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## Wisdom in the Digital Era: Bridging Human Rights, Indonesian Cyber Law, and Progressive Fiqh

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### Abstract

Digital technologies have reconfigured the landscape of public discourse, religious expression, and civic participation, generating both democratic opportunities and profound ethical challenges. While existing legal frameworks seek to regulate harmful online behavior, law alone proves insufficient to cultivate responsible digital conduct. This article argues that wisdom (*ḥikmah*) constitutes a critical, yet under-explored, ethical capacity for navigating the digital public sphere. Employing a normative–philosophical legal methodology, this study integrates three normative traditions: international human rights law, Indonesia’s Electronic Information and Transactions Law (EIT Law/UU ITE), and Progressive Fiqh grounded in *maqāṣid al-sharī’ah*, *maṣlahah*, and *istiḥsān*. Through conceptual and comparative analysis, the article demonstrates how wisdom functions as a mediating moral rationality that harmonizes freedom of expression with human dignity and social responsibility. The findings propose a model of “digital wisdom” that shifts governance from reactive legal control toward anticipatory ethical responsibility. This framework contributes to contemporary debates on digital governance, Islamic legal theory, and human rights by offering a culturally grounded yet universally resonant model of ethical digital citizenship. Future studies are encouraged to empirically examine how wisdom-based ethical frameworks can be institutionalized through digital literacy education, judicial practice, and religious discourse in diverse socio-legal contexts.

**Keywords:** Digital Ethics, *Maqāṣid al-Sharī’ah*, *Maṣlahah*, *Istiḥsān*, Wisdom (*Ḥikmah*)

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## INTRODUCTION

The digital era has fundamentally transformed public communication structures through diverse platforms, including social media, instant messaging, and algorithm-driven information flows (Ki, Ertem-Eray, and Hayden 2024). These social media platforms have enabled individuals to participate in public discourse without traditional institutional mediation. Artificial Intelligence (AI) systems can affect individuals, communities, and global systems—both positively and negatively (Brandao 2025). While these technologies have expanded democratic participation, they have also intensified ethical and legal challenges, including online harassment, hate speech, and cyberbullying (Chiu 2025). It has transitioned from an experimental tool used in academic research to a mainstream platform powering industry; it is used by many of us daily without awareness (Redmond 2025).

In Indonesia, this transformation has expanded democratic participation while simultaneously intensifying ethical challenges such as online harassment, hate speech, disinformation, cyberbullying, and reputational harm. Existing regulatory frameworks, particularly Indonesia's Electronic Information and Transactions Law (EIT Law), have been criticized for potentially stifling freedom of expression and lacking sufficient nuance to address the multifaceted nature of digital harm (Safiranita et al. 2021). In recent years, multiple cases involving the application of the Electronic Information and Transactions Law (EIT Law) have sparked public controversy, particularly in relation to criminalisation of online expression, allegations of overbroad hate speech provisions, and the emergence of a “chilling effect” on civil liberties. These developments reflect a deeper structural problem: the imbalance between legal enforcement and ethical awareness in digital conduct. Judicial practices show that digital conflicts increasingly enter the criminal justice system, especially through the application of the Indonesian Electronic Information and Transactions Law (EIT Law) (Ariyanto et al. 2025).

Citing the NCSI (National Cyber Security Index), an Estonian e-governance education institution, for the period of 2016-2023, Indonesia is placed 49th with an index score of 63,64 (National Cyber Security Index (NCSI) 2023). Indonesia still has low scores in numerous areas, one of which is education or literacy. In addition to cybercrime, online ethics need specific attention. According to a poll performed by Microsoft in April-May 2020 and released in February 2021, Indonesia ranks first in the Asia Pacific area on the Digital Civility Index (DCI) report. Indonesia's DCI value has dropped 8 points from its

previous level. DCI reports are study findings that assess the amount of digital civility displayed by internet users worldwide when speaking and engaging in cyberspace (Purwantiningsih, Riyanti, and Prasetyo 2022). This result also places Indonesia at the bottom of the Southeast Asian ranking, making it the most impolite in the region (Fauzi 2025). The greater the DCI value, the lower the standard of morality and ethics. The politeness index of Indonesian internet users is rated poor on a worldwide scale. Indonesia is ranked 29th out of 32 nations in the poll. According to this survey, when communicating in cyberspace, people appear to overlook the ethical principles that exist in physical space (Purwantiningsih et al. 2022).

