Criminal Liability Against Perpetrators of HOAX Spread in Indonesia

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Abstract

The purpose of this article is to explain and examine the responsibility of perpetrators in the criminal act of disseminating information in the form of misleading fake news, especially based on Law Number 11 of 2008, let alone the blurring of norms related to the phrase fake and misleading news. One of the main problems of crime that occurs in society is the use of social media so the government needs to support the development of information technology through legal infrastructure and regulation so that the use of information technology must be carried out safely to prevent its misuse by taking into account the religious and socio-cultural values of the Indonesian people. This article is in the form of normative juridical research that is useful for finding solutions to legal issues that are the focus of study. The results showed that the perpetrators of spreading false news apply the principle "what must be proven is about the inability to be criminally responsible, and not about the ability to be criminally responsible" so that it can produce a fair legal decision as well as certainty and usefulness. If proven, the perpetrator can be sentenced based on the provisions in Article 28 paragraph (1) of the Electronic Information and Transaction Law with criminal threats based on Article 45A paragraph (1) of Law 19 Number 2016 with a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 1 billion.

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Introduction

The State of Indonesia is a state of law based on Article 1 paragraph (3) of the Constitution of the Republic of Indonesia, in addition to being based on Pancasila and the Constitution of the Republic of 1945 also guarantees justice and welfare of its people. Based on this philosophy, there must be a balance in carrying out the life of the nation and state, namely every citizen must submit to the rules and make it a guideline. The development of society, both in terms of technology and in terms of economy, will affect aspects of its life. No exception is the development of information brought by the media which is a basic need for some people.

Information technology plays an important role that is believed to bring great benefits and interests to countries in the world. There are at least 2 (two) things that make the importance of information technology in spurring world economic growth. First, information technology drives demand for information technology products such as

The current era is the age of social media, various people ranging from young people to parents have accounts on various social media such as Facebook, Twitter, Instagram and other information media. Even elementary school children already have various instant messengers such as Blackberry Messenger, Whatsapp, Line, which can have a negative impact if their use is misused and can even interfere with the law.

Technological advances can bring convenience to its users, but it can also accelerate the spread of fake news on the internet. Fake news or hoaxes are false and dangerous information because they mislead human perceptions by conveying false information as truth. The goal is to influence readers with false information so that readers take action according to the content of hoaxes. Therefore, an intelligent system is needed that is able to classify a news quickly that spreads through the internet so as not to mislead its readers (Panjaitan, 2021). In addition, the negative impact due to the influence of the use of internet media in society is the emergence of criminal acts of good pollution, pornography, gambling, account break-ins, cyber network destruction, attacks through viruses (Mansur, 2005), and fraud that afflicts various groups in society.

Indonesia occupies the highest position as an internet user who is a victim of cyber crime among 26 other countries. Furthermore, the second position is occupied by Vietnam (25%) and India (24%) as internet users who are targets of crime. In addition, 48% of consumers are targeted by fraud, obtaining sensitive information and financial data for criminal acts. Almost half of internet users experienced financial threats during the 12-month survey period, namely the threat of receiving suspicious emails claiming to be from banks (22%) or retail sites (15%) as well as suspicious web pages and requesting financial data (11%). While the financial threats experienced by consumers include, 6% of consumers lose money due to online fraud, 4% lose money due to data leaks of financial organizations and 3% of consumers claim their eMoney was stolen. In total, 11% of global internet users reported that their money was stolen online with an average loss of US$ 283 or around IDR 3.6 million (Liputan6, 2023).

Recently, there has been a spread of hoax news in the virtual world. The police managed to arrest the disseminator of hoax news and SARA named Saracen. They are Jasriadi (Chairman), Faizaal Muhammad Tonong (Head of information media), and Sri Rahayu Ningsih (Regional Coordinator). The three were arrested at different times. Faizal on July 21, 2017, Sri Rahayu Ningsih on August 5, 2017, and Jasriadi on August 7, 2017. Head of the Ops Subdivision of the National Police Cyber Patrol Task Force, Susatyo Purnomo stated that there were people who ordered the Saracen group to spread certain hoaxes. Saracen service bookers usually want to bring down the image of certain figures such as public officials, public figures. Police suspect that in addition to being visited by bookers, the proposal was also distributed to a number of community groups and
organizations. Saracens also have thousands of accounts that are used to carry out their actions, according to orders such as demonizing the government to certain groups and religions. The system used in this business is like a market. Content creators referred to as sellers, send their propaganda results to the group, which are then read by netizens. This group charges expensive rates for those who use its services ranging from IDR 75,000,000 to IDR 100,000,000. If the price is approved, this group will mobilize its members to spread hoax content and hate speech throughout social media, especially on Facebook (Kumparan, 2023).

