



Legal impact and criminal challenges of the spread of false information on social media in the digital era

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ABSTRACT

The purpose of this research is to examine the criminal difficulties and legal ramifications of the modern era's epidemic of disinformation on social media in an effort to come up with thorough answers to these issues. The proliferation of hoaxes and other forms of misinformation has threatened Indonesia's social, political, and economic stability in recent years, thanks to the proliferation of social media and other forms of online communication. Another major problem with prosecuting hoaxers is the difficulty of law enforcement in the digital sphere, which includes factors like the anonymity of the offenders, different interpretations of rules, and the general public's lack of competence with digital technology. A descriptive-analytical technique is used in the research method of normative legal studies. In order to find problems and provide answers, this study compares applicable rules with international standards, namely the Criminal Code and the Electronic Information and Transactions Law. Laws, judicial judgments, and other primary legal documents are complemented by secondary legal items such as scholarly publications and literature. The study's findings reveal that despite the existence of laws like the Electronic Information and Transactions Law, its execution is often hindered by the international character of cyberspace and the dearth of funding for digital forensics tools. To combat these issues, the report suggests more adaptable regulation updates, societal efforts to increase digital literacy, technological advancements for law enforcement, and international collaboration. Additionally, law enforcement must strike a balance between protecting individuals' right to free speech and discouraging criminal behavior.

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1. Introduction

Humans' communication and information access practices have undergone radical transformations since the advent of the digital age (Muhtar et al., 2022). The rise of social media as a means of immediate global information sharing is directly attributable to the expansion of internet connectivity. The likes of Facebook, Twitter, Instagram, and TikTok have become indispensable in today's world, serving as platforms for instantaneous global contact, idea sharing, community development, and news dissemination (Rahman et al., 2024). On the other hand, new problems arise as a result of the speed and simplicity of information dissemination, particularly when it comes to unverified or even deliberately false material (Naue et al., 2024).

Spreading misleading information, or "fake news," has become a major legal and social issue in the internet age. This topic has inspired different legislative solutions in different countries according to socio-political and cultural settings.

The General Data Protection Regulation (GDPR) and Digital Services Act regulate incorrect information in the EU as part of digital governance and freedom of speech. The DSA requires internet platforms to moderate material while protecting essential rights like free expression. Independent fact-checking and media literacy initiatives are also encouraged by the EU to counteract misinformation.

In contrast, the First Amendment, which protects free expression, greatly influences US false information legislation. Facebook and Twitter willingly identify or delete misinformation, especially during elections or public health emergencies, whereas the government does not. *New York Times Co. v. Sullivan* (1964) provides a high standard for showing injury caused by misleading information, limiting criminal liability in most circumstances.

The Protection from Online Falsehoods and Manipulation Act in Singapore is stricter. POFMA, passed in 2019, allows the government to issue rectification orders, delete disinformation, and penalize misinformation spreaders. This paradigm favors governmental action to maintain order and confidence in official communications.

Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law), revised in 2016, addresses social media misinformation in Indonesia. Hoaxes that encourage fear or hate are illegal under Articles 27 and 28. Critics say this rule might be used to stifle dissent, underscoring the conflict between fighting misinformation and protecting democratic liberties. ICCPR and other international frameworks give advice. Article 19 allows limits on free speech to safeguard public order, national security, or others' rights. Proportionality in controlling incorrect information is essential to avoid violating individual rights.

One of the major problems with the internet age is the spread of false information, sometimes called hoaxes. A country's security and political stability are put at risk when hoaxes impact public perception and cause societal instability. With more and more people using the internet in Indonesia, the problem of misinformation propagating on social media is becoming more pressing (Al-Hadrawi et al., nd). More than 70% of the Indonesian population uses the internet, with social media being one of the primary platforms used, according to statistics from the Indonesian Internet Service Providers Association (APJII) (Abdussamad & Muhtar, 2022).

