

The Urgency of Regulating Black Campaigns on Social Media in General Elections

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Abstract. *This study aims to determine and analyze the regulations governing black campaigns on social media in the current general election. To determine and analyze the weaknesses of regulations governing black campaigns on social media in the current general election. To determine and analyze the formulation of regulations governing black campaigns on social media in the general election in Indonesia. This study is a normative juridical type, the method of legislative approach, case approach, the research specifications are descriptive analysis, the data sources used are secondary data taken from primary legal materials, secondary legal materials, tertiary legal materials, data collection methods through literature studies and analysis techniques using qualitative. The results of the study show that the regulations governing black campaigns on social media in the current general election are regulated in Article 280 paragraph (1) of Law Number 7 of 2017 concerning Elections and Article 28 paragraph (2) of Law Number 1 of 2024 concerning Amendments to Law Number 19 of 2016 concerning Information and Electronic Transactions, both of which are related to regulating political campaign behavior in the digital space. There are weaknesses in legal substance, namely the disharmony of norms between Article 280 paragraph (1) of Law Number 7 of 2017 concerning Elections and Article 28 paragraph (2) of Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE). Weaknesses in the legal structure include the lack of transparency from political parties and candidates in terms of registering social media accounts for campaigns, minimal supervision and enforcement, a long-consuming digital forensic process, and a lack of human resources. Weaknesses in legal culture include a lack of political ethics, a desire to tarnish the reputation of opponents and win the competition, and low digital literacy among the public. This is an original contribution to building a model for regulating digital black campaigns that is adaptive, progressive, and fair for the Indonesian democratic system.*

Keywords: Campaign; Election; Media; Social.

1. Introduction

Campaigns are a crucial tool in political communication, serving as a medium for conveying messages by both political parties and candidates. In this context, campaigns serve as a strategic form of political communication, as they aim not only to convey information but also to influence voter psychology and behavior. Simply put, campaigns are social control strategies designed to direct voters to support programs promoted by a particular political party or candidate.¹

Technological advances have made it easier to conduct campaigns through various electronic media such as television, mobile phones, and social media. While television advertising remains a key component of political communication strategies, these technological advancements provide opportunities for campaigners to leverage market research (on the preferences, behaviors, and needs of target audiences or voters) and implement new, more effective methods.²

Cyberbullying is a form of action that is often difficult to identify and legally account for. This is due to several key factors, one of which is the anonymity of perpetrators who utilize digital technology to conceal their identities. Slander campaign content, which typically consists of negative information or slander against a particular party, is disseminated in a manner that is difficult to trace because perpetrators can use various techniques such as fake accounts, anonymous networks, or disguise themselves through devices and locations. Furthermore, the borderless nature of cyberspace *creates* legal challenges, as cyberspace is not fully subject to the boundaries of a country's jurisdiction. In this context, using conventional law to qualify or classify cyberbullying becomes difficult. As a result, smear campaigns often fall outside the reach of existing law enforcement mechanisms, thus providing room for perpetrators to continue carrying out actions that harm others without significant consequences.³

The negative impacts of smear campaigns also need to be considered, as they can have very detrimental consequences. One such impact is horizontal conflict between parties involved in the election, such as candidates, their supporters, campaign teams, and the community as a whole. Furthermore, smear campaigns can also lead to polarization, which is the emergence of divisions within society,

¹M. Khoirul Anwar, et al., *Political Party Behavior: Study of Political Party Behavior in Campaigns and Voter Tendencies in the 2004 Election*, UMM Press, Malang, 2006, p. 35

²Sally Young in Aisyah Dara Pamungkas and Ridwan Arifin, *Democracy and Black Campaigns in the Implementation of General Elections in Indonesia*, *Diktum: Journal of Sharia and Law*, Vol. 17 No. 1, July 2019, p. 20

³Andrian Thanzani, et al., *Black Campaign Through Electronic Media From an Election Law Perspective*, *Journal Evidence of Law*, Vol. 1, No. 3, September-December 2022,

particularly between groups supporting a particular candidate after the election is held.⁴

Similarly, in the 2024 Presidential Election, smear campaigns in the form of hoaxes and hate speech emerged not only targeting one presidential candidate but also involving nearly all potential candidates, such as Ganjar Pranowo, Anies Rasyid Baswedan, and Prabowo Subianto. This indicates that the attacks were widespread and involved candidates from various parties.⁵

One of the provisions often associated with the prohibition against black campaign practices is Article 280 Paragraph (1) of Law No. 7/2017 concerning General Elections (Election Law), which contains provisions prohibiting campaign activities and authentically. Although Article 280 Paragraph (1) does not explicitly mention the term "black campaign," several points in it have close relevance to the characteristics of black campaigns, namely the dissemination of negative information that is offensive, misleading, or destructive towards political opponents.

