

Legal Analysis of Hoax Dissemination as an Unlawful Act on Social Media

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Article History:

Submitted:

25-10-2025

Received:

27-11-2024

Accepted:

04-01-2026

Keywords:

Hoaxes; Unlawful

Act; Social Media;

Civil Liability;

Criminal Liability

Abstract

The phenomenon of hoaxes or fake news on social media has become a serious threat in Indonesia, causing horizontal conflicts, public panic, and economic losses. Spreading hoaxes constitutes an unlawful act, both criminally and civilly. While previous studies mainly emphasized criminal aspects through the UU ITE and Kitab Undang-Undang Hukum Pidana, this research also highlights civil liability under Article 1365 of the Kitab Undang-Undang Hukum Perdata, which provides for compensation to victims. The study aims to analyze the legal-normative framework concerning the spread of hoaxes as an unlawful act and to formulate the forms of criminal and civil liability that may arise. Using a normative juridical method with a statute approach, the research examines primary legal materials, particularly UU No. 1 Tahun 2024 (Second Amendment to the UU ITE), and relevant secondary materials. The findings reveal that hoax dissemination fulfills the elements of a tort under Article 1365 of the KUHPerdata namely, an act, unlawfulness (violating rights or propriety), fault (including negligence in verification), loss (material or immaterial), and causality. The study's novelty lies in its dual analysis combining criminal and civil perspectives. In addition to criminal sanctions imprisonment of up to six years and/or a fine of up to IDR 1 billion under Article 45A of the UU ITE, victims may also pursue civil claims for damages. This dual-path approach enriches legal scholarship and provides practical guidance for victims to achieve comprehensive justice through both criminal punishment and civil compensation.

1. Introduction

The development of information and communication technology has created a revolutionary digital ecosystem, with social media standing as the main platform for social interaction and global information dissemination. Unfortunately, the ease of access and speed of content dissemination offered by social media has also become fertile ground for the phenomenon of hoaxes or fake news. Hoaxes are defined as fabricated information that is not based on facts, with the aim of manipulating, misleading, or causing unrest in society.¹ This phenomenon is no longer just an ethical issue, but has evolved into a serious threat to social stability, national security, and public trust in valid information. In Indonesia, the spread of hoaxes has had a tangible impact, ranging from public panic and horizontal conflicts to economic losses, particularly in relation to sensitive issues such as politics, health (e.g., during the COVID-19 pandemic), and ethnicity, religion, race, and intergroup relations (SARA).² In a legal context, the act of spreading hoaxes on social media places it in the realm of unlawful acts, both criminally and civilly. Identifying hoaxes as unlawful acts is crucial for enforcing

¹ Albana Salim Muhammad, Alif Dava Mahesa, Indriani Putri, and Noerma Kurnia Fajarwati. 2024. "Interaksi Komunikasi Hoax Di Media Sosial Serta Antisipasinya." *SABER: Jurnal Teknik Informatika, Sains Dan Ilmu Komunikasi* 2 (2): 34–39. <https://doi.org/10.59841/SABER.V2I2.958>.

² Mastel Digital Enabler. 2019. "Hasil Survey Wabah HOAX Nasional 2019 | MASTEL Living Enabler." 2019. <https://mastel.id/hasil-survey-wabah-hoax-nasional-2019/>.

the law and protecting individual rights and the public interest from the harm caused by disinformation. The issue of hoaxes on social media has been the subject of extensive discussion in legal literature. In general, existing solutions focus on the criminal law framework, particularly through Undang-Undang Nomor 19 Tahun 2016 concerning Amendments to Undang-Undang Nomor 11 Tahun 2008 concerning Electronic Information and Transactions (UU ITE), specifically Article 28 paragraph (1) and paragraph (2) in conjunction with Article 45A of the UU ITE, as well as provisions in the Criminal Code (KUHP), such as Articles 14 and 15 of Undang-Undang Nomor 1 Tahun 1946 (Criminal Law Regulations).³ Several previous studies have made important contributions to the legal analysis of this issue.

