

IMPLICATIONS AND CONSIDERATIONS OF THE NEW ELECTRONIC INFORMATION AND TRANSACTION LAW

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Abstract

Regarding regulations related to the electronic world, the purpose of this study is to link the law on Electronic Information and Transactions (ITE Law) No. 1 of 2024 which is the second amendment to Law No. 11 of 2008. The emergence of various problems regarding the ambiguity of protection in the scope of ITE has caused the public to urge the government to revise it as soon as possible. The methodology used in this study is normative juridical type sourced from primary and secondary legal materials. With an approach through legislation (Statute Approach) and a historical approach (Historical Approach). The Law on Information and Electronic Transactions which was born in 2008 (ITE Law No. 11 of 2008) contains provisions governing the electronic realm. Apart from that, the ITE Law has many weaknesses that conclude multiple interpretations of the contents of the article. To overcome this, the government made the first revision contained in Law No. 19 of 2016. The emergence of controversy has not been able to answer the changes in the first change. So there are still articles that reap pros and cons in the form of interpretation. Among them are Article 27, Article 28, Article 29, and Article 36. So the government made a second revision contained in Law No. 1 of 2024.

Keywords: Regulations, ITE Law, Rubber Articles

Abstrak

Berkaitan dengan regulasi terkait dunia elektronik, tujuan penelitian ini menuju pada keterkaitan undang-undang mengenai Informasi dan Transaksi Elektronik (UU ITE) No. 1 Tahun 2024 yang merupakan perubahan kedua atas Undang-Undang No. 11 Tahun 2008. Kemunculan berbagai masalah mengenai rancunya perlindungan pada lingkup ITE menyebabkan masyarakat mendesak pemerintah agar melakukan revisi segera mungkin. Metodologi yang digunakan dalam penelitian ini adalah bertipe yuridis normatif bersumber pada bahan hukum primer dan sekunder. Dengan pendekatan melalui peraturan perundang-undangan (Statute Approach) dan pendekatan sejarah (Historical Approach). Mengenai Undang-Undang Informasi dan Transaksi Elektronik yang dilahirkan pada tahun 2008 (UU ITE No. 11 Tahun 2008) berisi ketentuan-ketentuan yang mengatur dalam ranah elektronik. Tidak lepas daripada itu, UU ITE tersebut mengalami banyak kelemahan yang menimbulkan multitafsir terhadap isi

pasalnya. Untuk menanggulangi hal demikian pemerintah melakukan revisi pertama yang terdapat pada Undang-Undang No. 19 Tahun 2016. Timbulnya kontroversi belum bisa menjawab perubahan pada perubahan yang pertama. Sehingga masih terdapat pasal-pasal yang menuai pro dan kontra dalam bentuk penafsirannya. Diantaranya terdapat pada Pasal 27, Pasal 28, Pasal 29, dan Pasal 36. Sehingga pemerintah melakukan revisi kedua yang termaktub pada Undang-Undang No. 1 Tahun 2024.

Kata kunci: regulasi, UU ITE, Pasal Karet

INTRODUCTION

Indonesia has become a country with a rapidly growing internet population, accompanied by increasing threats of cybercrime (Ramadhani, 2023). The significant progress in technology, particularly in information and communication, in the 21st century has brought disruptive changes in how society interacts and communicates. Digital disruption not only presents significant opportunities but also creates new challenges, including security, privacy, and misuse of information (Ilmu, Ramadoni, Gegana, & Sanata, 2023). The widespread adoption of computer and internet technology has had a significant impact, including the enactment and acceptance of cybercrime regulations in the realm of cyberspace and cyber law (R. Setiawan & Arista, 2013). Thus, as a consequence of the rapid emergence of new forms of legal action in various fields directly influencing the development, causes, and advancements in information technology, there is a need for appropriate regulations (Yusmar & Katimin, 2021).

One of the legal issues relates to the transmission of information, communication, and electronic transactions, particularly in terms of evidence and issues associated with legal actions conducted through electronic systems. Therefore, legal measures such as the Law on Electronic Information and Transactions need to be implemented to address this problem (M. N. Setiawan, 2021). Professor Mahfud MD believes in the uniformity and regulation of legal provisions across various aspects of Indonesia's legal system, which are designed to achieve national goals and serve as the foundation and principles of Indonesian law and the 1945 Constitution (Fitri, 2022). The ITE Law was enacted to facilitate the widespread and effective use of information technology to create an electronic society that applies moral and ethical principles in all aspects of life (Safitri, 2018).

