

# LOW ON INFORMATION AND ELECTRONIC TRANSACTION IN ISLAMIC REVIEW

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## ABSTRACT

*Information plays an essential role in the modern world, and the modern world is the world of data. The dissemination of information is massive, especially when social media becomes a trend of Indonesian communication. It is necessary to set up so that the exchange of information in a very free social media space does not become a place to disseminate hate speech and false information. This research aims to provide information laws and electronic transactions, especially article 27, paragraphs 3 and 28, and 2. Methods used with qualitative approaches through literature studies, documents, and interviews. His findings that this article is considered prone to be misused to silence freedom of speech. Islam as universal teaching highly upholds and encourages its adherents to think and express opinions. Islam freedom of speech is a fundamental right that every individual has that should not be deprived by the State. It is necessary to have free speech to carry it out. The duty of mankind is amar ma'ruf nahi munkar.*

**Keywords:** Freedom, Speech, ITE Law, Islam, Information.

## INTRODUCTION

Information is a precious thing. The world of the 21st century is even known as the information age. The space of information age, information control determines the superiority of a group. The group that can control information will become the ruler in this century. The discovery of social media, which later became a trend of life, further reinforces that. Century is indeed worthy of being called the information age. In the context of Indonesia, information also plays a central role; Indonesian people have long been familiar with the media, which is the main characteristic of the information age. Even Indonesia is one of the countries with the highest social media users in the world (Kurnia, 2018). The massive distribution of information in the media, especially on social media, takes place in a very free atmosphere. Everyone is free to speak and convey whatever he wants to give, and social media is a challenging space to control (Setneg, 2016).

Social media as a very free space contains two consequences, negative consequences, and positive consequences. Adverse effects are born due to the lack of control on social media, and

this opportunity can be misused by irresponsible parties to spread false news on social media (Damota & Uniniversity, 2019). There is a lot of information that falls into lying on social media (Medyada & Ötesi, 2019). Not infrequently, this incorrect information is readily accepted by social media users. More than that, it is not uncommon for social media users to disseminate false information because they think it is a fact. General incorrect information is a severe problem; false information can trigger fights between fellow nation's children on a state scale. In this section, social media users must have the skills to distinguish what is fact and what is false information. These skills can be possessed by verifying the truth before deciding whether the information is a fact or a lie (Arisanty & Wiradharma, 2020). Social media users must refrain from quickly spreading information before confirming whether the information is accurate or not.

Another negative consequence of the very free social media space is that the social media space is prone to become an outlet for hate speech against specific individuals or groups. There is a tendency for social media users to use social media as an outlet for disappointment and anger (Abramova et al., 2017; Varnali & Toker, 2015). This outlet is often packaged with language that contains elements of hate speech. In its journey, the number of hate speeches on social media was then used as one of the reasons the government formulated a regulation so that hate speech would not be vented on social media arbitrarily. The principle is now known as the Electronic Information and Transaction Law (UU ITE). From the government's perspective, the existence of the ITE Law is intended to reduce the massive hate speech on social media.

As for the positive consequences, the very free social media space becomes a powerful channel for Indonesian citizens to express their views and criticisms of government policies or other national issues. Citizens' objections that have not reached the government have more opportunities to be heard by the government. The government will usually respond if the criticism is expressed through social media, especially if the complaint becomes viral. Maybe the response that appears from the government is not in line with the expectations of citizens who convey criticism, but at least in terms of message communication (Abuarqoub, 2019). This has arrived, and there is a two-way conversation between the critic and the criticized party (Laskin, 2012). The freedom to express criticism offered by social media through its very free space aligns with democratic principles (Almagro et al., 2019; Neudert & Marchal, 2019). In the context of democracy is the freedom to express opinions in public. This is the main characteristic of a healthy democracy. Democracy in a country will not be possible without giving space for freedom of expression to the people.

## METHODS

This study uses a literature review methodology. In this section, an assessment of the concepts and theories used is based on the available literature. The literature intended is the Qur'an as the primary source of Islamic teachings. The Qur'an is selected as the prominent literature in the literature review. Because the ITE Law seeks to be reviewed from an Islamic perspective, when talking about Islam, of course, the Qur'an acts as the primary source of teachings. In the context of Islam, it becomes the basis for a world view in viewing and analysing everything.

