

Sociological Analysis of Law Enforcement Spreading Hoaxes in Digital Space in the 2024 Simultaneous Elections

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Abstract

The spread of hoaxes in the digital space is one of the phenomena that often occurs in Indonesia, including during general elections. The spread of hoaxes in digital space can have negative impacts, such as dividing society, reducing public trust in state institutions, and disrupting the democratic process. The purpose of this study is to analyze law enforcement against the spread of hoaxes in digital space in the 2024 simultaneous elections from the perspective of legal sociology. This research uses a qualitative research method with a case study approach. Data collection techniques are carried out by interviewing sources and conducting a literature review of written data from case handling results. The data that has been collected is then analyzed using three stages: data reduction, data presentation, and conclusion drawing. The results showed that law enforcement for the spread of hoaxes in digital space in the 2024 simultaneous elections is still not running optimally. This is because the spread is massive and even tends to be uncontrollable, making it difficult to find where it came from. This action has legal consequences, as stipulated in Law Number 11 of 2008, concerning Electronic Information and Transactions. In addition, law enforcement against the spread of hoaxes in the digital space in the 2024 simultaneous elections needs to be improved, including by strengthening laws and regulations governing the spread of hoaxes, increasing the availability of resources for law enforcement, increasing coordination between law enforcement agencies, and increasing public awareness about the dangers of hoaxes.

Keywords: *Sociology of Law, Law Enforcement, Hoax Spreading, Simultaneous Elections 2024.*

INTRODUCTION

Advances in technology are closely intertwined with various societal changes. These changes have significantly transformed the way humans communicate in their daily lives. For instance, communication that traditionally took place through face-to-face meetings can now occur solely through social media platforms (Pinatih & Suardana, 2019). Communication processes that were once rooted in tradition, such as face-to-face interactions, group discussions, and mass communication, have undergone profound transformations with the development of modern communication technology, particularly the Internet. The US Supreme Court defines the Internet as an "international network of interconnected computers" that has not only revolutionized communication but has also facilitated efficient and effective business transactions, accessible anytime and anywhere (Belinda & Puspitasari, 2021; Ratnawati, 2021). The far-reaching impact of globalization on human life is a driving force behind these changes.

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The development of science and technology has changed many human behaviors, among others. It also presents applied ethical problems that have never been expected before, for example, the case of fake news (hoax), which is familiar in Indonesian society and results in many divisions that occur everywhere (Astuti, 2021; Mustofa, 2021). The spread of information through social media is often a tool to spread hatred, slander, bullying, and fake news (hoaxes).

The dissemination of information or news through online media is no longer limited to established news outlets known to the public. Anyone with internet access can share information or news through online platforms (Indonesia, 1959). This has led to a situation where individuals can freely express and disseminate information or news through their online channels. However, this freedom comes with a caveat: the careless use of online media can lead to legal actions resulting in criminal charges or violations of civil rights (Moeljatno, 2021; Ratnawati, 2021). The ease with which hoaxes can be disseminated has increased due to everyone's ability to forward messages, making it challenging to control their spread. Ferdiawan et al. have explored the consequences of spreading hoaxes, which have tragically led to the loss of human lives in numerous cases where the veracity of the news cannot be confirmed. The impact of hoaxes extends to various aspects of society, including politics, society, the economy, and culture (Anshari & Fajrin, 2019; Tchakounté et al., 2022).

In recent years, the phenomenon of hoaxes or disinformation has become increasingly prevalent, particularly in the lead-up to general elections. This raises significant concerns regarding the integrity of elections and the healthy functioning of the democratic process. Hoaxes and fake news pose a serious threat to the integrity of elections. In an environment already fraught with political tension and competition, fake news can be wielded as a tool to sway voters and sow chaos (Manan & SH, 2018; Vergeer, 2018). False and misleading information can distort people's perceptions of specific candidates or political parties, potentially leading to voters making misguided decisions based on inaccurate information. In more dire circumstances, hoax news can incite conflicts and social unrest that negatively impact the nation's stability. Hoaxes and fake news erode trust in democratic institutions (Alam & Ilyas, 2018; Kesuma et al., 2020).

