

Law Enforcement against the Spread of Fake News on Social Media In Relation To Law Number 19 of 2016 Concerning Information and Electronic Transactions

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Abstrak

The development of technology and information in Indonesia today is so fast. Any information released through social media, if sent and read by many people, can affect the emotions, feelings, thoughts and even actions of a person or group who reads it. It is unfortunate if the information conveyed is inaccurate, especially information about fake news (hoax) with a very provocative title that leads readers and recipients to negative opinions. This research aims to know and understand the law enforcement against the spread of fake news on social media in relation to Law No. 19 of 2016 on Electronic Information and Transactions, as well as to know and understand the obstacles and efforts in law enforcement against the spread of fake news on social media. This research was conducted using normative legal research, namely doctrine legal research, also known as library research or document research. It is called doctrine legal research because this research is conducted or aimed only at written regulations or other legal materials. Based on the results of the research, the author can conclude that law enforcement is an effort by law enforcement officials to guarantee and ensure that the law runs as regulated. If a legal product has been applied or is running in practice, the legal product is said to be effective. There are five main factors that affect the difficulty of law enforcement: the law itself, law enforcement, facilities, society, and culture. In the fight against fake news on social media, law enforcement agencies cooperate with relevant groups such as information technology experts and universities to promote criminal offenses for spreading fake news.

Keywords

Crime, Fake News, Law Enforcement.

¹ Copyright: Saji Sonjaya, Anjas Yudapratama, Aldy Pangestu Aji, Ilham Muhardi, Wagusno Bintang Simbolon

The development of technology and information in Indonesia today has progressed so rapidly. The existence of technology and information today has made it easier for people to meet all their needs. Various sites and applications of technology and information in the form of social media have also made it easier for people to get information and the latest news that occurs around the world quickly. As the years go by, all aspects of life are developing in the social, cultural, economic, artistic and information and communication technology (ICT) fields. The development in the field of information and communication technology is the most rapid development in the current era.²

With the rapid development of information technology, the Internet has become a phenomenon in people's lives, not only to communicate, but also to conduct business transactions anywhere and anytime. At present, various ways to interact in the "virtual world" have been developed. One example is the birth of the Wireless Application Protocol (WAP) technology, which allows people to access the Internet, pay bank accounts, and even book airline tickets using only mobile phones and Internet networks. The development of the Internet, which is growing by the day in terms of both devices and users, has both positive and negative effects. In addition to the benefits of making people's lives easier, technology also brings disadvantages in the form of making it easier for criminals to commit crimes.³

Any information disseminated to either individuals or companies through social and electronic media, when sent and read by many people, can affect the emotions, feelings, thoughts and even actions of a person or group who reads it. It is unfortunate if the information transmitted is inaccurate, especially information about fake news (hoax) with a very provocative title that leads readers and recipients to negative opinions.⁴

News and information disseminated through various social media sites can be easily accessed by all Internet users, both individuals and groups, both children and adults. The rapid development of news and information is always followed by the development of crimes and increasingly sophisticated actions in people's lives. Even in the dissemination of news and information, not all of them can be accounted for the truth or what is usually referred to as a hoax.⁵

The definition of a hoax is information that is created with the goal of hiding the real information and filling social media with false information to hide the real information, a hoax is defined as an attempt to distort facts using information that is convincing but unverifiable.⁶ Hoaxes can also be interpreted as information or messages that have things in them that are not certain or are not facts that are actually the case.⁷

Fake news (hoax) itself is a false news in an attempt to deceive or trick the reader / listener into believing something, even though the fake news maker knows that the news is fake, the spread of news itself is a way to deliver information both through print and electronic media, In this digital age and globalization like this, social media is the easiest means to access news, with the freedom of internet access the spread of news tends to be unlimited but also cannot be filtered, the spread of news through electronic media is more likely to be comprehensive and not limited to readers of a certain age like readers of print media.⁸

Fake news (hoax), often spread on social media, are very dangerous and very detrimental to those related to the news being spread, an example of a case that recently occurred, namely:⁹

(HOAX) Facebook account in the name of the Secretary of Bekasi City BKPSDM A Facebook account is circulating in the name of the Secretary of the Bekasi City Personnel and Human Resources Development Agency

² Irkham Abdul Huda, "Perkembangan Teknologi Informasi dan Komunikasi Terhadap Kualitas Pembelajaran di Sekolah Dasar", Jurnal Pendidikan dan Konseling, Volume 1 Nomor 2 Tahun 2020, hlm.143.

