

# Law Enforcement Of Spreading False And Misleading News In Pandemic Covid-19 Era

Hartanto<sup>1</sup>, Dwi Astuti<sup>2</sup>, Syakdiah<sup>3</sup>

<sup>1</sup> Faculty of Law, Widya Mataram University, Indonesia. E-mail: [hartanto.yogya@gmail.com](mailto:hartanto.yogya@gmail.com)

<sup>2</sup> Faculty of Social and Political Sciences Widya Mataram University, Indonesia. E-mail: [astibudiyanto@gmail.com](mailto:astibudiyanto@gmail.com)

<sup>3</sup> Faculty of Social and Political Sciences Widya Mataram University, Indonesia. E-mail: [syakdiah8@gmail.com](mailto:syakdiah8@gmail.com)

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### Corresponding Author:

Name : Hartanto

Email : [hartanto.yogya@gmail.com](mailto:hartanto.yogya@gmail.com)

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## Abstract

*The Covid-19 pandemic that has hit the world since early 2020 has had an impact on various aspects including the fields of communication and information. Several cases had ended in the legal realm relate to the ITE Law. This research examines cases of fake and misleading news that are widespread in Indonesia, in 3 fields, namely Health, Government and General Elections. The urgency of fake news related to consumer losses. Not all fake news causing consumer harm. What are the factors that delays in law enforcement for criminal acts of spreading false and misleading news related to the pandemic and what efforts should be made to deal with it? This research uses normative juridical methods with secondary legal materials; Criminal acts conected to spreading fake news are regulated in the qualifications of Article 35 of the ITE Law 11/2008, which places more emphasis on the phrase manipulation and destruction of information if the result arises, namely consumer losses, then Article 28 (1) of the ITE Law is imposed. Meanwhile, those that cause riots in society in general can be recognized as Article 28 (3).*

## 1. Introduction

The long journey of false and misleading information cases is still a concern for academics and practitioners in the social, technological and legal fields. Majority experts agree that cases of misinformation, disinformation and fake news are increasing in the world. Meanwhile, in Indonesia, fake and misleading news was



rampant during the general election campaign (early 2024). The AIS Kominfo team blocked 12,547 hoax news on the internet. August 2018 to 2023, the highest cases were related to health, followed by hoaxes about the government with elements of fraud, while in third place were hoax cases about the 2024 general election, which has just finished.<sup>1</sup> So it is not an exaggeration to say that we have entered a "post-truth" life.<sup>2</sup>

False and misleading information in its various forms can be a criminogenic factor, leading to increased misperceptions and knowledge resistance, and posing a threat to the health and well-being of individuals as well as organizations, states, democratic considerations, and democracy itself.<sup>3</sup> Misinformation, disinformation and fake news also have negative impact to research, due to inaccurate data.<sup>4</sup> Covid-19 hit Indonesia since the beginning of 2020 and had many negative impacts in various aspects, including economic, political, social, legal and cultural.<sup>5</sup> The Indonesian government has implemented a lockdown policy to suppress the spread of the Covid-19 virus. Legally, the "lockdown" policy refers to Large-Scale Social Restrictions (PSBB).<sup>6</sup>

PSBB stands for large-scale social restrictions. It is a policy that limits in-person interaction in almost all areas of life. These restrictions force people to interact digitally in almost all areas. This era used by criminals to carry out their actions in various fields; such as utilizing social assistance data, general election data, and hoaxes about politics. This false and misleading news must be addressed immediately by the authorities, so peoples are not trapped by this false and misleading news.

The regulations to regulate its, was the provisions of Article 28 Paragraph (1) which states that Every Person intentionally and/or transmits Electronic Information and/or Electronic Documents containing false notifications or misleading information which results in material losses for consumers in Electronic Transactions; in paragraph (2) regarding hate speech related to race, nationality, ethnicity, skin color, religion, belief, gender, mental disability or physical disability; paragraph (3) Every person intentionally distributes electronic information and/or

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<sup>1</sup> Agus Tri Haryanto, "3 Isu Hoaks Tertinggi yang Paling Banyak di RI 5 Tahun Terakhir," detikjabar, accessed June 6, 2025, <https://www.detik.com/jabar/berita/d-7122641/3-isu-hoaks-tertinggi-yang-paling-banyak-di-ri-5-tahun-terakhir>.

<sup>2</sup> Lee McIntyre, *Post-Truth* (MIT Press, 2018), <https://books.google.com/books?hl=id&lr=&id=9-1LDwAAQBAJ&oi=fnd&pg=PP11&dq=So+it+is+not+an+exaggeration+to+say+that+we+have+entered+a+%22post-truth%22+life&ots=nEbP5qU-lx&sig=NeEjBDzTid7bySTh7tMpmCswLGI>.

<sup>3</sup> Arunima Krishna and Teresa L. Thompson, "Misinformation About Health: A Review of Health Communication and Misinformation Scholarship," *American Behavioral Scientist* 65, no. 2 (2021): 316–32, <https://doi.org/10.1177/0002764219878223>.

<sup>4</sup> Esmā Aimeur et al., "Fake News, Disinformation and Misinformation in Social Media: A Review," *Social Network Analysis and Mining* 13, no. 1 (2023): 30, <https://doi.org/10.1007/s13278-023-01028-5>.