In addition to the perspective of the Election Law, the discussion regarding black campaigns, especially those conducted through electronic media, can also be analyzed from the perspective of general criminal law as regulated in Article 434 of Law Number 1 of 2023 concerning the Criminal Code, this article regulates defamation.

In the context of black campaigns disseminated through electronic media, Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law) has a very strategic role as a cyber legal instrument in Indonesia. Although the ITE Law does not explicitly mention the term "black campaign", its provisions can be used to ensnare perpetrators of digital black campaigns if they are proven to spread misleading information, attack someone's honor, or incite hatred based on elements of ethnicity, religion, race, and intergroup relations (SARA). In this case, the relevant provision is Article 28 Paragraph (2).

Legal regulations regarding the crime of smear campaigns in electronic media during elections in Indonesia still lack a clear formulation and are responsive to the dynamics of information technology developments. Although the Election Law has regulated several prohibitions such as insults, defamation, and the spread of slander during the campaign period as stated in Article 280 Paragraph (1), these provisions are limited only to implementers, participants, and official campaign

⁴Yusa Djuyandi, et al., Socialization of the Negative Impact of Black Campaigns on the Security of the 2018 Regional Head Elections in West Java Province, *Journal of Community Service*, Vol. 2 No. 7, 2018, p. 3

⁵https://www.kompas.id/baca/polhuk/2023/05/28/kampanye-hitammulaibermunculan?open_from=Search_Result_Page accessed on February 10, 2026

teams, and do not explicitly cover acts categorized as smear campaigns carried out by other parties through electronic media. Furthermore, the absence of the phrase "smear campaign" in positive legal norms causes legal interpretation to be unclear, thus creating difficulties in determining clear legal boundaries for acts included in this category. On the other hand, the ITE Law does provide a legal basis for the dissemination of information containing elements of hatred and hostility, but it is still general in nature and is not specifically designed to address the issue of smear campaigns in the context of elections. The disharmony and overlap between the provisions in the Election Law and the ITE Law indicate the absence of regulations that complement each other and address legal needs comprehensively, thus not providing legal certainty and maximum protection for the integrity of the democratic process.

Based on the above description, the author will present a discussion of: first, the regulations governing smear campaigns on social media in the current general election. Second, the weaknesses of the regulations governing smear campaigns on social media in the current general election. Third, the formulation of regulations governing smear campaigns on social media in the current general election in Indonesia.

2. Research Methods

This research is a normative juridical type using the statutory approach method and case studies, the research specifications are descriptive analysis, data sources are obtained from secondary data taken through primary legal materials, secondary legal materials, tertiary legal materials, data collection methods through literature studies, and analysis techniques using qualitative.

3. Results and Discussion

3.1 Regulations on Black Campaigns on Social Media in General Elections.

A black campaign is a form of political communication aimed at discrediting another party through the dissemination of false information, slander, or hate speech. This phenomenon poses a serious challenge to election organizers because it can influence public perception and threaten the principles of honest, fair, and dignified elections. Within the framework of Indonesian positive law, Law Number 7 of 2017 concerning General Elections (Election Law) through Article 280 paragraph (1) has stipulated a prohibition for implementers, participants, and campaign teams from carrying out insults or provocations of a SARA nature. However, this provision has not been able to cover black campaigners in digital media originating from third parties or anonymous buzzers who are not officially affiliated with election participants. The lack of regulation regarding this kind of

subject creates a lack of norms (*vague normen*) which has an impact on the weak effectiveness of law enforcement in the digital realm ⁶.

