

## Legal Consequences for Political Buzzers in Indonesia



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**ABSTRACT:** Legal consequences for political buzzers in Indonesia that are present as a result of the development of social media in the contemporary era. Social media can be accessed and used by anyone in Indonesia who has the ability to use the required technology, currently there are no specific rules regulating the use of social media even though Indonesia already has Law Number 11 of 2008 concerning Electronic Information and Transactions, however in fact, it has not been able to anticipate the buzzer phenomenon that is present due to the development of social media. Identification of the problem under study is how the legal consequences for political buzzers in Indonesia. This research is a normative legal research using a conceptual approach using primary, secondary and tertiary legal materials. Analysis of legal materials is carried out using qualitative analysis, with deductive reasoning. The results showed that buzzer is not something that is prohibited, they must make specific legal rules regarding registration on social media and create a social media buzzer settlement system based on character building education so that people will use social media positively.

**KEYWORDS:** Legal Consequences, Buzzer, Politics

### INTRODUCTION

Buzzers are more of a group of people whose identities are not clear, then usually have ideological or economic motives behind them and then spread information. buzzers cannot be penalized as long as it is positively conducted. However, if what is "echoed" is hoax and hatred, of course it violates the law. "Buzzer is a phrase. The buzzer is a buzzing bee. This is an effort to amplify and disseminate a content and narrative. Then the buzzer can be used positively or negatively. As long as it is positive, of course it does not violate the law and does not matter. But the buzzer that spreads hoaxes and hate speech violates the law and will be enforced. Previously, Karo Multimedia Divhumas Polri, Brigadier General Budi Setiawan, said the Law on Electronic Information and Transactions had regulated what things could be criminalized. "Article 27 of the Law on Information and Electronic Transactions, for example, regulates decency, gambling, insults, and extortion. The maximum threat is 6 years in prison," also Article 28 of the Law on Electronic Information and Transactions which prohibits spreading hoaxes and fake news. Article 29 of the Law on Electronic Information and Transactions concerning threats and Article 30 concerning illegal access. "Article 30 also regulates the theft of electronic data and data hacking," he added, adding that even though the buzzer has not been regulated, it does have the potential to generate pros and cons.

Political buzzers became a special issue when Ninoy Karundeng was kidnapped while he was in the Pejompongan area, Central Jakarta, on September 30, 2019. At that time he was trying to record the demonstrators who clashed with the security forces. Ninoy hurriedly took out his cellphone and immediately took a picture of the situation when the victim, who was hit by tear gas, was carried, but unfortunate. Ninoy was arrested, beaten, and intimidated by the mob there. The man asked Ninoy's purpose in coming to that place. The man also pointed out that Ninoy is a buzzer. "You cover the demonstration at the House of Representatives, then on your laptop there is an element of hatred directed at figures who are very close to us."<sup>1</sup>

Law Number 11 of 2008 concerning Electronic Information and Transactions has not been able to optimally anticipate the phenomenon of conflict due to buzzer activity, this shows the weak construction of Indonesia's legal resilience to the possibility of conflict by political buzzers. Based on the background of the above problems, the problem can be formulated: what are the legal consequences for Buzzers in Indonesia. The purpose of this writing is to find out the legal consequences for Buzzer. The use of this

<sup>1</sup> Farouk Arnaz, Media Online BERITA SATU.com Selasa, 8 Oktober 2019 | 18:27 WIB

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research is First; theoretically is to add legal materials that can be used for the development of legal science. Second; practically this is to support the formation of laws and regulations related to legal consequences for Buzzer and provide input or contribution of thoughts to policy makers of law enforcement officials, the community and other stakeholders.

### RESEARCH METHODOLOGY

This paper uses the normative legal writing method because it examines statutory regulations, literature, and journals and papers related to the material under study, which consists of the types of data obtained in this study are secondary data, namely data obtained from library research and documentation. , which is the result of research and processing of others, which is already available in the form of literature or documentation

### DISCUSSION AND RESULTH

#### Buzzer

Buzzer when interpreted literally is a bell. This bell is used as a sign for people to gather to do something or can be interpreted as a special sign of an event. However, nowadays in the digital era, the term buzzer is shifting to the realm of social media. On social media, a buzzer functions as a person or organization that acts as a bell for those around them. This buzzer provides information on current issues from his perspective. Usually, this buzzer has an active natural following and is ready to support the opinions and reviews of this buzzer.<sup>2</sup>

