides an opportunity for the public to monitor the election process, disseminate information, and organize aspirations spontaneously.¹⁰ However, this phenomenon also poses a paradox. Information disclosure, which is

⁹ Budi Gunawan and Barito Mulyo Ratmono. *Demokrasi di Era Post Truth* (2021). Kepustakaan Populer Gramedia, 2021.

¹⁰ Anang Sujoko and Muhtar Haboddin. *Media dan Dinamika Demokrasi*. Jakarta: Prenada Media, 2020.

expected to strengthen transparency, has the potential to weaken public political rationality due to the rampant information disorder such as hoaxes and disinformation.¹¹ This shows that the effectiveness of digital democracy is highly dependent on the ability of the law to regulate and balance freedom of expression with legal responsibility in cyberspace.

In the context of the Election Law, digital transformation has also changed the practice of organizing and supervising elections. Digital systems such as Sirekap and Situng are the government's efforts to realize transparency and efficiency.¹² However, its implementation raises legal issues related to data validity, system security, and protection against potential digital manipulation. This is where the role of legal norms is tested, because the principles of openness and accountability stipulated in Law No. 7/2017 must deal with the risk of data leaks and cyberattacks that have not been comprehensively anticipated by regulations. This phenomenon shows that the quality of democracy is not only determined by the existence of laws, but also by the state's ability to adapt regulations to technological dynamics that affect voter behavior and election supervision mechanisms.

Meanwhile, the ITE Law is an important legal tool in regulating the digital behavior of citizens and election participants. However, in practice, the implementation of the ITE Law often presents a dilemma between the interests of maintaining digital order and the protection of freedom of expression. According to

¹¹ Muhammad Rizal Baihaqi. *Demokrasi digital: Memahami dampak dan tantangan*. Jawa Barat: Penerbit Adab, 2020.

¹² Mahpudin Mahpudin. "Pemanfaatan Teknologi Pemilu Di Tengah Era Post Truth: Antara Efisiensi dan Kepercayaan." *Jurnal PolGov* 1, no. 2 (2019): 157-197.

Rosidi,¹³ legal norms that are too rigid in regulating digital communication can cause a chilling effect where citizens are reluctant to convey political criticism in online public spaces. This condition has the potential to reduce the quality of democratic deliberation, which is the main characteristic of participatory democracy. Therefore, the reformulation of norms in the ITE Law is urgent to remain in line with the values of constitutional democracy that guarantee the right of citizens to express their opinions freely but responsibly.

On the other hand, the disclosure of public information as stipulated in Law No. 14 of 2008 is a vital aspect in maintaining the quality of democracy in the digital era. According to Mustofa,¹⁴ public information disclosure is a concrete form of democratic accountability that allows the public to assess the performance of state administrators, including in the context of elections. However, in practice, this openness faces a dilemma between the public's right to know and the state's obligation to protect citizens' personal data. The era of big data governance expands access to public information, but at the same time increases the risk of data misuse by political actors and interested third parties. Thus, the legal system must be able to balance two equally important values: transparency and privacy protection.

The phenomenon of technological disruption also brings changes in the pattern of relations between the community, election organizing institutions, and the state. Marzuki¹⁵ emphasizes that the digitization of democracy creates a “new arena

¹³ Rahmat Ferdian Andi Rosidi. “Kebebasan Berekspresi Di Era Digital.” *Scripta: Jurnal Kebijakan Publik dan Hukum* 1, no. 1 (2018): XIII-XXIV.

¹⁴ Syahrul Mustofa. *Hukum Keterbukaan Informasi Publik di Indonesia*. Spasi Media, 2020.

¹⁵ Al Araf Assadallah Marzuki S. H. “Penguatan demokrasi cyber di Indonesia pasca pemilu 2019.” *Masyarakat Indonesia* 45, no. 1 (2019): 33-46.

of power” that is not only governed by formal law, but also by the algorithms and logic of global technology corporations. In this context, digital sovereignty is an inevitable issue because the influence of digital platforms on public opinion often goes beyond the control of national law. Therefore, the effectiveness of the law in maintaining the quality of democracy depends on its ability to adapt across sectors, namely law, technology, and public ethics.

