

Digital Authoritarianism in Pancasila Democracy: A Legal Study of Restrictions on Freedom of Expression in Indonesia

Yoga Syamsualam¹

¹ Faculty of Law, Universitas Negeri Semarang, Indonesia

✉ Corresponding email: yogasyasm2312@students.unnes.ac.id

Abstract

This research is motivated by the rise of digital authoritarian practices in Indonesia, which threaten freedom of expression through systematic repression and cyber control. This study aims to comprehensively examine the escalation of silencing of expression in the digital space and its deviation from the fundamental principles of Pancasila Democracy. Using normative legal research methods with legislative, conceptual, and case-based approaches, this study analyzes the relationship between digital regulations and the principle of freedom of expression. The results show that Indonesia is experiencing democratic regression, reflected in a decline in internet freedom scores and the use of subjective regulations in the ITE Law (Law No. 1 of 2024) and the new Criminal Code (Law No. 1 of 2023) to commit

judicial harassment. This practice creates a "procedural facade" in which democratic legitimacy is formally maintained through elections, but the substance of civil liberties is emasculated through hybrid attacks and the dominance of political elite narratives. In conclusion, there is a lack of synchronization between national law and the international standards of the ICCPR and the intrinsic value of the Fourth Principle of Pancasila. The research recommendations include the urgency of reforming the paradigm of law enforcement officers from a punitive approach to protecting constitutional rights, as well as synchronizing national regulations with international tripartite test parameters to restore democratic public space.

Keywords: *Digital Authoritarianism, Pancasila Democracy, Freedom of Expression, ITE Law, ICCPR.*

A. Introduction

The development of globalization and the rapid advancement of information technology have driven a digital transformation that has penetrated almost all aspects of society. Indonesia, as a state based on the rule of law (*rechtstaat*) that upholds the principles of democracy and the protection of human rights, now faces a major challenge in regulating the digital public space fairly and proportionally, particularly regarding freedom of expression. ¹Ironically, the phenomenon of the narrowing of public space in Indonesia has reached a concerning point, marking a fundamental shift in the way the state manages dissent in the public sphere. As a state based on the rule of law of Pancasila, Indonesia constitutionally guarantees freedom of expression as a manifestation of Pancasila Democracy, which is a democracy based on the principles of kinship and mutual cooperation aimed at the welfare of the people. ²However, in practice, digital instruments are often used as a systematic tool of repression by the state to manage citizen criticism. The state's

¹ Sri Yuliana, "Harmonisasi Regulasi Digital Dengan Prinsip Kebebasan Berpendapat Dalam Negara Hukum Indonesia," *Rio Law Journal* 6, no. 2 (2025): 713–30, <https://doi.org/10.36355/rlj.v6i2.1777>.

² Nur Rohim Yunus, "Aktualisasi Demokrasi Pancasila Dalam Kehidupan Berbangsa Dan Bernegara," *Sosio-Didaktika: Social Science Education Journal* 2, no. 2 (2015): 156–66, <https://doi.org/10.15408/sd.v2i2.2815>.

repressive efforts to limit criticism through suppression that is no longer carried out physically but rather digitally has implications for the practice of Digital Authoritarianism. " Digital authoritarianism is the strong control of internet freedom accompanied by state repression and a strong suspicion of increasing digital public space in Indonesia. The rise of authoritarianism is an example of the suppression of civil liberties, including on social media, and is an indicator of the death of democracy. " ³The ruling policy that intends to prioritize stability over civil liberties has systematically had a destructive impact on efforts to consolidate democracy in the country, which in turn will trigger a regression in the quality of political institutions and hinder the acceleration of more substantial democratic progress.

Studies on freedom of expression in the digital public space in Indonesia tend to be dominated by criticism of the ambiguity of articles in the first revision of the ITE Law, namely in Law Number 19 of 2016, which is very vulnerable to being used to criminalize citizens who strongly criticize public policies taken by the government through digital media. Although currently there is also literature that discusses how the second revision of the ITE Law through Law Number 1 of 2024 in relation to the dynamics of digital authoritarianism, there is still minimal literature that discusses 'faceless violence' which philosophically can be defined as a form of aggression or violence that occurs in cyberspace where the perpetrator and victim are not in a face-to-face meeting ⁴such as hacking and other cyber terror to suppress civil space outside the boundaries of existing formal law. This research is present to bridge these gaps by composing doctrinal and legal analysis of regulations with the existing empirical reality, namely digital attacks that are systematically experienced by various content creators who are vocal in voicing criticism. While existing literature predominantly focuses on the superficial ambiguities of the revised ITE Law, this study

³" *Digital authoritarianism is the strong control over internet freedom that comes with state repression and strongly suspected rise in Indonesia's digital public space. The rise of authoritarianism Is an example of the suppression of civil liberties, including on social media, and is an indicator of the demise of democracy .*" Iradhad Taqwa Sihidi, "The Rise of Symptoms of Digital Authoritarianism: Lessons from Indonesia," *International Journal of Politics and Public Policy* 2, no. 1 (2025): 29–44, <https://doi.org/10.70214/28vg6e57>.

⁴ F. Budi Hardiman, "Manusia Dalam Prahara Revolusi Digital," *Discourse - Journal of Philosophy and Theology of Stf Driyarkara* 17, no. 2 (2018): 177–92, <https://doi.org/10.36383/diskursus.v17i2.252>.

addresses a critical research gap: the absence of a cohesive analytical framework that synchronizes international human rights standards with the intrinsic deliberative values of Pancasila. The primary novelty of this article lies in its effort to construct a doctrinal bridge between the global parameters of the ICCPR and the Fourth Principle of Pancasila, thereby challenging the state's narrative that rigidly dichotomizes national stability and digital freedom of expression. Consequently, this research aims to comprehensively examine how the legal mechanisms enabling digital authoritarianism fundamentally deviate from both constitutional mandates and international obligations.

