



# Actualization of Indonesian cultural values towards digital film

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## ABSTRACT

The emergence of digital film platforms such as VIU and Netflix Disney + Hostar, WeTV, and so on, which makes watching movies easy, you don't have to go to the cinema, you just need a smart phone and the internet to watch movies anywhere. However, in the digital Film Platform Film. Even though the Film Censorship Institute (LSF) has the task of deciding which parts of a film are acceptable for viewing or must be cut or removed, as well as issuing Film Censorship Certificates for use in Indonesian media. What is the history of the development of film law in Indonesia? And how is the actualization of Indonesian film law in the era of globalization? The normative juridical research method is library law research which is carried out by examining library materials or secondary data. State responsibility in protecting Pancasila values from the impact of film *digital* released by digital film platforms that are inconsistent with national values, there is no institution authorized to censor films *digital* even though the Indonesian state has a Film Censorship Institution (LSF). that there is a legal vacuum to maintain cultural values or to achieve the objectives of the film law in an era that knows no territorial boundaries.

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## 1. INTRODUCTION

John Naisbitt in his book *Global Paradox* states that we live in a time of great change, a time of new beginnings. Then Rhenald Kasali stated that we are currently entering an "end of time". Not the end of time in the sense of doomsday, but it means that we have entered a new era, namely the digital age, or also called the digital era. *disruption*. (Basuki *et al.*, 2022) The emergence of this new era is marked by the rapid advancement of information technology, forming a new generation called the millennial generation which is highly connected to the internet and social media (*gadget mindset*) and is very different from its predecessor in many ways. This generation prioritizes freedom over many rules, this generation does not like competition, but prefers to collaborate (Aris Sunarya, 2019).

This generation is starting to be recognized for its existence disruption what they do and the impact it has on the business world. The work of the millennial (start-up) generation is starting to be feared by conventional business managers (*incumbent*), because their products/services will cut businesses managed by conventional companies, such as gojek in transportation digital, Airbnb in hospitality. (Widayanti *et al.*, 2021) Similarly, in the film industry, the Film Platform has emerged *digital* such as VIU and Netflix Disney + Hostar, WeTV, and so on, which make it easy to

watch movies, you don't have to go to the cinema, you just need a smart phone and the internet, you can watch movies anywhere. (Bimantoro, Sary and Putri, 2021) However, in Film Platform Film *digital*, on the other hand, displays scenes of terrorism, violence, pornography, and the beating of certain groups of people that were not carried out by previous censorship which will have an impact on the norms that apply in society, especially for children because on the film platform there is no age limit for viewing. (Anggraeni and Rahmawati, 2020)

Child protection must cover all lines, including film as a means of public communication, which is a means of educating the nation's life, developing one's own potential, fostering noble character, advancing people's welfare, and advancing Indonesia in the world. (S, 2018) Child protection is not limited to law enforcement and education. international. However, the habits and lifestyle of those who access films will undoubtedly be affected by its development. Children are an integral part of human survival and the survival of the nation and state in the long term, and are in line with human civilization which continues to develop. Children are part of the younger generation and one of the nation's human resources, as potential successors to the nation's struggle (Abintoro Prakoso, 2013). nurtured. Childhood is the time in a person's life when they are at their weakest. Children have a world of their own that is very different from the reality of adults because their spiritual and physical states are not fully developed, leaving them with very few life-sustaining skills. and tendencies that are very different from adults (faizin Abdul, 2000).

According to Miskrosoft CEO Satya Nadella, in an industry that is rapidly changing like this, the most valuable thing is innovation, not tradition. Innovation is indeed very important to make it easier to carry out our activities. However, tradition is just as important because in tradition there are so many values of life, which are often forgotten in making these innovations. In particular, the Indonesian state which has Pancasila is a source of value for the existence of a legal system. Pancasila is also the ideal of law (*right idea*) which is understood as a thought construction that directs law to the desired ideals. (Sholehuddin, 2004)