The results of the analysis show that technological disruption has two sides to Indonesian democracy. On the one hand, it expands access, increases participation, and encourages transparency. But on the other hand, it poses new risks such as disinformation, data privatization, and the erosion of public trust in democratic institutions. The three laws that are the normative foundation are still relevant, but require interpretive updates in order to respond to digital dynamics with a more responsive, adaptive, and equitable approach. Thus, the phenomenon of technological disruption not only tests the capacity of the law in regulating, but also tests the maturity of democracy in upholding the values of freedom, justice, and public responsibility in the digital space.

3.2. Challenges of Implementation, Urgency, and Legal Reconstruction in Maintaining the Quality of Democracy in the Era of Technological Disruption

The implementation of democratic regulations in the era of technological disruption faces complex and multidimensional challenges. Although legal frameworks such as Law No. 7 of 2017 concerning Elections, Law No. 11 of 2008 jo. 19 of 2016 concerning Electronic Information and Transactions (ITE), and Law

No. 14 of 2008 concerning Public Information Disclosure (KIP) are still relevant today, the dynamics of the development of digital technology have created a gap between legal norms and social reality. This gap creates what Badrun¹⁶ calls a “normative deficit”, which is a condition when the substance of the law is no longer fully able to respond to the social phenomena that arise due to technological innovation.

The main challenge in the application of the law in the context of digital democracy lies in the aspect of law enforcement and norm adaptation. In practice, many provisions in the Election Law have not been able to explicitly regulate the practice of algorithm-based political campaigns, the use of micro-targeting of voters, or the spread of systemic political hoaxes. According to Wahyudi,¹⁷ regulations that are still oriented to physical space have not been able to reach digital mechanisms that move quickly and are not bound by regional boundaries. This phenomenon shows that positive law is still reactive, not preventive. As a result, acts of violation such as the spread of fake news or covert campaigns on social media are often difficult to act on due to weak digital proof mechanisms and limited capacity of supervisory agencies.

The second challenge concerns the ambiguity of norms and the overlap of authority between agencies. In the context of the ITE Law and the KIP Law, there are often differences in interpretation between law enforcement agencies, the

¹⁶ Ubedilah Badrun. “Ketahanan nasional Indonesia bidang politik di era demokrasi digital (tantangan tahun politik 2018-2019 dan antisipasinya).” *Jurnal Lemhannas RI* 6, no. 1 (2018): 21-36.

¹⁷ Very Wahyudi. “Politik Digital Di Era Revolusi Industri 4.0 “Marketing & Komunikasi Politik”.” *Politea: Jurnal Politik Islam* 1, no. 2 (2018): 149-168.

Ministry of Communication and Informatics, and the Information Commission regarding the boundaries between “information disclosure” and “personal data protection”. This ambiguity is often exploited by political actors to manipulate public opinion or spread disinformation without being effectively ensnared by the law. According to Sudibyo,¹⁸ this difference in legal interpretation weakens the principle of procedural justice in digital democracy and blurs the line between the right to opinion and the abuse of freedom of expression.

The third challenge is the lack of digital literacy and legal awareness of the community. Digital democracy requires citizens who are not only technologically literate, but also legally literate. According to Marzuki,¹⁹ the low public understanding of digital ethics and legal rights in the cyber world is a factor that weakens the quality of democracy. When people are unable to distinguish between true and false information, the digital space that should be an arena for deliberation turns into a polarizing space. Therefore, increasing the capacity of digital legal literacy is an important prerequisite for the successful implementation of legal norms in the context of modern democracy.

From an institutional perspective, the application of the law in the digital era is also faced with limited cyber surveillance capacity and interagency system integration. Although the general election supervisory agency (*Badan Pengawas Pemilu*/Bawaslu), General Elections Commission (*Komisi Pemilihan Umum*/KPU),

¹⁸ Agus Sudibyo. “Media sosial, demokrasi dan problem etika.” *VISIONER: Jurnal Komunikasi, Bisnis dan Konten Kreatif* 5, no. 2 (2018).

