

Regulatory Gaps in Digital Platform Liability for Distance Education in Indonesia: Effectiveness and Urgency Analysis

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Abstract

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The rapid development of digital technology has transformed the education sector through the widespread adoption of distance learning platforms. However, this transformation raises significant legal concerns regarding the liability of digital platforms in ensuring system reliability, data protection, and service quality. Although Indonesia has established several relevant legal frameworks, including education, electronic transactions, and personal data protection laws, their effectiveness in regulating platform liability in distance education remains uncertain. This study aims to analyze the effectiveness of existing regulations and examine the urgency of strengthening the legal framework governing digital platform responsibility in Indonesia's education system. The research employs a normative legal method by examining statutory regulations, legal doctrines, and relevant academic literature using descriptive-analytical approaches. The findings indicate that the current regulatory framework is fragmented and lacks specific integration to regulate digital platform liability in education comprehensively. Ambiguities remain in determining responsibility among platforms, educational institutions, and users, particularly in cases of system failure and data breaches. The study concludes that regulatory reform is urgently required to enhance legal certainty, strengthen accountability mechanisms, and ensure better protection for students in digital learning environments.

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1. Introduction

The rapid development of digital technology has significantly transformed the education sector, particularly through the implementation of distance learning based on digital platforms. Learning Management Systems, video conferencing applications, and various educational technologies have become essential infrastructures in the learning process (Sidorenka et al., 2020). This transformation was further accelerated by the COVID-19 pandemic, which forced educational institutions worldwide, including Indonesia, to shift from traditional face-to-face learning to online-based education. While this shift has improved accessibility and flexibility, it has also introduced complex legal issues, particularly regarding the legal liability of digital platforms in ensuring system security, personal data protection, and the quality of educational services (Kirillova et al., 2021; Rive, 2022).

Empirical phenomena indicate that the implementation of digital platforms in distance education is still accompanied by various legal challenges. Cases such as data breaches involving students' personal information, system disruptions during online learning sessions, and misuse of user data highlight significant gaps in legal protection. Previous studies suggest that although regulatory frameworks exist, their effectiveness remains limited in responding to the rapid evolution of digital technology, particularly in the education sector (Dewi & Srisudarso, 2022). Furthermore, the implementation of personal data protection regulations in Indonesia still faces significant challenges, especially in terms of enforcement and institutional readiness (Laelaturramadani, 2021). This indicates a persistent gap between legal norms and practical implementation.

From a normative perspective, Indonesia has established several relevant legal instruments to govern education and digital systems (Judiyanto & Harsya, 2021). These include the Law No. 20 of 2003 on the National Education System, which guarantees the right to education and regulates the national education framework; the Law No. 11 of 2008 on Electronic Information and Transactions (as amended by Law No. 19 of 2016), which governs electronic systems and digital transactions, including the responsibilities of electronic system providers; and the Law No. 27 of 2022 on Personal Data Protection, which regulates the processing, storage, and protection of personal data. These regulations are further supported by the Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions, which provides technical guidelines for electronic system governance. In addition, the framework for distance education is also regulated under the Minister of Education and Culture Regulation No. 109 of 2013 on Distance Education Implementation.

Despite the existence of these legal instruments, several studies indicate that the current regulatory framework has not yet comprehensively addressed the specific legal responsibilities of digital platforms in the context of distance education. In particular, there is ambiguity regarding the allocation of responsibility between platform providers, educational institutions, and users when legal issues arise, such as system failure or data breaches (Harsya & Triyantoro, 2021).

This situation reveals a significant research gap, namely the lack of a comprehensive legal framework that specifically regulates the legal liability of digital platforms in distance education, despite their central role in modern educational

systems. This gap potentially leads to legal uncertainty and weak protection for students as primary users of educational platforms. Therefore, this study aims to analyze the effectiveness of existing regulations governing the legal responsibility of digital platforms in the implementation of distance education in Indonesia, as well as to examine the urgency of strengthening such regulations in addressing the challenges of the digital era. This research is guided by two main research questions. First, it investigates how effective the current regulatory framework is in governing the legal liability of digital platforms in distance education in Indonesia. Second, it explores why the regulation of digital platform liability in distance education constitutes an urgent legal issue that must be addressed within the Indonesian legal system.

