


Juridical Study of Digital Campaign Regulations and Election Violations in the 2024 Elections in Indonesia: Analysis of the Role of the ITE Law in Handling Hoaxes and Hate Speech

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Article Info	ABSTRACT
<p><i>Article history:</i></p> <p>Received January, 2024 Revised January, 2024 Accepted January, 2024</p> <hr/> <p><i>Keywords:</i></p> <p>ITE Law, Digital Campaigns, Election Violations, Hoaxes, Hate Speech</p>	<p>This study examines the role of the Information and Electronic Transactions (ITE) Law in regulating digital campaigns and addressing election violations during the 2024 Indonesian elections. With the increasing prevalence of online hoaxes and hate speech, this research adopts a normative juridical approach to analyze the effectiveness and limitations of the ITE Law in maintaining electoral integrity. The study reveals that while the ITE Law has provided a legal framework for addressing digital violations, challenges in its enforcement, such as vague provisions, selective implementation, and jurisdictional issues, have undermined its impact. The research also compares Indonesia's approach with international practices and suggests improvements in legal clarity, proactive monitoring, enforcement, public awareness, and international cooperation. The findings contribute to the development of a more robust regulatory framework for future elections in Indonesia, aiming to strengthen the role of digital platforms in promoting fair and transparent elections.</p> <p><i>This is an open access article under the CC BY-SA license.</i></p> <div></div>

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1. INTRODUCTION

The 2024 Indonesian elections marked a significant shift in campaign strategies, with digital platforms playing a crucial role in reaching voters. Social media, websites, and other online platforms became dominant tools, transforming traditional political communication into a more dynamic and interactive process. This digital shift has broadened access to information and enhanced public engagement, but it has also introduced challenges, particularly in regulating online activities. The rapid dissemination of hoaxes and hate speech

through digital channels poses serious threats to the integrity of elections, undermining democratic principles and public trust. The use of politainment, a blend of politics and entertainment, became prevalent in the 2024 elections, with candidates using platforms like TikTok and Instagram to engage voters through entertaining content [1]. Social media significantly influenced voter behavior, particularly among Generation Z, highlighting the importance of crafting effective political communication strategies to enhance candidate electability [2]. AI technologies, particularly those based on

OpenAI, were leveraged for their advanced data analysis and content visualization capabilities, allowing for more sophisticated and real-time campaign strategies [3]. However, the widespread use of social media has facilitated the rapid spread of misinformation and hate speech, posing challenges to maintaining the integrity of the electoral process [4]. Despite the advantages of digital communication, candidates like Anies Baswedan faced challenges in reaching a broader audience due to insufficient political infrastructure support, highlighting the limitations of relying solely on digital platforms [5].

The application of Indonesia's Information and Electronic Transactions (ITE) Law is pivotal in addressing election violations, particularly in the digital realm where misinformation, defamation, and hate speech proliferate. The ITE Law serves as a legal framework to combat these issues, which are exacerbated by the borderless nature of cyberspace and the rapid dissemination of false information. This law is part of a broader strategy to ensure electoral integrity and public trust in democratic processes. Digital platforms facilitate the rapid spread of misinformation, undermining the credibility of electoral systems and increasing political polarization [6]. Additionally, the misuse of AI, such as bot accounts and deep fakes, poses significant threats to fair elections, necessitating robust legal frameworks to regulate AI in political processes [7]. The ITE Law addresses issues like hoaxes and hate speech, providing a legal basis for prosecuting digital election violations [7]. Alongside this, the Political Law of Digitalization Policy aims to create a fair and inclusive electoral process by detailing measures for handling complaints and ensuring transparency [8], while the Electoral Justice System emphasizes data protection and integrity, with stringent regulations and oversight mechanisms to prevent data misuse [9]. In response to emerging challenges, blockchain technology is proposed as a solution to enhance election integrity by providing a secure, transparent,

and immutable voting system, addressing vulnerabilities in traditional systems [10].

This study aims to provide a normative juridical analysis of the digital campaign regulations and their effectiveness in mitigating election violations during the 2024 elections. It explores the role of the ITE Law in handling hoaxes and hate speech, examining its application and the challenges faced in its enforcement. By analyzing the intersection of digital campaigns and electoral violations, the research seeks to highlight gaps in the current legal framework and offer recommendations for improving the regulation of digital campaigns in future elections.