Fair and transparent elections are essential for maintaining public trust. However, with the rapid and widespread dissemination of false information, doubts about the election's integrity have arisen. People may begin to question whether the election was manipulated or if the elected leader is truly legitimate. This can lead to political instability and disrupt the democratic process. Hoaxes have the potential to exacerbate political polarization within society. The objective of this study is to analyze the enforcement of laws against the spread of hoaxes in the digital realm during the 2024 concurrent elections from a legal sociology perspective.

METHODS

This research employs qualitative research methods with a case study approach. According to (Sugiyono, 2018), qualitative research methods are grounded in philosophy and utilized to investigate scientific situations, with researchers acting as instruments. These methods involve data collection techniques and emphasize qualitative analysis that centers on the interpretation of meaning. Data collection techniques involve interviewing experts and conducting a literature review of written data related to case handling. The collected data is subsequently analyzed through three stages: data reduction, data presentation, and conclusion.

RESULTS AND DISCUSSION

The dynamics of digital age life require a comprehensive understanding of communication skills, rules, and ethics to ensure the power of media and technology is used ethically and responsibly (Azran et al., 2019; Bunga, 2022). It should also be understood that various contents are created without anonymous identities, which will facilitate unethical participation and even illegal behavior, even though the internet and social media are public spheres owned by the community. In public civilization, adherence to values and norms is an ethical guideline that needs to be understood by every user to take responsibility for its use. Its users will make irresponsible public spaces irresponsible. As a result, public spaces have become places for the spread of viruses or trends of hatred, slander, provocation, and fraud, which are now called hoaxes (Ratnawati, 2021; Tilatama & Diantha, 2023).

A hoax is a criminological term used to describe fake news. The term "hoax" derives from the word "hocus," which means to deceive or mislead. In essence, a hoax refers to rumors, fake news, or false stories intentionally created to appear as if they were true. The term "hoax" gained popularity with the rise of the internet, where hoaxes typically serve two purposes: first, for humorous or limited circulation within specific groups, and second, for malicious purposes with the deliberate intent to deceive (Bunga, 2022). The proliferation of fake news became a significant issue with the widespread adoption of social media in the internet age. People often share hoaxes on social media platforms unknowingly, leading to a chain reaction where these hoaxes are passed from one person to another (Yani et al., 1995). The pattern of forwarding messages is a distinctive feature of social media applications. Social networks fundamentally connect individuals and expedite the rapid dissemination of information. Consequently, once a message has been spread, it becomes challenging to halt its circulation because one person can share it with many others.

Indonesians are gearing up for the upcoming 2024 presidential election. Since the start of 2023, the public has been actively consuming news related to candidates and various other updates. As of now, Ganjar Prabowo, Anies Baswedan, and Prabowo Subianto have been officially declared as presidential candidates for the 2024 election in Indonesia. However, the ease of communication in this digital age has also made it simpler for provocateurs to spread disinformation. Not long ago, the Indonesian populace was startled by fake news concerning available election cards, premature election results from the General Elections Commission (KPU), and a plethora of negative reports about the 2024 presidential candidates in Indonesia.

A video has been circulating, claiming that the results of the 2024 General Election have already been prepared by the General Elections Commission (KPU). The video is accompanied by the narration, "This is KPU Data for 2024 Election Results. Amazing, this country is indeed magical; voting has not been carried out yet, but the results have been determined". However, this claim, as reported by medcom.id (Aulia, 2023), is false. KPU Chairman Hasyim Asy'ari has firmly stated that the viral video is absurd and baseless. The 2024 election is scheduled for February 2024, and the KPU is currently in the process of completing various stages leading up to the election.

As part of the preparations for the 2024 elections, the Indonesian government must also focus on addressing the spread of hoax news through digital media within the community. The ease of using social media has made it effortless to disseminate fake news, and people are more susceptible to believing unverified information. In the past, provocations aimed at undermining certain parties were typically carried out through word of mouth or the distribution of pamphlets containing false information. However, today's technology allows for provocations with just a simple touch of a finger. Despite the technological advancements, it's important to note that not everyone has a deep understanding of how to use digital technology effectively. For instance, hoax news can easily proliferate through

social media platforms like WhatsApp, which often cater to an older demographic in Indonesia.

