

IMPLEMENTATION OF LAW NUMBER 11 OF 2008 ON ELECTRONIC INFORMATION AND TRANSACTIONS AGAINST THE RISE OF HOAX CULTURE DURING COVID-19 PANDEMIC IN INDONESIA

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Abstract

This article aims to find out the implementation of Law No. 11 of 2008 on Electronic Information and Transactions against the spread of hoaxes during the COVID-19 pandemic in Indonesia as well as how to prevent the growing culture of hoax information spreading in Indonesia. The research method used is a normative method with the study of the Law, while the secondary data material used is the study library as well as the approach of laws and concepts. The result obtained is Law No. 11/2008 jo No. 19/2016 Article 28 paragraphs 1 and 2 has been effective because it can limit the wiggle room of the perpetrators of news and hate speech. More specifically, the perpetrator can be ensnared with other relevant Articles namely Article 311 and 378 of the Consumer Order, Article 27 paragraph 3 of Law No. 19 of 2016 on Electronic Information and Transactions. The role of society, journalists and parents is indispensable also in preventing the dissemination of such fake news. Many steps can be taken, especially as the reader should not immediately believe there needs to be a study by comparing an information with other information.

Keywords: hoax, Covid-19, Electronic Information And Transaction Act.

INTRODUCTION

A fake news story that aims to deceive and provoke both readers and news listeners into believing a news story or fake news that the creator previously knew that the news he had created is incorrect. However, even if it is regulated in the Act, but if re-corrected through social media precisely in the social media, that is what encourages a change in the identity patterns of the cyber community in the pattern of dissemination of information that has been boxed in. Often we encounter patterns of crime that can influence public

thought patterns and are based on false information or hoaxes.

As soon as the issue of covid-19 spread, there has been a lot of false information that unsettling the public. As we already know that Covid-19 or Corona virus is a virus that attacks the human respiratory system, which shows symptoms such as cough, cold, fever, sore throat, difficulty breathing, and feeling easily tired. In addition, the virus also causes psychic, mental, and excessive concern in society. Because the virus can attack anyone, both children and adults.

By the beginning of 2020 Indonesia is experiencing a Covid-19 pandemic, and its spread is rapid and has a major impact on various sectors. Virus is very dangerous because the virus infects almost all countries of the world simultaneously and it can transmit quickly from one human to another. The spread of news related to the virus was initially trivialized by the Indonesian government that the Indonesia community would be free from Covid-19, rumors that Indonesians will not be exposed or immune to the spread of covid-19 virus, reinforced by the appearance of news that emerged through social media and led the public to argue that the government was trying to cover up the facts related to the spread of the Covid-19 virus, after which the rumor was broken by the reveal of two Indonesians who were declared positively infected with the virus on March 2, 2020.

On March 27, 2020, news spread that there are 200 countries that have been confirmed to have cases of Covid-19, and no vaccine has been found to overcome the pandemic. At the same time, the Indonesian government has also issued protocols and recommendations aimed at breaking the chain of covid-19 virus spread, namely washing hands with soap, using masks, consuming

healthy food, maintaining endurance, not being in crowds/ gathering, no need to leave the house if there is no urgent interest, until government policy through Large-Scale Social Restrictions (PSBB). There are also many news stories that raise the topic about the Covid-19 virus, this news began to appear even there is still the spread of news about events that are not known the truth or commonly called fake news (Hoax). Hoaxes can also be interpreted as fake news that has the intent to be used as joke material.¹

The condition is that many Indonesians are flocking to find information about Covid-19 that is unnoticed as well as many false news stories that follow other news, so as to disrupt people's social intosanes. People's views have become divided as a result of being confronted with information from fake news that has spread through technology that turns out to be very different from the actual conditions. This condition tends to make peoplebai and not try to find the truth, but instead believe even to spread the word that is able to invite many concerns of the people who read it.