In the context of social media, buzzer is defined as a person who echoes, echoes, promotes, or campaigns for a problem or product by utilizing social media. Therefore, one of the main requirements to become a buzzer is to have a social media account that has a lot of followers. At first, buzzers were widely used for business promotion purposes through social media, but now with the increasing popularity of social media as the main means of communication for the community, buzzers are reaching other worlds, one of which is politics which often creates conflicts. Ross Tapsell, political and media expert at the Australian National University said candidates in Southeast Asia usually employ online campaign strategists, who mobilize troops to spread content on social media.<sup>3</sup>

A buzzer is a person who uses their own social media account to disseminate information, or in other words to promote a product or service. The term buzzer became increasingly known when social media began to be used massively as a marketing communication channel. Good for marketing communications of a product, service, to "marketing" communications in the fields of politics, law and so on. Professional buzzers are usually organized, where they design specific issues that need to be raised publicly through social media channels and have mapped out who could be the intermediaries for the message so that it can be buzzing and viral.

#### Political Buzzer

the existence of a political buzzer during the campaign period is a very determining element. The term buzzer itself was first recognized in the business world. Its existence is used by entrepreneurs to market products in the world. virtual massively and continuously. Over time, the success of buzzers in marketing products in the business world has attracted political actors to do the same in the context of elections. Political actors who participate in the election contest ranging from individuals, candidates or pairs of candidates carried by a party or coalition of parties, even to the political parties themselves are competing to involve buzzers organically in the success teams they have created. The buzzers involved in campaigns in cyberspace can come from volunteers, cadres from the party itself, or other people who are deliberately paid to become political buzzers during the campaign period. In general, political buzzers are tasked with introducing the vision, mission and programs of election participants in cyberspace. Political buzzers are also tasked with processing amplified public opinion in such a way as to increase the popularity, electability and acceptability of election participants in the midst of society.<sup>4</sup>

The involvement of political buzzers in campaigning on social media must be closely monitored by the General Election Supervisory Body (Bawaslu) and all its organs at the regional level. This is intended so that the campaign methods that are prohibited by law or more popularly known as the Black Campaign do not occur on social media. The black campaign mode on social media carried out by irresponsible political buzzers is to create a special social media account with a vague or no identity (Anonymous) first, then the account spreads fake news (hoax) accompanied by speech hatred and sensitive issues such as racial and ethnic issues regarding other election participants in order to reduce electability and cause distrust (distrust) to the election participants who are their opponents.

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<sup>2</sup> Sugi Priharto, Media Accurate Online, September 23rd, 2020

<sup>3</sup> Dw.com, Kisah Buzzer Jelang pemilu, <https://www.dw.com/id/kisah-buzzer-media-sosial-jelang-pemilu/a-47888500>, (accessed October 10, 2019).

<sup>4</sup> Juditha, C. (2019). Buzzer di Media Sosial Pada Pilkada dan Pemilu di Indonesia. Prosiding Seminar Nasional Komunikasi dan Informatika, #3

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Philosophically, the campaign is actually an activity that is intended to convey all matters relating to election participants to the public in their constituency in order to convince the public as a candidate for voters to elect the election participants in the election contest.<sup>5</sup>

On the other hand, the campaign can also be an arena for prospective voters to convey their aspirations to election participants who will later become leaders at the regional and central levels or people's representatives in parliament. The communication strategy is vital, because it will affect the electoral and acceptability of prospective candidates in the hearts of prospective voters. Election participants continued to make various breakthroughs in order to get a lot of votes from potential voters, such as the use of digital platforms which were continuously used as campaign media through social media in cyberspace. In this case, prospective candidates often involve political buzzers to maximize campaigns on social media, because political buzzers and all of their followers have experience in producing news and making slogans amplified in such a way that it becomes a bumming issue on social media that can benefit election participants. who defends. Of course, all of that must pay attention to the principles that apply in elections, namely direct, general, free, confidential, honest and fair. In essence, elections are a form of implementation of democratic principles, in which the highest sovereignty rests in the hands of the people. The position of the people becomes central in elections, because the people have the power to determine the style of government and the goals the state wants to achieve in the next few years through the mechanism of appointing a leader or representative who will serve or can be called a representative democracy system (Representative Democracy). Elections should ideally be held regularly or every few years on a regular basis, where in the context of Indonesia, every 5 (five) years to ensure an orderly cycle of power, so that democracy can be guaranteed and a government that truly serves the interests of all the people can truly be really work effectively and efficiently.<sup>6</sup>

