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A Comparative Study of the Indonesian Supreme Court's Decision and International Agreements on E-Commerce

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ABSTRACT

Purpose of the Study: This research aims to analyze the relevance of Indonesia's domestic regulations in governing e-commerce transactions, especially in the context of interstate taxation as well as evaluate how far these regulations are in line with international legal principles such as those regulated by United Nations Convention on the Use of Electronic Communications in International Contracts (UNECIC) and World Trade Organization (WTO).

Methodology: This research utilized the normative juridical method with a legal comparison approach and a case approach on the Decision of the Supreme Court No. 1305/B/PK/PJK/2015. The data were qualitatively analyzed to identify regulatory gaps and suggest legal recommendations.

Results: Research found that even though domestic regulations have regulated the e-commerce taxation aspect, there are still weaknesses in answering global challenges, such as server jurisdiction, the mechanism of resolving interstate disputes, as well as the protection of digital consumers. Supreme Court decisions have become a crucial foundation but have not fully referred to international standards.

Applications of this Study: The results of this research can be used by policymakers, academicians, and legal practitioners as a basis for formulating more adaptive e-commerce regulations that are harmonious with international standards which support Indonesia's digital economic ecosystem.

Novelty/Originality of this Study: This research offers a constructive approach in bridging the gap between national regulations and international policies, as well as offering a scientific contribution through the integration of global principles into the domestic legal framework of e-commerce in Indonesia.

Keywords: e-commerce, court decisions, international agreements, Indonesia.

ABSTRAK

Tujuan Penelitian: Penelitian ini bertujuan untuk menganalisis relevansi peraturan perundang-undangan di Indonesia dalam mengatur transaksi perdagangan elektronik, khususnya dalam konteks perpajakan antarnegara, serta mengevaluasi sejauh mana peraturan perundang-undangan tersebut sejalan dengan prinsip-prinsip hukum internasional seperti yang diatur dalam Konvensi Perserikatan Bangsa-Bangsa tentang Penggunaan Komunikasi Elektronik dalam Kontrak Internasional (UNECIC) dan Organisasi Perdagangan Dunia (WTO).

Metodologi: Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perbandingan hukum dan pendekatan kasus atas Putusan Mahkamah Agung No. 1305/B/PK/PJK/2015. Data dianalisis secara kualitatif untuk mengidentifikasi celah hukum dan memberikan rekomendasi hukum.

Hasil: Penelitian menemukan bahwa meskipun peraturan perundang-undangan di Indonesia telah mengatur aspek perpajakan perdagangan elektronik, masih terdapat kelemahan dalam menjawab tantangan global, seperti yurisdiksi server, mekanisme penyelesaian sengketa antarnegara, serta perlindungan konsumen digital. Putusan Mahkamah Agung telah menjadi landasan krusial, namun belum sepenuhnya mengacu pada standar internasional.

Aplikasi Studi Ini: Hasil penelitian ini dapat digunakan oleh para pembuat kebijakan, akademisi, dan praktisi hukum sebagai dasar untuk merumuskan regulasi e-commerce yang lebih adaptif dan selaras dengan standar internasional yang mendukung ekosistem ekonomi digital Indonesia.

Kebaruan/Orisinalitas Studi Ini: Penelitian ini menawarkan pendekatan konstruktif dalam menjembatani kesenjangan antara regulasi nasional dan kebijakan internasional, serta memberikan kontribusi ilmiah melalui integrasi prinsip-prinsip global ke dalam kerangka hukum domestik e-commerce di Indonesia.

Kata Kunci: e-commerce, putusan pengadilan, perjanjian internasional, Indonesia.

INTRODUCTION

E-commerce has become a global phenomenon that creates a revolution in how people carry out transactions on goods and services. E-commerce is generally defined as a sales transaction process carried out through electronic media, especially the internet (Hidranto, 2021). In the digital ecosystem, e-commerce offers various advantages such as time efficiency, cost efficiency, and access to a larger market. However, this transformation also brings new challenges in the legal aspect, such as consumer protection, data security, taxation, and the resolution of interstate disputes.

In the Indonesian legal system, the development of e-commerce has led to the emergence of a series of complex legal issues (Santika, 2024). One of the prominent cases is the Decision of the Supreme Court No. 1305/B/PK/PJK/2015, which became an important precedent in handling tax disputes related to e-commerce transactions (Simanjuntak, 2023). This case tests the capability of the Indonesian legal system in adapting its existing regulations to the dynamics of digital trade. This decision contains legal considerations which show how judges try to enforce justice amid limited domestic regulations on e-commerce (Salami & Bintoro, 2013).

