



# Democracy, Freedom of Speech in the Digital Era: Social Media Wise

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**Abstract.** The existence of the law has regulated the follow-up to cybercrime or cybercrime in the hate speech category through the laws in the Criminal Code and the ITE Law. Not enough to solve the problem, the law actually creates a negative stigma in the form of restrictions on freedom of expression. The purpose of writing this research journal is to find out how democracy views freedom of expression, what the role of society and government should be in keeping up with the times, and how the role of law in overcoming cybercrime in Indonesia should be. Furthermore, it is hoped that this research can answer the problems found, provide an overview of the wise way of social media, and make it easier for readers to know the difference between criticism and insults. The research method used is a descriptive analytic method where the author tries to provide an overview based on facts and data that has been collected. The results show that hate speech arises due to unscrupulous spreaders of slander or hoax news so that it leads the opinions of other social media users to also hate people who are slandered and the loss of people's trust due to the government not fulfilling its promises.

**Keywords:** Cybercrime · freedom of speech · democracy · social media wise

## 1 Introduction

Internet as one of the products of the industrial revolution 3.0 has brought great benefits to human life. Various other advanced technologies developed rapidly until the industrial revolution 4.0 took place. The development of internet technology makes it easy for humans to help complete their daily work. For the example, social media platforms that can be used as promotional media, means of socialization, communication, and so on. However, these advances do not necessarily make work easier, users are required to be wiser in their use because in addition to the perceived positive impact, negative impacts can appear at any time.

Responding to the rapid advances in technology, the government has begun to look at the idea of e-government, along with the use of internet technology in other fields such as e-commerce, e-business, e-education, and others. This development also has a great influence on the law in Indonesia. As we know that the legal basis in Indonesia is the 1945 Constitution which the contents of the law must not be distorted. This is where

the biggest challenge for the law is to be able to move with the times without deviating from the existing legal basis. The challenge in question is in the form of cyber-crime or often referred to as cyber-crime.

Cyber-crime has different forms, motives, and goals, depending on who is doing it and what it is for. One form of cybercrime that is often encountered and very prone to occur is defamation, especially with regard to government. This crime will be made more complicated when the hate speechwriter hides behind a fake account that will disguise his true identity, although there is also a piece of technology that can clearly track who is behind the account. The next shield that can be used is freedom of expression. The fusion of boundaries between criticism and insults makes each person's perspective different in responding to a sentence circulating in cyberspace. If allowed to continue, it is possible that public trust in the government is at stake. Especially now that the Draft Criminal Code (KUHP) is about to punish people who insult the president or vice president. As a result, a public stereotype emerges that the government is anti-critic, even though criticism and insults are two very different things.

On the other hand, hoax news that is very easy to circulate will create panic in the community. Moreover, many social media users are too easy to believe the rumors circulating without finding out the authenticity of the news. It often happens that social media users argue about a topic that is not really important, causing divisions between them. If the situation continues and people are not aware of the importance of being wise in social media, it will certainly endanger the unity and integrity of the nation that has been maintained since previous generations.

Based on this description, the formulation of the problem that can be arranged is:

1. How does the law regulate cyber crime that is rife, especially regarding hate speech against the government?
2. How does democracy view freedom of expression?
3. How should society and government act to keep up with the changing times?

## 2 Method Research

This journal is compiled based on descriptive analytical method where the author tries to provide an overview based on facts and data that has been collected. Furthermore, the journal is accompanied by quantitative data where the data emphasizes the use of numbers and is supported by the use of graphs, making it easier for the author to clarify the topic of discussion. The data was obtained from the library through access to internet sites in the form of books, journals, and *websites*. The expected result of this writing is to know how to take legal action in resolving cyber-crime cases, especially related to hate speech against the government. Furthermore, journal writing is expected to provide an overview of how to use social media wisely and make it easier for readers to know the difference between criticism and insults.

### 3 Discussion

#### 3.1 How Does the Law Regulate Cyber-Crime That Is Rife, Especially Regarding Hate Speech Against the Government?

Entering the fast-paced era, the existence of the internet seems to melt the dividing walls between countries around the world. We can find out what is happening in the other hemisphere simply through internet access. Various kinds of information that you want to know is also available on the internet. As if humans in this era will not be able to live without the internet. The benefit that is most felt and very close to everyday life is the existence of social media, where all information and communication can be accessed briefly in just one hand. In Indonesia itself, both individuals, groups, and organizations have implemented and used electronic services, so that activities that were previously carried out directly and face-to-face, can now be done via online and simply at home.