2. LITERATURE REVIEW

2.1 *Digital Campaigning in Modern Elections*

Digital campaigns have significantly transformed political communication, offering both opportunities and challenges. The advantages include cost efficiency, broader reach, and real-time voter engagement, as highlighted by [11]. Social media platforms like Facebook, Instagram, and Twitter are crucial for political messaging, mobilizing supporters, and fostering debates. Digital tools, such as online voter registration and mobile apps, have increased voter participation, especially among younger demographics [12]. Big Data allows for more targeted political marketing strategies [13], while social media platforms enable movement organization and influence on public policy, expanding participation [14]. However, digital campaigns face challenges, such as the rapid spread of misinformation, which undermines democratic integrity [15]. Algorithmic use in platforms can lead to opinion polarization and manipulation, exacerbating societal divisions [16], [17]. Furthermore, the collection of personal data for political purposes raises privacy concerns, necessitating a balance between innovation and data protection [7]. A case study in India illustrates how social media shapes electoral outcomes, showing both empowering and

challenging aspects, such as misinformation and algorithmic biases [4].

2.2 Election Violations in the Digital Era

The prevalence of election violations, such as hoaxes and hate speech, in the digital age poses significant challenges to democratic processes, particularly in Indonesia. Studies by [13], [14] highlight the rampant spread of these issues during elections, facilitated by digital platforms, emphasizing the inadequacy of traditional monitoring methods and the need for digital-specific regulations and tools. Digital platforms serve as primary conduits for spreading hoaxes and hate speech, as seen in Indonesia [16], [17]. AI-driven algorithms exacerbate the spread of misinformation by creating echo chambers and filter bubbles, which polarize societies and undermine informed discourse [18]. Misinformation, including fake news and deepfakes, can significantly influence voter behavior and electoral outcomes, particularly in close contests [19]. In India, deepfakes have been used to manipulate voter perceptions and discredit political opponents, highlighting the need for robust regulatory measures [20]. Strategies for combating election violations include training citizens and journalists to identify and combat misinformation, as demonstrated by the CITE project in Zimbabwe, which enhances media literacy and democratic engagement [21]. Practical training on fact-checking, such as the Kalimasada Mafindo initiative in Indonesia, improves digital literacy and equips young voters to counteract election hoaxes [22].

2.3 The ITE Law and Its Role in Handling Election Violations

The Information and Electronic Transactions (ITE) Law in Indonesia regulates online behavior, addressing cybercrimes like defamation, misinformation, and hate speech, playing a key role in managing digital election violations [16], [19]. However, its enforcement faces criticism for inconsistencies and misuse, particularly in political contexts. The law's implementation is often ineffective due to limited resources and coordination [23], [24], and its vague provisions, especially regarding defamation, have been accused of stifling

freedom of expression [25], [26]. While the ITE Law protects digital rights, it also raises concerns about democratic values, leading to calls for revisions [27]. Community compliance has increased, but improvements are needed to address its ambiguous articles [28]. The law's focus on penalizing cybercrimes, like the online spread of personal data, offers little to victims, prompting calls for additional penalties, including profit confiscation and victim compensation [19]. Its limited effectiveness in preventing cybercrimes, such as e-commerce interference, has led to decreased trust in digital transactions [29].

2.4 Gaps in the Existing Legal Framework

Although Indonesia has made strides in regulating digital campaigns, significant gaps remain. The ITE Law, while comprehensive in scope, does not fully address the nuances of election-specific violations. Research by [3] points out that the law focuses primarily on cybercrimes, leaving areas such as political advertising transparency and foreign influence largely unregulated.

Additionally, the lack of public awareness about the legal consequences of spreading hoaxes and hate speech exacerbates the problem. Studies underscore the need for educational initiatives to inform voters and campaign teams about ethical online behavior and the legal ramifications of violations.

This study is guided by the legal positivism theory, which emphasizes the role of written laws in maintaining order and justice. The theory underscores the importance of codified regulations, such as the ITE Law, in addressing election violations. Additionally, the study draws on the concept of regulatory responsiveness, which advocates for adaptive and participatory approaches to governance in dynamic environments like digital campaigns.

3. METHODS

3.1 Research Approach

The normative juridical approach is utilized to study the legal norms, regulations,

and principles relevant to digital campaigns and election violations. This approach involves analyzing statutory laws, legal doctrines, and judicial decisions to understand the effectiveness and limitations of the current regulatory framework.