The verses in the Qur'an that talk about information will be reviewed, especially those related to hate speech and freedom of opinion. These verses will reveal the Islamic perspective on the ITE Law, especially concerning Article 28 Paragraph 2 regarding hate speech. And Article 27 Paragraph 3 concerning insults and defamation, which are prone to misuse to silence freedom of expression, especially criticism of the government.

## RESULT AND DISCUSSION

### Information from an Islamic Perspective

The presence of the ITE Law triggers widespread in the community, and there are short pros and cons in responding to the UU ITE, criticism of the ITE Law appears in the community, the government's excuse that hate speech through ITE Law creates new problems. The regulation on hate speech in Article 28 Paragraph 2 shows the side of vulnerability to be misinterpreted as repression against citizens who criticize the president, government, or police. The content of Article 28, Paragraph 2 reads, *"Everyone intentionally and without rights disseminates information aimed at causing hatred or hostility to certain individuals and community groups based on ethnicity, race, and intergroup (SARA)"* (Setneg, 2016).

The editorial of Article 28 Paragraph 2 is highlighted because its content is considered a rubber article. There are several parts in this article that do not have clear boundaries. The first is the phrase *"spreading information,"* the boundaries about disseminating information are still unclear. The question is to what extent information must be spread so that it can be said to meet the elements of the phrase spreading the news? Does it also include the delivery of information in public forums that anyone can access and read? Or, for example, what is called disseminating information, including the delivery of information in public forums whose access is limited utilizing private settings? Or does it include sharing data in private chat groups? All of this has no clear boundaries (Putri, 2021).

The second is the phrase *"hatred"*; this phrase does not have a clear standard. The size of the hatred referred to in Article 28 Paragraph 2 is not explained in detail. This opens the potential to generalize all types of hate speech regardless of their intensity. Although the scope of hate speech can refer to Article 157 of the Criminal Code, an affirmation of the size of hate speech that can be punished is still needed-quoting the views of Robert Post, a law professor at Yale Law School in the United States. Book extreme speech and democracy, and he said that an utterance must meet a certain intensity standard to be qualified as hate speech that can be punished, which means that not all hate speech can be punished (Hare & Weinstein, 2013).

Another article that also contains severe problems in the ITE Law is Article 27 Paragraph

The editorial of this article reads, *"Everyone intentionally and without rights distributes and transmits and makes electronic information and electronic documents accessible with insulting content and defamation"*. Practice this article is often a tool to intimidate and even criminalizes citizens. Criticize the government the reason is simple; the criticism submitted is considered insulting or defaming individuals who act as government officials (Mijatović, 2017).

The act of reporting against citizens who criticize the government on the grounds of defamation is certainly not good news for a democracy that is being fought for with difficulty. This action silences citizens' freedom of expression to criticize the government, not a few cases

where citizens who criticize the government are reported to the police. More tragically, many of them ended up in prison. A country that claims to be a democracy but silences its citizens through legal instruments does not deserve to be called a democratic country. A country like this is more authoritarian. Authoritarianism certainly should not be allowed to live in a democratic country. The presence of democracy is the antithesis of dictatorship. Democracy exists to destroy authoritarianism (Murphy, 2012; Rosyidin & Pattipeilohy, 2020). It is very irrelevant to create a legal product in a democratic country that injures democracy itself. In this case, the freedom to criticize the government in a democratic state is not sacred, unlike in a royal state, which positions the king as a holy being who cannot be attacked. In a democratic country, the government must be ready to be criticized because the government is a servant of the people.

Islam is a religion that respects freedom of speech. Islam is not a teaching that positions the government as a party that cannot be criticized. It is associated with the ITE Law, especially Article 27 paragraph 3 and Article 28 paragraph 2, which are very prone to be led to the silence of freedom of opinion. Of course, this is not appropriate. With the spirit of Islam that encourages and gives space to freedom of expression, Article 27 paragraph 3 and Article 28 paragraph 2 are prone to be led to the silence of freedom of speech. The two articles do not have clear standards and standards, for example, the phrase "*spreading information*" and the phrase "feeling hatred." "In article 28 paragraph 2, there is no clarity on the size of the two phrases. As a result, citizens who criticize the government's bad policies will easily be positioned as hate speeches. The same situation occurs in Article 27, paragraph 3. The phrase "*insult*" and "*defamation*" also do not have clear standards and measures. As a result, parties who criticize government policies are likely to be accused of insulting and defaming.

