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Digital Ethics and Legal Responsibility of Digital Platform Providers in Controlling Illegal Content in Indonesia

Rizqi Surya Perdana^{1*}

¹Master of Laws Study Program, University of Merdeka Malang, Indonesia

*Corresponding author: qriizsp@gmail.com

Abstract.

The rapid growth of the digital ecosystem has created a number of ethical and legal challenges for both the state and Electronic System Operators (ESOs), especially in preventing and handling illegal content. Indonesia has tried to respond to these changes through a set of rules that lean heavily toward security and public order, such as the Electronic Information and Transactions Law, Government Regulation No. 71 of 2019, and Ministerial Regulation No. 5 of 2020. These laws give the government broad authority to order swift takedowns of online content and place ESOs at the front line of maintaining a safe and responsible digital environment. However, the problem is not simply about how fast content can be removed. A bigger issue is the scattered and sometimes overlapping nature of Indonesia's regulations, which are spread across various sectoral frameworks. This regulatory fragmentation leads to different standards, confusion for platforms, and uncertainty for users. It also affects the broader issues about digital ethics. The European Union approaches content governance differently, emphasizing transparency, accountability, and clear procedures. The DSA requires platforms to provide user appeal mechanisms, undergo independent audits, and disclose systemic risks. Meanwhile, the United States takes a more hands-off approach. This article employs a normative legal method, combining statutory and comparative approaches to achieve a more holistic result. The findings show that Indonesia continues to place the government at the center of content control, relying on strict, rapid takedown requirements. Yet issues such as regulatory fragmentation, limited transparency in algorithms, lack of clear appeal rights, and uncertainties around non-discrimination remain largely unresolved. Compared to the EU and US models, it's clear that Indonesia needs a more balanced framework, one that protects public interests without overlooking platform responsibilities or the digital rights of its citizens.

Keywords: Digital Ethics, Digital Platform, Illegal Content, Legal Responsibility.

1. Introduction

The development of digital technology has brought about major transformations in social, economic, and political interactions within Indonesian society. Digital platforms have become the primary channels for disseminating information and for public communication (Fajriah & Ningsih, 2024). However, this progression also brings ethical and legal challenges for the state and Electronic System Operators (ESOs) in preventing and controlling illegal content (Rauf et al., 2025). This situation requires both the state and ESOs to develop content-control models that are not only effective but also grounded in digital ethics and proportional legal responsibility.

In order to face this social issue, Indonesia has implemented several regulations to govern the handling of illegal content, including Law Number 11 of 2008 on Electronic Information and Transactions (the EIT Law), Government Regulation Number 71 of 2019 on the Operation of Electronic Systems and Transactions, and Minister of Communication and



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Informatics Regulation Number 5 of 2020 on Private Electronic System Operators. These regulations put the government as the central actor through access-blocking mechanisms and mandatory takedown requirements within specific time frames. Private Electronic System Operators are required to remove illegal content within 4 hours for priority content, like child pornography or terrorism, and within 24 hours for general content (Harsya, 2025). However, this state-driven model still leaves several fundamental issues.

One of the main problems with Indonesia's content control approach is that it has the potential to lead to over-blocking or misdirected blocking, resulting in the removal of legitimate content due to overly aggressive takedown requirements (Salsabila et al., 2025). Moreover, digital ethics principles such as algorithmic transparency, accountability for moderation decisions, user appeal rights, and non-discrimination have not been integral to the content moderation process (Mubarak, 2025). The absence of an independent oversight body leads to a unilateral process for determining illegal content and to the potential for political exploitation. In addition, Indonesia's regulatory framework has not been unified under a single comprehensive law, resulting in content control mechanisms scattered across various sectoral regulations. This legal fragmentation leads to inconsistent standards, overlapping ESO obligations, and legal uncertainty for service providers and users. Unlike the European Union, which has a Digital Services Act (DSA) as its sole regulation, Indonesia still implements content control through regulatory fragmentation that is not always consistent. As a result, it poses significant challenges for compliance and effective governance.

Meanwhile, global jurisdictions are evolving toward more mature models. The European Union, through the DSA, implements a risk-based due diligence approach that includes independent audits, algorithmic transparency, and appeals mechanisms (Lundqvist, 2025). The United States, with its First Amendment and Section 230 of the CDA, has opted for a market-driven model with the broadest freedom of expression and minimal government intervention.

This paradigm shift raises a crucial legal issue: the balance of responsibilities between ESOs and national regulations in digital rights protection. This balance must be developed to be not only effective but also ethical and aligned with international standards. Furthermore, issues related to digital ethics principles within content moderation mechanisms by Electronic System Operators in Indonesia are also important to examine by comparing Indonesia with the European Union and the United States.

