



The Urgency of Applying the Information and Electronic Technology Law in the Case of the Spread of the Covid-19 Pandemic Hoax in Indonesia

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Abstract. The industrial revolution 4.0 has an impact on legal, governance, and social justice events. The era of digitalization 4.0 has caused changes in most sectors of human life, especially the economic and technology sectors. The Data and Electronic Transaction Law, abbreviated as the ITE Law, must be able to protect various legal interests to maintain freedom of expression, and opinion orally and in writing. In addition, it is related to the legal interest to maintain freedom of communication and obtaining information as a constitutional right of citizens. Data and communication technology incidents require the government to make the ITE Law and implement the law. This article discusses a lot of hoaxes, hatespeech, and cyberbullying information that is spread by individuals through Social Media and Instant Messaging which tends to smell SARA, provocative and bombastic. The irony is that there are not a few people who, without thinking twice, immediately share the information and even reproduce the information without thinking about the impact afterward. The ITE Law must be ready to present enthusiasm to keep Indonesia's digital space clean, healthy, ethical, and productive. Hoax news complicates the situation and can cause chaos in society. Therefore it is important for law enforcers to prevent, minimize, and re-conducive and be supported by a set of enforcement and accountability rules for the perpetrators of spreading Hoax News that caused chaos during the Covid-19 pandemic.

Keywords: UU ITE · Hoax · Information and Communication Technology · Era of Digitalization

1 Introduction

Indonesia is a legal state with many different cultures and customs adopted by the people. Moreover, the legal umbrella held by this nation consists of law positive law, Islamic law, and customary law. Harmonization between the three is very much needed in progress and legal reform in Indonesia. In the formation of the government must be able to pay attention to the legal culture that exists in society and the community's perspective against the law. Seeing this is accompanied by the emergence of the Industrial Revolution 4.0 trend and various the impact, simultaneously new and complex problems emerge the

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new problem. So some problems cannot be completely resolved, because there are no rules governing the matter in the law, which then cause the effect of inequality in social life.

Currently in Indonesia, there are rampant incidents of the spread of fake news or called Hoaxes. The spread of hoax news is very troubling for the community in Indonesia because many parties feel aggrieved by the incident. Along with the development of technology, people are getting easier information from various social media applications including Instagram, LINE, and Whatsapp but it's easier for irresponsible parties to do it spreading fake news.

The government with its policies issued a law known as the ITE law which aims to deal with problems that arise in society. The law was formed by mutual agreement in a plenary meeting between the government with the DPR. The results of the agreement contain an essential message for the community to build ethics in the use of social media so that they are more careful and wise in their use of social media using social media [1].

The expansion of information and communication technology has eliminated national boundaries and sparked profound and quick societal transformation. Information and communication technology advancements make it simpler for individuals to receive and distribute information to a larger population, enabling unrestricted connection over time and space. The development of information and communication technology requires the public to be able to follow every event that occurs. Social changes caused by the development of information and communication technology have given rise to a new phenomenon in today's society, where there is a change from ordinary communication to online communication and changes in wider community interaction patterns, such as business interactions, economic interactions, social interactions, and social interactions. Cultural interaction.

Law, government, and social justice are all impacted by the degree of the fourth industrial revolution. Nearly every aspect of human existence is changing in the globalization 4.0 age, particularly in the economic and technological fields. Klaus Schwab's explanation of the Industrial Revolution was offered in the 2016 Forum [2]. Yearly gathering of the global economic forum, "The boundaries between the physical, digital, and biological spherule are blurring in the fourth historic epoch," The borders between the physical, digital, and biological worlds are blurred by the industrial revolution, and national boundaries are blurred by globalization [3]. It is a necessity for Indonesia at this time to transform into a digital space. So that in the era of digital transformation, especially during the Covid- 19 pandemic, it has a very important role. Therefore, adequate legal institutions are needed to maintain and oversee the digital space used and utilized for things that are safe, clean, conducive, productive and beneficial to the community. On the other hand, it must be able to guarantee the fulfillment of a sense of community justice.