1. The study by Bella Alberta and Jeslin Eka Putri (2021), entitled "Legal Analysis of Criminal Law Enforcement Against the Spread of COVID-19 Hoaxes Through Social Media," stands out by analyzing the implementation of criminal law enforcement under the UU ITE specifically in cases of COVID-19 hoaxes, identifying the challenges of law enforcement in the context of an urgent pandemic.⁴
2. Another study by Ridho Mubarak and Wessy Trisna (2021), "Legal Analysis of Victims of the Spread of Fake News (Hoaxes) on Social Media," highlights the aspect of victim protection, which is an advantage in seeing other dimensions beyond just the prosecution of perpetrators.⁵
3. Meanwhile, a study by Faisal Azis Muttaqien and Anang Dony Irawan (2021), "The Application of Criminal Law on the Spread of Hoaxes Through Social Media in the Covid-19 Pandemic Era," reinforces the analysis of criminal law enforcement based on the ITE Law and shows that the available criminal sanctions have been applied, but highlights the need for all parties to play a role in combating hoaxes.⁶

The originality of this study lies in its comprehensive approach, which combines criminal law analysis, civil law analysis, and social prevention efforts in addressing the spread of hoaxes on social media. Unlike the research by Bella Alberta and Jeslin Eka Putri (2021), which focuses on criminal law enforcement against the spread of COVID-19 hoaxes based on the UU ITE, this research not only examines the criminal aspect but also expands the analysis to civil liability through Article 1365 of the Civil Code. This approach provides a new perspective that victims of hoaxes have a legal basis to claim compensation for material and immaterial losses incurred. Another difference is apparent when compared to the research by Ridho Mubarak and Wessy Trisna (2021), which emphasizes the protection of victims as an important aspect in handling hoaxes. Although highlighting the humanitarian dimension, the

³ Badan Pemeriksa Keuangan. 1946. UU No. 1 Tahun 1946. Indonesia. <https://peraturan.bpk.go.id/Details/25029/uu-no-1-tahun-1946>.

⁴ Alberta, Bella, Dan Jeslin, and Eka Putri. 2020. "ANALISIS YURIDIS PENEGAKAN HUKUM PIDANA TERHADAP PENYEBARAN BERITA HOAX COVID-19 MELALUI MEDIA SOSIAL." Muhammadiyah Law Review 5 (1). <https://share.google/g54WmIIuUk1cBCDJo>.

⁵ Mubarak, Ridho, and Wessy Trisna. 2021. "Analisis Yuridis Terhadap Korban Penyebaran Berita Bohong (Hoax) Di Media Sosial." Jurnal Ilmiah Penegakan Hukum 8 (1). <https://ojs.uma.ac.id/index.php/gakkum/article/view/4214>.

⁶ Muttaqien, Faisal Azis, and Anang Dony Irawan. 2021. "Penerapan Hukum Pidana Penyebaran Berita Hoax Melalui Media Sosial Era Pandemi Covid-19." Media of Law and Sharia 2 (4). <https://doi.org/10.18196/MLS.V2I4.12016>.

study did not elaborate on concrete mechanisms to realize such protection within a legal framework. This study aims to fill that gap by offering a more operational model of legal accountability, both through criminal and civil channels. In addition, research by Faisal Azis Muttaqien and Anang Dony Irawan (2021) focuses on the application of criminal law against perpetrators of hoaxes during the COVID-19 pandemic and emphasizes the importance of the role of all parties in law enforcement. However, this research still places the responsibility for combating hoaxes solely on law enforcement officials. In this case, the current study demonstrates its originality by adding a preventive dimension through strengthening digital literacy and community participation. Thus, this study offers a multidimensional and integrative approach, not only enforcing the law against perpetrators, but also empowering the community to be more critical and resilient to disinformation.

The dominance of criminal law as the main instrument in combating hoaxes is not without criticism. Many scholars argue that over-criminalization may pose a risk to freedom of expression, especially when law enforcement authorities interpret legal provisions too broadly. This concern has surfaced in several controversial cases where individuals were prosecuted not for spreading false information with malicious intent, but for expressing opinions or criticisms toward public institutions.⁷ Thus, a balanced approach is urgently required—one that strictly sanctions intentional disinformation, while safeguarding democratic values and constitutional rights. In addition to criminal liability, the spread of hoaxes can also be viewed through the lens of civil law, particularly in relation to unlawful acts (*perbuatan melawan hukum*) under Article 1365 of the Indonesian Civil Code. When a hoax causes measurable harm—whether material or immaterial—the victims should be granted the right to file civil claims for compensation. This perspective opens the door to broader accountability, not only for individuals who directly spread hoaxes, but also for digital platforms that negligently allow the proliferation of harmful content. Although civil enforcement is still rarely utilized in practice, it holds strategic potential as a complementary mechanism to criminal sanctions.

Legal countermeasures alone will never be sufficient without preventive efforts rooted in digital literacy and public participation. Social media users must be equipped with the ability to critically evaluate information before sharing it, while governments, educational institutions, and technology companies should collaborate in implementing systematic awareness campaigns. The establishment of fact-checking initiatives and reporting mechanisms within platforms such as Facebook, Instagram, and X (formerly Twitter) also plays a vital role in reducing the virality of hoaxes.⁸ Ultimately, combating disinformation is not merely a legal challenge but a multidimensional effort that requires synergy between law enforcement, policy innovation, and societal resilience

⁷ Ramdan, Aje. 2021. "KONTROVERSI DELIK PENGHINAAN PRESIDEN/WAKIL PRESIDEN DALAM RKUHP." *Jurnal Yudisial* 13 (2): 245. <https://jurnal.dpr.go.id/index.php/hukum/article/download/3248/pdf>.

