

# The Impact of Digitalization on Indonesian's Living Law and Demographic Bonuses

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**Keywords:** Customary Law, Digitalization, Living Law, Enforcing Law.

**Abstract:** Customary law is not a legacy of the past, but it is still relevant in the modern era. Modernization is made possible by advances in technology, globalization, and global free trade. Indonesia is expected to receive a demographic bonus in 2020-2035, with the majority of the population in the productive age group. The growth of demographic bonuses in this era of digitalization, poses threats, such as manipulation of data and weakening of the social order which also threatens the living law in Indonesia. Despite the decline of legal centralization, customary law must adapt to the digital era, ensuring decisions are rooted in the values of the Indonesian nation. Balancing customary law with digitalization is crucial for the country's prosperity. Digitalization poses challenges to customary law, including cultural erosion, intellectual property rights, privacy, and data protection. The productive ages in Indonesia are also a fragile sub-group that must be concerned and protected in the shifting culture from traditional to digitalization by taking steps to enforce the living law, enriching the knowledge of digitalization, strengthening legal frameworks, promoting digital literacy, and collaborating with technology companies and creating deterrent punishment for those who create hoaxes, scam, and other digital manipulation makings. Finally, the courts play a crucial role in istinguishing between hoaxes and truths, ensuring impartial evaluation and application of the law.

## 1 BACKGROUND

Some people argue that customary law is a legacy of the past so it is less suited to modern life as it is now, which is entering the era of modernization. This opinion, perhaps, is not wrong but it is also not entirely correct. It is said to be true because it is recognized that customary law is traditional, while life in the current era demands everything modern. This is not entirely true, because it turns out that several statutory regulations were introduced from customary law. Apart from that, customary law is also dynamic in accordance with the dynamics of humans who adhere to customary law. Modernization is generally understood by people as a process in human life towards a society that covers all of the world (Abdulrahman, 1984).

This process is made possible and made easier by advances in technology, especially open communication and transportation technology and the globalization of the role of markets, investment and production processes of transnational companies, which are then strengthened by ideology and a new world trade order under a rule set by the organization.

global free trade.

Population experts predict that Indonesia will receive a demographic bonus in 2020-2035, in other words, the majority of the population will be in the productive age group, compared to the relatively small proportion of children and the elderly. The percentage of Indonesia's population of working age, or those aged between 15 and 64 years, is very important for the continuity of society, the state, and the country. In 2035, when the proportion of the productive workforce will reach 64% of the total population, projections will benefit from demographic changes. At that time, Generation Z and Millennials aged between 8 and 25 years made up the majority of the population in Indonesia. Every year it is estimated that there will be 2 million people of working age aged 39 years or older. Improving the quality of human resources is very important if we want to take advantage of the potential benefits of this demographic.

The potential for demographic bonuses is very large, but in this age range, the threats in this population subgroup are also big, where the threat that often causes shocks are the negative effects of

digitalization, such as the ability of digitalization to manipulate to create hoaxes and scams. In the field of customary law and national law, digitalization also has a role in carrying out threats to the legal system, even the theory of truth testing, which has been adhered to for decades by law enforcers, social scientists, and experts, can fail if digitalization carries out manipulations that are not countered.

## 2 FORMULATION OF THE PROBLEMS: DAS SEIN

- a. Demographic bonuses are advantages that Indonesia needs to be grateful for, but in this digital era, this situation must be aware of the threats and potential threats that will occur.
- b. The productive age is the age that is literate in using digital technology but is often the target of the spread of hoaxes and scams that have occurred in Indonesia.
- c. Digitalization can manipulate data and facts, where this manipulation can weaken the social order and living law legal system in Indonesia.

### Das Sollen:

- a) How living law in Indonesia can work in positive synergy with digitalization to produce positive conditions for Indonesian society?
- b) How demographic bonuses are not threatened by the negative effects of digitalization?
- c) What steps must be prepared in the legal system in Indonesia to deal with the negative threats of digitalization?

## 3 RESEARCH METHODS

The research used in the research is library research. A literature study is any effort made by researchers to collect information that is relevant to the topic or problem that will be or is being researched. The advantages or roles of library research are as follows:

- 1) the researcher knows the limits of the scope of the problem.
- 2) researchers can put things in perspective.
- 3) researchers can limit questions and determine study concepts that are closely related to the problem.
- 4) researchers can find out and assess the results of similar studies which may contradict each other.
- 5) researchers can determine the right choice of

method to solve problems.

- 6) literature studies can prevent or reduce less useful replication with research that has been conducted by other researchers.
- 7) researchers are more confident in interpreting the results of the research they wish to conduct.

Literature study or theoretical basis is very important in research; therefore the weakness is that a researcher cannot develop a problem if he does not have a theoretical basis as a reference. The literature study aims to find answers to the existence of customary law in the era of digitalization and the demographic bonus in 2023.

