

Digital Rights as a New Dimension of Human Rights: Regulatory Challenges in the Era of Artificial Intelligence

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Abstract: *The rapid development of digital technology, especially through the integration of artificial intelligence (AI), has encouraged the birth of a new dimension of human rights, namely digital rights. These rights include the protection of digital identity, privacy, data security, and freedom of expression in cyberspace, which have not been fully accommodated by the national legal system. In practice, the non-transparent and discriminatory use of AI runs the risk of violating individual rights, especially in automated decision-making, mass digital surveillance, and the reproduction of content without attribution. Indonesia still faces normative and institutional vacancies, especially in the ITE Law, the Copyright Law (UUHC), and the Personal Data Protection Law (PDP Law), which have not integrated human rights principles substantively. This study uses a normative juridical method with a conceptual and legislative approach to examine the effectiveness of digital rights protection in the midst of AI development. It was found that the Indonesian legal system requires legal reform based on the principles of fairness, algorithmic accountability, and substantive justice. It is also necessary to establish an independent supervisory authority and harmonize national regulations with international standards. In conclusion, the recognition of digital rights as an integral part of human rights is an essential condition for the sustainability of a democratic state of law in an increasingly complex and autonomous digital era..*

Keywords: *Digital Rights; Artificial Intelligence; Human Rights Regulation*

INTRODUCTION

The development of digital technology marked by the integration of artificial intelligence (AI) into various aspects of life has caused fundamental changes to the concept of human rights protection. Classical rights that have been contained in international instruments such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) are now undergoing a transformation of meaning in the digital space. Individuals are entitled not only to physical freedom, but also to the integrity of digital identities, protection of personal data, and algorithmic security. This phenomenon marks the emergence of "digital rights" as a new dimension in contemporary human rights discourse.



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In this realm, digital rights include various elements such as the right to digital privacy, the right to accurate information, the right not to be subject to algorithmic discrimination, and the right to know and control the use of personal data. However, it should be noted that despite the urgency of the recognition of digital rights, the juridical construction of these rights is still in the conceptual stage and has not been firmly institutionalized in positive norms.¹ This makes digital rights a gray area that is vulnerable to abuse, both by state entities and by digital corporations that control global data infrastructure.

Artificial Intelligence has become the dominant instrument in the formation of a new digital social structure. The use of AI in the fields of government, security, education, and the economy has a major impact on people's lives. However, AI also carries great potential for human rights violations, especially when the algorithms used are opaque, biased, or without accountability. AI-based automated decision-making systems that are not transparent can threaten the right to procedural justice, especially if applied in the criminal justice system or public policy that has a broad impact on the lives of individuals.²

One of the most significant threats from AI to digital rights is the practice of digital surveillance that is carried out massively and without consent.³ Facial recognition technologies, online behavioral tracking, and predictive data analytics can be used to restrict freedom of expression, silence criticism of the state, and create a repressive atmosphere in digital public spaces. This phenomenon further emphasizes the importance of the existence of a legal framework that is able to provide guarantees and protection for human rights in the digital era, especially related to the misuse of AI by state authorities and private parties.⁴

Unfortunately, existing regulations in Indonesia have not been able to fully answer this challenge. Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE) and Law Number 27 of 2022 concerning Personal Data Protection (PDP) still focus on data protection normatively, without explicitly including the human rights dimension, especially in terms of algorithmic accountability and digital due process. This gap in norms shows the delay of national legislation in responding to rapid technological transformation, so that it has the potential to cause digital rights violations to not be dealt with comprehensively.⁵

¹ Abrori, A. (2025). Perkembangan Hukum Hak Asasi Manusia: Tren Global dan Implementasi Lokal di Era Digital. *RIGGS: Journal of Artificial Intelligence and Digital Business*, 4(2), 1042-1048.

² Judijanto, L., & Harsya, R. M. K. (2025). Etika dan Hukum dalam Penggunaan Artificial Intelligence terhadap Privasi Digital di Indonesia. *Sanskara Hukum dan HAM*, 3(03), 141-149.