This is attributed to the previous generation's limited understanding of how digital media operates. Consequently, they tend to place immediate and unquestioning trust in the information they receive. In preparation for the upcoming 2024 elections, the Indonesian government faces an additional challenge: addressing the proliferation of hoax news through digital media within the community. The widespread use of social media has made it exceedingly easy to disseminate fake news, and people are more susceptible to accepting unverified information at face value. Before digital technology advanced to its current state, provocations aimed at discrediting certain parties typically involved spreading fake news through word of mouth or distributing pamphlets containing false information. However, in today's digital age, provocations can be executed with just a tap of a finger. Unfortunately, the sophistication of today's technology does not guarantee that people fully comprehend how to use digital tools effectively. For instance, hoax news can easily circulate through social media platforms like WhatsApp, which often cater to an older demographic in Indonesia. This is primarily because the older generation lacks a deep understanding of how digital media functions, leading them to trust the information they encounter.

Law enforcement's role in tackling hoaxes is carried out in the criminal realm. Criminal problems are often used as a benchmark for how far the level of civilization of a nation is concerned. In dealing with the central problem, which is often called the problem of criminalization, the following points must be considered:

1. The application of criminal law should align with the goals of national development, specifically the realization of a just and equitable society, both materially and spiritually, based on Pancasila. In this context, criminal law aims to combat crime and affirm countermeasures for the welfare and protection of the community.
2. Criminal law should target undesirable actions, namely those causing harm, be it material or spiritual, to the citizens of society.
3. The use of criminal law must also take into account the cost-benefit principle.
4. The implementation of criminal law should factor in the capacity and practicality of law enforcement agencies, avoiding an excessive burden of duties (Manan & SH, 2018; Yandika, 2021).

While performing their roles as advocates for particular parties, some social media influencers (known as "buzzers") create hoax news that appears highly convincing, further intensifying the already heated atmosphere. Internet users are frequently provoked and often hastily disseminate the information they receive. These users believe that sharing information is a way to support their cause and bolster the confidence of their peers in making similar choices.

In this context, the key consideration revolves around defining the boundaries of what constitutes a hoax. Lack of clarity in this regard can lead to ambiguity in meaning. For instance, when someone receives information through a group chat, such as WhatsApp or other similar applications, warning of an impending natural disaster in a specific area, this information is then shared with others to alert them. However, upon investigation, it was revealed that the news of the natural disaster was false. The question that arises is whether the individual who disseminated the false news can be charged under Article 28, paragraph (1) of the law. From a strict interpretation of the article, one could argue that the individual may indeed be charged under Article 28, paragraph (1). However, it's crucial to take into account the individual's intent in disseminating the information. It's worth noting that the penalties associated with these articles are relatively severe.

Attempts to contravene Article 28(1) entail the risk of facing penalties as stipulated in

Article 45A, paragraph (1) of the Electronic Information and Transactions (ITE) Law. This provision states, "Any person who intentionally and without lawful authority disseminates false and misleading information causing financial losses in Electronic Transactions, as mentioned in Article 28, Paragraph (1), shall be subject to a maximum prison sentence of 6 years and a maximum fine of Rp1,000,000,000.00 (one billion rupiah)".

In the following illustration, the process of determining the existence of Hate Speech Crimes by investigators at the West Kalimantan Regional Police (Polda) (Anshari & Fajrin, 2019). Additionally, it will explain the regulations about Hate Speech in the Laws and Regulations of Indonesia. Hate speech is governed by the Codification of Criminal Law in Indonesia, specifically the Criminal Code (KUHP), which serves as the General Provisions of Criminal Law. Moreover, it is also addressed in laws beyond the Criminal Code, classified as Special Criminal Laws, or outside the codification of Indonesian criminal law. For instance, within the Criminal Code, hate speech is regulated under Articles 156, 157 paragraphs (1) and (2), Article 310 paragraphs (1), (2), and (3), as well as Article 311 paragraph (1) (Moeljatno, 2021). Furthermore, provisions concerning hate speech that extend beyond the Criminal Code can be found, for example, in Article 28 paragraphs (1) and (2), Article 45 paragraph (2) as amended by Article 45A paragraphs (1) and (2) of Law Number 11 of 2008 concerning ITE (Electronic Information and Transactions), or Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 regarding Electronic Information and Transactions. Additionally, Article 16 of Law Number 40 of 2008 addresses the Elimination of Racial and Ethnic Discrimination.