The national law development strategy is placed on the basic values of legal development, namely Pancasila and the 1945 Constitution. Consistency of this thinking must be pursued because Pancasila for the Indonesian nation is the philosophical basis, view of life and the foundation of the state which underlies the development of law. Faced with the problem of globalization, the development of national law must place Pancasila as "*margin of appreciation*" or maybe "*screening board*" which will have implications for the formation of legal theory and legal practice in Indonesia. (Muladi, 2006) There is what is known as the condition "*open system*" considering the magnitude of the influence of the environment on the political, economic, social and legal order. Therefore the challenge is how a nation is able to protect its national interests (*national interest*) in the midst of a global atmosphere and make local values as "*screening board*" in the institutionalization of universal values. Pancasila for the Indonesian nation is *core philosophy*, so it is *alocal genius* and *local wisdom* Indonesian nation (Kaelan, 2006).

Film Censorship Institute established by the Ministry of Education and Culture. Its mission is to protect the general public from the potential negative effects resulting from the dissemination, screening or screening of films and film billboards that violate the law, with the foundation, direction and objectives of Indonesian cinema. (Ariani, Ticoalu and Wahyuni, 2021) The Film Censorship Institute (LSF) is tasked with deciding which parts of a film are acceptable for viewing or must be cut or removed, as well as issuing Film Censorship Certificates for use in Indonesian media. In accordance with Article 24 paragraph (1) PP No. 18 of 2014 concerning Film Censorship Institutions, LSF must first censor every film and film advertisement that will be distributed to the general public.

## 2. RESEARCH METHOD

The approach method used in the preparation of this article is normative juridical research (normative legal research method). The normative juridical research method is library law research which is carried out by examining library materials or secondary data (Bambang Sunggono, 2003). Secondary Data is data obtained from studying law books, and related documents, Legal Products with the issues discussed. Other materials that are in accordance with the subject matter, instructions and explanations for primary and secondary legal materials, are not legal materials, but

can significantly be used as material for analysis of the application of legal policies in the field, such as research articles, Indonesian dictionaries and other materials. other materials that are similar in nature to scientific papers related to the issues to be discussed in this study. By using the deductive thinking method (a way of thinking in drawing conclusions drawn from something of a general nature that has been proven that he is right and the conclusion is intended for something special). Thus the object analyzed with a qualitative approach is a research method that refers to legal norms contained in statutory regulations.

### 3. RESULTS AND DISCUSSIONS

#### History of Film Law in Indonesia

The extent of Dutch colonial rule in Indonesia had a significant impact. One of them is related to culture, especially film. Responding to the increasing number of pictures in Indonesia at that time, a film law known as the 1916 Film Ordinance was born in March. 18 of 1916. He managed both the production of films and the operation of the cinema business. The Dutch colonial government then formed a Film Examination Commission (Commissie voor de Keuring van Films) to handle low-quality idoe image screenings, as explained in the book Anthology of 100 Years of Film Censorship in Indonesia (2016:26-27). According to the 1916 Film Ordinance, the Film Examination Commission was formed as follows: A Film Censorship Commission and a Film Censorship Commission could be formed in the Dutch East Indies with the appointment of a Governor General. There are five members, including a chairman, on this commission. Every film thereafter would be censored by the Dutch colonial government.

Throughout its later developments, the goal of censorship at the time was to protect the white community from the wrath of the native population. The colonial government was worried that the indigenous population would become aware of their status as a Dutch colony if there was no film censorship. the film censors all scenes of violence and rebellion. The situation described above existed until the Republic of Indonesia assumed sovereignty in 1949. Over the 24 years, the 1916 Film Ordinance underwent seven reforms, the most recent of which occurred in 1922 (an obligation to pay a film appraisal fee) and 1919 (establishment of a sub-commission in the area). Then, at that time, in 1925 (on the Batavia Film Evaluation Commission as the main film inspection commission in the Dutch East Indies),(SUYADI, 2019) 1926 (to complete the 1925 Film Mandate), 1930 (regarding the Right of Film Owners to Obtain Data, among various justifications why films it was forbidden to be distributed), and 1940 (in the rega to the Film Commission, which required all films to be controlled before being shown to the general public). although the Film Ordinance has been updated seven times, its main idea is still the 1916 Ordinance, which was expanded by the 1940 Film Ordinance.(Bimantoro, Sary and Putri, 2021) The Film Commission was dissolved in 1942 when the Dutch East Indies government surrendered to the Japanese occupying army. After that, Hodo-Dan replaced the Film Commission under Sendenbu, the propaganda service of the Japanese occupation army. There was also no official body in charge of film censorship during the physical struggle for the defense of the Republic of Indonesia (1945-46).