The dissemination of misinformation affects several areas of law, particularly criminal law, and is therefore both a social and legal concern. The regulation of the transmission of misleading information, which is sometimes hard to trace, presents significant difficulties for criminal law in the digital age. Here, certain statutes, such the Electronic Information and Transactions Law, could serve as a foundation for pursuing those responsible for spreading hoaxes. However, because to the anonymous and cross-jurisdictional nature of cyberspace, it may be difficult to execute these principles.

No matter the context – insults, defamation, or dangers to national stability – the dissemination of false information may be seen as an affront to the public interest from a criminal law standpoint. The fact that the constitution also protects the right to free speech makes this

problem more complicated when it comes to oversight and law enforcement (Yanti & Yusraini, 2018). Consequently, reasonable and proportionate rules should be established to teach people to be more cautious while using social media and to penalize those who break the rules.

The advent of digital technology has brought about profound changes in human communication and information accessibility (Puluhulawa et al., 2023). A key platform that enables the quick and limitless diffusion of information, social media has emerged as a result of the development of internet technology. Social media and messaging apps like WhatsApp, Instagram, and Facebook have made it possible for anybody to contribute to the information ecosystem rather than only consume it. The dissemination of misleading information or hoaxes, which may damage many facets of society and politics, is one of the big problems that this ease of use entails. In Indonesia, the situation is becoming trickier since the number of people using the internet is growing at a fast pace, yet the general population's level of digital literacy is still low.

In a criminal environment in particular, the dissemination of false information has substantial legal ramifications. This matter is primarily regulated by the Electronic Information and Transactions Law in Indonesia. As stated in Article 45A paragraph (1) of the Electronic Information and Transactions Law, there are criminal sanctions for disseminating information that can incite hatred or hostility based on SARA. These sanctions include a maximum fine of IDR 1 billion or imprisonment of up to six years (Nurkholim, 2021). The dissemination of false information, whether in the form of insults, defamation, or acts that can incite social disturbance, is further regulated by the Criminal Code. For instance, those who knowingly disseminate disinformation with the goal to sow discord in society face a maximum punishment of 10 years under Article 14 paragraph (1) of Law Number 1 of 1946 (Mufid & Hariandja, 2019).

The digital age presents great obstacles to law enforcement, notwithstanding the existence of legislation. Anonymity in cyberspace is a major problem since it makes identifying the offender difficult. In order to effectively execute laws, international cooperation is necessary, since many instances involving the dissemination of false information involve platforms located outside. People prefer to distribute information without first checking it, which is a major contributor to the vast spread of incorrect information, which is typically caused by the community's poor digital literacy. A number of clauses of the Electronic Information and Transactions Law, in particular, include legally binding opinions that might be interpreted in several ways, further complicating matters. Excessive application of Article 27, paragraph (3), which deals with defamation, is seen as limiting freedom of speech, which is safeguarded by Article 28E, paragraph (3) of the Republic of Indonesia's 1945 Constitution.

In addition to having far-reaching effects on the law, the dissemination of misinformation disrupts established social and economic norms. Hoaxes are often used by political figures to sow discord among the public, particularly in the lead-up to elections. False news has the potential to influence the public's perception of market stability in the realm of economics. A comprehensive strategy is required to resolve this issue. For the general population to learn to critically evaluate information sources, the government should step up its digital literacy initiatives. Expertise in digital forensics and other specialized training is also necessary for law enforcement to effectively combat cybercrime. Given the global reach of the internet, there is an immediate need for nations and social media platform providers to work together. It is possible to successfully combat the problem of misinformation spreading in the digital age with an integrated approach that does not compromise people's right to free speech.

Following on from the previous section, the following question is formulated for this study: (1) How does the dissemination of misinformation on social media affect the stability of Indonesia's social, political, and economic systems from a legal standpoint? and (2) how can we address the difficulties of implementing criminal laws in relation to the dissemination of misinformation on social media platforms in this digital age?

