

Juridical Analysis of Criminal Acts Defamation and Hoaxes Through Social Media Against Corporations in the Perspective of the ITE Law

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ABSTRACT

This study aims to analyze the legal aspects related to crime and the implications for corporations as legal subjects. The research method used a normative juridical approach concerning various related laws and regulations, court decisions, and opinions of legal experts. The analysis results show that criminal acts of defamation and spreading hoaxes through social media can be prosecuted by the articles governing insult and defamation and spreading false information in the ITE Law. The implications for corporations are significant because defamation and the spread of hoaxes can damage a company's reputation and affect relationships with customers, business partners, and other stakeholders. Therefore, corporations need to understand legal obligations and responsibilities regarding content produced by internal and external parties related to the company. This research proposes the need for more proactive prevention efforts on the part of corporations, such as developing guidelines for the use of social media and training for employees, as well as increasing understanding of the legal implications of social media activities. In addition, updating or revising the ITE Law also needs to be considered to accommodate the dynamics of the development of social media and information technology, which are constantly changing.

Keywords: Criminal Acts, Defamation, Hoax, Social Media, Electronic Information and Transactions Law (ITE Law).

INTRODUCTION

Criminal acts are prohibited or punishable by law.¹ Actions that are not allowed or prohibited will be subject to punishment by law because they are against the law, and whoever commits a crime will be held responsible for their actions.² The criminal act of defamation in Chapter VII of the Criminal Code is considered a criminal act of complaint, indicating that the crime will only be prosecuted if there is a complaint. A person can be said to have committed a criminal act of defamation if they fulfill the elements outlined in the relevant article governing that matter. The sense of honor must be exemplified through actions and perceived in a specific manner,

¹Anas, A. M. A. (2020). Penanggulangan Tindak Pidana Pencemaran Nama Baik Melalui Media Sosial dalam Perspektif Kriminologi. *Al-Azhar Islamic Law Review*. <https://doi.org/10.37146/ailrev.v2i2.41>

²Media, M., Menurut, S., Ite, U. U., & Worang, E. N. (2021). Penerapan Sanksi Pada Tindak Pidana Pencemaran Nama Baik Dan Penghinaan Melalui Media Sosial Menurut Uu Ite. *Lex Privatum*.

as not not everyone will acknowledge defeat. For example, minors who cannot experience excitement and individuals who do not feel that their honor has been compromised. For this reason, these two types of people are not victims of criminal acts that violate their good name.³

As explained earlier, corporations can also have honor or a good reputation, especially those that are legal entities. Corporate image must be built on trust; however, there are still risks of untrusted information entering the public domain regarding the company's image. Additionally, there are parties with different interests and objectives that can be easily discerned. Change the image for the worse. The existence of the company's image is shaped by a individual's perception when experiencing a feeling where satisfaction in that person usually will lead to the impression stage that is carried out at the first time, the experience that is used as the first reference in one's thinking will lead to positive or not someone or satisfied or not someone in getting something he wants.

Corporate image (corporate image) is needed to retain customers if the image of a company engaged in the service sector highly depends on the quality provided by each company. Therefore, corporate image is also used as a reference for the public to evaluate a company. This is crucial for companies to establish a positive reputation in the eyes of their peers and consumers. Consumers with various behavior models will observe products influenced by their knowledge, behavior, and the environment in which they exist.⁴ Corporate image or branding image is crucial for all companies. Therefore, corporations or individual who spread hoaxes will be subject to defamation.

The dissemination of information or news through online media is not only conducted by well-known news sites, but also by any internet user who can share information or news through online platforms. It resulted in everyone being able to express and freely disseminate information or news through their online media. The widespread use of online media has two sides. On the one hand, it can positively impact on education, social interactions, politics, economics, and more. On the other hand, it can lead to the emergence of new types of crime. The development of information and communication technology has significant implications for regulating cyberspace and cyber law, as well as for the emergence of cybercrime, as commonly referred to.⁵

One of the negative impacts that often arises from the ease of communication and information exchange through online media among internet users is that dissemination of information or news that cannot be verified for its accuracy and may show signs of being a hoax. Hoax is information or news that contains uncertain elements and is not based on factual events. The hoax category includes fake news, false information, or fake news.⁶

In terms of overcoming crimes related to information and electronic transactions, such as hoaxes and defamation as mentioned above, on April 21, 2008, regulations regarding information transactions and electronic transactions were promulgated in Law Number 11 of 2008, which was later amended and become Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (hereinafter referred to as UU ITE). The provisions of articles stipulated in the law are provisions for

³Wulansari, F. (2019). Pemenuhan Hak Korporasi Sebagai Korban Tindak Pidana Pencemaran Nama Baik. *Jurist-Diction*. <https://doi.org/10.20473/jd.v2i2.14227>

⁴Indrawati, P. D. (2017). Perilaku Konsumen Individu Dalam Mengadopsi Layanan Berbasis Teknologi Informasi & Komunikasi. In Ke satu.