3.2 Sources of Legal Materials

The study relies on a combination of primary, secondary, and tertiary legal materials. Primary legal materials include the Constitution of Indonesia, the Election Law (Law No. 7 of 2017), the Information and Electronic Transactions (ITE) Law (Law No. 11 of 2008, as amended by Law No. 19 of 2016), and relevant regulations issued by the General Elections Commission (KPU). Secondary legal materials encompass legal commentaries, scholarly articles, research papers, and reports focusing on digital campaigns, election violations, and cyber law. Additionally, tertiary legal materials, such as dictionaries, encyclopedias, and other reference materials, are used to support the analysis and clarify legal terminology.

3.3 Data Collection Techniques

The data collection process involves document analysis, literature review, and case analysis. Document analysis entails reviewing relevant legal documents, statutes, and regulations governing digital campaigns and election-related violations. The literature review focuses on academic literature, case studies, and expert opinions concerning the application of the ITE Law in addressing hoaxes and hate speech. Additionally, case analysis examines precedents and case studies from the 2024 elections to identify patterns and evaluate the effectiveness of legal enforcement.

3.4 Analytical Framework

The analysis is conducted through a qualitative approach, focusing on the interpretation and evaluation of legal norms and their practical application. The process begins with the identification of legal issues, where key challenges in regulating digital campaigns and addressing election violations are recognized. This is followed by an evaluation of legal frameworks, assessing the adequacy and effectiveness of the ITE Law

and other regulations in mitigating hoaxes and hate speech during elections. A comparative analysis is then conducted, comparing Indonesia's approach to international best practices in regulating digital campaigns and combating misinformation. Finally, recommendations are proposed to enhance the legal framework and enforcement mechanisms based on the findings.

4. RESULTS AND DISCUSSION

4.1 Effectiveness of the ITE Law in Addressing Election Violations

The primary objective of this research was to assess the role of the ITE Law in addressing hoaxes and hate speech during the 2024 elections. The analysis revealed that the law has been instrumental in providing a legal basis for addressing online election violations. A significant number of cases related to hoaxes and hate speech were identified and processed under the provisions of the ITE Law, especially those involving defamation, disinformation, and incitement.

The research aimed to evaluate the role of the ITE Law in addressing hoaxes and hate speech during the 2024 elections, highlighting its effectiveness in providing a legal framework for tackling online election violations. The law has been instrumental in processing cases related to defamation, disinformation, and incitement, especially concerning political misinformation about candidates and election events. As digital campaigns expanded, the prevalence of false claims on social media platforms surged, prompting an increase in prosecutions under the ITE Law [19].

A significant finding is that the ITE Law has been more frequently applied to disinformation cases, reflecting its utility in curbing the spread of harmful narratives during election periods. Despite its achievements, the law's broad and vague wording has resulted in inconsistent enforcement, raising concerns about its impartiality. Cases of politically motivated applications have further undermined public

trust, as selective enforcement in sensitive situations has impeded the law's ability to ensure fair and transparent election processes [22].

Misinformation is not unique to Indonesia; it represents a global challenge that necessitates innovative solutions. Strategies such as employing AI and machine learning to detect false information and leveraging datasets like Factrix for training models have shown promise in addressing this issue. These technological approaches underscore the importance of developing robust systems to counter misinformation, ensuring that legal measures like the ITE Law function effectively within a broader framework of digital governance [29]–[31].

4.2 Role of the ITE Law in Combating Hoaxes and Hate Speech

The spread of hoaxes and hate speech has become a pressing issue during the 2024 elections, with digital platforms serving as the primary medium for political discourse. The ITE Law criminalizes the distribution of false information and hate speech, showing some success in prosecuting individuals spreading false narratives about candidates, political parties, and the electoral process. However, hate speech targeting ethnic or religious groups remains pervasive on social media during election periods. Despite the law's provisions, enforcement is hindered by the anonymity of perpetrators and the fast-paced nature of digital communication, with unclear distinctions between hate speech and legitimate political discourse further complicating its application [23], [24].

The ITE Law's application has been predominantly reactive, intervening only after harmful content has gained significant traction, making timely action challenging. Proactive monitoring systems, such as Brazil's *Campanha Eleitoral Legal*, have demonstrated the potential to detect and address harmful electoral propaganda and hate speech more effectively [32]. Comparative legislative approaches, like Germany's efforts to enhance the EU's Digital Services Act, and the use of AI for hate speech detection, also provide valuable insights.

These strategies underscore the importance of improving proactive enforcement mechanisms to mitigate the negative impact of disinformation during elections [33], [34].

To strengthen the ITE Law's impact, there is a pressing need to implement proactive digital monitoring systems, encourage responsible social media use, and train citizen journalists to identify and counter hate speech. Drawing lessons from global practices, Indonesia could enhance its regulatory and enforcement frameworks to ensure fair and informed electoral discourse. By addressing these challenges, the country can better safeguard its democratic processes against the pervasive threats posed by hoaxes and hate speech [35], [36].

