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Analysis of the Drafting of the Electronic Information and Transactions Law (ITE Law) in the Perspective of Legal Drafting Science

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Abstract
This article describes and examines issues related to Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law) and its amendments, which were introduced with the aim of ensuring legal certainty for people conducting electronic transactions. The focus of this article is to examine the drafting of the ITE Law as stipulated in Law Number 12 of 2011, the application of principles in the drafting of the ITE Law, and the normative and implementative problems after the enactment of the ITE Law. The research used is normative legal research with a statute approach and conceptual approach. The legal materials in this study are divided into two categories, namely primary legal materials and secondary legal materials. The results of the study show that even though the formulation of the ITE Law is in accordance with the laws and regulations, its implementation still has many problems due to the non-implementation of several formal principles of the law and the large number of phrases with unclear boundaries.

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1. INTRODUCTION

The rapid development of information and communication technology has fundamentally changed the patterns of interaction among Indonesians. The globalization of information places Indonesia as part of the global information society, necessitating regulations regarding the management of information and electronic transactions at the national level. This digital transformation has had a significant impact on various aspects of life, from communication, business transactions to the dissemination of information.

Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law) was introduced to ensure legal certainty for people conducting electronic transactions, encouraging Indonesia's economic growth, preventing crimes via the internet, and protecting the public and internet users from various online crimes. In the digital era, the ITE Law plays a crucial role in regulating e-commerce in Indonesia, with a focus on data security and privacy, consumer protection, and law enforcement against consumer data collection, processing, and use practices.

Legal experts and academics agree that the ambiguous and multi-interpretable articles in the implementation of the ITE Law need to be revised, especially Article 27 Paragraph (3) concerning insults and defamation, and Article 28 Paragraph (2) concerning the dissemination of information that causes hostility, hatred, and contains elements of SARA. The Institute for Criminal Justice Reform (ICJR) report shows that from 2016 to February 2020, for cases with Articles 27, 28, and 29 of the ITE Law, the conviction rate reached 96.8 percent with a very high imprisonment rate.

Of all the articles contained in the ITE Law, there are 3 problematic articles with the largest number of cases, namely Article 27 paragraph (1) with a percentage of 31.5%, Article 27 paragraph (3) with a percentage of 37.2%, and Article 28 paragraph (2) with a percentage of 28.2%.The ambiguity of the definitions in these articles can have fatal consequences, such as in the case of Baiq Nuril, who was punished under Article 27 paragraph (1) for distributing a recording of a conversation that actually contained sexual harassment against her.

The issue of multiple interpretations in the ITE Law demonstrates the urgency of evaluating the quality of legislative drafting based on the principles of Legislative Drafting. Drafting laws is an integral part of managing a society comprised of diverse individuals from diverse walks of life, making designing and drafting laws that are acceptable to the public a complex task.

Legislative theory can be defined as a theory that studies legislation from the planning, drafting, discussion, ratification, and promulgation stages. In the Indonesian context, the process of forming legislation consists of five stages that must be implemented comprehensively to produce quality legal products.

The need to draft legislation well is increasingly important to avoid common problems such as inconsistencies that cause articles to be interpreted in various ways, thus not providing clear provisions. Inadequate design can give rise to various problems, such as overlapping regulations, conflicts between lower and higher regulations, and legal uncertainty that is detrimental to society.

An evaluation of the legislative design of the ITE Law using a Legislative Drafting perspective is crucial for identifying weaknesses in the formulation of norms, article structure, use of legal language, and clarity of the elements of offenses. Through this evaluation, comprehensive recommendations for improvement can be formulated to produce digital space regulations that not only protect the public interest but also ensure legal certainty and justice for all parties.

The drafting of the ITE Law, when viewed from the principles and stages of establishing good legislation, shows that since its drafting, this law has attempted to follow the stages of planning, drafting academic papers, and legislative deliberations. However, its implementation shows that the principles of clarity of purpose, openness, and appropriateness of content have not been fully reflected. The initial goal of the ITE Law to create legal certainty in the digital space has often shifted due to the formulation of norms that are open to multiple interpretations, especially Articles 27, 28, and 29, which open up space for criminalization and disproportionate law enforcement. The lack of meaningful public participation in the initial stages of the law's formation also contributed to the resulting norms being insensitive to the dynamics of the digital society. Normative problems in the form of elastic phrases, unclear crime boundaries, and implementation problems such as abuse of authority and lack of synchronization between regulations are the main factors that arise. To overcome these problems, the design of the legislation needs to be improved through reformulating norms with precise drafting standards, expanding substantive public participation mechanisms, and harmonization with sectoral regulations so that the ITE Law can truly carry out its legal protection function without sacrificing freedom of expression and the principles of the rule of law.