To dissect this complexity, the structure of this article is systematically arranged into three main discussions: first, mapping the anatomy and sketch of contemporary digital authoritarianism; second, an effort to reinterpret the philosophical nature of criticism as a pure embodiment of the fourth principle of Pancasila; and third, an in-depth analysis of the urgency of consistent national synchronization with international civil rights protection standards contained in the International Covenant on Civil and Political Rights (ICCPR). Through these three main discussions, this study is expected to be able to present a solid argumentative foundation in efforts to restore an inclusive and democratic civil space amidst the obstacles of technological disruption in Indonesia.

B. Research Method

In this research, the author uses a normative legal research method conducted by reviewing doctrinal legal materials, in the form of written legal norms and applicable legal principles, in order to examine and analyze the relationship between digital regulations and the principle of freedom of expression in the context of the Indonesian rule of law, written descriptively to provide a comprehensive picture of the methodology used.⁵ The approaches applied in the research include *the statute approach*, the contextual approach (*conceptual approach*), and the case approach *through* ⁶a review of Constitutional Court decisions and

⁵ Yuliana, "Harmonisasi Regulasi Digital Dengan Prinsip Kebebasan Berpendapat Dalam Negara Hukum Indonesia."

⁶ The *case* approach is a type of approach in normative legal research in which researchers try to build legal arguments from the perspective of concrete cases that occur in the field, of course these cases are closely related to legal cases or events that occur in the field. Saiful Anam, " Pendekatan Perundang-Undangan (Statute Approach) dalam Penelitian Hukum," Saiful Anam &

documents of the International Convention on Civil and Political Rights. The author obtained primary data from secondary legal materials that include academic literature such as books, articles, academic journals, news articles, magazines, annual reports of credible institutions such as SAFEnet and LBH Pres, statistical data on restrictions on expression in digital mass media in Indonesia from Freedom House, and other online references. All reference sources were carefully selected to ensure their relevance to the topic and provide a comprehensive perspective on digital repression in Indonesia. Data processing tactics are carried out qualitatively by organizing data, sorting it into manageable units, synthesizing it, searching and finding what is important and what is learned to draw deductive conclusions to analyze and solve problems regarding the relevance of digital policy practices set by the government with constitutional values that should be upheld.⁷

C. Digital Authoritarianism: The Reality of Controlling Criticism in the Contemporary Era of Government

Today's technological developments have brought about significant changes in various aspects of life, including the legal field.⁸ Information and communication technology has opened up new opportunities for transparency and public participation. The digital public sphere has now become the primary platform for people to communicate, express their opinions, and even criticize public policies. This is due to the rapid spread of information in the digital public sphere, particularly social media, which plays a significant role in creating a domino effect on public order.⁹ Within a short period of time, thousands of social media users can join online conversations, express

Partners, December 28, 2017, <https://www.saplaw.top/dekatatan-perundang-undangan-statute-approach-dalam-penelitian-hukum/>.

⁷ Risnita et al., "Teknik Analisis Data Kuantitatif Dan Kualitatif Dalam," *Genta Mulia Journal* 15, no. 2 (2024): 79–91, <https://ejournal.stkipbbm.ac.id/index.php/gm>.

⁸ Elza Syarif, "Teknologi Dan Perlindungan Hak Asasi Manusia Dalam Keadaan Darurat Di Indonesia," *Journal Global Review of Law and Human Rights* 01, no. 01 (2025): 49–64.

⁹ Ferry Irwandy, "Transformasi Gerakan Sosial Di Era Digital : Studi Kasus Aksi Online Dan," *Journal of Social and Political Inquiry* 1, no. 1 (2025): 27–33.

themselves, and voice criticism, demonstrating their participation as citizens, as well as embodying democracy based on Pancasila. In the context of a democratic state, freedom of expression is an essential aspect guaranteed by the constitution.¹⁰ The 1945 Constitution of the Republic of Indonesia in Article 28E paragraph (3) "Everyone has the right to freedom of association, assembly, and expression of opinion" and Article 28F "Everyone has the right to communicate and obtain information to develop their personality and social environment, and has the right to seek, obtain, possess, store, process, and convey information using all available channels"¹¹ explicitly and firmly recognizes the right of every citizen to express opinions, as well as the right to obtain and convey information through various media. Freedom of expression in the administration of state government is the right way for the public to participate in controlling state power through the process of determining state policy.

However, the right to freedom of expression is not an absolute right.¹² As stated in Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia "In exercising their rights and freedoms, every person is obliged to submit to restrictions established by law with the sole purpose of guaranteeing recognition and respect for the rights and freedoms of others and to fulfill just demands in accordance with moral considerations, religious values, security, and public order in a democratic society".¹³ Therefore, the role of the state in recognizing the right to freedom of expression, especially in the context of the scope of digital mass media, is ambivalent, meaning that the state is both a protector and a limiter of citizens' freedom of expression. The Constitution emphasizes the legal understanding of democracy, but in political life the argument applies that the concept of democracy and the reality of its implementation are very much determined by the political will of the state's rulers. As a result, an imbalance in the

¹⁰ Yuliana, "Harmonisasi Regulasi Digital Dengan Prinsip Kebebasan Berpendapat Dalam Negara Hukum Indonesia."

¹¹ Mahkamah Konstitusi, "UUD Negara Republik Indonesia Tahun 1945," *Mk* 1945 (2017): 19.

¹² Rudi Natamiharja, "Peran Negara Dalam Menjamin Kebebasan Berekspresi Menurut Konstitusi Dan Hukum HAM (The Role of the State in Guaranteeing Freedom of Expression under the Constitution and Human Rights Law)," *Scientific Study of Law and State (KIHAN)* 4, no. 1 (2025): 1–10.