In line with the argument that supports the need for regulation in the electronic field, the draft bill on Electronic Information and Transactions (RUU-ITE) was approved by the House of Representatives of the Republic of Indonesia on March 25, 2008. In the past, the law was amended to ensure the safety and welfare of the people in a democratic society and to guarantee respect for and the protection of public rights and freedoms, as well as to meet appropriate demands. However, the reason why it continues to generate debate among citizens even after reforms is the ambiguity or differing interpretations of many provisions, which can undermine freedom of opinion and expression, weaken democratic life, and result in numerous criminal cases (Sang & Dunia, 2022). The regulation concerning the latest Law on Electronic Information and Transactions (Law No. 1 of 2024) is the focus of this research, where the shortcomings and inefficiencies in the provisions of the first amendment to the ITE Law in Law No. 19 of 2016 urgently require new changes to create more effective legal protection within the scope of information technology and electronic transactions.

METHOD

According to Subagyo, as cited by Syamsul Bahry and Fakhry Zamza, research methodology is a method or approach to finding solutions to various arising problems

(Restu Khairina et al., 2022). The methodology used in this research is of a normative juridical type, based on primary and secondary legal materials. Primary legal materials include legislation such as Law No. 11 of 2008, Law No. 19 of 2016, and Law No. 1 of 2024 concerning Electronic Information and Transactions. Secondary legal materials utilized consist of journals, scientific papers, and law books related to the topic of electronic information and transactions. The approach taken in normative legal research includes a statute approach and a historical approach. The statute approach involves examining laws and regulations, while the historical approach looks into the history of amendments to the Electronic Information and Transactions Law, which has undergone two changes to date to address the evolving needs for legal protection in the electronic domain.

RESULT AND DISCUSSION

History of the Formation and Amendment of the Electronic Information and Transactions Law

The Electronic Information and Transactions Law (UU ITE) is an Indonesian law regulating electronic communication, privacy, and rules in the field of information and communication technology. The legalization process for UU ITE began in the early 2000s as a response to the rapid development of information technology and the Internet in Indonesia. The enactment of the Electronic Information and Transactions Law demonstrated that the Indonesian government was ready to enter the international system by utilizing information technology in all aspects of life, especially in the fields of communication and economic exchange. The first formation of UU ITE was enacted through Law No. 11 of 2008 (Pratiwi & Yunarti, 2022).

Law No. 11 of 2008 concerning Electronic Information and Transactions of the Republic of Indonesia (hereinafter referred to as UU ITE) was promulgated in 2003 and discussed by relevant parties between 2006 and 2007. The law was approved by the DPR on March 25, 2008, and signed by President Susilo Bambang Yudhoyono on April 21, 2008. UU ITE contains 13 chapters and 54 articles covering various principles, including external control, the principle of non-technical existence, as well as the advancement and protection of electronic information and/or documents (certification authority), management of electronic systems, domain names, protection of personal rights, and criminal procedures related to prevention (Noneng Sumiaty and Risa Sunarsi, n.d.).

The Electronic Information and Transactions Law, established in 2008, was later amended briefly by Law No. 19 of 2016. The first amendment to UU ITE, Law No. 19 of 2016, took place in October 2016. This amendment served as a spearhead in addressing crimes occurring on social media and was considered a necessary legal reform to resolve issues that had not been effectively addressed. Legislative updates were needed to adapt to the times, as the law had to be able to regulate and resolve issues arising from the current situation (Hadad, 2020).

Furthermore, the crucial reason for the amendment to UU ITE is seen in the Formation of Laws (Judicial Review) Law, also known as PUU, as stipulated in Article 15, which states that criminal provisions can only be included in provincial or regional planning laws. Hence, there is a need for a clear explanation regarding criminal provisions in UU

ITE. It appears that in its implementation, the Electronic Information and Transactions Law (UU ITE) has led to multiple interpretations and debates in society, necessitating changes to achieve social justice and legal certainty (Ade Adhari & Sherryl Naomi, 2023).