This study aims to comprehensively analyze the stages of formation and changes to the Electronic Information and Transactions Law (ITE Law), both Law Number 11 of 2008 and its amendments in Law Number 19 of 2016 through the perspective of the Science of Drafting Legislation, with a focus on evaluating the compliance of the content material, especially controversial articles such as Articles 27, 28, and 29, to the principles of Good

Legislative Practice, including the principle of clarity of formulation (lex certa), the principle of usefulness, and the principle of hierarchical conformity. In addition, this study also aims to specifically identify legislative problems that cause the birth of multi-interpretable norms in the ITE Law, as well as formulate recommendations for constructive revisions that are in accordance with drafting rules to ensure the achievement of legal certainty and justice for society in the digital era.

1.2. Literature Review

1. Knowledge of Legislative Regulation Planning

In accordance with Article 1 paragraph (2) of Law Number 12 of 2011 concerning the Formation of Legislation, Legislation is a written regulation that contains generally binding legal norms and is formed or stipulated by a state institution or authorized official through procedures stipulated in Legislation.

The science of designing legislative regulations, or what is known as the term *Legis prudence* is a scientific discipline that studies the techniques, methods, and principles used to design good legislation. Legislative theory can be defined as a theory that examines legislation from the planning, drafting, discussion, ratification, and enactment stages. The legislative process is a series of complex activities and requires an in-depth understanding of various aspects, including philosophical, sociological, legal, political, and technical aspects of design.

The science of legislative drafting has several fundamental objectives. First, to produce quality legislation, namely, regulations that can be implemented effectively and efficiently in society. Second, to create legal certainty through the formulation of clear, firm norms that are free from multiple interpretations. Third, to ensure consistency and harmonization between one regulation and another within the national legal system.

The formation of legislation in Indonesia is a structured process and must follow the stages expressly stipulated in Law No. 12 of 2011 in conjunction with Law No. 13 of 2022. Each stage is designed to ensure that the resulting regulations have democratic legitimacy, quality substance, and can be effectively implemented in society.

1. Planning Stage

The planning stage is the initial and fundamental stage in the formation of legislation. Article 16 of Law Number 12 of 2011, in conjunction with Law Number 13 of 2022, stipulates that planning for the drafting of legislation is carried out in the National Legislation Program (Prolegnas). Prolegnas is a planning instrument for the initial stages of the legislative program, encompassing planning, drafting, discussion, ratification, and promulgation.

The National Legislation Program (Prolegnas) contains a list of draft laws to be discussed within a specific timeframe, arranged according to priority scale. The Prolegnas is prepared by the House of Representatives (DPR) and the government, with the Regional Representative Council (DPD) able to propose bills related to regional autonomy, central-regional relations, the formation, expansion, and merger of regions, the management of natural resources and other economic resources, and those related to the balance of central and regional finances.

The National Legislation Program (Prolegnas) is prepared based on: (a) the mandate of the 1945 Constitution of the Republic of Indonesia; (b) the mandate of the Decree of the People's Consultative Assembly; (c) the mandate of the law; (d) the national development planning system; (e) the national long-term

development plan; (f) the medium-term development plan; and (g) the government's work plan and the aspirations and legal needs of the community. The preparation of the Prolegnas is carried out by involving community participation through public hearings, work visits, seminars, workshops, and/or public discussions.

2. Compilation Stage

The drafting stage is the stage where draft laws (RUU) are technically prepared based on predetermined planning. Article 43 of Law Number 12 of 2011, in conjunction with Law Number 13 of 2022, stipulates that bills can originate from the DPR, the President, or the DPD (for certain bills related to the DPD's authority).

During the drafting stage, every bill must be accompanied by an Academic Paper. An Academic Paper is a document containing the results of legal research or studies and other research on a specific issue that can be scientifically justified regarding the regulation of that issue in a bill as a solution to the legal problems and needs of society.

