



Ensuring Telecommunication Access Equality: Bridging the Digital Divide through Job Creation Law Regulations

Gunawan Hutagalung

Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia
Jl. Ir Sutami No.36, Kec. Jebres, Kota Surakarta, Jawa Tengah, Indonesia 57126
tswmpw@student.uns.ac.id

Hartiwiningsih Hartiwiningsih

Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia
Jl. Ir Sutami No.36, Kec. Jebres, Kota Surakarta, Jawa Tengah, Indonesia 57126
hartiwiningsih@staff.uns.ac.id

I Gusti Ayu Ketut Rahmi Handayani

Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia
Jl. Ir Sutami No.36, Kec. Jebres, Kota Surakarta, Jawa Tengah, Indonesia 57126
ayu_igk@staff.uns.ac.id

Abstract— Ensuring equal access to telecommunications is crucial for guaranteeing internet access rights and reducing the digital divide. The mandates of the Job Creation Law of telecommunications access infrastructure are designed to guarantee equitable distribution. This article examines the philosophical, legal, and economic dimensions of fair telecommunications access, explicitly focusing on the role of government intervention. The study used a descriptive-analytical research method to focus on understanding legal documents. The conversation highlights the profound philosophical importance of telecommunications in Indonesia, presenting it as essential for advancing human society. The telecommunications law, established by the state, should primarily be utilized to facilitate governmental efforts in promoting justice and maintaining public order rather than being exploited as a means of exerting authority. The article promotes a judicious approach to government intervention, highlighting the need for earlier deregulation. Given its crucial role as Indonesia's primary driver of Internet access, the telecommunications sector requires intense government supervision and regulation.

Keywords—*regulation; telecommunications; gaps.*

I. INTRODUCTION

The government guarantees telecom access through two methods: building access infrastructure for telecom carriers and providing subsidies for services or acquiring internet access services that encompass telecommunications access. This effort focuses on reaching out to remote regions and public service establishments such as schools, health clinics, vocational training institutions, village offices, public amenities, and tourist destinations. Telecommunication firms will implement 4G connectivity in 3,435 underserved locations. Government assistance is essential in these non-commercial locations where telecom companies have varying capacities. An essential task is to analyze the Omnibus Law on Telecommunication to ascertain equitable Internet access regulations. This analysis is critical for establishing legal certainty and guiding the continued participation of the government in the non-commercial sector. This initiative aims to mitigate the digital divide by diminishing disparities in telecommunications accessibility.

The report on the development sector [1] described the telecommunications issues in the present day: "private", "competitive", "mobile", and "global". It is recognized that telecommunications everywhere in the world are getting privatized, competitive, mobile, and global, in their operations, regulations, and services.

The formulation of privatization and competition is a factor that must be taken into account. In actuality, the formulation component has emerged as the driving force behind this sector's global, including Indonesian, change. Taking revenue into account, the main private sector-owned telecommunications companies hold over 85% of the global market. Less than 2% of the market is occupied by large, government-completely controlled firms[1].

The digital divide primarily centers around the availability of access to telecommunications and the broader

disparities in access to information technology. The assessment can be conducted from an external perspective, focusing on the infrastructure and services provided, and from an internal one, considering the community's capacity to employ these services effectively. Government intervention is essential, and analyzing the internal aspect is pivotal for successfully reducing the digital divide. The government is obligated to ensure the provision of essential support through the establishment of telecommunications access infrastructure. In non-commercial sectors, the government provides financial assistance and subsidies to carriers unable to operate successfully. Indonesia strives to attain equitable telecommunications accessibility, particularly in 3 underserved areas, through initiatives such as constructing Base Transceiver Stations and delivering 4G connectivity to specific villages. The government is expediting the supply of internet connectivity in public service points and places without 3G coverage

II. LITERATURE REVIEW

According to the theory of access's nature of access progression, legal notation has thus far been applied to resources or objects rather than to property access. This demonstrates that the party in power receives the notation from the authorized side. Equality will be promoted by the distribution of power and the ability to access resources through digital infrastructure, as well as the government's role in balancing this access.

