



UNMAS DENPASAR

INTERNATIONAL PROCEEDING

INTERNATIONAL CONFERENCE FACULTY OF LAW UNIVERSITY OF
MAHASARASWATI DENPASAR

"Law, Investment, Tourism And Local Wisdom"

Denpasar, 1st December 2021

IMPACT OF THE INFORMATION AND TRANSACTION LAW ELECTRONIC (UU ITE) ON LEGAL CHANGES AND SOCIAL IN COMMUNITY

Kadek Puja Astawa

¹Faculty Of Law Mahasaraswati Denpasar University, E-mail: pujaastawa@gmail.com

Abstract

The spectacular development of the information technology in communication. has greatly impact the development of law and social interaction. Beside giving a positive contribution for the information technology media used, however, it also has caused negative impact in another part. In order to prevent this, the Indonesian government has initiated a new regulation as the Information and Electronic Transaction Law No. 11 year 2008. The regulation is the prior Indonesian law, which arranged the implementation of information technology communication. The objectived of this research is to discuss the impact of the information and electronic transaction and its implementation in Indonesian. The method used library research, which connected with the implementation in the real field, and analyzed descriptively. It can be concluded that: (1) The regulation number 11 year 2008 give the protection to the of the information and elektronik transaction society. (2) it shoud be socialized to the community in order to achive the law security for the information technology user and promoter

Keywords: the information and electronic transaction law no. 11 year 2008, law, social.

I. INTRODUCTION

I.1 Background Of The Problem

The background of this research is the swift currents of globalization that have caused various problems in almost all aspects of human life in the political, social, cultural, economic, scientific and technological fields so that changes occur.

fundamental change. Along with changes in all these aspects have an impact on changing the pattern of human social behavior in society, the

legal aspects must also change. Laws must be regulated in order to create order in society. This requires a legal umbrella. Thus it is said that the law cannot be static, but must be dynamic, and changes are always made in line with the times and the dynamics of social life in society. In the reform era since 1998, many laws and regulations have been issued and refined in accordance with the development of globalization. It is hoped that the laws

and regulations that have been issued can bring people to a better life than before. The rapid development of information technology has changed human life to be easier because of its sophistication and effective and efficient working power. The existence of information technology was initially only used by certain circles, but now almost all levels of society have used it, both government and private agencies. Utilizing and sophistication and practicality of information technology in government agencies is used to manage all types of data, provide information and also convenience facilities such as public services through on-line government websites and others. Likewise, private agencies or business entities use information technology to manage all types of data by conducting on-line sales transactions (e-commerce). The impact of the development and progress of information technology so rapidly is felt to hit the world, including Indonesia. Information globalization has placed Indonesia as part of the world's information society. This has led to changes in the activities of human life in various fields which have directly influenced the birth of new forms of legal action related to information

technology. Thus, it is necessary to make arrangements regarding the management of information and electronic transactions at the national level as outlined in the form of legislation. Information technology development can be carried out optimally, evenly and spread to all levels of society in order to educate the nation's life as mandated in the Preamble of the 1945 Constitution.

I.2 Research Objectives

Technological activities through electronic media, called cyberspace, which although virtual can be categorized as real legal acts. Juridically, activities in cyberspace cannot be approached with conventional legal standards and qualifications, because there will be too many difficulties and things that will escape the enforcement of the law. Transactions through electronic media or the internet are regulated in Law Number 11 of 2008, concerning Information and Electronic Transactions and have been promulgated on April 21, 2008, with the State Gazette of 2008 Number 58. Government Regulation (PP) which regulates its implementation. Whereas in Chapter XIII, in the Closing Provisions, Article

54 paragraph 2, it reads: "Government regulations must have been stipulated no later than 2 (two) years after the promulgation of this Law." Problems in the implementation of the ITE Law often lead to confusion, considering the number of users of information technology from year to year continues to increase by using facilities with this technology. So that there is a misinterpretation, consciously or unconsciously, the problem will become a case that will be faced with law enforcement officers