¹³ Mahkamah Konstitusi, "UUD Negara Republik Indonesia Tahun 1945," *Mk* 1945 (2017): 19.

response taken by the state through its equipment in carrying out these two functions can lead to systematic human rights violations.

1. *The Evolution of Patterns of Repression and Silencing in the Practice of Digital Authoritarianism*

With the increasingly massive development of technology, the pattern of silencing expression in Indonesia has evolved. The pattern of silencing expression has now shifted from visible physical repression to a repression that controls using digital infrastructure and instruments that are latent but highly systematic. While repression to control public expression previously involved banning print media and/or forcibly disbanding public discussions, now the manifestation of the "iron fist" of state and non-state actors operates through algorithms and cyber architecture. Silencing in the contemporary era is no longer simply physical removal, but rather the stifling of digital existence through coordinated cyberattacks, ranging from doxing that exposes personal data, hacking of personal accounts, to social media hijacking strategies aimed at delegitimizing the credibility of citizens who are vocal in voicing criticism in public.

In its authoritarian practices, ruling regimes make changes and adapt to existing developments. They are aware that direct use of violence will generate extraordinary resistance, therefore, suppressing and controlling public opinion in digital public spaces is one new way to maintain power . ¹⁴Ruling regimes implement digital authoritarianism practices using various strategies. One form of digital authoritarianism strategy is to control information through mass media and digital spaces. On the Internet, information is the primary instrument representing public participation. The rapid flow of information is often exploited by authorities through social media algorithms, internet censorship, and disinformation campaigns to weaken critical voices in society. These efforts by the authorities have implications for weakening press freedom and reducing the space for civil society to conduct independent, educational discussions. In addition to controlling information, in the practice of digital authoritarianism, rulers also co-opt civil society organizations. Some regimes utilize funding mechanisms, strict regulations, and even direct intervention in

¹⁴ Dahlil Imran and Nur Hidayat Sardini, "Bayang Otoritarianisme Digital: Analisis Rkuhp Kehormatan Penyelenggara Negara Dan Kebebasan Menyatakan Pendapat," *Journal of Education and Development* 11, no. 1 (2022): 24–30, <https://doi.org/10.37081/ed.v11i1.4223>.

organizational structures to weaken critical civil movements. Organizations that are successfully co-opted are then used as tools of legitimacy by the ruling regime. These conditions demonstrate that civil society must confront not only state power but also an information ecosystem manipulated for the benefit of those in power. Furthermore, independent civil society faces multiple pressures, both from the formal legal and internal organizational perspectives. These conditions create an increasingly difficult dilemma for civil society, between maintaining its independence and losing its place amidst the repressive nature of the ruling regime.¹⁵

In Indonesia, digital repression has occurred in three aspects: the right to internet access, the right to freedom of expression, and the right to feel safe in the digital realm. This fact further strengthens the digital authoritarian movement. In the context of civil society, academics, and critical media as policy opponents, these groups are highly vulnerable to attacks because many lack digital security standards.¹⁶ These phenomena of digital repression are a form of authoritarianism that has implications for the decline of democracy in Indonesia. The systematic decline of democratic quality in Indonesia is empirically reflected in its degrading digital ecosystem. The Freedom House 2025 report confirms this trajectory by assigning Indonesia a score of 48 out of 100 a stagnation in the "partly free" category that specifically highlights the state's failure to protect users from extra-legal intimidation and the arbitrary enforcement of content-removal regulations. Legally, this hybrid repression operates within a legislative vacuum; the absence of comprehensive digital security laws allows state and non-state actors to execute cyber-attacks with impunity, strengthening authoritarian statism where ambiguous digital regulations are deployed not to protect the

¹⁵ Erfain, "Dinamika Masyarakat Sipil Dalam Menghadapi Otoritarianisme Modern," *INTELLECTUAL: MULTIDISCIPLINARY SCIENTIFIC JOURNAL OF STUDENTS AND ACADEMICS* 1 (2025): 1–8.

¹⁶ "In the Indonesian context, digital repression has occurred in 3 aspects: the right to access the internet, the right to free expression, and the right to a sense of security in the digital realm. This fact further strengthens the digital authoritarianism movement. In the context of civil society, academia, and critical media as policy opponents, this group is particularly vulnerable to attack because many do not have digital security standards." Iradhad Taqwa Sihidi "The Rise of Symptoms of Digital Authoritarianism: Lessons from Indonesia." Sihidi.

public, but to insulate the political elite from civic scrutiny.¹⁷ Digital regulation and criminal law enforcement, particularly against critical actors, activists, and social media activists, have transformed into tools of systematic repression to stifle civil liberties, particularly regarding expression in digital media. This practice, exacerbated by digital attacks and the dominance of pro-government narratives through paid actors (buzzers), creates a contradiction in the principles of Pancasila Democracy which should guarantee freedom of expression as a fundamental constitutional right.

The escalation of repression against freedom of expression is empirically reflected in the high number of violence against the pillars of democracy, where the Alliance of Independent Journalists (AJI) recorded 89 cases of violence against journalists throughout 2025. Legally, the involvement of law enforcement officers in 21 cases of physical violence which included confiscation of work equipment to the deletion of journalistic data constitutes a serious violation of the guarantee of professional protection in the Press Law. This phenomenon, when correlated with 29 cases of digital attacks (*hacking/doxing*) and 22 cases of intimidatory terror, confirms the existence of a systematic pattern to create a climate of fear (*chilling effect*). This practice of hybrid repression not only paralyzes the control function of the press, but also encourages the spread of self -*censorship* in the digital public space, which fundamentally harms the principles of transparency and accountability in Pancasila Democracy.¹⁸

2. *Extra-legal Terror and Intimidation of Social Media Activists*

The practice of digital authoritarianism carried out by the authorities not only targets journalists through repression but also targets activists and social media activists who are vocal and active in voicing their ideas or criticisms of the ruling regime for policies that are considered deviant and not in favor of the interests of the people. Entering the era of President Prabowo Subianto's administration in late 2025 to early 2026 was marked by various systematic escalations of terror against digital *influencers* and activists. This phenomenon marks a shift in the modus operandi of digital authoritarianism, from mere legal repression through

¹⁷ Alliance of independent journalists "Indonesia Press freedom Situation Report 2025: The Press under Authoritarian Repression," (Jakarta: AJI Indonesia, 2025).