Any information distributed by social and electronic media to both people and businesses can have an impact on the recipients if it has been delivered and read by a large number of people. If the information being given is false, it will be about hoaxes with extremely provocative headlines that influence readers' and receivers' perceptions negatively. Hateful remarks, slander, and attacks on individuals or groups are tolerated. These

actions can affect the parties involved, destroy their reputations, and result in financial loss.

At this time we are dealing with the existence of covid-19 (corona virus disease-19) which is infecting the whole world. Initially the virus originated in Wuhan, China at the end of December 2019 until finally the virus spread and entered Indonesia. There was confusion in the news when Covid-19 entered Indonesia, starting from information on the spread of the virus to the prevention and handling of Covid-19. The spread of news about the virus was initially underestimated by the government so that the handling of Covid-19 was relatively slow, plus the spread of Hoax News spread by irresponsible parties caused panic and even caused commotion in society, for example panic buying of basic necessities and medical devices such as masks, hand sanitizers until hoarding occurred which resulted in the prices of basic needs and medical devices getting out of control and skyrocketing drastically.

Additionally, it relates to the legal interest in upholding justice, freedom of speech, and access to information as rights that are guaranteed to citizens under Article 28F of the 1945 Constitution of the Republic of Indonesia, as well as the fundamental right to uphold dignity and respect for others. The Republic of Indonesia's 1945 Constitution's Article 28G paragraph (1) safeguards the honor, reputation, and dignity of others. The Electronic Information and Transaction Law, often known as UU ITE, must be able to guarantee a variety of legal interests in order to preserve the ability to express one's thoughts both orally and in writing.

These legal interests must be subject to regulations and limitations by law because everyone has obligations towards their community and in the exercise of their rights and powers, everyone can only be limited by law solely to affirm proper recognition and respect for the rights and freedoms of others. As determined by Article 28J of the 1945 Constitution of the Republic of Indonesia. The crucial issue is the articles on insults and/or defamation according to the Criminal Code, the ITE Law, and their arrangements in the Criminal Code Bill [4]. The discussion of the ITE Law is absolutely necessary to become the basis for the use of knowledge technology, especially as a legal umbrella to defeat various unlawful acts and violations of knowledge technology crimes (Cyber Crime) [4].

From several examples of Hoax News cases during the Covid-19 pandemic emergency, the impact of spread of Hoax News has had a major impact on people's lives during the current Covid-19 pandemic. With internet access to obtain information easily and quickly, it can lead to inaccurate or easily conveyed information to all levels of society, and the public can also easily create news and write on social media with news content that is much more interesting than the usual news media. Fakes are made in such a way as to attract public reading interest.

The lack of knowledge in the community and the laziness factor in finding out the truth of a news story makes the spread of hoax news happen very quickly. The general objective of this research is to increase knowledge about the impact on society of Hoax News during the current Covid-19 pandemic. While the specific objective to be achieved in this research is to analyze law enforcement against the spread of Hoax News which caused upheaval during the Covid-19 pandemic emergency which can be qualified as a crime based on statutory regulations.

2 Method Research

Legal research is the act of locating the rule of law, legal doctrine, and legal principles in order to address the fundamental challenges at hand. Finding the truth of coherence through legal research entails determining whether the rule of law is consistent with legal norms, whether those norms take the form of commands or prohibitions that are consistent with legal principles, and whether an individual's actions are consistent with those legal norms or legal principles [5].

From the point of view of legal research, this research uses a type of doctrinal research (doctrinal research), namely research that uses legal materials as a basis that focuses on studying primary and secondary legal materials in order to produce arguments, or new concept theories as an effort prescription in solving problems encountered. The nature of the research used in writing this law is prescriptive research, namely legal research to study the purpose of the law, values of justice, the validity of the rule of law, legal concepts, and legal norms. As a consequence of the prescriptive nature of legal science, legal research also applies standard procedures, provisions, and signs in implementing the rules as a step in the application of substantial law. The approach used in this study is a case approach and a conceptual approach. The case approach carried out by examining cases related to the issues at hand has become a court decision that has a permanent legal force which will be studied based on legal interpretation theory as an effort to find the ratio of decisions or reasons, namely court considerations to arrive at a decision [5].