The convenience of today's technology has actually been predicted by 'futurologists' that this century, which is the 20th century, is an information age where people who control information will win the competition, on the other hand people who cannot master information will be left behind because the world of technology is indeed running massively and efficiently fast. Indeed, there will be no end if we discuss the convenience that is felt due to the rapid development of technology. However, it turns out that there is a negative impact of technology which is even very close and is often not realized by the public, one of which is a moral and mental crisis. Talking about morals must be closely related to the character or individual in which the nature or personality in a character appears none other than his own environment.

Each individual or a group of people has their own characteristics or characteristics. According to Masnur Muslich, character is the values of human behavior related to God Almighty, oneself, fellow human beings, the environment, and nationality which are manifested in thoughts, attitudes, feelings, words, and actions based on religious norms, laws, governance. Manners, culture, and customs.[1] Like the Indonesian people, the character that comes from eastern customs has been reflected in the characteristics of its people who uphold high values, moral ethics, and politeness. Moreover, Indonesia has Pancasila as the basis and view of the nation's life whose values are derived and extracted from the customs and habits of the Indonesian people, such as the values of divinity, humanity, unity, democracy, and justice. It is an obligation for the next generation of the nation to continue to preserve and maintain the noble values of Indonesian culture. However, in reality what is happening is cultural degradation by millennials, both physical and non-physical. This happens because of the influence of globalization where western cultures that enter without a filter cause the tendency of selfish and individual nature to increase. This condition is exacerbated again by technological advances that actually bring people into cyberspace and as we have felt, the existence of this virtual world is indeed able to bring the far away but actually distances the close, even though it is the closest environment that can play an active role in monitoring the development of one's character.

Talking about character, it has been explained previously that there is a cultural degradation and moral crisis in Indonesia due to the current of globalization, where western culture which tends to be individualistic and selfish dominates the character so

that hate speech is often encountered *in the* mass media. Before discussing further about the findings of hate speech, according to the KBBI the definition of “speech” is speech or dialogue, then “hate” means feelings of hatred or hate traits so that hate speech can be interpreted as speech that calls for hatred against certain people or groups. Furthermore, According to the Head of the Public Information Bureau, Brigadier General Mohammad Iqbal, the National Police has detected hundreds of provocative content containing ethnic, religious, racial and intergroup (SARA) speeches, hoaxes, and hate speech throughout 2018 [2]. As of March 6, 2018, there were 642 provocative content [2]. The spread of hoax news and hate speech is already an act of cybercrime or cybercrime where some of the hate speech contains cyberbullying, the crime attacks the victim’s psyche with words that demean or humiliate, even worse, this cyberbullying has a lasting impact on the victim.

Lately, many social media users have sent hateful sentences, especially those aimed at the government, until the Draft Criminal Code Articles 217 to 220 concerning the punishment of people who insult the president or vice president appear. This regulation raises a negative public stigma against that the current government is anti-critic and will return to being like the old order under the leadership of Suharto, the second president of the Republic of Indonesia. Indeed, there are pros and cons of the bill, but when viewed again, the level of politeness in social media by the Indonesian people is relatively low. This is evidenced from the DCI (Digital Civility Index) survey conducted by Microsoft as follows:

Based on the diagram, it can be seen that Indonesia ranks at the bottom with a fairly high number of points. The way to read the diagram is that if the points shown are higher in the range 0–100, then the level of politeness is considered lower, and vice versa if the points shown are few, it means that the level of politeness is higher. This means that Indonesia is ranked first in the category of population impoliteness in social media throughout the Asia Pacific. It is clear that the norms of decency are starting to fade, even though noble character is one of the identities of the Indonesian people. Furthermore, according to the survey, the high impoliteness of Indonesian netizens at 47% was caused by fraud and the circulation of hoax news and 27% risk of hate speech [3].

For more details regarding cybercrimes related to hate speech due to slander or the circulation of hoax news, an example of an incident is included, namely the case of Muhammad Tamim Perdede, a 45-year-old man who was arrested for spreading hate speech against President Jokowi and the National Police Chief Tito Karnavian through uploads. on his youtube channel. In one of the videos he uploaded, he said that Jokowi sided with the communists and Tito was an accomplice of Jokowi who also believed in communism. In addition, Tamim also often carries around his LIPI research professor title. After being investigated by LIPI, he was never confirmed as a research professor at his institution. So his professorship title is limited to a one-sided claim or just admitting it. Jakarta High Court in its decision no, 326/Pid.sus/2017 PT. DKI declared Muhammad Tamim Pardede a defendant [4].

