



Legal Analysis of Hoax News and Defamation Crimes in the Perspective of ITE
Law No. 19 of 2016. 19 Year 2016
(Case Study on Social Media and its Implication on Criminal Liability)

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Abstract

This research examines the legal regulation and implementation of criminal liability for the criminal act of spreading hoax news and defamation through social media, with a focus on the Electronic Information and Transaction Law (ITE) No. 19 of 2016. Through the analysis of four concrete cases involving offenses in the digital realm, this research aims to understand in depth how the law regulates and applies sanctions to criminals in the digital context. The research methods used are literature review and case studies, which provide a comprehensive understanding of the issues under study. The results highlight the complexities in law enforcement in the digital era, while emphasizing the importance of cross-sector collaboration in addressing these challenges. The research conclusion emphasizes the need for strengthening digital literacy, supervision by social media platform providers, as well as effective and fair law enforcement by law enforcement agencies.

Keywords: *Crime; Hoax News; Defamation; Social Media; ITE Law; Law Enforcement*

Introduction

In the digital era and the development of information technology, the phenomenon of spreading hoaxes and defamation through social media has become a serious concern, especially in the legal context.(Pranesti and Arifin 2019). The Electronic Information and Transaction (ITE) Law No. 19/2016 has become the legal umbrella in regulating this in Indonesia. However, the implementation of the law on concrete cases is still a complex issue and interesting to be researched further.(Parulian and Putranto 2022).

The Electronic Information and Transaction Law (ITE) No. 19/2016 is an important legal basis in addressing the problem of criminal offenses related to social media. In this context, the articles governing the dissemination of false information and defamation need to be understood in depth. With this regulation, it is expected to provide legal protection for individuals who are victims of hoax news and defamation. ITE Law No. 19/2016 regulates various aspects related to information and electronic transactions, including the criminal offense of hoax news and defamation in the digital realm.(Manfaat, Setiyanto, and Lukitasari 2020). The articles in the ITE Law clearly regulate that spreading false information or hoaxes that can cause public disorder or harm others can be subject to criminal penalties.

Likewise with defamation, where everyone is prohibited from disseminating information that contains slander, defamation, or insults against others through electronic media.(Jahriyah, Kusuma, and ... 2021).

The ITE Law also stipulates that anyone who commits the crime of hoax news or defamation on social media or other digital platforms can be subject to criminal sanctions in the form of fines and imprisonment. These sanctions are imposed in accordance with the severity of the act committed, taking into account factors such as social impact, scale of dissemination, and the intention of the perpetrator.(Hasir and Sohrah 2021). In addition, the ITE Law also authorizes law enforcement to investigate and prosecute perpetrators of criminal acts in the digital space, in line with the rapid development of information and communication technology.(Paoki 2022). However, the implementation of the ITE Law in handling cases of hoax news and defamation still poses a number of challenges. Various interpretations of the articles of the ITE Law as well as diversity in law enforcement by law enforcement officials are often debated. Therefore, there is a need for an in-depth study of the application of the ITE Law in concrete cases as described to ensure justice and effective law enforcement in the digital realm.(Haryati 2017).

One case that reflects the complexity of spreading fake news and defamation through social media is the Nanda Feriana case. The case highlights the impact of a viral Facebook post on the reputation of a lecturer. Even though the author of the post had publicly apologized, police reporting still occurred, raising questions about how the law handles this kind of situation.(Syam, Mukidi, and Miroharjo 2022). Another interesting case to observe is that of Ikhwan Ra'uf who disseminated a hoax about a business through social media, leading to financial losses for parties interested in the offer. This underscores the urgency in enforcing the law against the dissemination of false information with the aim of financial deception.(Koto 2021).

The Tamim Pardede case highlights the phenomenon of hate speech that leads to SARA (ethnicity, religion, race and inter-group). Insults against public figures through social media can cause social and security tensions. In this context, questions arise about how ITE law handles hate speech cases involving SARA elements. Finally, the case of the Palopo journalist suspected of defamation and spreading false news without prior confirmation highlights the responsibility of the media in presenting accurate and balanced information. This raises questions about the extent to which press freedom can be safeguarded without compromising the honor and rights of individuals protected by law.(Supiyati 2020).

In this context, research on the legal analysis of hoax news and defamation crimes in the perspective of ITE Law No. 19/2016 is relevant and important to conduct in order to provide a deeper understanding of the implementation of the law in facing these challenges in the digital realm. The urgency of this research is undeniable considering the escalation of social media-based criminal offenses such as the spread of hoax news and defamation is increasingly rampant. The cases, as presented in the background, demonstrate the complexity and serious impact of such acts on individuals, institutions and society at large. This research is important because ITE Law No. 19 of 2016 is the main legal basis governing the digital realm in Indonesia, but its implementation still raises various questions and challenges, especially in the context of dealing with criminal acts on social media.(Laowo 2020).