³ Raudia, "Pengaruh Perkembangan Teknologi terhadap Terjadinya Kejahatan Mayantara (Cyber Crime)", Jurnal Ilmiah Jurisprudensia, Volume 6 Nomor 2 Desember 2019, hlm.234.

⁴ Ibid.

⁵ Ibid.

⁶ Henri Septanto, "Pengaruh Hoax dan Ujaran Kebencian Sebuah Cyber Crime dengan Teknologi Sederhana di Kehidupan Sosial Masyarakat", Jurnal Sains dan Teknologi Kalbi Scientia, Volume 5, Nomor 2, Agustus Tahun 2018, hlm.157.

⁷ Ibid.

⁸ John M. Echols dan Hassan Shadily, Kamus Inggris-Indonesia, Jakarta: Gramedia, 1996, hlm.213.

⁹ KOMINFO, "LAPORAN ISU HOAKS", Direktorat Pengendalian Aplikasi Informatika, Selasa 18 Oktober 2022.

(BKPSDM) Ali Syofyan. The account provides human resources related offers to the Bekasi City State Civil Apparatus (ASN).

In fact, the Facebook account on behalf of the Secretary of the Bekasi City Personnel and Human Resources Development Agency (BKPSDM) Ali Syofyan is not true, BKPSDM Bekasi City through its official Twitter account @bkpsdmbksikota. Appealed to Bekasi City ASN to ignore offers related to employment submitted by the account.¹⁰

(HOAX) Giveaway Transfer Slip in the Name of Bank Indonesia. A receipt is circulating that purports to be proof of a giveaway transfer from Bank Indonesia.

In fact, the receipt is fake and has been flagged as a scam. Bank Indonesia, through its official Instagram account @bank_indonesia, emphasized that it does not hold giveaways, especially in the form of transfers or disbursements as circulated. Bank Indonesia also reminded that it has never issued individual transaction receipts, let alone requested funds.¹¹

Based on the foregoing, Law Number 19 of 2016 concerning Amendments to Law Number 1 of 2011 concerning Electronic Information and Transactions regulates the dissemination of false news (HOAX) and those who violate can be subject to sanctions as stipulated in Article 28 paragraph (1) which regulates the content of false and misleading news, as well as in Article 28 paragraph (2) concerning content that creates a sense of hatred or hostility of individuals and / or certain community groups based on ethnicity, religion, race and intergroup (SARA).

Article 28 paragraph (1) means that the implementation of electronic transactions can be carried out in the public or private sphere. Implementation in the public sphere includes an implementation of electronic transactions by agencies or parties by other parties that organize public services as long as they are not excluded by the Law on Electronic Information and Transactions. Meanwhile, the implementation of electronic transactions in the private sphere includes electronic transactions between business actors, between

business actors and consumers, between individuals, between agencies, and between agencies and business actors in accordance with the provisions of laws and regulations.¹²

Although many regional police forces have set their ranks to tackle hoax news, the false news that has spread both nationally and in the regions is increasingly worrying, resulting in the government enacting Law Number 27 of 2022 concerning Personal Data Protection. Meanwhile, the regulation of false news has previously also been regulated in Articles 14 and 15 of Law Number 1 of 1946 concerning Criminal Law Regulations.

Article 14 reads as follows:

"Whoever, by disseminating false news or rumors, with deliberate intent creates a disturbance among the people, shall be punished by a maximum imprisonment of ten years."

Meanwhile, Article 15 reads as follows:

"Whoever disseminates news or issues a notification, which is likely to create a disturbance among the people, while he reasonably believes that the news or notification is false, shall be punished by a maximum imprisonment of three years."

In addition, it is regulated in Article 28 paragraphs (1) and (2) of Law Number 19 of 2016 concerning Electronic Information and Transactions, but in reality there are still many perpetrators of criminal acts of spreading false news (HOAX), not even a few actions carried out are accompanied by the dissemination of personal data, so the police must work harder in investigating hoax crimes.