Many dangers that will arise due to the spread of hoax news about the spread of Covid-19 continue to occur and the public is also very instrumental to the spread of these

¹ Juditha, Christiany, Interaksi Komunikasi Hoax di Media Social serta Antisipasinya, Jurnal Pekommas. Volume. 3 Nomor 1, April 2018,

url:<https://media.neliti.com/media/publications/261723-hoax-communication-interactivity-in-soci-2ad5c1d9.pdf>, retrieved 13 July 2020.

news so that the importance of education for the whole community can be explained through legal articles related to the dissemination of information or hoax news that has already occurred. So that the perpetrators of the dissemination of news or information not only harm the People of Indonesia but also harm the government.² In this case online media platforms and social media have a major influence in the spread of fake news or hoaxes against societal tolerance and support the ITE Act. This makes free speech that can be misinterpreted by many and can be a boomerang for society itself. It can also have an uncomfortable impact due to the appearance of a lot of hate provocation and incitement to other individuals and groups.³

In order to prevent and eradicate the growing hoax culture in Indonesia, the government has taken a serious step by issuing Law No. 11 of 2008 which has been amended into Law No. 19 of 2016 on Electronic Information and Transactions. The law is expected to be a weapon of the government in addressing hoax problematic that is deeply troubling to the lives of Indonesians and in

worst-case scenarios can cause divisions in people's lives.

This law is considered capable of limiting the wiggle room of hoax spreaders as well as hate preachers. But in its implementation this Law requires more socialization that needs to be done by the government and implementing legislation so that the public can understand the so-called hoax information so that the spread of hoax information can be limited and also limited to the maximum. According to the authors of this Act requires more explanation of hoax information as well as how provisions that can ensnar the perpetrators of hoax spreaders in order for this Law to be properly implemented.

RESEARCH METHODOLOGY

The method used is normative law which is the method or method used in legal research conducted by researching existing library materials.⁴ Theoretically, normati research has several stages with the first goal as an effort is made to know one thing. Knowledge gained from this type of research cannot be utilized directly or practically. So the other name of such research is referred to as basic research, both policy research, which

² Nabila Farahdila Putri ; *"Pentingnya Kesadaran Hukum dan Peran Masyarakat Indoensia Menghadapi Penyebaran Berita Hoax Covid-19"*, Volume 11 Nomor 1, p.p 101

³Alief Sutantohadi, Rokhimatul Wakhidah, *Bahaya Berita Hoax dan Ujaran Kebencian pada Media*

Sosial Terhadap Toleransi Bermasyarakat, Jurnal Pengabdian Kepada Masyarakat. Volume. 1, Nomor. 1, p. 4.

⁴ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Cetakan ke – 11, PT Raja Grafindo Persada, Jakarta, 2009, p.p. 13–14.

aims to determine a policy based on the data and facts that exist in the field. Then the results of this study are regulations, laws, decrees, and all things related to or have the power of law.

The material used in this study is library material used by the author that is secondary legal material is interpreted as non-binding legal material but explains about the primary legal material which is the result of the processed opinions or minds of experts or experts who study a particular field specifically that will provide clues as to where the researcher will lead. What is meant by the secondary material here by the author is the doctrines contained in books, legal journals and the internet. The approaches used are statute approach and conceptual approach.

DISCUSSION

Implementation of Law No. 11/2008 on Electronic Information and Transactions against the Rise of Hoax Culture during covid-19 Pandemic in Indonesia.

Hoaxes are information that augments or subtracted the content of the actual news that occurs. Elements of manipulation and modification are used to get quite a lot of response and go viral. As well as news of the spread of Covid-19 in areas that have not been confirmed, it raises concerns for the

surrounding community. Hoax information triggers have two motives: economic and political. There are sites that are deliberately created with the aim of getting as many visits as possible, by making news full of sensation. In addition, there are also motives for channeling political aspirations through social media by creating fake news. So that there is a moral degradation that is, a deterioration and fading of attitudes, ethics, behavior of a person or group.⁵

Freedom of speech is stipulated in legislation, both as set forth in international law Article 29 of the Universal Declaration of Human Rights and Article 28 of the 1945 Constitution. This regulation has governed the freedom for the public to express themselves and express their opinions and that is already an inherent right to it in accordance with the applicable Law.