⁵Sitompul, J. (2012). Cyberspace, Cybercrimes, Cyberlaw : Tinjauan Aspek Hukum Pidana. Cyberspace, Cybercrimes, Cyberlaw : Tinjauan Aspek Hukum Pidana.

⁶Christiany Juditha. (2018). Interaksi Komunikasi Hoax di Media Sosial serta Antisipasinya Hoax Communication Interactivity in Social Media and Anticipation. *Jurnal Pekommas*.

specific to crimes that rule out the Criminal Code as general crimes.⁷ One of the criminal acts regulated in the ITE Law is the criminal act of defamation as contained in Article 27 paragraph (3) of the ITE Law, namely, every person who intentionally and without rights distributes and transmits and makes Electronic Information accessible. Moreover, electronic documents contain insults and defamation.

Based on the background above, this article discusses the Juridical Analysis of the Criminal Act of Defamation and Hoax Through Social Media Against Corporations from the Perspective of ITE Law.

LITERATURE REVIEW

Social media

Social media is online media that facilitates social interaction through web-based technology, transforming communication into interactive dialogue on various popular social media sites today, including Blog, Twitter, Facebook, Instagram, Path, as explained by Van Dijk. Social media is a platform that revolves around user presence, facilitating their activities and collaborations as a result.⁸ Social media is an online platform that enhances user relationships and social bonds. Social media, as a component of new media, is very easy to share information or communicate with anyone we choose. However, this media still needs to guarantee the security of message content we have.⁹

Social media is a type of media that enables users to easily join, share, and create content, including blogs, social networks, wikis, forums, and virtual worlds. Blogs, social networks, and wikis are among the most prevalent forms of social media used globally. 1) Social media is also an online tool where users can be creative, such as filling in content, sharing it, and broadcasting it online. 2) Social media is a means of using internet technology where individuals and communities can share, create, discuss, and modify what users produce, a new means of communication in this era.¹⁰

Defamation/Hoax

According to the general understanding, defamation is attacking a person's honor and good name. Defamation is a form of character assassination that can be categorized as a violation of human rights. Human rights violations are a problem in general society, so criminal law accommodates them in the Criminal Code.¹¹ Defamation is also known as humiliation, which attacks the good name and honor of someone who does not have sexual feelings, so that person feels wronged.

Honor and reputation have different meanings, yet they cannot be separated from each other because attacking honor will lead to clouded honor and reputation, in the same way attacking reputation will cause one's reputation and reputation to be contaminated. Therefore, attacking one's honor or reputation is sufficient reason to accuse someone of insult. A good name reflects public opinion about a person's behavior or personality from a moral standpoint.

⁷Dermawan, A., & Akmal. (2019). Urgensi Perlindungan Hukum Bagi Korban Tindak Pidana Kejahatan Teknologi Informasi. *Journal of Science and Social Research*.

⁸Mutiah, T., Albar, I., Fitriyanto, & A.Rafiq. (2019). Etika Komunikasi Dalam Menggunakan Media Sosial. *Global Komunika*.

⁹Cahyono, A. S. (2016). Pengaruh media sosial terhadap perubahan sosial masyarakat di Indonesia. *Jurnal Ilmu Sosial & Ilmu Politik* Diterbitkan Oleh Fakultas Ilmu Sosial & Politik, Universitas Tulungagung.

¹⁰Parhusip, N. S. (2015). Hukum Pidana dan Kaitannya dengan Penggunaan Media Sosial . To-Ra. <https://doi.org/10.33541/tora.v1i1.1097>

¹¹Angeliawati, D. (2019). Pertanggungjawaban Pidana Terhadap Pelaku Tindak Pidana Pencemaran Nama Baik. *Celebes Cyber Crime Journal*.