## 4 DISCUSSION

### 4.1 Understanding Customary Law

In the Big Indonesian Dictionary, customs are rules (actions) that have been commonly followed or carried out since time immemorial, methods (behavior) that have become habits; a form of cultural ideas consisting of cultural values, norms, laws and rules which are related to each other to form a system. Customs are cultural ideas consisting of cultural values, norms, habits, institutions, and customary laws that are commonly practiced in an area. Several figures expressed their opinions regarding the meaning of customary law, including: Van Vollen Hoven explained that customary law is unwritten law which does not originate from regulations made by the former Dutch East Indies government or other instruments of power held by the former Dutch authorities themselves (Hadikusuma, 2014).

Soepomo formulated customary law as a synonym for a law that is not written in legislative regulations (statutory law), a law that lives as a convention in state legal bodies (Parliament, Provincial Council, and so on), a law that lives as customary regulations maintained in social life, both in cities and in villages. Ter Haar explains that customary law is the totality of regulations that are manifested in the decisions of legal functionaries (in the broadest sense) who have authority and influence and which in their implementation apply immediately and are obeyed wholeheartedly.

From the opinion of the experts above, customary law is a law that regulates human behavior and relationships with each other, customs or morals that live in community life that are maintained and have sanctions for violations stipulated in the decisions of

traditional authorities. The term customary law was first introduced by Snouck Hurgronje in 1883 in his book *De Atjehnese*. In that book, he introduced the term *Adatrecht* (customary law), namely the law that applied to *bumi putera* (indigenous Indonesians) and foreign easterners during the Dutch East Indies era.

Customary law only had a technical, juridical meaning after C. Van Vollenhoven released his book entitled *Adatrecht*. He was the first to state that customary law is the law that applies to indigenous Indonesian people and made it an object of positive legal science and made it a separate subject. He also appointed customary law as the law that must be applied by gubernatorial judges.

## 4.2 Styles and Characteristics of Customary Law

Customary Law in Indonesia has distinctive characteristics that are different from other laws, there are four general features or characteristics of customary law that form unity, as follows (Abdulrahman, *Hukum Adat Menurut Perundang-undangan Republik Indonesia*, 1984):

### 4.3 Religious Magic (Magisch – Religius)

This characteristic is defined as a mindset based on religiosity, namely people's belief in the existence of something sacred. Before indigenous peoples knew religion, this religious nature was manifested in illogical ways of thinking, animism and belief in supernatural things.

### 4.4 Communal

According to the view of Indigenous Law, every individual, member of society is an integral part of society as a whole. The relationship between one community member and another is based on a sense of togetherness, kinship, mutual help and cooperation. The customary law community believes that every individual's interests should be adjusted to the interests of the community because no individual is separated from their community.

### 4.5 Concrete (Visual)

Concrete nature means clear, real, tangible and visual, meaning it can be seen, visible, open, not hidden. This means that every legal relationship that occurs in society is not carried out secretly. Examples of buying and selling always show a real action, namely the

transfer of the object of the agreement. This is different from Western law which recognizes the difference between movable and immovable objects, where in a sale and purchase agreement, responsibility for an item has shifted to the buyer, even though the item is still in the hands of the seller.

## 4.6 Cash

This characteristic means that an action is always surrounded by a concrete atmosphere, especially in terms of fulfilling achievements. That every achievement is always accompanied by a counter-achievement which is given immediately. Achievements and counter-achievements are carried out together at that time. In Indigenous Law, everything that happens before and after the cash consideration is outside the legal consequences, the legal action is completed immediately.

Besides the four styles of customary law, it has also some characteristics which are typical of it (Abdulrahman, *Hukum Adat Menurut Perundang-undangan Republik Indonesia*, 1984):

### 4.6.1 Traditional

This characteristic shows that traditional communities are hereditary, from the time of their ancestors down to their descendants today, the situation is still valid and maintained by the community concerned. - continuously. Violation of something received from the ancestors is believed to bring disaster to society. The traditional style which is still maintained today can be seen in the Batak community where marriage within the same family name is not permitted.

### 4.6.2 Dynamic

Customary Law can change according to circumstances of time and place. Every development in the legal community will always adapt according to developments that occur.

### 4.6.3 Open Characteristic

Customary Law has an open nature. This means that the law can accept other legal systems as long as the community concerned considers that the other legal system is appropriate or appropriate and simple. This means that the customary law community is simple, uncomplicated, unadministered, unwritten, easy to understand, and implemented based on mutual trust. This can be seen in transactions that are only carried out verbally, including in cases of inheritance

distribution, which are rarely done in writing.

#### 4.6.4 Deliberation and Consensus

This means that the Law Communities prioritize deliberation and consensus. In resolving disputes, harmonious and peaceful resolution through deliberation and consensus is always prioritized.

The Existence of customary law is the values that live and develop in the society of a region. Even though most of the customary laws are not written, they have a strong binding force in society. There are separate sanctions from the community if they violate the law's rules. The customary laws that live in this society for people whose original culture is still strong will be very pronounced. The application of the law in everyday life is also often applied by the community. Even a judge, if he faces a case and cannot find it in written law, must be able to find the law in the rules that exist in society. This means that judges must also understand the law.

