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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Legal Analysis of Legal Protection for Women in Criminal Acts of Disseminating Information and Fake News

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Abstract. *The widespread circulation of hoax news can have a negative impact on the development of Indonesia. Hoaxes can spark debate and even break up friendships. Furthermore, hoaxes containing ethnic, religious, and racial (SARA) content are highly susceptible to causing friction between communities, disrupting national stability and diversity. The issue of hoaxes is further complicated by the fact that most perpetrators are women who are unaware of the legal consequences of their actions. The research method is sociological juridical. The regulatory basis for the spread of fake news or hoaxes is regulated in Law Number 11 of 2008 which has been amended to Law Number 19 of 2016, Article 28, paragraphs 1 and 2. In addition, other regulations for the spread of fake news or hoaxes can also be ensnared by other related articles, namely Articles 310, 311, 378 and 390 of the Criminal Code. With the increasingly rapid development of technology today, there are increasingly diverse and many new crimes committed through electronic media, in this case the spread of fake news (Hoax) which is currently rampant. Current regulations regarding fake news have regulated not only the creators of the fake news who are given criminal sanctions but also for the perpetrators who participate in sharing (share/forward) the fake news. Currently, there are still many obstacles in enforcing the spread of fake news (Hoaxes), starting from legal substance factors to law enforcement factors in Indonesia and existing infrastructure factors, this is a fairly difficult obstacle in resolving and eradicating cases of the spread of fake news (Hoaxes).*

Keywords: *Crime; Effectiveness; Lies; News; Women.*

1. Introduction

The integration of the national economy into the global economic system through economic globalization can also undermine national political stability. This is because economic turmoil in developed countries and globally can impact the national economy. Furthermore, in the current

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era of globalization, Indonesia's economic dependence on foreign investment also poses a risk to national economic stability. This is because foreign investors can unilaterally withdraw their investments suddenly from the Indonesian capital market. This can spread, causing distrust among other market players and triggering a rush that could lead to a national economic crisis.

The collapse of the national economy, marked by widespread poverty and inequality following the crisis, has given rise to various human rights violations in Indonesia. This is evidenced by the 4.1 million uneducated Indonesians, leaving them without jobs and a decent economic livelihood.¹Poverty, inequality, and human rights violations can lead to another national security issue: terrorism. According to Peter Weiss, terrorism arises from injustice experienced by a group, leading to the emergence of anarchic groups, whether on the basis of ethnicity, nation, class, or other social groups.²Checnia further added that each region is identified with the expansion of poverty driven by environmental degradation, inconvenient business conditions with high levels of corruption and crime.³Terrorist attacks have evolved beyond physical attacks using bombs as the primary weapon. They have also expanded to include nuclear technology, pharmaceutical and food technology, and information, communication, and transportation technology.⁴

Based on the above description, it can be understood that globalization has had a negative impact on various sectors of life in Indonesia. These negative impacts essentially constitute a threat to Indonesia's national security. The above issues demonstrate that globalization has led to a growing spectrum of threats.⁵towards national security which not only covers the military

¹[https://www.pikiran-rakyat.com/pendidikan/pr-01281064/41-juta-anak-indonesia-tidak-sekolah-402455#:~:text=JAKARTA%2C%20\(PR\),6%2D21%20tahun%20tidak%20sekolah](https://www.pikiran-rakyat.com/pendidikan/pr-01281064/41-juta-anak-indonesia-tidak-sekolah-402455#:~:text=JAKARTA%2C%20(PR),6%2D21%20tahun%20tidak%20sekolah), Downloaded on May 12, 2026.

²Peter Weiss in Agus Wahyudi, Terrorism and International Law, Mimbar Hukum Journal, Volume X Number 48, Gadjah Mada University, Yogyakarta, 2004, p. 111. According to Nisan Horowitz, the definition of terrorism depends on the observer so there is no absolute definition of what terrorism is. Ha'aret in Agus Wahyudi, Loc.Cit. Furthermore, Brian Jenkins states that the term terrorism depends on a person's method or point of view which results in a moral judgment. However, there are several limitations put forward regarding terrorism, namely: a) justifying the use of violence; b) rejection of the implementation of the political process; c) increasing totalitarianism; and d) rejection of morality. See: Aulia Rosa Nasution, Terrorism as a Crime Against Humanity: In the Perspective of Human Rights Law, 1st Edition, Kencana Prenada Media Group, Jakarta, 2012, pp. 92-93.