Based on the problems that arise in law enforcement against the spread of fake news information described above, the author is interested in examining in more detail. In addition, it is also necessary to know what obstacles and efforts are felt in the implementation of law enforcement against the spread of fake news on social media, especially those that must be discussed in more depth.

To ensure the originality of the research, or the credibility of this research, the author has made every effort to find out whether previous research on similar or similar themes or issues

¹⁰ Ibid.

¹¹ Ibid.

¹² Renza Ardhita Dwinanda, "Penegakan Hukum Pidana Terhadap Penyebaran Berita Bohong di Sosial Media", *Jurnal Ilmiah Panorama Hukum*, Volume 4 Nomor 2 Desember 2019, hlm.117.

has been conducted. Based on observations and literature searches conducted by the author on various references, research, the internet (social media) and other sources of information, several publications that discuss law enforcement against the dissemination of fake news information on social media are related to Law number 19 of 2016 concerning Electronic Information and Transactions on: Articles and other forms of writing, namely as follows:

The journal written by Putri Yashila Rahimah Athifahputri, with the title: "Law Enforcement Against the Spread of Hoax News seen from a Legal Review". Putri Yashila Rahimah Athifahputri wrote in her abstract as follows:

"Social media certainly has great benefits for human life. However, there are also negative impacts in its use, the free dissemination of information and opinions on social media allows irresponsible people to spread information that does not match the facts or commonly known as hoaxes. This writing aims to find out the law enforcement of criminal acts of spreading false news (hoaxes) on social media, what factors affect the effectiveness of law enforcement against the spread of false news (hoaxes) on social media, and finally overcoming criminal acts of spreading false news (hoaxes) on social media non-penal. By using the theory of law enforcement according to Soerjono Soekanto. The research method is a normative approach using materials from library research. The results of this study found several conclusions: first, in enforcing the criminal law of fake news (hoax), one of the law enforcement officials, namely the Police of the Republic of Indonesia, took several actions, namely (a) pre-emptive, the Police carry out literacy or education activities on hoax prevention through social media, (b) preventive, by forming a Cyber Patrol Task Force in the internet world, (c) repressive, the Police carry out tasks or efforts by enforcing the law (law enforcement) against the

perpetrator. Second, there are 5 factors that affect the effectiveness of law enforcement against fake news (hoax), namely (a) the legal factor itself, (b) law enforcement factors (c) facilities and infrastructure factors (d) community factors (e) cultural factors. Third, there are three ways to prevent fake news by using non-punitive means, namely socialization, cooperation and supervision.¹³

The journal written by Dewi Bunga, Luh Gede Yogi Arthani, and Ni Wayan Eka Sumartini, in their abstract entitled: "Law Enforcement of Hoax Spreading in Digital Space" argues:

"The development of massive use of information technology is utilized by internet network users to spread hoaxes. The consequences of spreading hoaxes are not only economic losses, but also cause feelings of anxiety, claim lives, divide society and even become the beginning of the rise of radicalism movements. This study aims to analyze as a legal act in cyberspace and analyze law enforcement against the spread. This research is a normative juridical research that examines the construction of hoax norms in Indonesian legislation. Hoax or fake news is a real legal act even though it is done in cyberspace. Its spread is so massive that it tends to be uncontrollable and difficult to find where it came from. As a real legal act, it has legal consequences as stipulated in Law Number 11/2008 on Electronic Information and Transactions. However, digital literacy remains the main key in overcoming hoaxes".¹⁴

Bella Alberta and Jeslin Eka Putri, in their journal abstract entitled "Juridical Analysis of Criminal Law Enforcement Against the Spread of Covid-19 Hoax News Through Social Media" said:

"In spreading news and information, not all of them can be accounted for or what is commonly referred to as a hoax. Hoaxes are information that is engineered with the aim of

¹³ Putri Yashila Rahimah Athifahputri, "Penegakan Hukum Terhadap Penyebaran Berita Hoax dilihat dari Tinjauan Hukum" Jurnal Hukum dan Pembangunan Ekonomi, Volume 10, Nomor 1, 2022, ISSN (Print) 2338-1051, ISSN (Online) 2777-0818.