From the perspective of *das sein,* namely the reality that truly happens in the field of the empirical condition in the legal application, the Decision of the Supreme Court No. 1305/B/PK/PJK/2015 shows how the law is truly implemented in Indonesia. The term *das sein* originates from legal philosophy and illustrates “what truly happens” in practice. This is different from *das sollen* which refers to “what should happen” according to legal norms. This decision can be used to illustrate the factual implementation of taxation law, even though it is not always that it is in line with the ideal legal stipulations. In regulating and imposing taxes on e-commerce activities, judges consider various aspects such as legal certainty; justice for all parties; and state interests (Hasanudin, Ramdhani, & Giyantoro, 2020). However, this case also shows the weakness of the legal system which does not yet have a strong foundation to regulate various complex issues in e-commerce, such as interstate transactions and the protection of digital consumers’ rights.

On the other hand, from the *das sollen* perspective, namely the normative perspective which highlights what should be regulated in the law, there are urgent need to formulate more comprehensive regulations that align with the rapidly developing global challenges. The development of international agreements in the e-commerce sector, such as those initiated by the World Trade Organization (WTO) and the United Nations Commission on International Trade Law (UNCITRAL) may become crucial references for Indonesia. These agreements regulate various crucial aspects, such as consumer protection, data security, network neutrality, interstate taxation, as well as principles that support the creation of a just and sustainable e-commerce ecosystem.

In comparing the Decision of the Supreme Court No. 1305/B/PK/PJK/2015 and international agreements there are regulatory gaps. While international agreements have determined more comprehensive regulations that are based on the best practices of principles, Indonesia's domestic regulations are still at the initial stage of their development (Saniyah, 2024). The challenge for the national legal system is to synergize with international standards without ignoring local contexts. The importance of aligning domestic laws with international agreements is one of the main issues that needs to be discussed. This step is not only needed to increase Indonesia's competitiveness in the global scene but also to make sure that the rights and obligations of the parties involved in e-commerce transactions can justly be protected (Andrias, Gani, Upara, & Stofel, 2024). This harmonization encompasses regulatory strengthening, effective monitoring, and dispute resolution mechanisms that are adaptive to global dynamics.

This research aims to evaluate legal considerations in the Decision of the Supreme Court No. 1305/B/PK/PJK/2015 in the context of e-commerce regulations in Indonesia and its relevance with international agreements. By analyzing the advantages and disadvantages of these two systems, it is hoped that this research may provide a strategic recommendation for the development of e-commerce policies in Indonesia that are more integrated with international standards. Therefore, this research not only contributes towards the strengthening of e-commerce regulations in Indonesia but also offers insight for stakeholders in creating a legal system that is capable of answering society's needs in the digital era while synergizing with global dynamics.

Previous research emphasized the importance of e-commerce taxation regulation renewal, especially related to the tracking of interstate transactions. Different from that, this research specially analyzes legal considerations in the Decision of the Supreme Court related to e-commerce taxation, which is a field which is still rarely analyzed. Using a legal comparison approach on international standards such as UNECIC and WTO, this research uncovers the gaps and opportunities in legal harmonization. It employed an approach which encompasses the normative aspect and this policy makes this research relevant for the development of national regulations that are more responsive towards technological advancement (Sukarno, Nugroho, & Iskandar, 2022).

The research of Prayuti (2024) highlights the weak legal protection of consumer data in digital transactions and the importance of regulations that guarantee the security of personal information. Different from that, this research focuses on analyzing legal considerations in the Decision of the Supreme Court related to e-commerce taxation, which is a field which lacks comprehensive analysis. Meanwhile, Kennedy and Wartoyo (2024) emphasize the need to adapt regulations on trademark and intellectual property protection in e-commerce platforms with human rights standards and the agreed-upon global principles. These three research papers strengthen the perspective that the national legal system still has a gap in answering legal dynamics in the digital trade era.