The existence of customary law has become stronger with the UN declaration on the rights of indigenous peoples which states, among other things; Recognize and reaffirms that indigenous peoples are recognized, without distinction, in all human rights recognized in international law, and that indigenous peoples have collective rights that are indispensable to their life and existence and their integral development as community groups. Indigenous Peoples have the right to maintain and strengthen their distinct characteristics in the fields of political, legal, economic, social, and cultural institutions, while retaining their right to participate fully, if they wish, in political, economic, social life, and country culture. Therefore, in an effort to carry out legal reform in Indonesia, there are values that grow in indigenous communities that are recognized constitutionally and in the UN declaration (Pide, 2015).

The UN Declaration is certainly inseparable from indications that in many parts of the world, indigenous peoples cannot enjoy their human rights on an equal basis with other residents in the countries where they live, and that the laws, values, customs, and viewpoints have often been eroded. In the 1989 convention on customary law communities, it is also stated that indigenous law communities in independent countries are considered indigenous because they are descendants of the population that inhabited the country concerned, or based on the geographical area where the country concerned was located, at the time of conquest or colonization. or the establishment of the current boundaries of countries

which, regardless of their legal status, retain some or all their own social, economic, cultural, and political institutions. This means that in the future the existence of customary law will not only be a concern for national legal development but will also become a consideration in international relations. (ibid)

In particular, with the increasingly rapid demands of legal globalization, which sometimes, even today, appears to be growing in the scale of economic relations interests that reduce the legal sovereignty of national states. The impact will of course be heavier on customary law. Therefore, in developing national law, the government must provide a place for the growth and development of indigenous law properly.

With the 1989 declaration of customary law communities, it actually becomes a tool for a country, including Indonesia, in suppressing international penetration, at a time when national law may not be able to resist strong international pressure. In fact, the convention on customary law communities emphasizes that the government has the responsibility to develop, with the participation of the customary law communities concerned, coordinated and systematic actions to protect the rights of these customary law communities and to ensure that their integrity is respected. In such a perspective, there is no reason to take the position that state law and/or legal globalization in the name of globalization interests is more important than customary law. (Pide, Hukum Adat Dahulu, Kini dan Akan Datang, 2015)

On the other hand, with the involvement of the international community in maintaining the existence of indigenous law communities, the ideology of legal centralization, where state law must be enforced, seems to have experienced degradation and has become an issue that cannot be ignored in legal development in Indonesia. Although on the other hand it does not make indigenous law narrow the space for state (national) law.

This is in line with the affirmation of the 1989 Customary Law Community Convention, which in article 8 states that in applying national legislation to the indigenous law community concerned, their customs or customary law provisions must be heeded as appropriate. How are the agreements stipulated in the 1945 Constitution and confirmed in the 1989 indigenous law community convention implemented in Indonesia? Customary law whenever there is a formation of legislation, even when legal development in Indonesia is still a sub-system of political development, the law is perceived as tending to be a tool of power. The birth of Law No. 10 of 2004 concerning the Formation of Legislative Regulations at least provides a guarantee that the values contained

in indigenous law communities or traditional customary law will be maintained in Indonesia. (Pide, Hukum Adat Dahulu, Kini dan Akan Datang, 2015)

## **5 THE ROLES OF CUSTOMARY LAW IN THE DIGITAL ERA**

Recognition of the existence of Indigenous Peoples is actually stated in the 1945 Constitution, Article 18B paragraph (2), which states that "The State recognizes and respects traditional law community units and their traditional rights as long as they are still alive." Indigenous law, which has a tendency towards collective justice, ultimately, whether we like it or not, has to face the era of modernization. An era characterized by innovation in technological development, the results of which were later proven to be capable of creating automation in various areas of life. Technological innovation is something that cannot be stopped by anyone in this era, because it is a fundamental need for every country in the world, including Indonesia as a developing country. In fact, instead of avoiding it, everyone in the world is actually competing to carry out continuous innovation in order to become a superior country in this field. However, innovation or technological development by each country, especially developed countries, sometimes without paying attention to the negative excesses that can arise from its implementation. This is perhaps normal, because every technological development will have an impact on the social sector, and can even slowly change the structure of society in a country (Wignjosoebroto, 2008).

Therefore, technological development carried out without paying attention to the social impact on society may have the ultimate consequence of changing individual behavior patterns that are not well organized. As the foundation of national agrarian law, customary law currently cannot avoid the presence of modernization and technology. Customary law is currently being tested for its ability to resolve legal issues related to modernization and technological development. For customary law, this is certainly not easy because in principle customary law focuses more on a sense of collective justice in society so it sometimes conflicts with the aims of applying technology.