<sup>5</sup> Md. Mahmudul Alam et al., "Impacts of COVID-19 Pandemic on National Security Issues: Indonesia as a Case Study," *Security Journal* 35, no. 4 (2022): 1067–86, <https://doi.org/10.1057/s41284-021-00314-1>.

<sup>6</sup> Farid Wajdi et al., "An Analysis of the Indonesian Government Policy on the Lockdown from the Perspective of Human Rights," *1st International Conference on Law and Human Rights 2020 (ICLHR 2020)*, Atlantis Press, 2021, 418–25, <https://www.atlantis-press.com/proceedings/iclhr-20/125956207>.



documents which are known to contain false notifications which cause unrest in society.

This law is the second amendment to Law Number 11 of 2008 concerning ITE, and exists as a constitutional solution from the state to regulate ethics for media users in exercising their freedom on social media. To provide a deterrent effect to perpetrators of these criminal acts, criminal law in Indonesia has ensnared perpetrators of the criminal act of spreading false and misleading news in Law no. 11 of 2008, but its meaning is still narrow, which requires that it arise as a result of consumer losses, whereas in the latest law the formulation of the norms of Article 28 has been expanded and clarified by adding 1 paragraph to paragraph 3, which is broader, namely the consequences of riots in society.

Handling this field is still hampered by interpreting terminology of the elements of the substance of the article which regulates manipulation, creation and change which is more often interpreted by the phrase spreading false and/or misleading news, contained in Article 28 (1) of the ITE Law because there is the phrase consequence/victim, namely resulting in consumer losses. The existing phenomenon shows that the principle of legal certainty and security has not yet been achieved, and the principle of consumer safety is the principle used by legal protection efforts.<sup>7</sup>

This is because the formulation of the ITE Law still requires proof of consumer loss before legal action can be taken, while in practice not all hoaxes directly cause consumer losses. Moreover, overlapping norms between Article 28, Article 32, and Article 35 of the ITE Law create uncertainty for law enforcement officers in determining the applicable article, so the sense of security and predictability in the law is weakened.

From the presentation, this research will examine what factors cause delays in law enforcement for criminal acts of spreading false and misleading news, related to health (related to the Covid-19 case), government and general elections. This study selected three aspects, namely health, government and general elections because the most cases that occurred based on data from the Ministry of Information and Communication based on the most phenomena that occurred from 2018 to 2023.

This study addresses three research questions: (1) What legal and institutional factors delay or obstruct law enforcement of hoax-related offences during the COVID-19 pandemic in Indonesia? (2) How do Articles 28, 32 and 35 of the amended ITE Law interact, overlap or leave regulatory gaps, especially regarding non-consumer victims? (3) What legal and policy reforms can improve victim protection and enforcement efficacy? The novelty of this paper lies in proposing a Victim-Oriented Regulatory Reconstruction (VORR) framework: rather than restricting criminalization to consumer loss, VORR reconceptualizes 'harm' to include non-material harms (psychological injury, threats to public order) and advocates legal consolidation (statutory coherence), procedural innovations (fast-track Kominfo complaint mechanism) and enhanced digital-forensic standards. Cybersecurity law, however, has overwhelmingly overlooked psychological data breach harms, despite

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<sup>7</sup> Oksana Shcherbanyuk et al., "Legal Nature of the Principle of Legal Certainty as a Component Element of the Rule of Law," *Juridical Tribune-Review of Comparative and International Law* 13, no. 1 (2023): 21-31.



their being non-financial, yet highly significant and impactful on data breach victims. This approach contributes theoretically and normatively to Indonesian criminal law by reframing hoax regulation around victim protection and enforceability.

## 2. Method

This study also examines the concrete efforts that should be undertaken to address the spread of false and misleading news. To achieve this, it adopts a normative legal research method that emphasizes the analysis of legal norms and their application.<sup>8</sup> The primary legal sources consist of statutory regulations relevant to electronic information and transactions, while the secondary sources include official documents, journals, and academic books related to the theme of this study.<sup>9</sup> This research is grounded in the principle of legal certainty and the concept of victim protection as fundamental orientations of criminal law in the digital era.

## 3. Analysis or Discussion

### 3.1. Factors that Cause the Emergence of Fake and Misleading News

Fake and misleading news poses a serious threat in the information sector because of its dangerous and unlawful impact.<sup>10</sup> This virtual world, which is full of lies and misleading news, finally forced the state to take action. The government takes firm action against fake news because fake news provides wrong information to the public, providing wrong information can also cause conflict, and a lack of understanding of the legal aspects of fake news causes many people to become entangled in legal problems.<sup>11</sup> The public have the right to express opinions, channel creativity, and so on in a public space that is strategic enough for them to obtain and distribute information while remaining responsible for what has been transmitted/distributed. Fake news can be interpreted as news manipulation. Meanwhile, manipulation has existed throughout human history as a consequence of human social interactions.<sup>12</sup>

Creating, changing and manipulating electronic information that is detrimental can be subjected to Article 32 Paragraph 1 of the Information and Electronic Transactions Law, and can also be subjected to heavier penalties in Article 35. People who spread false and misleading news that is detrimental to consumers in electronic transactions can be subjected to Article 28 paragraph 1 of the ITE Law. In practice, not all fake/misleading news causes consumer harm, especially if it is related to fake news about health (during the Covid-19 pandemic), about government/fraud in general, about general elections, it does not always cause

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<sup>8</sup> Tunggal Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Originis and Approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (2023): 1–9.

