



CRIMINAL LIABILITY FOR SPREADING HOAX NEWS THROUGH ELECTRONIC MEDIA IN THE PERSPECTIVE OF LAW NUMBER 19 YEAR 2016

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Abstract

Advances in information and communication technology have an impact in terms of delivering information that runs so fast and can be accessed through social media such as Facebook, Twitter or mobile phone messages such as WhatsApp and others. Due to this progress, social media users cannot filter properly regarding the truth of the news that will be received or disseminated so that it gives birth to hoax news. The criminal responsibility for spreading hoax news is contained in the article referring to the provisions of Article 28 paragraph (1) 45A paragraph (1) of the Constitution of the Republic of Indonesia Number 19 of 2016. In the process of proving the crime of spreading hoaxes in online media, additional evidence is contained in Article 5 of the ITE Law concerning Electronic Information and Electronic Documents and/or printed results. Factors that influence the spread of hoaxes are curiosity, weak journalism, weak economic factors, the emergence of unofficial media, the low quality of media literacy. Prevention of hoax news by means of media literacy so that they have useful skills in processing, accessing, analyzing information and evaluating any information that is obtained or wants to be disseminated by social media. So that social media users can think critically about what they see and read so that it will give birth to a social media order that has etiquette.

Keywords: Fake news (Hoax), Online Media and Literacy

INTRODUCTION

As social beings, humans are dependent on other people and in their lives require interaction with one another. One of these interactions is through communication. As technology advances, human-to-human communication is growing. In the past, humans communicated verbally, now it can be done by telegraph, telephone, facsimile, e-mail, SMS, teleconferencing, and so on. Now with the development of human civilization, the communication process runs more practically. It is also easier to transfer information. The use of information and communication technology illustrates the development of advanced human

civilization, this is marked by development of information delivery methods. In the past, early humans conveyed their information usually through the media of paintings written on the walls of caves. Now the flow of information can be accessed easily through the internet without time and space limits. Likewise, the variety of information is now getting more and more information. Utilization of information and communication technology touches all levels of society using these facilities in everyday life. One example of the development of the use of information and communication technology is online media. The convenience obtained from online media is not only used in managing data or in sales transactions through online media, but also used by business people engaged in publishing and news.

Dissemination of information/news through online media is not only carried out by news sites that disseminate information to the public, but information dissemination can also be carried out by anyone who is an internet user. Internet users can easily disseminate information and news through online media. This has an impact on the freedom for everyone to be able to express and freely disseminate information and news through their online media. The widespread use of online media has two sides, namely on the one hand it can have a positive impact on the fields of education, politics, social, economics and so on. But on the other hand, it can also lead to the emergence of new types of crime which have recently begun to be troubling.

The development of information and communication technology in particular provides an arrangement or formation of regulations in cyber space and cyber law as well as against the development of crime in cyberspace or commonly known as cybercrime. The negative impact that now often occurs is that it is easier to communicate and exchange information through online media between internet users, whether distributed individually or in groups, and cannot be accounted for regarding the truth of the information disseminated, this is very likely to be indicated as a hoax.

Hoax can be referred to as information or news that contains things that are not certain or which are not facts that actually happened. Hoax in Indonesian means false news, false information, or false news. In English, hoax means ridicule, lying and deceiving or deceiving. Hoaxes are deliberately created to disturb the public using data in the form of photos, or quotes that appear to be true, and can be trusted. Therefore, the spread of hoaxes must be a special concern from the government and the public in order to avoid news that is not necessarily true.

The formulation of the problem in this research are what is the criminal responsibility for the perpetrators of spreading false news (hoax) in online media in the perspective of Law Number 19 of 2016. What factors influence the spread of hoaxes in society.

RESEARCH METHOD

In this research, the research method used is by using normative legal research methods, namely by examining legal rules or norms. In this method, two sources of legal materials are used, namely primary legal materials in the form of

legislation and secondary legal materials which include legal books, legal journals, and the internet in order to obtain answers to legal problems.

DISCUSSION

Advances in technology make the flow of information run quickly, various kinds of news can be accessed easily just by opening the internet and in a matter of seconds can be widely spread. However, without digital literacy skills, we may receive false information (hoaxes) that cannot be verified, but have circulated massively in the community. The purpose of hoax news is to spread hatred against a person, or a group or class, propaganda, fraud, provocation, or the formation of public opinion, to engineered efforts to cover up certain mistakes. Hoax news circulating in the community is related to political, social, religious issues, the covid-19 pandemic and fraud regarding job vacancies. The hoax phenomenon is increasingly rampant and it is easy to spread information through social media so it is necessary to overcome and find a way out because the consequences of this hoax news can lead to various public opinions. The spread of hoax news is also able to lead to confusion of information and public excitement for information, it can even result in the division of a nation.

The spread of hoax news through social media had never been imagined by information and communication technology experts because the emergence of social media was originally intended to facilitate communication between humans in various parts of the world. From a sociological point of view, the existence of social media, especially its emergence, has influenced the way humans communicate, socialize, and interact. However, over time, a number of unscrupulous social media users began to bump into values and ethics in socializing and sharing information. Therefore, legal sanctions are needed for hoax news spreaders to be able to account for their actions.

Criminal Liability Against Perpetrators of Spreading Fake News (Hoax) in Online Media in the Perspective of Law Number 19 of 2016. Criminal liability in a foreign language is called criminal liability. The definition of criminal responsibility is that someone can be blamed for an unlawful act he has committed, so that he can be held criminally accountable (*verwijbaarheid*). Criminal liability can essentially be applied to someone who is considered guilty in the occurrence of a crime. Criminal liability can basically be accounted for by a perpetrator of a criminal act, but must meet four elements of requirements including: 1. There is an action (commission / omission) by the perpetrator; 2. Those who fulfill the formulation of the offense contained in the Act; 3. The action is against the law; 4. The perpetrators must be held accountable.