Constitution does not adhere to a trias politica, but because the 1945 Constitution deeply interprets the essence of constitutional democracy[2] , it can be concluded that Indonesia adheres to a trias politica in the sense of power sharing[3]. It has previously been stressed that Indonesia is a legal nation. Truth and justice as the primary goals, the advancement, and defense of human rights, judicial independence, the harmony of the three moralities—institutional, social, and individual—the harmony of order with justice and legitimacy, the prohibition against the use of the law as a tool of power, and the avoidance of ad hoc decision-making are all signs of a nation-state that upholds the rule of law.

Based on the aforementioned indications, if the author links the availability of digitalization to justice, then the government's role as the producer of laws and regulations must be addressed to ensure that citizens have equal access to telecommunications as a right.

Every citizen is entitled to digital access. Unquestionably, the government has worked hard to give Indonesians access to telecommunications. Not all places, nevertheless, are covered by the service; on October 13, 2021, a young guy in Jambi died as a result of being jumped by a tiger because he was unable to locate a mobile signal[5]. This situation occurs as a result of the gap in digital access. The gap in digital access is a notation used to describe the contrary situation of availability in having access to digital [4].

III. METHOD

This normative or doctrinal legal research methodology is normative juridical legal research or normative legal research which is basically an activity that will examine the internal aspects of positive law. Normative legal research focuses more on the scope of legal conceptions, legal principles and legal rules. It can be concluded based on existing doctrine, that normative legal research is a type of legal research methodology that bases its analysis on applicable laws and regulations that are relevant to the legal issues that are the focus of the research. The study used a descriptive-analytical research method to focus on understanding legal documents

IV. RESULT AND DISCUSSION

As a creation of the government, telecommunications legislation should primarily function as a framework for intervention to uphold justice and preserve social order rather than being used as a tool of authority. Promoting public ownership through shared spaces or cooperative models is an effective way to address the digital gap and maximize the impact of sustainable development. Rules serve as catalysts, enabling the possession of specific telecommunications components to confer access capabilities. In Bangka Belitung, a system that prioritizes public concerns and government control was technically implemented. However, criticisms indicate difficulties arising from excessive government intervention, particularly in licensing. The argument on development standards centers on using economic growth as a measure of success, as opposed to the social outcomes it generates, with a focus on human rights and fair social justice.[5]

As required by Article 28F of the 1945 Constitution, equal access to telecommunications is a prerequisite for upholding the fundamental rights of society. Equal telecommunications access for economic resources must be ensured, according to Article 28H paragraph (2). However, the right to utilize telecommunications for personal growth is stated in Article 28C. Because there are still 12.548 blank spot communities and poor quality telecommunications services, the legal strategy to provide access to the internet for private operators does not work as well as it might fulfill this obligation. As a result, there is a poor human development index and subpar SDG accomplishment across several fields.

There are two categories of competitiveness: those that are specific to businesses and the economy, and those that are applied to geographical units[6]. The reach of internet access that spurs competition is both national and international. This results in several supply-side and demand-side measures, along with competition policy oversight.[7] It is crucial to remember that businesses should be the ones to transform through digitization, improving processes, creating new connections, developing intelligent goods, and so forth[10]. Regarding competition, it is evident that internet use and income have a substantial association[11]. The need for digital transformation is driven by three factors: the digital revolution, new technology, and a variety of technologies [8].

Several governments, including the United States, Finland, and Sweden, have formally acknowledged that access to telecommunications is a fundamental human right. The directives of the European Union prioritize the fulfillment of the right to access telecommunications and the elimination of obstacles to such access, highlighting it as a vital issue. The 1945 Constitutional Amendments dictate the implementation of applicable legislation, affecting legal overhauls and economic effectiveness based on their support for telecommunications access rights. The legal emphasis on telecommunications connectivity highlights its significance in promoting inclusivity and socioeconomic progress.

Ensuring harmonizing telecommunication liberalization principles and preserving access rights is paramount in developing the Job Creation Law and the Omnibus Law for Telecommunications. The Omnibus Law should adopt a democratic approach to digital infrastructure, drawing inspiration from successful government initiatives in other countries to foster public participation. The law's efficacy in guaranteeing equitable distribution of telecommunications access is called into doubt due to the current disparities in access. Studying practical approaches employed by other countries uncovers ways that closely resemble the equal distribution strategy of the Job Creation Law. According to Hart's concepts regarding secondary substances, rules should incentivize telecom companies to perform their obligations while balancing their rights and the government's ability to provide internet access.