The evolution of social media as a result of advances in communication technology has caused everyone to be able to produce or access information. Namin without being balanced with increasing critical power and good reason or logic so that provocative titles are provoked and share commodified writings as seditious messages or hoaxes with the aim of damaging the credibility of the government and the alacit of money. The strategy of spreading incitement or hoax is to convince its viewers with claims that the mainstream media belongs to conglomerate businessmen so that news is full of business and political interests, further convincing that their media is not fake media but media of struggle to defend religion, society or groups that are oppressed or persecuted, which although the majority but silent majority so that they have no voice to defend themselves or be heard, and finally instilling that spreading critical and informative messages through social media is a good thing for religious struggles, the struggles of political groups and to make the public aware not to believe that media reporting on the state is okay (Tempo, 2023).

The danger of information systems being misused by irresponsible individuals will end up in problems. Whereas Article 28 G of the Constitution of the Republic of Indonesia has mandated the state to protect its people from all threats and actions that harm them, both themselves, family, honor, dignity, and property under their control, and are entitled to a sense of security and protection from threats of fear to do or not do something that is a human right".

Regulations related to "hoax" are a criminal act in Indonesia regulated in Law Number 1 concerning Criminal Law Regulations and the ITE Law. Article 45A of the ITE Law is considered to have a less specific interpretation, especially regarding the phrase "fake and misleading news", considering its very broad impact. The absence of a definition of the extent of misleading impacts can lead to multiple interpretations, resulting in blurring of norms (Purnomo, 2021).

Research Methods

This research is a normative juridical research that is useful for finding solutions to legal issues that are the focus of study by identifying legal problems, conducting legal reasoning, analyzing problems and finding solutions. The hope is to find positive laws or
create/shape laws to overcome legal problems faced. The output is prescription, that is, what should be related to the accountability of the perpetrators of spreading false news.

The approach in this study is: First, the statutory approach (statute approach) is to conduct a study of laws and regulations related to the legal issues raised. Second, the conceptual approach is to use the opinions and doctrines of legal science that give birth to the understanding of legal science, legal concepts and legal principles. Third, the case approach is using cases that are raised and studied, then used as guidelines by researchers in answering legal issues that have been formulated (Marzuki, 2016).

Result and Discussion
Accountability for Perpetrators of Spreading Misguided News on Social Media

Criminal liability is the condition of the offender or criminal offender when committing a criminal act, including linking the maker's condition with the act and the sanctions that should be imposed. Thus, the study is carried out in the form of: 1) Criminal liability in the context as a factual condition of punishment that carries preventive aspects; 2) Criminal liability is a legal consequence of the existence of factual conditions so that it is part of the repressive aspects of criminal law. Criminal liability relates to the circumstances that are required for conviction and the legal consequences of it (Chairul, 2006).

To determine the ability to be responsible in criminal law, including the dissemination of false information, can be done:

a. Guided by the formulation of Article 44 paragraph (1) of the Criminal Code (KUHP) which is generally applicable, it means that it applies to all forms and forms of acts which determine about 2 (two) mental states that are unable to be responsible. So the person who is responsible for all his actions (in the form of a criminal act) is if there are no two mental conditions as stated in Article 44 paragraph (1) of the Criminal Code, meaning if his soul is not disabled in its growth, or his soul is not disturbed due to disease.

b. Not related to the norms of Article 44 paragraph (1) of the Criminal Code.

If you follow the opinion of Satochid Kartanegara where people who are able to be responsible must be fulfilled, namely:

a. The state of a person's soul in such a way (normal) that he is free or has the ability to determine his will for the actions he (will) do,

b. The person's mental state is such that he has the ability to understand the value of his actions and their consequences.

c. The state of the person's soul is such that he is able to realize, realize that the action he (will) do is a despicable behavior, behavior that is not justified by law, or by society or decency (Kartanegara).