Law No. 1 of 2024 concerning Amendments to Law No. 19 of 2016 concerning Electronic Information and Transactions, specifically Article 28 paragraph (2), also contains provisions regarding the prohibition of the dissemination of information that incites hatred or hostility based on ethnicity, religion, race, and intergroup relations (SARA). Normatively, this article can be used to ensnare perpetrators of black campaigns, but its substance is not specifically directed at the context of political campaigns. As a result, there is a lack of synchronicity between the Election Law and the ITE Law in dealing with the same phenomenon, namely the dissemination of destructive content in the digital space during the campaign period. The unclear boundaries between election administration violations and general criminal offenses give rise to structural and conceptual legal issues, resulting in legal disharmony in law enforcement practices ⁷.

This phenomenon demonstrates a gap between legal norms and the socio-political dynamics developing in the digital era. Article 280 paragraph (1) of the Election Law only covers official subjects such as participants and campaign teams, while Article 28 paragraph (2) of the ITE Law is general and does not consider the electoral context. This misalignment makes the digital space a *legal grey area* in political campaign oversight.

dignified justice, a black campaign *is* a form of moral and legal violation that undermines the essence of democracy. This theory holds that justice must embody the fullness of human nature (dignity), encompassing both material and spiritual dimensions. The legal theory of dignified justice, developed by Prof. Teguh, places human values and moral justice as the primary foundations of law. In this context, a black campaign constitutes a serious violation because:

- a. Damaging Reputation: Spreading false or slanderous information damages the honor and image of the candidate.
- b. Undermining Democracy: This action undermines the common sense of voters and undermines the integrity of the electoral process.

Law enforcement against smear campaigns must be based on the theory of dignified justice. This theory rejects Western views (such as those of Thomas

⁶Adhim, Muhammad Syauqun, Muhammad Abi Aufa, YA Triana Ohoiwutun, and Dominikus Rato. "Problems of Law Enforcement Against Black Campaign Practices in General Elections." *ISO Journal: Journal of Social Sciences, Politics and Humanities* 4(2). 2024

⁷Permana, Aulia Anastasya Putri, and Shafarina Intan Khomsah. "Restrictive Interpretation of Article 28 Paragraph (2) of the ITE Law." *Yustika Journal: Media for Law and Justice* 24(01), 2021, p. 25

Hobbes) that view humans as "wolves" to other humans in politics. The author will explain this specifically below.

a. Humanizing Humans (*Nge Wong Ke Wong*)

Law enforcement against smear campaigns aims to protect the dignity, honor, and respect of human beings as God's noble creations. Smear campaigns that involve slander, hoaxes, and reputational damage are considered demeaning to human dignity.

b. Based on Pancasila

Law enforcement must not merely pursue procedural certainty, but must also embody the values of Divinity, Humanity, Unity, Democracy, and Social Justice. Regulations such as the Election Law and the Electronic Information and Transactions (ITE) Law, which ensnare perpetrators of smear campaigns, must be directed towards creating peace and public order.

c. Ethical and Moral Law Enforcement

In Prof. Teguh's view, law enforcement (such as Bawaslu, the police, and the courts) must possess sound morality and legal expertise. Law enforcement against smear campaigns must be carried out objectively and impartially, prioritizing the values of honesty.

d. Preventing Democratic Distortion

In the context of elections or regional elections, smear campaigns undermine the essence of democracy. Strict law enforcement against those spreading false and misleading information on social media serves as both a moral sanction and a deterrent (criminal) to maintain the moral quality of the leaders produced.

To uphold dignified justice, positive law provides sanctions for those engaging in smear campaigns on social media. In Indonesia, this practice is expressly prohibited and can be prosecuted criminally under the Election Law and the Electronic Information and Transactions (ITE) Law, protecting the rights of victims and restoring public moral order.

3.2 Weaknesses of Black Campaign Regulations on Social Media in General Elections.

According to Lawrence M Friedman, the effectiveness of law enforcement is influenced by three components or subsystems: legal structure, legal substance, and legal culture. To analyze the weaknesses of regulations governing black campaigns on social media in the current general election, the author uses Lawrence M Friedman's legal system theory as follows:

a. Weaknesses of Legal Substance

The lack of synchronization between the provisions in the Election Law and the ITE Law, which was last amended by Law No. 1/2024. The Election Law has indeed regulated the prohibition of illegal forms of campaigning in Article 280 Paragraph (1) letters c, d, and letter h, which states that campaign implementers and participants are prohibited from carrying out insults, slander, incitement, and disseminating misleading information.