The Academic Manuscript contains at least: (a) background, objectives, and uses of the preparation; (b) identification of the problem; (c) objectives and scope of the regulation; (d) objects to be regulated; (e) scope and direction of the regulation; (f) philosophical, sociological, and legal basis; (g) targets to be realized; (h) main ideas, scope, or objects to be regulated; (i) scope and direction of the regulation; (j) harmonization, synchronization, and affirmation; and (k) conclusions and suggestions.[47]

3. Discussion Stage

The deliberation stage is the stage where a bill is discussed jointly by the DPR and the President, or between the DPR and the DPD for certain bills. Article 64 of Law Number 12 of 2011 in conjunction with Law Number 13 of 2022, stipulates that bills received by the DPR are discussed by the DPR and the President or a designated Minister to obtain joint approval.

Bill discussions are conducted at two levels. Level I discussions are held in commission meetings, joint commission meetings, Legislative Body meetings, Budget Body meetings, or special committee meetings. Level I discussions include: (a) an introduction to the deliberations; (b) discussion of the problem inventory list (DIM); and (c) presentation of mini-opinions by factions and members of the House of Representatives.

Level II discussions are conducted in plenary sessions to: (a) make decisions on the Bill, preceded by the submission of a report containing the process, minority opinions, and the Government's final opinion; and (b) joint approval between the DPR and the President on the Bill.

The bill's deliberations were conducted meticulously, examining each article and paragraph through synchronization and harmonization methods to ensure internal alignment and alignment with other regulations. This stage is considered the most crucial because the substance of the norms is formed through negotiation and political compromise between the House of Representatives (DPR) and the government.

4. Verification Level

The ratification stage is the stage where a bill jointly approved by the DPR and the President is ratified by the President into law. Article 72 of Law Number 12 of 2011, in conjunction with Law Number 13 of 2022, stipulates that a bill jointly approved by the DPR and the President is submitted by the DPR leadership to the President for ratification into law.

The President is obliged to ratify the Bill within a maximum of 30 (thirty) days since the Bill was jointly approved by the DPR and the President. If, within 30 days, the President does not ratify the Bill, then the Bill is legally a law and must be promulgated.[58] This provision is an implementation of Article 20 paragraph (5) of the 1945 Constitution, which states that "If the draft law that has been jointly approved is not ratified by the President within thirty days since the draft law was approved, the draft law is legally a law and must be promulgated.

5. Invitation Stage

The promulgation stage is the final stage in the process of creating legislation, where the ratified law is promulgated to give it generally binding force. Article 82 of Law Number 12 of 2011 in conjunction with Law Number 13 of 2022, stipulates that laws are promulgated by placing them in the State Gazette of the Republic of Indonesia.

Promulgation is carried out by the Minister responsible for government affairs in the legal sector. In this case, the promulgation is carried out by the Minister of Law. To facilitate understanding and ensure everyone can understand the contents of the law, the promulgation of the law must be included in the Explanation of the Law placed in the Supplement to the State Gazette of the Republic of Indonesia.

Article 5 of Law Number 12 of 2011, in conjunction with Law Number 13 of 2022, regulates the formal principles for the formation of good legislation, including:

1. **The principle of clarity of purpose**, that every formation of legislation must have a clear objective to achieve what is desired
2. **The principle of the appropriate institution or official forming it,** every type of statutory regulation must be made by a state institution or authorized official with applicable statutory regulations.
3. **The principle of conformity between type, hierarchy, and content material**, the type and hierarchy of statutory regulations must be in accordance with the regulated content.
4. **The basics can be implemented**, the laws and regulations that are made must be able to be implemented effectively, both philosophically, juridically, and sociologically.
5. **The basics of usability and usability** Legislation must provide real benefits and results in solving problems or providing legal protection to the community.
6. **The basis of clarity of formulation,** Legislation must be formulated in clear, straightforward, and easy-to-understand language, so that it does not give rise to multiple interpretations or confusion in its implementation.
7. **The basis of openness,** in the process of forming legislation, the public must be allowed to provide input.

2. ITE Law and Revisions 2016 and 2022

1. Position of the ITE Law in the Indonesian Legal System

Based on Law Number 12 of 2011 concerning the Establishment of Legislation as amended by Law Number 13 of 2022, the ITE Law occupies a position as a law that is hierarchically below the 1945 Constitution and the MPR Decree. In the context of lex specialis, the ITE Law functions as a special law that regulates criminal and civil acts in the electronic realm, while the Criminal Code and the Civil Code remain in effect as general law (lex generalis). Hamzah (2014) emphasized that when a normative conflict occurs between the ITE Law and general regulations, the principle of lex specialist derogate legi Generali applies, where the ITE Law as a special regulation, overrides general regulations as long as it regulates the same thing.