As the world becomes increasingly interconnected through digital technologies, the protection of individuals' privacy has emerged as a critical concern (Reis et al. 2024). Most legal and policy-oriented studies focus on strengthening regulatory frameworks and law enforcement mechanisms. However, regulation alone is insufficient to shape ethical digital behavior. Without internal moral reasoning, law functions only as an external coercive force that often arrives after harm has already occurred. As Delacroix and Wagner (2021) put it: *ethics is and should remain legal regulation's 'critical best friend'*. Likewise, Omol (2024) also emphasizes ethics as a crucial element of digital transformation, focusing on concerns about data privacy and the morality of artificial intelligence. This article contends that what is fundamentally lacking in contemporary digital governance is wisdom: the ethical capacity to foresee consequences, balance competing interests, and prioritize human dignity in online interactions.

The digital age has ushered in an unprecedented era of enhanced connectivity and communication (Van Veldhoven and Vanthienen 2023), fundamentally reshaping the contours of human interaction and societal organization (Redmond 2025). This transformation is not merely technological but deeply philosophical, demanding a re-evaluation of age-old concepts like wisdom, considering new digital realities. The proliferation of digital platforms has democratized information dissemination (Kumar, Verma, and Mirza 2024), yet it has also amplified the potential for misinformation (Firdaus et al. 2014; Zhang and Cheng 2024), echo chambers (Roy and Sengupta 2023; Törnberg 2018), and the erosion of civil discourse (Ahammad 2025; Isdendi, Nanda, and Suganda 2023). The speed and scale at which information travels challenge traditional notions of deliberation and moral judgment, creating an environment in which reactive, rather than

proactive, ethical decision-making can lead to significant societal harm. This context necessitates a robust framework for navigating the digital sphere, one that transcends mere legal compliance and fosters a deeper, more reflective engagement with the ethical dimensions of online life. Wisdom, as a timeless virtue, offers a compelling lens through which to understand and address these contemporary challenges, providing a compass for responsible digital citizenship.

Furthermore, the Indonesian context presents a unique and complex case study for exploring the intersection of digital ethics, national law, and religious tradition. As a nation with the world's largest Muslim population and a vibrant, albeit sometimes contentious, democracy, Indonesia's experience with digital governance is particularly instructive. The country's efforts to regulate online conduct through the EIT Law, while aiming to protect citizens from harm, have also been criticized for potentially stifling freedom of expression and lacking sufficient nuance to address the multifaceted nature of digital harm (Safiranita et al. 2021).

For example, the hate speech provision under Article 28(2) of the Electronic Information and Transaction Law (Government of Indonesia 2016) lacks an objective threshold since its construction has led to a broad determination of hate speech, as it reveals an inconsistency in considering the harm of hate speech (Putri 2023). Simultaneously, Indonesia's rich Islamic intellectual heritage, with its sophisticated legal and ethical traditions, provides a valuable, though often untapped, resource for developing contextually relevant solutions (Rawanita, Mulia, and Ikhwan 2025). This article posits that by integrating these diverse normative systems, a more holistic and effective approach to digital ethics can be developed, one that respects both individual rights and communal well-being.

Previous scholarship on digital ethics has primarily focused on either technical solutions or legal frameworks, neglecting the integration of wisdom-based approaches from diverse normative traditions (Chiu 2025; Omol 2024). Most studies examining Indonesian cyber law have concentrated on legal positivism and enforcement mechanisms, overlooking the potential of internal moral reasoning and wisdom as complementary approaches (Delacroix and Wagner 2021). This gap is particularly significant given that regulation alone proves insufficient to cultivate responsible digital conduct, as wisdom constitutes a critical yet under-explored ethical capacity for navigating the digital public

sphere. This study, therefore, addresses this lacuna by examining how wisdom (*hikmah*) can be conceptually constructed by integrating human rights principles, Indonesian cyber law, and Progressive Fiqh. The central research question is: how can wisdom function as a normative bridge that harmonizes freedom of expression, legal responsibility, and Islamic ethical objectives in the digital era? By employing a normative-philosophical legal methodology combined with conceptual and comparative analysis, this research demonstrates how wisdom functions as a mediating moral rationality that harmonizes these diverse normative traditions.