In the global digital age, we need to handle legal issues with equal vigor and inventiveness if we are to achieve our goals of improved health care, clean energy, and welfare[9]. This assertion suggests that, in light of the private sector's growing capability in telecommunications operations, technological expertise, and competitive advantage in meeting societal demands, modifications to telecommunications operations at the national level are necessary.

A new perspective and interpretation of the meaning of the mandate of Article in the Constitution, which states that all economic resources controlled by the State and utilized for the benefit of the people are among the implications of the policy of encouraging investment in the telecommunications industry and the growing role of private players in the operation of telecommunications. Similarly, the state will oversee significant production activities that provide the people's necessities. According to the Telecommunications Law, one of the major production areas under state management is telecommunications. In this instance, it is crucial to highlight the need for a shift in viewpoint regarding the way telecommunications is operated. Initially, this was a service that affected people's lives, was essential and strategic, and required the use of scarce natural resources under state control—in this case, provided by the government via a State-Owned Enterprise. Telecommunications is currently one of the traded services that is directly tied to aspects of business entity competition and user protection[10].

The 1945 Constitution must, of course, serve as the cornerstone of our national economic and political strategies. The virtue of economic democracy is listed as a guideline for managing the country's economy in an article of the Constitution. The virtue of familial principles is also listed in Article 33, Paragraph (1) of the Constitution as a fundamental idea for organizing the economy as a joint venture. In the meantime, its article clarifies that production is carried out by everyone for everyone, overseen by participants who represent the fundamentals of economic democracy. The primary objective is collective success, not individual affluence. According to this theory, the economy will be set up as a joint venture based on kinship principles."

The word "kinship" is frequently understood as anti-competitive, however, Article 33's main point is that Indonesia's economy is focused on economic democracy, according to Chatamarrasjid [15]. This is the constitutional judiciary's way of carrying out the Preamble to the Constitution's mandate that the Indonesian people attain social welfare in their daily lives. Furthermore, Article 33's phrase "the economy shall be structured" makes it clear that restructuring and economic reform are required.

As a result, the State is required to carry out the requirements of the Article, particularly paragraph (1), which establishes the foundation of economic activity as the basis for economic democracy. It is imperative to underscore that, to effectively implement the mandate outlined in Article I, particularly Paragraph (1) of the Constitution, laws and regulations interpreted as political policies are required to bolster domestic economic activity, particularly in the context of free trade and the digital economy. About this issue, laws serve as both a "tool of social manipulation" and a "tool of social control" within the framework of the country's economic existence [11].

The goal of allowing the private sector to participate widely in telecommunications operations is to improve the quality of services provided by telecommunications providers, increase teledensity, and enable accessibility. Utilizing the pressure from the international market and their willingness to compete are key factors in helping Indonesia's telecommunications sector reach maturity. The government is considering this while negotiating bilateral and global trade agreements, particularly when it comes to submitting commitments as a foundation for including telecom services that are accessible to international investors and are guided by a schedule. However, it should be reasonable to offer cooperatives, small and medium-sized firms, or regionally owned enterprises proportionate chances for the operation of telecommunications businesses, in addition to powerful investors.

Additionally, the meaning of "under the powers of the State" has changed from being owned and governed by the government to being regulated by it. Additionally, foreign investors join the ranks of shareholders of enterprises that operate telecommunications, particularly through direct investment. The age of monopolies can be applied to the way that telecommunications were operated in Indonesia under the Telecommunications Law. Only government-owned companies, PT Telkom and PT Indosat, are involved in the telecommunications industry.

In Indonesia, the telecom industry operates under a monopoly (monopoly-based system). It is not possible to implement a more pro-market system from a monopolistic one as easily as ABC. The transfer procedure needs to be streamlined, hence a legal document masquerading as a government rule is needed. Regulatory tools are designed to prevent market failures, enhance service quality, and expedite the provision of telecommunications access.

Transparency in services is a key component of good governance practices[12], as issues with government and service organizations are primarily caused by a lack of transparency. Given that the government has intervened by establishing the telecoms multi-operator policy, which is mentioned in the Telecommunications Law, a thorough examination of the application of good corporate governance components in the sector is warranted.