The 1940 Film Ordinance, which was later refined and included in Staatblad No. 1, recently passed in 1948.155, which states that the Film Supervision Committee under the Directeur van Binnenlandsche Bestuur is responsible for film supervision. The National Defense Council issued a decree and formed a Film Supervisory Board which was appointed and dismissed and reported to the Minister of Information of the Republic of Indonesia for areas still under the control of the Government of the Republic of Indonesia, (Ardiyanti, 2017) especially Yogyakarta. The Film Supervision Committee was delegated to the Ministry of Education, Teaching and Culture as a result of Law Number 23 of 1951 requiring films to contain elements of education and culture. In its development, Presidential Decree No. 1 of 1964. lighting, "said one of the statements contained in the Presidential Decree. As a result, film affairs were transferred from the Ministry of PP and K to the Ministry of Information with Presidential Instruction Number 012 of 1964 (Kompas, 2022).

According to the Decree of the Minister of Information Number 46/SK/M of 1965, the Film Censorship Board (BSF) is tasked with enforcing film censorship. A Censor Pass Certificate is a prerequisite for all programs, according to the Film Censor Board. Government regulations include this provision to ensure that no program without a Censor Pass Certificate will receive broadcast

royalties in Indonesia. Based on the Decree of the Minister of Information Number 44/SK/M/1968, BSF was founded in Jakarta in 1968 and has 25 members, including a Chair and Deputy Chair. In 1992, BSF changed its name to the Film Censorship Institute (LSF) in line with its development. Following this, Government Regulation No.7 of 1994 concerning Film Censorship Institutions When President Abdurrahman Wahid dissolved the Ministry of Information (Deppen) in 1999, the government transferred LSF to the Ministry of National Education. The Film Censorship Institute was then assigned to the Ministry of Culture and Tourism in 2000. Previously, in 2005, the Ministry of Culture and Tourism changed its name to the Ministry of Culture and Tourism. In 2009, it was changed to the Ministry of Culture and Tourism once again, and LSF remains part of the Ministry of Culture and Tourism. Law Number 33 of 2009, which replaced Law Number 8 of 1992, concerning films was promulgated in 2009.

According to Law Number 33 of 2009 concerning Film, film matters lie with the ministry and are responsible for most of culture; But film affairs are in the Ministry of Tourism. The Ministry of Tourism and Creative Economy (Kemenparekraf) was added to the Cabinet following the Post-reshuffle of the United Indonesia Cabinet (KIB) on 11 October 2011. The Ministry of National Education (Kemendiknas) is where the Culture Sector is located, and is known as Ministry of Education and Culture (Kemendikbud). Following the issuance of the Decree of the Minister for Empowerment of State Apparatuses and Bureaucratic Reform number B/307.1/M.PAN-RB/01/2012 Concerning the Organization and Work Procedure of the Ministry of Education and Culture on January 27 2012, LSF is based in the Ministry of Education and Culture (handirin Ardiyanti, 2017).

The Dutch word "censor," which means "supervision or inspection," is translated into Indonesian as "censorship" to this day. This is something that some Indonesian film communities are reluctant to accept, arguing that censorship is a feudal policy. The term "censorship" is widely considered highly feudal by many. In fact, the Film Censorship Board (LSF) operates in a very different way now than it did under the previous law. The name "sensor scissors" has been saved. What is being done now is more on age grouping. However, because the Film Censorship Institute is still the name of the organization that issued STLS, the permits granted are still known as Sensor Pass Certificates (STLS).