II. DISCUSSION

Functions and Roles of Law
Abdul Manan (2009:68) states that the expected legal functions after being created or amended through legislation with using instruments, including: (1) Standard of Conduct; is a backing or measure of behavior that must be obeyed by everyone in acting in relationships with one another. (2) As a Tool of Social Engineering; as a means or tool to change society for the better, both personally and in people's lives. (3) As a Tool of Social Control; as a tool to control human behavior and actions so that they do not commit acts that are against the norms of law, religion and decency. (4) As a Facility on Human

Interaction; namely the function of the law not only to create order, but also to create changes in society by facilitating the process of social interaction and is expected to be a driving force to cause changes in social life in society. (5) *Rechtzeken Heid*; namely so that in every problem and problem that occurs in society there is legal certainty to be used as a guide for the whole community. In relation to the dimensions of legal change, there is an opinion which states that society changes first and then law comes later. The factors that drive the change are actually not laws, but other factors such as the development and use of advanced technology. It can be seen that if one day there is a change in society, then the law is still not the causative factor, so the law is only seen as a result of the change. If new laws arise, it is actually only a result of the condition of society that has changed before, so that the law merely confirms what has actually changed.

According to Soemarno Partodihardjo, Law in the concept of law as a social engineering tool, as stated by Roscoe Pound, states that law must be a driving factor towards changing society, which is better than

before, in accordance with the aforementioned legal functions. Therefore, the change should be well planned and directed, so that the purpose of the change can be achieved properly. Information Technology Development. The definition of information technology, according to Article 1, Chapter General Provisions in Law Number 11 of 2008 concerning Information and Electronic Transactions is: A technique for collecting, preparing, storing, processing, announcing, analyzing, and/or disseminating information.

One means of implementing the use of this technology is to use a set of computers that can process all data, a network system to connect computers to one another and information and telecommunications technology (ICT) which is used so that data can be distributed and accessed globally. The development of information technology gave birth to a new system in everyday life known as e-life, meaning that life has been influenced by various needs electronically, and now it is rife with various words starting with the letter "e" such as; e-commerce, e-government, e-education, e-library, e-medicine and others. Advances in science and

technology have now helped all groups in carrying out their activities, a lot of work being completed more quickly due to the use of new, sophisticated and high-tech media systems. Advances in technology have given a lot of freedom to its users to carry out each of their activities as freely as possible in accordance with their human rights. For example, sending a letter through the post office which is usually the fastest in days to the recipient, now a letter can be sent and received in a matter of minutes or even seconds. On a certain scale, the impact of these technological advances causes unemployment because previously work done by humans began to be replaced with new and sophisticated technological systems that helped a lot in speeding up work completion, data accuracy was more guaranteed and there were regular savings in the interaction of Social Changes and Legal Changes. The interaction of social change on the one hand and legal change on the other hand is an inseparable unit like two sides of keeping a coin. These interactions have scientific consequences because they will be viewed from different perspectives.

According to Soerjono Soekanto, the paradigm that developed in providing a format for the interaction relationship between social change and legal change are: (1) The law will serve the needs of the community, so that the law will not be left behind by the rapid development of society. The characteristics contained in this first paradigm are: (a) Changes that other systems tend to follow because they are in a state of dependence. (b) The law lags behind social change. (c) Rapid adjustment of the law to new circumstances. (d) Law as a function of service. (e) The law develops following the event, meaning that the place is behind the event, not before it. (2) The law can create social changes in society or at least it can spur changes that take place in society. The characteristics contained in this second paradigm are: (a) Law as a tool of social engineering (law as a tool of change). (b) Law as a tool of direct social control (law as a tool of social control). (c) Forward looking (oriented to the future). (d) *Ius Constituendum* (law that will apply for the future) (e) Law plays an active role with society. (f) Not only to create order but to create and encourage these changes and developments. Impact of Information

Technology Development. Information and communication technology in addition to providing economic benefits for internet users for their information needs, will be able to become a double-edged sword, because in addition to making a positive contribution to improving the welfare and progress of human civilization, it is also an effective means to commit acts against the law. Technology that has a negative impact is caused by the users of the technology themselves, for example; credit theft, credit card burglary, ATM cards, sites or websites that provide thugs / assassins and others.

