

**THE IMPLEMENTATION OF DEMOCRACY IN THE MIDDLE OF THE APPLICATION OF ITE
LAW**

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Info Artikel	Abstract
<p>Masuk:24/01/2022 Revisi:23/02/2022 Diterima:25/02/2022 Terbit:28/02/2022</p> <p>Keywords: Democracy, Subversive, Implementation, Constitution</p>	<p>Democracy in Indonesia has been running for quite a long time since Indonesia was founded until now, which is approximately 76 years. each order has its own characteristics in carrying out democracy in Indonesia according to the conditions and political interests at that time.</p> <p>So that each ruler has his own interpretation of democracy in the Sukarno era, in the guided democracy during the Suharto era, there was Pancasila democracy and in the reformation period, Pancasila democracy was implemented in accordance with the constitution. there is little difference in implementing Pancasila democracy during the New Order era and during the reformation period.</p> <p>This difference can be seen where during the new code of democracy Pancasila was implemented but not wholeheartedly because the authorities at that time implemented a subversion law, while during this reformation period, especially in the last 10 years, the government implemented a democratic system but also implemented a law on information and electronic transactions. considered by some legal and political observers to be a substitute for subversive laws.</p>
<p>Kata Kunci: Demokrasi, Subversif, Implementasi, Konstitusi</p> <p>P-ISSN:1412-310x E-ISSN:2656-3797</p>	<p style="text-align: center;">Abstrak</p> <p>Demokrasi di Indonesia sudah berjalan cukup lama dari sejak Indonesia berdiri hingga sekarang kurang lebih 76 tahun. setiap bulan orde memiliki ciri khas sendiri-sendiri dalam menjalankan demokrasi di Indonesia menyesuaikan dengan kondisi dan kepentingan politik pada masa itu.</p> <p>Sehingga setiap penguasa memiliki interpretasi sendiri tentang demokrasi di masa Soekarno pada demokrasi terpimpin di masa Soeharto ada demokrasi Pancasila dan di masa reformasi menerapkan demokrasi Pancasila sesuai dengan konstitusi. ada sedikit perbedaan dalam menjalankan demokrasi Pancasila pada masa orde baru dan pada masa reformasi.</p> <p>Perbedaan tersebut terlihat di mana pada masa kode baru demokrasi Pancasila dijalankan namun tidak sepenuh hati karena penguasa pada saat itu menerapkan undang-undang subversi sementara pada masa reformasi ini terutama 10 tahun terakhir ini pemerintah menerapkan sistem demokrasi namun juga menjalankan undang-undang informasi dan transaksi elektronik yang dianggap oleh beberapa pengamat hukum maupun politik sebagai pengganti undang-undang subversif.</p>

I .Introduction.

a .Background

Since the ITE law was passed in 2011 there has been a change in civilization in society. Where people can no longer be free and careless in writing or conveying their arguments on social media. That's because if you write something that offends and makes it unpleasant for an institution or group, an accident can be reported by an individual.

Reports related to the item law are getting more and more common, this is because it may be too easy for our society to respond to differences of opinion or point of view with legal action, namely by reporting it to the authorities.

Thus, there is a perception and view that only with the existence of this law makes people's freedom in giving opinions and criticisms limited. This law is said to cause horizontal problems in society if this is allowed to divide the nation and state.

The Economist Intelligence Unit records the latest data on the democracy index in several countries in the world, including Indonesia. In 2019 Indonesia was ranked 64th out of 167 countries worldwide. The decline in the level of democracy in Indonesia.

The existence of the UU ITE which previously served as a legal umbrella for changes in development and civilization in society due to technological advances, namely the increasingly advanced social media that developed in cyberspace through what is commonly called a smartphone.

Social media referred to here are various forms of applications such as Facebook Twitter Instagram and so on where these applications are used as a tool to express opinions or opinions about events that have occurred or are currently taking place.

In addition to the written form, the application can also contain media images or photos accompanied by comments on the image or photo. This then caused controversy in the community because it could trigger conflicts between communities by reporting each other to the police.

The ITE law actually exists to protect people who carry out electronic activities or transactions such as buying and selling online so that consumers can report producers who have abused trust or committed fraud.

In its development, it turns out that this law is more widely used by both the public and officials to imprison someone who is considered insulting, commits unpleasant actions, incites, and so on.

II .Research Question

In this study the authors formulated several problems including:

1. How is the effect of UU IT in the implementation of democracy in Indonesia
2. How the UU IT affects the implementation of democracy in Indonesia.