Hate speech encompasses various forms, such as insults, defamation, blasphemy, offensive acts, provocation, incitement, and the dissemination of false information. These actions can occur both in public settings and through social media. Regarding the process of identifying Hate Speech Crimes, cases occurring in public are typically handled by Investigators at the Directorate of General Criminal Investigation (Ditreskrim) within the West Kalimantan Regional Police (Polda). On the other hand, Hate Speech Crimes involving social media, the internet, or cyber intermediaries are managed by Investigators at the Directorate of Special Criminal Investigation (Ditreskrimsus) of the West Kalimantan Regional Police (Polda) (Rajab, 2018).

In the process of researching and verifying cases of alleged Hate Speech Crimes conducted in public spaces, the author found only one recorded case handled by the local investigator at Ditreskrim Polda West Kalimantan. To gain insight into the process of establishing the presence of Hate Speech Crimes, the author conducted structured interviews with the Investigators who were actively involved in investigating the case.

The interview was conducted with First Police Inspector Adjutant (Aiptu) Irfan Akbar, L.L.B., Assistant Investigator at Sub Directorate (Subdit) 1: State Security, West Kalimantan Regional Police Reskrim. Irfan Akbar acknowledged that, concerning hate speech cases, only one case had been handled in Subdit 1 until 2017. The report on this case was filed by Sdr. Solihin and pertained to violations of Article 156 of the Criminal Code (KUHP), allegedly committed by Mr. Cornelis, L.L.M., who was serving as the Governor of West Kalimantan at that time.

Based on Mr. Solihin's statement, as conveyed by Irfan Akbar, he received a video recording of Mr. Cornelis, L.L.M., delivering a speech during a dango ride event on April 27, 2017, in Landak Regency, West Kalimantan Province. From the video, Irfan Akbar observed and heard Mr. Cornelis, L.L.M., makes remarks such as "Islam is not what Rizieq offered, and neither did Tengku Zulkarnaen. If he comes to our place in West Kalimantan... etc. (using hedgehog language)." This particular word or phrase was disputed and later reported by Mr. Solihin.

The report was submitted by Mr. Solihin to the National Police Cyber Bareskrim Team, with Police Report Number: Evidence of Report (TBL)/118.a/V/2017/West

Kalimantan/Integrated Police Service Center (SPKT) of the Police Cyber Bareskrim Team, dated May 19, 2017. The reported offense falls under the category of delik (crime against public order), as outlined in Article 156 of the Criminal Code. Following the report received from Mr. Solihin on May 19, 2017, the West Kalimantan Regional Police initiated an investigation based on Investigation Warrant Number: Sp.Lidik/88/V/2017/Directorate of General Criminal Investigation (Ditreskrim) on May 21, 2017. The investigation team was led by Police Commissioner Martin Yesayas, with Irfan Akbar and others, totaling five people in one unit. This team, which is designated in the Investigation Warrant (SP), consists of five individuals responsible for handling the case. Following the issuance of the Investigation Warrant (SP) of Inquiry on May 21, 2017, the investigation team proceeded to complete the investigation annotation for the investigation plan. This annotation detailed the planned actions to be undertaken. Subsequently, the investigator formulated an initial case title (internal unit title) to determine which articles (criminal provisions or rules) were suspected to be relevant to the case.

Subsequently, the investigator plans which parties (witnesses) can be called for questioning during the examination. This includes summoning reporting witnesses for examination or clarification. Since it is still in the investigation stage, interviews were conducted and documented in the form of interrogation minutes or clarifications. It's important to note that, as it is still in the investigative phase, according to Irfan Akbar, the interviews conducted have not yet been transcribed into Minutes of Examination. The victim or complainant underwent examination on two (2) occasions, specifically on May 19, 2017, and May 23, 2017.