⁸ Alianinggrum, Nava Nur, Bunga Almadinah, Astri Kusuma Pertiwi, Universitas Pembangunan, Nasional Veteran Jakarta, Jalan Rs Fatmawati Raya, Pd Labu, and Kec Cilandak. 2023. "Penyaringan Fakta Dan Tanggung Jawab Jurnalisme Digital: Menghadapi Tantangan Disinformasi Pada Pemilu 2024." <https://idereach.com/Journal/index.php/JSC>.

2. Methods

This study uses a normative juridical method, which is a series of legal studies conducted by examining reference materials or secondary data as the basis for research by conducting a search of regulations and literature related to the issues being studied.⁹ In other words, the normative juridical approach is a legal research approach that focuses on written legal norms as the main material for analysis. This method examines various laws, regulations, doctrines, and legal literature relevant to the issue of hoaxes spreading on social media. Thus, the research emphasizes conceptual and normative aspects rather than field practice, thereby providing an overview of how the law ideally regulates the issue under study. The type of approach used is the statute approach, which involves a systematic review of relevant legislation. Through this approach, the study seeks to identify applicable legal principles and norms, which are then analyzed in relation to the issue of hoaxes spreading on social media. Data collection techniques were carried out through literature studies using secondary data. This secondary data included books, scientific articles, previous research results, and legal documents. The legal materials analyzed consisted of Primary legal materials, namely Undang-Undang Nomor 1 Tahun 2024 tentang Perubahan Kedua atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik, and Secondary legal materials, in the form of legal literature, journals, and articles related to the issue of hoaxes spreading on social media

3. Results and Discussion

3.1. Legal regulations in Indonesia regarding the dissemination of hoaxes through electronic social media related to unlawful acts?

Indonesian law regulating the dissemination of hoaxes on social media continues to evolve with the times. Initially, regulations concerning Electronic Information and Transactions (UU ITE) were stipulated in Undang-Undang Nomor 11 Tahun 2008 Tentang UU ITE. This law then underwent its first amendment, namely Undang-Undang Nomor 19 Tahun 2016. Subsequently, the provisions were amended again by Undang-Undang Nomor 1 Tahun 2024 ("UU No. 1 / Tahun 2024") tentang Perubahan Kedua atas UU ITE. Article 28 paragraph (1) of UU No. 1 / Tahun 2024 discusses the dissemination of hoaxes, which reads "Any person who deliberately and/or transmits Electronic Information and/or Electronic Documents containing false notifications or misleading information that causes material losses to consumers in Electronic Transactions."¹⁰ In addition, one of the regulations also used in cases of spreading hoaxes is Undang-Undang Nomor 1 Tahun 1946 tentang Peraturan Hukum Pidana (KUHP lama). Provisions such as Article 14 paragraph (1), which reads, "Anyone who, by disseminating false news or information, deliberately causes unrest among the people, shall be punished with a maximum imprisonment of ten years." and Article 15, which reads, "Anyone who disseminates uncertain, exaggerated, or incomplete news, while knowing or at least reasonably suspecting that such news will or could easily cause unrest among the people, shall be punished with a maximum imprisonment of two years." These two articles can be

⁹ Soekanto, Soerjono, and Sri Mamudji. 2001. *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*. Jakarta: Rajawali Pers.

¹⁰ Peraturan BPK. 2024. UU No. 1 Tahun 2024. <https://peraturan.bpk.go.id/Details/274494/uu-no-1-tahun-2024>.

used as a basic reference for handling cases of hoaxes. In the context of civil law, Article 1365 of the Kitab Undang-Undang Hukum Perdata (“KUHPer”) on Unlawful Acts stipulates that for an act to be declared unlawful, it must fulfill the elements of PMH in Article 1365 KUHPer. These elements are the existence of an act, the act being unlawful, the existence of fault, the existence of damage, and the existence of a causal relationship.¹¹ The dissemination of hoaxes that harm others clearly fulfills the elements of unlawful acts, so it can be said to be an act of unlawful acts.¹²

The first element of unlawful acts is that it must be proven by the existence of an act, namely an active action carried out by the perpetrator.¹³ In the digital age, such acts can take the form of typing messages, uploading content, sharing, or forwarding information to social media such as Twitter, Facebook, WhatsApp, etc. Freedom of expression through digital media, especially social media, is often abused, for example by spreading false news or information (hoaxes).¹⁴ With the speed of information dissemination on social media, these hoaxes can easily spread and have a negative impact on society. Therefore, with these actions, the spread of hoaxes can be said to fulfill the first element of unlawful acts.