This paper aims to give a comprehensive understanding of legal considerations of the Decision of the Supreme Court No. 1305/B/PK/PJK/2015 related to e-commerce transactions, especially in the taxation aspect. This paper seeks to explore how judges apply the legal certainty and justice principles in resolving digital taxation disputes as well as how far these considerations reflect the readiness of the national legal system in facing the complexity of interstate electronic trade. Further, this research also aims to compare the national legal substance as reflected in this decision using principles regulated in international agreements, such as the United Nations Convention on the Use of Electronic Communications in International Contracts (UNECIC) and World Trade Organization (WTO) policies.

This research provides an analysis of how far legal considerations in the Decision of the Supreme Court No. 1305/B/PK/PJK/2015 related to e-commerce are in line with international standards such as UNECIC and WTO. Using the legal comparison and jurisprudence approaches, this research analyzes the alignment of national regulations as well as the role of these decisions in enforcing the legal certainty principle. The three research problems in this paper include an analysis of the decision's content; its role in guaranteeing the legal certainty in e-commerce; as well as legal challenges in regulating interstate digital transactions. It is hoped that this research may provide strategic recommendations and scientific contributions to the development of digital taxation law as well as the harmonization of Indonesian law with global principles in the digital era.

RESEARCH METHOD

This research focuses on two main aspects, namely legal considerations in the Decision of the Supreme Court and international agreements as the analyzed legal sources. This research employed the juridical normative method, namely an approach that is based on a study of legal regulations, legal principles, and other legal documents. Apart from that, this research also applied the jurisprudence approach, namely an analysis towards judicial decisions as unwritten legal sources that reflect legal interpretation and application by justice institutions. This approach allows researchers to analyze the legal argumentations and logics developed in that decision as well as how far these decisions align with international legal principles.

By combining the legal comparison and jurisprudence approaches, this research provides a more profound understanding of the position and direction of the national law in facing the dynamics of global e-commerce (Kristiawanto, 2022). This method was chosen as this research aims to analyze and compare legal considerations in the Decision of the Supreme Court No. 1305/B/PK/PJK/2015 and international policies related to e-commerce. This research also aims to identify similarities, differences, and relevance between the national legal system and international laws in the context of the e-commerce framework. The approach used in this research was the legal comparison approach (Anggraeni & Rizal, 2019). This approach was conducted by comparing two legal systems, namely the legal considerations in the Decision of the Supreme Court which represent the Indonesian national legal system and international policies related to e-commerce that are regulated through international agreements such as United Nations Convention on the Use of Electronic Communications in International Contracts (UNCITRAL Model Law) (United Nations, 2005) and the initiatives discussed in the World Trade Organization (WTO) forum (Hoekman & Mavroidis, 2016). This comparison aims to identify the strengths, weaknesses, and regulatory gaps between these two legal systems.

RESULTS & DISCUSSION

A. Legal Considerations in the Decision of the Supreme Court Related to E-Commerce Taxation

The legal certainty principle is the main foundation in the modern legal system, including in the context of e-commerce transactions that are currently experiencing rapid development. In the digital trade era, legal certainty has a crucial role in giving guarantees to business owners and consumers so that they may conduct transactions safely without being haunted by uncertain regulations or threats of legal sanctions.

The application of this principle in the scope of e-commerce still faces rather complex challenges. Even though there are already regulations such as the Law on Electronic Information and Transaction as well as the Law on Consumer Protection, the implementation of these regulations is still unable to answer all the dynamics of interstate and interjurisdictional digital transactions. One of the forms of legal response towards the norm void is reflected in the Decision of the Supreme Court No. 1305/B/PK/PJK/2015 which becomes an important pillar in the resolution of taxation disputes in e-commerce activities. In this decision, the Supreme Court firmly states that digital transactions still have legal consequences that are equal to those of conventional transactions, especially in the case of taxation obligations. Judges state that even though transactions are carried out online, it does not mean that they are free from applicable legal regulations, including taxation obligations. The approach that the Supreme Court took shows efforts to bridge the regulatory void through a progressive and contextual interpretation, adapting to technological developments as well as the need for legal certainty in the digital society.

In this context, the legal certainty principle is translated as a clarity of norms; consistency in applying regulations; and jurisdictive clarity, especially regarding who has the obligation to pay tax; the legal basis for tax imposition; and the Indonesian authority in imposing tax on digital businesses. In making the decision, the Supreme Court utilized the jurisprudential approach to interpret taxation regulations that have not explicitly regulated interstate digital transactions. This approach is important as there are not yet any comprehensive and operational positive regulations in accommodating the complexity of global e-commerce.