<sup>9</sup> Erwin Ubwarin, "Kebijakan Formulasi Hukum Pidana Dalam Penggunaan Pembuktian Terbalik Dalam Kasus Money Politic Pemilihan Kepala Daerah Erwin," *Jurnal Belo* 6, no. 2 (2021): 221–31.

<sup>10</sup> Donato Vese, "Governing Fake News: The Regulation of Social Media and the Right to Freedom of Expression in the Era of Emergency," *European Journal of Risk Regulation* 13, no. 3 (2022): 477–513.

<sup>11</sup> Leslie Gielow Jacobs, "Freedom of Speech and Regulation of Fake News," *The American Journal of Comparative Law* 70, no. Supplement\_1 (2022): i278–311, <https://doi.org/10.1093/ajcl/avac010>.

<sup>12</sup> Violeta Camarasa San Juan and Mengzhe Feng, "Instrumentalization of Fake News and Fake News Laws: A Content Analysis of Hong Kong Newspapers in Transitional Times," *Mass Communication and Society* 27, no. 6 (2024): 1659–84, <https://doi.org/10.1080/15205436.2024.2372319>.



direct (concrete) harm, or not necessarily experienced by people in the sense of consumers.<sup>13</sup> Article 35 is more general (broad) article with the formulation, every person who intentionally and without right or against the law manipulates, creates, changes, deletes, destroys electronic information and/or electronic documents with the aim of making them look as if they were authentic.

Factors that can cause someone to believe fake and misleading news from a cognitive perspective were, information bias/non-confirmation, the influence of personal political views, life experiences and illusions on information/truth; Repetition of news/information and agreement on a type of reasoning: the ability to think intuitively compared to analytical thinking; less critical thinking; skim news; low educational or scientific level; Trust in leaders (public figures); Low literacy; content of high emotional appeal; impulsive; anti-science attitudes; content that targets selective/precise segments;<sup>14</sup> an environment exposed to false information (hoax); is a depressed group.<sup>15</sup> Feelings or thoughts that have been affirmed can also trigger someone to easily pass on false and misleading news to other parties.<sup>16</sup> In the term of law, misinformation, disinformation and fake news, or news that is not true automatically considered fake news.

Generally, Indonesian people have low knowledge about news on social media (the internet), so the filter for various information are not strong enough, nor they are not used to confirming whether news is true or not. We find this factor in rural communities who do not understand the world of social media. Rural areas are often seen as areas with simple and plain characteristics. Apart from that, villages are also considered to have noble value because they have a variety of local wisdom.<sup>17</sup>

### **3.2. Factors that Inhibit Law Enforcement for Criminal Acts Related to Spreading Fake and Misleading News.**

Nowadays, people are often exposed fake and misleading news, which is the source and authenticity cannot be accounted for. With increasingly advanced and sophisticated technology, it is easier to people to search for information on social media. Technological advances can have positive and negative impacts. The positive impact can make it easier for people to access information on various available platforms. However, there is also a negative impact, like getting someone into trouble, especially by accessing various kinds of information or news without being filtered first. Anyone can spread information and news on their social media, its can lead public opinion in the wrong direction if social media users are not careful.<sup>18</sup>

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<sup>13</sup> "(PDF) The Effects of Fake News on Consumers' Brand Trust," *ResearchGate*, ahead of print, August 7, 2025, <https://doi.org/10.21018/rjcp.2021.3.333>.

<sup>14</sup> Ullrich K. H. Ecker et al., "The Psychological Drivers of Misinformation Belief and Its Resistance to Correction," *Nature Reviews Psychology* 1, no. 1 (2022): 13–29, <https://doi.org/10.1038/s44159-021-00006-y>.

<sup>15</sup> Catherine Beauvais, "Fake News: Why Do We Believe It?," *Joint Bone Spine* 89, no. 4 (2022): 105371, <https://doi.org/10.1016/j.jbspin.2022.105371>.

<sup>16</sup> Mas Rudi Masrudi, "Hoax, Media Baru Dan Daya Literasi Kita," *ORASI: Jurnal Dakwah Dan Komunikasi* 10, no. 2 (2019): 152–61.

<sup>17</sup> Dadang Sugiana et al., "Peran Ulama Sebagai Opinion Leader Di Pedesaan Dalam Menghadapi Informasi Hoaks," *Avant Garde* 7, no. 1 (2019): 1–18.

<sup>18</sup> Sadiq Muhammed T and Saji K. Mathew, "The Disaster of Misinformation: A Review of Research in Social Media," *International Journal of Data Science and Analytics* 13, no. 4 (2022): 271–85, <https://doi.org/10.1007/s41060-022-00311-6>.