Article 28 Paragraph (2) of the ITE Law regulates the prohibition on the dissemination of electronic information containing elements of incitement, invitation, or influence that cause hatred or hostility towards individuals or groups based on certain identities. However, this norm is general in nature and is not specifically directed at the context of election campaigns. This means that this provision does not explicitly target or differentiate acts carried out within the scope of political contestation, such as black campaigns between candidates, the spread of propaganda, or the manipulation of public opinion through digital media for electoral purposes. As a result, when this norm is applied to campaign activities, problems often arise in adjusting the context and legal object, because there are no clear normative indicators regarding how "incitement" or "hostility" should be understood in the dynamics of electoral politics.

Furthermore, the interpretation of the phrases "inciting hatred" or "hostility" tends to be subjective and open to multiple interpretations, both by law enforcement officers and the public. It's not uncommon for political expressions that are critical or harsh toward political opponents to be considered hate speech, even though they may still fall within the bounds of freedom of expression in a democratic state. This difference in perception opens up the possibility of criminalizing expression, particularly if the norm is used selectively or politically, for example, to silence criticism of those in power or hinder the campaigning freedom of the opposition.

This condition creates the potential for conflict with the constitutional guarantee of freedom of expression as regulated in Article 28E Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that "everyone has the right to freedom of association, assembly, and expression of opinion." This principle is part of the human rights guaranteed by the state, and can only be limited under strict conditions, namely it must be based on law, have a legitimate purpose (for example to maintain public order), and be proportional.

To establish an effective legal framework to address the normative barriers surrounding smear campaigns in the digital space, comprehensive and targeted regulatory reform is needed. A crucial first step is to harmonize the Election Law and the Electronic Information and Transactions (ITE) Law, particularly by expanding the scope of legal subjects within the smear campaign provisions. This

includes recognizing informal actors such as buzzers and anonymous accounts, which, while actively disseminating smear campaign content, are often excluded from the Election Law due to their lack of formal affiliation with election participants.

b. Weaknesses of Legal Structure

The weaknesses of the legal structure in black campaigns in general elections are as follows:

1) Lack of transparency from political parties and candidates regarding registration of social media accounts for campaigns.

It's undeniable that smear campaigns are illegal during elections, and the Election Law explicitly regulates this. Very few social media accounts officially registered with the General Elections Commission (KPU) are owned by candidates in the election. Meanwhile, he claimed that hate speech, fake news, and smear campaigns can be spread through other, unregistered accounts.⁸

The challenge is that stakeholders and related parties often lack a clear understanding of what smear campaigns on social media entail. Consequently, the authority to take swift action to address election-related issues must be vested in the Elections Supervisory Agency (Bawaslu), the agency tasked with enforcing election laws. Due to the power of the legal system, Bawaslu cannot simply block (as the Ministry of Communication and Information Technology has the authority to do) and take legal action when it discovers accounts spreading smear campaigns on social media. To build effective and efficient collaboration and prevent overlapping authority between agencies, regulation is a crucial component⁹.

2) Lack of Supervision and Enforcement

Despite the existence of the Elections Supervisory Agency (Bawaslu) and the Law Enforcement Agency (Sentra Gakkumdu), many smear campaigns remain unprosecuted because the legal requirements are not met. This leaves perpetrators open to repeating similar actions without any deterrent effect. The Donny Korsont case is a prime example. Although it appears to be a smear campaign, it cannot be prosecuted because it does not clearly name the perpetrator. Minimal oversight and weak enforcement of alleged smear campaigns are also contributing factors to the persistence of this practice.

3) The digital forensics process is time consuming

⁸Hanafi. Legal Analysis of Black Campaign Perpetrators. *Voice Justia: Journal of Law and Justice* , 4 (1), 2020, p. 50

⁹Hafid, I. Criminal Policy in Addressing Black Campaigns on Social Media. *Bawaslu Journal of Riau Islands Province* , 2 (1), 2020, p. 89.