4.3 Challenges in Enforcement of the ITE Law

A significant finding in the analysis is that the enforcement of the ITE Law faces numerous challenges, including limited resources, technical constraints, and jurisdictional issues. Law enforcement agencies, such as the police and the Ministry of Communication and Information Technology, face difficulties in identifying and prosecuting offenders due to the anonymity provided by digital platforms. The legal framework does not always account for the rapid nature of digital content dissemination, where harmful content can spread virally before authorities can react.

Another challenge identified is the lack of coordination between different government agencies. For example, while the Ministry of Communication and Information Technology is responsible for monitoring digital content, the police handle the investigation and prosecution of violations. This division of responsibilities often leads to delays in the response to violations and lack of consistency in enforcement practices. The research also points out that there is a significant gap in the digital literacy of both the public and law enforcement officers, making it harder to detect and address violations effectively.

Additionally, the law's application in cases involving political figures and public figures has raised concerns about selective

enforcement. Some political actors have faced legal action for spreading disinformation or engaging in hate speech, while others have been allowed to operate without significant legal repercussions. This inconsistency undermines the credibility of the legal framework and creates an impression of bias in the enforcement process.

4.4 Comparative Analysis with International Practices

The comparative analysis of Indonesia's ITE Law with international practices highlights shared challenges and potential lessons for improvement. Countries like the United States, the United Kingdom, and India also grapple with enforcing laws against disinformation, cybercrimes, and hate speech, as the rapid pace of digital technology often outstrips legal frameworks [37], [38]. A recurring issue is the difficulty in defining harmful content, as overly broad or vague provisions risk infringing on freedom of expression. Germany's Network Enforcement Act (NetzDG) offers a robust example by holding social media platforms accountable for swiftly removing illegal content, demonstrating the importance of corporate responsibility in combating online violations [39]. Collaboration between state and corporate entities, as emphasized in the Ukrainian context for regulating political advertising and campaigns, further illustrates the necessity of cooperative frameworks [40]. Additionally, the Budapest Convention on Cybercrime underscores the value of international cooperation and harmonized legal definitions to address the borderless nature of cybercrime, a critical lesson for Indonesia [33]. By drawing on Germany's approach and international conventions, Indonesia could enhance the ITE Law to ensure greater accountability and efficacy in addressing online electoral violations.

4.5 Recommendations for Improving the ITE Law

Based on the findings, several recommendations were made to improve the ITE Law and its application in the context of the 2024 elections:

- 1) The ITE Law should be amended to clarify the definitions of hoaxes and hate speech, distinguishing them more clearly from legitimate political discourse. This would help mitigate concerns about selective enforcement and ensure consistent application of the law.
- 2) A more proactive approach is needed to monitor digital platforms for harmful content before it becomes viral. This could involve increased collaboration between government agencies and tech companies to identify and address disinformation and hate speech early.
- 3) Public awareness campaigns should be launched to educate voters, political campaigns, and the general public about the legal consequences of spreading hoaxes and hate speech online. This can help prevent violations before they occur and promote responsible online behavior.
- 4) Law enforcement agencies need more training and resources to effectively investigate and prosecute digital violations. This includes enhancing the digital literacy of officers and establishing specialized units focused on cybercrimes during elections.
- 5) Given the global nature of digital content, Indonesia should work with international bodies and other countries to develop standardized protocols for addressing election-related violations across borders. This cooperation could strengthen efforts to regulate digital campaigns and prevent cross-border disinformation.

5. CONCLUSION

The application of the Information and Electronic Transactions (ITE) Law in the context of the 2024 Indonesian elections has highlighted both the strengths and weaknesses of the current regulatory framework in addressing digital election violations. While the ITE Law has proven to

be an essential tool in combating hoaxes and hate speech, its effectiveness has been hindered by several challenges, including vague legal provisions, inconsistent enforcement, and a lack of resources for law enforcement agencies. The study emphasizes the need for clearer legal definitions and more comprehensive measures to tackle digital violations proactively.

Additionally, there is a clear need for improved coordination among government agencies, more effective public education on

the consequences of spreading disinformation, and enhanced digital literacy for law enforcement. By drawing on international practices and incorporating recommendations for legal reform and cross-border collaboration, Indonesia can better regulate digital campaigns in future elections. A stronger and more consistent legal framework would not only address the challenges posed by digital election violations but also contribute to ensuring the integrity of the electoral process in the digital age.

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