This study also gains urgency because it requires an in-depth understanding of how the law regulates criminal acts in cyberspace and how it is implemented in practice. By looking at concrete cases as presented, this research will provide a comprehensive view of the legal challenges faced by various parties, including individual victims, law enforcement, and perpetrators. As such, this research is not only academically relevant, but also has practical implications in efforts to improve justice, protection, and law enforcement in this increasingly complex digital era.(Asmadi 2021).

Research Methods

This research method carries a literature study approach to deeply understand the legal framework that regulates the criminal offense of hoax news and defamation in ITE Law No. 19/2016. Through the literature study, various sources such as laws, government regulations, and legal literature will be critically analyzed to identify legal perspectives relevant to the research subject. In addition, the case study method will also be used to investigate concrete cases that occur, as outlined in the background, in order to gain a deeper understanding of the application of the law in a real context. Through case study analysis, richer insights will be gained into the various factors that influence law enforcement, the challenges faced by various parties, and the implications of the legal decisions taken.

This research will use a qualitative approach in collecting and analyzing data. Relevant data will be obtained through a literature search, including legal documents and published case reports. The data analysis process will involve comprehensive information gathering from various sources, as well as careful interpretation of the cases investigated. As such, this method will provide a solid framework for analyzing complex legal issues in the digital domain and provide an in-depth understanding of legal practices relating to the criminal offenses of hoax news and defamation from the perspective of ITE Law No. 19/2016.

Results and Discussion

Legal Regulation of Criminal Acts Regarding Hoax News and Defamation Through Social Media

Legal arrangements related to the criminal acts of hoax news and defamation through social media are regulated in the Electronic Information and Transaction (ITE) Law No. 19/2016. First of all, regarding hoax news, Article 28 paragraph (1) of the ITE Law states that every person is prohibited from disseminating electronic information and/or electronic documents that contain defamation and/or slander. Hoax news that is spread with the aim of misleading the public or harming certain parties can be subject to criminal sanctions in the form of fines and imprisonment. Regarding defamation, Article 27 paragraph (3) of the ITE Law also stipulates that every person who intentionally and without right disseminates information that is known to be false and misleading that creates hatred or hostility of certain individuals or groups of people can be punished with imprisonment for a maximum of 6 years or a maximum fine of 1 billion rupiah. This shows that defamation through social media is also strictly regulated in the law.

Article 45 paragraph (1) of the ITE Law authorizes the Ministry of Communication and Information to block access to electronic information that is deemed unlawful, including hoax news and defamatory information. This blocking of access aims to prevent further dissemination of such unlawful content and provide a deterrent effect to the perpetrators. However, this legal arrangement does not stand alone. There are also other provisions outside of the ITE Law that can concern the criminal acts of hoax news and defamation, such as Article 310 of the Criminal Code on slander, Article 311 of the Criminal Code on defamation, as well as other criminal provisions that can be applied depending on the concrete case. In addition, law enforcement in this case also involves the role of law enforcement agencies such as the police and prosecutors in conducting investigations, arrests, and prosecutions of perpetrators of criminal acts committed through social media. Therefore, the legal regulation of criminal acts of hoax news and defamation through social media is very complex and requires coordination between various related parties to ensure justice and effective law enforcement.

Legal regulation related to criminal acts of hoax news and defamation through social media is an important part of ensuring justice and order in the digital space. The Electronic Information and Transaction (ITE) Law No. 19/2016 is the main foundation that regulates the realm of digital law in Indonesia. The articles in the ITE Law clearly regulate actions that are considered unlawful, including in the context of spreading hoax news and defamation. Regarding hoax news, the ITE Law emphasizes the

prohibition of disseminating electronic information that has insulting and/or defamatory content. Article 28 paragraph (1) of the ITE Law stipulates that every person is prohibited from disseminating electronic information and/or electronic documents that contain insults and/or defamation. In the context of social media, where information can quickly spread and has the potential to create public disorder, this regulation becomes crucial to prevent the spread of fake news that can harm certain individuals or groups.

In relation to defamation, Article 27 paragraph (3) of the ITE Law also stipulates that any person who intentionally and without right disseminates information that is known to be false and misleading that creates hatred or hostility of certain individuals or groups of people can be punished with a maximum imprisonment of 6 years or a maximum fine of 1 billion rupiah. In the context of social media, where information can be spread quickly and widely, defamation can have a very detrimental impact on the targeted individual or group. Furthermore, the ITE Law also authorizes the Ministry of Communication and Information to block access to electronic information that is deemed unlawful. Article 45 paragraph (1) of the ITE Law provides a legal basis for the government to block access to content that is considered unlawful, including hoax news and defamatory information. This measure aims to prevent further dissemination of such unlawful content and provide a deterrent effect to the perpetrators.