¹⁴ Dewi Bunga, Luh Gede Yogi Arthani, dan Ni Wayan Eka Sumartini, "Penegakan Hukum Penyebaran Hoax di Ruang Digital", Jurnal Hukum Agama Hindu, Vol. 12 No. 1 Tahu 2022, ISSN 2089-7553(print), ISSN 2685-9548 (online), <https://ejournal.iahntp.ac.id/index.php/belom-bahadat>.

covering up actual information and filling social media with false information to cover up actual information, in other words, hoaxes are defined as a way to distort facts using information that is not true. One of the hoaxes that is currently always in the public eye in Indonesia is the hoax news about Covid-19. A lot of information about covid-19 is spread through social media that can be accepted by almost all circles and the information cannot be accounted for or is in uncertainty. this can cause panic and psychological distress or can even lead to misunderstandings between the public and the government. For those who spread hoax news about Covid-19, this is also difficult to overcome. Criminal law enforcement related to the spread of covid-19 hoax news is regulated in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. Perpetrators of spreading hoaxes related to covid-19 and others are threatened with fines of up to 1 billion. This is what the government needs to pay attention to in an effort to deal with all hoax news that has been widely circulated in the community".¹⁵

However, some examples of the Journal mentioned above are very different from the Journal made by the author, therefore the Journal made by the author is original and contains some novelty.

Research Methods

This research is normative legal research. Normative legal research is research that examines legal issues in more depth in relation to legal norms that have been determined from the point of view of legal science.¹⁶ Normative legal research or library legal research, is legal research conducted solely by looking at secondary sources of information.¹⁷ In line with this type of research, this research is descriptive analytical, because its main purpose is to

provide a description of society or certain groups of individuals, as well as disorders or other symptoms.¹⁸

The author uses a normative juridical approach method, which is research conducted by examining library materials which are secondary data as an analyzer of the implementation of related laws.¹⁹ In this case, it aims to examine Law Enforcement Against the Spread of Fake News on Social Media in Relation to Law Number 19 of 2016 concerning Electronic Information and Transactions.

Results and Discussion

Basically, the law that regulates information and electronic transactions is known as Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE), and was passed on April 21, 2008. Over time, the law has been amended into Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE) and is still valid today. Articles governing cases of spreading false news or hoaxes can be enforced by Article 45A paragraph (1) which explains that:

"Every person who intentionally and without the right to spread false and misleading news that results in consumer harm in electronic transactions as referred to in Article 28 paragraph (1) shall be punished with a maximum imprisonment of 6 years and / or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah)".

Article 28 paragraph (1):

"Every person intentionally and without the right to spread false and misleading news that results in consumer harm in Electronic Transactions".

Article 28 paragraph (2):

"Every person intentionally and without the right to disseminate information aimed at creating a sense of hatred or hostility of individuals and/or certain community groups

¹⁵ Bella Alberta dan Jeslin Eka Putri, "Analisis Yuridis Penegakan Hukum Pidana Terhadap Penyebaran Berita Hoax Covid-19 Melalui Media Sosial", *Jurnal Muhammadiyah Law Review*, 5 (1), Januari, 2021, ISSN 2549-113X (print), ISSN 2580-166X (online), Journal Homepage: <http://ojs.ummetro.ac.id/index.php/law>.

¹⁶ Hadin Muhjad dan Nunuk Nuswardani, *Penelitian Hukum Indonesia Kontemporer*, Yogyakarta: Genta Publishing, 2012, hlm 9.

¹⁷ Soerjono Soekanto dan Sri Mamudji, Jakarta: Pengantar Penelitian Hukum, Universitas Indonesia, 2001, hlm 13.

¹⁸ Soerjono Soekanto Pengantar Penelitian Hukum, Jakarta: Universitas Indonesia Press, 2006, hlm 10

¹⁹ Soedjono Soekanto, Sri Marmudji, *Penelitian Hukum Normatif*, Rajawali Pers, Jakarta 1985, hlm.15

based on ethnicity, religion, race, and intergroup (SARA)".