Customary law has this balancing function. In this law, there is a principle that if a dispute or conflict occurs, every component of society moves and adapts. This adaptation is carried out so that harmony and balance in society are maintained in accordance

with the reflection of the Indonesian nation's *volkgeist*. Therefore, whenever there is influence from outside, the law can provide a just solution to a dispute or conflict with the principle of balance so that the resulting decision on a legal problem cannot be separated from the values and character of the Indonesian nation.

## **6 REVITALIZING CUSTOMARY LAW TO MAKE IT RELEVANT TO CURRENT DEVELOPMENTS**

Indonesia is a large and sovereign country. UU no. 23 of 2014 concerning regional government has regulated the authority of regional governments to manage their residents autonomously. Each region is given the right and freedom to develop and advance its territory for the greatest prosperity of the people. Through a demographic approach, it is necessary for local governments, both provincial and district, to be sensitive to national issues. For example, the issue of the demographic bonus. Noor, M mentioned population development policies and the demographic bonus where the basic assumption for understanding the demographic bonus is that the composition of the productive age population (15 - 64 years) is greater than the non-productive age population (under 15 and over 65 years) in a certain time period. Furthermore, policymakers need to realize the importance of issuing policies that can support the use of the demographic bonus so that the potential of the productive age population is optimal and maximized. The hope is that awareness will emerge of the strategic role of the productive age population, especially young people, as the 'motors' of the nation. (Falikhah, 2017)

Each region will enter a demographic bonus according to changes in its respective age structure. There are provinces that have entered the demographic bonus before the national level. Meita, et al (2016) stated that development needs to be based on population realities in a sustainable manner. The demographic bonus occurs because the population of productive age (15-64 years) in a region is much greater than the population of non-productive age (0-14 years and 65 years and over). The population structure in East Java Province is dominated by people of productive age in the 2010-2020 period. Rimbawan (2014) discusses the demographic bonus in Bali Province. Bali is projected to experience a peak demographic bonus for the period 2020 to 2030,

with a dependency ratio of between 42.2 to 43.3 percent (Acitya).

The revitalization of customary law is an interesting issue to discuss when the country begins to enter the era of digitalization, especially with the demographic bonus in 2030. This issue is important because the law as living law in Indonesia is currently starting to be cornered by the presence of modern law. Modern law has begun to erode the customary legal system with a new legal system by presenting the most prominent characteristic of a clear separation between law-forming institutions, separate from implementing institutions (the government) and enforcement institutions. Native Indonesian law or customary law in general in Indonesia does not recognize this kind of classification, these forms of power are based on one customary institution which has the role of forming, implementing, and deciding. Even though its existence is starting to be displaced by the modern legal system, for the Indonesian people, especially for legislators, indigenous law still has an important meaning for the lives of Indonesian people. This can be seen from various laws and regulations which use customary law as the basis for their formation (L, 2013).

One of the laws and regulations that still uses customary law as its main basis is Law Number 5 of 1960 concerning Basic Agrarian Principles (hereinafter referred to as the Basic Agrarian Law) which later became the basis for other natural resource laws and regulations such as Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Coal Mineral Mining, Law Number 17 of 2019 concerning Water Resources, Law Number 41 of 1999 concerning Forestry, as well as other statutory regulations related to natural resources. In its regulation, Article 5 of the Basic Agrarian Law confirms that the agrarian law that applies to earth, water, and space in Indonesia is the customary law. (L, 2013)

## 7 GETTING ALONG WITH CUSTOMARY LAW IN THE DIGITALIZATION ERA

Getting along between customary law and digitalization requires a delicate balance that respects the cultural values and traditions of indigenous communities while embracing the opportunities and challenges brought by digitalization. Here are some considerations:

a) Cultural Sensitivity: It is crucial to approach

digitalization in a culturally sensitive manner that respects the traditions, customs, and laws of indigenous communities. Engage in meaningful consultations and collaborations with indigenous leaders and communities to understand their unique perspectives and needs.

- b) Customization of Digital Solutions: Recognize that indigenous communities may have specific requirements and preferences when it comes to digital technologies. Involve indigenous communities in the design and development of digital solutions that align with their cultural values, languages, and ways of life. This can include incorporating indigenous languages, symbols, and storytelling methods into digital platforms.
- c) Education and Digital Literacy: Promote digital literacy programs tailored to indigenous communities to ensure that they have the necessary skills and knowledge to navigate the digital world. This can help indigenous individuals make informed decisions, protect their rights, and engage meaningfully with digital technologies.
- d) Privacy and Data Protection: Indigenous communities often have unique concerns regarding privacy and the protection of their traditional knowledge, cultural expressions, and intellectual property. Establish legal frameworks and policies that safeguard indigenous rights and interests in the digital realm, ensuring that their data and cultural heritage are respected and protected.
- e) Access to Digital Infrastructure: Address the digital divide by ensuring equitable access to digital infrastructure, including internet connectivity, in remote indigenous communities. Bridging this gap can empower indigenous communities to participate fully in the digital age and access the benefits it offers.
- f) Recognition of Indigenous Jurisdiction: Respect and recognize the jurisdiction of Indigenous law within the digital realm. Provide mechanisms for indigenous communities to govern and regulate digital activities within their territories, ensuring that their legal systems are acknowledged and integrated where appropriate.