2. Method

This study used a normative legal research approach to examine social media misinformation laws and regulations, specifically looking at sections of the Criminal Code, the Electronic Information and Transactions Law, and other applicable statutes. In order to address concerns about the implications and difficulties of law enforcement's role in this phenomena from a legal perspective, this research draws on both primary and secondary sources of law, including statutes, case judgments, and scholarly papers (Mahmud Marzuki, 2011).

This research uses normative descriptive analysis to map the legal effect of social media's erroneous information on Indonesia's social, political, and economic stability to answer the first issue formulation. Article 28 paragraph (1) of the Electronic Information and Transactions Law and Articles 14–15 of Law Number 1 of 1946 are interpreted and applied to address this issue. We also discuss how legal clarity might protect the community against deception.

To address the second issue, this paper examines the difficulties of prosecuting social media disinformation spreaders using a juridical-analytical approach. Law enforcement involves cross-jurisdictional coordination, Electronic Information and Transactions Law interpretations, and cyberspace anonymity. Comparing Indonesian and worldwide approaches to digital age law enforcement helps. This project aims to provide a solid theoretical framework and practical solutions for digital legal protections.

3. Analysis and Results

3.1 Legal Impact of Spreading False Information on Social Media on Social, Political, and Economic Stability in Indonesia

One of the biggest problems with contemporary civilization, particularly in the digital age, is the propagation of incorrect information or hoaxes on social media (Aldwairi & Alwahedi, 2018). In addition to causing basic issues with law enforcement, this phenomena has far-reaching effects on society, politics, and the economy. The legal ramifications of disseminating misinformation need research grounded in pertinent legal theories, foundational ideas in criminal and civil law, and the opinions of prominent legal experts who may shed light on the problem from a normative perspective.

Normative legal theory, which draws on the work of thinkers like Gustav Radbruch and focuses on concepts like legal certainty, fairness, and utility, provides a theoretical framework for understanding the propagation of misinformation on social media. Justice, clarity, and practical purpose are three essential components of law, according to Radbruch's renowned "three-dimensional formulation of law" theory of law (Morris, 2016). The public needs the law to make it very clear where the line is between free speech and the duty not to propagate information that is harmful to others, especially when it comes to the propagation of misinformation. However, without infringing upon human rights, justice must underpin the prosecution of those responsible for disseminating false information.

Hans Kelsen, who developed a rigorous philosophy of law, is another important person. The rule of law, according to Kelsen, is an independent standard apart from any particular set of moral or political principles (Haldemann, 2005). The significance of developing precise and transparent legislative standards to control the dissemination of misleading information is highlighted by this method. One example of this normative approach is Indonesia's Electronic Information and Transactions Law, which specifically regulates the distribution of material that might provoke hate or hostility in certain provisions, such as Article 28 paragraph (1).

Furthermore, significant insights are also provided by Roscoe Pound's theory of social law. According to Pound, the law is a social engineering instrument that, in order to be effective, must strike a balance between individual and societal needs (Latipulhayat, 2014). The law has to be able to balance protecting people's right to free speech with preventing the harmful effects of spreading incorrect information, such as hoaxes. The need for legislation to promote digital literacy as a preventative strategy and penalize offenders is a reflection of this philosophy.

Spreading misinformation violates both public and private norms of law, according to the legal idea. Spreading misinformation could be seen as a crime that goes against the public interest from a criminal law standpoint. For instance, in Law Number 1 of 1946, Articles 14 and 15, it is made clear that spreading false news with the intent to incite social disturbance is a punishable crime. This demonstrates how spreading misinformation harms society as a whole in addition to violating people's rights individually (Adha et al., 2023).

Civil law scholars have shown that spreading misinformation may lead to the infringement of people's legally protected rights. If you have lost money because someone gave you misleading information, you may seek it back under the principles of good faith and freedom of contract outlined in Civil Code Articles 1338 and 1343. As an example, the concept of civil culpability allows the aggrieved party to seek compensation in cases where misleading information is used to harm a person's or organization's image (Anand, 2011).