## **METHODS**

This study employs a normative-philosophical legal research method combined with conceptual and comparative approaches. The doctrinal legal method is used to analyse statutory norms and legal principles governing digital expression, particularly the Indonesian Law No. 11 of 2008 on Electronic Information and Transactions (Government of Indonesia 2008), amended by Laws No. 19 of 2016 (Government of Indonesia 2016) and No. 1 of 2024 (Government of Indonesia 2024), and constitutional guarantees of freedom of expression. Doctrinal research is appropriate for examining the internal logic, coherence, and normative structure of legal rules as developed in contemporary legal methodology (Hutchinson and Duncan 2012; McConville and Chui 2024).

In addition, this research adopts a conceptual legal approach to explore the philosophical meaning of wisdom (*hikmah*) in both Islamic and Western traditions of moral reasoning. Conceptual analysis enables the construction of normative models by examining core ideas, values, and ethical assumptions embedded in legal and religious scholarship (Bix 2019; Dworkin 1988).

A comparative normative framework is applied to place international human rights standards, Indonesian positive law, and Progressive Fiqh in analytical dialogue. Comparative legal methods are used not to harmonize these systems, but to identify their intersections, tensions, and complementary ethical logics (Siems 2022; Watson 1993). The research follows a qualitative interpretive design, emphasizing textual analysis and normative reasoning rather than empirical measurement. This approach allows for the development of theory-oriented insights, particularly in constructing models of ethical digital citizenship and legal-moral integration (Creswell and Poth 2024; Maxwell 2013).

The data sources of this research consist of: (1) primary legal materials, including the 1945 Constitution of Indonesia (Government of Indonesia 1945) and statutory regulations on electronic information and transactions (Government of Indonesia 2008, 2016, 2024), and (2) secondary materials, including peer-reviewed journal articles, monographs, and the author's previously published works concerning freedom of expression, hate speech, and Islamic legal theory, including studies on *maqāṣid al-sharī'ah* (the higher objective of Islamic law), *maṣlaḥah* (public benefit), and *istiḥsān* (juristic preference) (Hadi et al. 2020; Hidayatullah, Mustangin, and Firmansyah 2025; Polizzi and Harrison 2022).

The analysis is conducted through qualitative doctrinal interpretation and ethical-philosophical reasoning (Bhat 2020), focusing on how legal norms and ethical theories converge in shaping models of responsible digital citizenship. It involves three stages: first, doctrinal analysis is conducted to examine the normative structure of Indonesian cyber law and its alignment with human rights principles. Second, conceptual analysis is used to explore the philosophical meaning of wisdom (*ḥikmah*) within both Islamic and Western traditions. Third, comparative analysis is applied by using three units of comparison: (a) human rights law, (b) Indonesian cyber law, and (c) Progressive Fiqh. The comparison criteria include: (1) core values and objectives of each normative system, (2) approaches to freedom of expression and its limitations, and (3) mechanisms for ensuring ethical digital behavior.

## RESULTS AND DISCUSSION

### Wisdom (*Ḥikmah*) as an Ethical Concept in the Digital Era

Wisdom (*ḥikmah*) has long been understood in Islamic intellectual tradition as the ability to place things in their proper context, combining knowledge with moral discernment. The meaning of wisdom (*ḥikmah*) in Islam is profound. Linguistically, *ḥikmah* comes from the word *ḥakama* which means to restrain, control, or make a just decision (Ibnu Manzur 1994). In Islamic law, *ḥikmah* is defined as the ability to place something in its proper place according to the guidance of Allah. In other words, *ḥikmah* encompasses wisdom in speech, action, and decision-making.

The concept of wisdom in Islamic tradition is not simply interpreted as practical wisdom, but as the ability to place something precisely in accordance with its purpose (*maqāṣid*). In the Qur'an, wisdom is often associated with the balance between knowledge,

justice, and action, as mentioned, for example, in the Holy Qur'an Surah Al-Baqarah [2] verse 269 (Ali 2016). Philosophically, this indicates that wisdom functions as a mediator between norms and reality. In the digital context, where information flows rapidly and often unverified, wisdom becomes an ethical principle for assessing when expression is right and when it becomes a potential public danger.