2. Method

This research employs a normative legal research approach, focusing on the analysis of written legal regulation governing ESOs' responsibilities for controlling illegal content (Sihombing & Hadita, 2022). The article also employs a statutory and comparative approach with the European Union and the United States. This approach was chosen because the issues studied are directly related to laws and regulations, digital ethics principles, and content governance standards developing in Indonesia, the European Union, and the United States. Normative research allows researchers to examine synchronization, harmonization, and regulatory weaknesses within national legal frameworks, including legal gaps resulting from the lack of unified regulations governing digital content governance.

3. Result and Discussion

3.1 Legal Responsibilities of Private Electronic System Operators in Controlling Illegal Content in Indonesia

Indonesia's legal framework for controlling illegal content is not contained in a single comprehensive regulation. Its provisions are scattered across various regulations, including the Electronic Information and Transactions (ITE) Law, Government Regulation 71/2019, Ministerial Regulation No. 5 of 2020, sectoral regulations on terrorism, gambling, and child protection, and various administrative circulars. This regulatory fragmentation is evident not only in the multitude of regulatory instruments but also in differences in objectives, scope, and enforcement mechanisms stipulated by each instrument, leading to inconsistent definitions and uncertainty about compliance for ESOs. For example, the Ministerial Regulation defines the category of "Prohibited Electronic Information and/or Electronic Documents" and places administrative takedown obligations on ESOs in Article 13. However, the criminal provisions related to insults or defamation in the ITE Law often invite differing interpretations in enforcement practice, particularly in the articles on insults/defamation and their relationship to the Indonesian Criminal Code (Ramadhan et al., 2024). As a result, a single online act may be categorized as an administrative violation under the Ministerial Regulation while simultaneously giving rise to potential criminal charges under other provisions.

To avoid administrative sanctions or criminal risks, platforms tend to over-block content, which can suppress freedom of expression. Criticism of the repressive nature of the Ministry of Communication and Information Technology Regulation has been voiced by freedom of speech advocacy organizations, which consider Indonesia's moderation rules among the most repressive in the world due to their expeditious removal requirements and broad content category criteria (Rodriquez, 2021). Furthermore, Constitutional Court rulings and academic discussions indicate that several articles in the previous ITE Law are open to multiple interpretations, adding to legal uncertainty for users and ESOs. This calls for harmonization of regulations to avoid overlap between administrative and criminal mechanisms.

Institutionally, fragmentation also means the absence of a single independent authority acting as an oversight body to balance public security and digital human rights. In practice, the Ministry of Communication and Information Technology plays a central role in issuing takedown orders and terminating access. While this is an effective model of state-driven governance for rapid response, it could become a vulnerability to abuse if not balanced by oversight and transparency mechanisms. Therefore, it is recommended that norms be harmonized to combine elements of platform accountability, complaint procedures, and protection of freedom of expression.

The content control mechanism in Indonesia places ESOs in a key operational position: receiving administrative instructions, carrying out takedowns, providing reporting facilities, and fulfilling data access requests from authorities. The Minister of Communication and Information Technology Regulation outline the procedures for implementing access termination orders. In Ministerial Regulation No. 5 of 2020, it is stipulated that ESOs receiving takedown orders delivered by the Minister via electronic mail or other electronic systems are required to terminate access no later than 1 x 24 hours, while for urgent content as referred to in Article 14 paragraph (3) of the Minister of Communication and Information Technology Regulation, the obligation is implemented as soon as possible without delay, no later than 4



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(four) hours after the warning is received. This regulation emphasizes the strict response time obligations for ESOs.

The short response time requirement has a dual impact. On the one hand, it expedites the removal of harmful content; on the other hand, it forces platforms to terminate access in response to administrative orders without an effective appeal procedure. Users whose content is removed often lack a comprehensive explanation or effective access to formal appeals before the decision is finalized (Mahendra & Nugroho, 2025). This contrasts with the European Union's DSA model, which requires an internal redress mechanism and an explanation to users of the reasons for moderation. The absence of an adequate appeals mechanism in Indonesia increases the risk of violations of the right to freedom of expression and legal uncertainty. The Ministerial Regulation also mandates that ESOs establish a complaint center and set administrative response standards, but these mechanisms are not always equivalent to the right to object to government orders.

In addition to takedown and complaint service obligations, the Ministerial Regulation requires ESOs to provide law enforcement officials with data access and to ensure effective oversight, even if data is processed or stored outside Indonesia. This provision emphasizes ESOs' compliance obligations to government requests, including storage and technical cooperation obligations. This creates pressure from the combination of administrative obligations (rapid takedown) and data access obligations, increasing the legal and operational burden on ESOs.