John Austin and other prominent legal professionals provide valuable insights into this matter. Law, according to Austin's positivist theory, is a mandate from a supreme power (Austin, 1861). This view places premium on the need for robust governmental regulation and enforcement of norms to curb the dissemination of misleading information. But many argue that this method fails to take into account the moral component of legislation, which is crucial for guiding conduct in the information era.

Contemporary legal thinkers' critical perspectives, like those of Ronald Dworkin, are just as pertinent as traditional legal theory and notions. Justice and human rights, according to Dworkin, should underpin all legal norms, and the rule of law itself should be seen as an object of integrity (Langton, 1990). To avoid violating the constitutionally protected right to free speech, legislation controlling the spread of misinformation must take this into account. This approach is significant since the Electronic Information and Transactions Law has a number of sections that have been criticized for being too vague or even used to censor criticism (e.g., Article 27, paragraph (3) on defamation).

In addition, Indonesia's social, political, and economic stability are all negatively affected by the dissemination of misleading information. When it comes to delicate topics like SARA, socially, hoaxes have the potential to drive a wedge between people. False information is often disseminated by political groups in an effort to sway public opinion, particularly in the months leading up to elections. Hoaxes have the potential to harm companies' reputations, cause market panic, and upset economic stability from an economic standpoint (Saragih, 2022).

To mitigate this damage, the legal system must adapt to digital reality. The Electronic Information and Transactions Law must be updated to keep up with technological advancement and new issues. To identify and prosecute misinformation spreaders, the Ministry of Communication and Information and the Police must get improved digital forensics training. Misinformation has spread via social media since the internet's inception. Online influence is growing beyond personal connections into law, society, politics, and the economy as more individuals use it. Hoaxes and misinformation may harm society's judicial systems. Inaccurate information endangers public safety and national stability and frequently violates Indonesia's Constitution's free speech provision.

Misinformation on social media sows distrust. Hoaxes often aim to deteriorate group ties, especially in sensitive areas like race, religion, and ethnicity. Several erroneous information-triggered social conflicts show this impact. Misinformation about persecution of specific groups is a frequent example of social dissatisfaction that leads to collective action. Legally, this social consequence may constitute a felony under Articles 14 and 15 of Law Number 1 of 1946. False news that might cause social unrest in these outlets carries a 10-year prison sentence. Law enforcement wants to prosecute hoaxers, protect the public, and prevent them. In fighting this social influence, law enforcement has major hurdles. On social media, disinformation spreaders may stay anonymous. The community's inadequate internet literacy makes hoaxes easier to pass off as true news when spread by trustworthy sources. In addition

to legislative measures, public awareness campaigns about vetting information before sharing it should be supported by education and digital literacy programs. Misinformation on social media affects politics. Hoaxes are commonly used to influence public opinion before elections or with sensitive political issues. Misinformation spread to split groups to select between political candidates or policies may divide society.

Spreading false information to overthrow a government or promote political instability may be a crime. Article 28, paragraph (1) of the Electronic Material and Transactions Law prohibits transmitting SARA-based media that promotes hostility. Differentiating between public interest harm and lawful free expression is a legal issue in this scenario.

To spread disinformation on social media, internet platforms utilize algorithms to make disputed content popular. This complicates law enforcement because of human offenders and technical platforms that may not have strict disinformation controls. Thus, the community, social media platforms, and the government must collaborate to reduce hoaxes' political power. Misinformation has far-reaching economic effects. Hoaxes in business may damage a company's or individual's reputation, consumer trust, and market confidence. Even before a huge company's bankruptcy is verified, misleading rumors might lower its stock price. Due to massive recalls of apparently safe items, product safety hoaxes affect the economy. Misleading information's monetary impact is a civil law violation of economic rights. According to Articles 1338 and 1343 of the Civil Code, freedom of contract and good faith allow a claim for damages against the person spreading false information. However, civil law enforcement generally struggles in such cases without specific evidence, especially when the source of disinformation is unknown.