One of the significant contributions of that decision is the acknowledgement towards the importance of flexibility in contextually interpreting laws, considering that many transactions involve foreign servers or parties. This decision also firmly states that electronic transactions are not exempted from taxation obligations and the state still has the right to impose tax on economic activities that occur in Indonesia's jurisdiction, even if the medium has digital characteristics. Even so, the Supreme Court realizes that domestic regulations still have limitations in facing the global reality, such as the issue of servers located in foreign countries; identification of foreign tax subjects; as well as challenges in reaching digital tax objects in an accurate and effective manner.

When compared to international legal standards, such as the UNECIC and the WTO policy frameworks, it can be seen that the Indonesian legal system still needs to be improved to achieve better harmonization. International standards have priorly regulated principles on the validity of electronic documents, the acknowledgement of digital signatures, personal data protection, and the jurisdiction of interstate transactions. This Decision of the Supreme Court opens a room for reflection on the need to renew the national law, making it more inclusive towards those principles. Regarding legal certainty, business owners need clarity and certainty on the legal obligations that they must fulfill related to taxation matters, consumer protection, as well as applicable procedures to resolve disputes. This decision contributes to strengthening the rights and obligations of e-commerce actors in Indonesia as well as placing the Supreme Court as an institution that has a corrective role in filling the legislative void or inadequacy. Jurisprudence in this case not only functions to complement the law but is also a crucial guideline in the practice of justice and policy formulation.

The strengthening of the legal certainty principle through this decision also impacts the increase in digital business actors' trust to operate in a manner that complies with regulations. In the long term, this will strengthen Indonesia's digital economic structure, making it more inclusive and competitive. Through this decision, the Supreme Court also shows the justice institution's adaptability in responding to the complexity of digital transformation. The acknowledgement of electronic evidence in the context of taxation disputes shows the availability of the legal system to transform in line with technological advancement. This simultaneously strengthens the legitimacy of digital pieces of evidence in the legal evidencing process.

Further, in this context, the legal certainty principle is not only sourced from laws but also from judicial decisions that reflect the principles of justice, relevance, and impartiality to the dynamics that currently occur in society. This decision also reminds the government of the urgency to systematically renew regulations. Mere jurisprudence is not enough to answer all legal problems in e-commerce without the support of clear and updated regulations.

The Decision of the Supreme Court No. 1305/B/PK/PJK/2015 has a strategic meaning as an initial point in developing a national e-commerce legal system that is adaptive, integrated, and responsive towards global challenges. With the support of legal harmonization and institutional strengthening, it is hoped that Indonesia may be able to create a digital trade ecosystem that guarantees legal certainty as well as encourages sustainable technology-based economic innovations.

B. The Role of the Decision of the Supreme Court No. 1305/B/PK/PJK/2015 in Enforcing the Legal Certainty Principle in E-Commerce Transactions in Indonesia

In e-commerce transactions in Indonesia, the legal certainty principle is one of the important aspects that support the trust and continuity of digital trade (Moho, 2019). Legal certainty refers to the clarity of regulations that govern transactions in the digital world, encompassing the rights and obligations of consumers and business actors (Remaja, 2014). In Indonesia, even though there are already regulations such as the Law on Electronic Information and Transaction as well as the Law on Consumer Protection, there are still challenges to the implementation and monitoring of these regulations (Julyano & Sulistyawan, 2019). Unclear jurisdiction as well as legal stipulations that are not fully in line with technological advancement and global dynamics often become hindrances for business owners and consumers in carrying out transactions comfortably and securely (Barkatullah, 2019).

In line with the increase in interstate e-commerce transactions, the need to align domestic regulations and international standards becomes increasingly crucial (Kapoh, 2020). International agreements such as TRIPS (Trade-Related Aspects of Intellectual Property Rights) and regulations from the WTO provide a basic framework that can strengthen legal protection in digital transactions without the existence of an alignment between domestic and international regulations. The Indonesian legal system will face difficulties regulating and resolving e-commerce disputes, especially in cases involving foreign parties. Therefore, the strengthening of regulations and the creation of more adaptive dispute resolution mechanisms become the key to achieving optimum legal certainty in the digital trade era.