Adam Chazawi explained that there were considerations used as the basis for legislators in the Criminal Code (KUHP) to determine complaints as a condition for being able to prosecute the maker of the complaint. This consideration is that in the case of a crime of complaint, the importance of those with the right to complain or the interests of their punishment being violated if the case is criminally prosecuted is greater than the importance of the state if the case is prosecuted criminally. In this case, the complaint crime is not prosecuted; for instance, familial relations take precedence over the state's interests.¹²

Meanwhile, hoax information spreads easily because people tend to believe the information they receive and have an addiction to sources they perceive as always disseminating accurate information. This hoax information aims to shape perceptions, influence opinions, and challenge internet and social media users' comprehension of the information being circulated. The possibility of information being reinterpreted or reproduced with the addition of personal opinions can transform originally factual information into misinformation.¹³ Making information must involve seeking factual and correlated data so that it can be correctly understood by the recipient; this aspect should be acknowledged by individuals who disseminate and create information. In the epistemological historical map, hoaxes are intertwined with historical beliefs, masquerading as science. As long as hoaxes do not harm the public, hoax information may not be classified as false information.

METHOD

Type of Research The research used in this proposal uses Normative Juridical, where the law is conceptualized as what is written in the Laws or law is conceptualized as rules or norms, which are the benchmarks of human behavior⁴⁴ in defamation research through social media using article 27 paragraph 3 in conjunction with article 45 paragraph 3 of RI Law No. 19 of 2016 concerning amendments to RI Law No. 11 of 2008. Library research (library research) is conducted based on reading sources, namely, laws, books, and legal journals related to the material discussed in this article; this research contains primary and secondary data.

To carry out data analysis and draw conclusions using the library research method taken with various books, reading sources related to sources of discussion, mass media, and laws - invitations, and interviews, the data obtained by qualitative analysis is then presented descriptively, namely by explaining, describing, and describe the problem and its solution related to the formulation of the problem made. In addition, the author also presents data obtained from the research in the form of interviews which were converted into summary text form from the results of the interviews at the Medan District Court.

ANALYSIS AND DISCUSSION

Juridical Review of Acts of Defamation and Spread of Hoaxes Through Social Media

A legal analysis of defamation and the dissemination of hoaxes through social media entails examining the impacts, responsibilities, and sanctions associated with these behaviors. Below are some points to consider in a juridical review of this matter, i.e. Defamation occurs when someone spreads false or harmful information about certain individuals or entities to damage

¹²Alviolita, F. P., & Arief, B. N. (2019). Kebijakan tentang Perumusan Tindak Pidana Pencemaran Nama Baik Dalam Pembaharuan Hukum Pidana di Indonesia. *Law Reform: Jurnal Pembaharuan Hukum*. <https://doi.org/10.14710/lr.v15i1.23359>

¹³Rahmadhany, A., Safitri, A. A., & Irwansyah, I. (2021). Fenomena penyebaran hoax dan hate speech pada media sosial. *Jurnal Teknologi Dan Sistem Informasi Bisnis*, 3(1), 30–43.

their reputation. This can include negative comments, false accusations, or false information that has the potential to harm a person's reputation.¹⁴ In Indonesia, defamation can lead to criminal sanctions and civil liability. Article 310 of the Indonesian Criminal Code (KUHP) stipulates that individuals who intentionally spread information that can harm another person's good name, both orally and in writing, can be punished in many jurisdictions, including Indonesia. This means that perpetrators who deliberately defame others can be charged under this article.¹⁵ In the context of Indonesian law too, articles related to defamation are also contained in Law Number 19 of 2016 concerning Information and Electronic Transactions (UU ITE), article 27 paragraph (3) of the ITE Law prohibits the dissemination of information that intentionally and without rights information intended to defame another person. Criminal sanctions and fines can be imposed on perpetrators. However, when dealing with acts of defamation, it should be remembered that the law must also strike a balance between the right to freedom of speech and the right to express opinions. Therefore, in deciding a defamation case, the court will usually consider the context, the facts, and the intentions of the perpetrator.

Defamation significantly impacts the affected individual or entity in terms of image and emotion. Therefore, a juridical review of defamation also involves consideration of how the law can protect individual rights and balance societal interests with freedom of speech and the media.¹⁶ In addition to criminal aspects, acts of defamation can also lead to civil liability. Civil responsibility in the context of defamation involves understanding how the act causes financial or non-financial harm and how the victim can seek compensation for the losses incurred. Civil responsibility in defamation cases involves several important points.¹⁷

In defamation, the victim's right to obtain compensation is an important aspect of legal proceedings. Victims have the right to file a claim for compensation against the perpetrator, which includes various kinds of financial and non-financial losses arising from the act of defamation. Possible financial losses include loss of jobs, business opportunities, income, and other economic assets affected by defamation. The court will consider the evidence and facts submitted by the victim to determine a fair amount of compensation.¹⁸

Not only financial losses, acts of defamation can also cause significant emotional impacts. Non-financial losses such as emotional stress, depression, and other psychological impacts can also be part of the compensation claim. The court, in determining the appropriate amount of compensation, will consider the non-financial aspect of this loss, recognizing the importance of restoring the victim's welfare from a psychological perspective.