Even if Bawaslu receives initial information from the public, enforcement action cannot be taken immediately if the evidence received does not meet legal requirements. The lengthy digital forensics process presents a challenge, as Bawaslu is bound by the relatively short timeframes for handling election violations. In the context of election law, delays in verifying and authenticating digital evidence can result in the lapse of enforcement action, preventing the actual smear campaign from being legally sanctioned.

c. Weaknesses of Legal Culture

The weaknesses of legal culture in black campaigns in general elections are as follows:

1) Lack of Political Ethics

When politicians fail to uphold the values of honesty and sportsmanship, underhanded methods like smear campaigns become commonplace. Lacking a moral commitment to integrity, they are willing to spread slander in order to win.

Smear campaigners no longer prioritize respectful political values, but instead choose shortcuts to bring down their opponents. Political ethics, which should be the moral foundation of every democratic process, are instead ignored in favor of the desire for power.

2) The Desire to Defeat the Opponent's Reputation and Win the Competition

The primary motivation for conducting a smear campaign is to reduce the effectiveness of the opponent, damage their public image, and increase their chances of winning the election. Based on the author's research, it can be concluded that the primary factor in smear campaigns is usually to reduce the effectiveness of political opponents. The goal is to influence the public to lose sympathy and damage the opponent's image in the public eye.

This suggests that smear campaigns are used as a strategy to create a negative perception of political opponents. This is done to undermine public trust and lower their electability ahead of the election.

3) Low digital literacy in society

Digital literacy is a person's ability to use information and communication technology (ICT) effectively to search for, analyze, evaluate, and disseminate information. This includes the ability to use digital devices, such as computers, tablets, and mobile phones, as well as the applications and software needed to access, manage, and store information. Digital literacy also includes the ability to

recognize and address issues related to online security and privacy, as well as to evaluate the validity and relevance of information found online.¹⁰

Low levels of digital literacy among the public are a major source of opportunity for the spread of election hoaxes. This allows political disinformation to easily fuel polarization, undermine election credibility, and divide unity. To prevent this, the ability to filter information is crucial.

3.3 Formulation of Regulations for Black Campaigns on Social Media in the Future General Elections in Indonesia.

This study found that the relationship between Article 280 paragraph (1) of the Election Law and Article 28 paragraph (2) of the ITE Law indicates an overlapping authority in enforcing the law against black campaigns in the digital space. Both aims to maintain ethical political communication, but are within different legal frameworks, thus creating an interpretative gap ¹¹.

Article 280 paragraph (1) of the Election Law regulates the behavior of participants and campaign teams in a formal political context, but does not yet cover digital activities by sympathizers or anonymous accounts. As a result, many digital black campaign actions escape election law sanctions due to the limitations of norms that are specific to official participants. In contrast, Article 28 paragraph (2) of the ITE Law is general and regulates the spread of hate based on SARA without a specific political context. However, in practice, this article is often applied to black campaign cases that do not contain SARA elements, but rather defamation or political disinformation ¹².

The analysis shows that enforcement of Article 280 falls under the authority of the Elections Supervisory Agency (Bawaslu) and the Law Enforcement Center (Sentra Gakkumdu), while Article 28 falls under the jurisdiction of the Police and the Prosecutor's Office. This difference in jurisdiction creates coordination issues between institutions and reduces the effectiveness of handling digital campaign violations. Analysis of several decisions and violation reports shows a tendency to use the Electronic Information and Transactions Law (ITE) over the Election Law. This shift demonstrates the broadening of the definition of campaign violations without a clear legal basis, resulting in perpetrators often not being held accountable proportionally.

¹⁰ <https://binus.ac.id/character-building/2023/02/rendahnya-literasi-digital-indonesia/> accessed on May 18, 2026

¹¹Permana, Aulia Anastasya Putri, and Shafarina Intan Khomsah. "Restrictive Interpretation of Article 28 Paragraph (2) of the ITE Law." *Yustika Journal: Media for Law and Justice* 24(01), 2021, p. 25

¹²Andrian Thanzani, Aulia Dean Puspita Sari, Linda Tri Yulia, Sultoni Fikri. "Black Campaign Through Electronic Media From an Election Law Perspective." *Journal Evidence Of Law* 1(3). 2022, p. 52

Field findings also indicate that there are no technical regulations at the regional level specifically governing digital campaigns, particularly regarding the responsibility for third-party content. This situation reflects a lack of norms in digital-based election oversight. Furthermore, the public's level of political and digital literacy remains low. Many voters do not yet understand that disseminating content attacking candidates is a violation of the law, making the digital space increasingly vulnerable to smear campaigns and the spread of hate speech.