Finally, the available administrative sanctions (fines, access termination, and even blocking orders against ISPs if ESOs are uncooperative) reinforce the incentives for platforms to take swift and conservative removal measures, often referred to as risk-averse moderation. The combination of normative fragmentation, strict takedown obligations, data access obligations, and the threat of administrative sanctions is at the root of the problem, forcing ESOs to act as both enforcers and arbiters of content, without clear public accountability standards, such as independent audits, algorithmic transparency criteria, or an effective appeals process. To address this issue, literature and policy reports recommend regulatory harmonization, clear complaint procedures, and the establishment of independent oversight mechanisms.

3.2 Principles of Digital Ethics in Content Moderation Mechanisms by Private Electronic System Operators in Indonesia and Comparing the Indonesian Approach with the European Union and United States Models

Digital ethics in the context of controlling illegal content requires that Electronic System Operators (ESOs) and their regulations adhere to principles such as fairness, accountability, transparency, respect for human rights, and non-discrimination (Wardi & Aditya, 2025). Within the Indonesian legal framework, the implementation of these ethical principles remains fragmented. Under Indonesian regulations, the primary obligations of ESOs are set out in Ministerial Regulation No. 5 of 2020, which implements Government Regulation No. 71/2019. This obligation demonstrates that ESOs act not only as space providers but also as operational actors in removing illegal content upon government orders or requests. From a digital ethics perspective, this raises various challenges.

The principle of fairness demands that decisions to remove content or restrict access be made objectively, based on clear legal standards, and in a non-discriminatory manner (Rohmana



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et al., 2023). However, Indonesia's content control system prioritizes compliance with administrative instructions over a thorough evaluation of the content's purpose, context, or social impact. Without integrated assessment guidelines, ESOs tend to over-remove content to avoid administrative sanctions. This creates a situation in which fairness is compromised, as legal content can be removed through broad interpretation or a general order from state authorities.

Transparency is a key principle of digital ethics, requiring that the moderation process, content removal criteria, and algorithms used be explained to the public. In Indonesian regulations, while ESOs are required to provide periodic reports to the government, these reports are not required to be made public (Wulandari et al., 2025). Furthermore, users whose content is removed often do not receive a detailed notification regarding the legal basis, the reporting party, or the technical-academic rationale behind the decision. The lack of an obligation for the government or ESOs to provide an explanation notice mechanism creates an information gap between users and platforms (Sahib et al., 2023). Many democratic countries have established standards for explaining every content removal action as a form of digital rights protection. The lack of transparency not only reduces accountability but also risks undermining public trust in state authorities and digital platforms.

Accountability means every moderation decision can be evaluated, traced, and accounted for. In Indonesia, accountability remains weak due to the lack of an independent oversight mechanism to monitor the implementation of takedown instructions (Alhakim et al., 2024). Currently, all content control authority rests with the government (Kominfo), including the ability to detect content, categorize it as illegal, and order its removal. Without an independent oversight body or a user appeals mechanism, the moderation process is at risk of being disproportionate and vulnerable to political pressure. Countries like the European Union require annual independent audits of Very Large Online Platforms' algorithms and moderation processes, while Indonesia does not yet have a policy mandating external audits. Critics from CIPS argue that Ministerial Regulation No. 5 of 2020 still leaves accountability mechanisms unclear. Consequently, there is a risk of excessive content moderation, which undoubtedly threatens freedom of expression and opinion (Studies, 2022).

The principles of digital ethics also require that content moderation decisions should not be based on political preferences, ideology, religion, or specific backgrounds. Ethical frameworks emphasize impartiality, objectivity, and consistency to ensure that all users are treated equitably. Indonesia's content moderation system lacks a mechanism to prevent content removal decisions from being influenced by political or group pressure. This heavy reliance on administrative decisions increases the risk that certain content will be prioritized for removal, not based on its urgency or danger, but rather on political sensitivity or the interests of specific parties (Humairoh & Nurjannah, 2024).

A crucial component of digital ethics is the availability of a remedy mechanism, namely the right to appeal or object to moderation decisions. The European Union's DSA requires ESOs to provide an internal complaint-handling system, an out-of-court settlement body, and access to an independent dispute resolution body. In Indonesia, these mechanisms are virtually non-existent. Users have no effective appeals channel when their content is removed by government order. In many cases, their only recourse is to sue through the public court mechanism of the Indonesian State Administrative Court (PTUN), which is procedurally complex, expensive, and disproportionate.