The second element is that the act must be unlawful (onrechtmatig). This term is not limited to violations of written law (statutes), but also includes violations of individual rights, such as the right to goodwill, and acts that are contrary to legal obligations, propriety, prudence, or social decency.¹⁵ In the case of spreading hoaxes, the dissemination violates the rights of the victim and does not comply with reasonable standards of prudence in social media.

The third element is the existence of fault (schuld). In a civil context, fault can be intentional or unintentional.¹⁶ One important point here is that a person can be held legally responsible even if they did not intend to cause harm. For example, when someone forwards a hoax without checking its truthfulness. In this case, negligence due to not verifying the

¹¹ Sari, Indah. 2020. “PERBUATAN MELAWAN HUKUM (PMH) DALAM HUKUM PIDANA DAN HUKUM PERDATA.” *JURNAL ILMIAH HUKUM DIRGANTARA* 11 (1): 55. <https://doi.org/10.35968/JH.V11I1.651>.

¹² Yashila, Putri, and Rahimah Athifahputih. 2022. “PENEGAKAN HUKUM TERHADAP PENYEBARAN BERITA HOAX DI LIHAT DARI TINJAUAN HUKUM.” *Jurnal Hukum Dan Pembangunan Ekonomi* 10 (1): 2022. <https://share.google/wT3Imq3LpUOmCzRaB>.

¹³ Yuflikhati, Nur, Rindiyani, Aulia Zaki, Neni Susilowati, and Anggita Fahrezy. 2025. “Perbuatan Melawan Hukum Dalam Perspektif Hukum Perdata Dan Hukum Pidana Studi Kasus Putusan No. 28/Pdt.G/2024/PN Tmg & 113/Pid.Sus/2023/PN Tmg.” *Jurnal ISO: Jurnal Ilmu Sosial, Politik Dan Humaniora* 5 (1): 16. <https://penerbitadm.pubmedia.id/index.php/iso/article/view/2181/2350>.

¹⁴ Tuhumury, Harry A. 2019. “PERTANGGUNGJAWABAN PERDATA PELAKU PENYEBAR HOAX MELALUI MEDIA MASA.” Universitas Yapis Papua, December, 2. <https://core.ac.uk/download/pdf/287209402.pdf>.

¹⁵ Tri, Erna, and Rusmala Ratnawati. 2021. “Perlindungan Hukum Bagi Korban Yang Dirugikan Akibat Penyebaran Berita Bohong.” *Widya Pranata Hukum : Jurnal Kajian Dan Penelitian Hukum* 3 (1): 101. <https://doi.org/10.37631/WIDYAPRANATA.V3I1.271>.

¹⁶ Winastri, Rivo Krisna, Agus Priyono, and Dewi Hendrawati. 2017. “TINJAUAN NORMATIF TERHADAP GANTI RUGI DALAM PERKARA PERBUATAN MELAWAN HUKUM YANG MENIMBULKAN KERUGIAN IMMATERIIL (STUDI KASUS PUTUSAN PENGADILAN NEGERI ISTIMEWA JAKARTA NO. 568/1968.G).” *Diponegoro Law Journal* 6 (2): 5. <https://ejournal3.undip.ac.id/index.php/dlr/article/view/17314>.

information is sufficient to constitute fault, even though there are no criminal sanctions because there was no malicious intent or element of intent. Therefore, in this case, prudence and discretion are required in using social media by verifying the information obtained.¹⁷

The fourth element is the existence of damage (*schade*). The damage caused by hoaxes can be material and immaterial.¹⁸ Examples of material damage include economic losses, medical expenses, or lost income. However, the most common is immaterial damage, such as psychological trauma, embarrassment, loss of public trust, and damage to reputation. In civil court, victims are entitled to appropriate compensation, including for suffering that cannot be measured directly.¹⁹ It can be seen that the damage caused by false reporting has a significant impact on a person's social and financial life.

The final element is causality (*causaal verband*), which is the cause-and-effect relationship between the act of spreading hoaxes and the losses suffered by the victim. Victims must be able to prove that the losses suffered were a direct result of the perpetrator's actions, not due to other factors. In this era of digitalization, proving causality is often difficult because information can spread very quickly and involve many parties. Therefore, the role of the law in protecting the public is very much needed.²⁰ However, if proven, the victim is entitled to appropriate compensation and the perpetrator will be subject to appropriate sanctions. This element is important because it will form the basis for legal liability.