³ Wahyudi, B. R. (2025). Tantangan Penegakan Hukum terhadap Kejahatan Berbasis Teknologi AI. *INNOVATIVE: Journal Of Social Science Research*, 5(1), 3436-3450.

⁴ Shaelou, S. L., & Razmetaeva, Y. (2023, December). Challenges to Fundamental Human Rights in the age of Artificial Intelligence Systems: shaping the digital legal order while upholding Rule of Law principles and European values. In *ERA Forum* (Vol. 24, No. 4, pp. 567-587). Berlin/Heidelberg: Springer Berlin Heidelberg.

⁵ Zulfa, A. A. PEMANFAATAN DATA PENGGUNA LAYANAN MELALUI COOKIE OLEH ARTIFICIAL INTELLIGENCE DITINJAU DARI PERSPEKTIF HAK ASASI MANUSIA. *Artificial Dalam Bidang Hukum Di Era Teknologi Informasi: Tantangan Dan Peluang*, 95.



Moreover, a reactive-repressive legal approach is no longer adequate in answering the complexity of human interaction and intelligent technology. Legal reformulation based on preventive approaches and risk-based regulation is needed to provide fair, inclusive, and human rights-based technology governance. Principles such as fairness, explainability, and non-discrimination must be used as a basis in the drafting of AI regulations in order to ensure respect for digital rights as an integral part of citizens' constitutional rights.⁶

In addition to the normative aspect, institutions are also a crucial issue in the protection of digital rights. The weak capacity of digital technology supervisory institutions, the absence of independent agencies specifically to oversee the use of AI, and the lack of effective remedial mechanisms for victims of digital rights violations, show the importance of reforming the institutional structure.⁷ This requires political courage from policymakers to establish institutions that are responsive to technological developments and have the authority to conduct supervision and law enforcement that uphold digital human rights values.⁸

Thus, the recognition and protection of digital rights in the AI era is not only a juridical necessity, but also a major prerequisite for the realization of social justice in the digital society. Adaptive, participatory, and human rights-oriented regulations are needed to bridge the gap between technological progress and human values. Without progressive legal intervention, the risk of dehumanization by intelligent technology will be increasingly difficult to control, thereby weakening the structure of a democratic rule of law.

METHOD

This research uses a normative juridical research method, which is an approach that examines law as a norm written in laws and regulations and legal principles that live in society. Normative research aims to examine and understand how the law should apply (*das sollen*), not how the law is practiced in empirical reality (*das sein*), so that the entire analysis process relies on primary and secondary legal materials that are textual and conceptual.⁹

As explained by Peter Mahmud Marzuki, normative legal research is a method that focuses on the study of legal materials as the main object of study, by interpreting and constructing applicable laws to answer certain legal issues.¹⁰ According to Marzuki, this approach is prescriptive because it aims not only to describe the law, but also to provide normative arguments for the validity of a legal action or act in the legal

⁶ Ahmad, N., Ali, A. W., & bin Yussof, M. H. B. (2025). The Challenges of Human Rights in the Era of Artificial Intelligence. *UUM Journal of Legal Studies*, 16(1), 150-169.

⁷ Nagy, N. (2024). "Humanity's new frontier": Human rights implications of artificial intelligence and new technologies. *Hungarian Journal of Legal Studies*, 64(2), 236-267.

⁸ Ahmad, N., Ali, A. W., & bin Yussof, M. H. B. (2025). The Challenges of Human Rights in the Era of Artificial Intelligence. *UUM Journal of Legal Studies*, 16(1), 150-169.

⁹ Novea Elysa Wardhani, Sepriano, and Reni Sinta Yani, *Metodologi Penelitian Bidang Hukum* (Jambi: PT. Sonpedia Publishing Indonesia., 2025).

¹⁰ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2011).



system adopted.¹¹ Meanwhile, Soerjono Soekanto and Sri Mamudji stated that normative legal research includes research on legal principles, legal systematics, legal synchronization, legal history, and comparative law.¹²

The main focus of this study is to examine the existence and adequacy of positive legal norms related to the protection of digital rights as part of human rights, especially in facing the challenges posed by the advancement of artificial intelligence (AI).