From a criminal law perspective, the two articles have the potential to create overlapping norms, leading to legal uncertainty. This creates a dilemma in implementation and opens up the possibility of impunity or double prosecution of perpetrators. The analysis also found that the Election Law is more oriented towards protecting the democratic system, while the ITE Law emphasizes the stability of public information. This difference in orientation results in the regulation of digital black campaigns being partial and uncoordinated. Thus, the research results confirm that Article 280 paragraph (1) of the Election Law and Article 28 paragraph (2) of the ITE Law have not yet formed a unified system of legal norms. Both operate independently without an integrative mechanism that guarantees effective law enforcement against black campaigns in the digital space.

Table Research Findings

Analysis Aspects	Article 280 paragraph (1) of the Election Law	Article 28 paragraph (2) of the ITE Law
Settings Object	Campaigns and political activities of election participants	Dissemination of information containing hatred or hostility
Legal Subject	Participants, implementers, and official campaign team	Everyone without any political context limitations
Nature of Law	Lex specialis (limited to campaign activities)	Lex generalis (applicable generally in digital space)
Enforcement Agency	Bawaslu and Gakkumdu Center	Police and Prosecutor's Office
Scope	Formal political activities	General digital communication activities
Main Weaknesses	Not reaching buzzers and anonymous accounts	SARA elements are not always relevant to the political context
Goal Orientation	Protection of democracy and election integrity	Stability and security of public information space
Practical Impact	Weak in digital surveillance	Potential abuse of law enforcement
The Need for Reformulation	Integration of cross-sector norms and harmonization of law enforcement agencies	

Source: Author's data processing

The findings demonstrate the need for a conceptual reconstruction of the relationship between election law and cyber law to prevent them from operating in isolation. Based on Lawrence M. Friedman's legal systems theory, this study identifies imbalances in the substance, structure, and culture of the law. The primary criticism arises from the lack of a unified framework capable of bridging the complexities of digital campaign regulation. The novelty of this research lies in

its proposed systemic harmonization of the two legal regimes to align with the development of digital democracy in Indonesia.

In terms of substance, the revision of Article 280 of the Election Law is not sufficient simply to add clauses but also requires the development of new norms that clarify individual and collective responsibilities in the dissemination of political content in the digital space. This analysis critiques the weaknesses of a sectoral approach that ignores the dynamic nature of political communication technology. Referring to Azhari¹³, this study emphasizes the urgency of regulations based on the principle of digital accountability to ensure legal norms do not lose their relevance¹⁴.

Furthermore, Article 28 paragraph (2) of the ITE Law must be placed within the framework of election law, not merely as a repressive cyber law instrument. Criticism is directed at the tendency to apply this article politically, which has the potential to suppress freedom of expression. The proposed innovation is an integrative approach between electoral protection and human rights, in which legal norms are formulated based on the principle of due process of law as suggested by¹⁵.

From a legal structural perspective, this study assesses that inter-agency coordination has not yet produced an effective enforcement mechanism. The formation of an integrated cross-agency team proposed in previous research needs to be criticized for remaining administrative and not operational. The new approach proposed is legal tech -based governance to strengthen the integration of digital oversight¹⁶.

The analysis also shows that legal effectiveness depends not only on institutional structures but also on the epistemic capacity of law enforcement officials to interpret digital disinformation patterns. Criticism is directed at the weak transfer of digital knowledge within the positive legal system. This research offers a novel approach by proposing strengthening *digital legal literacy* for supervisory institutions as a prerequisite for law enforcement that is responsive to technological dynamics.

From a legal culture perspective, reform is not sufficient through public education; it requires the internalization of digital political ethics within the party system. While Insani et al. emphasize the importance of digital literacy, this study critiques

¹³Azhari, Muhammad Reza, Hadin Muhjad, Law Studies, and Lambung Mangkurat University. "Black Election Campaigns on Social Media." *Tambusai Education Journal* 8(1): 2024, pp. 31930

¹⁴ *Ibid*

¹⁵Ayu, Raudhina Oktia. "Challenges in Implementing the Concept of a Legal State in the Digital Era: A Case Study of the ITE Law and Freedom of Expression." *Journal of Community Service and Educational Research* 3(4), 2025, p. 2408

¹⁶ *Ibid*

an approach that focuses too much on the general public without addressing the political elite. Thus, the innovation lies in the top-down orientation of reform, namely instilling digital political ethics at the party level as a model for fostering campaign behavior.