However, this legal regulation does not stand alone. There are also other provisions outside of the ITE Law that can concern the criminal acts of hoax news and defamation, such as Article 310 of the Criminal Code on slander, Article 311 of the Criminal Code on defamation, and other criminal provisions that can be applied depending on the concrete case. In addition, law enforcement in this case also involves the role of law enforcement agencies such as the police and prosecutors in conducting investigations, arrests, and prosecutions of perpetrators of criminal acts committed through social media. Therefore, the legal regulation of criminal acts of hoax news and defamation through social media is very complex and requires coordination between various related parties to ensure justice and effective law enforcement. This includes cooperation between the government, law enforcement agencies, social media platform providers, and society at large to ensure that the digital space remains a safe and trusted place for all its users.

In the context of the four cases presented earlier, legal regulation related to the criminal offense of hoax news and defamation through social media becomes very relevant. The first case, involving Nanda Feriana who spread false information on social media related to her alleged attempt to fail to be judged, can be categorized as a criminal act of defamation. Nanda's actions had a detrimental impact on the lecturer who was the target of the information. In the perspective of ITE Law No. 19/2016, Nanda's actions can be subject to criminal sanctions in accordance with Article 27 paragraph (3) which regulates defamation. The second case, involving Ikhwan Ra'uf who spread fake news about a durian soup franchise and tricked people into giving money, is also a clear example of the criminal act of hoax news in the digital realm. Through the regulation in the ITE Law, Ikhwan Ra'uf's actions can be subject to criminal sanctions in the form of fines and/or imprisonment in accordance with Article 28 paragraph (1) which regulates the dissemination of false information.

Then, the case of Tamim Pardede who uploaded a video containing insults against President Joko Widodo and National Police Chief General Tito Karnavian on social media also raises issues related to defamation and has the potential to become a criminal act of hoax news, depending on the truth of the information conveyed. This action can be sanctioned in accordance with Article 27 paragraph (3) and Article 28 paragraph (1) of the ITE Law. Finally, the case of the Palopo journalist who made false news without confirming witnesses, which resulted in defamation, can also be seen as an example of the criminal act of hoax news and defamation on social media. This action violates the provisions in Article 27 paragraph (3) and Article 28 paragraph (1) of the ITE Law. In these four cases, the legal arrangements contained in ITE Law No. 19/2016 become the basis for law enforcement against the perpetrators of these criminal acts.

Implementation of Criminal Liability for Criminal Acts of Hoax Spreading and Defamation Through Social Media

Criminal liability for the criminal acts of spreading hoaxes and defamation through social media is carried out through various stages involving legal processes that are clearly defined in the Electronic Information and Transaction Law (ITE) No. 19/2016. These stages apply to all individuals involved in the criminal act, including individuals, journalists, or even public officials. The first step in the exercise of criminal liability is the identification of the unlawful act. This involves gathering evidence and information related to the act of spreading hoax news or defamation through social media. This identification is usually done by law enforcement agencies such as the police or prosecutor's office, or it could be through reports from the public who feel harmed by the act.

Once identification has been made, the next step is further investigation into the actions committed by the perpetrator. This investigation aims to gather evidence that is strong enough to support prosecution. The investigation may involve examining witnesses, analyzing the content shared, and gathering information from various trusted sources. Once the investigation is complete, the next step is the legal prosecution of the perpetrator. This is done through the process of filing an indictment by the prosecutor with the court. In this process, the offender will be confronted with the evidence gathered during the investigation, and given the opportunity to defend themselves in accordance with the principles of justice.

If the court finds the offender guilty, the final step is the execution of the sentence in accordance with the court's decision. This can be a fine, imprisonment or a combination of both, depending on the severity of the act committed and the harm caused. The execution of the sentence is carried out by executive agencies such as the police or correctional institutions. In the context of the implementation of criminal liability for the criminal act of spreading hoaxes and defamation through social media, there are several challenges that need to be overcome. One of them is the difficulty in identifying and investigating perpetrators, especially due to the anonymous and viral nature of content on social media. In addition, awareness and active participation from the public in reporting unlawful acts and cooperation between law enforcement agencies and social media platform providers are also needed to address the spread of negative content.