Although freedom of speech is a legal and lawful human right, it is necessary for a box or barrier that is able to protect the public from being disturbed or harmed by the freedom of speech of a person or group that can at any time cause division.

Technological advances evolve over time. The spread of information that used to run slowly only by word of mouth or print media has grown rapidly using technology

⁵ Ika Pomounda, "Perlindungan Hukum Bagi Korban Penipuan Melalui Media Elektronik (Suatu

Pendekatan Viktimologi)", *Jurnal Ilmu Hukum Legal Opinion*, Vol. 3, No. 4 (2015).

called the internet. Gathering information that used to be difficult because of inadequate access and technology is now an easy and fast thing. One can search and collect information not only on a regional or national scale, but already on an international scale. Even someone can be "the one who spreads information" simply by providing accounts from social media. This rapid dissemination of information is used by hoax spreaders to provide information that is not known to the truth. The spreaders of hoaxes provide or add information that is considered interesting enough to be consumed by the public even though the truth of the information is still questioned. Hoax spreaders also use clickbait as their weapon because people just want to know what they believe.

The government has established positive laws governing the criminal dissemination of hoax information in Indonesia, including those contained in Article 14 and Article 15 of Law No. 1 of 1946 concerning The Regulation of Criminal Law and Law No. 19 of 2016 concerning The Change of Law No. 11 Year 2008 on Electronic Information and Transactions is regulated in Article 28 paragraph (1) jo Article 45 (A) (hereby we can call it the ITE Law).

Provisions on the spread of fake news or hoaxes that may publish false hoods are governed by two provisions through Law No. 1

of 1946 on Criminal Law. Article 14 of Law No. 1 of 1946 affirms in paragraph 1 that "Whoever, by broadcasting a news or false notification knowingly publishes a false hood among the people, is punishable by imprisonment as high as ten years" and Paragraph 2 which is "Whoever issues a notice that can issue a false hood among the people, while he should be able to think that the news or notification is lying, punishable by imprisonment as high as three years".

The basis for regulating the spread of fake news or hoaxes and hate speech stipulated in Act No. 19 of 2016 Article 28 paragraphs 1 and 2 is effective because it can limit the wiggle room of the perpetrators of news and hate speech. More specifically, perpetrators can be ensnaed with other related articles namely Article 311 and 378 of the Penal Order, Article 27 paragraph 3 of Law No. 19 of 2016 on Electronic Information and Transactions, Law No. 40 of 2008 on the Elimination of Racial and Ethnic Discrimination, and the perpetrators of the spread of fake news as well as the subject of hate speech. The provisions of Article 45 between Article 45 and Article 46 are inserted 2 (two) Articles, namely Article 45A and Article 45 B so that it reads as follows:

Article 45 reads as follows:

1. Any person who knowingly and without the right to distribute and/or transmit and/or

make accessible Electronic Information and/or Electronic Documents that has a charge that violates decency as referred to in Article 27 paragraph (1) shall be sentenced to a maximum prison sentence of 6 (six) years and/or a maximum fine of one billion.

2. Any Person who knowingly and without the right to distribute and/or transmit and/or make accessible Electronic Information and/or Electronic Documents that have gambling content as referred to in Article 27 paragraph (2) shall be sentenced to a maximum prison sentence of 6 (six) years and/or a maximum fine of one billion.
3. Any person who knowingly and without the right to distribute and/or transmit and/or make accessible Electronic Information and/or Electronic Documents that has a charge of contempt and/or defamation as referred to in Article 27 paragraph (3) shall be sentenced to a maximum prison sentence of 4 (four) years and/or a maximum fine of seven hundred and fifty million.
4. Any person who knowingly and without the right to marry and/or transmit and/or make accessible Electronic Information and/or Electronic Documents that has a charge of extortion and/or threats as referred to in Article 27 paragraph (4) shall be sentenced

to a maximum prison sentence of 6 (six) years and/or a maximum fine of one billion.