The spreading of hoaxes on social media in Indonesia is tightly regulated by both criminal and civil laws, with clear consequences for those who disseminate false information. The UU No. 1 / Tahun 2024 on ITE and the old KUHP define punishable acts that cause public unrest or material harm, emphasizing intent and impact. Under civil law, Article 1365 of the KUHPer establishes a liability framework based on five key elements: act, unlawfulness, fault, damage, and causality. Even unintentional sharing, such as forwarding unverified content, can constitute legal fault due to negligence, highlighting the responsibility that comes with online participation. The damage caused by hoaxes often extends beyond financial loss to

¹⁷ Lembaga Bantuan Hukum "Pengayoman" Universitas Katolik Parahyangan. 2019. "Notulensi Siaran Radio 23 Januari 2019 'Pengaturan Hukum Mengenai Berita Bohong (Hoax) Di Indonesia' | LBH 'Pengayoman.'" July 1, 2019. <https://lbhpengayoman.unpar.ac.id/notulensi-siaran-radio-23-januari-2019-pengaturan-hukum-mengenai-berita-bohong-hoax-di-indonesia/>.

¹⁸ Kajian, Jurnal Ilmiah, Pendidikan Kewarganegaraan, Arsyad Aldyan, Muhammad Rustamaji, Ismawati Septiningsih, Zakki Adlhiyati, Itok Dwi Kurniawan, et al. 2022. "ASPEK KEPERDATAAN PERBUATAN MELAWAN HUKUM PADA PERKARA PENCEMARAN NAMA BAIK DALAM ERA PERKEMBANGAN TEKNOLOGI DAN INFORMASI GUNA REFORMULASI PENEGAKAN HUKUM." *Jurnal Global Citizen: Jurnal Ilmiah Kajian Pendidikan Kewarganegaraan* 11 (2): 70. <https://doi.org/10.33061/JGZ.V11I2.6743>.

¹⁹ Hasan, Umar, Taufik Yahya, Universitas Jambi, Penulis Korespondensi, Kata Kunci, and Gugatan Immateriil. 2025. "Immaterial Lawsuits in the Context of Breach of Contract in Indonesia Gugatan Immateriil Dalam Konteks Wanprestasi Pada Perjanjian Di Indonesia Article Info Abstrak Corresponding Author." *Jurnal Hukum Mimbar Justitia (JHMJ)* 11 (1): 2477-5681. <https://share.google/fLSrFm8JajIFS6DLD>.

²⁰ Haidarrani Ananda, Sulistianingsih Dewi, Mubarakah Wakhidatul, and Hairani Justika. 2024. "Pertanggungjawaban Pidana Pelaku Forward Berita Hoax: Telaah Dalam Perspektif Undang-Undang ITE." Universitas Negeri Semarang, December, 97. <https://share.google/HniA25wJEAZxv5aSC>

include psychological harm, reputational damage, and loss of public trust.²¹ As digital information spreads rapidly, the legal system plays a crucial role in safeguarding individual rights while maintaining social stability

3.2. Perpetrators of hoaxes on social media legally liable for the damages caused

According to Suyamto, as quoted by Angger Sigit²², supervision is an effort or act to find out and assess the actual reality of responsibility in the implementation of duties whether it is in accordance with what it should be. The purpose of supervision itself in a narrow sense is the suitability of whether the tasks carried out are appropriate with the predetermined benchmarks. The purpose of supervision is to ensure that the implementation of tasks is in accordance with the standards or benchmarks that have been determined. Supervision is also a tool to compare "*Das Sollen*" (what should happen according to plan) and "*Das Sein*" (reality or implementation that occurs), so that it can be known whether there are irregularities or inconsistencies that need to be corrected.

The development of information and communication technology has brought about major changes in the way people interact. Social media has become the main public space that allows people to disseminate, receive, and produce information quickly and massively.²³ However, despite its positive benefits, social media has also become a means of spreading fake news or hoaxes. Hoaxes are not merely false information, but can cause harm to individuals, groups, and even society at large.²⁴ For example, hoaxes about health products can endanger consumers, or political hoaxes can undermine democracy and social stability. Therefore, the spread of hoaxes has become a serious issue in Indonesian law. The state has responded to this phenomenon by strengthening regulations through Undang-Undang Nomor 1 Tahun 2024 tentang Perubahan Kedua atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (UU ITE).

In the context of hoaxes, UU ITE is the main instrument that regulates the dissemination of false information through electronic media.²⁵ Article 28 paragraph (1) of the UU ITE states

²¹ Zaimatus Septiana, Nila, and Marcelino Wahyu. 2021. "DAMPAK BERITA HOAX PADA MASYARAKAT: STUDI FENOMENOLOGI KELURAHAN NGRONGGO KOTA KEDIRI." *Journal of Dedication Based on Local Wisdom* 1 (December): 207-16. <https://share.google/ZYrq0A1rRHFQvHKPF>.