¹⁹ Al Araf Assadallah Marzuki S. H. “Penguatan demokrasi cyber di Indonesia pasca pemilu 2019.” *Masyarakat Indonesia* 45, no. 1 (2019): 33-46.

and *Kementerian Komunikasi dan Informatika* (Kominfo) have made various coordination efforts, institutional gaps are still found that hinder the effectiveness of supervision of digital political content. Setiawan²⁰ stated that weak coordination between institutions often causes synchronization between law enforcement efforts and technological developments used by digital political actors. This imbalance makes the law lose its anticipatory power against innovations such as deepfakes, bot manipulation, and data-driven campaign strategies.

Based on these challenges, the urgency of legal reconstruction has become a normative imperative. This reconstruction does not only mean changes in the law, but also a transformation of the legal paradigm to be able to adapt to the characteristics of digital technology. According to Tamara,²¹ the reconstruction of democratic law in the digital era must be oriented towards three principles: responsiveness, transparency, and accountability. First, the principle of responsiveness requires that the law be able to move in line with technological developments through the formation of dynamic and adaptive derivative regulations. Second, the principle of transparency requires the openness of the legal system, both in the legislative process and in the implementation of digital elections. Third, the principle of accountability emphasizes the importance of legal responsibility for every digital action that has an impact on the integrity of democracy, both by state administrators, election participants, and citizens.

²⁰ Andi Setiawan. "Jejaring kelembagaan Bawaslu dalam penanganan pelanggaran pemilihan umum serentak." *Jurnal Academia Praja: Jurnal Magister Ilmu Pemerintahan* 3, no. 02 (2020): 322-340.

²¹ Nasir Tamara. *Demokrasi di era digital*. Jakarta: Yayasan Pustaka Obor Indonesia, 2021.

In addition, legal reconstruction also needs to strengthen the digital public ethics framework, namely the integration between legal norms and moral values in the use of political technology. The law must not stop at the normative level, but must encourage the formation of an ethical and responsible digital political culture. In this context, the establishment of a cyber ethics charter or national digital ethics guidelines is a strategic step to maintain a balance between freedom of expression and the security of public information.²² Thus, the law is no longer just a controlling tool, but also a means of social learning that strengthens the value of substantive democracy.

The direction of legal reconstruction in the era of technological disruption demands cross-sectoral collaboration: between legislators, executives, academics, and civil society. Reconstruction should not be reactive to cases, but proactive in building an inclusive, flexible, and evidence-based lawmaking. Only with this approach can the law be able to play a key role as a buffer for democracy in the midst of an increasingly intense wave of global digitalization.

4. Conclusion

The era of technological disruption has had a fundamental impact on democratic practices and the implementation of elections. Digital transformation opens up huge opportunities for increased public participation, transparency, and efficiency in the administration of elections, but it also presents new threats to the integrity of democracy. The results of the analysis show that the three main laws, the

²² Muhammad Rizal Baihaqi. *Demokrasi digital: Memahami dampak dan tantangan*. Jawa Barat: Penerbit Adab, 2020.

Election Law, the ITE Law, and the Public Information Disclosure Law, are still normatively relevant until this year, but are not fully adaptive to fast-moving and unexpected technological developments. Phenomena such as disinformation, data privatization, and algorithm-based campaigns show that existing legal norms are still reactive and do not have strong anticipatory power.

Therefore, a legal reconstruction that is responsive and dynamic is needed. Regulatory updates must be directed at strengthening the principles of transparency, accountability, and the protection of citizens' digital rights. Law enforcement in the digital era is not enough to be carried out through a repressive approach, but must also be accompanied by increasing legal literacy and awareness of digital ethics in the community. Synergy between state institutions, election organizers, academics, and civil society is key in building a legal order that is adaptive to technological changes. Thus, the quality of democracy in the era of disruption is not only determined by the presence of laws, but also by the ability of the national legal system to uphold substantive democratic values in the digital space.

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