### Legal Consequences for Buzzers

Buzzers according to the perspective of the law cannot be convicted, as long as the content that is echoed positively certainly does not violate the law and is not a problem. However, for buzzers who spread hoax content and / or hate speech, they can be penalized for violating the law. There are 3 (three) criteria for hoaxes, First, news that is made for certain interests, then disseminated with specific purposes and purposes. Second, news that may be made by unprofessional media with a combination of journalists who are not competent. He didn't know how to find out how to verify so the news appeared without verification. Third, its dissemination is not intended to achieve anything, but indeed this media is not proper, the news is wrong, taking from sources that are not credible. Unfortunately, the news was taken by other people and then disseminated.<sup>7</sup>

The ease and freedom of use of social media in Indonesia which is growing rapidly has made various information circulate so quickly. If this freedom is not balanced with digital literacy, it can cause legal laymen to easily spread fake news aka hoaxes to become increasingly rampant. One of them, the freedom of buzzer in social media is actually being misused more and more. They act on behalf of the press, but their motive is as a buzzer. Not only through online sites, hoaxes also circulate in chat messages. The increasing and unstoppable number of hoaxes led the government to finally take the initiative to do a number of ways that even hoax spreaders could be caught up in the law. The spreaders of hoaxes / fake news / incomplete news can be subject to criminal sanctions in accordance with the provisions of Article 14 and Article 15 of Law Number 1 Year 1946 concerning Criminal Law Regulations. The legal trap if using Article 14 and Article 15 of Law 1/1946 is not half-hearted, some may be subject to sanctions of 2 (two) years, 3 (three) years and even 10 (ten) years which qualify in 3 forms of violations, namely:

1. Article 14 paragraph (1) states that "broadcasting fake news deliberately publishing disturbances among the people" is subject to a 10 (ten) year prison sentence.
2. Article 14 paragraph (2) states "Broadcasting news or issuing notifications which can cause disturbance among the people, while he should be able to deny that the news is a lie" shall be subject to a 3 (three) year prison sentence.
3. Article 15 states "Broadcasting news that is uncertain or news that is excessive or incomplete, while he understands and is able to suspect that the news will publish chaos" will be subject to a 2 (two) year prison sentence.<sup>8</sup>

The provisions of Article 14 and Article 15 of Law No.1 of 1946 are easier to apply to hoax news spreaders than to use the articles contained in the ITE Law. Article dissemination of hoax news as regulated in the ITE Law is very limited in contexts that cause consumer losses and there are also hate speech that creates hostility. In the ITE Law for hoax spreaders, Article 28 paragraph 1 of the Information and Electronic Transactions Law or the ITE Law states that everyone deliberately and without rights spreads false and misleading news that results in consumer losses in Electronic Transactions that can be subject to criminal penalties under Article

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<sup>5</sup> ibid

<sup>6</sup> Rayhan Naufaldi Hidayat, Penggunaan Buzzer Politik di Media Sosial Pada Masa Kampanya Pemilihan Umum. 'Adalah: Buletin Hukum dan Keadilan, Vol. 4, No. 2 (2020)

<sup>7</sup> Shinta Qadriah, Buzzer dalam kaca mata hukum. JDIH Kabupaten Tanah laut. Pelaihari, 2020

<sup>8</sup> Undang-Undang Nomor 1 Tahun 1946 tentang Peraturan Hukum Pidana

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45A paragraph (1) of Law Number 19 of 2016, namely, shall be punished with imprisonment of up to 6 (six) years and / or a maximum fine of IDR 1 billion.<sup>9</sup>

The polemic of the ITE Law has occurred for many years, where the ITE Law continues to claim victims because the trap can catch easy targets for people who happen to want to inform something which they think is not good, but the sanctions given seem incompatible with the actions taken and are less effective. Meanwhile, if using the provisions of Article 14 and Article 15 of Law Number 1 Year 1946, no other clause is needed, because it is purely incomplete or false news. Regarding the offense for spreading hoax content, it is an offense for eliminating racial and ethnic discrimination as regulated in Law Number 40 of 2008. However, the imposition of this offense can fulfill if certain clauses and conditions such as the hoax content that is disseminated are hostile and cause hatred against racial groups or certain ethnicity.<sup>10</sup>

With the existence of several cases related to buzzers spreading or leading fake news / hoaxes that have been circulating in the mass media, it is hoped that the public will be more careful and smarter in choosing news on social media and it is not easy to spread information that is not yet clear. Then to victims who have become objects of hoaxes so that they can be more confident in voicing themselves if the news is not true in accordance with the provisions of Article 28D of the 1945 Constitution of the Republic of Indonesia. And for law enforcement officials to maximize protection and enforcement of laws and regulations as well as better prepared in the face of increasingly high advances in information technology. In addition, law enforcement officials are also expected to cooperate more with all networks and government agencies authorized in preventing fake news / hoaxes so as not to cause problems that lead to conflict in society.<sup>11</sup>