The Decision of the Supreme Court No. 1305/B/PK/PJK/2015 is one of the examples of an important precedent in resolving tax disputes related to e-commerce transactions in Indonesia. This case emerged as a response towards the development of technologies and digital trade that becomes increasingly complex. In its Decision, the Supreme Court firmly states that e-commerce activities have the same legal consequences as conventional transactions, especially regarding taxation obligations even though it is digital-based.

The legal consideration in this decision emphasizes the importance of enforcing justice for all of the parties involved (Khafifi, n.d.). Judges make efforts to make sure that the state's interests in regulating and imposing taxes on e-commerce transactions may be accommodated without ignoring the rights of business owners (Ayu, 2018). Judges consider the legal certainty principle as the main basis in deciding upon that case. This case is crucial to create business owners' sense of confidence in the e-commerce sector as well as to protect the rights of citizens in collecting tax according to legal regulations.

Even so, this decision also uncovers the limitation of the national regulation in facing the dynamics of interstate digital trade. One of the main issues discussed regards the location of the server and transactional jurisdiction that often becomes a topic of debate in the imposition of e-commerce tax (Maxuel & Primastiwi, 2021). In the Indonesian legal system, there are no regulations that specifically regulate how servers located overseas or transactions involving foreign parties may be imposed with tax. Domestic regulations have not yet fully answered global challenges that come with electronic trade.

Apart from that, this decision also reflects the need to develop regulations that are more adaptive to technologies and globalization (Makalalag, 2016). The Indonesian legal system still faces challenges in integrating international principles that have been adopted into various advanced countries, such as the protection of digital consumers' data as well as the mechanism of interstate dispute resolution. Therefore, the Decision of the Supreme Court No. 1305/B/PK/PJK/2015 becomes a reminder of the importance of legal reformation that not only focuses on the domestic aspect but is also able to synergize with global standards for the creation of a sustainable and just e-commerce ecosystem. To answer these challenges, international agreement policies related to e-commerce, such as UNECIC as well as initiatives from the WTO become examples of how regulations can be designed in a harmonious and comprehensive manner to accommodate the dynamics of global electronic trade.

International agreement policies related to e-commerce, such as UNECIC as well as initiatives from the WTO show the seriousness of global efforts in creating a harmonious and comprehensive regulatory framework (Tarigan, Samiu, & Sajili, 2024). Electronic trade requires clear regulations so that business owners, consumers, and the government may efficiently carry out their roles (Budi, 2018). UNECIC, for instance, focuses on the use of electronic communication in international contracts offering legal certainty on the validity of electronic transactions and more efficient evidencing mechanisms (Sukarno et al., 2022). This simultaneously creates an environment that supports the growth of e-commerce at the global level.

One of the important aspects that is regulated in this international policy is data security. In the digital era, personal data and transaction information have become highly valuable assets (Prayuti, 2024). Data protection becomes the main priority in the international legal framework. International agreements such as the GDPR (General Data Protection Regulation) which was adopted by the European Union give an example of concrete steps to regulate individual rights related to their personal data. This regulation also governs how data can be transferred between countries by guaranteeing the same standard of protection, preventing misuse and making sure that consumers' privacy rights are protected.

Consumer protection also becomes the main attention in international e-commerce policies (Firmansyah, 2017). With the increasing number of transactions that are carried out online, the risks that consumers face also increase, such as fraud or products that are different from what was offered (Bengu, Kelin, & Hadjon, 2024). International policies such as guidelines from the WTO and other initiatives strive to give a stronger protection mechanism for consumers all over the world. This encompasses the transparency of product information, the rights to return goods, as well as giving compensation in case sellers violate contracts (Widiarty, 2024). It is hoped that the existence of these regulations may increase consumers' trust in making transactions in the global electronic market. International policies offer a more structured policy in handling disputes involving parties from various countries (Lumentut, 2021). UNECIC, for instance, facilitiates electronic dispute resolution by providing clear procedures on how disputes may be resolved in court or through international arbitrages (Lawra & Mulyeni, 2022). Apart from that, WTO also promotes a transparent and efficient dispute resolution system to make sure that the occurring disputes may justly be resolved without harming one of the parties.

Just taxation is a crucial topic in the international policy framework on e-commerce (Isal & Sidik, 2023). One of the main challenges in taxing e-commerce is determining which country has the right to impose taxes that occur online, especially in transactions which involve business owners and consumers from various countries. International initiatives, such as those discussed in WTO forums make efforts to create a taxation system that not only prevents tax evasion but also creates conditions where no country is harmed (Rohendi, 2015). International agreements on tax over digital services and goods that are traded through electronic means provide guidelines on how tax must be applied in a just and balanced manner considering the characteristics of global e-commerce.