Based on this case, it can be seen that individuals who carry out hate speech by spreading hoaxes can be subject to witnesses in the form of criminal sanctions because of the spread of hate speech even through social media such as YouTube which can be seen by anyone and does not rule out the possibility that the content will lead to

public opinion so that the image of governance is bad. It is not enough to worsen the government's image, but it can also weaken public confidence in the government. If public trust begins to fade, it is possible that the public will be easily instigated by elements to take action against the government and division will also be present in it. To overcome this, the law comes with various regulations that must be obeyed by all Indonesian people without exception, as follows:

- a. Article 310 of the Criminal Code which reads:
  - (1) Any person who intentionally damages the honor or reputation of a person by accusing him of committing an act with a clear intention to make the accusation public, shall be punished for blasphemy, with a maximum imprisonment of nine months or a maximum fine of Rp. 4,500.
  - (2) If this is enforced by means of writing or pictures that are broadcast, publicly displayed or affixed, then those who do so are punished for blasphemy by writing with a maximum imprisonment of one year and four months or a maximum fine of Rp. 4,500.
  - (3) It does not include insulting or blaspheming with writing, if it turns out that the maker is doing it for the public interest or because he is forced to defend himself. In paragraph (3), whether or not the defense of the public interest and the self-defense submitted by the suspect lies in the judge's scales.
- b. Article 311 paragraph (1) of the Criminal Code, which reads "Anyone who commits the crime of blasphemy or blasphemy in writing, if he is permitted to prove and if the accusation is made while it is known to be untrue, is punished for wrongfully slandering with a maximum imprisonment of four years."
- c. Article 315 of the Criminal Code, which reads "Every deliberate insult that is not in the nature of defamation or written defamation committed against a person, either in public orally or in writing, or in front of the person himself by word of mouth or deed, or by a letter sent or received to him, shall be threatened with light contempt with a maximum imprisonment of four months and two weeks or a maximum fine of four thousand five hundred rupiahs.

After the existence of the internet, it is regulated in the provisions of the ITE Law, namely:

- a. Article 27 paragraph (3) of the ITE Law, which reads: "Everyone intentionally and without rights distributes and/or transmits and/or makes accessible electronic information and/or electronic documents containing insults and/or defamation"
- b. Article 45 of the ITE Law, which reads: (1) Anyone who fulfills the elements as referred to in Article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4) shall be sentenced to a maximum imprisonment of 6 (six) years.) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah).

In addition to the law above, there is still a draft law (RUU) of the Criminal Code which is currently being controversial among social media users, the bill contains the following:

- a. Article 218
  - (1) Any person who publicly attacks the honor or dignity of the President or Vice President shall be sentenced to a maximum imprisonment of 3 (three) years and 6 (six) months or a maximum fine of category IV.
  - (2) It is not an attack on honor or dignity as referred to in paragraph (1) if the act is carried out in the public interest or for self-defense.
- b. Article 219: Anyone who broadcasts, displays, or attaches writing or pictures so that they are visible to the public, listens to recordings so that they can be heard by the public, or disseminates by means of information technology which contains attacks on honor or dignity against the President or Vice President with the intention that the contents are known or known to the public, shall be sentenced to a maximum imprisonment of 4 (four) years and 6 (six) months or a maximum fine of category IV.

The article in the bill above has become controversial because the people who are against it consider the existence of the article as the embodiment of an anti-criticism government, even though if it is reviewed, every citizen has the right to maintain their dignity [5].

### 3.2 How Does Democracy View Freedom of Expression?

Democracy consists of 2 words namely “*demos*” and “*kratos*” which in Greek *demos* means the audience or the people and *kratos* means the government so that the word democracy can be interpreted as a system of government that gives the people the right to participate in the decision-making process in politics and government, as well as the right to freedom of opinion. Next, the meaning of freedom of opinion. According to the KBBI, “freedom” means a state of being free or independent, while “opinion” means having an opinion or expressing an opinion. It can be interpreted as a condition where a person is free or free from obstacles to express his thoughts regarding people or events. However, it must be underlined that freedom in a democracy is limited by the obligations and rights of others. In more detail, this freedom of expression has been regulated in the 1945 Constitution article 28E paragraph (3) which mandates “Everyone has the right to freedom of association, assembly and expression,” of course the meaning of freedom of opinion here is freedom to express ideas or thoughts to others in public through any media provided that the opinions expressed must not deviate from the norms of decency and ethics that apply in society. Furthermore, the freedom referred to in the article is a responsible freedom, meaning that the rights owned by individuals are also limited by the rights of other individuals, so that the enjoyment of the rights they have must not interfere with the enjoyment of the rights of others. If freedom is interpreted as freedom as broadly as possible, then it is no longer called freedom, but anarchy.