Criminal liability for the perpetrators of the crime of spreading false news (hoax) in online media, based on the provisions of Law Number 19 of 2016 are as follows: 28 paragraph 1 of the Law on Information and Electronic Transactions. In that article, paragraph 1 stipulates that everyone is prohibited from spreading false hoax news. The ITE Law contains details of criminal threats for spreading hoaxes. Article 45 paragraph 1 of the ITE Law states that anyone who meets the elements referred to in Article 27 paragraph 1 or paragraph 2 and paragraph 3 shall be sentenced to a maximum imprisonment of 6 (six) years and or a maximum

fine of Rp. 1 billion. Lying and misleading are two different things. In the phrase spreading hoax news (lie) what is regulated is about his actions, while in misleading words what is regulated is about the consequences of actions that make people think wrong/wrong. To prove that there has been a violation of Article 28 paragraph (1) of Law no. 11 of 2008 concerning Information and Electronic Transactions.

Therefore, the Criminal Code for Spreading Fake News Article 28 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions as amended by Law Number 19 of 2016 concerning Electronic Information and Transactions states: Everyone intentionally, and without the right to spread hoax and misleading news that results in losses to consumers in Electronic Transactions. The act regulated in Article 28 paragraph (1) of the ITE Law is one of the actions prohibited in the ITE Law.

In relation to the formulation of Article 28 paragraph (1) of the Electronic Information and Transaction Law which uses the word "spreading false news", Article 28 paragraph (2) of the Electronic Information and Transaction Law states that everyone intentionally and without rights disseminates information that intended to create feelings of hatred or hostility towards certain individuals and/or groups of people based on ethnicity, religion, race and inter-group, the threat of imprisonment for a maximum of 6 years and/or a fine of a maximum of Rp. 1,000,000,000 (Rp. 1 billion). want to benefit themselves or others by fighting the right to lower or increase the price of merchandise, funds or money securities by broadcasting false news, shall be punished by a maximum imprisonment of two years and eight months."

Evidence in the criminal act of spreading false news (hoax) in online media in the ITE Law has regulated evidence other than those contained in Article 184 of the Criminal Procedure Code. The means of evidence as stated in Article 5 paragraph (1) of the ITE Law are: 1. Electronic information and/or electronic documents; 2. Printed results of electronic information and/or electronic documents. Article 5 paragraph (1) of the ITE Law, which is an extension of legal evidence in accordance with the applicable procedural law in Indonesia, must be interpreted as an expansion of documentary evidence. With regard to the expansion of legal evidence, electronic information evidence and electronic documents as an extension of documentary evidence, or domiciled and have the same function as letter evidence in terms of being used as material to form evidence of instructions. Although its position has the same function as evidence of electronic information and electronic documents which are the same as evidence of letters, there are limitations in its application.

Factors Affecting the Spread of Fake News (Hoax) in Society

Hoax news is now easily spread, this is because online media has spread widely and the process of spreading news runs very quickly. Now we as users can no longer control the incoming news because everyone can create news and spread it freely. Nowadays, there are many misleading news circulating that make noise and ironically the public cannot manage and filter all the news they receive. As a user, you should have the ability to sort the news to be read and also look for

other sources related to the news received to determine the authenticity of the information obtained.

The factors that cause hoax news are: 1) The existence of public curiosity that causes the spread of hoax news. Something that attracts attention will make curiosity higher and this without being followed by the ability to check the accuracy of the news received. 2) Weak journalism makes hoax content continue to grow because they are not familiar with the process of verifying the news that will be distributed. It is proper for the role of professional media to provide clarity in an issue so that there is no confusion in society. 3) Weak economic factors affecting the circulation of hoax news will always be there because this will be a job that makes money even by making up stories. 4) The emergence of unofficial media which in carrying out their work do not apply journalism standards so that the quality of information disseminated to the public is very poor because they only pursue quantity. 5) The factor of the low quality of education makes a person unable to filter the information he receives and compare any information he receives with existing information. 6) low media literacy which makes social media users tend to trust the information they receive and get without doing it first. The low level of media literacy makes social media users often share any information they get to others without knowing the truth of the information.

CONCLUSION

In this era of technological advancement, the flow of information runs rapidly, various kinds of news can be accessed easily by just opening the internet and in seconds it can be widely spread. However, without digital literacy skills, we may receive false information (hoaxes) that cannot be verified, but have circulated massively in the community. The purpose of hoax news is to spread hatred against a person, or a group or group, propaganda, fraud, provocation, or the formation of public opinion, to engineered efforts to cover up certain mistakes. Criminal responsibility for spreading hoax news is contained in the article referring to the provisions of Article 28 paragraph (1) 45A paragraph (1) of the Constitution of the Republic of Indonesia Number 19 of 2016. In the process of proving the crime of spreading hoaxes in online media, additional evidence is contained in Article 5 of the ITE Law concerning Electronic Information and Electronic Documents and/or printed results. Factors that influence the spread of hoaxes are curiosity, weak journalism, weak economic factors, the emergence of unofficial media, the low quality of media literacy. Prevention of hoax news is by means of media literacy, this way of media literacy, social media users have useful skills in processing, accessing, analyzing information and evaluating any information that is obtained or wants to be disseminated by social media. With this skill, social media users can think critically about everything that is heard, seen and read so that it will give birth to a social media order that has etiquette.

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