Remember, finding common ground between indigenous law and digitalization requires a collaborative and inclusive approach that values indigenous knowledge and cultural diversity.

## 8 THE NEGATIVE IMPACTS OF DIGITALIZATION ON CUSTOMARY LAW

Digitalization can bring negative impacts on customary law. Here are some of the challenges indigenous communities may face:

- a) **Cultural Erosion:** Digitalization can lead to the erosion of indigenous cultural practices and traditions. The widespread availability of digital content and platforms may promote mainstream cultures and languages, potentially overshadowing indigenous languages and cultural expressions. This can result in a loss of cultural diversity and identity.
- b) **Intellectual Property Rights:** Indigenous communities possess a wealth of traditional knowledge and cultural expressions that may be susceptible to misappropriation and exploitation in the digital realm. Digital platforms make it easier for unauthorized use, appropriation, and commercialization of indigenous intellectual property without proper consent or benefit-sharing mechanisms.
- c) **Privacy and Data Protection:** Indigenous communities often have unique concerns regarding privacy and data protection. Digital technologies can collect and store vast amounts of personal and community data. If not adequately protected, this data can be misused, leading to privacy breaches and potential harm to indigenous individuals and communities.
- d) **Access and Connectivity:** Indigenous communities, particularly those in remote areas, may face limited access to digital infrastructure and connectivity. This digital divide can further marginalize indigenous communities, hindering their participation in the digital world and limiting their access to information, services, and opportunities.
- e) **Legal Recognition and Jurisdiction:** Digitalization may pose challenges to the recognition and application of customary law. Existing legal frameworks often do not fully acknowledge or accommodate indigenous legal systems, leading to conflicts and inconsistencies when indigenous communities seek to apply their laws in the digital realm.
- f) **Inequality and Power Imbalances:** The digital divide and limited access to technology can exacerbate existing inequalities, widening the gap between indigenous communities and the rest of society.

Power imbalances between indigenous communities and external actors, such as governments or corporations, may be amplified in the digital context, potentially undermining indigenous self-determination and decision-making processes.

Addressing these negative impacts requires a multi-faceted approach that involves recognizing and respecting indigenous rights, promoting digital inclusion, ensuring data protection, and fostering meaningful partnerships with indigenous communities.

## 9 PROTECTING THE PRODUCTIVE AGE FROM UNEXPECTED DIGITALIZATION'S EXCESS

It is imperative to defend the population's productive age against scams produced by digitization for a number of reasons:

- a) **Economic Impact:** People in the productive age group are often those who are actively engaged in the labor force, generating economic growth, and advancing society as a whole. Hoaxes might cause this group to lose production since time and resources are squandered on misleading information when they fall prey to them. We make sure that their attention and efforts are focused on successful endeavors by protecting them against scams.
- b) **Decision-making:** Hoaxes can have an impact on decision-making at both the individual and societal levels. People might be misled by inaccurate information when making crucial decisions about their professions, investments, health, and other aspects of their lives. By shielding the productive age group from hoaxes, we give them access to reliable information and empower them to make decisions that will improve both their lives and the lives of others around them.
- c) **Social Cohesion:** Hoaxes can sow division, stoke conflict, and spread mistrust in society. Hoaxes can undermine interpersonal trust and social harmony by focusing on the productive age group. By defending this age group from hoaxes, we can guarantee that they have access to trustworthy information, promoting a more unified and cohesive community.
- d) **Mental Health:** Hoaxes can negatively impact mental health by inducing tension, anxiety, and worry. Due to the impact of hoaxes, the

productive age group, which is in the forefront of society's responsibilities, may feel more strain and stress. By defending them from scams, we encourage mental health and a more productive workforce.

- e) Education and skill development: Hoaxes can prevent people from learning the things they need to in order to advance personally and professionally. By protecting the productive age group from scams, we foster a culture that encourages ongoing education, critical thinking, and the acquisition of skills necessary for the digital age.

Overall, it is crucial for economic productivity, informed decision-making, social cohesion, mental health, and the overall development of people and society to safeguard the productive age of the population against hoaxes produced by digitalization.