2. Method

This study employs a normative legal research method (doctrinal legal research) to analyze the effectiveness and urgency of legal regulations governing the liability of digital platforms in distance education in Indonesia. Normative legal research is chosen because the focus of this study is to examine legal norms, principles, and doctrines contained in statutory regulations and legal literature, rather than empirical data obtained from field observations. This approach is appropriate for addressing the legal issues identified in the background of the study, particularly concerning regulatory effectiveness and legal gaps in digital education governance.

The primary legal materials used in this study consist of relevant statutes and regulations, including the Law No. 20 of 2003 on the National Education System,

the Law No. 11 of 2008 on Electronic Information and Transactions (as amended by Law No. 19 of 2016), the Law No. 27 of 2022 on Personal Data Protection, the Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions, and the Minister of Education and Culture Regulation No. 109 of 2013 on Distance Education Implementation. These legal instruments are analyzed to identify the scope of responsibility, obligations, and accountability mechanisms imposed on digital platform providers in the context of distance learning.

Secondary legal materials include scholarly articles, academic journals, books, and previous research findings related to digital education, cyber law, personal data protection, and legal liability theories. These materials are used to support the analysis and provide critical perspectives on the effectiveness of existing regulations. Tertiary legal materials such as legal dictionaries and encyclopedias are also utilized to clarify legal terminology and concepts relevant to the study.

The analysis in this research is conducted using a qualitative descriptive-analytical approach, which involves systematically interpreting legal norms and identifying gaps between law in the books and law in action. The study applies legal interpretation methods, including grammatical interpretation and systematic interpretation, to understand the meaning and scope of relevant legal provisions. Furthermore, the study adopts a conceptual approach by integrating legal theories such as the theory of legal liability, legal protection, legal certainty, and cyber law principles.

The final stage of analysis involves drawing conclusions based on logical reasoning to assess the effectiveness of existing regulations and to evaluate the urgency of strengthening the legal framework governing digital platforms in distance education. This methodological framework ensures that the study provides a comprehensive and coherent legal analysis consistent with the objectives outlined in the background of the research.

3. Results

4.1. The Regulatory Framework Governing the Legal Responsibility

The effectiveness of regulatory frameworks governing the legal responsibility of digital platforms in distance education in Indonesia is a critical issue in the context of rapid digital transformation. The Indonesian legal system has established several foundational regulations that are relevant to education and digital governance. The Law No. 20 of 2003 on the National Education System provides the constitutional basis for the right to education and obligates the state to ensure equal access to educational services. However, this law was enacted long before the emergence of digital learning ecosystems and therefore does not explicitly regulate the role and liability of digital platforms in educational delivery. As a result, its relevance in addressing contemporary digital education issues remains limited in scope (Selwyn, 2019).

In addition, the Law No. 11 of 2008 on Electronic Information and Transactions, as amended by Law No. 19 of 2016, provides a more direct legal framework for digital platform governance. This law introduces the concept of

Electronic System Providers (PSE) and requires them to ensure system reliability, security, and accountability. Nevertheless, the law is largely designed for general electronic transactions rather than sector-specific applications such as education. Consequently, its provisions on liability remain broad and do not clearly define the division of responsibility between platform providers and educational institutions in the context of distance learning (Dobrilă, 2020).

The regulatory framework is further complemented by the Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions, which provides technical standards for electronic system operation. This regulation requires electronic system providers to implement risk management systems, ensure data security, and maintain operational reliability. However, despite these provisions, enforcement remains inconsistent due to limited institutional capacity and the absence of sector-specific guidelines for education platforms. This indicates a gap between normative regulation and practical implementation, which reduces the overall effectiveness of the regulatory system (Cheka, 2017).