The amendment to the Electronic Information and Transactions Law (UU ITE) in 2016 was intended to ensure respect for the rights and freedoms of others and to pursue justice. However, in reality, the public felt burdened by the provisions of the Electronic Information and Transactions Law. The revision did not substantially change the existing issues within the UU ITE. The core issue is the "criminalization" and "interpretation of norms." Problematic provisions, as well as multiple interpretations by victims of the Electronic Information and Communication Law (UU ITE), persisted. Nonetheless, setting guidelines for interpreting the UU ITE was not the appropriate way to resolve these problems (Rohmy, Suratman, & Nihayaty, 2021).

To clarify various clarifications and disputes that might arise in society, Law No. 1 of 2024 was enacted as the Second Amendment to the Electronic Information and Transactions Law No. 11 of 2008. Budi Arie Setiadi, as the Minister of Communications and Information, highlighted the importance of increasing the need for space to achieve full legal compliance. This could create a more conducive and fair digital space while providing legal certainty for users and providers of information technology. The second amendment to UU ITE is expected not only to address internal weaknesses but also to align with technological advancements and international standards by harmonizing UU ITE with international cybersecurity standards (Fadhila Rahman Najwa, 2024).

Weaknesses of the First Amendment to UU ITE No. 11 of 2008 in Law No. 19 of 2016

The most significant change to the Electronic Information and Transactions Law (UU ITE) in 2016 was the alteration of criminal sanctions for violations committed in cyberspace. This revision was driven by concerns over the potential misuse of the law, which could lead to the criminalization of opinions, infringement of freedom of expression, and human rights violations. One of the main points in the 2016 amendment to UU ITE was the addition of criminal provisions against the dissemination of information or content deemed defamatory, hateful, or pornographic. This sparked controversy and criticism from various parties, particularly human rights advocacy groups and online activists who felt that the changes could be misused to restrict freedom of speech in cyberspace (Stella, Lie, & Syailendra, 2023).

The current legislation, namely UU ITE 11/2008 or UU ITE No. 19/2016, requires additional provisions to ensure the occurrence of crimes during both day and night, focusing on times when people are actively operating computer systems (Fajar Rachmad Dwi Miarsa, 2020).

The 2016 revision of UU ITE also gave the government greater authority to supervise and monitor online activities, raising concerns about privacy and freedom of expression. Several parties called for the revision to be reconsidered so that its provisions would not compromise human rights and freedom of speech. Overall, the changes to UU ITE in 2016 reflected the Indonesian government's efforts to align its regulations with

technological advancements and the need for protection in the digital world. However, the changes also sparked considerable debate and criticism from various groups concerned with human rights and freedom of expression (Chrisjanto & Tajsgoani, 2020).

Law No. 11 of 2008 was amended by Law No. 19 of 2016 concerning Electronic Information and Transactions, containing articles with multiple interpretations, resulting in unrest in society. This was due to numerous interpretative documents, where the interpretation of law enforcement officers and other parties was crucial, inevitably leading to multiple interpretations (Wulandari, Sulfary, Rahajeng, & Putri, 2020).

The problematic provisions in the 2008 UU ITE were legal norms with risks of being misused by irresponsible parties for personal gain. Despite the various dynamics experienced by the UU ITE during the reform era, several articles, whether revised or not, often sparked controversy. Objections to the Electronic Information and Transactions Law were connected to ambiguous standards in its provisions, potentially threatening freedom of expression, especially for civil society and journalists. The following articles involved multiple interpretations and their consequences:

- a. Article 27 Paragraph (1): This section clarifies the lack of progress achieved through electronic systems, including data verification and identity, as well as system utilization. Conversely, data analyzed using ambiguous terminology like "integrity" and "confidentiality" could lead to unreasonable and controversial interpretations.
- b. Article 27 Paragraph (3): This article addresses the control of abuse and defamation of someone's name through electronic media. The terms "defamation" and "slander" are terminologies that could arbitrarily apply to subjects, thus allowing them to be misused to produce criticisms or assessments that could be damaging.
- c. Article 28 Paragraph (1): This article regulates prohibitions that could cause specific harm and spread false information. However, the term "information collected and stored" could be used for study and potentially utilized to generate freedom of expression.
- d. Article 28 Paragraph (2): This paragraph outlines the concept of information disclosure, resulting in obligations or requirements for individuals or groups based on ethnicity, religion, race, or social class (SARA). While its purpose is to promote social awareness, it also can prevent the dissemination of critical thinking and feelings.
- e. Article 29: This article discusses violence through electronic media. The term "criticism" derives from the ambiguous phrase "threat of violence" and could be used to deceive someone expressing satirical or critical views. The articles are considered a threat to society, with calls from the public to revise these articles as soon as possible (Rachmawati, Nasya, & Taduri, 2021).

In this context, it can be concluded that the Electronic Information and Transactions Law does not provide clear standards or criteria regarding factors that could be classified as criminal activities (Rachmawati et al., 2021). The government decided to propose minor amendments to Law (ITE) No. 19 of 2016. The provisions that tended to

criminalize civil society were revised. Changes to the UU ITE related to its substance were necessary to eliminate ambiguities. The government agreed to amend four problematic articles that violated human rights: Articles 27, 28, 29, and 36. Additionally, the government decided to add Article 45c to the UU ITE. Reforms had to be carried out without repealing the law, as there was a need to regulate the flow of information in the digital world. Four articles were revised, and one new article was added to eliminate ambiguities, unclear provisions, and misunderstandings (Dunan & Mudjiyanto, 2022).

Revision of ITE Law No. 19 of 2016 into the New ITE Law No. 1 of 2024

Law Number 1 of 2024 is a new law concerning information and electronic transactions. This law represents the second amendment to the previous amendment of Law Number 19 of 2016. Many parties consider the ITE Law to have various aspects, while others hold different views. The illegal use of the internet necessitates legal protection for communication and electronic systems, as well as legal protection for activities in the digital world. Civil society, the Ministry of Communication and Information Technology, and the Ministry of Law and Human Rights urged the DPR (House of Representatives) to amend Law 19 of 2016 (SH.MH, 2019).

The steps for these amendments include electronic evidence (Article 5), electronic authentication (Article 13), protection of children in operating electronic systems (Articles 16a and 16b), electronic transactions (Article 16b and Article 17), prohibitions (Article 27, Article 27a, Article 27b, Article 28, Article 29, Article 36), and criminal law (Article 45, Article 45a) (Ecti, Suponyono, & Rozah, 2021). Among the changes are:

ARTICLE 5	PARAGRAPH 1 “ELECTRONIC INFORMATION AND/OR ELECTRONIC DOCUMENTS AND/OR THEIR PRINTOUTS ARE LEGAL EVIDENCE.”
	Paragraph 4 “The provisions concerning Electronic Information and/or Electronic Documents as referred to in paragraph (1) shall not apply if they are otherwise provided for in the Act.”

Article 5 of the previous ITE Law was considered insufficiently comprehensive and potentially prone to misuse. The amendment to Article 5 of the ITE Law, particularly in paragraphs (1) and (4), was made to align it with other regulations related to ITE, such as Law No. 11/2008 on ITE and related government regulations. Additionally, it aims to strengthen the principles of IT implementation, including the principles of inclusivity, prioritizing public interest, digital education and literacy, accountability, and transparency (Pongantung, Pangkerego, & Pinangkaan, 2021).

	PARAGRAPH 3 “ELECTRONIC CERTIFICATION PROVIDERS
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**OPERATING IN INDONESIA MUST
BE INDONESIAN LEGAL ENTITIES
AND DOMICILED IN INDONESIA.”**

ARTICLE 13

Paragraph 4 “The provisions referred to in paragraph (3) shall be excluded if the implementation of services using Electronic Certificates is not yet available in Indonesia.”

Paragraph 5 “Mutual recognition to recognize Electronic Certificates between countries is based on a cooperation agreement.”

Paragraph 6 “Further provisions regarding the Electronic Certification Provider as referred to in paragraph (3), paragraph (4), and paragraph (5) shall be regulated in a Government Regulation.”