Without filtering the information they get, people will receive the news at face value without knowing whether the news they receive is true or not. This happens due to a lack of education or digital literacy. Digital literacy is the knowledge and skills to use and utilize digital media in the sense of communication tools in general or in relation to being connected to the internet. The ability to utilize digital literacy includes: finding, working on, evaluating, creating and using it wisely, intelligently, carefully and appropriately according to its use.<sup>19</sup> It is known that in Indonesia there is still minimal literacy, this is also one of the causes of low digital literacy, similar to minimal literacy where someone has low ability to read, process, digest and understand the information obtained. Low digital literacy is a lack of ability to understand, sort and disseminate information wisely in digital means, especially through social media.

An example case of fake and misleading news occurred in Bondowoso Regency, East Java. A resident in Bondowoso had to face the police for uploading fake news about the corona virus on Facebook. Because he uploaded that fake news, the perpetrator was set as a suspect and threatened with prison. The perpetrator uploaded a video of police cars leaving the Bondowoso terminal which went viral on social media. The uploader also included a statement that this video showed the rescue of a female worker who was a victim of Covid-19. In fact the car was in a convo, the police are doing service activity at the Bondowoso bus terminal.<sup>20</sup> The police moved quickly to arrest the owner of account named "SFH", a resident of Jambi Sari, Bondowoso.<sup>21</sup> Because posts about the corona virus have entered Bondowoso, this article is very disturbing to the people of Bondowoso. For his actions, the suspect subjected to Article 46 of the ITE Law with a maximum 6 years in prison/a maximum and fine of 600 million.

The application of the law is not appropriate because the perpetrator did not hack an electronic system (hacking is regulated in article 46), but the perpetrator was disseminator of manipulated information as if the data were authentic, so it would be more appropriate if this case used article 35. Article 35 contains a prohibition on manipulating, creating, changing, removing, destroying electronic information/documents with the aim of making the electronic information/documents considered authentic data.

Law enforcement officials who have the main duties to dealing with the spread of fake news (hoaxes) include the Police, Prosecutor's Office, Judges in trials. Apart from that, the Ministry of Communication and Information (Kominfo) can also be participates in tackling the spread of fake news (hoaxes). One of the parties that will be discussed in this writing is the police, whose the authority, main duties, roles and functions have been regulated in Law no. 2 of 2002 concerning the Police of the Republic of Indonesia. Article 2 of the law regulates that the police are a state

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<sup>19</sup> Vanya Karunia Mulia Putri, "Literasi Digital: Pengertian, Prinsip, Manfaat, Tantangan Dan Contoh," Kompas.Com, 2021, <https://www.kompas.com/skola/read/2021/06/15/142539669/literasi-digital-pengertian-prinsip-manfaat-tantangan-dan-contoh>.

<sup>20</sup> kominfo.bondowosokab.go.id, "Beranda Info Hoax Kominfo Kab. Bondowoso," 2020, <https://infohoax.bondowosokab.go.id/>.

<sup>21</sup> Chuk Shatu Widarsha, "Wanita Di Bondowoso Ditangkap Karena Sebar Hoaks Corona," accessed August 6, 2025, <https://news.detik.com/berita-jawa-timur/d-4943939/wanita-di-bondowoso-ditangkap-karena-sebar-hoaks-corona?>



instrument whose position is to maintain security and social order, non-governmental law, and also provide protection, guidance and service to the community.<sup>22</sup> There are several obstacles in law enforcement regarding fake news (hoaxes), namely:

- a. From the legal side, the legal regulations are still fragmented, not integrated in one law. So there is an overlap in the regulation of fake news (hoaxes) in legislation in Indonesia, and the legal regulations regarding fake news (hoaxes) are unclear. There is still confusion in applying this law among law enforcement officials. The Information and Electronic Transactions Law, as the main legal framework, regulates several types of misconduct on social media, namely defamation, incitement, and the dissemination of false information. However, these provisions are fragmented across different articles. For instance, Article 28 of Law No. 11 of 2008 (as amended by Law No. 1 of 2024) addresses false and misleading information causing consumer losses; Article 35 regulates manipulation of electronic information; Article 32 prohibits alteration or destruction of data; while Article 27 paragraph (3) separately criminalizes defamation through electronic media. In practice, this separation often creates overlaps, as a single hoax case may simultaneously fulfill the elements of multiple provisions. The Second Amendment of the ITE Law (Law No. 1 of 2024) attempted to unify the framework by expanding Article 28 with the addition of paragraph (3), which explicitly criminalizes hoaxes causing public unrest, thereby providing a broader and more integrated basis for law enforcement.
- b. Law enforcement in Indonesia is currently still experiencing obstacles in dealing with the widespread spread of cyber crime (fake news); The causes are the limited number of law enforcement officers who understand the ins and outs of cybercrime (special cyber crime directorate), the lack of facilities and infrastructure, as well as the public's lack of legal knowledge/awareness in interpreting and filtering fake news. Another factor is that in areas hampered by the lack of law enforcement who are ready to anticipate the rise of this crime, because many law enforcement officers do not yet have the skills to use information technology, and this reality is a manifestation that in (remote) areas the internet network also does not support it.<sup>23</sup> The police in district/sub-district areas have limited equipment to tackle cyber crime to support investigators' infrastructure in uncovering criminal acts of fake news. The limitations of modern equipment in the district level means that inquiries take a long time and cost a lot of money.<sup>24</sup>
- c. Limited facilities and infrastructure hinder efforts to overcome and prevent criminal acts of fake news/hoaxes, both in dealing with the spread and arresting perpetrators who spread hoaxes. There are also obstacles to limited access and coordination with cellular and internet service providers. Another limitation is

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<sup>22</sup> Putri Yashila Rahimah Athifahputih, "Penegakan Hukum Terhadap Penyebaran Berita Hoax Di Lihat Dari Tinjauan Hukum," *Jurnal Hukum Dan Pembangunan Ekonomi* 10, no. 1 (2022): 64–77.