Classical Islamic scholars linked wisdom with justice, moderation, and foresight. In Western philosophy, Aristotle's concept of *phronesis* (practical wisdom) refers to the capacity to deliberate well about what is good and beneficial for human life. Contemporary digital ethics literature similarly frames wisdom as foresight, empathy, and harm prevention in technologically mediated environments (Afisa et al. 2024). Meanwhile, Shaik et al. (2024) highlights the increasing significance of digital ethics in a time characterized by swift technological progress. As technology evolves and influences various facets of human existence, it is essential to prioritize ethical considerations to guarantee that advancements benefit society.

Contemporary studies indicate that digital ethics requires an approach that is not solely rule-based but also contextually prudent. Jasser Auda (2008) emphasizes that the Islamic legal approach must be multidimensional and consider the complexity of reality. Within this framework, wisdom functions as a principle that allows flexibility without losing its normative direction. These findings reinforce the fact that in the digital ecosystem, formal regulation alone is insufficient; internalization of wisdom values is necessary to face ethical dilemmas that cannot always be regulated textually.

In the digital environment, wisdom manifests as reflective restraint: the ability to pause before posting, sharing, or commenting; the awareness of the permanence of digital traces; and sensitivity to the dignity and vulnerability of others. Unlike technical digital literacy, wisdom is moral and relational. It requires understanding not only what can be done technologically, but what should be done ethically.

This article conceptualizes digital wisdom as a triadic capacity: 1) anticipatory judgment to foresee potential harm, 2) proportional reasoning to balance interests, and 3) moral courage to refrain from harmful expression even when legally permissible.

## Human Rights, Freedom of Expression, and the Ethical Limits of Digital Speech

Within the framework of human rights, freedom of expression is a fundamental right. International human rights law strongly protects freedom of expression. Article 19 of the Universal Declaration of Human Rights (UDHR) (The United Nations (UN) 1948) and the International Covenant on Civil and Political Rights (ICCPR) (The United Nations (UN) 1966) guarantees the right to seek, receive, and impart information. However, these instruments also recognize legitimate limitations for the protection of the rights and reputations of others, national security, public order, and morality. However, empirically, this freedom is always in tension with the need to prevent harm such as hate speech, disinformation, and symbolic violence. Studies show that digital space amplifies the impact of expression, thereby blurring the line between rights and violations (Siddiqui et al. 2024).

From the perspective of *maqāṣid*, freedom of expression can be linked to the protection of reason (*ḥifẓ al-‘aql*) and human dignity but is limited by the principle of non-harm (*lā ḍarar wa lā ḍirār*). This is where a normative contradiction arises: are restrictions on expression a violation of rights, or are they part of the protection of rights themselves? Jamaluddin Attia (2007) attempts to answer this using a structural approach, that individual rights must be viewed in relation to social interests. However, this approach has the potential to justify excessive restrictions if not balanced by clear standards of proportionality.

From a human rights perspective, wisdom is reflected in the principle of proportionality. Individuals are not only rights holders but also duty bearers who must exercise their freedom in ways that respect the dignity of others. Hate speech, incitement to violence, and systematic disinformation campaigns are not protected forms of expression, as they undermine the very foundations of human dignity and democratic pluralism (Putri 2023).

In Indonesia, freedom of expression is guaranteed by Articles 28E and 28F of the 1945 Constitution, while Article 28J provides that these freedoms may be limited by law to respect the rights of others and maintain public order (Ariyanto et al. 2025; Government of Indonesia 2000). Freedom of expression is not only a legal entitlement but also a moral practice that requires self-restraint. Article 19 of the UDHR (The United Nations (UN)

1948) and ICCPR (The United Nations (UN) 1966) protect the active circulation of ideas. However, the same legal system recognizes that speech may become harmful when it crosses into defamation, incitement, or dehumanization. Digital wisdom, therefore, emerges as an ethical discipline of self-limitation guided by respect for human dignity.

Furthermore, constitutional guarantees of expression coexist with social tensions rooted in religious diversity, political polarization, and historical sensitivities. Judicial studies show that hate speech cases often involve identity-based hostility and moral panic, where digital platforms amplify emotional narratives at unprecedented speed (Istiani and Islamy 2020). Wisdom, in this context, functions as an ethical filter operating before legal sanction. A rights-based yet wisdom-oriented digital citizen evaluates not only the legality of expression, but also its moral legitimacy (Purwantiningsih et al. 2022). This transforms freedom from purely individual entitlement into a relational ethical responsibility.