The amendments to Article 13 of the ITE Law involve paragraphs (3), (4), (5), and (6). The previous provisions related to paragraph (3) concerned the organization of electronic certificates in Indonesia and foreign electronic certificates. After the amendment, the provision was changed to require that the certification body must be legally established in Indonesia. In paragraph (4), which previously contained provisions for being established in Indonesia, the Second Amendment introduced an exception for cases where certification is not yet available in Indonesia. The explanation in paragraph (5) was changed from requiring foreign certification providers to be registered to recognizing electronic certification based on cooperation agreements. Paragraph (6) concerning further provisions now covers paragraphs (3), (4), (5), and (6), whereas previously, only the provisions regarding paragraph (3) were regulated under paragraph (6) (Nasution, 2020).

**PARAGRAPH 1 “ELECTRONIC
SYSTEM OPERATOR SHALL
PROTECT CHILDREN WHO USE
OR ACCESS THE ELECTRONIC
SYSTEM.”**

ARTICLE 16A

Paragraph 2 “The protection as referred to in paragraph (1) includes the protection of children's rights as referred to in laws and regulations regarding the use of products, services, and features developed and organized by the Electronic System Operator.”

Paragraph 3 “In providing products, services, and features for children,

	<p>Electronic System Operator shall apply technology and operational technical measures to protect as referred to in paragraph (1) from the development stage to the stage of Electronic System Implementation.”</p> <p>Paragraph 4 “In protecting as referred to in paragraph (1), the Electronic System Operator shall provide:</p> <ul style="list-style-type: none"> a. information regarding the minimum age limit of children who can use its products or services; b. verification mechanism for child users; and c. reporting mechanism for misuse of products, services, and features that violate or potentially violate children's rights. <p>Paragraph 5 “Further provisions regarding the protection as referred to in paragraphs (1) to (4) shall be stipulated in Government Regulation.”</p>
<p>ARTICLE 16B</p>	<p>Paragraph 1 “Violation of the provisions as referred to in Article 16A shall be subject to administrative sanctions.”</p> <p>Paragraph 2 “Administrative sanctions as referred to in paragraph (1) may take the form of:</p> <ul style="list-style-type: none"> a. written reprimand; b. administrative fine; c. temporary suspension; and/or d. termination of access.” <p>Paragraph 3 “Further provisions regarding the imposition of administrative sanctions as referred to in paragraph (1) and paragraph (2) shall be regulated in a Government Regulation.”</p>

There is an insertion in Article 16, resulting in two sections: Article 16A and Article 16B, whereas previously there was only one article. The first article addresses the rights and protection of children accessing electronic systems. Meanwhile, Article 16B regulates the sanctions for violations described in Article 16A. The changes in this article address the legal gap regarding child protection in the use of electronic media, which was not previously covered in the ITE Law. (Ladinda Daffa Arnetta, Ghivarri Adinda Fathyasani, & Tito Wira Eka Suryawijaya, 2023).

PARAGRAPH 1 “THE IMPLEMENTATION OF ELECTRONIC TRANSACTIONS CAN BE CARRIED OUT IN THE PUBLIC OR PRIVATE SPHERE.”

Article 17

Paragraph 2 “The parties conducting an Electronic Transaction as referred to in paragraph (1) must act in good faith in interacting and/or exchanging Electronic Information and/or Electronic Documents during the transaction.”

Paragraph 3 “Further provisions regarding the implementation of Electronic Transactions as referred to in paragraph (1), paragraph (2), and paragraph (2A) shall be regulated in a Government Regulation.”

The changes to Article 17 involve the incorporation of Article 2A, which regulates the use of electronic signatures in electronic certificates. Paragraph (3) complements the provisions of paragraphs (1), (2), and (2A) (Ruliani Aida R. Yusuf, 2019).

PARAGRAPH 1 “EVERY PERSON INTENTIONALLY AND WITHOUT RIGHT BROADCASTS, SHOWS, DISTRIBUTES, TRANSMITS, AND/OR MAKES ACCESSIBLE ELECTRONIC INFORMATION AND/OR ELECTRONIC DOCUMENTS THAT HAVE CONTENT THAT VIOLATES DECENCY FOR PUBLIC KNOWLEDGE.”