The dynamics of political activity on social media in the October 2019 period in Indonesia were enlivened by the issue of the widespread use of political buzzer services by certain groups. The issue of "palace buzzers" is rife on various forums, with social media users claiming that palace buzzers are the people who are "paid" to support any government policy. Several well-known social media accounts that are referred to as buzzers include Yusuf Muhammad, Katakita, Abu Janda, Aldi El Kaezzar, Pepih Nugraha, Info About the President, Indonesian Editor, Eko Kuntadhi, Komik Kami, Komiran Pinggiran, Habib Think, Salman Faris, and Seword. com. Although the Presidential Chief of Staff Moeldoko stated that there was a buzzer but it was not paid, the arrest of Ninoy Karandeng who claimed to be the buzzer of the palace and was paid 3.2 million per month added to the conversation about this.<sup>12</sup>

Indonesia is a country that has a very fast growth and development of the internet, although in terms of the percentage of distribution and penetration it is still relatively low. Indonesia is currently one of the countries with the largest number of internet users in Southeast Asia. (Indonesian Media Defense Litigation Network and Institute for Criminal Justice Reform, 2011).<sup>13</sup> The development of the internet and technology that should sustain it should be balanced by anticipating it by forming laws and regulations that can absorb possible conflicts resulting from the development of the internet.

To anticipate the development of the internet, the Government of the Republic of Indonesia then established Law Number 11 of 2008 concerning Electronic Information and Transactions which subsequently amended several provisions in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008. Although to anticipate developments internet technology that has been implemented, in fact these regulations still have shortcomings and seem unable to keep up with the rapid development of internet technology including the result of the birth of social media and all the conflicts that accompany it.<sup>14</sup>

One of the things that Law Number 11 of 2008 on Electronic Information and Transactions fails to follow is the emergence of the buzzer phenomenon. Buzzer is not regulated under Indonesian law. As long as the "heralded" content is true and not lies and does not contain hate and SARA, the buzzer cannot be charged under Law Number 11 of 2008 concerning Electronic Information and Transactions. This means that the opinion expressed at the beginning of this article is in accordance with the existing conditions where actions against buzzers can be carried out by first examining whether the action is contrary to one of the legal norms in Law Number 11 of 2008 concerning Information. and Electronic Transactions or not, the problem is there are several norms that can be

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<sup>9</sup> Undang Undang Informasi dan Transaksi Elektronik

<sup>10</sup>Shinta Qadriah, Buzzer dalam kaca mata hukum. JDIH Kabupaten Tanah laut. Pelaihari, 2020

<sup>11</sup> ibid

<sup>12</sup> ibid

<sup>13</sup> Indonesia Media Defense Litigation Network dan Institute for Criminal Justice Reform, 2000-2010: Kebebasan Internet Indonesia: Perjuangan Meretas Batas [Briefing Paper Nomor 3 Tahun 2011], Jakarta, 2011.

<sup>14</sup> Muhammad Syirazi Neyasyah, *Legal Resilience in the Phenomenon of Social Media Political Buzzer in Indonesia*, 3rd International Conference on Law and Governance (ICLAVE 2019) Advances in Economics, Business and Management Research, volume 130 hal 340.

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enforced by buzzers, be it spreading fake news, defamation or even both, this is a bad thing because it shows legal uncertainty that arises in handling buzzers.<sup>15</sup>

Law Number 11 of 2008 concerning Electronic Information and Transactions is the result of the collaboration of various ministries such as the Ministry of Transportation, the Ministry of Industry, and the Ministry of Trade. The formulation of Law Number 11 of 2008 concerning Electronic Information and Transactions is the result of a collaboration between the government and a team from Padjadjaran University, the Bandung Institute of Technology, and the University of Indonesia. The implementation of Law Number 11 of 2008 concerning Electronic Information and Transactions has had an impact on democracy in Indonesia. Since the enactment, cases of silencing freedom of expression on the internet have been snared with Law Number 11 of 2008 concerning Electronic Information and Transactions.<sup>16</sup>

Another victim of Law Number 11 of 2008 concerning Electronic Information and Transactions is Nazriel Irham alias Ariel. The vocalist of the Noah music group is entangled in Law Number 11 of 2008 concerning Electronic Information and Transactions in 2010. He is considered responsible for making and distributing pornographic video footage of his sex scenes with two famous celebrities. The tape circulated on the internet and Ariel was held responsible. In the trial process, Ariel admitted that he had never shared the video recording with anyone. The judge sentenced Ariel to 3.5 years in prison and a fine of Rp. 250 million. Ariel eventually became a resident of the Kebun Waru Prison in Bandung after previously being detained at the Detention Center for the Police Headquarters and the Sukamiskin Prison. In the process, Ariel only spent 2 years and 1 month in prison.<sup>17</sup>