<sup>23</sup> Ahmad Daud, "Kebijakan Penegakan Hukum Dalam Upaya Penanggulangan Tindak Pidana Teknologi Informasi," *Lex Crimen* 2, no. 1 (2013), <https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/1002>.

<sup>24</sup> Firman Rostama Trisna, "Tindakan Hukum Terhadap Penyebaran Berita Bohong (Hoak) Di Media Sosial Berdasarkan Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi Dan Transaksi Elektronik," *Jurnal Fakultas Hukum Universitas Airlangga Surabaya*, 2016, 1–23.



- the availability of servers for digital forensics, to support work in the field of Information and Electronic Transactions. The facilities and infrastructure needed consist of educated and skilled human power, good organization, good equipment and sufficient finances. Without the support of adequate facilities, law enforcement cannot run smoothly or only becomes the public's hope.<sup>25</sup>
- d. The growing problem of hoaxes (fake news) in society shows the development of society from a simple society to an increasingly complex modern era. People are entering a new culture that people are not yet fully aware of its strengths and weaknesses.<sup>26</sup> People may be able to operate electronic devices and internet, but they are still not wise enough. They find some problems because there is no understanding of how to use social media and take the positive side (healthy internet), as well as how to avoid its negative impacts.<sup>27</sup> Social media has brought people from a narrow/closed area to a wide (limitless) cyberspace area in communicating. People convey and share their opinions freely or can be said without control. Expressing opinions without face to face but presented quickly is growing rapidly and even tends to be free and uncontrolled. People who are not able yet to filter various posts on the internet can easily become victims of fake and misleading news (hoaxes).
  - e. The vast social space subject to PSBB regulations and the low deterrent effect have resulted in low progress in legal handling. The lack of space for movement due to the implementation of Large-Scale Social Restrictions (PSBB) means that law enforcement officers have to work extra hard. Law enforcers are starting to use technology and internet to bring order to society, such as warning the public about the dangers of hoaxes through digital campaigns, online fines and investigations into digital data and traces are also starting to be used.<sup>28</sup> However, the limited space for movement still creates its own difficulties, moreover the public does not pay heed to the government's appeal because the limited movement of legal apparatus causes a lack of deterrent effect.
  - f. The effectiveness of law enforcement related with geographical conditions and social interactions in society. There is still a system/culture of rights based on social/economic/educational status, or a society with a sharp distinction between "the have" and "the have not", or a society that is in an authoritarian power environment. This condition requires a law enforcement system that is

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<sup>25</sup> Steven Chermak et al., "Law Enforcement's Information Sharing Infrastructure: A National Assessment," *Police Quarterly* 16, no. 2 (2013): 211-44, <https://doi.org/10.1177/1098611113477645>.

<sup>26</sup> Rio Gustrinanda, "Pentingnya Kepercayaan Masyarakat Terhadap Pemilu," *Journal of Practice Learning and Educational Development* 3, no. 1 (2023): 100-106.

<sup>27</sup> Vibriza Juliswara, "Mengembangkan Model Literasi Media Yang Berkebhinekaan Dalam Menganalisis Informasi Berita Palsu (Hoax) Di Media Sosial," *Jurnal Pemikiran Sosiologi* 4, no. 2 (2017), <https://scholar.archive.org/work/jlzpkwv255c6zfnqh7vkhahru/access/wayback/https://jurnal.ugm.ac.id/jps/article/download/28586/pdf>.

<sup>28</sup> Lena Klasén et al., "The Invisible Evidence: Digital Forensics as Key to Solving Crimes in the Digital Age," *Forensic Science International* 362 (September 2024): 112133, <https://doi.org/10.1016/j.forsciint.2024.112133>.



different from an open and egalitarian society.<sup>29</sup> Appropriate and fair law enforcement is determined by the participation of community members, not solely the desire/responsibility of law enforcers.<sup>30</sup>

### **3.3. Efforts to Handle Criminal Cases of Spreading Fake and Misleading News**

Cases of fake news during Covid-19 was rampant on social networks. Kominfo found 1,670 hoaxes about Covid-19 from 2020-June 2021.<sup>31</sup> indicating the scale of digital misinformation. The government made firm efforts to prevent the spread of hoaxes through the Information and Electronic Transactions Law (ITE Law), which was amended by Law No. 1 of 2024 as the second amendment to Law No. 11 of 2008. The act of spreading fake news is specifically regulated under several provisions of the ITE Law. Article 32 paragraph (1) criminalizes the unauthorized alteration, modification, deletion, or destruction of electronic information or documents belonging to others, with a maximum sanction of eight years imprisonment and a fine of two billion rupiah.