ARTICLE 27

Paragraph 2 “Every person intentionally and without right distributes, transmits, and/or makes accessible Electronic Information and/or Electronic Documents that have gambling content.”

“Every person intentionally attacks the honor or good name of another person by alleging a matter, with the intention that it becomes public knowledge in the form of Electronic Information and/or Electronic Documents carried out through an Electronic System.”

ARTICLE 27A

ARTICLE 27B

Paragraph 1 “Every person intentionally and without the right to distribute and/or transmit Electronic Information and/or Electronic Documents, with the intent to unlawfully benefit himself or another person, forces a person by threat of violence to:

- a. Give an item, which partly or wholly belongs to that person or another person; or give a debt,
- b. Acknowledge debt, or write off a debt.”

Paragraph 2 “Every person intentionally and without the right to distribute and/or transmit Electronic Information and/or Electronic Documents, with the intent to unlawfully benefit himself or another person, by threat of defamation or by threat of disclosure, forces a person to:

- a. Give an item that partly or wholly belongs to that person or another person; or give a debt,
- b. Acknowledge debt, or cancel a debt.”

Article 27, paragraph (3) of the old ITE Law, which has now been replaced by Article 27A regarding the definitions of "defamation and slander," remains unclear. The explanation of the terms "defamation" and "slander" should be included in paragraph (3) of the ITE Law. Without clarification on "defamation and slander," various interpretations may arise when violations of paragraph (3) of the ITE Law occur. Therefore, the provision of paragraph (3) has been changed to Article 27A, which provides more detailed explanations, clarifying the intent of each provision. Meanwhile, paragraph (4) of the ITE Law has now been amended to Article 27B; the definitions of "extortion" and "threat" are still insufficiently clear. Explanations of the terms "extortion" and "threat" must be included in paragraph (4) of the ITE Law. Without clarification on "extortion" and "threatening," many interpretations may arise when violations of paragraph (4) of the ITE Law are committed. Thus, Article 27B clarifies the specifications related to forms of threats involving violence and threats of defamation that would expose secrets. (French, 2022).

**ARTICLE 1 “ANY PERSON WHO
INTENTIONALLY AND/OR
TRANSMITS ELECTRONIC
INFORMATION AND/OR
ELECTRONIC DOCUMENTS
CONTAINING FALSE
NOTIFICATIONS OR
MISLEADING INFORMATION
THAT RESULTS IN MATERIAL
LOSSES FOR CONSUMERS IN
ELECTRONIC TRANSACTIONS.”**

ARTICLE 28

Article 2 “Any person who intentionally and without right distributes and/or transmits Electronic Information and/or Electronic Documents that are inciting, inviting, or influencing others to cause hatred or hostility towards individuals and/or certain community groups based on race, nationality, ethnicity, skin color, religion, belief, gender, mental disability, or physical disability.”

Article 3 “Any person who intentionally distributes Electronic Information and/or Electronic Documents that he/she knows contain false notices that cause unrest in the community.”

The weakness of Article 28, specifically paragraph (2) of the Electronic Information and Transactions Law, cannot yet be regarded as an act prohibited by law, as the expression or opinion may cause disagreement or dislike towards an individual or a group, except if the statement disseminated can be proven. This is a provocative act, incitement, influence, and/or the ability to mobilize community members, leading to unrest based on ethnicity, religion, race, or social class. Furthermore, this is elaborated in the context of Article 28 paragraph (2), which minimizes any ambiguity regarding the intent of that article. In this article, there is an additional paragraph, namely Article 28 paragraph (3), concerning false information that causes public unrest and is disseminated through electronic media (Windisen & Adhari, 2021).

ARTICLE 29

"ANY PERSON WHO INTENTIONALLY AND WITHOUT THE RIGHT SENDS ELECTRONIC INFORMATION AND/OR ELECTRONIC DOCUMENTS DIRECTLY TO VICTIMS CONTAINING THREATS OF VIOLENCE AND/OR INTIMIDATION."

Article 29 tends to emphasize threats of violence and intimidation. Now it has been changed to be more specific regarding threats of violence or intimidation aimed directly at victims in electronic media (Winarno, 2011).