## 10 THE LAW TURBULENCE ON LIVING LAW AND DIGITALIZATION IN REACHING DEMOGRAPHIC BONUSES

It must be realized that negative impacts have already occurred and have the potential to occur, in the Indonesian legal system, including criminal law, civil law, constitutional law and state administrative law, which the author calls as law turbulence which will be identified as follows:

- a) Technological Divide: Digitalization may exacerbate the existing technological divide within societies. Access to digital technologies and the internet is not evenly distributed, and those who lack access may face difficulties in accessing and participating in the legal system. This can lead to unequal access to justice and hinder the development of living law.
- b) Privacy and Data Protection: With the increasing reliance on digital technologies, the collection and processing of personal data become more prevalent. This raises concerns about privacy and data protection. The misuse or mishandling of personal data can undermine trust in the legal system and pose risks to individuals' rights.
- c) Legal Uncertainty: Rapid advancements in technology often outpace the development of legal frameworks. This can result in legal uncertainty and gaps in addressing emerging

issues related to digitalization. Living law may struggle to keep up with the complexities of digital technologies, leading to outdated or inadequate legal responses.

- d) Cybersecurity Risks: Digitalization brings about new risks, such as cyber threats and data breaches. These risks can compromise the integrity and security of legal systems, potentially impacting the trust and confidence in living law. Ensuring robust cybersecurity measures becomes crucial in maintaining the effectiveness of the legal system.
- e) Social and Ethical Implications: Digitalization can impact societal values and ethical considerations. The use of artificial intelligence, automation, and algorithms in decision-making processes raises questions about accountability, fairness, and transparency. The evolution of living law should address these concerns and ensure that legal systems adapt to societal changes while upholding fundamental principles.

To mitigate these negative impacts, it is essential for policymakers, legal professionals, and society as a whole to actively engage in discussions and reforms. Adapting legal frameworks to accommodate digitalization, promoting equal access to digital technologies, and addressing privacy and security concerns are vital steps in nurturing living law in the digital age.

## 11 THE THREATS OF THE THEORIES IN THE TRUTH OF LAW

Besides these five negative impacts above, some theories in the evidence of law should also be questioned for their validities in digitalization.

- a) Theory of correspondency in truth: The theory of correspondency in truth is a philosophical concept that suggests that the truth of a statement or belief is determined by its correspondency or agreement with reality. According to this theory, a statement is considered true if it accurately represents the facts or states of affairs in the world.
- b) Theory of coherency in truth: The theory of coherence in truth is a philosophical concept that suggests that the truth of a statement or belief is determined by its coherence or consistency with other beliefs or statements within a system. According to this theory, a statement is



considered true if it fits harmoniously with other beliefs or propositions in a logical and coherent manner.

## 12 HOW DIGITALIZATION THREATS THE EXISTENCE OF THE TRUTH THEORIES IN LAW

- a) **Manipulation and Deepfakes:** Digital technology allows for the creation of manipulated media, such as deepfakes, which can deceive and mislead people. This poses a challenge to the theory of correspondence, as the authenticity and correspondence of digital content may be compromised.
- b) **Speed and Accuracy:** Digitalization has accelerated the speed at which information is shared and consumed. While this can be beneficial, it also increases the risk of spreading unverified or inaccurate information before its correspondence with reality can be thoroughly assessed.
- c) **Trust and Verification:** The theory of correspondence relies on trust in the accuracy and reliability of sources. However, in the digital realm, it can be challenging to verify the credibility and trustworthiness of online sources, leading to potential doubts about the correspondence of information.

Since the two theories above are often used in legal disputes in criminal, civil, governmental, and state administrative justice, the ability of digitalization in terms of affecting the legal system in Indonesia, must be cautious, in this case, counter to this should be done in the same way that by forming a legal doctrine based on the discipline of algorithms.

## 13 HOW TO OVERCOME HOAXES CREATED BY DIGITALIZATION IN THE CONTEXT OF LAW

To overcome hoaxes created by digitalization in the context of law, here are some strategies that can be implemented:

- a) **Strengthen Legal Frameworks:** Governments can enact and enforce laws that specifically address the spread of misinformation and

hoaxes online. These laws should outline penalties for those who intentionally create and spread false information, thereby holding individuals accountable for their actions.

- b) **Promote Digital Literacy:** Educating the public about digital literacy is crucial in combating hoaxes. By teaching people how to critically evaluate information, fact-check sources, and identify red flags of misinformation, individuals can become more discerning consumers of online content.
- c) **Collaborate with Technology Companies:** Collaboration with technology companies is essential in fighting hoaxes. Platforms can develop and implement algorithms and tools to detect and flag false information. They can also partner with fact-checking organizations to provide accurate information and debunk hoaxes.
- d) **Encourage Media Responsibility:** Media outlets play a significant role in disseminating information. Encouraging responsible journalism and fact-checking practices is crucial. Media organizations can prioritize accuracy, verify information before publishing, and provide corrections or retractions if necessary.
- e) **Foster International Cooperation:** Hoaxes often transcend national boundaries, making international cooperation necessary. Governments and organizations can collaborate to share best practices, coordinate efforts, and develop strategies to combat hoaxes collectively.
- f) **Empower Citizens:** Empowering citizens to be critical thinkers and responsible information sharers is vital. Promote media literacy programs, workshops, and campaigns that teach individuals how to navigate the digital landscape and identify and report hoaxes. Battling hoaxes in the internet age necessitates a multifaceted strategy comprising disciplinary action, public awareness campaigns, teamwork, and individual accountability, can reduce the impact of hoaxes and advance an environment online that is more informed and trustworthy.