The conceptual approach is used to elaborate and develop the concept of *digital rights* within the framework of human rights, as well as to explain the conceptual position of digital rights in the normative structure of national law. In addition, a legislative approach is used to examine the relationship between digital rights and legal protection of digital works and expressions through an analysis of Law Number 28 of 2014 concerning Copyright (UUHC). The UUHC is important because it reflects the dimension of intellectual property rights that are closely intersecting with digital rights, especially in the context of the use of works by AI systems, algorithmic plagiarism, and the moral rights of creators in the digital space.

This study also analyzes the extent to which the UUHC provides legal guarantees for the moral and economic rights of creators in an AI-based digital environment, and whether the regulation is able to protect the interests of digital rights as part of human rights. In addition, a critical review was carried out on the gaps or normative weaknesses in the UUHC that have not anticipated the use of artificial intelligence in the production, distribution, and replication of digital content.

The sources of legal materials used include primary legal materials in the form of laws and regulations such as the UUHC, the Information and Electronic Transactions Law (UU ITE), and the Personal Data Protection Law (UU PDP). Secondary legal materials include legal literature, scientific journals, and international documents relevant to the recognition of digital rights as human rights. The analysis was carried out qualitatively with a descriptive-analytical approach to uncover the conformity between applicable legal norms and regulatory needs for the protection of digital rights in the AI era.

DISCUSSION

1. Reconstruction of Digital Rights as a New Dimension of Human Rights in the National Legal System

The discussion on the reconstruction of digital rights as a new dimension of human rights in the national legal system is a conceptual and normative elaboration of the paradigm change of human rights (HAM) in the digitalized landscape of modern life. In the era of technological disruption and information

¹¹ Mahlil Adriaman et al., *Pengantar Metode Penelitian Ilmu Hukum* (Padang: Yayasan Tri Edukasi Ilmiah, 2024).

¹² Rangga Suganda, "Metode Pendekatan Yuridis Dalam Memahami Sistem Penyelesaian Sengketa Ekonomi Syariah," *Jurnal Ilmiah Ekonomi Islam* 8, no. 3 (2022): 2859, <https://doi.org/10.29040/jiei.v8i3.6485>.



globalization, human rights are no longer limited to conventional dimensions such as the right to life, freedom of opinion, and the right to privacy in physical space, but have developed into the digital realm that contains new complexities related to control over data, expression in cyberspace, and participation in digital space that is increasingly crucial for the existence of modern humans.¹³

This transformation requires a conceptual reconstruction of human rights, where the recognition of digital rights reflects adaptation to a new reality that presents forms of cyber human rights violations, such as mass digital surveillance, algorithmic censorship, information manipulation, and discrimination based on artificial intelligence (AI). This shift shows that individuals need protection not only for their physicality, but also for their existence in the digital space including protection of digital identity, security of personal data, and freedom to interact and express themselves online without repressive or manipulative threats.¹⁴

In international law, the recognition of digital rights has developed progressively, especially through UN instruments such as UN General Assembly Resolution Number A/RES/68/167 of 2013 on "The Right to Privacy in the Digital Age" which affirms that the right to privacy also applies in the digital realm. International institutions such as the Human Rights Council and various Special Rapporteurs have also issued reports that affirm the importance of protecting freedom of expression online, access to affordable internet, and the protection of personal data as an integral part of human rights. In the European Union, the General Data Protection Regulation (GDPR) is a concrete example of how digital rights are translated normatively in a binding legal system.

In Indonesia, the recognition of digital rights is still in a fragmentative stage and has not yet gained a strong systemic foundation. Indeed, there are several provisions in Law Number 19 of 2016 concerning Information and Electronic Transactions (ITE Law) and Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) which provide the basis for the protection of digital rights. However, this legislative approach tends to be sectoral and does not fully view digital rights as an integral part of human rights, as guaranteed in the 1945 Constitution of the Republic of Indonesia Article 28F and other national human rights instruments.