The principle is that "everyone must be considered capable of responsibility" so that after a criminal act, if there is doubt related to the mental state of the actor or the perpetrator about doubts about the ability to be responsible, then the inability to be
responsible must be proven so that the perpetrator is not criminalized. So, what must be proven is about the inability to be criminally responsible, and not about the ability to be criminally responsible. This is intended so that the judge’s decision can achieve a high degree of justice (Lewokeda, 2018).

According to Simons, the ability to be responsible is a psychological state that justifies the imposition of criminal efforts from both public and human angles. Furthermore, a person is able to be responsible if his soul is healthy, namely:

a. Able to know or realize if his actions are contrary to the law;

b. Can determine his will according to the circumstances.

c. Hate Speech as an oral or written act carried out by an individual or group in the form of provocation to other individuals or groups such as race, religion, color, gender, disability, sexual orientation, nationality. Hate Speech is a word, behavior, writing or performance that is prohibited because it can incite acts of violence and commotion;

d. contrary to the law (Andreawan, 2022).

Associated with perpetrators of spreading false news also applies the principles as mentioned above so that it must be proven the inability to be criminally responsible and have an impact on not being convicted of the perpetrator or vice versa.

Meanwhile, legal responsibility (Business Actors) for false and misleading news related to product information in electronic contracts based on the principle of strict liability and the form of responsibility is the imposition of sanctions based on contractual in civil law, product responsibility, administrative responsibility and criminal responsibility (Sudjana, 2022). The police, prosecutors and courts as institutions in the criminal justice system must be able to make policies to enforce penal mediation in connection with the spread of false and misleading news (harming consumers) on social media so that the resolution process can run effectively, efficiently, fairly and provide benefits to all parties (Wiputra, 2020).

**Criminal Sanctions for Disseminators of Misinformation**

The use of social media by the public as a medium to find information and also as a medium to learn, but along with the times, the use of social media is not only used as a means to obtain useful information, but also used as a medium to commit crimes in cyberspace. "Lies" and "misleading" are two different things. In the phrase "spreading fake news" what is regulated is the act, while in the word "misleading" what is regulated is the result of this act that makes people think wrong/wrong.

The spread of hoax information on social media is a phenomenon that threatens ukhuwah Islamiyah in the nation and state. The existence of hoax content in the social media universe has a significant negative impact that has succeeded in making society divided, such as creating provocative content, propaganda, distorting facts (Sa’dijah, 2019). While what is meant by false information is hoax information is incorrect information. In
the Cambridge Dictionary, the word hoax itself means a hoax or joke. Deceptive activities, fraud tricks, fraud plans are called hoaxes (Cambridge, 2023). Then, hoaxes.org website in a cultural context directs the definition of hoaxes as deceptive activities: "When newspapers deliberately print false stories, we call them hoaxes. We also describe it as misleading publicity stunts, false bomb threats, scientific fraud, business fraud, and false political claims as hoaxes (Merriam-webster, 2022).

In this regard, the birth of the Law should be an activist in using social media, so that social media is used properly and does not violate applicable legal rules. People who use social media must be aware of being in public spaces that have rules. Awareness and ethics on social media must be a way so that people do not carelessly speak that can offend and hurt others and will have social implications, even the law behind the use of social media can be a reminder when using it. Even though you are in cyberspace, ethics cannot be separated from every person's behavior. Using the Internet and Social Media also requires ethics that function to prevent someone from doing actions that can harm themselves or others.

Investing with a trading model that involves influencers when promoting this type of investment in the form of promises of large profits and short time. The influence is very effective in attracting potential investors because the strategy used through social media is because they have followers on social media (Kholiq, 2022). To prove that there has been a violation of Article 28 paragraph (1) of the Electronic Information and Transaction Law, all elements of the article must be fulfilled, namely everyone intentionally and without the right to spread false and misleading news. The formulation of elements uses the word "and", meaning that both elements must be fulfilled for punishment, namely spreading false news (not in accordance with the actual thing / situation) and misleading (causing someone to think wrong / wrong). If the fake news does not cause someone to have a wrong view, then it cannot be criminalized. Which results in consumer losses in electronic transactions as The latter element requires that false and misleading news must result in a consumer loss. Persons who violate the provisions of Article 28 paragraph (1) of the Electronic Information and Transaction Law may be threatened with a crime based on Article 45A paragraph (1) of Law 19 of 2016 with a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 1 billion.