Article 45A which reads as follows:

1. Any person who knowingly and without the right to spread false and misleading news resulting in consumer losses in Electronic Transactions as referred to in Article 28 paragraph (1) shall be penalized with a maximum prison sentence of 6 (six) years and/or a maximum fine of one billion.
2. Any Person who knowingly and without the right to disseminate information intended to cause hatred or hostility of certain individuals and/or community groups based on ethnic, religious, racial, and interstellar (SARA) as referred to in Article 28 paragraph (2) shall be punishable by imprisonment of a maximum of 6 (six) years and/or a maximum fine of one billion.

Article 45B namely "Any Person who knowingly and without the right to submit Electronic Information and/or Electronic Documents containing threats of violence or scaremongering directed personally as referred to in Article 29 shall be sentenced to a maximum prison sentence of 4 (four) years and/or a maximum fine of seven hundred and fifty million."

The above articles contain elements of criminal acts. The crime prohibited by this ITE Law is a criminal offence. The articles in the ITE Law above, in accordance with the meaning of

criminal offences, are expressly stipulated that criminal acts in this field are committed by a "willfulness". This carries the consequence that the perpetrator of a crime in the field of it does know and/or want for what he did. in accordance with the characteristics of criminal acts in the field of Electronic Information and Transactions. Looking at the articles in the ITE Law, it is appropriate that karena is an ordinary criminal act and not a criminal complaint. This has the consequence that although there are no reports from the public, if there are allegations or suspects, there will be and already criminal acts in the field of Information and Electronic Transactions, then the investigatory officers and investigators can immediately conduct processing i.e. conducting investigations and investigations, without the need to wait for reports from the public.

Special Article 45 paragraph (3) based on Article 45 paragraph (5) is a criminal complaint. this is in accordance with the ruling of the Constitutional Court No. 50/puu-vi/2008 that the criminal code is a "cumulative alternative criminal", this appears to be the set of "imprisonment and/or criminal fines. The criminal provisions in the field of ITE (Law 11/2008 jo Uu 19/2016) make it clear that any person who is a criminal threat 45 (1) (2) intentionally and without the right to distribute and/or transmit and/or make accessible

electronic information and/or electronic documents that have an infringing charge: decency, gambling and extortion charges and/or threats of imprisonment for a maximum of 6 years and/or a maximum fine of Rp. 1 billion. Furthermore Article 45 (3) states that any person intentionally and without the right to distribute and/or transmit and/or make accessible electronic information and/or electronic documents that have a charge of contempt and/or criminal defamation of record: a. under article 45 paragraph (5), constitutes a criminal complaint. This is in accordance with the constitutional court's ruling that the penalty is given a maximum prison term of 4 years and/or a maximum fine of seven hundred and fifty million.

Although every citizen has the right and freedom to use the information of the 1945 Constitution (hereby abbreviated as the 1945 Constitution) states that such rights must still be restricted in order to respect the rights and freedoms of others as well as as set out in Article 28 J paragraph 2.

In exercising their rights and freedoms, each person shall be subject to the restrictions set by law with the sole intent to guarantee and respect the rights and freedoms of others, to fulfill the demands of the just in accordance with the moral considerations, values of religious values, security, and public order in a democratic society.

Information management is important for the country and controlling the lives of the people. According to the 1945 Constitution, this needs to be controlled by the state for the benefit of the people. The reach of this Law is not only in Indonesia, but around the world. Anyone and any of these parties, if the party conducts any activity (regarding information and Electronic transactions) that has legal consequences in Indonesia or harms Indonesia's interests, the party may be entangled in this ITE Law. This is in light of the use of technology that is cross-territorial/universal. Some definitions of "harming Indonesia's interests" are explained in the explanation section of the ITE Law, namely:

1. Detrimental to national economic interests.
2. Strategic data protection.
3. Dignity and dignity of the nation.
4. Defense and security of the country.
5. Sovereignty, citizens and legal entities.