2. The Purpose of Establishing the ITE Law

The primary objective of the ITE Law is to create a legal framework that supports the development of electronic transactions, protects individual rights, and prevents the misuse of information technology. According to the official explanation of Law No. 11 of 2008, these objectives include facilitating e-commerce, protecting personal data, and controlling negative content such as pornography and online fraud.

3. Academic Criticism of Multi-Interpretative Norms

The ITE Law, even though it has been revised, still draws sharp academic criticism regarding its norms, which are open to multiple interpretations:

1. Ambiguity of the Phrase "Derogatory/Defamatory Content"

   Article 2,7 paragraph (3) uses highly abstract phrases without clear operational definitions. The criteria for distinguishing legitimate criticism from defamation are highly subjective and depend on the interpretation of law enforcement officials and judges.

   This creates legal uncertainty and has the potential to cause a chilling effect on freedom of expression, where people become afraid to convey even constructive criticism.

2. The Phrase "Morality" Has Unclear Parameters

   Article 27, paragraph (1) prohibits the distribution of electronic information that "violates morality" without explicitly defining what is meant by "morality." Indonesia, as a multicultural country, has diverse standards of morality.

   The standards of morality used tend to refer to certain dominant values, which can be discriminatory against certain minority groups or subcultures.

3. The Ambiguous Concept of "Hate Speech"

   While it is important to prevent hate speech, the definition in the ITE Law is not specific enough to distinguish between truly dangerous speech and sharp criticism or academic discussion on sensitive issues.

   Without clear objective criteria (such as the “imminent lawless action test” in US jurisprudence), this article is vulnerable to abuse to silence dissent.

4. Over-criminalization

   The use of criminal sanctions for crimes that can actually be resolved through civil mechanisms is considered disproportionate and contrary to the principle of ultimum remedium in criminal law.

   Many experts argue that imprisonment should be a last resort for actions that seriously harm fundamental legal interests.

2. RESEARCH METHODS

Legal research employs a method used to conduct research and study formulated problems to find constructive, novel, and solution-oriented answers and conclusions. This research is normative (doctrinal) legal research. Normative legal research analyzes law as a system of norms or rules contained in legislation, court decisions, agreements, and legal doctrines to discover, interpret, and explain legal rules, principles, or doctrines to address the legal issues at hand. The research approach used in this research statute approach by reviewing all laws and regulations (statutes, government regulations, regional regulations), which in this study examines Law Number 11 of 2008, Law Number 19 of 2016, Law Number 1 of 2024, and Law Number 12 of 2011, which was later amended by Law Number 13 of 2022.

This research also uses a conceptual approach by focusing on the analysis of concepts, doctrines, and views in legal science to find relevant ideas, as well as develop new legal understandings, concepts, and principles as the basis for arguments to solve legal issues regarding Law Number 11 of 2008 and its changes in implementation and effectiveness in the field. The legal materials in this research are divided into 2 (two) legal materials, namely primary legal materials and secondary legal materials. Primary legal materials consist of Law Number 11 of 2008, Law Number 19 of 2016, Law Number 1 of 2024 and Law Number 12 of 2011, and Law Number 13 of 2022. Secondary legal materials are literature, scientific works, legal journals, textbooks, and previous research.

3. RESEARCH RESULTS AND DISCUSSION (12 Pt)

a. Discussion

The development of information technology has prompted governments to establish regulations capable of anticipating social, economic, and cultural changes in the digital space. In Indonesia, the enactment of the ITE Law was a response to the increasing interaction and transactions among people through electronic media. Technological development without clear regulations has the potential to create a legal vacuum, particularly regarding the validity of electronic transactions and the protection of the public interest. The ITE Law was designed to serve as a legal foundation for comprehensively governing digital information governance.

In its drafting, the ITE Law was designed to address the public's need for legal clarity regarding increasingly complex digital activities. Its drafting was influenced by the trend of information globalization, which demands state preparedness to address various forms of digital crime, such as fraud, hacking, and the spread of false information. Responsive law design must adapt to current developments to keep up with technological dynamics.