In addition to Article 28E paragraph (3), freedom of expression is also discussed in Article 28F which reads “Everyone has the right to communicate and obtain information to develop his personal and social environment, and has the right to seek, obtain, possess, store, process, and convey information. by using all types of available channels” and explained in Article 28J paragraph (2) “In exercising his rights and freedoms, everyone is obliged to comply with the restrictions stipulated by law with a view to guaranteeing

recognition and respect for the rights and freedoms of others and to fulfill just demands in accordance with considerations of morals, religious values, security, and public order in a democratic society [6]. Seeing the development of increasingly sophisticated technology, through social media platforms we can upload an event or write thoughts that can directly spread to other countries depending on the type of platform used. This can make it easier for social media users to exchange opinions and share thoughts in a short time. The wider the scope of social media, the wider the ideas obtained. The use of the internet in Indonesia has spread to various circles, including children, teenagers, adults, and even the elderly.

Based on the diagram above, the level of internet use is higher if the level of education is also higher. This shows that the more educated a person is, the higher the level of internet use in his life. However, high education does not guarantee one's morality. Even though many internet users are educated, in reality, social media platforms are filled with public comments that smell like SARA or fall into the category of defamation. It's a shame because some of the social media users, even though they are educated, can't distinguish which ones are criticisms which are insults.

It is often found that the performance of the people's representatives is not in line with the people's expectations or even breaks their promises when they used to campaign for support. Because they are annoyed, social media users in Indonesia say negative words that undermine the dignity of the person concerned in the name of criticism. True criticism is a response that provides input, not insults. How can people who are criticized can change their attitudes and behavior if other people can't correct and point out their mistakes but instead insult them. Not infrequently the news that is rumored is also hoax news or slander, so it is very detrimental to the parties concerned. This clearly violates the rights of others, one of which is civil rights, namely the right to a good name.[7].

### **3.3 How Should Society and Government Act to Keep Up with the Changing Times?**

Every hour, minute, even second news about events that occur in all parts of the world is always moving and updated. Thousands of news sources spread on the Internet freely so that it can be accessed by anyone and at any time. For that, it is necessary to know how to sort and select the news that is important to know and which media platforms can be trusted. Here are some ways that the author recommends to be able to find out the truth of a news.

1. Identify the source of the news whether it comes from the official press media or the official institution concerned or not.
2. Avoid news with provocative titles.
3. Avoid news content that leads to opinion.
4. Comparing news published in various media platforms.
5. Check the authenticity of the attached photo or video.
6. Cultivate literacy.

As a good citizen, you should be able to choose and sort out which actions are good and which are bad. In following the flow of changing times, it is very good if you can adapt

so as not to fall behind. However, in terms of using social media, it is better to be wiser and don't be easily swayed by hoax news that can cause division. Get in the habit of cross-checking any news circulating before disseminating it. Furthermore, the author provides tips to distinguish which opinions contain elements of criticism and which are insulting. If the opinion contains elements of attacking honor, demeaning, harassing, discriminatory, or slanderous, it is considered an insult. Meanwhile, if the opinion contains elements of facts without the addition of spices, lies are included in criticism. It is even better if the criticism conveyed is a constructive criticism accompanied by a solution so that the criticized person can improve himself for the better. Therefore, if you really want to use your right to have an opinion, think wisely and politely so that the criticism can improve the situation, not make things worse. The predicate of the most disrespectful country in Asia Pacific is not an achievement to be proud of. Indonesia has been known since ancient times as a friendly nation so that national integration can be created even in diversity. This hospitality has become part of the national identity that must be maintained by all Indonesian people without exception.

As people's representatives who have been trusted to manage the government, they should prioritize the interests of the people over personal interests, so that the people can trust the government's performance and there is no gap for the people to be instigated by hoax news that worsens the image of the government. However, the image of the nation lies in how the people respect their leaders and how the leaders make their people prosperous.

#### **4 Conclusions and Suggestions**

Hate speech is included in the category of cybercrime where in Indonesia itself there are legal arrangements, both those stated in the Criminal Code and the ITE Law the protection of self-esteem is not only devoted to the government, but also to all Indonesian people. It's just that the good name of officials concerns the nation's pride in front of other nations. So that both officials and citizens themselves are obliged to maintain the dignity of the nation by completing their responsibilities properly and using their rights wisely.

Freedom of expression is an opinion or criticism in public in a responsible manner, so that the words that are issued do not harm others and are beneficial for both those who are criticized and others. As an official, you should listen to the aspirations of the people and want to improve yourself, while as a people you should respect and respect a leader. So, if you want to convey criticism, convey it wisely and responsibly in accordance with the norms and ethics that apply in society.

Technology makes it easy for us to communicate with other people within an unlimited range. However, technological advances should be used for positive things that can improve the country, not even spreading hoax news so as to cause panic in the community so that it is prone to division and loss of trust.

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