The number of hoaxes, bullying, hate speech, social conflicts, acts of intolerance and so on are proof that Pancasila and the 1945 Constitution are experiencing value degradation.²⁰ Based on the above writing, this writing aims to be able to tell the negative impact if broadcasting hoax news if it continues to occur. All elements of society, especially the people of Indonesia, play a very important role in the spread of hoax news so that continuous education is needed in choosing news information spread on social media so that the public can assist law enforcement officials in eradicating the criminal act of spreading hoax news in Indonesia.

Gustav Radbruch in I Nyoman Nurjaya uses his theory, namely *Rechtsidee*, that the rule of law ideally must realize its purpose or the ideals of law (*rechtsidee*), namely justice (*Grechtmategheit*), expediency (*Doelmatigheit*), certainty (*Rechtmategheit*), the ideals of law (*rechtsidee*) from Rudolf Stammler have a function to determine the direction for the achievement of the ideals of society. Meanwhile, Gustav Radbruch also emphasized that the legal mind (*rechtsidee*) only functions as a regulative benchmark, namely testing whether a positive legal rule is fair or not, but also functions as a constitutive basis, namely choosing that without the legal mind, the law will lose its meaning as law.²¹

Therefore, efforts that can prevent fake news or hoaxes can be done by getting used to having a culture of literacy, this needs to be done in order to avoid the adverse effects that exist in society due to fake news or hoaxes, we can adopt several techniques to determine whether the news is a hoax, namely as follows:

1. Look at who posted the news so that we know the source of the truth, if the news comes from unclear media, we need to be careful in writing or believing it.
2. Look for other sources to be used as a comparison when the suspicious news we

read, especially in media that already have high credibility or are already trusted.

3. Hoax are also in the form of photos, always double check to avoid miscommunication.
4. Do not hesitate to fact-check the news, always be aware of flashy and provocative titles.
5. If you see hoax news, you can immediately handle it yourself to stop the spread, by clicking the "Report" feature if found on Facebook, Instagram, Twitter, YouTube.

Hoax is a news information that is deliberately added or subtracted from the actual information, in which there is an element of data manipulation or modification that is useful to get a large enough response to go viral. As an example of a case in this research in Chapter III above, the spread occurred in an area where the truth is not certain, but has caused panic and concern for the surrounding community. Hoaxes influence everyone who has read fake news to believe the news as if it were true.²²

People who live in villages often have difficulty in choosing information that is viral both in the neighborhood and on social media, whether the news is fact or hoax. Therefore, the government provides directions and appeals to the public to be more careful in finding or getting information. Hoax news has haunted many people, in law enforcement the police began to intensify cyber patrols to get and eradicate the perpetrators of hoax spreaders in Indonesia.²³

As a result of the spread of fake news or hoaxes, state security has made various efforts to deal with crimes in the field of information technology. The police are trying to conduct investigations into cyber-related activities and function forensic computer laboratories to support the investigation of crimes in cyberspace. Law enforcement or can be called in English Law Enforcement and *Rechthandaving* as it is called in Dutch.

Handhaving according to *Handhave Milieurecht*, *Handhave* is the monitoring and enforcement of the use of administrative,

²⁰ Supriyono & Irawan, A. D, Semangat Kebangkitan Nasional Untuk Menghadapi Covid-19 Dalam Konteks Pancasila dan Konstitusi. *Jurnal Pendidikan Sosial Keberagaman* No.7, Vol. 2, 2020, hlm. 115

²¹ Pawestri, A. Y, *Citra Hukum dan Demokrasi dalam Sistem Penegakkan Hukum* Lingkungan Indonesia, *Jurnal Ilmiah Ilmu Hukum*, No. 17, Vol.2, 2019, hlm. 98.

²² Juditha, C, *Interaksi Komunikasi Hoax di Media Sosial serta Antisipasinya*, *Jurnal Pekomnas*, No.3 Vol.1, 2018, hlm. 31-44.