### 3.1 Actualization of Indonesian Cultural Values for Digital Film

In the current Era 4.0, films will continue to be available for purchase and digitally via the Film Platform *digital*, such as VIU, Netflix, We TV, Disney+Hostar, and others. However, film content is distributed by the Film Platform *digital* includes elements of deviant behavior, pornography, and terrorism, as well as the use of censorship. There are several platforms for digital films *digital*, including Vietnam, Singapore, and Italmembers, 2022). while there is a concern that this digital platform is not in accordance with Indonesian values because currently there are no concrete rules for it in Indonesia. Even though there is already an LFS in Indonesia, Ahmad Yani Basuki (Chairman of the 2015-2019 LSF) firmly stated that all films in Indonesia, including those from digital services, must be subject to censorship. Likewise with the digital services of television stations outside (Mill, 2022). The first paragraph of Article 30 of Law Number 33 of 2009 concerning Films, allows the staging of films through; a. Full HD; b. broadcasting on television; and c. network for information technology.(Putri and Kleden, 2022) Therefore, even though films circulate through screening applications in accordance with Article 24 paragraph (1) PP No. In accordance with Law Number 18 of 2014 concerning Film Censorship Institutions, every film and advertising film that will be distributed to the general public must first be censored by LSF. However, many people always assume that the Indonesian Broadcasting Commission (KPI) is the party that puts on the films. Differences in Roles and Responsibilities of LSF and KPI: KPI emphasized that the Roles and Responsibilities of Broadcasting Law No. 32 of 2002 only supervise radio and television broadcasts. KPI has no authority to restrict or censor broadcasts (Indonesian Broadcasting Commission, 2022).

Establishment of LFS in Film whose duty is to protect the general public from the adverse consequences arising from the running and appearance of films and film advertisements that are not in accordance with the premise, bearing and objectives of Indonesian cinema as referred to in Article 7 letter an Unofficial Law 18 of 2014, which regulates the censorship of film

institutions.(Astuti, Siti and Marpaung, 2021) However, Indonesia's film censorship agency has not censored films that are currently available on the Film Platform digital . The government has also approved Law No. 23 of 2002 concerning Child Protection, which aims to protect children from violence and discrimination and guarantees the fulfillment of children's rights so that they can live, grow and participate optimally in accordance with human dignity.(Harianto, 2021) A noble and prosperous Indonesia is also reflected in the fact that the Government has passed Law No. 11 of 2008, which regulates Information and Electronic Transactions, to educate the nation about its role in the global information society. (Rudi Natamiharja, 2018).regarding Child Protection and Law Number 23 of 2002 of 2008 concerning Information and Electronic Transactions have not been implemented, particularly with regard to protecting children from inappropriate digital content.(Jawab *et al.*, 2021)

The idea of the state of Indonesia is based on the fact that the Unitary State of the Republic of Indonesia is a constitutional state in Article 1 paragraph 3 of the 1945 Constitution. Adherents of this school are of the view that law and morals are a reflection and internal and external principles of human life that are manifested through law.(Hasibuan, 2014) According to the flow of natural law, law comes from God, which is universal and eternal, as well as ethics. Although there are also bad laws, in this case it is assumed that the laws are good. According to Lawrence M. Friedman's theory, there are three aspects of the legal system that are interrelated to one another. that is: a) Legal Structure (*Legal Structure*), b) Substance (*Substance*), and c) Legal Culture (*legalculture*)

Based on Lawrence M. Friedman's legal system theory, it can be seen that legal products are influenced by the legal system itself, including legal structure, legal substance, and legal culture, if it does not function optimally. According to L.M. Friedman, the legal structure consists of all existing legal institutions and their apparatus. In the Indonesian Film Legal Structure, Film Censorship Institutions are regulated in PP No. About the Film Censorship Institute and the Indonesian Broadcasting Commission No. 32 of 2002, which regulates broadcasting. ITE Law and Law no. 44 of 2008 concerning Pornography (hereinafter referred to as the Pornography Law). According to the Broadcasting Law, Film Platform activities digital is broadcast. Conceptually, the Film Platform digital and LPBs that provide broadcasts for special subscribers who have paid for subscriptions, are almost identical in However, as stated in Article 1 number 2 of the Broadcasting Law and the General Explanation of the Broadcasting Law, Article 26 paragraph (1) of the Broadcasting Law does not specifically regulate the types of broadcasting institutions that allowed to broadcast via the internet, also does not provide opportunities for other media. Movie Platform digital was not founded by an Indonesian citizen and is not a legal entity. As a result, Netflix does not have the rights and responsibilities outlined by the Broadcasting Law and does not meet the definition of a broadcasting institution in this regard. Because only broadcasters do it, Film Platform *digital* do not have rights to broadcast (Aushofi Zuhrotul Ulya, 2021).