## 14 THE ABSOLUTE REQUIREMENTS FOR THE COURTS' ABILITIES TO DISTINGUISH HOAX AND TRUTH

Courts are the destination of people seeking justice, so they are crucial in the Indonesian law system. Courts must also be focused on the enrichment of the judges about the sophisticated improvements of manipulation created by digitalizations which hoaxes and truths, sometimes, are seen and evaluated blurry. In distinguishing between hoaxes and truth, courts rely on various legal principles, evidence, and procedures. Here are some key considerations:

- a) **Burden of Proof:** The burden of proof rests on the party making the claim. The court examines the evidence presented by both parties and determines if the burden has been met. The party making the hoax claim must provide sufficient evidence to demonstrate that the information in question is false and intentionally misleading.
- b) **Admissible Evidence:** Courts consider admissible evidence, such as witness testimonies, expert opinions, documents, and other relevant materials. The credibility and reliability of the evidence play a crucial role in determining the truthfulness of the information presented.
- c) **Fact-Checking and Expert Testimony:** Courts may rely on fact-checking organizations or expert witnesses to assess the accuracy and authenticity of the information in question. These experts provide their professional opinions based on their knowledge, skills, and experience in the relevant field.
- d) **Legal Standards:** Courts follow legal standards and principles to evaluate the credibility and veracity of the information. These standards may include the preponderance of evidence (civil cases) or proof beyond a reasonable doubt (criminal cases), depending on the jurisdiction.
- e) **Cross-examination:** Parties have the opportunity to cross-examine witnesses, challenge evidence, and present counterarguments. This process allows the court to critically analyze the claims made and determine their validity.
- f) **Legal Precedents:** Courts also consider legal precedents and case law to guide their decision-making process. Previous court decisions related to hoaxes or similar cases can provide guidance on how to assess the truthfulness of the information presented.

- g) It's important to note that the court's role is to impartially evaluate the evidence and apply the law. The court's determination of what constitutes a hoax or truth is based on legal principles and the specific facts and circumstances of each case.

## 15 DETTERENT EFFECTS FOR HOAX CREATORS

The creator of the hoax can be trapped in criminal cases where the false news can cause loss, and trouble and be a tool of proof in the trial. Hoax creators can be charged under articles UU ITE article 28 paragraph 1:

*"Every person intentionally and without right spreads false and misleading news which results in consumer losses in electronic transactions."* (11, 2008)

Paragraph 2: *"Every person intentionally and without right disseminates information aimed at creating feelings of hatred or hostility towards certain individuals and/or groups of society based on ethnicity, religion, race and intergroup"* (11, 2008)

In criminal law, hoax creators can be charged by article 263 KUHP Paragraph and (2)

- (1) *"Any person who makes a forged document or falsifies a document which may give rise to a right, obligation or discharge of debt, or which is intended as proof of something with the intention of using or ordering another person to use the document as if its contents were true and not falsified. , is threatened if such use can cause harm, due to falsification of documents, with a maximum prison sentence of 6 years."* (Criminal code)
- (2) *"Surely subject to the same punishment is anyone who deliberately uses a fake or falsified document as if it were genuine, if the use of the document could cause harm."* (Criminal code)

### Article 264 Paragraphs (1) and (2)

#### Paragraph (1)

1. *Forgery of documents is punishable by a maximum imprisonment of 8 years if committed against:*
2. *authentic deeds;*
3. *debt securities or debt certificates from a state or part thereof or from a public institution;*
4. *certificate of holding or debt or certificate of*

*holding or debt from an association, foundation, company or airline; talon, proof of dividends or interest from one of the documents described in 2 and 3, or*

5. *proof issued as a replacement for the documents;*
  6. *letter of credit or trade letter for circulation.*
- (2) *"The same penalty shall be imposed on anyone who deliberately uses the letter referred to in the first paragraph, the contents of which are not genuine or which are falsified as if they were true and not falsified if the falsification of the letter could result in losses." (code)*

**Article 266 KUHP Paragraph:**

- (1) *Any person who orders to insertion of false information into an authentic deed regarding something the truth of which must be stated by the deed, with the intention of using or ordering another person to use the deed as if the information is in accordance with the truth, is threatened, if such use can be causing harm, with a maximum prison sentence of seven years;*
- (2) *Anyone who intentionally uses a letter is threatened with the same crime mentioned in the first verse, the contents of which are not true or are faked as if true and not falsified, if falsifying the letter could cause losses (Criminal code)*

Meanwhile, in civil law, article 1365 of the Civil Code states *"Every act that violates the law and brings loss to another person, require the person who caused the loss through his fault to compensate for the loss"* (law)

**Article 1366 of the Civil Code of States:**

*"Every person is responsible, not only for losses caused by actions but also for losses caused by negligence or carelessness"* (law)