The ITE Law was established to provide legal certainty for the growing proliferation of electronic transactions in the business and government sectors. This regulation is crucial for strengthening public trust in the digital economy, as without legal frameworks, electronic transactions have the potential to give rise to difficult-to-resolve disputes. The establishment of the ITE Law is a strategic step to protect parties in transactions, ensure the accuracy of electronic documents, and strengthen the security of the national digital system. Furthermore, the need for this regulation is driven by the increasing number of cases of information technology abuse in Indonesia. This demonstrates that before the enactment of the ITE Law, law enforcement against digital crimes was often hampered by the lack of specific norms governing acts such as hacking, data theft, and the dissemination of false information. Therefore, the ITE Law

was created not only for normative purposes but also as an instrument to protect the state against cybersecurity threats.

The enactment of the ITE Law represents a national strategy to establish secure, ethical, and legally certain digital governance. This regulation serves to ensure that information technology is used responsibly and in accordance with national legal principles. This law serves as a primary foundation for formulating policies related to electronic transactions, information security, and data protection, while also opening up space for harmonizing Indonesian law with international legal standards.

3.1.1. Analysis of the Application of Planning Principles in the ITE Law

The principle of clarity of objectives is one of the fundamental principles in designing regulations. legislation. In the context of the ITE Law, the objectives formulated in the considerations and academic papers basically want to provide legal certainty regarding transactions, protect the public from the misuse of technology, and support digital economic development. However, this normative objective is not explicitly formulated because of the mixing of protection objectives with enforcement objectives. Articles that are in Criminal law are more often interpreted as an instrument of social control than an instrument of protection, thus creating an imbalance in implementation. Ambiguity. This goal orientation indicates a conceptual weakness from the design stage, in which the function of strengthening citizens' digital rights does not run in line with the function of proportional law enforcement.

In the formation of the ITE Law, the principles of openness and public participation also did not run smoothly. Optimal. Several civil society organizations, such as SAFEnet, LBH Pers, and AJI, have long voiced objections to the potential misuse of certain articles, particularly those considered as a rubber article. However, the legislative process for the ITE Law and its revisions has not provided adequate dialogue space for affected groups, especially communities, journalists, freedom of expression activists, and social media users in general. This limited public involvement results in the resulting norms being less than ideal. Reflect the needs of society and tend to be insensitive to the protection of human rights. Therefore, the ITE Law is deemed not to have fulfilled the principles of meaningful *participation* as developed in the design science literature legislation.

In terms of the suitability of the type and content of the material, the ITE Law is, in principle, appropriate to be placed as a law because it regulates various important aspects such as electronic transactions, data security, and legal relations in the digital space. However, problems arise when the Law ITE contains criminal provisions relating to insults, defamation, and hate speech. The material not only overlaps with the Criminal Code, but also expands the domain of criminal law into areas of expression that should not be restricted through technical legislation such as the ITE Act. Expanding the meaning of insult and hatred, resulting in the ITE Law covering social behavior, which is not entirely specific to information technology, thus causing a discrepancy with the principles of the content material.accurate, relevant, and proportional. This raises crucial legal drafting problems because the law has become too broad in scope and lost its primary focus aselectronic transaction regulations.

The formulation of norms in the ITE Law also contains several problems related tothe basis of clarity of formulation. The use of non-limitative terms such as “contemptuous”, "information that can incite hatred", as well as the

formulation of crimes that are predictive in nature, has opened up space for broad interpretation for law enforcement officers. Norms that do not provide objective boundaries about what constitutes insult or hatred tend to produce subjective interpretations, and are often used as a tool to limit criticism of certain parties. This is contrary to the principle *certa*, which demands clarity of the elements and boundaries of criminal acts in order to create legal certainty. This formulation is empirically proven to often give rise to cases of criminalization against citizens, journalists, and activists, especially in Article 27 paragraph (3) and 28 paragraph (2).

The effectiveness of the ITE Law in technological development is also an important issue in the drafting of legislation. Information technology is developing much faster compared to the regulatory capacity to adapt. The norms in the ITE Law are static and often cannot accommodate new digital phenomena such as end-to-end encryption (*end-to-end encryption*), social media platform algorithms, *content moderation*, and mechanisms of virality. Enforcement of the ITE Law often only focuses on defamation cases.

Well, while complex cybercrimes such as phishing, *malware*, and data theft have not been handled optimally. The imbalance between goal protection and implementation of law enforcement shows that the ITE Law has not fulfilled the principles of effectiveness and technological *neutrality*, which should be the basis of regulatory design in the digital sector.