³D.Linote and M. Yoshii in Daniel Linotte, Economic Aspects of Terrorism, Journal of Central Asia and The Caucasus Regional Politics, No.3(45), 2007, p.124.

⁴Christina Hellmich (2009) Thomas A. Johnson (Ed.): National Security Issues in Science, Law and Technology, Democracy and Security, 5:1, 84-88, p.84.

⁵The expansion of the threat spectrum in question concerns the definition of threats that threaten national security at the international, regional, national, and local security levels. Buzan and Hanzen further stated that what is clearly visible in a country is that the concept of modern national security is as important as the concept of

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sector but also includes security in the political, economic, socio-cultural and environmental fields.⁶

One of the existing threats is the spread of false information through mass media. The internet has grown rapidly worldwide, including in Indonesia, especially since the advent of smartphones. Users are diverse, from adults to elementary school children, and from diverse economic backgrounds.³ The internet is a medium that knows no boundaries, neither territorial nor national.

This has both positive and negative impacts on users. As is well known, the rules of conduct adopted by each country vary, so what is freely permitted in one country may be considered a violation of the law in another, and vice versa. Meanwhile, the internet recognizes no national boundaries. For example, an Indonesian internet user visiting a website is no different from a user from another country visiting the same website. As the name suggests, the WWW, or World Wide Web, means that this internet network is as wide as the globe. Laws created to regulate the internet in one country will immediately and automatically enter the jurisdiction of another country. Of course, there will be conflict; as mentioned above, what is prohibited in Indonesia may be mandatory in another country.

The widespread circulation of hoax news can have a negative impact on the development of Indonesia. Hoaxes can cause debate and even break up friendships. Moreover, hoaxes containing ethnicity, religion, race, and intergroup relations are highly susceptible to causing friction between communities, disrupting national stability and diversity. Hoaxes, in the context of news whose origins are unclear, cannot be prosecuted by the Press Law, therefore it is rather difficult to distinguish between mainstream and hoax press. While during the New Order era it was relatively easy, because mainstream press was a licensed press, currently unlicensed press,

traditional national security. The traditional concept of national security remains the center of study but no longer dominates as a referent object (reference object of threats). Thus, securitization actors can generally define that current national security threats are related to state capabilities and state resources; However, they increasingly apply it in the sovereign space of the state where the spectrum of state security protectors is regulated from states to sub-states and then to inter-states, resulting in threats becoming difficult to measure, monitor, map, and describe. See: Barry Buzan, 1997a: 6-21; Klate, 1998: 66; Nye, 1989; Vayrynen, 1998; Warver et al, 1993 in Victor D. Cha, 2000, Globalization and the Study of International Security, Journal of Peace Research, Vol 37, No.3, p. 134.
⁶Berry Buzan, Ole Waever, and Jaap de Wilde, Security A New Framework for Analysis, Lynne Rienner Publisher, United Kingdom, 1998, p. 8-9.

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because in Indonesia the requirement to have a SIUPP (Press Publishing Business License) has been abolished.⁷

In its development, regulations regarding criminal penalties for the dissemination of false information are regulated in Law No. 19 of 2016 concerning Information and Electronic Transactions. Article 27 paragraph (3):

Any person who intentionally and without authority distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain insults and/or defamation.

Then in Article 28 of Law No.19 of 2016:

1) Any person who intentionally and without authority spreads false and misleading news that results in consumer losses in electronic transactions.

2) every person intentionally and without right disseminates information aimed at creating feelings of hatred or enmity towards certain individuals and/or groups of people based on ethnicity, religion, race and inter-group (SARA).

Based on the text of the article above, it is clear that there are two forms of criminal acts of Information and Electronic Transactions in Article 28, each formulated in paragraph (1) and paragraph (2). Criminal acts of Information and Electronic Transactions in paragraph (1) consist of the following elements:

- 1) Error: on purpose.
- 2) Unlawful: without rights
- 3) Action: spreading
- 4) Object: fake and misleading news
- 5) Constitutive consequences result in consumer losses in electronic transactions.