### **EIT Law, Overcriminalization, and the Limitations of Positivist Legal Control**

The Indonesian Law No. 11 of 2008 on Electronic Information and Transactions, amended by Laws No. 19 of 2016 and No. 1 of 2024, was designed to provide legal certainty in cyberspace. It criminalizes online defamation, hate speech, false information, and unlawful electronic threats. Empirical and doctrinal studies, however, demonstrate that several provisions of the EIT Law are vague and prone to broad interpretation, leading to overcriminalization and selective enforcement (Ariyanto et al. 2025; Safiranita et al. 2021).

In the Indonesian context, the Electronic Information and Transactions Law is the primary instrument for regulating digital space. Normatively, this law aims to maintain order and protect society from cybercrime. However, various studies indicate a tendency toward overcriminalization, particularly in articles related to defamation and online speech (Butt and Lindsey 2018).

Tensions arise when positive law is widely used to control expression, potentially eroding civil liberties. This reflects the limits of the legal positivism approach, which tends to assess actions solely based on their formal legality, rather than their ethical purpose. Within the *maqāṣid* framework, this approach is considered reductionist because it ignores the dimension of benefit (*maṣlahah*). Ahmad al-Raysuni (2005) emphasized that law must always be linked to the objectives of sharia, not merely its text. Thus, criticism of the ITE

Law concerns not only its implementation but also the limitations of a legal paradigm that is not objectively based.

Research on Indonesian judicial practice shows that the EIT Law has frequently been used in cases involving political criticism (Irrynta and Prasetyoningsih 2023), consumer complaints (Ferdinal and Astuti 2023), and interpersonal conflicts (Diniyanto and Kamalludin 2021). Rather than functioning solely as a protective legal instrument, it has sometimes produced a “chilling effect” that discourages legitimate public participation. Studies of digital rights and democratic values in Indonesia highlight the tension between legal control and democratic freedoms (Istiani and Islamy 2020).

Many international organizations, including Amnesty International, have criticized the EIT Law for being “excessively and arbitrarily” used to criminalize a wide range of online speech, including social media posts, videos and news reports (The Institute for Criminal Justice Reform (ICJR) 2025). The ICJR reports that, despite the issuance of the Joint Decree by the Chief of the National Police, the Attorney General, and the Minister of Communication and Information Technology in June 2021, police and prosecutors, while aware of the Joint Decree, have not followed it. More than 90 percent of the 73 cases analyzed for this report ought to have been exempt from prosecution per the Joint Decree, yet police and prosecutors did not dismiss most of these cases (The Institute for Criminal Justice Reform (ICJR) 2025).

Most prosecutions have been brought under two provisions of the EIT Law: Article 27(3), prohibiting cyberdefamation, and Article 28(2), criminalizing hate speech (Amnesty International 2022). These two articles have been particularly susceptible to abuse due to their vague language—earning them the moniker of “rubber/elastic” articles in Indonesia (Istiani and Islamy 2020; Ningrat and Nulhaqim 2023). For instance, several high-profile cases involving the application of Article 28(2) of the EIT Law have demonstrated the ambiguity in defining hate speech and the potential for selective enforcement. Reports by civil society organisations indicate that individuals have been prosecuted for expressions that fall within legitimate criticism, raising concerns about legal overreach and lack of proportionality. These cases illustrate that legal mechanisms alone cannot adequately address the complexity of digital harm without ethical guidance.

From the perspective of wisdom, the EIT Law represents the external boundary of

acceptable behavior. However, legal sanctions operate after harm has been committed. A wisdom-oriented approach emphasizes preventive ethics, where individuals internalize responsibility before legal mechanisms are triggered. In this sense, wisdom complements law by functioning as an internalized normative compass.

Scholarly research consistently criticizes the EIT Law for vagueness and elasticity. Provisions such as Article 27(3) and Article 28(2) have been described as “rubber articles” due to their broad interpretive scope (Istiani and Islamy 2020; Ningrat and Nulhaqim 2023). Empirical legal analysis demonstrates that victims of online defamation laws are often not powerful elites, but ordinary citizens engaged in consumer complaints, whistleblowing, or social criticism. This produces a chilling effect, weakening democratic deliberation and public accountability. A report by ARTICLE 19, a London-based NGO, states that when responding to ‘hate speech’, Governments should not limit themselves to sanctions and prohibition for such expression (ARTICLE 19 2018). They further explain that experience shows that this approach is often counter-productive, as it fails to address the underlying social roots of the kinds of prejudice that drive hate speech. Excessive restrictions of hate speech might be a temporary way of dealing with the issue but may result in the violation of international standards on freedom of expression and undermine the protection of equality in the long-term. In most instances, equality is better promoted through positive measures, which increase understanding and tolerance, create spaces for inclusive dialogue, and promote intercultural understanding (ARTICLE 19 2018).