According to the ITE Law, electronic information and printouts are valid legal evidence (with the exception of certain letters stated in law, the letter must be in written form). Some of the letters that are exceptions are securities and securities used in the law enforcement process.

Anyone can declare rights, strengthen existing rights, or deny the rights of others

based on such electronic information. But he must ensure that the electronic information is valid and qualified, namely: accessed, displayed, guaranteed integrity and accountable so as to explain a situation. In line with his opinion. Freedom of expression is the absolute right of every Indonesian who is included in the 1945 Constitution. Freedom of expression both verbally and in writing does not mean a freedom without limitation, but rather a freedom that is accountable, and follows the prevailing norms. Freedom that does not follow the norm may lead to a Hate Speech).⁶

The ITE Act has provided material and procedural provisions. Thus the ITE Law provides and ensures legal certainty in carrying out activities through electronic systems. But according to the authors of crime violations in the field of ITE still remains quite high both in terms of quantity and quality and the influence of ite law since enacted with a decrease in the number of insignificant violations seen. The Prosecutor's Office said that the effect of the ITE Law on the increase or decrease in violations in the ITE field should be the application of ite law currently affects the reduction of violations in the field of ITE but to obtain an accurate answer should be done

⁶ Rahmawati N, Syahrin A, Mulyadi, *Implikasi Perubahan Undang-Undang Informasi dan Transaksi*

Elektronik Terhadap Tindak Pidana Ujaran Kebencian (Hate Speech), Jurnal Mahupiki Vol 1.

research to examine the effective application of the law.⁷

The spread of hoax news and hate speech in Indonesia caused chaos and unrest in the community. This can be said by social media users to be a smarter and more selective netter and be careful of any news or information spread. In addition, the public should be able to understand the negative impact that occurs when using social media so that it is not entangled in the ITE Law. In addition, the faster and more digital technology develops today, the more diverse new crimes are committed through digital media. The government is expected to respond more quickly to hoaxes circulating in the community so as to minimize the noise or unrest that occurs in the community and the Government should be more active in socializing the ITE Law so that the public understands more how to use social media and the internet intelligently and wisely and presume that social media and the internet are used for good. Law No. 19 of 2016 article 28 paragraphs 1 and 2 is already running its maximum because it can limit the wiggle room of the perpetrators of news and hate speech. More specifically, the perpetrator can be ensaned with other related articles namely

article 311 and 378 of the Consumer Order, Article 27 paragraph 3 of Law No. 19 of 2016 on Electronic Information and Transactions.

The Electronic Information and Transaction Act will be very helpful to the public in using social media wisely when socialized and implemented correctly. The ITE Act has explained various provisions on how to use social media well and wisely, but the provisions of criminal imposition for someone who spreads hoax news and hate speech are still less clear. With the latest Electronic Information and Transaction Act it is expected that the public will be able to understand do or don't when using social media.⁸

How To Prevent The Culture Of Spreading Hoaxes During The Covid-19 Pandemic In Indonesia Today.

A number of fake news alias hoaxes circulated amid the spread of Covid-19 in Indonesia, one of which was the news of the closure of a number of toll gates to Jakarta due to the lockdown, Chinese Foreign Workers entering Kendari in the midst of the Covid-19 outbreak, the market was closed due to Covid-19, and so on. As a result of the spread of the hoax, state security agencies have been carrying out various efforts to tackle crimes in the field of information technology. The police

⁷ *Ibid* p.p. 7

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<http://www.hukumonline.com/berita/baca/lt58636cf3cc4>

[d 7/uu-ite-baru-dan-risiko-hukum-bagi-pengguna-media- sosial](http://www.hukumonline.com/berita/baca/lt58636cf3cc4). Diakses pada tanggal 26-07-2020

are conducting investigations into activities related to computer technology, information technology, electronic technology, communication technology and broadcasting technology as well as using forensic computer laboratories to support the investigation of crimes in cyberspace.⁹

In the current state of the Covid-19 pandemic, there is a growing number of hoaxes, and the information is causing confusion and public unrest. Every community has a great responsibility to reduce the spread of mis information and ensure that information that has been widely disseminated provides the right, correct, and verified information. There are several steps that people can take in reducing the spread of hoax news, namely by being skeptical of headlines, paying attention to the URL and content of the news, by opening a new browser and comparing urls with trusted sources, recording the news by comparing the news mentioned with other news.