In addition to compensation, the court can order perpetrators to stop spreading harmful or false information. In addition, the court may also order the perpetrator to apologize to the victim in some cases. Both are steps aimed at restoring the victim's reputation and honor and reducing the negative impact caused by acts of defamation. In deciding a claim for damages in a defamation case, the court will consider the legal factors applicable in a particular jurisdiction. This consideration includes the facts, the evidence presented by both parties, and the level of

¹⁴Asyiah, P., & Hamrin, H. (2021). TINJAUAN YURIDIS PENANGANAN TINDAK PIDANA HOAX DAN UJARAN KEBENCIAN (HATE SPEECH) MELALUI MEDIA SOSIAL. *Muadalah: Jurnal Hukum*, 1(1), 51–62.

¹⁵Asmadi, E. (2021). Rumusan Delik Dan Pidanaan Bagi Tindak Pidana Pencemaran Nama Baik Di Media Sosial. *De Lega Lata: Jurnal Ilmu Hukum*, 6(1), 16–32.

¹⁶Rahmah, A., & Aswar, A. (2023). Tinjauan Yuridis Tindak Pidana Cyber Crime Terhadap Pencemaran Nama Baik Di Kota Makassar (Studi Putusan No. 255/Pid. Sus/2021/PN. Mks). *Pledoi Law Jurnal*, 1(02), 128–146.

¹⁷Setyawan, I. (2020). Factors Causing the Spread of Hoax News Via Social Media in Village Communities. *Electronic Research Journal of Social Sciences and Humanities*, 2, 223–231.

¹⁸Wahyuningsih, S. E., Pramono, J. A., & Mashdurohatun, A. (2023). Criminal Sanctions against Hate Speech (Hoax) Actors in Indonesian Positive Law and From the Perspective of Islamic Law. *International Journal of Social Science And Human Research*, 6(01).

loss related to the pollution act. Thus, a juridical review in defamation cases has important consequences in providing justice to victims and balancing the interests of perpetrators with the rights of individuals affected.¹⁹

Civil responsibility in defamation cases aims to restore the victim to their rightful position financially and non-financially. It also plays an important role in encouraging individuals to consider the impact of their actions on others and promotes respect for reputation and personal rights. Victims of defamation can file a civil lawsuit against the perpetrator to obtain compensation for the losses from these actions.

1. Spreading Hoaxes: Spreading hoaxes involves spreading false or untrue information with a specific purpose, such as influencing public opinion, creating confusion, or achieving political or economic goals. Dissemination of hoaxes, which refers to the intentional dissemination of false information, has significant repercussions in the legal context of many jurisdictions. Hoaxes can harm society by creating confusion, influencing public opinion, damaging the reputation of individuals or entities, and even threatening national security. Therefore, many countries have implemented legal regulations that regulate or prohibit the spread of hoaxes to protect the public from negative consequences.²⁰

However, legal handling of the spread of hoaxes also involves consideration of the right to freedom of speech. There is a challenge in finding a balance between protecting society from false information and supporting freedom of expression. Therefore, the spread of hoaxes is often debated in the legal and social spheres.

In the digital and social media era, law enforcement against the spread of hoaxes also involves identifying perpetrators, gathering evidence, and enforcing sanctions in the virtual environment. Therefore, a juridical review of the spread of hoaxes through legal aspects needs to consider various aspects of human rights and social responsibility and the impact that false information can have on society and social stability.

2. The law that underlies the spread of hoaxes : In Indonesia, Law Number 19 of 2016 concerning Information and Electronic Transactions (UUITE) regulates the dissemination of information containing slander, defamation, or false information through electronic media, including social media. Article 28 of the ITE Law provides a legal basis for taking action against the spread of hoaxes. Criminal sanctions, including fines and imprisonment, may be imposed on those who violate these provisions. The ITE Law regulates criminal sanctions for perpetrators of spreading hoaxes, including fines and imprisonment.²¹

3. Challenges: The challenges in a juridical review of acts of defamation and the spread of hoaxes through social media must be addressed. The existence of these challenges underscores the legal complexities involved in cases of this kind. First, there is a fundamental conflict between efforts to protect individuals from acts of defamation and the spread of hoaxes and rights that are widely recognized, namely the right to freedom of speech. Protecting individual reputation and honor must be balanced with freedom of expression, which is also a human right that must be respected. Then, the next challenge arises in the domain of law enforcement and the identification of perpetrators in cyberspace. Identifying perpetrators of spreading hoaxes or defamation is often complicated, especially when perpetrators use fake or anonymous accounts to disseminate information. In this case, technical and legal challenges exist to track down and hold the individual responsible for the act. In addition,

¹⁹Tamba, S. (2018). TINJAUAN YURIDIS TERHADAP PENCEMARAN NAMA BAIK MELALUI MEDIA INTERNET DITINJAU DARI PERSPEKTIF HUKUM PIDANA.