Wisdom provides a conceptual exit from this impasse. Where law relies on fear of punishment, wisdom relies on internalized ethical responsibility. A wisdom-based digital ethic reduces the need for excessive criminalization by preventing harmful conduct at its moral roots rather than legal consequences (Purwantiningsih et al. 2022).

### **Progressive Fiqh and Digital Moral Reasoning**

Progressive Fiqh offers a rich ethical resource for addressing contemporary digital challenges. It balances technological advancements with core Islamic principles. The role of Muslim scholars and *fatwā* (religious edicts) institutions is crucial in ensuring that digital transformation aligns with Sharia guidelines. Continuous adaptation is essential to preserve the relevance of Islamic law in modern society (Prayogi, Nasrullah, and Setiawan 2025). Unlike strictly literalist approaches, it emphasizes moral objectives and social

welfare as the essence of Islamic law.

Progressive fiqh emerged as a response to the limitations of a literalistic approach to modern reality. Figures such as Yusuf al-Qaradawi developed the concepts of *fiqh al-wāqī'* (understanding reality) and *fiqh al-awlawiyyāt* (jurisprudence of priorities), which emphasize the importance of context in establishing law (Anshor and Muttaqin 2020). In the digital context, this approach allows for a more flexible assessment of phenomena such as social media, data privacy, and communication ethics.

However, progressive fiqh also faces criticism: the more contextual an approach, the greater the risk of normative relativism. Abdul Majid Al-Najjar (2008) attempted to address this by developing *maqāṣid* as a holistic civilizational framework, ensuring that flexibility remains within the boundaries of the objectives of sharia. Here, the tension between flexibility and legal certainty becomes apparent, a central issue in digital moral reasoning.

#### *a. Maqāṣid al-sharī'ah* as a Digital Ethics Architecture

The theory of *maqāṣid al-sharī'ah* identifies core objectives of Islamic law, including the protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), lineage (*ḥifẓ al-nasl*), intellect (*ḥifẓ al-'aql*), property (*ḥifẓ al-māl*), and honor (*ḥifẓ al-'ird*) (Auda 2008; Kamali 2017; Nur, Abdul Wakhid, and Handayani 2020). Indonesian scholarship shows that these objectives can be meaningfully applied to evaluate the ethical dimensions of the EIT Law and digital behavior (Polizzi and Harrison 2022).

*Maqāṣid* theory offers a systematic ethical architecture that is highly compatible with contemporary digital challenges. Rather than focusing on textual literalism, it focuses on human welfare as the primary aim of law. For instance: 1) online misinformation undermines public reasoning violates *ḥifẓ al-'aql*, 2) digital humiliation and viral shaming harm human dignity violates *ḥifẓ al-'ird*, 3) online hoaxes distort public reasoning and violate *ḥifẓ al-'aql*, 4) cyberbullying and doxxing threaten *ḥifẓ al-nafs* and *ḥifẓ al-'ird*. Fraud and digital scams undermine *ḥifẓ al-māl*, and 5) online religious provocation that destabilizes communal harmony threatens *ḥifẓ al-dīn* in its social dimension. The case of hate speech relating to Ahok's religious blasphemy (Arofah 2018) is one good example about how online religious sentiment could cause social unrest. Thus, digital wisdom in Islamic terms is the conscious effort to protect these essential human goods in online

interactions. Indonesian scholarship explicitly links *maqāṣid* to cyber law ethics and regulatory reform (Hadi et al. 2020), demonstrating that Islamic legal philosophy is not a barrier but a resource for digital governance.

#### **b. *Maṣlaḥah* in the Age of Viral Culture**

The development of digital technology has significantly changed the way humans live their lives. This has increased efficiency in various aspects, such as access to information, innovation in different sectors, quality of health services, education, and global employment opportunities (Nainggolan 2023). However, along with the benefits it brings, the development of digital technology also opens significant risks and challenges related to the spread of false information, privacy violations, and the dangers of unethical use. Apart from the Government's effort to enact some laws on cyber, upholding legal philosophical values such as justice, freedom, and responsibility is necessary (Nainggolan 2023).