3 Discussion

The public currently finds it relatively simple to trust hoax news, especially in light of the increasingly sophisticated technological advancements that have accelerated the distribution of hoax news. Today's technological advancements have both positive and negative effects; on the one hand, they make it easier and faster to access information, but on the other, they can strain social ties and have an adverse effect on the future of the country, especially given the never-ending supply of unfiltered information. This tragedy happened as a result of a lack of instruction in digital literacy. In an effort to ward off hoax news, the government is making various programs that can be made by the public to think critically in obtaining and reading the information received, namely through a literacy culture. Literacy culture is very important so that people can filter out fake news or news that they receive.

In the era of information technology, laws and regulations need to be seen from various aspects. For example in the realm of the use and development of jurisdiction and legal conflicts, the internet and the rule of law, legality of laws regarding electronic signatures, how to document domain agreements and content management, as well as privacy and consumer protection, more about cybercrime [6].

Development in terms of law has two meanings, including; First, to update existing laws, one of which is to renew positive law towards modernization of law as an effort to keep pace with the rapid development of the times. Second, the law can be a tool functional, in the sense that the law simultaneously participates in carrying out social changes by the community that seeks to take part in the process of legal reform. No

legal reforms are limited to legislative activities, but to efforts to make laws as a social engineering tool. Therefore, legal development can be translated in a way in the process of amending law to update the existing law old ones that are no longer relevant to the conditions of society [7].

Information technology can be a general term for digital technology that helps humans in creating, communicating, storing, transforming and disseminating information. The development of data and communication technology causes changes in overall aspects, among others; significant social, economic, and cultural aspects and progresses quickly. The use of digital technology has changed both the behavior of society and human civilization globally, especially during the Covid-19 pandemic when most physical activity has shifted to digital. The greater the influence of knowledge technology in human life, the greater the opportunity for knowledge technology to be misused. In reality, many bad things can happen through details technology. Therefore, the government feels that information technology must not only be considered, but also must be regulated by law.

As internet technology advanced, a new type of crime known as cybercrime—crime committed through an online network—emerged. The phrase “cyber law” refers to a legal area whose scope encompasses all aspects of people or legal subjects who use and utilize internet/electronic technology from the moment they go “online” and enter cyberspace. Its origins are in the field of cyberspace law [8]. The development of cyber law is well advanced in nations that have evolved in their use of the internet and electronics as tools to facilitate every part of their life. The goal of cyber law is explained in terms of attempts to handle and prevent unlawful activity. Cyber Law serves as the legal foundation for the prosecution of offences.

It is crucial that Indonesia implement Cyber Law as a legal requirement. This brings up the benefits and drawbacks for society. It is time for Indonesia to have a cyber law, according to those who are in favor of it, given the circumstances and the fact that traditional laws cannot keep up with the quick expansion of cyberspace. However, Cyber Law (UU ITE) often reaps problems and is considered to have multiple interpretations and causes chaos in the community.

The goal is Cyber Law is needed to tackle cyber crime. The emergence of several Cyber Crime cases in Indonesia, such as mastercard theft, hacking of several sites, wiretapping of other people’s data transmissions, such as e-mail, and data manipulation by preparing unwanted commands to computer programmers. As for the scope of Cyber Law, there are several things, including: Hate Speech, Trademark, Pornography, Robbery, Electronic Contracts, E-Commerce, E-Government and Consumer Protection Defamation, Copyright, Privacy, Duty Care, Criminal Liability, Hacking, Viruses, Illegal Access, Regulation Internet Resources, Procedural Flow.

Law No. 11 of 2008 Concerning Information and Electronic Transactions, along with Law No. 19 of 2016 (UU ITE), is the primary cyber law in Indonesia and the legal document that governs information technology. The law that governs electronic information and transactions is known as the electronic information and transaction law. A mixture or collection of electronic data, including but not limited to writing, voice, images, maps, drawings, photographs, electronic data exchange (EDI), and electronic email, is referred to as electronic information [9].