²² S.H Angger Sigit Pramukti, S.H. Dan Meylani Chahyaningsih, "Pengawasan Hukum Terhadap Aparatur Negara" (Yogyakarta: Pustaka Yustisia, 2016), https://books.google.co.id/books?id=Mrvieaaaqbj&pg=Pa1&source=GBs_Toc_R&cad=1#v=OnePage&q&f=false.

²³ Rahma, Ayu, Hilma Ardianti, and Khaliq Firman. 2024. "PERAN MEDIA SOSIAL DALAM DINAMIKA SOSIAL MASYARAKAT KONTEMPORER." *Jurnal Komunikasi Digital Dan Penyiaran Islam* 1 (July). <https://share.google/28vZAS0rx9GaRsvhg>.

²⁴ Penanganan, Hukum, Penyebaran Berita, Hoaks Di, Ruang Digital, Studi Kasus, Ratna Sarumpaet, Fani Budi Kartika, et al. 2025. "The Role of Law in Handling the Spread of Hoax in Digital Space: A Case Study of Ratna Sarumpaet." *Lex Justitia Journal P-ISSN 7 (2)*: 22-32. <https://share.google/pVPy6I8OkKzbFI6Tt>.

²⁵ Widodo, Guntarto, Purgito Purgito, and Reni Suryani. 2025. "Aspek Hukum Delik Penyebaran Berita Bohong (Hoax) Berdasarkan Undang-Undang Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik." *Pamulang Law Review* 3 (1): 57. <https://www.researchgate.net/publication/364210261>.

that “Any person who deliberately spreads false and misleading information that causes consumer losses in Electronic Transactions is prohibited.” This provision clearly places the elements of “false and misleading information” and “causing losses” as conditions for the fulfillment of a criminal offense. These elements are cumulative, the false news must be proven to be false, misleading, and result in actual harm.

Criminal sanctions for such violations are regulated in Article 45A of the UU ITE. This article states that anyone who violates Article 28 paragraph (1) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp1,000,000,000.00 (one billion rupiah). Thus, the UU ITE provides a strong legal basis for prosecuting perpetrators of hoaxes, while also signaling that digital crimes are taken seriously in Indonesia's criminal justice system.

In addition, UU No. 1 Tahun 2024 also emphasizes the responsibility of electronic system operators (PSE). The articles related to PSE (Article 40) impose an obligation on platforms to maintain information security, remove prohibited content, and provide data access to law enforcement officials when necessary. This provision expands accountability not only to individuals who spread hoaxes, but also to digital companies that manage social media.

The legal liability of perpetrators of hoaxes can be viewed from three aspects: criminal, civil, and administrative. First, criminal liability. Perpetrators can be charged under Article 28 paragraph (1) in conjunction with Article 45A of the UU ITE if they are proven to have spread false and misleading information that has caused harm. The element of intent is important, meaning that the perpetrator is aware that the information being spread is false or at least can be strongly suspected to be false. Law enforcement must prove that there is a causal relationship between the dissemination of information and the losses suffered by the victim. For example, if someone spreads hoaxes about fake investments that cause the public to suffer financial losses, then the elements of the article are fulfilled.²⁶ Second, civil liability. Victims of hoaxes can seek compensation through civil lawsuits based on unlawful acts as stipulated in Article 1365 of the Civil Code (KUHP). In this context, the dissemination of hoaxes constitutes an unlawful act because it violates the rights of others, both in terms of material losses (e.g., financial losses due to fraud) and immaterial losses (e.g., damage to reputation or good name). Civil lawsuits provide victims with the opportunity to obtain compensation, regardless of whether the perpetrator is convicted of a criminal offense. Third, administrative liability. UU 1 Tahun 2024 Article 40A paragraphs (4) and (5) regulates the obligation of PSEs to follow up on reports from the public regarding hoax content. If a PSE does not fulfill this obligation, the Ministry of Communication and Information Technology can impose administrative sanctions in the form of warnings, fines, temporary suspension, or even termination of service access.

The most decisive element in hoax cases is “damage.” In legal practice, damage can take the form of:

²⁶ Suhariyanto Budi. 2012. Tindak Pidana Teknologi Informasi (Cybercrime) : Urgensi Pengaturan Dan Celah Hukumnya. RajaGrafindo Indonesia. https://books.google.com/books/about/Tindak_pidana_teknologi_informasi_cyberc.html?id=nRzlwEACAAJ.