There is a DKI Jakarta High Court Decision No: 36/Pid.Sus/2018/PT. DKI, which upheld the West Jakarta District Court Decision No. 1116/Pid.Sus/2017/PN.Jkt.Brt. First instance verdict in which the defendants were declared legally and convincingly proven, guilty of committing a criminal act together to commit fraud by means of Electronic Transactions and Money Laundering. The fraud is carried out in a way without the right to spread false and misleading news about investments that result in consumer losses. The defendant's actions are punishable by crime as stipulated in Article 45A paragraph (1) of Law Number 19 of 2016 jo. Article 55 paragraph (1) 1 of the Criminal Code The defendant is sentenced
to imprisonment for 10 (ten) years and a fine of IDR 500 thousand is also imposed provided that if the fine is not paid it is replaced with imprisonment for 3 (three) months of confinement.

Perpetrators of spreading false information can be punished based on Article 28 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions ("ITE Law") as amended by Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions ("Law 19 of 2016") states that everyone intentionally, and without the right to spread false and misleading news that results in consumer losses in Electronic Transactions. Actions regulated in Article 28 paragraph (1) of the ITE Law are one of the prohibited actions in the ITE Law. The ITE Law does not explain what is meant by "fake and misleading news".

Regarding the formulation of Article 28 paragraph (1) of the ITE Law which uses the phrase "spreading false news", there is actually a similar provision in Article 390 of the Criminal Code ("KUHP") although with a slightly different formulation, namely the use of the phrase "broadcasting false news". Article 390 of the Penal Code reads as follows: Whoever with the intention to benefit himself or others by contravening the right to lower or increase the price of merchandise, fonds or money securities by broadcasting false news, shall be punished with imprisonment for not more than two years and eight months.

According to R. Soesilo in his book The Criminal Code (KUHP) and its Complete Commentaries Article by Article (p. 269), the accused can only be punished under Article 390 of the Criminal Code, if it turns out that the news broadcast is fake news. What is considered as fake news, not only tells an empty news, but also tells incorrectly about an event (Soesilo, 1991).

The criminal act of spreading false and misleading news is basically also contained in Article 390 of the Criminal Code (Berlian, 2017), it's just that in that Article there is a phrase "broadcasting false news". In this criminal act, the means used are electronic media. The internet is one of the facilities used through electronic media. Based on Law Number 11 of 2008 Article 28 paragraph (1) concerning Electronic Information and Transactions which states that everyone intentionally and without rights spreads false and misleading news that results in consumer losses in electronic transactions.

Criminal liability for perpetrators of spreading fake news can be punished according to Article 28 of Law number 19 of 2016 concerning Electronic Information and Transactions, namely the elements referred to in article 28 paragraph (1) with a maximum imprisonment of six years and/or with a maximum of 1,000,000,000 (one billion rupiah). In addition, it is undeniable that law enforcement for perpetrators of spreading fake news also still leaves a lot of homework for the parties concerned. This is due to the spread of fake news itself has occurred massively and structured so that it requires a lot of resources to combat it (Mamuaja, 2021).
However, there is something interesting in the case of Ratna Sarumpaet where the criminal responsibility imposed on her as a perpetrator of the crime of spreading fake news is not the article contained in the Criminal Code and the ITE Law regarding hoax news, but Article 14 paragraph (1) of Law Number 1 of 1946 because it is considered to have made trouble (Myharto, 2021).

From the above understanding, we can see that criminal sanctions must be implemented as well as possible in order to create justice that is aspired by the state. Regarding law enforcement against perpetrators of spreading misinformation on social media, actually with the ITE Law, every citizen has the right to legal certainty when a citizen gets actions that violate ethics in cyberspace regarding the law.

Law enforcement has a great responsibility to determine the existence of legal norms. With this legal norm, the status and dignity of the state are maintained. The image of the state will display the image of rechtsstaat when law enforcement officials successfully implement legal norms. Conversely, the image of the rule of law also falls when the authorities fail to enforce it, because there is credibility left to have an impact on justice seekers. When justice seekers (people) feel that their rights are neglected, then of course there is a distortion of the authority of law and the life of this country.