Criminalization is included in one of the most common legal problems, meaning that in formulating an act into a criminal act one must be careful, not arbitrary. In the policy of formulating criminal provisions in the ITE Law, reformulating conventional criminal acts in it creates problems [10]. The formulation of the most prominent offense is in the criminal act of defamation or insult. Insult is basically a very despicable act (seen from various aspects: morals, religion, social values and human rights/humanitarian values), because it “attacks/demeans human dignity” (attacks universal values); therefore, it is theoretically seen as *rechtsdelict*, intrinsically and thus also prohibited (criminalized) in various countries. When there is a policy problem in abstracto a law, the policy in concreto can actually be problematic. This case is proven in the ITE Law which has claimed many victims. Many people who shouldn’t deserve to be jailed, end up in prison anyway.

Albert Eglash coined the phrase “restorative justice” in 1977 while attempting to differentiate between three different types of criminal justice: retributive justice, distributive justice, and restorative fairness. According to Eglash, the primary objective of retributive justice is to punish those who commit the crimes they are required to commit. Distributive justice, on the other hand, attempts to heal offenders [11]. Restorative justice, on the other hand, generally adheres to the restitution principle by incorporating both victims and offenders in a procedure that tries to achieve victim recovery and offenders’ rehabilitation. Restorative justice is a procedure in which the parties engaged in a crime are heavily involved collectively, according to Marshall as cited by Antony Duff. Together to resolve by addressing future actions and implications.

In order to stop or slow the spread of the Covid-19 pandemic, the government has issued a number of legal products as well as regulations that may have unintended consequences, such as: 1) Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions (PSBB) in the Context of Accelerating Handling of Covid-19; 2) Presidential Decree No. 11 of 2020 concerning the Establishment of a Covid-19 Public Health Emergency; and 3) Presidential Decree No. 12; 4) Presidential Decree No. 9 of 2020 amending Presidential Decree No. 7 of 2020 establishing the Task Force for the Acceleration of Handling Corona Virus Disease 2019 (Covid 19); 5) Regulation of the Minister of Health No. 9 of 2020 establishing guidelines for large-scale social restrictions in the context of accelerating the management of Corona Virus Disease 2019 (Covid-19).

As stipulated in Article 28 paragraph (1) of the ITE Law, it has a very narrow meaning, namely only in the act of spreading hoax news and misdirection which results in consumer losses or can also be referred to as criminal acts in material form. The consequence of his actions is consumer losses, this can raise questions if there is no consumer loss, then the use of this article cannot be applied to ensnare the perpetrators, even though the news spread is false and misleading. On the other hand, if false and misleading reporting actually benefits consumers, then they cannot be punished under this article. So it is necessary to have legal efforts to cover these gaps, including efforts to find the law by judges and efforts to criminalize in a new cybercrime law that is more general and comprehensive in nature [12].

Meanwhile, the elements of a criminal act in Article 28 paragraph (2) of the ITE Law are:

1. Error: on purpose.
2. Against the law: without rights.
3. Action: spreading.
4. Object: information.
5. Purpose: to create feelings of hatred or hostility towards certain individuals and/or groups of people based on ethnicity, religion, race and inter-group (SARA).

Article 28 paragraph (2) of the ITE Law has the same elements as in paragraph (1), namely the element of intentional, without rights, and acts of spreading. If the first form is clearly a material criminal act. From the word “resulting in predictions” it is very clear, it is required that a consequence must arise in order for the crime to be perfect. However, Article 28 paragraph (2) of the ITE Law is not very clear, this ambiguity can lead to differences of opinion [13].

This view is in line with the purpose of punishment is to protect the general public from crime. This view is in line with the trendy conception of protecting society from crime which combines crime prevention and offender training. The paradigm of judges who views the purpose of punishment as a variety of retaliation or retribution is no longer suitable to be applied. Theoretically, the purpose of punishment has developed into a more modern direction which is now referred to as restorative justice which prioritizes “recovery/improvement of the idea of \u200bthe purpose, then punishment must contain elements, namely: humanity, education. 339/II/RES.1.1.1/2021 which contains the classification of cases handling the ITE Law regarding guidelines for handling cyber-crime cases that will be resolved with restorative justice and which cannot be resolved by referring to the articles. Resolved with restorative justice is defamation, slander, or humiliation, dividing the country, there are conditions that must be met regarding reporting, namely the reporter must directly become a victim, and cannot be represented.