A significant development in Indonesia's legal framework is the enactment of the Law No. 27 of 2022 on Personal Data Protection, which establishes comprehensive rules for personal data processing, including consent requirements, data controller obligations, and administrative sanctions. In the context of digital education platforms, this law is highly relevant because student data constitutes sensitive personal information. However, as a relatively new regulation, its implementation is still in the early stages, and many educational platforms have not fully adapted their systems to comply with its requirements (Stepanenko et al., 2020).

Furthermore, the Minister of Education and Culture Regulation No. 109 of 2013 on Distance Education Implementation serves as the primary sectoral regulation governing distance education. While this regulation provides guidelines for the implementation of online learning, it was issued prior to the rapid expansion of digital learning technologies. Therefore, it lacks detailed provisions on platform accountability, cybersecurity standards, and data governance mechanisms. This outdated regulatory framework reduces its effectiveness in addressing the complexities of modern digital education systems (Salakhova et al., 2021).

From a doctrinal perspective, the effectiveness of regulation is closely linked to legal certainty, enforceability, and adaptability. In the context of digital education, these three elements are not fully achieved. Although Indonesia has a relatively comprehensive legal structure, the absence of harmonization between education law, electronic system regulation, and data protection law creates interpretative ambiguity. This results in uncertainty regarding liability allocation when legal issues arise, such as system failure or data breaches (De Hert & Papakonstantinou, 2017).

Therefore, the effectiveness of the current regulatory framework can be characterized as partial and fragmented. While normative instruments exist, their sectoral integration remains weak, and their practical enforcement is inconsistent. This condition highlights the need for a more integrated legal approach that specifically regulates digital platform liability in the education sector to ensure stronger legal certainty and better protection for users in distance education systems (Selwyn, 2019).

4.2. The Urgency of Regulating the Legal Liability of Digital Platforms

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The urgency of regulating the legal liability of digital platforms in distance education arises from the increasing dependence of educational systems on digital infrastructure. The COVID-19 pandemic accelerated the adoption of online learning platforms globally, including in Indonesia, transforming digital platforms from supplementary tools into essential components of education delivery. However, this rapid transformation has outpaced the development of corresponding legal frameworks, resulting in significant regulatory gaps that expose stakeholders to legal uncertainty and operational risks (Hodges et al., 2020).

One of the primary reasons for regulatory urgency is the issue of personal data protection in digital education systems. Despite the existence of the Law No. 27 of 2022 on Personal Data Protection, incidents involving data breaches and unauthorized data usage continue to occur. Student data, including academic records, identity information, and learning behavior data, is highly vulnerable to cyber threats. This situation demonstrates the need for stronger enforcement mechanisms and clearer accountability structures for digital platform providers in educational contexts (Cavoukian, 2017).

Another critical issue is legal uncertainty regarding liability allocation when system failures occur. Under the Law No. 11 of 2008 on Electronic Information and Transactions, electronic system providers are required to ensure system reliability. However, the law does not explicitly define the extent of liability in educational settings, particularly when system disruptions affect academic performance or access

to learning materials. This ambiguity creates potential legal disputes between platform providers, educational institutions, and users, highlighting the need for clearer regulatory boundaries (Dudar et al., 2023).

The urgency is further reinforced by limitations in the Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions, which primarily focuses on technical compliance and general electronic system governance. It does not provide sector-specific provisions for education, particularly regarding student protection and platform accountability in learning environments. As a result, educational platforms operate in a regulatory grey area where responsibilities are not clearly defined, increasing the risk of legal and operational failures (De Hert & Papakonstantinou, 2017).