**16 CONCLUSION**

Based on the explanation stated above, it can be stated that the customary law system as part of the National Legal system must be sought to receive protection in accommodating the global legal system or in implementing legal globalization in Indonesia. Conclusion Customary law is a living law, strong and established in society. (Pide, Hukum Adat Dahulu, Kini dan Akan Datang, 2015)

The existence of customary law is in the form of

values that live in society even though they are not written down so that even though customary law is not stipulated by the state, it still applies in society. Therefore, the law as applicable law does not necessarily have to be seen from the application of sanctions, but indigenous law is sufficiently declared to be valid if there are statements expressed as statements of a sense of justice in unsincere relations, which are declared to be valid as an obligation so that customary law better guarantees the sense of justice that society needs. (Hadikusuma, 2014)

The use of technology basically functions as an assessor or supporter in law, namely as a tool to help create justice and not determine justice. Because it is an assessor, its nature follows the law, namely remaining as a supporting tool in creating balance in society if a shock occurs. Based on this, whatever is processed and produced by technology is not an absolute reference in determining justice, but the results must still be considered as a medium for seeking justice.

Digitalization may get along with customary law, and digitalization must be approached with cultural sensitivity, involving consultations with indigenous leaders to understand their unique perspectives. Customizing digital solutions aligns with their cultural values, languages, and ways of life. Promoting digital literacy programs helps indigenous individuals navigate the digital world. Addressing privacy and data protection is crucial, ensuring indigenous rights are protected. Addressing the digital divide by ensuring equitable access to digital infrastructure is essential. Recognizing indigenous jurisdiction within the digital realm is crucial, allowing indigenous communities to govern digital activities. A collaborative and inclusive approach is needed to find common ground between customary law and digitalization.

Digitalization may also bring negative and potential negative impacts on both society and the law system such as; manipulative digital works which may cause a blurred fact between hoaxes and truths, the threats of some theories of truths, societal disturbance, and law system of justice.

To combat hoaxes in the digital age and protect the demographic bonuses in Indonesia, strategies include strengthening legal frameworks, promoting digital literacy, collaborating with technology companies, encouraging media responsibility, fostering international cooperation, and empowering citizens. These measures, combined with disciplinary action, public awareness campaigns, and individual accountability, aim to create a more informed and trustworthy online environment.

Courts play a crucial role in Indonesia's law system, ensuring justice for individuals seeking justice. They must be vigilant against the manipulation of digitalization, which can blur the lines between hoaxes and truths. Courts distinguish between hoaxes and truths using legal principles, evidence, and procedures. Key considerations include the burden of proof, admissible evidence, fact-checking, legal standards, cross-examination, and legal precedents. The burden of proof is on the party making the claim, while admissible evidence includes witness testimonies, expert opinions, and documents. Cross-examination allows the court to critically analyze claims and determine their validity. Legal precedents and case law guide the court's decision-making process.

## REFERENCES

- Abdulrahman, Hukum Adat Menurut Perundang-undangan Republik Indonesia, Cendana Press, 1984
- Achmad Ali, Mengungkap Teori Hukum dan Teori Peradilan, Kencana Prenada, Jakarta, 2009
- Criminal Code of Indonesia Civil Code of Indonesia
- E.K.M. Masinambow, Hukum dan Kemajemukan Budaya, Yayasan Obor Indonesia, Jakarta, 2003
- Effendy, Pengantar Hukum Adat, Semarang: CV. Triadan Jaya. 1994
- Falikhah, N. (2017). Bonus Demografi Peluang dan Tantangan Bagi Indonesia.
- Hilman Hadikusuma, Pengantar Ilmu Hukum Adat Indonesia, (Bandung: Mandar Maju, 2014
- M. Syamsudin, Hukum Adat dan Modernisasi Hukum, Penerbit FH-UII, Pustaka Pelajar, Yogyakarta, 1998
- Moh.Koesnoe, Catatan-Catatan Terhadap Hukum Adat Dewasa Ini, Surabaya: Airlangga Universitas Press, 1979
- Soepomo. Hukum Adat. Jakarta;PT Pradnya Paramita, 1993
- Sukanto, Meninjau Hukum Adat Indonesia, Suatu Pengantar Untuk Mempelajari Hukum Adat, Jakarta: Raja Grafindo Persada, 1996
- Suriyaman Mustari Pide, Hukum Adat Dahulu, Kini dan Akan Datang, Jakarta:Prenadamedia Group, 2015
- Tolib Setiady, Intisari Hukum Adat Indonesia dalam Kajian Kepustakaan, Bandung: Alfabeta, 2015 Jurnal
- Abubakar L, 'Revitalisasi Hukum Adat sebagai sumber Hukum Dalam Membangun Sistem Hukum Indonesia' (2013)
- Kebijakan Pembangunan Kependudukan Dan Bonus Demografi. Vol 4, No 1. Serat Acitya – Jurnal Ilmiah UNTAG Semarang.