The doctrine of *maṣlaḥah* emphasizes the prioritization of public benefit and the prevention of harm (Asmawi 2014; Nur and Muttaqin 2020). Contemporary conceptualizations of *maṣlaḥah* underline its adaptability to new social realities and its suitability for evaluating digital practices (Hidayatullah et al. 2025). Applying this principle, ethical digital conduct is assessed not by viral potential or personal advantage, but by its contribution to collective well-being. For example, sharing unverified information may satisfy emotional or political impulses, but it contradicts *maṣlaḥah* if it creates public panic or social fragmentation. Wisdom, therefore, is expressed through ethical restraint motivated by concern for the common good.

The logic of virality contradicts the logic of *maṣlaḥah*. Algorithms prioritize outrage, novelty, and emotional extremity, whereas *maṣlaḥah* prioritizes stability, harmony, and public welfare. This conflict illustrates why legal compliance alone is insufficient. A user may legally share controversial content, but ethically it may be destructive. Wisdom, informed by *maṣlaḥah*, produces a moral culture of restraint driven by social responsibility rather than fear. Recent Indonesian conceptual studies emphasize that *maṣlaḥah* must be interpreted dynamically to address modern technological realities (Hidayatullah et al. 2025; Nur and Muttaqin 2020).

### c. *Istihsān* and Digital Ethics

Linguistically, *istihsān* is a derived word (*mushtaq*) from *ḥasan* (whatever is good in something). *Istihsān* itself means “one’s inclination towards something because he considers it better, and this can be external or spiritual, even if it is considered otherwise by others” (Ibnu Manzur 1994). Terminologically, *istihsān* has many definitions among scholars of Islamic jurisprudence (*uṣūl fiqh*), including: 1) deriving the ruling on a problem from the ruling on similar problems to another law based on something more rigid in the view of a qualified Islamic law scholar (*mujtahid*), 2) evidence that occurs to a *mujtahid* but cannot be expressed in words, 3) abandoning the consequences of a particular metaphor for a stronger metaphor, and 4) practicing the strongest of two arguments (Ikhsan and Azwar 2023). Thus, the essence of *istihsān* is when a *mujtahid* is more inclined to and chooses a particular law and abandons another due to his judgment that the former is fundamentally more robust than the latter.

Employing *istihsān* in addressing contemporary issues, including technological advancements, has proven relevant to be applied in the contemporary era (Bintarawati and Rosyid 2020) and does not contradict with Islamic legal prime sources, the Holy Qur’an and the Prophet’s hadiths. Allah says in Surah al-Zumar [39]: 17-18: “*So announce the good news to My servants, those who listen to the word, and follow the best (meaning) in it: Those are the ones whom God has guided, and those are the ones endowed with understanding*” and in verse 55: “*And follow the best of (the courses) revealed to you from your Lord*” (Ali 2016). These verses show that Allah commands us to follow the best; therefore, this implies that *istihsān* is an argument (*hujjah*) in Islamic law. Meanwhile, Ibn Mas’ud who relied on his saying to the Prophet Muhammad said: “*What Muslims see as good is good in the sight of Allah*” (Al-Zailai 2003). This hadith explains that what is considered good by Muslims with their common sense is also good in the sight of Allah. Therefore, it shows the argument of accepting *istihsān* as an Islamic legal base.

*Istihsān* provides flexibility to depart from rigid analogical reasoning in favor of more equitable outcomes. Contemporary Indonesian studies emphasize its relevance in addressing modern social complexities, including technological change (Hadi et al. 2020). In the digital context, *istihsān* supports context-sensitive ethical judgments. Rather than applying mechanical moral rules, it allows consideration of intention, impact, and social context. This approach strengthens the concept of wisdom as a dynamic and compassionate

moral practice.

Rigid ethical absolutism fails in digital contexts. Online expressions are influenced by anonymity, speed, algorithmic amplification, and asymmetric power relations. *Istihsān* offers a way to humanize ethical judgment by considering context, intention, vulnerability, and power imbalance. Indonesian modern legal theorists highlight its increasing relevance for complex contemporary issues, including technology-driven social change (Hadi et al. 2020).