Moreover, the outdated nature of the Minister of Education and Culture Regulation No. 109 of 2013 on Distance Education Implementation contributes to the urgency of reform. This regulation predates the widespread adoption of digital learning technologies and does not adequately address contemporary issues such as cybersecurity, platform governance, and data protection standards. As digital education becomes a permanent component of the education system, regulatory modernization becomes essential to ensure legal relevance and institutional accountability (Southgate et al., 2020; Saputra et al., 2021).

In addition, the urgency of regulation is closely tied to the protection of education as a fundamental human right. The state has an obligation to ensure that education is accessible, equitable, and safe. When education is delivered through digital platforms, inadequate regulation may compromise this right by exposing

students to data risks, system failures, and unequal access. Therefore, strengthening legal regulation is not only a technical necessity but also a constitutional and human rights imperative (Selwyn, 2019).

Furthermore, the increasing commercialization of digital education platforms adds another layer of urgency. Many platforms operate as private entities driven by profit motives, which may conflict with educational objectives if not properly regulated. Without clear legal accountability, there is a risk that commercial interests may override student protection and educational quality. This reinforces the need for a robust regulatory framework that balances innovation with legal responsibility (Jekabsone, 2020; Mashau & Nyawo, 2021). The urgency of regulating digital platform liability in distance education stems from the convergence of technological dependency, legal ambiguity, data vulnerability, and human rights considerations. Without comprehensive regulatory reform, the risks associated with digital education systems will continue to increase, undermining both legal certainty and the quality of education in Indonesia.

4. Conclusion

This study finds that the effectiveness of the regulatory framework governing the legal liability of digital platforms in distance education in Indonesia remains partial and fragmented. Normatively, Indonesia has established several relevant legal instruments, including the National Education System Law, the Electronic Information and Transactions Law, the Personal Data Protection Law, Government Regulation on the Implementation of Electronic Systems and Transactions, and

sectoral regulations on distance education. However, the analysis shows that these legal instruments are not yet fully integrated to specifically regulate the legal liability of digital platforms within the education sector. As a result, there remains ambiguity in the allocation of responsibility among digital platform providers, educational institutions, and users, particularly in cases involving system failures or personal data breaches. Furthermore, the study also reveals that the urgency of strengthening the regulatory framework is highly significant, considering the increasing dependence on digital technologies in education, the rising risks of data breaches, and the slow adaptation of legal instruments to rapid technological developments.

The implications of these findings indicate the need for a more comprehensive regulatory harmonization to ensure legal certainty in digital-based education systems. The government is encouraged to formulate more specific legal provisions governing the liability of digital platforms in education, including standards for system security, data protection mechanisms, and clear delimitation of responsibilities between platform providers and educational institutions. In addition, strengthening the implementation of the Personal Data Protection Law is crucial to provide more effective protection for students as primary users of digital education services. Without clearer and more integrated regulatory arrangements, legal risks and potential violations of user rights are likely to increase in line with the expanding digital education ecosystem.

The limitation of this study lies in its normative legal research approach, which focuses solely on the analysis of statutory regulations and legal literature without incorporating empirical data from field practices. As a result, the study does not fully

capture the practical implementation of regulations across various digital education platforms. Therefore, future research is recommended to adopt an empirical or socio-legal approach to obtain a more comprehensive understanding of how legal frameworks are implemented in practice. Additionally, comparative legal studies with other jurisdictions may be conducted to identify more effective regulatory models for governing the liability of digital platforms in distance education. Such further research is expected to contribute more broadly to the development of adaptive legal policies in response to ongoing technological advancements in the education sector.

References

- Cavoukian, A., & Chibba, M. (2017). Start with privacy by design in all big data applications. In *Guide to big data applications* (pp. 29–48). Cham: Springer International Publishing.
- Cheka, C. (2017). Legal educational platforms and disciplines of the future. *Journal of Higher Education in Africa*, 15(2), 133–146.
- De Hert, P., & Papakonstantinou, V. (2017). Data protection policies in EU justice and home affairs: A multi-layered and yet unexplored territory for legal research. In *The Routledge handbook of justice and home affairs research* (pp. 169–179). London: Routledge.
- Dewi, I. P., & Srisudarso, M. (2022). Legal regulation on the use of online learning platforms: Challenges and solutions in Indonesia. *International Journal of Language and Ubiquitous Learning*, 2(2), 217–226.