In line with global efforts to create a just taxation system, the Decision of the Supreme Court No. 1305/B/PK/PJK/2015 becomes a crucial point in describing how the Indonesian legal system responds to the quick development of global e-commerce in the domestic context. While international policies focus on the creation of a balanced taxation system that does not harm any country, this case shows the reality that the existing regulations in Indonesia are not yet fully adequate in facing the challenges that occur in interstate transactions. With the existence of e-commerce transactions that involve business owners and consumers from various locations, the misalignment between domestic regulations and the global dynamics becomes even more apparent, creating a gap in the correct and just tax imposition.

The Decision of the Supreme Court No. 1305/B/PK/PJK/2015 discusses tax disputes in interstate e-commerce transactions. These disputes occur because the e-commerce transactions carried out by taxpayers in an area and consumers in another area lead to a lack of clarity in the application of taxation regulations that were so far designed for conventional transactions. More specifically, dispute objects encompass the determination of tax obligations for interstate e-commerce transactions, the application and interpretation of taxation regulations that have not explicitly regulated e-commerce activities, as well as legal certainty on tax imposition in digital transactions that have different characteristics compared to traditional transactions. Therefore, this dispute focuses on how the national taxation system may accommodate and adapt regulations in facing challenges in interregional and cross-border electronic transactions.

In its legal development, judges assess that the current national taxation regulations are not yet fully adequate in regulating interregional e-commerce transactions and have special characteristics that are different from conventional transactions. Judges firmly state the need for adaptive and contextual legal interpretation to enforce the principles of legal certainty and justice as well as encourage the quick development of the digital economy. Judges also consider the importance of referring to international legal developments as well as international agreements that regulate electronic trade as guidelines to fill in the void in the national law. This decision states that even though taxpayers must fulfill their taxation obligations, the application of taxation regulations must be flexible and relevant with technological advancement to avoid the occurrence of a lack of legal certainty as well as hindrances for digital economic innovations.

One of the aspects that is not explicitly regulated in the taxation regulations in Indonesia is the issue of server and jurisdiction location. E-commerce transactions may involve parties from various countries, servers, or digital service provider data storage locations that are located outside of Indonesia. This may lead to a lack of certainty regarding the country that has jurisdictions in regulating that transaction, especially related to taxation obligations. For instance, in the case of transactions between consumers in Indonesia and service providers with a basis located in another country, there are no clear stipulations on whether or not Indonesia has the right to impose tax. This leads to a lack of legal certainty that may potentially bring harm to a country in the case of tax collection as well as hinder the development of the domestic e-commerce sector (Subagijo & Lie, 2024).

Aside from the issue of jurisdiction, another challenge that the Indonesian legal system faces is the gap in regulations on consumer data protection. In e-commerce, information, consumers' personal data often becomes one of the most valuable assets. It is unfortunate that the law that applies in Indonesia, especially those related to personal data protection is still limited. Even though Indonesia has enacted the Law on Personal Data Protection in 2023, this law is still at the implementation level and has not encompassed all the needed aspects to regulate e-commerce transactions that involve the data of international consumers. Even though the Law on Personal Data Protection has been applied as a legal basis to regulate data security, its implementation still faces challenges. The cases of personal data leakage and the misuse of sensitive information still often occur (Fathur, 2020). Meanwhile, the law enforcement based on the Law on Personal Data Protection has not shown that there are significant examples of perpetrators who are imposed with severe punishments (Mirnayanti, 2023). This may potentially weaken consumer trust and hinder the development of the e-commerce sector which highly depends on data protection guarantees (Putri, Sari, Fajrina, & Aisyah, 2025).

The incapability of the Indonesian legal system in handling interstate issues also creates hindrances in resolving e-commerce disputes. In many cases, the parties involved in e-commerce transactions may be in different countries, making the dispute resolution process difficult. Even though Indonesia has the Law on Arbitrage that allows dispute resolution through alternative means, the resolution of international disputes often faces issues of decision implementation and acknowledgement, especially when involving countries that do not have bilateral agreements on arbitration. This indicates that Indonesia needs to strengthen its interstate dispute resolution mechanism according to international standards to support the increasingly complex development of e-commerce (Wijaya, 2022).