²⁰SUCIANTI, D. A. (n.d.). TINJAUAN YURIDIS TERHADAP TINDAK PIDANA PENCEMARAN NAMA BAIK MELALUI MEDIA ELEKTRONIK.

²¹Setiawan, A. (2019). Analisis Yuridis Terhadap Berita Bohong (Hoax) Yang Beredar Di Media Sosial Berdasarkan Hukum Positif. *Dinamika Hukum: Jurnal Ilmiah Ilmu Hukum*, 25.

aspects of the digital context also complicate juridical review. Existing legal arrangements may only partially comply with the dynamics of the digital world, where information can spread quickly and widely without geographical boundaries. It raises questions about how law can adapt to technological capabilities and how to ensure effective legal protection in a changing digital environment. In facing this challenge, it is important to develop a balanced approach between protecting individual rights, the right to freedom of speech, effective law enforcement, and legal adaptation to technological developments. It may involve legal reform, collaborative efforts between related parties, and public education about the negative impacts of acts of defamation and the spread of hoaxes in the digital era.²²

Law Enforcement of Criminal Acts of Defamation and Hoaxes Through Social Media Against Corporations in the Perspective of the ITE Law

Law enforcement against criminal acts of defamation and spreading hoaxes through social media against companies (corporations) in the perspective of the Electronic Information and Transaction Law (UU ITE) involves specific steps to address violations of this law by corporate entities. In this case, it is important to understand how the ITE Law regulates criminal acts committed by corporations and how law enforcement is carried out in the context of defamation and the spread of hoaxes.²³ Law enforcement against criminal acts of defamation and spreading hoaxes through social media against companies (corporations) has a significant dimension given the Electronic Information and Transaction Law (UU ITE). In this context, the ITE Law allows prosecuting corporations that spread false or harmful information, such as hoaxes and defamation. This law also grants authority to the authorities to investigate and take action against criminal acts, whether committed by individuals or involving corporations. Criminal sanctions for acts of defamation and spreading hoaxes against corporations through social media typically involve fines. The amount of the fine imposed by the court may vary depending on the severity of the violation and its impact. Therefore, corporations need to recognize the legal responsibilities that can arise from communication and information disseminated through social media and take preventive steps to avoid violating the law. From a law enforcement perspective, corporations require clear communication guidelines and ethical standards for social media. It involves monitoring communications originating from companies or employees on online platforms. By taking this action,²⁴ corporations can minimize the risk of engaging in criminal acts and other negative impacts caused by the spread of hoaxes or defamation. In law enforcement against criminal acts of this kind, cooperation between law enforcement agencies, regulators, and corporations is crucial to ensure legal compliance and maintain the integrity of information in the digital environment.

²²Rakhmawati, N. A., Jati, B. N., Solichin, I. M., & Ghalib, F. (2022). Analisis Kewaspadaan dan Respon Orang Dewasa terhadap Hoax. *JIEET (Journal of Information Engineering and Educational Technology)*, 6(1), 33–36.

²³Ibid

²⁴Alhakim, A. (2022). Urgensi Perlindungan Hukum terhadap Jurnalis dari Risiko Kriminalisasi UU Informasi dan Transaksi Elektronik di Indonesia. *Jurnal Pembangunan Hukum Indonesia*, 4(1), 89–106.

CONCLUSION

Legal protection for corporations and individuals in the digital world has complex implications. The ITE Law provides an important legal framework for dealing with criminal acts, allowing law enforcement against corporations that spread hoaxes and defamation. Protecting the right to free speech is a challenge that emphasizes the need to maintain a balance between individual rights and the negative impact caused by false information.

It also highlights the urgency of collaboration between law enforcement agencies, regulators, and corporations in dealing with this kind of criminal action. The importance of prevention through ethical communication guidelines and monitoring employee behavior on social media is also a crucial factor in avoiding law violations. Therefore, a new paradigm in dealing with legal challenges in the digital era needs to be implemented, recognizing the need to protect the reputation and integrity of information amid the dynamics of rapidly developing information technology.

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²⁵Fajar Syaefudin, M. A. (2021). Perbandingan Pengaturan Kejahatan SIBER Tindak Pidana Pencemaran Nama Baik (Perbandingan Indonesia Dan Malaysia). *Jurnal Universitas Pancasakti*.