Criminal liability for the crime of spreading hoaxes and defamation through social media also involves an important aspect of prevention. Prevention is the key to reducing the negative impact of such acts and preventing the recurrence of similar cases in the future. One important preventive measure is education and legal awareness for the public regarding the consequences of spreading hoaxes and defamation. Education on digital literacy and understanding the truth of information are important aspects in reducing the spread of negative content on social media. In addition, social media platform providers also have a significant role in preventing this crime. They need to increase efforts to monitor and enforce policies against unlawful content on their platforms. This can be done through the use of technology and algorithms to detect harmful content, as well as through cooperation with law enforcement agencies to remove illegal content and identify perpetrators.

In addition to prevention efforts, protection of victims is also an important aspect in overcoming criminal acts of hoax news and defamation. Victims of these crimes need to be given protection and access to legal aid to obtain justice. This involves support from the government, non-governmental organizations, and the general public to provide moral support and practical assistance for victims affected by such acts. However, in carrying out criminal accountability, it is important to ensure that the legal process is fair and in accordance with human rights principles. Law enforcement must be conducted without discrimination and must not infringe on individual rights, including the right to freedom of speech and opinion. Therefore, awareness and caution is needed from law enforcement officials in handling cases involving criminal acts on social media.

In addition, in the face of the challenges of globalization and the increasingly widespread use of social media, international cooperation is also important in tackling this crime. Cooperation between countries in information exchange, training, and joint law enforcement can strengthen prevention and law enforcement efforts at the international level. Thus, the implementation of criminal liability for the criminal offense of spreading hoaxes and defamation through social media requires a holistic and sustainable approach. Prevention efforts, victim protection, fair law enforcement, and international cooperation are key elements in ensuring security and order in the digital space. Only with cooperation and joint efforts from all relevant parties can we overcome these complex challenges and create a safe and beneficial digital environment for all its users.

In the context of the previous four cases, the implementation of criminal liability for the criminal act of spreading hoaxes and defamation through social media is very important to uphold justice and ensure the protection of victims. First, the case of Nanda Feriana, who disseminated false information about an alleged attempt to prevent her from being judged, is a clear example of defamation through social media. In this case, the implementation of criminal liability requires a legal process that ensures that the action not only harms the victimized individual, but also provides a deterrent effect for the perpetrator so as not to repeat similar actions in the future. Second, the case of Ikhwan Ra'uf who deceived people by spreading false news about the sop duren franchise through social media also reflects the criminal act of spreading hoaxes. In this case, the implementation of criminal liability requires strict law enforcement to sanction the perpetrators and prevent the recurrence of similar actions that can harm the community.

Third, the case of Tamim Pardede who spread defamatory content against public officials through social media shows that defamation can involve complex political and social aspects. The implementation of criminal liability in this case must ensure that law enforcement is not politicized and remains within the corridors of justice, regardless of the status or political interests of the perpetrator. Finally, the case of the Palopo journalist who made false news without confirming witnesses, illustrates how the spread of hoax news and defamation can damage a person's reputation and integrity. In these cases, the implementation of criminal liability must ensure that journalists are responsible for the information they disseminate, and that the sanctions imposed are appropriate to the level of wrongdoing.

Defamation under the ITE Law also criminalizes defamation committed through electronic means, such as the internet. The key elements are the subjective intent to defame, the lack of legal justification, and the act of spreading or disseminating the defamatory information. Thus, the implementation of criminal liability for the criminal offense of spreading hoaxes and defamation through social media must consider the context and unique characteristics of each case. This involves fair law enforcement, protection of victims, and prevention of similar acts in the future. Only with a comprehensive and sustainable approach can we create a safe and trusted digital environment for all its users. (Rizky Ramadhan, Diaz, and Ul Hosnah 2024)

Conclusions

In this study, the legal arrangements and implementation of criminal liability for the criminal acts of spreading hoaxes and defamation through social media have been described in depth, using the Electronic Information and Transaction Law (ITE) No. 19 of 2016 as the main foundation. Through the analysis of four concrete cases involving various forms of offenses in the digital realm, it becomes clear that law enforcement in this context does not rely solely on regulatory aspects, but also requires active involvement from various related parties, including the community, social media platform providers, and law enforcement agencies. The importance of prevention, protection of victims, and fair law enforcement are key points that need to be considered in efforts to overcome these criminal acts.

Overall, this study highlights the complexities and challenges in tackling hoax and defamation crimes in the digital era, and clarifies the importance of cross-sector and cross-state cooperation in creating a safe and trusted digital environment. In this context, it is necessary to continue to increase legal awareness and digital literacy in the community, improve supervision by social media platform providers, and effective and fair law enforcement by law enforcement agencies. Only with a holistic and collaborative approach can we overcome these complex challenges and maintain the integrity and safety of the digital space for all its users.

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