1. Material damage, such as financial loss due to purchasing counterfeit products as a result of hoaxes or loss of investment.
2. Immaterial damage, such as damage to reputation, psychological distress, and disruption of social relationships.

Proving damages in criminal cases usually requires electronic evidence (screenshots, metadata, server logs), IT expert testimony, and victim testimony.²⁷ Challenges arise when hoaxes are spread massively by many people, making it difficult to determine the main actors responsible.²⁸ In such circumstances, judges usually assess who first created or spread the hoax and whether the dissemination directly correlated with the victim's damages.²⁹

One relevant example is the case of the spread of fake news (hoaxes) related to Covid-19 in South Sumatra,³⁰ involving a perpetrator with the initials HNI and a civil servant (PNS) at the Palembang Community Health Center, analyzed from a criminal law perspective, specifically Article 28 Paragraph (1) Jo. Article 45A Paragraph (1) of Undang-Undang Nomor 11 Tahun 2008 Jo. Undang-Undang Nomor 19 Tahun 2016 tentang Informasi dan Transaksi Elektronik (UU ITE). The perpetrators' actions of spreading false news through social media (Electronic Media), such as HNI's post on March 4, 2020, which mentioned deaths due to Corona in Sukabumi, clearly fulfill the elements of a criminal offense. The elements of the offense in Article 28 Paragraph (1) are fulfilled, where the subject is "every person" (HNI and civil servants), the act is "spreading" news that is not factual, the object is "false and misleading news" (false Covid-19 news), and it is done "intentionally and without rights" (against the law). Most importantly, the element of "causing consumer harm" is fulfilled, where this harm is interpreted broadly, not limited to financial loss, but also immaterial harm in the form of feelings of worry, anxiety, and fear experienced by the public, given the contagious and dangerous nature of Covid-19. Thus, perpetrators can be subject to criminal sanctions in the form of imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp1,000,000,000.00 (one billion rupiah), as stipulated in Article 45A Paragraph (1) of the UU ITE.

Another example is the case of Ratna Sarumpaet, a clear example of criminal liability for spreading false news in Indonesia.³¹ Ratna Sarumpaet lied to the public and herself, claiming

²⁷ Herman, Handrawan, and Oheo Kaimuddin Haris. 2024. "Penggunaan Digital Forensik Dalam Pembuktian Tindak Pidana Pencemaran Nama Baik Di Media Sosial Berdasarkan UU ITE." *Halu Oleo Legal Research*, August. <https://share.google/fF2AUgfdSWfbw0MFW>.

²⁸ Hukum, Jurnal, and Caraka Justitia. 2022. "LANGKAH STRATEGIS MENANGKAL HOAX: SUATU PENDEKATAN KEBIJAKAN DAN HUKUM" 2 (1): 1-22. <https://share.google/L2VPRI5QGpesbvMxd>.

²⁹ Hamzah Andi. 2008. *Asas-Asas Hukum Pidana*. Rineka Cipta. <https://share.google/DhbL9ZupLtxscZ2cT>.

³⁰ Alfredo, Juan Maulana. 2020. "ANALISIS KASUS PENYEBARAN BERITA BOHONG TERKAIT COVID-19 DI SUMATERA SELATAN DALAM PERSPEKTIF HUKUM PIDANA ANALYSIS OF CASES OF SPREADING FAKE NEWS RELATED TO COVID-19 IN SOUTH SUMATRA IN THE PERSPECTIVE OF CRIMINAL LAW." *Jurnal Hukum Lex Generalis* 1 (4). <https://jhlg.rewangrencang.com/>.

³¹ Myharto, Wiend Sakti. 2021. "ANALISIS KASUS RATNA SARUMPAET DALAM MENYEBAR BERITA BOHONG DARI PERSPEKTIF PERTANGGUNGJAWABAN PIDANA CASE ANALYSIS OF

that she had been assaulted by others, when in fact the bruises on her face were the result of plastic surgery. This case caused public uproar because it occurred ahead of the 2019 presidential election, and Ratna Sarumpaet was a member of the campaign team for one of the candidate pairs. During the trial, the South Jakarta District Court judges found Ratna Sarumpaet guilty of spreading false news (hoax) about abuse and sentenced her to two years and six months in prison. Her actions were deemed to have fulfilled the criminal elements as outlined in the first charge, namely Article 14 paragraph (1) of Undang-undang Nomor 1 Tahun 1946 tentang Peraturan Hukum Pidana (KUHP) because she was considered to have spread false news to cause public unrest. Ratna Sarumpaet was proven legally and convincingly guilty of committing the crime of spreading false information by deliberately causing public unrest. Although she was initially charged under Undang-Undang Nomor 1 Tahun 1946 and/or Undang-Undang ITE, in its ruling, the Panel of Judges imposed a sentence based on Article 14 paragraph (1) of Undang-Undang Nomor 1 Tahun 1946. The application of Article 14 paragraph (1) of Undang-Undang Nomor 1 Tahun 1946 shows that the element of 'public unrest' or disturbance of public order is the main focus of criminal liability. The defendant's actions were considered unlawful and no justifiable or exculpatory reasons were found, so she was deemed legally responsible for her actions. This verdict shows that the social impact in the form of unrest and commotion caused by fake news is a strong basis for law enforcement. The prosecutor's indictment itself stated that the factor that aggravated Ratna's sentence was her actions that created unrest and commotion.