The criminal elements in paragraph (2) are:

- 1) Error: on purpose

⁷Asril Sitompul, *Internet Law: An Introduction to Legal Issues in Cyberspace*, PT. Citra Aditya Bakti, Bandung, 2004, p. 71.

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2) Unlawful: without rights

3) Action: spreading

4) Object: information

5) Purpose: to create feelings of hatred or hostility towards certain individuals and/or groups in society based on ethnicity, religion, race, and inter-group relations (SARA).

Despite the well-established regulations regarding hoaxes and fake news, hoax cases continue to grow. This also includes cases experienced by women as victims of digital hoaxes. Women are the group most vulnerable to exposure to hoaxes. Not only are they victims, but they also play a major role in spreading hoaxes. National Police Headquarters records reveal that between October 31 and November 8, 2016, housewives (aged 20–42) dominated as suspects for spreading hoaxes (Jawa Pos, 2018). Furthermore, the abundance of hoaxes on the themes of health, education, and social events makes women vulnerable to becoming victims. Hoaxes spread by women are usually misinformation hoaxes, meaning they spread inaccurate information without any intention of spreading lies. Hoaxes are often spread through social media platforms such as Facebook and messaging apps like WhatsApp. Negative information quickly spreads across the internet, causing panic. Ironically, based on an investigation by the National Police Headquarters, the spreaders of child abduction hoaxes were predominantly housewives.⁸

The results of a 2017 Mastel survey revealed that the largest channel for hoaxes is through social media and chat applications. Approximately 92.40% of hoaxes are spread through social media such as Facebook, Twitter, Instagram, and Path. Meanwhile, 62.80% of hoaxes spread through chat applications such as WhatsApp, Line, and Telegram. Meanwhile, women are the group most vulnerable to exposure to hoaxes. Not only are they victims, but women also play a role in spreading the most hoaxes. Records from the National Police Headquarters revealed that between October 31 and November 8, 2016, housewives (aged 20-42) dominated as suspects for spreading hoaxes. Furthermore, the abundance of hoaxes with themes of health, education, and social events makes women vulnerable to becoming victims of hoaxes. This has clearly disrupted national security stability and caused losses to society.⁹

⁸Ananda Dwitha Yuniar, Alan Sigit Fibrianto, Rani Prita Prabawangi, and Kun Sila Ananda, "Creating Internet-Savvy Women Through the Cultivation of Digital Literacy in the 'Women's Creative Space' Community", *Journal of Social Practice and Dedication*, Vol. 2, No. 2, 2019, pp. 47-48.

⁹*Ibid*, pp. 50-51.

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2. Research methods

The type of research used in this study is sociological legal research. The approach used is sociological legal research, with the specification of this paper being descriptive analytical. Data collection methods include field studies and literature studies. Data analysis uses qualitative methods.

3. Results and Discussion

3.1. Legal Analysis of Legal Protection for Women in Criminal Acts of Disseminating Information and Fake News

In Law Number 11 of 2008 concerning Electronic Information and Transactions, it is regulated that the dissemination of false news (hoaxes) for those who violate it can be subject to the following sanctions: Article 28 paragraph (1) namely false and misleading news content, Article 28 paragraph (2) namely content that causes hatred or hostility towards individuals and/or certain community groups based on ethnicity, religion, race, and inter-group (SARA). And in the related article, the provisions of Article 28 paragraph (2) of the Electronic Information and Transactions Law still give rise to multiple interpretations. However, in fact, the provisions of the article have been used in resolving many cases that violate the contents of the article. In implementing the use of the article in the judicial environment, law enforcers, especially judges, must use legal interpretation to provide an understanding that an act has violated the article. The interpretation itself, according to D. Simons, the main requirement for interpreting a statutory regulation is that the regulation must be interpreted based on the statutory regulation itself. In explaining the interpretation, it is not permissible to look for materials outside the regulation. In fact, even though a statutory regulation has been formulated using clear words and terms, there is still the possibility of interpretation, which can even give rise to doubt.¹⁰

That actions that can be categorized as violating the provisions of Article 28 paragraph (2) of the ITE Law are:

- a) there are parties who feel disadvantaged by the actions of a person or group of people related to SARA elements,
- b) The act contains images of people who are sanctified in a religion that are contrary to the original image,