¹⁸ Alliance of independent journalists "Indonesia Press freedom Situation Report 2025: The Press under Authoritarian Repression," (Jakarta: AJI Indonesia, 2025).

the courts such as the case of Laras Faizati Khairunnisa (26) which provides a clear picture of how the ITE Law and incitement articles are used to ensnare vocal individuals.¹⁹ The form of repression has now also shifted towards a hybrid form of violence that combines direct physical attacks and advanced cyber terror. The case of throwing a Molotov cocktail at DJ Donny's residence after criticizing the handling of the disaster in Sumatra, as well as the vandalism of Sherly Annavita's house, shows that the digital space is no longer an isolated area; The consequences of online expression are now manifesting in the form of real physical threats.²⁰ This pattern of intimidation is increasingly worrying with the use of *SIM card hijacking* and *doxing techniques* that target the realm of family privacy, as experienced by content creator Pitengz and activist Iqbal Damanik.²¹ The use of cyber instruments to target the subject's family is a systematic effort to create deep psychological fear, or what is legally known as *the chilling effect*. The targets vary, ranging from ecological issues by Iqbal Damanik to criticism of the Free Nutritional Meal (MBG) program by Tyo Ardianto.²² These massive practices of digital repression are clear examples that show that this repression is not sporadic, but rather a coordinated attack aimed at paralyzing critical nodes on social media.

From a doctrinal perspective, these coordinated attacks generate a severe "chilling effect" a legal condition where citizens self-censor their legitimate constitutional rights due to the persistent threat of disproportionate penalization or extra-legal terror. This phenomenon is exacerbated by top-down delegitimizing narratives, such as presidential rhetoric dismissing legitimate online critics as mere "buzzers" or "foreign lackeys." Legally and philosophically, such rhetorical framing

¹⁹Hanafi Holanda, "Laras Faizati Divonis Bersalah Tanpa Penjara, Ancaman Besar Bagi Kebebasan Berekspresi Warga," *The Stance*, March 12, 2026, <https://thestance.id/laras-faizati-divonis-bersalah-tanpa-penjara-ancaman-besar-bagi-kebebasan-berungkap-warga>.

²⁰"Sejumlah Influencer Diteror, Prabowo Prihatin," *Sindonews*, June 2026, <https://nasional.sindonews.com/read/1663555/12/sejumlah-influencer-diteror-prabowo-prihatin-1767715285>.

²¹"7 Konten Kreator dan Aktivis Diteror usai Kritik Pemerintah soal Pascabencana Sumatra," *Media Indonesia*, 2026, <https://mediaindonesia.com/hiburan/845530/7-konten-creator-dan-aktivis-diteror-usai-kritik-pemerintah-soal-pascabencana-sumatra>.

²²Wawancara Tyo Ardianto: Teror dan Kritik Kebijakan Prabowo," *Tempo.co*, 2026, <https://www.tempo.co/interview/tyo-ardianto-bem-ugm-teror-kritik-kebijakan-prabowo-2118903>.

dismantles the essence of Pancasila Democracy; it violates the Fourth Principle by shutting down rational deliberation (*musyawarah*) and provides implicit moral justification for non-state actors to bypass the ITE Law, executing cyber-vigilantism against critical voices without fear of prosecution. Rather than being a space for healthy discourse, Indonesia's digital ecosystem is currently transforming into an asymmetrical battlefield where instruments of power are deployed to discipline public narratives in order to maintain the stability of the interests of political elites.

D. The Nature of Criticism as an Instrument of Checks and Balances: Assessing the Purification of Pancasila Democracy from the Penetration of Authoritarianism

Indonesia, as a republican state, should have the highest sovereignty of the people. Therefore, as a constitutional state with popular sovereignty, the laws in Indonesia should be as broad as possible aimed at protecting the interests of the people. Therefore, Indonesia is a democratic state, where democracy itself is often defined as a government in which the people hold the highest sovereignty. Borrowing Abraham Lincoln's opinion, democracy: "government of the people, by the people, and for the people."²³ In a democratic state, democracy will function well when its citizens are constitutionally given the "freedom" to express opinions, associate, and participate in the country's political life. According to Frans Magnis Suseno (1997), there are five essential characteristics of a democratic state. These five democratic groups are a state based on the rule of law, a government under real public control, free elections, the principle of majority rule, and the guarantee of democratic rights.²⁴ Jürgen Habermas in his theory of deliberative democracy emphasizes the importance of a "public sphere" *that* is free from the domination of power so that citizens can participate in policy formation through rational arguments.²⁵

²³ Yayuk Hidayah, Nufikha Ulfa, and Poppy Belladonna, "Demokrasi Pancasila Dalam Membangun Demokrasi 'Sehat'," *JISHUM (Journal of Social Sciences and Humanities)* Vol. 1, No. 1, no. Social-Political (2022): 110–23.

²⁴ Yunus, "Aktualisasi Demokrasi Pancasila Dalam Kehidupan Berbangsa Dan Bernegara."