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Indonesia's model for controlling illegal content differs fundamentally from the approaches adopted in the European Union and the United States. Indonesia employs a state-driven governance model, a mechanism that places the state as the primary actor in detecting, classifying, and ordering the removal of content. The government, through the Ministry of Communication and Information Technology (Kominfo), has broad administrative authority to cut off access or order e-commerce platforms to remove specific content within a strict timeframe: 4 hours for priority content and 24 hours for general content. This approach offers the advantage of a speedy response to high-risk situations such as terrorism or child sexual exploitation, but also has fundamental weaknesses, such as the potential for over-blocking and a lack of checks and balances, as decisions to remove content are made administratively without an effective appeal mechanism for users. Regulatory fragmentation in Indonesia further weakens legal certainty due to inconsistent sectoral regulations and an often open-ended definition of illegal content, forcing e-commerce platforms to navigate a multitude of provisions without a single standard. This dominant state position has led the Indonesian model to place greater emphasis on security and public order than on protecting digital rights such as freedom of expression.

In contrast to Indonesia, the European Union, through its Digital Services Act (DSA), adopts a more balanced approach grounded in principles of risk-based and rights-centric governance. The DSA does not emphasize the obligation to remove content within hours, but rather emphasizes due diligence obligations, including transparency, accountability, independent audits, systemic risk assessments, and user appeal mechanisms. Digital platforms, particularly Very Large Online Platforms (VLOPs), are required to publish moderation reports, provide researchers with data access, and conduct external audits of their algorithms (Commission, 2025). This approach emphasizes that content control is not only about the speed of removal, but also about ensuring that the process is accountable, proportionate, and does not violate users' fundamental rights. The DSA positions the state more as an independent regulator and supervisor, rather than as the sole arbiter ordering takedowns. This model reflects the paradigm that abuse of state authority is more dangerous than the illegal content itself, so regulations must minimize the potential for political interference in content moderation.

Meanwhile, the United States offers a very different model, a market-driven model with constitutional protection, historically grounded in the First Amendment, which provides very strong protection for freedom of expression (Goldman, 2025). The US government has virtually no authority to order platforms to remove content except in very limited categories such as Child Sexual Abuse Material (CSAM), direct threats of violence, or certain forms of terrorism. Furthermore, Section 230 of the Communications Decency Act of 1996 (CDA) grants platforms legal immunity for user-uploaded content and allows them complete freedom to moderate content based on their own internal policies. This model makes platforms, rather than the state, the primary determinants of content moderation. While this approach maximizes freedom of expression and prevents state censorship, it also fuels the spread of disinformation, hate speech, and political polarization, which are difficult to control given the limited intervention of public authorities. The US approach demonstrates that allowing the market to regulate itself does not always provide optimal protection for the quality of the digital public sphere.



4. Conclusion

This research shows that control of illegal content in Indonesia is still dominated by a state-driven governance approach that positions the government as the primary actor in detecting, determining, and ordering the removal of digital content. Broad administrative authority, swift takedown obligations, and strict sanctions against digital platform operators create an operationally effective system. However, it has fundamental weaknesses from a digital ethics perspective and in protecting users' constitutional rights. The problem of regulatory fragmentation across the EIT Law, Government Regulation 71/2019, Minister of Communication and Information Regulation No. 5/2020, and various sectoral regulations results in inconsistent standards and legal uncertainty for both platforms and users. The absence of an appeals mechanism and independent oversight further increases the risk of over-blocking and state dominance in determining the boundaries of digital expression. The government needs to develop a comprehensive regulation on digital platform governance, equivalent to the European Union's DSA, which integrates all rules related to illegal content into a single law. This regulation will reduce regulatory fragmentation, strengthen legal certainty, and provide a single standard for all digital actors.

Compared to the European Union and United States models, Indonesia's regulations emphasize stability and public security over digital rights protection and tend to be more repressive, necessitating comprehensive reform to align with digital ethics principles. Meanwhile, the European Union's Digital Services Act (DSA) emphasizes more balanced governance through due diligence obligations, independent audits, and appeals mechanisms. This contrasts with the United States model, which places freedom of expression at the forefront but relatively little state intervention through the First Amendment and Section 230 of the CDA. Indonesia needs to systematically implement digital ethics principles throughout the content moderation process, including content removal, access termination, and data requests. The government needs to ensure that this includes mandatory notification to users when content is removed, the provision of effective channels for complaints and complaints, and independent oversight through external audits of algorithms and moderation processes. This way, content control can be implemented proportionally, fairly, and while respecting citizens' digital rights.

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