²³ Wahid, A. B. *Gencarkan Patroli Siber, Polri tangani 41 Hoax soal Corona*, sumber: <https://news.detik.com/berita/d-4949856/gencarkan-patroli-siber-polri-tangani-41-hoax-soal-corona> diakses pada 4 Mei 2023, Pukul 17.00 WIB.

criminal, or civil documents to understand the conditions and provisions of generally applicable laws.²⁴ Article 28 paragraph (2) of the ITE Law still causes multiple interpretations. However, in fact, the article has been used in resolving many cases that have violated the contents of the Article. Even though a law has been formed using strict words and terms, there is still a possibility to give interpretations that can even cause doubts.²⁵

The actions that can be categorized as violating Article 28 paragraph (2) of the ITE Law are as follows:²⁶

1. The existence of parties who feel aggrieved by the actions of a person or group of people related to the element of SARA,
2. The act contains images of people who are sanctified in a religion that are contrary to the original images,
3. Making writings that demonize the contents of the holy book of a religion that is different from the teachings of that religion or,
4. Disseminating personal matters that contradict or violate norms or decency and morality,
5. The acts committed contain elements of SARA and are carried out on social media.

Law enforcement is a process for the realization of legal objectives to become a reality. The law itself does not use a model of existing actions, but is oriented towards the creation of new behavior.

Criminal Countermeasures make quite effective efforts to spread fake news on social media through non-penal means. Because penal means cannot prevent criminal acts from occurring, non-penal means are used. This is because the nature of penal means is more focused on the prosecution of criminal acts.²⁷ According to Barda Nawawi, non-penal countermeasures can also be referred to as efforts outside of criminal law. This effort is a countermeasure that focuses more on preventive action, namely preventing crime

from occurring. with socialization, cooperation with related parties, and supervision.²⁸

Given that crime prevention efforts through non-penal channels are more preventive measures for the occurrence of crime, the main target is to deal with factors conducive to the occurrence of crime. These conducive factors, among others, center on problems or social conditions that can directly or indirectly cause or foster crime. Thus, from a macro and global perspective, non-penal efforts occupy a key and strategic position in the overall criminal policy efforts. Various UN Congresses on "The Prevention of Crime and Treatment of Offenders" have emphasized strategic efforts to overcome the causes of crime.²⁹

Due to the amount of fake news on social media, the government issued Law of the Republic of Indonesia Number 19 of 2016, which amends Law Number 11 of 2008 on Electronic Information and Transactions. A law that is considered to reduce the spread of fake news on social media.³⁰ There are other ways to tackle the spread of hoax news from the government, as follows:

1. Socialization, The government and community groups involved in hoax news are important components in tackling hoax news on social media. It helps instill good standards for social media use by showing that information is not always true and does not always contain hate speech and sara. If those involved in countering hoax information outside legal channels truly believe that they are doing this task sincerely and without being pressured by anyone, including their superiors, they can conduct socialization effectively and efficiently.
2. Cooperation, cooperation is one of the efforts in tackling the spread of fake news, cooperating with facebook media for example as used by the United States when responding to several allegations related to the spread of fake news spread through facebook during the US Presidential

²⁴ Hamzah, J. A, Penegakan Hukum Lingkungan , Sinar Grafika, Jakarta, 2005, hlm. 48

²⁵ Ibid.

²⁶ Situmorang, F.S. dkk, Tinjauan Yuridis Terhadap Ketentuan Pasal 28 ayat (2) UU informasi dan teknologi, Kertha Wicara, No.6, Vol.5, 2017, hlm. 12.

²⁷ Ray Habib Al-Syamsi Et Al., Politik Kriminal Sebagai Sarana Penanggulangan Tindak Pidana Yang Dilakukan Oleh Anak Karena

Pengaruh Minuman Keras (Studi Wilayah Kabupaten Pekalongan), Jurnal Gema Keadilan, No.6 November 2019, hlm. 317–350

²⁸ C Nasution, Kajian Hukum Model Literasi Media Dalam Menganalisa Informasi Berita Palsu (Hoax) Pada Media Sosial, Jurnal Hukum Responsif, 2020, hlm. 157–170,

²⁹ Ibid.

³⁰ Wicipto Setiadi, Korupsi Di Indonesia, Jurnal Legislasi Indonesia No.15 Vol.3, 2018, hlm. 249–262.

Election campaign, so facebook took the initiative to partner with PolitiFact and Associated Press institutions to identify the truth of the news spread on facebook media, so that when the news is identified as a hoax then the news will be marked with disputed so that people can find out which news is true and fake news or fake news.