²⁵ muhammad Nur Jamaluddin, Susi Dwi Harijanti, and Rahayu Prasetyaningsih, "Perubahan Undang-Undang Dasar Negara Republik

The Indonesian constitutional system, based on the 1945 Constitution of the Republic of Indonesia, outlines the principles of constitutional democracy, anchored in the Pancasila Democracy. Ontologically, the actualization of Pancasila Democracy is rooted in the fourth paragraph of the Preamble to the 1945 Constitution, namely, democracy guided by the wisdom of deliberation/representation. This principle does not stand alone, but rather constitutes an organic unity inspired by the values of divinity, just and civilized humanity, and unity, with the ultimate goal of realizing social justice. Pancasila Democracy can be defined as democracy internalized by the Indonesian nation and state, inspired and integrated by the noble values of Pancasila.²⁶ Within this framework, popular criticism and sovereignty are not merely political instruments, but constitutional mandates essential to upholding the rule of law.

1. The essence of Pancasila Democracy and the existence of criticism as part of Pancasila Democracy.

Pancasila is the foundation or philosophy of the Indonesian nation for achieving shared ideals of justice and peace. Pancasila is the soul and inner life of the Indonesian people. This assumption is correct because it aligns with the context of Indonesian society itself. In relation to democracy, Pancasila fosters the common good, born from the womb of the Indonesian nation itself. Pancasila democracy is a form of democracy rooted in the awareness of Indonesian national identity. Uniquely, this democracy is not only rational but also religious, reflecting religious values in decision-making.²⁷ Pancasila democracy upholds the values of unity, justice, and truth. Pancasila democracy is rooted in the character and outlook of the Indonesian people, which are

Indonesia Tahun 1945: Perspektif Demokrasi Deliberatif,” *Indonesian Legislation Journal* 21, no. 2 (2024): 202–20, <https://doi.org/10.54629/jli.v21i2.1232>.

²⁶ Yunus, "Aktualisasi Demokrasi Pancasila Dalam Kehidupan Berbangsa Dan Bernegara."

²⁷ Tobias Kardiman, "Sila Ketiga Pancasila Fondasi Dalam Menyukkseskan Demokrasi Inklusif (Sebagai Upaya Menangkal Politik Identitas)," *Sovereignty: Journal of Democracy and National Resilience* 3, no. 1 (2024): 16–30, <https://journal.uns.ac.id/Sovereignty/article/view/1113>.

based on family, mutual cooperation, and togetherness toward a just and prosperous Indonesia.²⁸

Normatively, Pancasila Democracy requires state governance to be guided by "wisdom" and rational deliberation, implicitly guaranteeing freedom of expression as a constitutional tool for societal equality and power limitation. However, a stark contradiction exists between these normative ideals and contemporary state practices. While the Second Principle demands civilized humanity, the state's tacit approval of digital doxing and algorithmic suppression against its critics demonstrates a regression into digital authoritarianism. The fundamental principle of equality is violated when digital regulations are systematically weaponized to protect state apparatuses while simultaneously disenfranchising independent civil society actors.

Individual freedom is a fundamental element in the discourse of a democratic state that is constitutionally recognized within the framework of Pancasila, particularly through the integration of values in the Second Principle ('Just and Civilized Humanity') and the Fourth Principle ('Democracy Guided by the Wisdom of Deliberation/Representation').²⁹ Axiologically, Pancasila Democracy necessitates state governance guided by two moral instruments, namely 'wisdom' and 'wisdom'. In this perspective, freedom of expression is not merely seen as a natural individual right, but rather a dialectical means to achieve the common good through deliberation. However, the philosophy of Pancasila rejects the paradigm of absolute liberalism often found in Western legal traditions; instead, freedom in Pancasila is theoretical-proportional, where individual rights are always intertwined with social responsibility, respect for the rights of others, and the obligation to maintain public order as a harmonious whole.³⁰

²⁸ Dany Try Utama Hutabarat et al., "Makna Demokrasi Pancasila," *Journal of Humanities, Social Sciences and Business (Jhssb)* 1, no. 1 (2021): 59–64, <https://doi.org/10.55047/jhssb.v1i1.61>.

²⁹ Ashfiya Nur Atqiya et al., "Pancasila Dan Hukum Tata Negara Untuk Menjaga Keseimbangan Antara Kebebasan Dan Ketertiban Publik," *Referendum: Journal of Civil and Criminal Law* 1, no. 4 (2024): 126–38, <https://doi.org/10.62383/referendum.v1i4.309>.

³⁰ Ashfiya Nur Atqiya et al. "Pancasila Dan Hukum Tata Negara Untuk Menjaga Keseimbangan Antara Kebebasan Dan Ketertiban Publik," *Referendum: Journal of Civil and Criminal Law* 1, no. 4 (2024): 126–38, <https://doi.org/10.62383/referendum.v1i4.309>.

2. *Digital Authoritarianism from the Perspective of Pancasila Democracy*

The practice of digital authoritarianism has fundamentally distorted the public sphere through the colonization of the cyber ecosystem by dominant political forces.³¹ Communication manipulation, carried out through the deployment of paid actors (*buzzers*) to spread a single narrative and suppress critical voices, constitutes a violation of the value of honesty inherent in Pancasila Democracy. In this context, the Third Principle, "Indonesian Unity," is often simplified and misused as an instrument of legitimacy to suppress criticism labeled as "divisive."³² However, from the philosophical perspective of Pancasila, true unity can only grow through acknowledging diversity of opinion and upholding social justice, not through forced uniformity that silences the dialectic of citizenship. The incongruity between the ideal values of Pancasila and contemporary digital realities creates a sharp legal paradox.