In the context of e-commerce, the legal reality in Indonesia shows a disalignment between existing domestic regulations and the challenges faced by interstate electronic trade. To respond to global developments and increase competitiveness, Indonesia needs to carry out a more profound legal reformation, including adapting regulations on tax and data protection as well as strengthening the dispute resolution mechanism. This will also make sure that Indonesia can synergize with international policies related to electronic trade as reflected in international agreements that have been signed by many countries (Kristiawanto, 2022).

C. Challenges that the Indonesian Legal System Faces in Regulating Cross-Border E-Commerce Transactions

The Indonesian legal system faces a series of significant challenges in regulating interstate e-commerce transactions which are mostly related to differences in regulations and jurisdictive ambiguity (Lase, 2024). E-commerce transactions often involve parties from different countries with varying legal systems. This makes it very difficult to create a consistent and just legal implication especially in the case of dispute resolution (Sukarno et al., 2022). There is a lack of clarity on jurisdiction, i.e., which country has the authority to resolve issues that occur from such transactions often hinder an effective law and an efficient process (Ramadhani, Fasa, & Suharto, 2022). Apart from that, varied regulations from various countries regarding consumer protection, intellectual property rights, and data privacy increase the complexity in regulating interstate e-commerce.

Another challenge regards monitoring and implementation of domestic regulations that have not fully answered the dynamics of global e-commerce (Paryadi, 2018). Even though Indonesia already has regulations such as the Law on Electronic Information and Transaction as well as the Law on Consumer Protection. These two regulations have not fully encompassed the rapid development of e-commerce and digital technologies (Effendi, 2020). There are many digital transactions involving international digital platforms that have not been fully encompassed in Indonesian law. This leaves a gap that may be utilized by business owners or consumers to avoid the existing stipulations, such as the violation of intellectual property rights or fraud in transactions (Aprilia, 2014).

Another challenge is the incapability of the Indonesian legal system in adapting to applicable international agreements on e-commerce (Cicierdis, 2016). International agreements such as TRIPS (Trade-Related Aspects of Intellectual Property Rights) and the regulations determined by the World Trade Organization (WTO) have an important role in determining global standards for digital transactions (Sengge & Umar, 2024). However, Indonesia still faces a gap in aligning its domestic regulations with these global standards. Without an alignment between domestic regulations and international agreements, the Indonesian legal system will face challenges in overcoming the issues that occur from interstate e-commerce transactions, such as intellectual property rights, personal data protection, and the resolution of international disputes (Kennedy & Wartoyo, 2024).

Therefore, to answer the challenges faced by e-commerce in Indonesia, there needs to be concrete steps that encompass a more adaptive regulatory reformation. Indonesia must renew its legal system so that it is in line with global development, as reflected in international policies related to e-commerce. It is important for Indonesia to integrate with globally accepted international principles as reflected in international agreements such as UNECIC. For instance, UNECIC provides clear guidelines on electronic transactions and digital documents that may be used as a reference for Indonesia in arranging regulations that are more comprehensive and responsive towards cross-border needs of digital trade.

The ideality of e-commerce regulations in the global context may be seen from international policy efforts such as the UNECIC (United Nations Convention on the Use of Electronic Communications in International Contracts) which offers legal principles that are more adaptive to technological development and the dynamics of digital trade. UNECIC offers a clear definition of electronic transactions as well as defines the legal criteria that apply to electronic documents, encompassing the validity aspect and its acknowledgement in international transactions. Electronic trade is crucial as cross-border contracts often involve various documents and digital communication that need to be regulated by clear and standardized laws.

Apart from that, United Nations Convention on the Use of Electronic Communications in International Contracts (UNECIC) also regulates the acknowledgement and acceptance of electronic signatures that are an important element in e-commerce transactions. The principles that UNECIC brings provide legal certainty for the parties that are involved in interstate transactions, including consumers, business owners, as well as state institutions. By acknowledging electronic signatures and digital documents, UNECIC helps create a system that facilitates the growth of a secure and valid digital trade, decreasing the legal obstacles between countries with different legal systems (United Nations, 2006).