III .Research Objective

1. To find out how the effect of the law on the implementation of democracy in Indonesia
2. To find out how the law affects the implementation of democracy in Indonesia.

VI. Research Method

This research uses a descriptive normative juridical method, which examines the implementation of the law accompanied by the impact on the implementation of the law, both negative and positive impacts and is compared with the implementation of democracy in Indonesia, which of course is also strengthened by theories that support the topic researched.

Discussion

1. The effect of the law on the implementation of democracy in Indonesia

Along with the rapid development of technology and the development of social media, it is easier for everyone to express their aspirations on social media, be it on Facebook, Twitter, YouTube channels and so on.

Problems arise when the community as well as practitioners are considered to have violated the law when expressing their aspirations on social media, they are subject to Article 28E of the ITE Law, which for the community is considered fabricated and silences the people's right to voice their aspirations and opinions.¹

The government is considered anti-critic because everyone who voices or criticizes his opinion is related to government policies by law enforcement officials, in which case the police immediately act quickly by tracking and then arresting the person who wrote or conveyed the idea.

Democracy activists highlight this as a setback in the implementation of democracy in Indonesia, with the implementation of the law on people being afraid to criticize the government. Moreover, the ITE law seems to be a new tool for law enforcement officers in arresting people.

The ITE law is considered to be a substitute for subversive laws in the new order era, but the ITE law is still better compared to subversive laws because the subversive law allows arresting someone who is considered contrary to or contrary to government policy without having to be processed in court.

However, the item law has become a kind of trauma in itself among the people. although those who use the ITE law are not only among government officials but also among the community itself. This means that this law can actually be used by anyone who is considered against it.

An example of an employee criticizing his leader in a company on Facebook and then being known by the leader and the employee is then being punished for committing slander and defamation.

Judging from the way the law affects democracy in Indonesia, it can be divided into 2 (two), namely:

1. directive

This means that the existence of this law can be felt directly in influencing democracy, it can be seen from the conflict between the community and officials, or vice versa, or

¹Juditha Christiany"demokrasi di media sosial : kasus polemik rancangan undang-undang pemilihan kepala daerah",Jurnal penelitian komunikasi dan pembangunan,Vol 17 No 1 tahun 2016, kementerian informasi dan komunikasi republik Indonesia.

between individuals and certain groups that we often see and read both in the mass media and in the media. seen immediately.

This conflict became the assessment of the domestic community as well as the foreign community that democracy in Indonesia has decreased from year to year, which is strengthened by surveys from research institutions.

2. Indirectly

The existence of this law is indirectly able to change the mindset and perspective on democracy that is run by the government. In the event of a shift in values, it can be said that it is very significant.

Most people, ranging from uneducated to highly educated, have lost ethical and moral values where they often cannot distinguish between criticism and insults, then unable to sort out which information is valid or hoax.

If this is not immediately corrected, the current conflict will not become a social improvement in society, but on the contrary it will become a prolonged conflict and cause division of the nation.

Anthony G Wilhelm expressed his opinion in a book entitled democracy in the digital era explaining that technological progress is unavoidable especially regarding information and public policies. Wilhelm in cyberspace or the internet is ideal as a forum for digital democracy, including;

- a) *human resource skills*, namely before the internet dominates society, it is better to understand how the positive and negative impacts of the internet are.
- b) *Involvement*, what is meant here is the blackness of both the government and the community in maintaining the conduciveness of democracy, especially in the digital world, where the government makes policies that regulate cyber activities while the public obeys them.
- c) Freedom, what is meant by freedom here is freedom that is positive in supporting the progress of democracy such as discussion, debate and criticism on social media without having to attack personal or values that demean one another.
- d) Design is more about infrastructure and superstructure that supports smooth activities in cyberspace or the internet.²

2. The form of the ITE Law in influencing democracy in Indonesia

Whether we realize it or not, this law has an influence in changing the perspective on how a democracy works. This law directly or indirectly plays a major role in the process of changing one's mindset about democracy in Indonesia.

²Ikramina Tia Zatu Dampak UU ITE Dalam Demokrasi Digital; Studi Kasus Kampanye Digital Dalam Pilkada DKI Jakarta Tahun 2017, REPOSITORY, Universitas Airlangga, 2018

In simple terms, if someone is arrested for violating the ITE law, the public will immediately judge that the government has implemented an authoritarian system to silence the people's right to express their opinion. Society seems to be unable to distinguish between the form of a criticism and the form of an insult.