Axiologically, the Second Principle demands just and civilized humanity through social media ethics,³³ but the reality is marred by physical terror such as Molotov cocktail intimidation and chicken carcasses against critics. This is exacerbated by the degradation of the Fourth and Fifth Principles, where people's sovereignty through public oversight is eroded by the dominance of elite narratives, while law enforcement through the ITE Law tends to be discriminatory sharply targeting the opposition but bluntly targeting groups supporting the authorities.³⁴

This situation is increasingly worrying due to the public's weak digital literacy and the lack of independent oversight of national cyber policy. When the state positions itself as both the sole protector and limiter of freedom of expression without effective *checks and balances*, the risk of systematic human rights violations becomes inevitable. Consequently, digital authoritarianism has reduced Pancasila

³¹ An Uncertain Future and Global Internet, "Freedom on the Net 2025," *New Scientist* 225, no. 3011 (2015): 7, [https://doi.org/10.1016/s0262-4079\(15\)60421-3](https://doi.org/10.1016/s0262-4079(15)60421-3).

³² Kardiman, "Sila Ketiga Pancasila Fondasi Dalam Menyukseskan Demokrasi Inklusif (Sebagai Upaya Menangkal Politik Identitas)."

³³ Ahmad Muhamad Mustain Nasoha et al., "Implementasi Nilai - Nilai Pancasila Dalam Penggunaan Media Sosial," *Journal of Law, Politics and Social Sciences* 4, no. 1 (2025): 163–74, <https://doi.org/10.55606/jhps.v4i1.5063>.

³⁴ Ashfiya Nur Atqiya et al., "Pancasila Dan Hukum Tata Negara Untuk Menjaga Keseimbangan Antara Kebebasan Dan Ketertiban Publik."

Democracy into a mere "procedural facade," wherein the formal mechanisms of elections are maintained, but substantive civic dialectics are criminalized. This facade is legally constructed through the normalization of subjective provisions, such as the "attacking honor" clause in Article 27A of the revised ITE Law and the penalization of insulting state institutions in Article 240 of the New Criminal Code (Law No. 1 of 2023). By utilizing these flexible statutes to criminalize legitimate dissent, the state effectively weaponizes the law to bypass the deliberative mandates of the Fourth Principle, transforming the judicial system into a tool for elite consolidation rather than public protection. The state maintains the facade of democracy through the successful implementation of elections, but at the same time constructs control mechanisms that narrow the substance of democracy. This mechanism operates through three main channels: security, relying on legal regulations, the apparatus, and digital surveillance; normalization, through campus bureaucratization and research regulations that shape academic compliance; and biopolitics, reflected in the management of social assistance and digital surveillance practices to regulate everyday societal behavior. In this way, Indonesian democracy maintains formal legitimacy, but sacrifices the essence of civil liberties, public deliberation, and the autonomy of knowledge.³⁵ From the perspective of Pancasila democracy, the practices of digital authoritarianism and repression carried out by the ruling regime have removed the populist essence of Pancasila democracy itself. Democracy is indeed visibly represented by elections, internet access, and opposition parties, but its substance, namely freedom of speech and criticism, has died. Therefore, restrictions on freedom in the digital space can only be justified if they are carried out for the sake of objective public order, not as an instrument of repression against constructive criticism.

E. Legal Analysis and Review of Indonesia's Commitment to the ICCPR Amidst the Challenges of Digital Authoritarianism

The legal basis for digital authoritarian practices in Indonesia often stems from narrow interpretations of the 2024 Electronic Information

³⁵ Rizki Yanuartha, "Illiberal Governmentality Dan Resistensi Akademi: Epistemic Accountability Dalam Demokrasi Indonesia Pasca Pemilu 2024," *Jurnal Neo Societal* 10, no. 4 (2025): 279–94, <https://neosocietal.uho.ac.id/index.php/journal/article/view/126>.

and Transactions Law (ITE Law) and the New Criminal Code (Law No. 1 of 2023). Although the second revision of the ITE Law, Law No. 1 of 2024, was intended to amend problematic articles, the policy still leaves ample room for abuse of power through the normalization of subjective provisions. For example, Article 27A of the new law replaces the old defamation provision but retains the highly flexible element of "attacking honor." Although now transformed into an absolute complaint offense, the subjectivity in defining "honor" risks perpetuating a culture of silencing criticism perceived as offensive to the personality of those in authority.³⁶ One crucial change in the 2024 Electronic Information and Transactions Law is the reduction of criminal penalties and the limitation of reporting rights to individuals directly harmed. However, this progress has been overshadowed by the emergence of Article 28 paragraph (3), which threatens up to 6 years in prison for those who spread false information deemed to "incite unrest." The unclear parameters of the terminology of "unrest" make this a very dangerous new, flexible article; it can be used to criminalize public reports of corruption or abuse of power if the reports trigger an uproar or polarization on social media.³⁷ This creates a dilemma for activists and citizen journalists, where revealing the truth risks being seen as inciting public disorder.

Furthermore, the integration of the ITE Law (Law No. 1 of 2024) and the Criminal Code (Law No. 1 of 2023) strengthens state control over the digital space through more repressive administrative powers. The government now has the legal basis to order the termination of access or adjustment of electronic systems for reasons of national security or public order through Article 40A. From a digital democracy perspective, the existence of these articles demonstrates the tension between efforts to maintain stability and the obligation to protect freedom of expression. If not accompanied by strict judicial oversight, this legality will actually limit the scope for civil society to exercise its social control over the course of government.

³⁶Wienda Parwitasari, "Revisi UU ITE Jilid II Berlaku, Melindungi atau Masih Bungkam Kebebasan?," Mafindo, February 6, 2024, <https://mafindo.or.id/2024/02/06/revisi-uu-ite-jilid-ii-berlaku-melindungi-atau-masih-damai-kebebasan/>.

³⁷ Dave Advitama et al., "Criminal Law and Freedom of Opinion in the Era of Digital Democracy (Case Study in Indonesia)," *Eduvest - Journal of Universal Studies* 5, no. 5 (2025): 5108–20, <https://doi.org/10.59188/eduvest.v5i5.51145>.