¹⁰PAF Lamintang, and C. Djisman Samosir, (2010), *Special Offenses Crimes Directed Against Property Rights and Other Rights Arising from Property Rights*, Bandung: TARSITO Bandung

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- c) Writing something that denigrates the contents of a holy book of a religion that is different from the teachings of that religion or,
- d) Disseminating personal matters that are contrary to or violate norms of decency and morality,
- e) The actions carried out contained elements of SARA and were carried out on social media.¹¹

The defendant can only be punished under this article if it turns out that the news broadcast is false. What is considered false news is not only reporting empty news, but also telling an inaccurate story about an event. Raising or lowering the price of goods and so on, by broadcasting false news is only punishable if the broadcasting of the false news is done with the intention of benefiting oneself or another person. A person who raises the price of merchandise or securities by buying them in bulk is not punished.¹²

The spread of hoaxes is also commonly carried out by women, however, most women who spread fake news digitally do not understand that their actions are prohibited by law. The spread of hoaxes by mothers is usually misinformation hoaxes. This means that mothers spread incorrect information without any intention of spreading lies. The reason why many mothers spread misinformation hoaxes is because of a lack of understanding of how to recognize the credibility of media sources, not having an understanding of the definition and characteristics of hoaxes, not knowing how to check facts, but feeling the need to spread information for the benefit of those closest to them, and not understanding the risks of spreading fake news via the internet. This can be concluded that women, consisting of mothers, are often trapped by hoaxes due to a lack of knowledge. UNESCO divides hoaxes into three types, namely, Hoaxes in the form of misinformation. Misinformation is information that is incorrect or inaccurate, but the person who spreads it believes the information is true and reliable. The spreader of this type of hoax usually has no bad intentions, and only wants to share information. Hoaxes in the form of disinformation. Disinformation is false information that is intentionally created (engineered) to influence the public. Those who create and share this type of hoax usually aim to deceive the public. Hoaxes are a form of misinformation. Misinformation is information that contains elements of truth, either based on fragments or complete objective facts. However, this information is spread with the aim of harming others and not based on the public interest. This type of hoax is usually accompanied by hate speech, discrimination, harassment, or the dissemination of personal data. Mothers who are members of the women's creative space

¹¹Fransiskus Sebastian Situmorang, (2017), Legal Review of the Provisions of Article 28 paragraph 2 of the Information and Technology Law, <https://ojs.unud.ac.id>

¹²Ibid.

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community tend to read the story title or opening paragraph. As a result, they don't read the information in its entirety, easily jump to conclusions, and are provoked to spread it. Hoaxes are usually created to incite emotions, so mothers sometimes forget to think logically and critically. For some mothers, they also often encounter information whose veracity is unclear. Through this, we as academics provide advice to personally remind and spread the movement to eradicate hoaxes.¹³

1. Effectiveness of the Implementation of Handling Criminal Acts of Disseminating False Information

That there are factors that influence the effectiveness of the implementation of handling the crime of spreading false information in Grobogan Regency, as follows:

a. Legal Substantive Factors

The handling of the crime of spreading fake news (hoaxes), in terms of legal substance, is currently the Police, referring to Law No. 11 of 2008 concerning Information and Technology, specifically Article 28 paragraph (1) which states that "Any person intentionally and without the right to spread fake and misleading news that results in consumer losses in electronic transactions", in conjunction with Article 28 paragraph (2) which states that "Any person intentionally and without the right to spread information that is intended to cause hatred or hostility towards individuals and/or certain community groups based on ethnicity, religion, race, and inter-group relations (SARA)", that police investigators in carrying out efforts to prevent the spread of fake news or hoaxes can be carried out if there are strict legal regulations that regulate it, if only based on Law 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning ITE, especially Article 27, Article 28 and Article 45, it will be very difficult for the police to handle it, let alone take action because the ITE Law is *lex specialis*, which specifically regulates ITE, but in the handling process, strategic police steps are needed that rely on legal regulations, currently the regulations that regulate it are still bound by Articles 55 and 56 of the Criminal Code and articles in the Criminal Procedure Code.¹⁴

b. Law Enforcement Factors

¹³Ananda Dwitha Yuniar, Alan Sigit Fibrianto, Rani Prita Prabawangi, and Kun Sila Ananda, "Creating Internet-Savvy Women Through the Cultivation of Digital Literacy in the 'Women's Creative Space' Community", *Journal of Social Practice and Dedication*, Vol. 2, No. 2, 2019, pp. 47-48.