ARTICLE 36

"ANY PERSON WHO INTENTIONALLY AND WITHOUT RIGHT CARRIES OUT AN ACT AS REFERRED TO IN ARTICLE 30 TO ARTICLE 34 WHICH RESULTS IN MATERIAL LOSS TO ANOTHER PERSON."

Article 36 of the ITE Law previously did not specify whether the term 'loss' referred to material loss or otherwise. Therefore, the second revision clarifies this about material loss. Another change in Article 36 is that it previously regulated actions from Article 27 to Article 34, but now it has changed to cover only Articles 30 to 34. (Al-mumtaz, 2022).

ARTICLE 1 “ANY PERSON WHO INTENTIONALLY AND WITHOUT THE RIGHT BROADCASTS, DISPLAYS, DISTRIBUTES, TRANSMITS AND/OR MAKES ACCESSIBLE ELECTRONIC INFORMATION AND/OR ELECTRONIC DOCUMENTS THAT CONTAIN CONTENT THAT VIOLATES PUBLIC MORALITY AS REFERRED TO IN ARTICLE 27 PARAGRAPH (1) SHALL BE PUNISHED WITH IMPRISONMENT FOR A MAXIMUM OF 6 (SIX) YEARS AND/OR A MAXIMUM FINE OF RP. 1,000,000,000.00 (ONE BILLION RUPIAH).”

Article 2 “The acts referred to in paragraph (1) shall not be punished if:
a. is carried out in the public interest;
b. is carried out for self-defense; or
c. the Electronic Information and/or Electronic Documents constitute works of art, culture, sport, health, and/or science.”

ARTICLE 45

Paragraph 3 “Every person who intentionally and without right distributes, transmits, and/or makes accessible Electronic Information and/or Electronic Documents that have gambling content as referred to in Article 27 paragraph (2) shall be punished with a maximum imprisonment of 10 (ten) years and/or a maximum fine of Rp 10,000,000,000.00 (ten billion rupiah).”

Paragraph 4 “Any person who intentionally attacks the honor or good name of another person by alleging a matter, with the intention that it becomes public knowledge in the form of Electronic Information and/or Electronic Documents carried out through an Electronic System as referred to in Article 27A shall be punished with a maximum imprisonment of 2 (two) years and/or a maximum fine of Rp400,000,000.00 (four hundred million rupiah).”

Paragraph 5 “The provisions as referred to in paragraph (4) constitute a criminal offense of complaint which may only be prosecuted upon the complaint of the victim or the person affected by the criminal offense and not by a legal entity.”

Paragraph 6 “If the act as referred to in paragraph (4) cannot be proven and is contrary to what is known despite having been allowed to prove it, shall be punished for slander with imprisonment of 4 (four) years and/or a maximum fine of Rp750,000,000.00 (seven hundred fifty million rupiah).”

Paragraph 7 “The act as referred to in paragraph (4) shall not be punished if: It is committed in the public interest, or it is committed out of self-defense.”

Paragraph 8 “Any person who intentionally and without right distributes and/or transmits Electronic Information and/or Electronic Documents, with the intent to unlawfully benefit himself or another person, forces a person by threat of violence to:

a. give an item, which partly or wholly belongs to that person or another person; or

b. give debt, make acknowledgment of debt, or write off receivables, as referred to in Article 27B 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).”

Paragraph 9 “If the act as referred to in paragraph (8) is committed within the family environment, criminal prosecution may only be conducted upon complaint.”

Paragraph 10 “Any person who intentionally and without right distributes and/or transmits Electronic Information and/or Electronic Documents, with the intent to unlawfully benefit himself or another person, by threat of defamation or by threat of disclosure, forces a person to:

a. Give an item that partly or wholly belongs to that person or another person; or

b. Give a debt, make an acknowledgment of debt, or cancel a receivable, as referred to in Article 27B paragraph (2) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp 1,000,000,000.00 (one billion rupiah).”

Paragraph 11 “The criminal offense as referred to in paragraph (10) may only be prosecuted upon the complaint of the victim of the criminal offense.”