- Dobriță, M. C. (2020). Legal aspects regarding online learning process for students at university and digital education in European Union: Different life, challenges and the ability to continue education during the pandemic caused by coronavirus (COVID-19). *Revista Românească pentru Educație Multidimensională*, 12(1), 130–137.
- Dudar, V., Nosachenko, V., Vasenko, O., Pochtarov, S., & Yakuba, V. (2023). Regulasi legislatif pembelajaran daring dan jarak jauh di lembaga pendidikan tinggi. *Studi Sosial dan Hukum*, 2(7), 222–223.
- Harsya, R. M. K., & Triyantoro, A. (2021). Analisis yuridis penerapan restorative justice dalam tindak pidana ringan di Indonesia. *Sanskara Hukum dan HAM*, 3(3), 132–140.
- Hodges, C. B., & Fowler, D. J. (2020). The COVID-19 crisis and faculty members in higher education: From emergency remote teaching to better teaching through reflection. *International Journal of Multidisciplinary Perspectives in Higher Education*, 5(1), 118–122.
- Jekabsone, I. (2020). Selected legal issues in online adult education: Compliance of online learning and teaching process with GDPR. *TaITech Journal of European Studies*, 13(2), 200-210.
- Judijanto, L., & Harsya, R. M. K. (2021). Etika dan hukum dalam penggunaan artificial intelligence terhadap privasi digital di Indonesia. *Sanskara Hukum dan HAM*, 3(3), 141–149.

- Kirillova, E. A., Zulfugarzade, T., Blinkov, O. E., Serova, O. A., & Mikhaylova, I. A. (2021). Prospects for developing the legal regulation of digital platforms. *Jurídicas CUC*, 18(1), 35–52.
- Laelaturramadani, L. (2021). The role of telemedicine in improving access to health services in rural areas. *Journal of Health, Medicine and Nursing*, 1(1), 15–19.
- Mashau, P., & Nyawo, J. C. (2021). The use of an online learning platform: A step towards e-learning. *South African Journal of Higher Education*, 35(2), 123–143.
- Rive, V. (2022). Online digital platforms for teaching law. In *Teaching legal education in the digital age* (pp. 70–81). London: Routledge.
- Salakhova, V. B., Erofeeva, M. A., Pronina, E. V., Belyakova, N. V., Zaitseva, N. A., & Ishmuradova, I. I. (2021). State regulation and development of digital educational platforms. *World Journal on Educational Technology: Current Issues*, 13(4), 956–966.
- Saputra, A. O., Mahardika, S. E., & Pujiyono, P. (2021). Kebijakan hukum pidana dalam upaya penanggulangan tindak pidana untuk mengurangi overcrowded lembaga pemasyarakatan pada masa pandemi COVID-19. *Jurnal USM Law Review*, 4(1), 326–342.
- Selwyn, N. (2019). What’s the problem with learning analytics? *Journal of Learning Analytics*, 6(3), 11–19.
- Sidorenko, E. L., Galstyan, I. S., & Sitnik, A. A. (2020). Legal regulation of digital platforms: Reference points of modern legislation. In *International Scientific and Practical Conference* (pp. 408–418). Cham: Springer International Publishing.

- Southgate, E., Naghizade, E., Corman, A., & Atherton, M. (2020). Towards a governance roadmap for educational technology in Australian schools. *The Australian Educational Researcher*, 52(6), 4703–4730.
- Stepanenko, R., Ainoutdinova, I. N., & Krotkova, N. V. (2020). Distance and online learning solutions in the context of modern legal educational policy. *Cuestiones Políticas*, 38(2), 239–250.