Article 28 paragraph (1) prohibits the dissemination of false and misleading information resulting in consumer losses in electronic transactions, carrying a maximum sanction of six years imprisonment and a fine of one billion rupiah. Article 28 paragraph (2) regulates the distribution or transmission of content containing hatred or hostility based on ethnicity, religion, race, or inter-group issues (SARA), while paragraph (3) covers hoaxes causing unrest in society, defined as conditions disrupting public order in physical space rather than merely in cyberspace. The relevance of these provisions can be seen in concrete cases. For instance, in July 2021, Dr. Lois Owien was arrested by the police for spreading hoaxes on social media related to Covid-19, claiming that patients did not die from the virus but from drug interactions. This case was processed under Article 28 paragraph (2) in conjunction with Article 45A of the ITE Law, demonstrating that law enforcement actively applied the law against Covid-19 hoaxes. In essence, the manipulation of news during the pandemic aimed to mislead the public by embedding false information, regardless of whether direct consumer harm occurred.

The inclusion of paragraph (3) in Article 28 through the Second Amendment seeks to provide a broader legal framework to criminalize hoaxes that cause social unrest, thereby reinforcing the preventive function of criminal law. Perpetrators who transmit hoax news to one or many person, constitute a criminal act, so they will be subject to sanctions as regulated in Law no. 1 of 2024 changes to the law. No.

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<sup>29</sup> Muh Isra Bil Ali and Aminah Aminah Aminah, "Penegakan Hukum Lingkungan Hidup Dalam Perspektif Keadilan Substansif Di Indonesia," *Jurnal Spektrum Hukum* 18 (2021), <https://elibrary.ru/item.asp?id=72290581>.

<sup>30</sup> Sanyoto Sanyoto, "Penegakan Hukum Di Indonesia," *Jurnal Dinamika Hukum* 8, no. 3 (2008): 199–204.

<sup>31</sup> Khoirul Anam, "Banyak Hoax soal Corona, Ini Langkah Antisipatif yang Bisa Dilakukan," *detiknews*, accessed September 13, 2025, <https://news.detik.com/berita/d-5674927/banyak-hoax-soal-corona-ini-langkah-antisipatif-yang-bisa-dilakukan>.



11 of 2008 concerning Information and Electronic Transactions (ITE). One form of application of the ITE Law is the case of L. Owien as a suspect in a hoax case, fake news, that L. Owien spread on 3 social media platforms, one of which was a post on social media.<sup>32</sup> On his social media, L.Owien said that he did not believe in the existence of Covid-19 and the cause of death was not due to Covid-19 but was strongly suspected due to drug interactions.<sup>33</sup> then the suspicion is based on several articles at once, one of which is Article 28 Paragraph (2) in conjunction with Article 45 Paragraph (1), (4), (6), (10), Article 45 A paragraph (1), (2), (3) Act. No. 1 of 2024 concerning changes to the Law. No. 11 of 2008 concerning ITE.

Based on an article written on Kaptika Kominfo website, during the period 23 January 2020 - 6 February 2022, Kominfo has taken action by blocking 5,299 hoaxes related to Covid-19 on social media out of a total of 5,486 hoaxes.<sup>34</sup> The government provides free internet which is spread across a number of social media. The narrative given is an incentive during the Corona Virus pandemic. The uploader includes a message embedded with a different link, but with almost the same URL character.

Apart from that, news is also circulating on Facebook social media containing a list of a number of products that have been declared haram by the Indonesian Ulema Council (MUI) because they are affiliated with Israel. The list is claimed to have been officially released by the MUI. In fact, as reported by news.detik.com, the MUI stated that it had never released a list of Israeli products and its affiliates that should be boycotted as was circulating. Secretary of the MUI Fatwa Commission, Miftahul Huda, explained that MUI is not competent to release Israeli products or those affiliated with Israel. Furthermore, the MUI has clarified that it prohibits activities supporting Israel, and not its products. M. Huda added that the MUI does not yet know whether the products circulating on the internet are actually products of Israel and its affiliates or not.<sup>35</sup>

Another case is a WhatsApp chain message about job vacancies in BUMN. Circulated in the form of an invitation to representatives for placement in BUMN, and must wear a dress code and bring a curriculum vitae dated September 6 2022 at the BUMN Ministry Office, Central Jakarta. Meanwhile, BUMN's official Twitter

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<sup>32</sup> Humas Polda Bangka Belitung, "Polri : dr. Lois Ditangkap Karena Sebarkan Hoax Soal Corona," *Tribatanews Polda Babel*, July 13, 2021, <https://tribatanews.babel.polri.go.id/2021/07/13/polri-dr-lois-ditangkap-karena-sebarkan-hoax-soal-corona/>.

<sup>33</sup> Fitriadi, "Dr Lois Seperti Orang Melantur Saat Ditanya IDI Soal Pendidikan Dokter - Halaman All. - Bangkapos.Com," accessed August 23, 2025, <https://bangka.tribunnews.com/2021/07/14/dr-lois-seperti-orang-melantur-saat-ditanya-idi-soal-pendidikan-dokter?page=all>.

<sup>34</sup> Theofilus Ifan Sucipto, "Kemenkomifo Blokir 5.299 Hoaks Terkait Covid-19," accessed August 13, 2025, <https://mediaindonesia.com/humaniora/469590/kemenkomifo-blokir-5299-hoaks-terkait-covid-19>.