Both cases demonstrate consistent judicial interpretation of the statutory elements, emphasizing that legal responsibility encompasses both material and immaterial harm, while also emphasizing that the legal responsibility of hoax perpetrators is not only based on economic losses, but also immaterial losses. Based on the above analysis, there are several strategies for enforcing the law against hoaxes. First, law enforcement officials must strengthen their digital forensic capabilities to prove the causal relationship between the spread of hoaxes and losses. Second, the role of PSEs must be optimized by accelerating the mechanism for taking down hoax content. Third, victims should pursue dual channels, namely criminal proceedings to punish perpetrators and civil proceedings to obtain compensation. Fourth, the state needs to improve the digital literacy of the public so that they are more critical in receiving information.

For victims of hoaxes, the practical steps to take are:

1. Collect evidence in the form of screenshots with the date, URL, and digital activity records. This evidence is important to prove the spread of hoaxes.
2. Document the losses incurred, both financial (e.g., proof of transfer or receipts) and immaterial (e.g., psychological distress with a psychologist's letter).
3. Report to the platform (e.g., Facebook, Instagram, TikTok) through the content reporting feature to prevent further spread.
4. Report to law enforcement agencies such as the police (Cyber Crime unit) with evidence. The police can use the UU ITE as a basis for action.

5. Take civil action by filing a lawsuit in court if you want to seek compensation for the losses you have suffered.
6. Seek assistance from relevant institutions, such as the Ministry of Communication and Information Technology or the Consumer Protection Agency, especially if the hoax is related to products or services.

These steps provide practical guidance for victims so that they are not merely harmed, but also obtain justice through available legal mechanisms. The legal accountability of perpetrators who spread hoaxes on social media is very important to provide a deterrent effect and protect the public from harm. With UU 1 Tahun 2024 as a basis, Indonesian law has strengthened criminal sanctions, opened the door to civil lawsuits, and regulated the obligations of PSEs. Court rulings indicate that the element of harm can be interpreted broadly, including immaterial harm. At the same time, victims of hoaxes have practical avenues they can pursue to protect themselves and assert their rights. With firm law enforcement and active public participation, it is hoped that the spread of hoaxes on social media can be minimized

4. Conclusions

The spread of hoaxes or fake news on social media is constructed as a serious threat that is regulated as an Unlawful Act (PMH), which has dualistic dimensions of liability: criminal and civil. The main regulations used are Undang-Undang Nomor 1 Tahun 2024 concerning the Second Amendment to the UU ITE (specifically Article 28 paragraph (1) in conjunction with Article 45A) and provisions in conventional criminal law (Articles 14 and 15 of UU No. 1 Tahun 1946). In the criminal sphere, perpetrators can be punished with a maximum imprisonment of 6 years and/or a maximum fine of IDR 1,000,000,000. Criminal liability focuses on the element of intent to spread false information that causes harm, where harm is interpreted broadly to include immaterial harm in the form of distress and damage to reputation, in addition to material harm. Meanwhile, in the context of civil law, the dissemination of hoaxes clearly fulfills the elements of tort in Article 1365 of the Civil Code, namely the existence of an act, against the law (violating individual rights and propriety), the existence of fault (including negligence in not verifying), the existence of losses (material and immaterial), and a causal relationship. The emphasis on civil aspects is crucial because it offers a more direct mechanism for compensation for victims, which is often overlooked in the focus on criminal law. Therefore, law enforcement against hoaxes should take a dual approach (criminal to punish and civil to recover losses) in order to provide a comprehensive deterrent effect and comprehensive legal protection for the community.

5. Acknowledgments

The author would like to express sincere gratitude to the Master of Law Program at Pelita Harapan University, Lippo Village, for all the support provided during the process of compiling this research. The author would also like to express his deepest gratitude to all those who have contributed, especially the lecturers of the Unlawful Act course, fellow friends, and beloved parents who have always provided prayers, motivation, and unwavering support. The author hopes that this scientific work can contribute to the development of knowledge, especially in the field of law.

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