One of the main weaknesses in the national legal framework is the lack of explicit codification of digital rights as part of the state-recognized catalogue of human rights.¹⁵ In addition, a repressive approach in digital law enforcement (for example, through rubber articles in the ITE Law) has the potential to limit

¹³ Cahyono, S. T., Erni, W., & Hidayat, T. (2025). RIKONSTRUKSI HUKUM PIDANA TERHADAP KEJAHATAN SIBER (CYBER CRIME) DALAM SISTEM PERADILAN PIDANA INDONESIA: Rekonstruksi Hukum Pidana terhadap Kejahatan Siber (Cyber Crime) dalam Sistem Peradilan Pidana Indonesia. *Dame Journal of Law*, 1(1), 1-23.

¹⁴ Abrori, A. (2025). Perkembangan Hukum Hak Asasi Manusia: Tren Global dan Implementasi Lokal di Era Digital. *RIGGS: Journal of Artificial Intelligence and Digital Business*, 4(2), 1042-1048.

¹⁵ Meliana, Y. (2025). Urgensi Formulasi Perlindungan Hukum dan Kepastian Pidana terhadap Pengaturan Tindak Pidana Deepfake dalam Sistem Hukum Pidana Nasional. *Jurnal Hukum Lex Generalis*, 6(7).



freedom of digital expression and cause a chilling effect in society. This suggests that without a renewal of the legal paradigm, digital rights will remain in normative ambiguity and vulnerable to systemic violations.¹⁶

The urgency of this reconstruction also concerns the role of the state in ensuring equitable digital accessibility, including equal internet infrastructure and protection of vulnerable groups in the digital space.¹⁷ The state must ensure that the democratization of information is not only a slogan, but is reflected through public policies that support the right to connect and the right not to be abused.

Thus, the reconstruction of digital rights as a new dimension of human rights is not just a symbolic recognition, but a rearrangement of the legal system to be able to respond to digital challenges in a fair, inclusive, and adaptive manner. This includes changes in legal education, updates to regulatory tools, and the establishment of independent supervisory bodies that specialize in dealing with digital human rights violations. Without these structural measures, Indonesia's legal system will lag behind in guaranteeing human rights in the digital era that continues to develop dynamically and multidimensionally.

2. Challenges of Copyright Regulation in the Face of Artificial Intelligence and Digital Technology Convergence

Advances in artificial intelligence (AI) technology have presented significant challenges to the copyright protection regime, especially in terms of the creation, distribution, and use of digital works. In a highly automated digital ecosystem, AI is now able to replicate, modify, and even create content that resembles original human expressions, ranging from music, writing, images, to videos.¹⁸ This condition raises crucial questions about the legal status of these works, especially in the realm of protection of moral rights and economic rights of creators guaranteed by Law Number 28 of 2014 concerning Copyright (UUHC).

One of the fundamental issues is AI's ability to automatically generate derivative works, which are derivative works generated from machine learning processes on data sets that include copyrighted works. In practice, this process can produce content whose substance is rooted in previous works without going through a proper licensing or attribution mechanism. The UUHC has not provided clear limits on whether such works are considered copyright infringement, or fall into the category of fair use/dealing, thus creating legal uncertainty.

¹⁶ Zhang, Y., & Jiang, S. (2023). The Concept of Digital Human Rights and Its Reshaping of Basic Rights. *J. Hum. Rts.*, 22, 973.

¹⁷ Sutrisno, A. (2024). Reconstructing the Concept of Digital-Based Accountability for International Corporations for Unlawful Acts to Achieve Justice from an Indonesian Perspective within the Context of National Legal System Reform. *Widya Pranata Hukum: Jurnal Kajian dan Penelitian Hukum*, 6(2), 203-214.

¹⁸ Sukmaningsih, N. K. I. A. (2025, January). Urgensi Pengaturan Hak Cipta di Era Kecerdasan Buatan: Tantangan dan Solusi Hukum di Indonesia. In *Prosiding Seminar Nasional Hukum, Bisnis, Sains dan Teknologi* (Vol. 5, No. 1, pp. 16-22).