Therefore, the role of law enforcement officials in eradicating crimes related to the Spread of Misguided News needs a way to enforce the law on this crime, so that the public no longer feels wary in receiving false information on social media today and must immediately tackle crimes on social media seriously.

The way to carry out law enforcement for cases of spreading false information is contained in Article 28 of Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions which states as follows:

a. Any Person intentionally and without rights disseminates false and misleading news that results in consumer losses in Electronic Transactions.

b. Everyone intentionally and without rights disseminates information aimed at causing hatred or hostility of individuals and / or certain groups of people based on ethnicity, religion, race, and intergroup (SARA).

With the existence of this law is expected to protect the public from technology crimes in Indonesia, this is important considering the number of technology users who are increasing from year to year, but it is not easy to determine an act as a criminal offense meaning that there are several processes that must be passed. In addition to an in-depth study of the act from the point of criminology, several things must also be considered, namely the purpose of the criminal law itself, the determination of unwanted acts, the comparison between means and results and the capabilities of law enforcement agencies. Therefore, an in-depth strategic consideration of criminalization is needed in the form of criminal policy/politics (Suhariyanto, 2013).
Law in principle is a regulation of the attitude of action (behavior) of a person and society against which violators are sanctioned by the state. Even though the cyber world is a virtual world, laws are still needed to regulate people's attitudes, there are at least two things, namely: First, the society that exists in cyberspace is a society that exists in the real world, people have values and interests both individually and together must be protected. Second, even though it occurs in cyberspace, transactions carried out by the community have an influence in the real world, both economically and non-economically (Sitompul, 2012).

Policy or crime reduction is essentially an integral part of community protection efforts and efforts to achieve community welfare. It can be said, that the ultimate goal or main goal of criminal politics is "the protection of society to achieve the welfare of society". Efforts to overcome crime with criminal law are also essentially part of law enforcement efforts (especially criminal law enforcement). Therefore, it is often said, that politics or criminal law policy is also part of law enforcement policy.

In a policy perspective, the use of criminal law as a means of crime suppression is not a necessity. There are no absolutes in the field of policy, because in essence, in choosing a policy people are faced with various alternatives. However, if criminal law is chosen as a means of crime reduction, then the final policy must be made in a planned and systematic manner this means that choosing and establishing criminal law as a means of crime reduction must take into account all factors that can support the functioning and working of criminal law in reality.

From the explanation above, basically legislative policy or legislative policy, functionally can be seen as part of planning and crime reduction mechanisms, it can even be said to be the first step. Crime prevention policies or efforts are essentially an integral part of community protection efforts (social defense) and efforts to achieve community welfare (Suhariyanto, 2013).

The use of criminal law in efforts to prevent and overcome crimes related to the spread of misinformation on social media is very relevant, considering the many dangers and losses that will result from the rapid increase in crime is a very worthy consideration to be applied in responding to the crime of spreading misinformation throughout social media. Unlike conventional crimes whose impact is relatively young to apply a crime that has been determined by the Criminal Code, the maximum loss is equal to the value attached to the target of the crime, in technological crimes related to the dissemination of false information between the perpetrator and the victim does not have to be in the same time and space, so that the perpetrator is more difficult to find and the value of the loss caused is not limited to material value alone even almost all of the attached to the target to be aimed at by the perpetrator. This means that the value of losses is often much greater or even priceless. So that efforts are needed to overcome this information technology crime, both preventive crime prevention efforts and repressive crime reduction.
Efforts to overcome it are carried out through criminal legal advice. Criminal law is called upon to save the losses suffered by society, since such crimes can hinder the activity of the socio-economic life of society. Similarly, other aspects that support the development of community welfare. So that as a form of protection for the interests of the community, the existence of criminal law is very necessary in order to overcome crime in the cyber world which in fact has become an obstacle to the development of community welfare. Efforts through integral criminal law policies must be maximized. Starting from the substance of the law, the legal structure and even the legal culture must run optimally. Only through integrated criminal law enforcement is it hoped that the functionalization of criminal law in tackling the crime of disseminating misinformation can be realized.