Within the context of Peter Mahmud Marzuki's legal harmonization theory, this study proposes an adaptive synchronization model, namely vertical and horizontal harmonization based on the principle of technological flexibility. Criticisms of the traditional harmonization model are its static and reactive nature to social change. By adopting this approach, the relationship between the Election Law and the Electronic Information and Transactions Law can be structured dynamically, reflecting the evolutionary nature of digital political communication.

In addition to normative harmonization, this research adds a progressive regulatory perspective that combines hard and soft law. The government needs to implement participatory digital ethics guidelines to prevent elitist and repressive policies. Drawing on practices in South Korea and the UK, this approach demonstrates innovation in maintaining a balance between legal control and digital freedom, a novel element of this research.

Finally, the principle of proportionality is the primary foundation for building a healthy digital democracy. The repressive ITE Law needs to be reconstructed into a preventive instrument oriented towards electoral justice. By combining legal system theory and legal harmonization, this discussion offers a new paradigm for viewing the complementary relationship between Article 280 paragraph (1) of the Election Law and Article 28 paragraph (2) of the ITE Law. This is an original contribution to building a model for regulating digital black campaigns that is adaptive, progressive, and equitable for Indonesia's democratic system.

Future law enforcement against smear campaigns via social media, within the framework of the legal theory of dignified justice, focuses on a balance between legal certainty, expediency, and moral justice. This approach prioritizes the protection of human dignity over damaging freedom of expression.

a. The Basis for Upholding Dignified Law

According to the legal theory of dignified justice, the law must humanize all people. Therefore, smear campaigns (the spread of hoaxes, slander, and hate speech to undermine political opponents) are seen as a form of moral degradation and a violation of the human rights of candidates and the public.

b. Future Direction of Law Enforcement

Projections for future law enforcement of black campaigns on social media include:

1) Preventive (Prevention), prioritizing moral political literacy. Election organizers will place greater emphasis on ethical and moral sanctions before entering the criminal realm, in order to maintain the sanctity of the democratic process.

2) Transformative, regulations will be designed to not only punish (retributive), but also educate perpetrators and the public to uphold digital ethics and polite political communication.

3) Digitally responsive, law enforcement will shift towards rapid and systematic identification of cyber-harassment or black campaigns on social media, because digital platforms have become the main space for the spread of political slander.

c. The Ideal Law Enforcer

Future law enforcement demands that officials (such as Bawaslu, the police, and Gakkumdu) not only rely on a textual-formal approach to the law, but also embrace a substantive vision of justice that respects humanitarian values, honesty, and electoral integrity.

4. Conclusion

The regulations governing black campaigns on social media in the current general election are regulated in Article 280 paragraph (1) of Law Number 7 of 2017 concerning Elections and Article 28 paragraph (2) of Law Number 1 of 2024 concerning Amendments to Law Number 19 of 2016 concerning Information and Electronic Transactions, both of which are related to regulating political campaign behavior in the digital space. The weaknesses in the regulations governing black campaigns on social media in the current general election consist of weaknesses in legal substance, namely the disharmony of norms between Article 280 paragraph (1) of Law Number 7 of 2017 concerning Elections and Article 28 paragraph (2) of Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE). Weaknesses in the legal structure include minimal transparency from political parties and candidates in terms of registering social media accounts for campaigns, minimal supervision and enforcement, a long-consuming digital forensic process, and a lack of human resources. Weaknesses in the legal culture include a lack of political ethics, a desire to tarnish the reputation of opponents and win the competition, and low digital literacy among the public. The formulation of the regulation of black campaigns on social media in general elections in Indonesia, namely the author offers a new paradigm in viewing the relationship between Article 280 paragraph (1) of the Election Law and Article 28 paragraph (2) of the ITE Law in a complementary manner. This is an original contribution to building a model for regulating digital black campaigns that is adaptive, progressive, and equitable for the Indonesian democratic system.

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