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# The Role of Telecommunications Regulation in Supporting Universal Access Based on the Theory of Law as a Tool to Achieve Social Goals

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Universal access to telecommunications services is a key factor in achieving social justice and sustainable economic development. The availability of widespread and affordable telecommunications services is crucial for various segments of society. Efforts to achieve equitable and affordable telecommunications access face various challenges, especially in remote and underdeveloped areas. Regulation plays a crucial role in supporting universal access to equitable telecommunications services. The application of legal theory as a tool to achieve social goals can be seen through various policies designed to support universal access. A comprehensive and inclusive legal approach to telecommunications regulation can act as a catalyst for positive and sustainable social change.

# 1. Introduction

Access to telecommunications services has become an essential service, given the increasing reliance and demand that society places on communication technology. Telecommunications have become key infrastructures for social and economic development in the digital era. . The importance of accessible, affordable and widely available telecommunications services cannot be overstated if information, education and economic opportunities are to be extended to those segments of society which are excluded from the same . However, in practice, access to telecommunications is often limited to urban areas, while rural and remote areas still face inadequate infrastructure and telecommunications services. . Universal access to telecommunication services does not only mean that each individual has such services but also implies that these services should be widely available at reasonable prices so that everyone could afford them conveniently. And yet, advancements made in existing technologies such as the internet have huge implications towards societal well-being both positively and negatively. (Widagdo, P. B. 2016).

As stated by the Indonesian Internet Service Providers Association (APJII)'s 024 survey on internet penetration rates, Indonesia had 221563479 internet users from total population in 2023.. In this survey it became apparent that Indonesia's internet penetration rate hit 79.5%, increasing by 1.4% compared with previous period data . This means that Indonesia's internet penetration has continuously risen over the past five years . As a general trend it can be observed that more people are using internet today than before. (Yayat Dendy Hadiyat 2014).

This question about web accessibility is relevant for pioneering countries or peripheral economically distressed regions all around the globe . To achieve this goal, all 193 UN member states have set themselves a deadline of 2020 as part of their Sustainable Development Goals agenda for universalizing Internet access throughout the country. In particular, when it comes to communications sector development especially in relation to sustainable development in telecommunication process, certain facts speak louder than words and the Declaration of Indonesia about its intent to be a sustainable development country is one of such facts . In this regard, it can be seen that there is still a great digital gap with regards to telecommunication accessibility between urban areas and remote or underdeveloped regions. This has had an impact on attempts towards achieving digital inclusion and social justice for all people living in different communities.. However, it should be kept in mind that this issue is not specific for Indonesian context alone, t's rather common for many countries around the world as highlighted by World Wide Web Foundation in its report which established that universal internet accessibility at low cost was one of the most important social-economic priorities among nations. (Anggun Lestari Suryamizon 2017).

Additionally, the importance of universal access to telecommunications services ties very strongly with recognizing them as basic human rights . On this basis, access to information and communication becomes necessary for full participation in society. Cost effective telecoms aid communities to get information quickly , connect with public services faster thereby raising living standards across board. (Madon, S. 2000).

The theory of law as a means to an end provides the perspective that law is not just a set of rules governing behavior but also serves as an instrument to achieve specific social goals. Therefore, telecommunications regulations play a critical role in supporting universal access. Good regulation can ensure that telecommunications services are widely available and accessible to all segments of society including those located within Front, Outermost and Disadvantaged (3T) regions in Indonesia. (Thakur, D. and Potter, L. 2018).

Various attempts have been made to illustrate how the application of law as a means to an end in telecommunications regulation. For example, through the Universal Service Obligation (USO) policy, telecommunication companies are required to provide services to socially and economically deprived areas. The government can set up laws that will guide good practices for ensuring availability and affordability of communications facilities including those for people living in remote locations or underserved regions. (Lego Karjoko, et al 2022).

Thus, justice and digital inclusion could be some possible results of applying the theory of law as a means to an end into the sphere of telecommunications regulation. Actually, technical regulation can help solve this problem by narrowing down the digital divide between different communities leading to more equal societies with sustainable economic development. Additionally, applying it as a theoretical approach shows that there is need to transform socially responsible telecommunications regulation that reduces the digital divide and promotes inclusive access for all. (Prasetyo, B. et al, 2019).