3. Monitoring, In addition, the government established a special agency to monitor news on the internet and test its credibility. See Presidential Regulation (Perpres) No. 133/2017 on the Amendment to Perpres No. 53/2017 on the State Cyber and Crypto Agency (BSSN). Previously, BSSN was under the Coordinating Minister for Political, Legal and Security Affairs, but now the President is in charge of the agency.

Criminal law authority can be described as the interaction made by the law enforcement authority by analyzing the relevant parties who have committed legal errors. Examination is a process that begins with investigation, prosecution, and ends with sentencing. Such a process is the Criminal Justice Process. The ultimate goal of criminal law enforcement is to tackle crime by punishing everyone who has been convicted.³¹

A legal product is said to be effective if the legal product has been carried out or implemented in practice. The theory of legal effectiveness according to Soerjono Soekanto is that whether or not a law runs can be determined by 5 main factors, namely, as follows:

1. The legal factor itself (the law), Based on the theories of legal science, three kinds of things can be distinguished regarding the enactment of law as a rule. It is expressed as follows:
 - (1) The rule of law applies juridically, if its determination is based on a higher-level rule or formed on a predetermined basis.
 - (2) The rule of law applies sociologically, if the rule is effective. That is, the rule in question can be enforced by the authorities even though it is not accepted by the citizens of the community or the rule

applies because of the recognition of the community.

- (3) The rule of law applies philosophically, namely in accordance with the ideals of law as the highest positive value.³²

There are still some obstacles and barriers that need to be overcome in law enforcement related to fake news (hoaxes) in terms of legal factors themselves, namely legislation that is still fragmented not in one law that regulates it. So that there is an overlap in the regulation of fake news (hoaxes) in Indonesian law, plus there are still legal rules against fake news (hoaxes) that are not clear. As a result, there is confusion from law enforcement officials in using the law. The ITE law as a legal framework has regulated the types of issues in social media, namely slander, incitement, and fake news.

But lately there is a new trend in society in spreading fake news (hoaxes), namely by using a question mark or exclamation mark suffix in uploading a post. Examples such as Viral! Civet coffee stamp is flammable or uploading a photo of an indecent character, then equipped with a status saying "is it true that this character is the mother of that mother, or not another mother?". Posts in this style do not yet have a legal umbrella and regulations, so it is necessary to collaborate between the community and the government in this matter so that the legal umbrella is clear.³³

Law Enforcement Factors, Determining whether or not the performance of written law is effective is the law enforcement apparatus. With this relationship, it is desirable to have a reliable apparatus so that the apparatus can do its job well. Reliability in this regard includes professional skills and having a good mentality. According to Soerjono Soekanto. That the problems that affect the effectiveness of written law in terms of the apparatus will depend on the following:

- (1) To what extent are officers bound by existing regulations.
- (2) To what extent officers are allowed to provide discretion.

³¹ Yosep, T, Advokat dan Penegakan Hukum, GENTA Press, Yogyakarta, 2016, hlm. 58

³² Novita Aminah Sari, Dampak Hoax Di Media Sosial Facebook Terhadap Pemilih Pemula, Jurnal Komunikasi Global 8, No. 1 2019, hlm. 51-61.

³³ Maulida, Riani, Penegakan Hukum Pidana Terhadap penyebaran Berita Bohong (Hoax) Di Social Media (Analisis Terhadap UU No 19 Tahun 2006), Skripsi USU, Medan, 2018 hlm. 81

- (3) What kind of example should be given by officers to the public.
- (4) The degree of synchronization of the assignments given to the officer so as to provide a firm limit on his authority.³⁴

Law enforcers in Indonesia today are experiencing difficulties in dealing with the outbreak of fake news cybercrime. This is due to the fact that there are still few law enforcement officers who understand the ins and outs of information technology (internet), limited facilities and infrastructure, and lack of public legal awareness in efforts to tackle fake news crimes, besides that law enforcement officers in the regions are not ready to anticipate the rise of this crime because there are still many law enforcement officers who are stuttering technology (gaptik) this is due to the fact that there are still many law enforcement institutions in the regions that have not been supported by the internet network.