The application of Progressive Fiqh to digital ethics demonstrates several key advantages over purely legalistic approaches. First, it provides flexibility in addressing novel technological challenges that traditional legal frameworks may not anticipate. Second, it emphasizes moral objectives over mere legal compliance, encouraging proactive ethical behavior rather than reactive punishment. Third, it offers culturally resonant solutions that align with Indonesian societal values while maintaining compatibility with international human rights standards.

### **Wisdom (*Hikmah*) as an Integrative Framework**

This article proposes wisdom as an integrative ethical framework that bridges three normative systems: human rights law, state regulation, and Islamic moral philosophy. Table 1 shows the core values and wisdom functions from these triadic systems.

Table 1.

Normative System	Core Value	Wisdom Function
Human Rights	Human dignity and freedom	Ethical self-restraint based on proportionality
EIT Law	Legal order and certainty	Internal moral compass before legal coercion
Progressive Fiqh	Protection of essential human goods	Moral foresight guided by <i>maqāṣid</i> , <i>maṣlaḥah</i> , and <i>istiḥsān</i>

*Core Values and Wisdom Functions of Normative System*

Wisdom operates as a mediating rationality. It prevents the absolutization of freedom without responsibility, mitigates the rigidity of legal positivism, and activates the ethical depth of religious traditions. The digital citizenship generation in Indonesia plays a pivotal role in raising awareness about ethical behavior in cyberspace. Through education and awareness campaigns, they can promote responsible digital conduct, emphasizing the values of respect, empathy, and integrity (Isdendi et al. 2023). Through wisdom, digital citizenship becomes not merely compliance with law, but a moral vocation oriented towards justice and compassion. In this case, the Government and educational institutions have a responsibility to incorporate digital citizenship education into the curriculum, equipping the future generations with the knowledge and skills necessary for ethical engagement in the online world (Isdendi et al. 2023).

From the overall analysis, it is clear that the conflict between freedom of expression, legal control, and Islamic ethics cannot be resolved with a single approach. Human rights tend to emphasize freedom, positive law emphasizes control, while fiqh emphasizes morality. The three are often in a competing position. This is where *ḥikmah* serves as an integrative framework. Philosophically, *ḥikmah* enables a synthesis between the three systems by: 1) Maintaining freedom as a fundamental human value, 2) Recognizing the need for regulation to prevent harm, and 3) Directing both towards a

higher ethical goal (*maqāṣid*).

This approach aligns with Jasser Auda's idea of an open system that integrates various legal and moral dimensions (Auda 2008). Thus, *ḥikmah* is not only an ethical concept but also an analytical method capable of productively managing normative tensions.

## CONCLUSION

The digital era demands more than technical regulation and punitive law enforcement. It requires the cultivation of wisdom as an ethical capacity to balance freedom, responsibility, and human dignity. This article has demonstrated that wisdom can be normatively grounded through the convergence of human rights principles, Indonesian cyber law, and Progressive Fiqh. Human rights provide the moral language of dignity and proportionality. The EIT Law establishes external legal boundaries. Progressive Fiqh contributes a rich ethical vision through *maqāṣid al-sharī'ah*, *maṣlahah*, and *istiḥsān*. When integrated, these frameworks produce a coherent model of digital wisdom that is both legally grounded and morally humane. This wisdom-based approach offers several practical implications for Indonesian digital governance. First, it suggests moving beyond mere legal compliance toward cultivating internal ethical reasoning among digital citizens. Second, it provides a framework for revising the EIT Law to incorporate proportionality and necessity tests that align with human rights standards. Third, it offers educational institutions a curriculum for developing digital wisdom that combines technical skills with moral discernment.

The proposed framework also has broader implications for global digital ethics discourse. As nations grapple with the challenges of regulating online behavior while preserving freedom of expression, wisdom offers a middle path between excessive libertarianism and authoritarian control. By integrating diverse normative traditions, this approach demonstrates how cultural and religious perspectives can contribute to universal ethical principles for the digital age. Future research should empirically examine how wisdom-based ethical frameworks can be institutionalized through digital literacy education, judicial practice, and religious discourse in diverse socio-legal contexts. Longitudinal studies could track the effectiveness of wisdom-oriented interventions in reducing harmful online behavior while preserving democratic values. Additionally,

comparative research across different cultural and legal systems would help identify best practices for implementing wisdom-based digital governance.

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