The number of witnesses presented for questioning includes 1 (one) reporting witness, 1 (one) reported witness, 5 (five) witnesses, and 2 (two) experts, namely a Criminal Expert and a Linguist. The witnesses presented at that time were as follows: Solihin, BIS (Reported Witness), located in Mempawah, received information only through WhatsApp and did not have direct knowledge of the situation. Nandar Rezky Ramadhan (Witness of the Complainant): Located in Pontianak, obtained information solely from Facebook. Gusti Sabran, L.L.B. (Witness)/Islamic Figure in Landak Regency: Associated with Kesbangpol Kab. Landak was present during the Dangau Ride event. Mr. Yohanes Meter (Witness)/Chairman of the Committee for Dangau Riding in Hedgehog/Civil Servant. H. Almantoni, B.E. MM (Witness)/Community/Malay/Islamic Leaders of Landak Regency: Present at the Naik Dangau event. Hendrikus Christianus (Witness)/Staff of the General Bureau of West Kalimantan Provincial Government/Documentation. Mr. Cornelis, L.L.M. (Reported Witness)/Governor of West Kalimantan.

In addition to examining witnesses, experts, and reporters with conducting internal unit titles (investigators analyze the conformity of criminal articles/provisions with the whistleblower's report), the investigator then conducts actions in Sub-Directorate (Subdit) Internal Case Title (Case 1 Degree), specifically in Sub-Directorate (Subdit) 1: State Security. Furthermore, the investigator also conducted the Directorate's Internal Case Title (Case Title 2).

Within the Directorate of General Criminal Investigation (Reskrim), all Sub-Directorates were involved. This included not only Sub-Directorate 1 State Security (Kamneg) but also Sub-Directorate 2 Property (Harda), Sub-Directorate 3 Crime and Violence (Jatanras), and Sub-Directorate 4 Protection of Women, Adolescents, and Children (PPA). All Sub-Directors sent their Sub-Directors or investigators to attend case-title events led directly by the Director of General Criminal Investigation (Direskrim), who at that time was Police Grand Commissioner (Kombespol) Asep Safrudin. This gathering aimed to provide input, suggest improvements and address any shortcomings in the investigation process that had been carried out.

In the report on the results of the investigation, there are three (3) case titles. The last one

is titled the 3rd Case Title, which involves inviting parties from outside the directorate, such as Security Intelligence (Intelkam), Special Criminal Investigation (Reskrim), Professional and Security (Propam), Legal Affairs (Bidkum), and Regional Police Supervision Inspectors (Irwasda Polda) of West Kalimantan. The purpose is to determine whether there is a criminal act (criminal event) related to the reporting carried out by the whistleblower and whether the investigation can be escalated to a full-fledged investigation. This third case title remains an internal case title, and no outside parties like Legal Counsel or others are involved.

One of the obstacles faced by Investigators in conducting the investigation, according to Irfan Akbar, was the absence of witnesses present at the dango ride event in Landak Regency who could provide testimony or objections to the Reported Person's (Mr. Cornelis L.L.M.) remarks in his welcome speech. Unfortunately, Mr. Solihin (the whistleblower) did not directly witness or experience the alleged criminal act he reported, which was the reported remarks in the welcome speech of the dango ride event in Landak District. The whistleblower only became aware of this incident through Social Media (WhatsApp).

The evidence submitted by the complainant to the Investigator in the form of a Compact Disc (CD) containing video recordings of speeches is not intact; it has been dismembered. The original recording of the speech is approximately one hour long, while the CD provided by the reporter only contains 2 minutes and 51 seconds of the speech.

Based on the presented investigation results, it was explained that after considering witness statements, both the complete and dismembered evidence, the text of the Governor of West Kalimantan's speech during the Dango Ride event in Landak Regency, and expert opinions, no criminal acts were found. There is insufficient evidence to establish the occurrence of criminal events involving Mr. Cornelis. Irfan Akbar's statement is further supported by expert testimony. The experts consulted to assess the alignment of elements or the formulation of offenses with the actions committed include criminal experts and linguists.