Every law enforcer is authorized under applicable laws and regulations to explain their duties. In handling criminal acts, the procedural law used is procedural law based on the Criminal Procedure Code (KUHAP). This is not clearly stated in Law Number 11 of 2008 concerning Electronic Information and Transactions, but because the law does not specify otherwise, the Criminal Procedure Code applies to criminal acts contained in Law Number 11 of 2008. Article 42 of Law Number 11 of 2008 states that investigations into criminal acts as referred to in the law are carried out based on the provisions in the Criminal Procedure Law and the provisions of this Law. This is also affirmed in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, that the amendment does not change Article 43 based on the article so that it can be interpreted that the Criminal Procedure Law regulated in the Criminal Procedure Code is a lex generalis, while the procedural provisions in Law Number 11 of 2008 concerning Electronic Information and Transactions and Law Number 19 In 2016 concerning amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, this is a lex specialis. Thus, as long as there are no other provisions, the procedural law provisions are used as contained in the Code of Criminal Procedure. Other stipulations regulated in the ITE Law concern the investigation process and the addition of one other evidence in handling criminal acts regulated in the ITE Law.

The implementation of criminal investigations for the dissemination of false information is somewhat different from other criminal investigations, officials in this case are police officials of the Republic of Indonesia who are authorized by this law to conduct investigations (Article 1 point 4 of the Code of Criminal Procedure) faced with the problem of where and where investigations should be initiated. Because the criminal act of spreading false information is known through social media that exists today which is connected to internet services. The initial process of investigation must involve the name of social media, be it electronic devices such as mobile phones or android, tablets, and networks that are connected to a network and connected via the internet.

Efforts made by law enforcement officials such as the Police to prevent the spread of fake news (hoaxes) are Pre-emptive, Preventive and Repressive efforts. While the strategy
is socialization to the public about hoax news, cooperation with mass media and cooperation with communication and information agencies (Joy, 2009). Intersecting with this, this is actually one of the weaknesses in proving a crime related to the spread of false information because what is used by perpetrators is a social media service where it will be connected to all existing social media, so that law enforcement also does not know who the information comes from because it is indeed spreading more and more. Law enforcement efforts against this crime in addition to these rules should also be balanced with the skills and abilities of law enforcement in eradicating the criminal act of spreading false information. This is because these modes of crime are increasingly growing, it is feared that the crime will be rampant and the perpetrators are difficult to trace and catch, so that it can harm society and the State and will even go global.

The massive development of the use of information technology is used by internet network users to spread hoaxes. As a result of the spread of hoaxes, it is not only an economic loss, but also causes feelings of anxiety, claims lives, divides society and even becomes the beginning of the rise of radicalism movements (Bunga, 2022). Efforts and steps taken to prevent the spread of hoax news and hate speech from spreading in the community are by forming norms that regulate it and blocking site addresses that spread hoaxes and arresting hoax disseminator groups (Syaputra, 2020).

Awareness and responsibility in the use of social media by everyone, in order to avoid problems or actions that are considered against the law. And must review where the news came from, who uploaded the news and where the source of the news came from so as not to be fooled by fake news (Sakti, 2020). Based on the principle of lex specialis derogat legi generali, criminal liability for perpetrators of spreading fake news (hoaxes) in online media refers to the provisions of Article 28 paragraph (1) Article 45A paragraph (1) of the Electronic Information and Transaction Law in the form of a maximum imprisonment of six years in prison and / or a maximum fine of one billion rupiah. Evidence in the criminal act of spreading fake news (hoax), not only applies evidence listed in Article 184 of the Criminal Procedure Code, but Article 5 of the ITE Law states that Electronic Information and Electronic Documents and / or printouts are also valid evidence. Electronic Information and Electronic Document evidence and/or printouts are positioned and function the same as letter evidence as well as can be used to form clue evidence (Gugu, 2022). Therefore, the government issued Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE), in addition to using non-penal means in the form of legal counseling and increasing public awareness to be wise in using social media.
Conclusion

Criminal liability for perpetrators of spreading false information based on the principle "what must be proven is about the inability to be criminally responsible, and not about the ability to be criminally responsible" so as to produce a fair legal verdict. If proven the perpetrator can be sentenced based on the provisions of Article 28 paragraph (1) of the Electronic Information and Transaction Law, he can be threatened with a crime based on Article 45A paragraph (1) of Law Number 19 of 2016 with a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 1 billion. Current criminal law policies in Indonesia are based on the ITE Law, the Criminal Code and adding evidence derived from electronic media as material for law enforcement in evidence at trial.

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