### **Unraveling Freedom of Speech based on an Islamic Perspective**

Explicitly the Islamic view on freedom of expression can be referred to the Al-Qur'an Surah Ash-Shura Verse 38. The verse reads: "*And those who answer the call of their Lord and establish worship, and whose affairs are a matter of counsel, and who spend of what we have bestowed on them.*" Al-Qur'an commentator from Indonesia, Quraish Shihab, explains the meaning of *syuwro* contained in verse. Tafsir Al-Misbah Shihab (Shihab, 2009) explains that *syuwro* is a step to take the best opinion by collecting and comparing between one idea. Another, all matters relating to the interests of the congregation or group must be decided by deliberation so that efforts to coerce authoritarian will can be avoided.

Another commentary, namely Zuhaili, also conveyed his interpretation of QS Asy-Syurat verse 38. According to him, the meaning of the verse talks about people carrying out worship orders and the order for deliberation. Deliberation in this context can be interpreted as exchanging ideas to find the best and most correct opinion. Still, according to Zuhaili conducting consideration will eliminate egoism. This is very much needed to create an excellent solution to a problem.

Based on the explanations of Shihab and Zuhaili, it can be understood that freedom of expression is legal in Islam, even a recommendation for realizing a harmonious life order. Freedom of opinion is an individual right that leads the individual to his interests and conscience, which the State should not reduce. With freedom of thought, a Muslim can carry out his Islamic obligations, one of which is the main thing is calling for goodness and prevent evil. It is

impossible without freedom of opinion. It takes skill to speak and open space of idea. Correcting wrong government policies is part. In the section, this can be understood that criticism of power is permitted in Islam and even encouraged significantly when power deviates.

Indonesian Muslim scholar, Madjid, in his book *Islam, Doctrine and Civilization*, divide freedom of thought and opinion into two parts, namely worship and non-worship activities. *Fiqh*, which reads "*as long as it is outside worship is permissible unless there is a religious argument that forbids it,*" the purpose of this rule is that it is not justified to prohibit something if Allah allows it. On the contrary, it is not warranted to allow something if Allah has forbidden it (Setiawan, 2019).

### **How does Islam View Hate Speech?**

Meanwhile, concerning hate speech regulated in the ITE Law article 28 paragraph 2, Islam has its view, basically hate speech is not allowed in Islamic teachings, this can be seen in the Qur'an Surah Al-Hujurat paragraph 11: "*O ye who believe! Let not a folk deride a folk who may be better than they are, not let women (deride) women who may be better than they are; neither defame one another nor insult one another by nicknames. Bad is the name of lewdness after faith. And whoso turpeth not in repentance, such are evil-doers.*"

Based on the verse above, hate speech has no space in Islamic teachings. Islam clearly and firmly prohibits hate speech. Islam has a precise measure of hate speech. A person can be judged to have committed acts of hate speech with the following characteristics: being envious, inciting, insulting and underestimating, criticizing and cursing to hurt (al-lumzu), inappropriate calls where humans who are hearing it refers to something wrong (al-tanabuz), attributing something to another person in the form of satire that can cause anger for that person (al-zammut), all insults that indicate harassment (al-tahkir), like to criticize and spread slander of hostility (Royani, 2018). With the presence of a precise measure of the scope of hate speech from an Islamic point of view. The act of leading hate speech to suppress freedom of expression can be avoided. Besides that, in Islam, there has been a clear recommendation to practice freedom of opinion as described in QS Ash-Shura verse 38.

Although the teachings of Islam provide space for freedom, this freedom does not mean unlimited. The limits set in the release are more than so that no party is oppressed from the expression of freedom of opinion. These limitations, in general, are freedom of view that cannot be used to spread crime, does not violate the law regarding blasphemy and slander, cannot be based on the beliefs of others, and does not use vile insulting language. In the name of criticism, in short, freedom of opinion following the general rules of Islamic law obliges every human being to ensure what is right and avoid what is wrong (In'amuzzahidin, 2017).

### **CONCLUSION**

The teachings of Islam highly value criticism and in expressing opinions. Specifically, Islam supports its fans to think and express ideas. At the same time, Islam also does not provide space for hate speech, and hatred does not in Islam have clear standards to be used for the freedom of members. Therefore Article 27 paragraphs 3 and 28 paragraph 2 of the Electronic

Information and Transaction Law, which are prone to be used to silence freedom of expression, are not by the spirit of Islamic teachings, which offer special attention to freedom of expression.

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