Another international initiative that also plays a crucial role in forming e-commerce regulations is the World Trade Organization (WTO). The WTO emphasizes the importance of interstate cooperation in regulating electronic trade, especially in the case of taxation and the resolution of international disputes. In line with the increase in online trade of goods and services, WTO strives to create a system that encourages transparency, justice, and stability in global e-commerce transactions. One of the issues that is discussed in WTO forums is the taxation of digital transactions, including efforts to prevent tax evasion and ensuring that all parties justly pay their tax according to their obligations (World Trade Organization, 2021).

A just taxation system becomes the main issue discussed in the WTO, considering the cross-border characteristics of e-commerce. Every country has different taxation regulations which may lead to a lack of legal certainty and chances to evade tax, especially in interstate transactions. Therefore, the WTO principles strive to guarantee that global e-commerce transactions are not only regarding the issue of taxation but also create an agreement between states regarding fiscal obligations that must be fulfilled. This policy focuses on creating justice in taxation and making sure that no country is harmed due to an imbalance in the existing taxation regulations (Organisation for Economic Co-operation and Development (OECD), 2020).

Ideally, e-commerce regulations not only regulate electronic transactions but must also have the capability to answer global challenges that emerge in the digital era. UNECIC and WTO initiatives show the urgent need for a harmonization of international law that may regulate the global technical and practical aspects of e-commerce. By adopting principles that are more adaptive towards technological advancement, this international regulation plays a crucial role in creating a legal order that supports the growth of a just, transparent, and sustainable digital economic growth all over the world (Widijowati, 2023).

When comparing Indonesian national regulations and international policies, this study found a significant gap. Even though Indonesian regulations have governed tax on e-commerce, it has not encompassed more extensive aspects such as data security and digital consumer protection. On the contrary, international policies have accommodated these principles, creating a more comprehensive legal framework. This gap can also be seen in the law enforcement practice as reflected in the Decision of the Supreme Court No. 1305/B/PK/PJK/2015. This decision has succeeded in applying the existing domestic regulations but still has not referred to international standards, making Indonesian regulations less relevant in facing the increasingly complex interstate e-commerce transactions (Fista, Machmud, & Suartini, 2023).

The lack of referential international policies in this decision shows that Indonesian domestic regulations are not yet adequate in facing e-commerce global challenges that involve various jurisdictions. Without understanding and adopting international regulations, Indonesia risks experiencing legal uncertainty and hindering the growth of national e-commerce. Therefore, it is crucial to carry out a legal reformation that accommodates international standards, including UNECIC principles and WTO recommendations, so that the domestic regulations may be aligned with the dynamics of global trade and provide adequate legal protection for business owners and consumers in Indonesia (Alif, 2008).

This research offers a scientific contribution in identifying the strengths and weaknesses of e-commerce regulations both at the national and international levels, as well as offering a practical recommendation to strengthen the e-commerce legal system in Indonesia. This research substantially confirms the importance of a legal harmonization between domestic regulations and international standards to encourage a sustainable digital economic growth. Another crucial contribution is an emphasis on the urgency of the development of e-commerce regulations that are adaptive towards technological dynamics and are able to accommodate global principles such as data protection, taxation justice, as well as the resolution of interstate disputes.

The policy implications from this research encompass the need for a revision towards regulations on digital taxation, the strengthening of a digital-based consumer protection framework, as well as the formation of a dispute resolution mechanism that is compatible with technological development and global contexts. Therefore, the results of this research may become a strategic reference for stakeholders, including policymakers, academicians, as well as industrial actors in creating an e-commerce legal system that is more responsive and inclusive as well as one which has international-standard competitiveness (Nugroho, 2021).

CONCLUSION

The conclusion of this research firmly states that the Decision of the Supreme Court No. 1305/B/PK/PJK/2015 plays a central role in enforcing the principle of legal certainty over e-commerce transactions in Indonesia, especially regarding taxation obligations. The Supreme Court employed the progressive jurisprudential approach to fill the void in the national regulation and adapt the law to the development of digital technologies. Even so, this decision also uncovers the weakness in the national legal system in facing issues on personal data protection, interstate jurisdiction as well as the resolution of digital disputes, encouraging the need for a legal reformation that is comprehensive and aligned with international standards such as UNECIC, WTO, and GDPR.

Scientifically, this research offers an important contribution towards the development of the digital economic law by offering a critical analysis of the role of jurisprudence in filling the legal void and as a basis for the formation of policies. Apart from that, this research recommends the formation of regulations that are in line with global principles to support the national e-commerce ecosystem that is just, adaptive, and competitive according to international standards.

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