3.1.2. Analysis of the Causal Factors of Normative Problems and the Implementation of the ITE Law and the Design of Revised Solutions.

From the outset, the Law on Electronic Information and Transactions displayed a broad use of terms that were difficult to quantify within the boundaries of digital expression due to the lack of clear limiting indicators. This design failure gave rise to vague norms, which ultimately failed to provide measurable boundaries for expression. as manifested in articles subject to multiple interpretations or rubber articles As a result, legal interpretation becomes subjective, both among law enforcers and reporting parties.

This situation is exacerbated by deficiencies in penal policy analysis conducted by lawmakers. They ignore fundamental questions, particularly the principle of ultimum remedium, which should place criminal action as a last resort. This lack of in-depth analysis has multiple implications, potentially leading to overlapping articles with the Criminal Code., and, triggering overcriminalization, which often results in excessively harsh criminal sanctions. This tendency toward overcriminalization in the realm of freedom of expression is evident in the potential misuse of these loose articles to criminalize public criticism of power or policies, thus threatening freedom of expression in the digital space. This law actually serves as a tool to support arbitrary practices rather than an effective legal solution. The normative problems of the ITE Law are increasingly complex due to external factors and internal inconsistencies. The external factor is the gap between rapid technological developments and slow regulations. This regulatory gap makes the static characteristics of the ITE Law difficult to adapt to the dynamic nature of technology, resulting in its norms becoming irrelevant over time. Internally, the ITE Law suffers from flawed normative formulation, resulting in a lack of harmonization with other laws. This horizontal inconsistency results in jurisdictional conflicts and expands the

discretion of the authorities, the culmination of which is the dependence on the Criminal Code because the ITE Law is deemed to have failed to provide legal certainty from its own substance.

To resolve obstacles arising in the legislative process, such as the drafting of the ITE Law, a profound methodological reform is needed to eradicate the root causes of the problems in the positive legal system. These problems include the low quality of regulatory products, numerous conflicting norms, and overlapping regulations. Therefore, one imperative is to strengthen the principle of Evidence-Based Drafting, which requires every draft law to be based on thorough research and empirical data. Furthermore, a Cost-Benefit Analysis (BAP) must be strictly applied before regulations are enacted. This serves as a validation tool that the positive impacts of the regulation will far outweigh its disadvantages. Furthermore, regarding material content, article norms must be formulated in a limited and explicit manner, ensuring clear and comprehensive language to avoid open opportunities for multiple interpretations that could potentially complicate both the public and law enforcement officials. Equally important, active participation from the public and experts must be made a mandatory requirement, not merely an administrative complement. The government is responsible for providing easily accessible participation platforms, such as through websites or online petitions, so that the law-making process is truly transparent, accountable, and relevant to the needs of the times.

4. CONCLUSION

The process of drafting the ITE Law, reviewed from the principles and stages of establishing good legislation, is carried out as stipulated in Law Number 12 of 2011 concerning the Formation of Legislation, which begins with planning, drafting, discussion, ratification, and promulgation. After promulgation, the ITE Law can be implemented by the public as a legal subject and must comply with its existence to create a safe and protected cyber environment from all forms of crime.

The normative principles as stipulated in Article 5 of Law Number 12 of 2011, in conjunction with Law Number 13 of 2022, in the drafting of the ITE Law have not been fully implemented. This is because the ITE Law contains many legal uncertainties in the formulation of phrases, such as non-limitative terms such as "insults," "information that can incite hatred," and the formulation of predictive offenses that have opened up wide room for interpretation for law enforcement officials. Thus, the ITE Law opens up room for the criminalization of the public. Therefore, the ITE Law has not been able to fulfill the principle of clarity of purpose because the ITE Law contains articles with unclear content (rubber articles) that can open loopholes for the criminalization of the public. Furthermore, the ITE Law also does not fulfill the principle of clarity of formulation because it is not written in clear, straightforward, and easy-to-understand language, so as not to give rise to multiple interpretations or confusion in its implementation.

The normative formulation of the ITE Law already has problems in the form of the use of broad terms that are difficult to measure within the limits of digital expression due to the absence of clear indicators of limitations, therefore, in the implementation formulation or its implementation, it will give rise to many problems such as criminalization in social media and prohibitions on expression, criticism and open public discussion on the internet.

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