<sup>35</sup> KOMINFO, "Daftar 121 Produk Diharamkan MUI Karena Terafiliasi Israel? Awas Hoaks!," accessed August 3, 2025, <https://www.komdigi.go.id/berita/pengumuman/detail/daftar-121-produk-diharamkan-mui-karena-terafiliasi-israel-awas-hoaks?>



@KemenBUMN clarified that the job vacancy information circulating was a hoax (a mode of fraud).<sup>36</sup>

The role of Kominfo in preventing the spread of false information on social networks is very important to maintain the authenticity and quality of information obtained by the public. If the violation is not serious and the perpetrator admits their mistake, the posting and/or account of the spreader is usually blocked or deleted. If the violation committed is a serious violation, it will be followed up by the National Police. Law enforcement with the issuance of Law No.1 of 2024 Second Amendment to Law no. I1 of 2008 concerning ITE can be imposed generally on all acts of spreading false and misleading news, whether in the fields of health, government or general elections. Article 28 (3) intentionally disseminating electronic information and/or documents that containing false notifications that cause unrest in society in real life, not on social media.

#### **3.4. Legal Protection for Victims Who Are Aggrieved**

Misinformation, disinformation and fake news can qualify as fake news if they are deliberately spread. The rampant and uncontrolled spread of fake news/fake information on social media can have an indirect impact on people's behavior and influence people's minds.<sup>37</sup> With limited literacy, the public will accept the information that is spread without finding out the truth and source of the information. Lack of digital education, anyone and without realizing can create and spread false and misleading news on social media, so that the news and information that the public gets is not true.<sup>38</sup>

It different with information from platforms news that have clear sources or mainstream, the information that is official and can be accountable, such as radio, television and newspapers. Another thing that is more complicated is controlling the distribution of news on social networks (private/community), especially fake and misleading news that is spread through personal messaging applications such as WhatsApp.<sup>39</sup> It difficult to track the perpetrators who spread the news or to track

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<sup>36</sup> Badan Pengaturan BUMN [@bumn\_idn], "HOAX! Hati-hati Penipuan Mengatasnamakan Lowongan Kerja di Kementerian BUMN maupun di BUMN. Info Lowongan kerja secara resmi akan di umumkan di portal publik <http://bumn.go.id> dan semua media sosial Kementerian BUMN. #BUMNuntukIndonesia <https://t.co/VYW1wXHRG4>," Tweet, Twitter, August 8, 2022, [https://x.com/bumn\\_idn/status/1580451063840133120](https://x.com/bumn_idn/status/1580451063840133120).

<sup>37</sup> Zach Bastick, "Would You Notice If Fake News Changed Your Behavior? An Experiment on the Unconscious Effects of Disinformation," *Computers in Human Behavior* 116 (March 2021): 106633, <https://doi.org/10.1016/j.chb.2020.106633>.

<sup>38</sup> Andrew M. Guess et al., "A Digital Media Literacy Intervention Increases Discernment Between Mainstream and False News in the United States and India," *Proceedings of the National Academy of Sciences* 117, no. 27 (2020): 15536–45, <https://doi.org/10.1073/pnas.1920498117>.

<sup>39</sup> Irene V. Pasquetto et al., "Social Debunking of Misinformation on WhatsApp: The Case for Strong and In-Group Ties," *Proc. ACM Hum.-Comput. Interact.* 6, no. CSCW1 (2022): 117:1-117:35, <https://doi.org/10.1145/3512964>.



the extent of the content. Contains false and misleading news that has spread, or even gone so far as to cause casualties/riots.

A research conducted at the University of California San Francisco, psychology experts agree that hoaxes can have a bad impact on the mental health of readers, such as Post-Traumatic Stress Syndrome (PTSD).<sup>40</sup> Anxiety arises, even to the point of violence. Victims who are consumed by rumors/fake news (hoaxes) may need therapy, because they experience stress, anxiety, or feel lonely due to fake (fake) news.<sup>41</sup> These impacts can be experienced for a long time and are prolonged. The bad consequences of spreading fake news can vary, including:

a. Disturbing dan causing panic.<sup>42</sup>

Fake and misleading news contains false information that cannot be justified, the news that is spread causes public anxiety and panic.

b. Make people do something dangerous.<sup>43</sup>

Some hoax news contains recipes for concoctions that kill Covid-19 using herbal plants and herbal medicines. This could be dangerous if people exposed to Covid-19 choose to make and consume concoctions whose use is unclear/not yet registered with BPOM, rather than taking medicine from a doctor.

c. Threaten mental health.<sup>44</sup>

Hoaxes spread on social media often contain that is frightening and disturbing. Readers who continuously receive similar content can have emotional stability disturbed and become afraid. Professional treatment and therapy may be needed if the reader's mental health worsens due to the prolonged terror they experience from the fake news they receive. For example, news about politic that stated the election will be chaotic if you don't choose a certain candidate pair.

d. Material Loss.

Material loss can occur through scams or fraud that are deliberately carried out by spreaders of fake news to gain profit from their victims. One example of this case is false information regarding BUMN job vacancies which is motivated by fraud.

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<sup>40</sup> Laura Jobson et al., "Associations Between the Misinformation Effect, Trauma Exposure and Symptoms of Posttraumatic Stress Disorder and Depression," *Memory (Hove, England)* 31, no. 2 (2023): 179–91, <https://doi.org/10.1080/09658211.2022.2134422>.