Criminal law prohibits spreading false information to defraud a person or corporation. Online financial transactions are unregulated and perpetrators may stay anonymous, creating law enforcement challenges similar to those in social and political realms. To address the legal repercussions of social media disinformation, the legal system must provide community safety, justice, and clarity. One option is to improve electronic information and transaction, criminal legislation, and other industry rules. Laws alone aren't enough. To find and prosecute offenders, law enforcement needs advanced technologies, especially digital forensics.

Digital literacy education is very important for fighting frauds. To encourage individuals to think critically about what they post online and the hazards of spreading misinformation, the government should increase digital literacy programs. This campaign may include schools, neighborhood organizations, and IT companies.

The worldwide spread of social media raises unique legal concerns that necessitate international cooperation. Because many social media sites are global, punishing disinformation spreaders sometimes requires international cooperation. International cooperation mechanisms like Mutual Legal Assistance may help Indonesia bring foreign criminals to justice faster. Misinformation on social media is complex. In the digital era, legislation changes, testing the rule of law and disrupting social, political, and economic structures. The law can protect society from hoaxes and create stability for national progress if it is broad and coordinated.

3.2 Challenges Faced in Criminal Law Enforcement Regarding the Spread of False Information on Social Media in the Digital Era

Criminal law enforcement related to the spread of false information on social media in the digital era faces a number of challenges that are not only complex, but also continue to develop along with advances in information and communication technology. The digital era brings a major transformation in the way information is accessed and disseminated. Social media has become one of the main platforms for disseminating information, but on the other hand, it has also become a medium that is often misused to spread misleading or even detrimental information. The spread of false information or hoaxes on social media often has very serious

impacts, ranging from social unrest, economic losses, to rifts in relationships between individuals and groups. However, efforts to deal with the spread of false information are not simple, but are full of challenges from both technological, legal, and social aspects.

The ease and scale with which information may be disseminated via social media is a significant obstacle. Misinformation propagated via social media has the potential to reach a massive audience in a matter of seconds, far outpacing the response and investigation times of law enforcement. Social media algorithms may make this problem worse by giving more weight to posts with a lot of likes or comments (Firmansyah, 2017). Consequently, sensationalized or provocative false information tends to spread more quickly than true information. The fact that the majority of people who spread misleading information do so using phony identities or anonymous accounts makes monitoring them and catching them much more difficult. It becomes much more difficult to identify offenders when technologies like encryption and Virtual Private Networks (VPNs) are used.

Regarding regulation, current rules are often insufficient to address cybercrimes, such as the dissemination of misleading information. Even though cybercrime is already regulated under Indonesia's regulation on Information and Electronic Transactions, many argue that the regulation is poorly drafted and poorly enforced. Some parts of the Law on Information and Electronic Transactions, such Article 27 and Article 28, are seen to be ambiguous and might be abused (ITE, 2020). On top of that, the pace of technological advancement is frequently too great for current rules to handle. The legislative process is notoriously sluggish, and the methods used to distribute misinformation are constantly evolving, leading to a mismatch between industry demands and existing legislation.

Furthermore, one of the key reasons promoting the propagation of misleading information on social media is the poor digital literacy in society. Because they lack the tools to independently check the content they consume, many social media users fall victim to manipulation and may even play a role in spreading hoaxes. Many individuals unwittingly violate the law because they do not comprehend the consequences of disseminating material that has not been vetted. Criminals may take advantage of people's lack of computer skills. By spreading misinformation, they often use delicate topics like religion, politics, or race in order to sow discord and societal divide.

The second obstacle is related to the capabilities of the police. Expertise in digital forensics, data analysis, and knowledge of cutting-edge technology are necessary for the enforcement of criminal laws in the digital domain. Regrettably, there is still a severe lack of resources, particularly at the regional level, in terms of both training and infrastructure, to facilitate the growth of such knowledge. Limited human resources and technology make ideal case handling impossible in the end (Rahmanto et al., 2019). Furthermore, cybercrime often spans international borders, necessitating collaboration among nations. Nevertheless, there are a number of challenges that can arise throughout this process of cross-national cooperation, including variations in national laws and an absence of efficient tools to combat transnational crime.