The new Criminal Code (Law No. 1 of 2023) has further heightened concerns about the narrowing of democratic space, particularly through the codification of articles regulating insults against the government or state institutions (Article 240) and insults against the President and Vice President (Article 218). The existence of these articles is seen as a *democratic backsliding*, considering that the Constitutional Court, through Decision No. 013-022/PUU-IV/2006, had previously annulled similar offenses because they were deemed to be contrary to the principles of legal certainty and human rights to freedom of expression. The revival of these norms by lawmakers, albeit with modifications to the offense of complaints, indicates strong political resistance to the limits of power established by the judiciary.³⁸

Substantively, the change to a complaint offense is often considered a purely administrative solution that fails to address the root of the problem regarding the protection of public criticism. In legal practice, the line between "objective criticism" and "insult" remains a gray area vulnerable to unilateral interpretation by authorities.³⁹ This creates a *chilling effect* in society, where individuals tend to self-censor due to the threat of criminalization that can arise at any time.⁴⁰ Furthermore, Article 240, which regulates insults against state institutions, risks becoming a shield for the bureaucracy from public scrutiny, which could ultimately weaken the *checks and balances mechanism* in the state governance system.⁴¹ The synchronization of the offense of insult in the new Criminal Code (Law No. 1 of 2023) with the criminal sanctions in the ITE Law (Law No. 1 of 2024) creates a double layer of legality that further burdens civil liberties. This legal legitimacy not only threatens citizens' constitutional rights but also has the potential to erode the

³⁸ Butje Tampi, "Kontroversi Pencantuman Pasal Penghinaan Terhadap Presiden Dan Wakil Presiden Dalam KuHPidana Yang Akan Datang," *Journal of Legal Studies* 3, no. 9 (2016): 20–30.

³⁹ Audry Salsabila Pasaribu et al., "Analisis Yuridis Perbedaan Kritik Dengan Pencemaran Nama Baik Dalam KuHP Dan Undang-Undang Nomor 1 Tahun 2024 Tentang Informasi Dan Transaksi Elektronik (ITE)," *Journal of Social, Political and Humanities Research Cluster* 4, no. 2 (2025): 220–32, <https://doi.org/10.55606/jurrish.v3i2.4748>.

⁴⁰ Moritz Büchi, Noemi Festic, and Michael Latzer, "The Chilling Effects of Digital Data Veillance: A Theoretical Model and an Empirical Research Agenda," *Big Data and Society* 9, no. 1 (2022), <https://doi.org/10.1177/20539517211065368>.

⁴¹ Tampi, "Kontroversi Pencantuman Pasal Penghinaan Terhadap Presiden Dan Wakil Presiden Dalam KuHPidana Yang Akan Datang."

integrity of the Constitutional Court as *guardian of the constitution*. When supreme court decisions are overruled through similar normative reframing, the principle of the rule of law is compromised for the sake of short-term political stability. This situation highlights that without rigid boundaries and protections for public discourse, the law can transform from an instrument of justice into an instrument of authoritarian control in the digital age.⁴²

1. Contradictions between Regulations and Constitutional Court Decisions

The Constitutional Court has consistently emphasized that in a democratic society, freedom of expression through writing or other media is a fundamental human right for upholding popular sovereignty. Monumental decisions such as No. 50/PUU-VI/2008 and No. 2/PUU-VII/2009 explicitly affirm that any restrictions on the right to expression must meet the principles of proportionality, necessity, and must not create excessive fear (*a chilling effect*). In this constitutional rationale, criticism of public officials or state policies is not merely a right, but a civic obligation to ensure transparency and accountability of power.⁴³ However, implementation in the field often ignores this constitutional mandate in the interest of short-term political stability. A profound doctrinal friction exists between the constitutional standards established by the Constitutional Court and the sectoral enforcement of the ITE Law. While monumental Court decisions (such as No. 50/PUU-VI/2008) mandate that restrictions on expression must strictly adhere to the principles of proportionality and necessity to prevent a chilling effect, police and prosecutorial practices frequently diverge from this standard. In practice, the subjective element of "offense to honor" in Article 27A of the revised ITE Law is routinely interpreted through a highly textual and punitive lens by investigators, functionally overriding the Court's mandate for proportionality and

⁴² Athallah. Zahran Ellandra, Faqih. Muhammad, and Aziz. Kemal, "Status Quo Pengaturan Pasal Penghinaan Presiden Sebagai Pembatas Hak Konstitusional Terkait Kebebasan Berpendapat Di Indonesia Beserta Potensi Pengaturannya Di Masa Depan: Studi Kasus Penghinaan Presiden Di Media Sosial (Kasus Ruslan Buton)," *Studia Legalia Journal: Journal of Legal Studies* 3, no. law (2022).

⁴³ Muhammad Rhogust, Martanti Endah Lestari, and Syaiful Bahri, "The Constitutionality of Restrictions on Freedom of Expression in the Digital Era : An Analysis of Constitutional Court Decisions," *Journal of Management* 1, no. 2 (2022): 161–71.

facilitating the systemic silencing of public discourse under the guise of protecting personal dignity.⁴⁴

This wide gap between progressive constitutional guarantees and regressive sectoral practices ultimately creates a crisis in the effectiveness of human rights protection within the national legal system. This regulatory disharmony results in legal uncertainty, where citizens feel threatened when voicing their aspirations in the digital space. If not immediately addressed through standardized interpretations aligned with human rights values, this practice of digital authoritarianism will erode public trust in legal institutions and paralyze the essential social control function of a state governed by the rule of law (*rechtsstaat*).⁴⁵ Therefore, a reorientation of legal culture at the investigator and prosecutor levels is necessary to align it with the human rights commitments outlined by the Constitutional Court.