¹⁴Firman Rostama Trisna, (2019), *Legal Action Against the Spread of Fake News (Hoax) on Social Media*, <https://maksigama.wisnuwardhana.ac.id>

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One of the keys to success in law enforcement is the mentality or personality of the law enforcers themselves. In the framework of law enforcement and the implementation of law enforcement, enforcing justice without truth is a depravity. Enforcing truth without honesty is hypocrisy. In the framework of law enforcement by every law enforcement agency, justice and truth must be stated, felt, seen and must be actualized. In efforts to overcome fake news or hoaxes, there is an aspect of law enforcement officers related to human resources in police agencies that are still limited in terms of mastery of ITE, at the level of the Criminal Investigation Agency (Bareskrim) of the National Police Headquarters there is already a special Directorate for ITE crimes, but at the Regional Police level it is still combined with the Special Criminal Investigation Directorate (Dirreskrimsus) and at the Resort Police (Polres) level not all have a Special Cyber Unit, moreover, the understanding and knowledge related to the cyber world is not yet adequately possessed by the Police Apparatus. The Police currently in order to overcome (prevent and prosecute) the perpetrators of the spread of fake news or hoaxes still rely on cooperation with other institutions or even still use the capabilities of ITE experts outside the police institution, and it takes a long time of coordination also related to operational costs. If you look at the capabilities of human resources currently owned by the Police are still limited to the scope of the Criminal Investigation Unit of the National Police Headquarters in Jakarta, and the Regional Police do not specifically have a special task force to handle cyber crimes, let alone down to the level of the Police and Police Sector ranks, while cyber crimes do not only occur in big cities can also occur in small cities or villages that have internet access. The ability of personnel (members) who understand or master Electronic Information and Transactions is still limited to a small scope of Police personnel at the National Police Headquarters and Regional Police, even Personnel at the Police and Police Sector do not have special capabilities in the field of ITE, while personnel who are in direct contact with the community are those at the Police, Police Sector to Bhabinkamtibmas (Public Order Security Supervisor).¹⁵

c. Facilities and Infrastructure Factors

Supporting facilities and infrastructure include educated and skilled human resources, good organization, adequate equipment, sufficient finances. Without adequate facilities and infrastructure, law enforcement cannot run smoothly and law enforcers cannot carry out their roles properly. Furthermore, according to the constraints of facilities and infrastructure have an influence on efforts to prevent the handling of criminal acts of perpetrators of spreading false news (hoaxes) to the disclosure of perpetrators of spreading false news (hoaxes), still have limitations in: Access and coordination with providers of cellular and internet services and

¹⁵Ibid

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services; Not yet having a special server for digital forensics, as a supporter of work in the field of Information and Electronic Transactions. The most adequate police facilities and infrastructure are at the Criminal Investigation Unit of the National Police Headquarters, at the level of the Regional Police, Police Resort and Police Sector ranks are not adequate even for every crime related to hoaxes, the Regional Police must coordinate with the National Police Headquarters first before taking special actions.¹⁶

4. Conclusion

The regulatory basis for the spread of fake news or hoaxes is regulated in Law Number 11 of 2008 which has been amended to Law Number 19 of 2016 article 28 paragraphs 1 and 2. In addition, other regulations for the spread of fake news or hoaxes can also be ensnared by other related articles, namely articles 310, 311, 378 and 390 of the Criminal Code. With the increasingly rapid development of technology today, there are increasingly diverse and many new crimes committed through electronic media, in this case the spread of fake news (Hoax) which is currently rampant. Current regulations regarding fake news have regulated not only the creators of the fake news who are given criminal sanctions but also for the perpetrators who participate in sharing (share/forward) the fake news. Currently, there are still many obstacles in enforcing the spread of fake news (Hoaxes), starting from legal substance factors to law enforcement factors in Indonesia and existing infrastructure factors, this is a fairly difficult obstacle in resolving and eradicating cases of the spread of fake news (Hoaxes).

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