Finding a balance between law enforcement and free expression is another challenge. Preventing damaging disinformation is as vital as upholding free expression under the constitution. Some cases of alleged arbitrary or disproportionate legal action by authorities to stop disinformation have exposed human rights violations. The careful and objective prosecution of people who spread incorrect information prevents power abuse. A multi-sectoral approach including law, technology, public education, and international cooperation is the only way over these hurdles. A proactive and reactive approach is needed to combat social media disinformation. A complete and long-lasting solution may be developed using these strategic recommendations.

Update regulations first. Cybercrime legislation, especially those involving false information, must be more precise and clear to avoid interpretation. The Electronic Information and

Transactions Law should also be updated to accommodate technological advances. Personal data protection, digital platform abuse prevention, and international crime prosecution should also be included of rules. To support this, the government must incorporate technology, civic society, and legal experts in legislative processes.

Second, a preventative step that cannot be disregarded is the need to enhance digital literacy among society. From kindergarten all the way through university, digital education must be taught in every classroom. Further, large-scale digital literacy initiatives may be coordinated by public, business, and non-profit entities; these campaigns can make use of social media, seminars, or community-based training (Restianty, 2018). A person who is social media literate is able to do more than just navigate the platform; they are also able to spot misleading material, determine where it came from, and comprehend the consequences of sharing misinformation legally.

Thirdly, providing technological tools to police enforcement. When investigating the dissemination of misinformation, law enforcement officials must have access to cutting-edge technology that can identify and trace its tracks. Using AI and other similar technologies, we can automate the process of monitoring social media for fake information, finding trends in its dissemination, and alerting people quickly. An additional need is the establishment of a digital forensic infrastructure that permits precise and rapid evidence collecting and processing. Also, funding police training is a top concern, so that they can competently deal with digital issues.

As a fourth point, we should work to improve collaboration between countries and industries. International cooperation is necessary to combat the spread of misinformation since it often includes players from different countries. In order to speed up the enforcement process, the Indonesian government should forge relationships with global social media platforms like Facebook, Twitter, and Instagram and enhance collaboration with international organizations like INTERPOL and ASEAN Cybersecurity collaboration. In order to build a stronger digital ecosystem on a national scale, cooperation among governmental agencies, educational institutions, online platforms, and civic organizations is essential (Ramadan, 2023).

The fifth point is a fair system of police enforcement. Fair and proportionate action must be taken against those who propagate misinformation, without compromising human rights or freedom of speech (Yanti & Yusnaini, 2018). Consequently, law enforcement officials need explicit protocols for dealing with such incidents, including the criteria for identifying information as fake. In contrast, new methods of resolving conflicts that arise from social media misinformation, including mediation or restorative justice, are necessary (Sepima et al., 2020).

We think that by combining these measures, we can tackle the problems of criminally prosecuting the dissemination of incorrect information. The goal of this all-encompassing approach is to make the internet a safer and more responsible place for everyone by punishing those guilty for spreading misleading information and by increasing public awareness of the problem. Realizing a digital world that promotes social, economic, and democratic growth demands a collective commitment from all stakeholders, including society, the commercial sector, the international community, and the government, in order to achieve these tasks.

4. Conclusion

Social media disinformation threatens Indonesia's social, political, and economic stability. Challenges such as low digital literacy, outdated regulations, and offender anonymity hinder effective enforcement of the Electronic Information and Transactions (ITE) Law and the Criminal Code. Technical and legal hurdles, including conflicting interpretations and limited technological infrastructure, further complicate implementation. Balancing the constitutional right to free expression with prosecuting disinformation remains a key concern, raising risks of overcriminalization.

This study recommends revising legal frameworks, enhancing digital literacy, improving law enforcement technology, and fostering collaboration across sectors and borders. Promoting a responsible social media culture and fair, balanced law enforcement can deter crimes while protecting fundamental rights. A coordinated approach is essential to ensure a safer and more sustainable digital environment.

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