The ubiquitous and challenging-to-control spread of hoaxes will not be easily curbed through reliance on criminal law. Considering the fundamental concept of criminal law as an *ultimum remedium*, meaning it should be the last resort in problem-solving, imprisoning hoax perpetrators would only increase the workload of prison officers. Instead, a shift towards preventive and comprehensive measures is necessary to combat the dissemination of hoaxes, and this can be achieved through digital literacy programs. The significance of digital literacy is underscored by numerous national and regional initiatives aimed at developing and implementing digital literacy frameworks and strategic plans to enhance citizens' digital literacy skills.

Recognizing this reality, it's evident that many outlets disseminate hoax news through social media channels. As the 2024 elections approach, there is a pressing need for greater public education on this matter. Typically, hoax news articles feature sensational headlines, lack clear authorship, and contain content designed to discredit one party. The primary objective of such hoax news is to manipulate public opinion and promote a specific candidate in the 2024 election.

Presently, the Indonesian government wields two essential tools, namely the Electronic Information and Transactions (ITE) Law and a cyber police force, to proactively address the proliferation of hoax news leading up to the 2024 elections. The Electronic Information and Transactions (ITE) Law serves as the legal foundation governing the use of Indonesian digital media. This law was initially enacted in 2008 and subsequently refined in 2016. Notably, in 2022, data from the National Police indicates a significant surge in reports related to hoax news compared to previous years. This upswing serves as a clear indicator that there will likely be a substantial influx of fake news in the run-up to the 2024 elections.

While social media platforms undoubtedly provide users with a means to express their thoughts and feelings, users must abide by the values, norms, and laws upheld in Indonesia. At times, social media users may mistakenly perceive themselves as immune to legal repercussions, often asserting, "This is my social media. It's free, so I can write whatever I want." However, it is crucial to recognize that some content posted on social media may qualify as hate speech or disseminate fake news, potentially misleading a large audience.

Elections in Indonesia itself hold the principle of "Luberjudil" which stands for direct, general, honest, and fair (Rajab, 2018; Yandika, 2021). Therefore, provocation actions carried out by certain individuals do not meet the principles of elections in Indonesia. Moreover, the ease of use of social media at this time will make many users unaware of the acts of provocation they commit with the touch of a finger.

Leading up to Indonesia's 2024 elections, there is anticipated to be a surge in hoax news circulated on social media platforms. This presents an additional challenge for the government, necessitating preparations for the 2024 elections, armed with the Electronic Information and Transactions (ITE) Law and a cyber police force. The user-friendly nature of social media often leads users to overlook the potential for provocations that occur within these platforms. Consequently, it is vital to recognize that the responsibility for raising awareness about the dissemination of hoax news lies not solely with the government but also with the Indonesian populace. By collectively fostering awareness, the 2024 election can be conducted with integrity and fairness.

CONCLUSION

Enforcing the law against the proliferation of hoaxes in the digital realm during the 2024 simultaneous elections continues to encounter significant challenges and has yet to reach its optimal effectiveness. The phenomenon of hoax dissemination in this context is widespread and frequently eludes easy traceability to its source, leading to complications in identifying culprits and the origins of misinformation. Moreover, these actions carry legal consequences by Law Number 11 of 2008 regarding Electronic Information and Transactions, which governs fraud and the use of false information. To enhance law enforcement, several critical measures must be taken. Firstly, it is imperative to bolster laws and regulations that are more assertive and pertinent in addressing the issue of hoax propagation during elections. This should encompass more comprehensive provisions for penalties and mechanisms for detecting and removing deceptive content. Additionally, increasing available resources, including personnel and technology, for law enforcement is a vital step. Improved coordination among law enforcement agencies is equally essential to streamline the handling of cases involving the dissemination of hoaxes. Furthermore, raising public awareness regarding the perils of hoaxes and offering education on how to authenticate information encountered in the digital realm should also be prioritized.

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