The public only understands their right to express everything about an event or to a policy made by the government on a medium, be it online media or social media.

The influence of the law has a form in influencing democracy where this form adjusts the activities carried out by both the community and the government. These forms include:

1. The legal form

This law is a very powerful weapon to put someone in a prison cell just for writing wrongly, saying a statement both on social media and electronic media. Law enforcement in this case the police, prosecutors, advocates and judges seem unable to stop reporting ITE Law

The enforcement is the main element in a democracy, if law enforcement is carried out arbitrarily then the democracy that is carried out is considered to have failed because it does not uphold human rights (HAM) in this case equality before the law and the right to freedom of opinion.

2. Social and cultural forms

This law affects social and cultural forms, we can see it in all social media applications that are often used by the public in expressing their opinions and the information they convey such as: Facebook, Twitter, Instagram, YouTube, telegram and WhatsApp.

Social and cultural changes occur in people surfing the internet, Indonesian people often lose control in responding and giving opinions on phenomena and events that occur in the community.

Until an international data mentions that Indonesian people are known as the worst netizens if you don't want to say barbaric and sadistic, crossing ethical and moral boundaries. This is very ironic, because our society seems to have multiple personalities, where in the real world very good manners are maintained but in cyberspace they are racial.

In addition, changes in the culture of politeness, as well as religious teachings seem to be ignored only to fulfill satisfaction in opinions and maintain existence in cyberspace.

3. Political

The form of influence of these laws in politics is very clearly visible during the implementation of national and regional general elections. Where political laws become political tools to bring down each other. In the name of democracy and freedom of opinion, many parties try to influence the community in exercising their political rights.

it is not surprising that the politics that has developed in Indonesia in the last six years is more and more often using identity politics. Even that, as by politicians and their supporters, it has become a common thing.

These forms are quite capable of changing the face of Indonesian democracy. Consciously or not, the Indonesian people from officials, politicians, and the public in general have carried out various forms of implementing the item law. The change that is quite noticeable is the occurrence of social changes where it is now easy for people to criticize and judge someone's statements on social media.

People no longer arbitrarily joke either in written form or in statements that are racial in nature, in the new order era when there was no internet, it was rare to find someone reporting to the police because jokes related to SARA might be considered normal at that time.

But now it can't be like that anymore because it's also wrong to say something even if it's a joke, so we can be sure that the person will be reported to the police on suspicion of blasphemy, defamation, insults and so on.

These problems can be overcome in various ways, both through the system, the cultural structure in society as well as through policies from the government. And the first steps that must be taken are:

1. Strengthening understanding of democracy/

Important for all parties, especially the lower class people who so far consider democracy to be freedom which is without any limits.

The eight legal failures can be avoided if there is an emphasis on the contents of the legislation with 8 (eight) certain moral requirements which include:

1. Clear and firm regulations as a form of legal umbrella and legal certainty. So that there is no misuse that causes legal events that can harm the community.
2. Accountability or openness to the public, every policy made by the government must be known to the public as well as transparency in both budget management and law enforcement.
3. The law that is made must be a guideline for all future community activities so that the existence of the law is minimized so that it applies retroactively.
4. The existing law must be able to be easily understood by the public.
5. The applicable laws must not conflict with each other either vertically or horizontally.
6. The law must not contain sanctions that command something beyond human capabilities.
7. The law must be firm and cannot be changed at any time just to fulfill temporary political interests.
8. The law must not conflict with the law above and the law must not overlap with other regulations.³

³Junaidi Muhammad, Sunarna Kardi, Sadono Nambang "pemahaman tindak pidana transaksi elektronik dalam undang-undang nomor 19 tahun 2016 tentang informasi dan transaksi elektronik" jurnal BUDIMAS ISSN :

2. Digital democracy era

Technological progress is certainly very influential in the life of the nation and state, both directly and indirectly. The progress of the internet in this case is able to change the way people live in democracy.

In the digital world, specifically, social media has an influence in carrying out democracy. In the past people were about democracy by expressing their opinions by demonstrating to the government, but now everyone can express their opinion without having to go down to the field to demonstrate but simply write on social media.

Conclusion

The law was created to answer the problems that occur in society in order to find a good solution, as well as as a legal umbrella so that the parties can with their authority resolve these problems. It is hoped that the existence of the law will make legal certainty regarding these problems.

However, it is different from the ITE law where its existence does not make existing problems in the community resolved but instead creates new problems. In addition, this law also directly or indirectly influences and influences the implementation of democracy in Indonesia

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