The increasing criminalization of cybercrime or crimes in cyberspace has happened a lot in Indonesia. However, because the existing regulations are not strong enough to ensnare the perpetrators with strict sanctions, this crime is growing along with the development of information technology and telecommunications. Law Enforcement in Cyberspace Activities on the internet cannot be separated from the human factor and the legal consequences also intersect with humans in society who are in the physical world, then the idea arises about the need for legal rules to regulate

activities in cyberspace. . Because these characteristics are very different, there are pros and cons opinions regarding whether or not conventional laws can regulate activities in cyberspace. This will cause debate in the arrangement. In general, the pros and cons of whether or not the conventional legal system can regulate activities in cyberspace are:

1. The characteristics of activities on the internet as part of information technology are cross-border or borderless world relations so that they are no longer subject to territorial boundaries and cause significant economic, social, technological and cultural changes.

2. The conventional legal system, which is based on territory, is considered insufficient to answer new legal problems

arise and are raised by human activities in cyberspace (Journal of Business Law. Furthermore, in the course of internet regulation with the law, there have also been pros and cons, which were initiated by 3 (three) groups, namely: (1) the first group; totally rejects every attempt to create every rule of law for activities in cyberspace. The reason is that the internet as a haven of democracy that provides free and open

traffic of ideas, should not be hampered by rules based on conventional legal systems that based on territorial boundaries. (2) The second group; that the application of the conventional legal system to regulate activities in cyberspace is urgent to be carried out without having to wait for the end of the academic debate about which legal system is the most appropriate. This is based on the consideration that the widespread consequences negatives caused by activities in cyberspace which has forced the law to regulate it immediately. (3) The third group; refers to the views of the two groups above, namely that the legal rules governing activities in cyberspace must be developed in an evolutionary manner by applying general legal principles carefully, accurately and involving the role of the community and focusing on certain aspects in cyberspace

III. CLOSING

III.1 Conclusion

Understanding and socializing Law no. 11 of 2008 concerning Information and Information Technology (UU ITE) to the public caused by social changes, has not been effective enough, as seen from the still

rampant violations in the use of information technology.

This information technology has a negative impact that can harm many parties due to unclear laws governing the use of information technology, such as crimes in the world of telematics (cybercrime), violations of Intellectual Property Rights in cyberspace and others as well as weak rules regarding security guarantees. and confidentiality of information in the use of information technology. 3. In social and legal changes, Law no. 11 of 2008 concerning Information and Electronic Transactions is quite adaptable to various changes and developments that occur in society, especially in the field of information technology.

III.2 Suggestions

To review the crucial article in this UU ITE, especially article 27 paragraph 3 regarding defamation. It is clear that the articles on insults, defamation, hate news, hostility, and threats of intimidation dominate the list of prohibited acts according to the ITE Law. This article has also been questioned by the Press Council and even submitted a judicial review to the Constitutional Court.

It should be clarified in detail with regulations at a lower level than the ITE Law. For example, a Government Regulation (P.P.) was issued as the implementation of Law no. 11 of 2008 concerning Information and Electronic Transactions so as not to become ambiguous in the interpretation and application of the law.

It is recommended that the capacity of human resources (HR) of law enforcement officials in the field of information technology be improved, including police officers, prosecutors, judges and even lawyers, especially in dealing with cyber law issues. So that law enforcement in this field can be carried out properly with the support of qualified human resources and experts in their fields.

REFERENCES

Book

- Abdul Manan, *Aspek-Aspek Pengubah Hukum*, Prenada Media, Jakarta, 2005 .
- Anggara, Supriyadi W.E., Ririn Syafrani, *Kontroversi Undang-Undang I.T.E.*, Degraf Publishing, Jakarta, 2010.
- Danrivanto Bhudiyanto, *Hukum Telekomunikasi, Penyiaran & Teknologi Informasi*, Refika Aditama, Bandung, 2010.

Edmon Makarim, Kompilasi Hukum Telematika, Raja Grafindo Persada, Jakarta, 2004.

Republik Indonesia, Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik, Lembaran Negara Republik Indonesia Nomor 58 Tahun 2008. Jurnal Hukum Bisnis, Efektifitas UU ITE Dalam Penyelesaian Sengketa E-Commerce, Volume 29, Nomor 1, 2006.