Journalists also have a very important role in warding off hoax news that is increasingly circulating in online media. The steps that journalists can take to prevent the spread of hoax news by committing to prevent

hoax news, because the media has an important role for the public in obtaining information, therefore the fact and reality of an information is urgently needed, and hoaxes have a great risk to their readers, as well as the existing journalistic code of conduct. commitment in preventing hoax news by verifying under the Cyber Media News Guidelines. Regarding verification, the Press Council made efforts to prevent 'media abal-abal' from spreading thousands of hoaxes by verifying press companies in advance.¹⁰ The skill of processing a news material must be possessed by every journalist, ranging from the process of planning, news search, checking a news story, and disseminating a news story. In addition in the scope of children the role of parents is also very important in the prevention of hoax news, parents can provide HP, with strict supervision. By creating a schedule for using HP, such as on Saturdays and Sundays, so that working parents can keep an eye on it directly. As long as the use of hand phone or computer is useful, parents must also give permission, with the full responsibility of their children.¹¹

⁹ Hanik Chumairoh, *Ancaman Berita Bohong di Tengah Pandemi Covid-19*, Jurnal VOX Populi Vol 3.

¹⁰ Nadia Desti Manika, Imron Rosyidi, Enjang Muhaemin, *"Strategi Wartawan Online dalam Mencegah Berita Hoax"*, Jurnal Ilmu Jurnalistik ,Volume 3, Nomor 4, 2018, p.p. 39-56

¹¹ Maria Cleopatra, Sara Sahrazad, Lusiana Wulansari *"Peran Orang Tua dan Guru dalam Mencegah Berita "Hoax " Pada Siswa SMP"* <https://jurnal.unibrah.ac.id/index.php/J>, Vol. 6 , No. 2 , April 2020

In an effort to combat information technology crime, the Police have cooperated with special units in the Criminal Reserse Agency (Bareskrim) mabes Polri namely Directorate II Economic and Special VIT Unit and cyber crime management in several Regional Police. The police will provide the best stewards to explore the full ness of the problem in the field of information technology. The Ministry of Communication and Informatics which has power over the information circulating Indonesia has also found a wide range of hoax information related to Covid-19 that has been circulated in various online media so that it is expected to be able to straighten out hoax information that is already circulating so that panic that will and may occur in the community can be prevented.¹²

In addition to criminal threats, the government also provides public services in seeking information on crimes in the media or hoaxes. The Ministry of Information has provided a complaints facility for people who feel tainted by their good name through the media of the time, through <https://dumas.kominfo.go.id/>. The efforts that the government is making in countering hoax information circulating to the public, the

information can be accessed through online sites.¹³

CLOSING

Article 28 paragraphs 1 and 2 Law No. 19 of 2016 is effective because it can limit the wiggle room of preachers and hate speech. More specifically, the perpetrator can be ensaned with other related articles namely article 311 and 378 of the Consumer Order, Article 27 paragraph 3 of Law No. 19 of 2016 on Electronic Information and Transactions.

Crimes in the digital age have deeply troubled society, such as murder, kidnapping, crime and so on. In the midst of the Covid-19 pandemic, there is a lot of information in the mass media that is becoming a scourge and a devi ical of the truth. Unknowable news or hoaxes are becoming one of the most widespread crimes in cyberspace. Hoax information has a negative impact on people who are still low in literacy rates.

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¹² www.hukumonline.com/berita/baca/lt5e42423f95328/langkah-langkah-mitigasi-risiko-dalam-antisipasi-informasi-hoax-virus-corona, retrieved 26 July 2020.

¹³ Wahid Nashihuddin, *Penangkal Informasi Hoax di Masyarakat*, 2017.

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