Legal substance which refers to all laws and regulations, legal norms, and legal principles both written and unwritten as well as court decisions is regulated in Law no. 33 of 2009 concerning Film, Law no. 32 of 2002 concerning the Indonesian Broadcasting Commission, and PP 18 of 2014 concerning Film Censorship Institutions, however, on the Film Platform digital, there are no clear regulations regarding Film Censorship Pass Certificates. According to Hans Kelsen's book *The General Theory of Law and the State*, one must look at the law as a whole to interpret it because the initial understanding of law was not limited to so-called rules. According to Hans Kelsen, the law itself must be comprehensive or link all other laws. (Muhtadi, 2014). *Law is an order of human behavior. An "order" is a system of rules. Law is not, as it is sometimes said a rule. It is a set of rules having the kind of unity we understand by a system. It is impossible to grasp the nature of law if we limit our attention to the single isolated rule. The relation which link together the particular rules of a legal order are also essential to the nature of law. Only on the basis of the clear comprehension of those relation constituting the legal order can the nature of law fully understood* (ASIP SUYADI, 2019). With a certificate of passing film censorship and film scenes that are not suitable for screening in accordance with the nation's values and culture, the legal culture in the form of ideas, attitudes and expectations can be preserved and developed in accordance with the personality of the people. Indonesian nation. (Elvy and Satya, 2018) The Indonesian way of life

which has been endorsed as the basis of the state and is a unified whole of character or moral values, is known as Pancasila. Therefore, the morals of the Indonesian people can be linked to Pancasila. the nation now is a state within the Unitary State of the Republic of Indonesia, Pancasila is also the state's morals, or the morals that must be followed by the state. (Hartono, 2015) From an ethical perspective, Pancasila refers to the five principles of moral obligation. the understanding that determines whether human attitudes and actions are beneficial or detrimental is called morality. Man will know what to do, what to do, and what to avoid. if they understand the norms. (Kurniawaty, 2021)

According to Rudolf Stalmaller, the ideal of law (*rechtsidea*) is a way of thinking that must be used to align law with the ideals of society. The achievement of the ideals of society is guided by the ideals of law, or *lodestar*. (Ismayawati, 2018) The ideals of law are more than just regulatory standards that determine whether a positive law is fair or not. Gustav Radbuch claims that legal ideals also function as a constitutive basis, or a determining factor that law will lose its meaning if it is not based on a legal basis. ideals. (Hermawan Usman, 2014)

According to Mahfud MD, Pancasila's position as the basis and ideology of the state can be understood from at least three perspectives: political, philosophical, and juridical (law and legislation). (Atmasasmita, 2012) From a political point of view, Pancasila can be seen as a noble agreement or agreement. the *modus vivendi* that unites Indonesia which is vast and diverse with bloodshed and all primordial ties into one nation. From a philosophical point of view, Pancasila is the basic belief about the ideal society and state administration which is based on values that grow and develop from time to time and are rooted far from the lives of Indonesia's ancestors or ancestors. (Basarah, 2017)

From the legal aspect, Pancasila is the ideal of law (*rechtsideea*) which must be used as the basis and objective of every Indonesian law. Therefore, from the highest to the lowest hierarchy, every Indonesian law must be consistent in content and based on Pancasila. According to the Preamble to the 1945 Constitution of the Republic of Indonesia, the goal of the state must also be the focus of law in Indonesia. (Hattu, 2022) Legal politics must be seen as an effort to make law an achievement of state goals from time to time because state goals are used as a political orientation for development and legal politics. stages of community development. (Atmasasmita, 2012)

Mochtar argues that there are two broad categories of problems in developing societies that must be addressed by law: a) problems that have a direct impact on a person's private life and are related to the cultural and spiritual life of the community; (b) from a cultural perspective, issues related to society and progress are usually "neutral." As a result of globalization and current technological advances, the development of national law must place Pancasila as "*margin of appreciation*" or maybe "*screening board*", which will have an impact on the development of Indonesian (Jetis *et al.*, 2019) legal theory and practice. significant environmental influences on political, economic, social, and legal systems, which are referred to as "open system" conditions. As a result, the problem lies in how a country can maintain its national interests in the midst of a global environment while also using local values as a "screening board" for the formation of universal values (Hattu, 2022).