The provisions above have shortcomings, namely that the ITE Law only sets a maximum limit for penalties but does not specify a minimum penalty limit. The amendment to Article 45 is in paragraph (2) (addition), where the provisions of paragraph (1) cannot be subject to penalties if it involves public interest, self-defense, or electronic information in fields such as art, culture, sports, health, and science. Paragraph (2) of the old law is amended to paragraph (3), where the six-year imprisonment is changed to ten years, or a fine of Rp.10,000,000,000 for violations of the provisions in paragraph (2). In paragraph (4), violations of Article 27A are subject to two years imprisonment or a fine of Rp.400,000,000. Paragraph (5) stipulates that the provisions in paragraph (4) can only be prosecuted as a complaint offense. In paragraph (6), if the truth cannot be proven, it is considered defamation and is punishable by four years imprisonment or a fine of Rp.750,000,000. Paragraph (7) states that if it involves public interest, the individual cannot be penalized, and they may defend themselves. Paragraph (8) covers the provisions in Article 27B paragraph (1), punishable by six years imprisonment or a fine of Rp.1,000,000,000. Paragraph (9) indicates that if the act is committed within a family context, prosecution is based on a complaint offense. Paragraph (10) deals with violations of Article 27B, punishable by six years imprisonment or a fine of Rp.1,000,000,000, and lastly, paragraph (11) stipulates that the provisions above can only be prosecuted based on a complaint offense (Awaeh, 2017).

PARAGRAPH 1 “ANY PERSON WHO INTENTIONALLY DISTRIBUTES AND/OR TRANSMITS ELECTRONIC INFORMATION AND/OR ELECTRONIC DOCUMENTS CONTAINING FALSE NOTIFICATIONS OR MISLEADING INFORMATION RESULTING IN MATERIAL LOSS TO CONSUMERS IN ELECTRONIC TRANSACTIONS AS REFERRED TO IN 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)."**

ARTICLE 45A

Paragraph 2 "Any person who intentionally and without right distributes and/or transmits Electronic Information and/or Electronic Documents that are inciting, inviting, or causing hatred or hostility towards certain individuals and/or community groups based on race, nationality, ethnicity, color, religion, belief, gender, mental disability, or physical disability as referred to in Article 28 paragraph (2) 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)."

Paragraph 3 "Any person who intentionally disseminates Electronic Information and/or Electronic Documents which he/she knows contain false notifications that cause unrest in the community as referred to in Article 28 paragraph (3) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp 1,000,000,000.00 (one billion rupiah)."

There are changes and additions in paragraph (3). Covering the case of violation of Article 28 paragraph (1), paragraph (2), and paragraph (3) shall be sentenced to six years or a fine of Rp.1,000,000,000.

Article 45B	<p>"Any person who intentionally and without right sends Electronic Information and/or Electronic Documents directly to the victim containing threats of violence and/or fear as referred to in Article 29 shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp750,000,000.00 (seven hundred fifty million rupiah).</p> <p>Rp750,000,000.00 (seven hundred fifty million rupiah)."</p>
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Article 45B underwent slight changes, particularly concerning threats and intimidation directed at victims through electronic media. Additionally, the fines and imprisonment penalties remained unchanged from the initial revision of the ITE Law (Lubis, 2020). The implementation of the second amendment to Law No. 11 of 2008 under Law No. 1 of 2024 concerning the ITE is expected to provide legal certainty within Indonesia's digital space, ensuring it is clean, healthy, ethical, productive, and fair. Furthermore, the latest ITE Law aims to enhance the protection of rights and legal certainty in the digital realm, aligning the ITE Law with technological advancements and societal needs. In this way, the goal of creating a sense of justice among the public and clarity in the use of digital space can be achieved.

CONCLUSION

The legal protection provisions concerning the electronic world in the ITE Law have shown several weaknesses, including the presence of ambiguous articles that often lead to multiple interpretations within society. This has raised public concerns about protection in the digital realm. These ambiguous articles include Article 27 regarding theft and bullying, Article 28 concerning fake news, and Article 29 about threats of violence. These articles do not provide clear criteria on what is prohibited in the electronic domain, allowing potential misuse by those who exploit vague rules for their benefit. The government eventually revised these ambiguous provisions in Law No. 1 of 2024, which constitutes the second amendment to Law No. 11 of 2008. The amendment clarified these ambiguous articles, establishing clear benchmarks for prohibited actions and their corresponding legal sanctions.

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