<sup>41</sup> Diskominfo, "Bahaya Hoax Bagi Kesehatan Mental," *Pemerintah Kabupaten Lebak*, October 14, 2022, <https://lebakkab.go.id/2022/10/14/bahaya-hoax-bagi-kesehatan-mental/>.

<sup>42</sup> Debanjan Banerjee and TS Sathyanarayana Rao, "Psychology of Misinformation and the Media: Insights from the COVID-19 Pandemic," *Indian Journal of Social Psychiatry* 36, no. Suppl 1 (2020): S131–37.

<sup>43</sup> Aimée Challenger et al., "COVID-19 Myth-Busting: An Experimental Study," *BMC Public Health* 22, no. 1 (2022): 131, <https://doi.org/10.1186/s12889-021-12464-3>.

<sup>44</sup> Laura Jobson et al., "Associations Between the Misinformation Effect, Trauma Exposure and Symptoms of Posttraumatic Stress Disorder and Depression," *Memory* 31, no. 2 (2023): 179–91, <https://doi.org/10.1080/09658211.2022.2134422>.



The essential elements include: (1) intentional and unauthorized dissemination or creation of false electronic information; (2) the information is misleading; and (3) it causes consumer losses or public unrest with a clear causal link. Only when these elements are satisfied can punishment be imposed in line with the principle of legality. Perpetrators of spreading fake news can be punished if they fulfill all the elements of the articles contained in law accordance with the principle of legality.

Perpetrators of spreading fake news can only be punished if all elements of the offense are fulfilled in accordance with the principle of legality. If the elements are not fully satisfied, law enforcement may combine relevant provisions systematically, provided the interpretation remains consistent with legal certainty. However, legal protection for victims of false and misleading news is still underdeveloped. The ITE Law does not explicitly regulate detailed victim rights, but currently victims who feel harmed may report the incident to competent authorities to prevent further dissemination. In addition to criminal measures, remedies may be pursued through civil law, such as claims for breach of contract or unlawful acts under the Civil Code and Article 38 of the ITE Law, including the possibility of class actions.

Ideally, such protection should be strengthened in the ITE Law by (1) recognizing compensation rights for non-consumer victims, particularly those suffering psychological harm, (2) providing fast-track complaint mechanisms through the Ministry of Communication and Information, and (3) integrating with civil law remedies to ease evidentiary burdens. The main obstacle in applying Article 28 paragraph (1) lies in its consumer-loss requirement, which presupposes that victims must first be manipulated as consumers and that measurable losses can be proven.

#### **4. Conclusion**

Crime in the digital era is very detrimental to society. In the midst of the Covid-19 pandemic, there is a lot of confusing news and information circulating so that its truth cannot be accounted for. People believe fake and misleading news generally due to two factors. First, if the information they received support to their individual opinions; an example of someone who really doesn't agree or doesn't believe in a particular group, product or policy. The second factor is limited knowledge due to lack of accuracy/literacy .

Factors that hinder law enforcement for criminal acts of spreading fake and misleading news (hoaxes) in the midst of the Covid-19 pandemic are, laws and regulations which are still fragmented not in one law, few law enforcement officers understand the ins and outs of information technology (internet), limited facilities and infrastructure, lack of public legal awareness in efforts to overcome the criminal act of fake news, limitations in access and coordination with cellular and internet service providers, people who have not been able to filter various posts on the internet.



The increasing number cases of fake news on social networks has prompted government try to prevent the spread of hoax news by using Law no. 1 of 2024. The anti-hoax community is working to tackle false and misleading news through the TurnBackHoax website, where the public can check the truth of the latest news and information received via social media/the internet.

The provision most often considered relevant to the criminal act of spreading fake news is Article 35 of the ITE Law, which emphasizes manipulation and destruction of electronic information, creating potential multiple interpretations regarding the authenticity of data. However, when such conduct results in consumer losses, Article 28 paragraph (1) becomes applicable, even though not all victims can be classified as consumers. In practice, Kominfo identifies that the three most prevalent forms of false and misleading news essentially constitute general crimes under Indonesian law, only committed through electronic means and the internet, rather than special cybercrimes such as malware, hacking, or the distribution of computer viruses.

This fragmented framework reflects the lack of a coherent regulatory approach. This study emphasizes that legal protection for victims of hoaxes should not be confined to consumer losses as narrowly required by Article 28 paragraph (1) of the ITE Law, but must also encompass broader harms such as psychological suffering and social unrest. Such an approach contributes to the development of Indonesian criminal law by reconstructing victim-oriented protection within the context of digital crime. In this regard, it is recommended that Indonesia formulate a specific Hoax Prevention Act to consolidate scattered provisions, strengthen digital forensic infrastructure, and provide explicit safeguards for victims.

In addition, institutionalized cooperation between law enforcement agencies, the Ministry of Communication and Information, and internet service providers is essential to accelerate case handling and ensure consistency in law enforcement. Nevertheless, this study is limited to statutory analysis and selected case examples during the COVID-19 period. Future research could consider comparative approaches in ASEAN regulations, as well as empirical studies on victims' experiences, to further support the Victim-Oriented Regulatory Reconstruction (VORR) framework proposed here.

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