Furthermore, the Law has also not explicitly regulated the legal status of the creation of works by non-human entities, such as AI systems. In the Indonesian legal system, the concept of "creator" normatively still refers to the subject of human law or legal entity. Thus, the work generated by AI creates a normative vacuum, since no legal subject can legitimately qualify as the owner of moral rights and economic rights to the work. This becomes complex when AI is used as a tool in the human creative process, so the line between human creation and machine creation becomes blurred.

In addition, the convergence of digital technologies such as the integration of AI with cloud computing, blockchain, and deep learning algorithms is accelerating the circulation and duplication of digital content on a massive scale. This phenomenon challenges the state's ability to supervise, enforce laws, and impose sanctions on copyright infringement in the digital space, which is cross-jurisdictional and highly dynamic. The UUHC, in this case, has not provided a legal tool that is adaptive to digital transformation and is still static in protecting copyright in the post-human era of digital.

Another aspect that is highlighted is the weak attribution mechanism in AI-based digital systems. Content generation algorithms often eliminate traces of the origin of the training data, making it difficult to trace the original copyright owner used in the AI training process. As a result, AI-generated works have the potential to infringe copyright without being detected directly, especially on open digital platforms that rely on user-generated content. The UUHC does not yet have technical or procedural instruments to answer the issue of attribution in the context of this kind of AI use.

On the other hand, the moral rights of creators, which include the right to be called a creator and the right to prevent distortion of their work, are also vulnerable to neglect in an AI-based digital ecosystem. Many AI-modified digital works lose their creators' identities, and the law has not provided adequate protection for these rights if the modification is made by machines, not humans. This suggests that the separation between economic rights and moral rights is increasingly blurred in the ever-evolving technological landscape.

In response to these challenges, there is a need to update national copyright regulations that are more responsive to technological developments. Indonesia can adopt the normative approach that has been developed in other jurisdictions, such as the European Union which has begun to regulate text and data mining and the creation of works by AI within the framework of copyright law. This legal harmonization is important so that the UUHC is not left behind and remains relevant in ensuring copyright protection in the digital era.

Thus, the challenges faced by the UUHC in regulating AI-based digital creations are not only technical, but also philosophical and normative. Revision of the UUHC is absolutely necessary in order to be able to answer the question of who has the right to a work, how the right is recognized, and how the law can balance technological innovation and respect for intellectual property rights. Without proper reformulation, the national legal system risks stagnation in the face of the digital revolution.



3. The Need for Legal Reform for Human Rights-Based Digital Regulations in the Era of Artificial Intelligence

Advances in digital technology, especially artificial intelligence (AI), have driven significant changes in the social, economic, and even legal structures that apply. However, this acceleration of development has not been matched by the ability of the national legal system to respond to new challenges, especially those related to the protection of human rights in the digital space. This inequality raises serious concerns about the emergence of digital rights violations that cannot be effectively addressed by existing legal instruments. In this case, legal reform is a necessity, not just an option.¹⁹

Law Number 28 of 2014 concerning Copyright (UUHC), Law Number 19 of 2016 concerning Information and Electronic Transactions (ITE Law), and Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) are the main pillars of digital regulation in Indonesia. Nevertheless, all three still show normative gaps and structural weaknesses in reaching the complexity of AI systems that can autonomously generate decisions, process data at scale, and potentially harm individual rights without direct human intervention.²⁰ The ITE Law, for example, focuses more on normative aspects than on regulating ethical and human rights principles in the use of digital algorithms.

One of the fundamental problems in the regulatory framework is the absence of the principles of fairness, accountability, and algorithmic transparency (FAT) as legally binding norms. When AI systems are used to process personal data, determine preferences, and even conduct automated selection (such as in recruitment, banking, or public services), then without FAT norms, the potential for algorithmic discrimination is very high. In the framework of human rights, digital discrimination is a form of violation of the right to be treated equally and fairly. Therefore, legal reform must include the formulation of new norms that can guarantee FAT in the design, implementation, and evaluation of AI systems.²¹

Furthermore, the risk-based regulation approach is an important instrument in designing legal reform. Instead of making regulations that are reactive or repressive, this approach emphasizes on identifying potential risks early and establishing proportionate prevention mechanisms. For example, high-risk AI systems such as facial recognition for national security purposes or predictions of criminal behavior need to require human rights impact tests and strict oversight from independent agencies. The PDP Law has begun to lead to this principle, but has not systematically integrated it into AI management.