The concept of restorative justice must be accommodated in the ITE Law, according to the Guidelines for the Implementation of the ITE Law, it is considered as a reference for law enforcement officials in following informing the ITE Law in the event of a dispute or dispute related to the regulation, either by the Indonesian National Police, the Attorney General’s Office of the Republic of Indonesia or the judiciary. Others in physical space. Through restorative justice, cases of violations of the ITE Law do not have to be resolved repressively or through legal channels. Justice, especially for complaints of violations such as insults and/or defamation.

In the context of Indonesian criminal law, the concept of restorative justice is also well known, especially in terms of customary offenses (customary criminal and civil law). When it comes to the approaches to restorative justice as described above, the approach that is often used in customary law institutions in Indonesia is community reparation boards and citizens’ panels.

Restorative justice or restorative justice is an approach that aims to build a justice system that is sensitive to the problems of victims. Restorative justice is important for victims of crime, because this approach is a critique of the current criminal justice system in Indonesia, which tends to lead to retributive goals (emphasizing justice in retaliation) and influencing the role of victims to participate in determining the case process.

Restorative justice, usually referred to as restorative justice, is the practice of using crime as a means of restoring justice [14]. Restorative justice is a type of strategy to resolving cases in accordance with criminal law that involves the perpetrators of crimes, victims, relatives of victims or perpetrators, and other relevant parties in an effort to seek a just resolution while putting an emphasis on recovery. Restore itself to its prior state without reprisal [15].

Regarding cases that can be resolved with restorative justice and which ones cannot, along with references to the articles. Cases that can be resolved by restorative justice, namely defamation, slander, or humiliation. This does not apply to criminal acts that have the potential to divide the nation. There are conditions that must be complied with regarding reporting, such that the reporter must be a direct victim, and cannot be represented [16].

According to the Guidelines for the Implementation of the ITE Law, it is considered a reference for law enforcement officials in following up on the ITE Law if there is a dispute or a dispute related to the regulation. Be it by the Indonesian National Police, the Attorney General's Office of the Republic of Indonesia, or other judicial institutions in the physical space [17]. Through restorative justice, cases of violations of the ITE Law do not need to be resolved repressively or through the judiciary, especially for complaint offenses such as insults and/or defamation good. Therefore, the concept of restorative justice needs to be accommodated in the ITE Law.

The government must exercise caution when responding to fake news (hoaxes) because of its impact. As a result, the state security agency has undertaken numerous initiatives to combat criminality in the information technology sector. For instance, the Indonesian National Police has tried to carry out investigations into activities relating to the use of computer technology, information technology, electronic technology, communication technology, broadcasting technology, as well as the use of forensic computer laboratories in support of the disclosure process. Therefore, it is essential to carefully research the issues in the information technology field in order to prevent unlawful information technology acts.

4 Conclusion

In the face of the times modern technology and the trend of the industrial revolution 4.0, the law is led to be a guide in regulating society and can be a solution to complex problems that appear in social life. The law that is enforced must be in accordance with the provisions that exist by not discriminating among the community, this is a reflection of carrying out the mandate of the 1945 Constitution which states that Indonesia is a legal state with the principle of justice, the principle of equality and the principle of legal certainty. Data and communication technology incidents require the government to make the ITE Law and implement the law. This article discusses a lot of hoaxes, hatespeech, and cyberbullying information that is spread by individuals through Social Media and Instant Messaging which tends to smell SARA, provocative and bombastic.

Contemporary legal code paradigms are oriented towards corrective justice, rehabilitative justice, and restorative justice. Regarding the implementation of the ITE Law, it is felt that it does not fulfill the sense of justice. With the issuance of the Chief of

Police Circular No. SE/2/II/2021 concerning Awareness of Cultural Ethics to Realize a Clean, Healthy and Productive Indonesian Digital Space [16]. Investigators are asked to prioritize a restorative justice approach in its enforcement. The ITE Law must be ready to present enthusiasm to keep Indonesia's digital space clean, healthy, ethical, and productive. Hoax news complicates the situation and can cause chaos in society. Therefore it is important for law enforcers to prevent, minimize, and re-conducive and be supported by a set of enforcement and accountability rules for the perpetrators of spreading Hoax News that caused chaos during the Covid-19 pandemic.

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