This concept of a world without boundaries is of course strongly opposed by weak countries, but is supported by strong countries that uphold hegemony and predatoryism. (S., 2010) Pancasila, as an "Appreciation and Screening Agency", therefore must maintain control over the national legal development strategy in the midst of multidimensional globalization. (Anita Trisiana, 2019) The main feelings that must be a reference for legal reform are as follows. First, in the context of realizing social justice for all Indonesian people, the law is to maintain and protect the entire Indonesian nation and homeland as a unit; Second, all Indonesian people must be able to benefit from social justice through law; Third, law is populist and originates from the people, or the idea of people's sovereignty; fourth, laws based on the devotion to God Almighty, which regulates the existence of God's laws and also pays attention to human values, moral values, and noble character. (Prayitno, 2011) Muladi argues that Pancasila is essentially the culmination of a number of "*common denominator*" which is the solution to the root of the problem. "*Common denominator*" This is Indonesia's noble value system which is ultimate and definitive, as well as a reflection of the real world of the nation's response to its problems, including when faced with global phenomena

(Muladi, 2006). Films that cannot be screened in theaters for various reasons can take advantage of digital platforms. Through the distribution of digital platforms, films published locally from various parts of the world that were previously limited in distribution can now be accommodated. (Gasella, 2020)

The duty of "protecting" by the state towards its people is the responsibility of the government as stipulated in Article 34. In this regard, Satjipto Rahardjo, conceptualizes that the Indonesian rule of law is a country that cares or a country with care. This conception is very appropriate because Article 34 paragraph (2) confirms that as a constitutional guarantee, the state is obliged to develop welfare policies that are "*affirmative action*" for the benefit of its citizens. (Yuswanto, 2015) The form of state protection is by making regulations that can protect its citizens. But when information and communication technology (ICT) is used for information and electronic transactions, it can cross borders or be used worldwide. As a result, actions that harm the state or people can be carried out in the territory of other countries, or actions that use technology that does not know where it is located. This is called borderless. (S., 2010) To make a digital film platform a SVoD service provider in accordance with the regulations of the Minister of Communication and Information Technology Number 5 Year 2020 concerning Private Scope Electronic System Operators (PSE Private Scope) that show films outside the territory of Indonesia may be subject to legal responsibility, the purpose of Article 2 of the ITE Law is to harm Indonesia's interests (Ulya, 2021). These interests include strategic data protection, economic interests national status, national dignity, state defense and security, state sovereignty, citizens, and Indonesian legal entities. (S., 2010) However, many of the regulations issued by the ministry of communication and information technology have not yet discussed which institution performs film censorship on the film platform digital (Enlivena Dhevi, 2021) it is to maintain cultural values according to the mandate given by the film law. This is where there is a legal vacuum to maintain cultural values or to achieve the objectives of the film law in an era that knows no territorial boundaries. (Hadikusuma, 2004) Whereas in the government regulations regarding film censorship institutions, it is true that they have the task of censoring films that enter Indonesian territory but the Film Censorship Institution is passive, that film owners must register films at LSF for censorship, in terms of obtaining a certificate of proof of passing censorship which can distributed in cinemas in Indonesia.

#### 4. CONCLUSION

State responsibility in protecting Pancasila values from the impact of film *digital* released by digital film platforms that are inconsistent with national values, there is no institution authorized to censor films *digital* this, even though the Indonesian state already has a Film Censorship Institute (LSF), this has happened due to a vacuum of authority that has occurred that carries out film censorship *digital* the LSF or KPI so that films are released on the Film Platform *digital* mentioned, there is no Sensor Pass Certificate (STLS) from LSF and the state's responsibility in safeguarding the nation's values in the era of globalization has not been explicitly included in the existing regulations

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