Institutionally, Indonesia still does not have a supervisory authority that has a specific mandate and capacity to oversee the application of AI in the framework of human rights protection. The absence of this authority

¹⁹ Alexandro, A. (2024). PERAN TEKNOLOGI DIGITAL DALAM MENCEGAH DAN MENYELESAIKAN PELANGGARAN HAK CIPTA. *JUDAKUM: JURNAL DEDIKASI HUKUM*, 3(3), 138-149.

²⁰ Çebi, E., Reisoğlu, P., & Goktas, E. (2023). The influence of artificial intelligence on copyright law. *Interdisciplinary Studies in Society, Law, and Politics*, 2(2), 33-41.

²¹ Faisal, M. (2025). Regulasi dan Tantangan Hukum Penggunaan AI di Sektor Publik dalam Risiko, Akuntabilitas, dan Kebijakan Strategis. *CENDEKIA: Jurnal Penelitian dan Pengkajian Ilmiah*, 2(1), 109-116.



leads to weak regulatory implementation and weak recovery for aggrieved individuals. Therefore, legal reform needs to be accompanied by the establishment of algorithm supervisory institutions or strengthening the authority of existing institutions such as Komnas HAM or the Ministry of Communication and Informatics to supervise the use of AI across sectors.

In the long term, human rights-based digital legal reform also requires a substantive justice approach, not just formal justice. This means that evaluation of the impact of AI systems on vulnerable groups such as women, children, people with disabilities, and minority groups must be part of the legislation and oversight process. Substantive justice norms require regulations to consider socio-economic contexts and inequality of digital access that have the potential to reinforce algorithmic bias if left unchecked.²²

Reform efforts must also be participatory. The involvement of civil society, the technology community, academia, and the private sector in the regulatory formulation process is critical to ensure that the resulting legal norms are adaptive, contextual, and do not hinder innovation. Openness in the digital policy formulation process is the main element in realizing the principle of democratic accountability in technology governance.

Thus, the need for legal reform for human rights-based digital regulations is an urgent step to answer the challenges of the times. Only with a fair, accountable, and responsive legal framework to AI risks, Indonesia can guarantee that digital transformation does not compromise the human values and fundamental rights of its citizens.

CONCLUSIONS

The conclusion of this discussion shows that the reconstruction of digital rights as a new dimension of human rights is a normative and structural necessity in responding to the challenges of the era of artificial intelligence and digital transformation. Technological developments have expanded the scope of human rights to include the right to digital identity, privacy, and freedom of expression online, which demand formal recognition in the national legal system. However, Indonesia still faces normative vacuums and regulatory fragmentation, as seen in the ITE Law, UUHC, and PDP Law that have not been fully able to reach digital complexity. The unclear legal status of AI's work, the weak protection of the moral rights of creators, and the absence of FAT principles in regulations are real challenges. Legal reform is needed to ensure that digital rights are not only symbolically recognized, but also protected through adaptive and substantive legal tools. Risk-based regulatory and substantive justice approaches must be integrated into the legal framework to counteract digital human rights violations, algorithmic discrimination, and data misuse. Institutional strengthening, community involvement, and harmonization with international standards are key to building a relevant and visionary legal system. Without systematic and multidisciplinary reforms, Indonesia risks falling behind in guaranteeing human rights in the post-human

²² Setiawan, Y., Suhardi, M., & Yatni, S. H. (2025). Analisis Kritis Terhadap Implementasi Undang-Undang Cipta Kerja Dalam Perspektif Hak Asasi Manusia Dan Prinsip Keadilan Sosial Di Negara Hukum. *Yurisdiksi: Jurnal Ilmu Hukum dan Humaniora*, 1(1), 40-48.



digital era. Therefore, digital transformation must be answered with an inclusive, transparent, and rights-based legal transformation. The law should not be an obstacle to innovation, but should be a protector of human values. The reconstruction of digital rights is not just a legal agenda, but an ethical foundation of a just and civilized digital civilization.

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