The limitations of special cybercrime tools owned by the police in the districts to the sub-district level to support the investigator's infrastructure in uncovering criminal acts of false news.³⁵ The limitation of modern tools in the region causes a long time in uncovering cybercrime crimes and the tools needed also require a large amount of money.

Facilities that support Law Enforcement, the availability of facilities in the form of facilities and infrastructure for implementing officials in carrying out their duties. The facilities and infrastructure in question are infrastructure or facilities that are used as tools to achieve legal effectiveness. In connection with the facilities and infrastructure that are said to be called these facilities, Soerjono Soekanto predicts the effectiveness of certain elements of the infrastructure, where the infrastructure must clearly be a part that contributes to the smooth running of the tasks of the apparatus in its place or work location. The elements are as follows:³⁶

- (1) Existing infrastructure is well maintained.

- (2) Infrastructure that does not yet exist needs to be procured by taking into account the time frame for its procurement.
- (3) Infrastructure that is lacking needs to be completed immediately.
- (4) Damaged infrastructure needs to be repaired immediately.
- (5) Infrastructure that is stuck needs to be immediately launched.
- (6) Infrastructure that has experienced a decline in function needs to be improved again.

Constraints in facilities and infrastructure have an influence in efforts to prevent the prevention of criminal acts of hoax spreaders to the disclosure of hoax spreaders, still have limitations in access and coordination with service providers and cellular and internet services. Not yet having special serves for digital forensics, as a support for work in the field of Information and Electronic Transactions. Supporting facilities and infrastructure consist of educated and skilled human resources, good organization, adequate equipment, sufficient finance. Without adequate facilities, law enforcement cannot run smoothly and law enforcers are unlikely to carry out their roles properly.

Community Factors, Law enforcement aims to achieve peace in society. Society has certain opinions about the law. This means that the effectiveness of the law also depends on the willingness and legal awareness of the community. Low awareness of the community will make it difficult for law enforcement, as for steps that can be taken is socialization by involving social layers, power holders and law enforcement itself. The formulation of the law must also pay attention to the relationship between social changes and the law so that in the end the law can be effective as a means of regulating community behavior.

The problem of hoaxes (fake news) appearing in the midst of people's lives in recent times shows the development of a society that was originally simpler towards increasingly complex conditions of modernity. Society is entering a

³⁴ R Atmasasmita, A S Meliala, dan A Takariawan, Reformasi Hukum, Hak Asasi Manusia & Penegakan Hukum, Mandar Maju, Bandung, 2001, hlm. 115

³⁵ Hendy Sumadi, Kendala dalam Menanggulangi Tindak Pidana Penipuan Transaksi Elektronik Di Indonesia, Jurnal Wawasan Yuridika 33, No. 2, 2016, hlm. 175.

³⁶ Soerjono Soekanto, Ilmu Politik Dan Hukum, 1960, hlm. 230–237, diakses pada tanggal 26 Maret 2023 Pukul 16.39 WIB pada Link : <https://Jurnal.Unmer.Ac.Id/Index.Php/Jch/Article/Download/2871/Pdf>.

new culture that has not fully realized its advantages and disadvantages. What people are currently experiencing is that there is no understanding of how to use social media and take the positive side, as well as how to avoid the negative impact. Social media seems to bring people into a vast and almost limitless area of communication. This condition that is not face-to-face but is quickly presented in delivering messages then develops rapidly and even tends to develop wildly.

Cultural Factors, Culture has a very large function for humans and society, namely regulating so that humans can understand how they should act, act, and determine their attitude when dealing with other people. Culture is a basic line of behavior that sets rules about what to do, and what is prohibited.

The five factors above are closely interrelated, because they are the essence of law enforcement, as well as a measure of the effectiveness of law enforcement.

Conclusions

Law enforcement is an effort to guarantee and ensure that the law runs as regulated. If a legal product has been applied or runs in practice, the legal product is said to be effective. There are five main factors that affect the difficulty of law enforcement: the law itself; law enforcement; facilities; society; and culture. In combating fake news on social media, law enforcers work with relevant groups such as information technology experts and universities to promote criminal offenses for spreading fake news.

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