There are three main changes in post, telecommunications, and broadcasting with the implementation of the Job Creation Law. These reforms aim to encourage healthier and more adequate investment and speed up the licensing procedure. The Broadcasting Law, Law Number 38 of 2009 on Post, and Law Number 36 of 1999 on Telecommunications are all enhanced by several measures found in the Job Creation Law. The foundation of the national digital economy is the emphasis on policy support and infrastructure in the areas of post, telecommunications, broadcasting, and the digital economy. Since the postal, telecommunications, and broadcasting industries will be Indonesia's key foundations as it enters the new era of advanced industrialization, they have strategic importance.

Omnibus law of telecommunications affects Indonesia, in terms of information and technology, to encourage three innovations: releasing the regulatory bottleneck that is impeding the development of digital access; putting in place Analog Switch Off (ASO) in 2022 as a foundation for the possibility of having more spectrum frequency; and avoiding inefficiencies for both frequency and passive infrastructure.

The existence or lack of obstacles for new entrants indicates the market structure. In the political market, a fresh viewpoint known as the new constitutional norms or political constitutional perspective appears. This perspective is seen as more promising in terms of ensuring equality among the pertinent parties.

There are only two types of market systems in the worst situation: monopoly and perfect competition. When there are no major obstacles to joining or exiting the market and an infinite number, size, and distribution of market participants, perfect competition exists. On the other hand, in the absence of complete competition, a monopoly market develops. Restructuring can be viewed as an effort to go from a monopoly to a competitive market in the context of Indonesia's telecom development.

The aforementioned explanation can also explain why changes in the market structure of the telecommunications industry are typically followed by privatization if one were to consider it solely in terms of the desire to increase the number of offers and assume that several private parties can provide services. In actuality, though, rather than the attempt at restructuring, the incentive to finance the fiscal deficit drives the privatization of state-owned telecommunications companies in Indonesia. According to Marwah M. Diah, the reorganization of the SOEs is more of an expression of Indonesia's liberal economic system, which leads to legal issues [18]. The statement suggests that a country's economic sector leading to a concentration of political power does not necessarily result in issues [13].

As a result of the market structure, participants will adopt new behaviors as they plan their business plans, anticipate the effects of policies, and respond to laws. The way that strategy and operations are implemented, both separately and collectively, will have an impact on the economy and the company's performance. These occurrences will show if the market is efficient or whether deadweight loss may develop as a result of deliberate or inadvertent actions by market participants. Thus, a key factor influencing economic performance and a nation's degree of welfare is the interplay among behavioral elements, structure, and market performance [20].

The market structure and performance of the telecommunications business are topics of debate in public policies, which include issues like licensing, taxation, equipment, service standards, interconnection, tariff

setting, and the rivalry between multiple companies vs a single dominant company. Due to the strategic nature of the business, it is considered essential to have substantial government participation in oversight and regulation. Competent administration typically attains maximum productivity, and we cannot guarantee the avoidance of governmental interference. Nevertheless, when market distortions occur or transactions become uneven, government intervention becomes essential to correct defects and benefit all parties involved. Establishing a comprehensive legislative structure is crucial to effectively tackle the consequences of globalization and digitization on the telecommunications industry in Indonesia. The legal system should view institutions as entities responsible for enforcing laws and regulations to implement reforms that prevent legislation from being abused to exert authority, as witnessed during the "new order" era.[14]

V. CONCLUSION

The importance of communication and telecommunications in the development of human civilization serves as a clue to the philosophical underpinnings of telecommunications in Indonesia. Human interactions have the underlying capacity to construct civilization. The legislation on telecommunications, which is a government product and shouldn't be used as an instrument of power but rather as a tool for government action in establishing justice and maintaining social order, serves as the legal foundation for access to telecommunications in Indonesia. How the government intervenes ought to counterbalance the earlier deregulation. By promoting public ownership of digital access or collaboration in the creation of shared spaces, the digital divide can be closed. This has consequences for optimizing the consequent influence on attaining sustainable development. Telecommunications is one of the important industries whose management necessitates significant government engagement in the form of regulation and supervision. It is the economic foundation of telecommunications access in Indonesia. Therefore, if management has been impulsive and successful in achieving reasonable or even optimal efficiency, a good government does not come to disrupt the market.

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