## 2. Method

This study employs a combination of qualitative and positive-normative legal research methods to analyze the role of telecommunications regulation in supporting universal access. The qualitative approach focuses on understanding the legal framework and its implications through a detailed examination of relevant statutes, case law, and regulatory policies. It involves an in-depth review of various legal texts, including telecommunications regulations, government policies, and international agreements, to assess how these legal instruments facilitate or hinder universal access to telecommunication services in Indonesia, particularly

in remote and underdeveloped regions.

The positive-normative legal method is utilized to critically evaluate the existing legal norms and their alignment with the objectives of promoting universal access to telecommunications. The positive aspect of the method examines the current state of the law, while the normative analysis explores the ideal legal standards required to achieve universal access and social equity. This involves evaluating whether the regulations effectively address the challenges of digital inclusion and whether they promote fair and affordable access to telecommunications for all segments of society.

Additionally, the study incorporates jurisprudential analysis to understand the philosophical and theoretical underpinnings of telecommunications law. This approach is essential for interpreting how principles of justice, equality, and access are embedded in the law. By referencing relevant judicial decisions and legal doctrines, the research critically analyzes how courts and regulators have interpreted and applied telecommunications regulations, particularly in cases related to universal access. The jurisprudential perspective also aids in assessing whether the application of law has effectively furthered social goals and whether legal precedents support ongoing regulatory reforms. By integrating these methods, the research provides a comprehensive legal analysis that not only examines the current state of the law but also offers normative and philosophical recommendations to enhance the accessibility and affordability of telecommunications services. (Topan Yuniarto 2019).

### 3. Result and Discussion

#### **Telecommunication Regulation Related to Universal Access**

Therefore, rules governing the provision of basic communication services should be designed in such a way that they guarantee inclusivity and fairness among all individuals within society while at the same time allowing them growth opportunities which propel them towards self-actualization. Peradventure; telecom service delivery in Indonesia has also not been without its challenges.

Therefore, only after Law No. 36/1999 was enacted did these regulations start coming out. The provisions were first introduced through Telecommunications Regulation in 1963 and later evolved into Law No. 3 of 1989; Law No. 36 of 1999; and most recently, Law No. 11 of 2020.

Thus, among other things; one popular approach in regulating telecommunications is the Universal Service Obligation (USO). A significant turning point was reached when Law No.36/1999 mandated efforts towards universal access which eventually became implicit about USO. Further developed under Government Regulation No.52/2000 on Telecommunications Activities. The Law No. 36 of 1999, article 25 paragraph (1) that is the strategic role of telecommunications in national development among other things shows a belief in the importance of universal access to telecommunications equity for all communities. Meanwhile, Law No. 36/1999 sets out specific rules relating to universal service illustrated by Article 16 of Law No. 36 of 1999 that requires every operator of a telecommunication network or any other provider of telecommunication services to contribute towards universal service.

The USO concept has been popularized by International Telecommunication Union (ITU) which is based on the notion that telecommunication companies should strive to ensure that everybody can afford and gain access to its services within their own countries. In fact, funding plays an important role in this regard as it has been demonstrated that in order for Universal Service Obligation (USO) programs to be successfully implemented financial resources are very significant. It aims at increasing availability and affordability of communication services provided for general public through certain regulations related to USO. The adoption of Law No. 3/2000 ensured greater reach in communications services across Indonesia including investment into rural and remote areas. Law No. 36/1999 was thus the first formal highest regulation made with respect to providing universal access calling for the establishment of a Universal Service Obligation (USO) . (Kominfo, 2021).

The universal service obligation regulations emergence cannot be separated from the globalization of universal obligations. Not only does globalization create a new global order but also applies new pressures on every smaller government's development structure. The same can be said about general telecommunications and specifically telecommunication regarding Universal Service in telecommunications at the global level as, for instance, World Trade Organization (WTO) and World Bank among others can apply fresh pressures on various countries. Moreover, with the WTO Agreement on Basic Telecommunications (ABT) adoption that took place on February 15, 1997 the WTO became more involved in telecommunications. This agreement was subsequently included in an annex to the General Agreement on Trade in Services (GATS), which is a broad trade framework for services under WTO members.