2. The Urgency of Internalizing ICCPR Civil Rights Standards in Indonesia's Digital Space

The urgency of synchronizing national law with international standards has become inevitable amidst the penetration of digital authoritarianism that is increasingly eroding the substance of Pancasila Democracy. As a state party to the *International Covenant on Civil and Political Rights* (ICCPR) through Law No. 12 of 2005, Indonesia is legally bound by the universal civil rights protection standards stipulated in Article 19 of the covenant.⁴⁶ This article guarantees the right of every person to hold opinions without interference, as well as the freedom to seek, receive, and impart information. However, in practice, the discrepancy between international norms and domestic law enforcement creates a loophole for systematic human rights violations that harm Indonesia's reputation as a democratic state based on the rule of law. When critically evaluated against the ICCPR's tripartite test legality, legitimate aim, and necessity/proportionality Indonesia's digital

⁴⁴ JDIH Kabupaten Banyuwangi, "Penerapan UU ITE dalam Kebebasan Berekspresi dan Berpendapat di Masyarakat," JDIH Kabupaten Banyuwangi, August 19, 2025, <https://jdih.banyuwangikab.go.id/artikel/detail/penerapan-uu-ite-dalam-kebebasan-berungkap-dan-berpendapat-di-masyarakat>.

⁴⁵ Advitama et al., "Criminal Law and Freedom of Opinion in the Era of Digital Democracy (Case Study in Indonesia)."

⁴⁶ Republik Indonesia, *Undang-Undang Nomor 12 Tahun 2005 tentang Pengesahan International Covenant on Civil and Political Rights (Kovenan Internasional tentang Hak-Hak Sipil dan Politik)*, Lembaran Negara Republik Indonesia Tahun 2005 Nomor 119, <https://peraturan.go.id/id/uu-no-12-tahun-2005>

regulations reveal severe normative deficiencies. Specifically, the retention of prison sentences for the dissemination of "unrest-inducing" information under Article 28(3) of the revised ITE Law fails the proportionality test, as it employs the most restrictive penal measures for ambiguous societal impacts. Furthermore, as affirmed by the UN Human Rights Committee in General Comment No. 34, the criminalization of defamation is inherently disproportionate; thus, the continued use of custodial threats under the new Criminal Code and ITE Law explicitly contravenes Indonesia's international obligations to implement the least restrictive means in regulating democratic discourse.⁴⁷ The trend of "democratic regression" in Indonesia is increasingly evident in the revival of the offense of insulting the President in the new Criminal Code (Law No. 1 of 2023) a pattern similar to countries like Rwanda, where vague cyber laws are used to shield high-ranking officials from criticism. The state's inability to guarantee the security of cyber actors from third-party attacks also demonstrates a failure to fulfill *its positive obligation* to create a safe public space for citizens.⁴⁸

Ultimately, digital authoritarianism is not an inevitable phenomenon, but rather the result of policy choices that neglect civil rights for the sake of a false sense of power.⁴⁹ Pancasila democracy demands more than a "procedural facade"; it demands honesty in deliberation and wisdom in leadership. Efforts to align national law with the ICCPR require substantive reforms that not only change the wording of articles but also shift the paradigm of law enforcement officials from a punitive approach to the protection of constitutional rights. Only through this synchronization can Indonesia restore its digital public space as a true vessel of popular sovereignty, where criticism is seen as the heartbeat of democracy, not a destabilizing threat.

⁴⁷ Rhogust, Lestari, and Bahri, "The Constitutionality of Restrictions on Freedom of Expression in the Digital Era: An Analysis of Constitutional Court Decisions."

⁴⁸ Human Rights Watch, "World Report 2024: Rights Trends in Indonesia," Human Rights Watch, 2024, <https://www.hrw.org/world-report/2024/country-chapters/indonesia>.

⁴⁹ Anastasya Anastasya and Eny Kusdarini, "Konstitusionalisasi Hak Atas Kebebasan Berekspresi Di Era Digital Pasca-Amendemen UUD 1945 Constitutionalization of the Right to Freedom of Expression In the Digital Era Post-1945 Constitutional Amendment Baru Yang Belum Sepenuhnya Diakomodasi Oleh Regulasi" 8, no. 3 (2025): 9–12.

F. Conclusion

The practice of digital authoritarianism in Indonesia has led to a fundamental deviation from the principles of Pancasila Democracy, where the digital public space that should be a means of deliberation has shifted its function to become a field of systematic repression. The evolution of silencing from physical methods to control through algorithms, cyber attacks (faceless violence), and the deployment of paid actors (*buzzer*) has reduced people's sovereignty to a mere procedural facade that ignores the essence of "wisdom" in the Fourth Principle. This legal tension arises from the sharp discrepancy between domestic legal instruments such as the ITE Law (Law No. 1 of 2024) and the new Criminal Code (Law No. 1 of 2023) with international civil rights protection standards in the ICCPR and Constitutional Court decisions, thus creating a climate of fear (*chilling effect*) that paralyzes the function of social control in society.

The application of these findings necessitates a reorientation of legal culture for law enforcement officials to prioritize the paradigm of constitutional rights protection over a repressive, punitive approach. The government is advised to immediately synchronize national regulations with the parameters of the international tripartite test covering aspects of legality, legitimacy, and proportionality to ensure that restrictions on freedom of expression are not used as a tool to perpetuate elite power. To rectify this trajectory, it is imperative to strengthen independent cyber oversight mechanisms and formally integrate Anti-SLAPP (Strategic Lawsuits Against Public Participation) provisions into national criminal procedures. It should be noted that this study's reliance on doctrinal analysis and recent, ongoing cases from 2025–2026 presents a limitation regarding the long-term adjudicative outcomes of these legal revisions. Therefore, future empirical legal research is strongly recommended to systematically quantify the prosecution rates under the 2024 ITE Law and the New Criminal Code, providing vital data to measure the exact scale of judicial harassment against civil society in Indonesia.

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