### **The Theory of Law as a Means to an End by Rudolf von Jhering**

There is substantially varying historical and societal development in each country, leading to different legal conditions in different countries. The theory of law as a means to an end refers to a school of thought that views law not as just some set of rules governing behavior but also as a tool which can be used for bringing about social changes or attaining other goals of the society at large. This implies that law and policy should aim at benefiting society as a whole rather than only specific groups. Good laws are those that are not only equitable and commensurate with the moral standards of the community, but they also achieve their intended objectives socially. Furthermore, good laws should find a balance between justice, certainty and utility in their application. Such thoughts support the idea that laws must be made according to certain objectives and adapt themselves always to societal needs.

The law is not an end in itself but rather a means by which other greater social goals are achieved according to Rudolf von Jhering's theory of law as a means to an end. Rudolf Von Jhering describes *Causa Sui*, *Causa Efficiens*, and *Causa Finalis* like this:

- a) *Causa Sui* is Latin, it means cause of itself. In this sense *causa sui* refers to the notion that no event or happening can take place without some external cause or influence on it. This principle underscores the fact that every decision or action must have reason behind it.
- b) *Causa Efficiens* comes from the Latin word meaning efficient cause – it refers to direct causes so associated with *causa efficiens* - concrete aspects/specific factors.
- c) *Causa Finalis* is another Latin term meaning final cause. Therefore, *causa finalis* relates to why an individual/ legal entity pursued such decision/action.

These concepts play vital roles on legal analysis regarding particular events or actions. Theory of Law as Means to and End is very important in the development of modern law, it tends to focus legal practitioners on social values and public interests. In other words, law should be employed to achieve social justice, economic prosperity and make society happy and better off. Social goals according to Rudolf von Jhering are just values that must be attained directly by means of the law. The law therefore is expected to continue evolving so as to fit into changing societal needs and hence producing the best results for social interests; thus leading towards the creation of an improved social environment. (Haryadi, S. 2018).

### **The Role of Telecommunications Regulation in Supporting Universal Access**

The telecommunications industry deserves special attention from governments because it is fundamental to society and is projected to grow further in future. Affordability of telecommunication services can only be guaranteed through regulation. Telecoms regulation should have a major role in ensuring that information can be accessed by all communities regardless their geographical location or socio-economic status. Ongoing efforts towards developing regulations associated with the telecommunications sector indicate a commitment toward promoting inclusive access as well as bridging the digital divide within societies.

One instance that exemplifies the role of telecommunications regulation in supporting universal access is through the implementation of the Universal Service Obligation (USO) policy which mandates telecommunication service providers to extend their services to rural and underdeveloped areas. One instance that exemplifies the role of telecommunications regulation in supporting universal access is through the implementation of the Universal Service Obligation (USO) policy which mandates telecommunication service providers to extend their services to rural and underdeveloped areas. The aim of this initiative is that communication should be accessible to everyone hence promoting digital inclusion across all regions of the country as it is evidenced by Ministry of Communication and Information Technology Regulation No. 23/2023 regarding Universal Service Obligation Implementation. Furthermore, this was reinforced by Telecommunications and Info Accessibility Agency, being created under Ministry of Communication and Information Technology based on Ministerial Decree Number 21 Year 2021 on Organizational Structure and Procedure Work of Telecommunications and Info Accessibility Agency.

One example of telecommunications regulation's role in supporting universal access is the implementation of the Universal Service Obligation (USO) policy, which requires telecommunications service providers to extend services to underdeveloped and remote areas. This initiative aims to improve telecommunications access and promote digital inclusion in all regions of the country. Law No. 36/1999 on Telecommunications stipulates that all providers must ensure universal services while Government Regulation No.52/2000 regulates how such a provision can be made by these companies. These regulations highlight the necessity for telecommunication accessibility for all groups including those residing in deserted parts. (Alip Kunandar et.al 2015).

## 4. Conclusion

In terms of telecommunications regulation, legal positivism could serve as an analytical framework for assessing its social goals achievement capability Telecoms legislation thus becomes an essential tool for addressing challenges associated with global access through prioritizing welfare towards digital incorporation within societies. Policymakers' adoption of USO therefore demonstrates a commitment to make sure every individual has got a chance accessing telecom services in Indonesia. Undeniably, however ongoing difficulties related to infrastructure development together with remote locations indicates requirement for continual regulatory supervision along with adjustment due changing societal requirements. Technically, it should be acknowledged that this process alters with developments in technology and societal norms, being a dynamic one; hence all the individuals enjoy the advantages of communication. (Aditya Bagus Kuncoro, et al, 2019).

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