Another case that went viral was an upload by Florence Sihombing in 2014. The notary graduate student of the Gadjah Mada University Faculty of Law was also charged with Law Number 11 of 2008 concerning Electronic Information and Transactions because it was considered to have insulted Yogyakarta. The incident stems from Florence's frustration when she tried to take a queue at a gas station, but was prevented. He expressed his frustration by insulting the people of Yogya. Florence's frustrated expressions on the Street later spread on social networks. Flo was severely reviled on social networks. He finally apologized to the people and the Royal King Sri Sultan Hamengkubuwono X. Even though he already apologized, Flo still had to undergo a legal process. Flo also had to languish in prison even though he was later given a detention suspension. Florence was charged with Article 27 paragraph 3 in conjunction with Article 45 paragraph 1, and Article 28 paragraph 2 in conjunction with Article 45 paragraph 2 of the ITE Law. He was sentenced and sentenced to 2 months in prison with a probation period of 6 months by the Yogyakarta City District Court. Florence was also fined Rp10 million in one month in prison.<sup>18</sup>

The aforementioned cases actually sparked a polemic in the majority of society that Law Number 11 of 2008 concerning Electronic Information and Transactions which was formed to impose restrictions on the freedom of expression of the public in using social media has silenced freedom itself. This is actually already known by the government and is trying to revise Law Number 11 of 2008 concerning Electronic Information and Transactions, but in fact until now it has not been able to fully absorb the phenomenon of the existence of the internet and social media, let alone the phenomenon of the existence of the buzzer which is clearly not specifically regulated so the action must be described using several articles.

To anticipate this, the government can coordinate with social media provider platforms in establishing regulations for the use of social media. To set regulations in cyberspace, countries need to ascertain "who does what and where". In order to know "who", the state must know how "identification" works in general and how it works on the internet. Identification revolves around three things, namely:

- 1) Identity;
- 2) Authentication;
- 3) Credentials.<sup>19</sup>

Identity can be shown, for example by showing a National Identity Card (KTP). The KTP contains, among other things, gender, age, occupation and marital status. However, the KTP needs to be authenticated.<sup>20</sup>

This authentication process can be as simple as the authentication process carried out by financial technology companies by asking for a selfie while holding a KTP. Apart from authentication, credentials which also have legal consequences between the platform and the user need to be created, and this can usually be done by simply e-signing or clicking the checkbox after a potential user has

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<sup>15</sup> Muhammad Syirazi Neyasyah, *Legal Resilience in the Phenomenon of Social Media Political Buzzer in Indonesia*, 3rd International Conference on Law and Governance (ICLAVE 2019) Advances in Economics, Business and Management Research, volume 130 hal 340.

<sup>16</sup> Arman Dhani, *Ketika UU ITE Menjadi Momok Masyarakat*, Tirto.id, <https://tirto.id/ketika-uu-ite-menjadi-momok-masyarakat-ct,2016>, (accessed October 10, 2019)

<sup>17</sup> *ibid*

<sup>18</sup> *Op cit*

<sup>19</sup> Lawrence Lessig, *Code: Version 2.0*, New York: Basic Books, 2006.

<sup>20</sup> *ibid*

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read the credentials. This registration process does seem to make it difficult for people to use social media, but it is a solution to the many negative actions of political buzzers on social media. The relative absence of authentication in cyberspace makes it very difficult to regulate behavior there. The state may say, "Don't let children watch porn," but website operators will never be able to tell whether the entity accessing their website is a child or an adult. It's just that certain websites require registration so that users can identify the identity of the internet user in question, for example Facebook, Twitter, and other social networks. However, identification in cyberspace still leaves a problem: is the identity recognized by the internet an identity that really exists and is the same in the real world?<sup>21</sup>

The application of stricter social media registration can certainly help reduce the number of negative buzzer activity, which is mostly carried out by anonymous accounts using fake identities and of course difficult to trace if legal action is required against them. The Indonesian government may have carried out too many repressive actions which made rules based on the conflict that had occurred did not anticipate before the conflict, but one simple step that could be very helpful at this time is to synergize with social media platforms in creating a scalable registration system so that the adverse effects of the buzzer activity can be reduced.

## CONCLUSION

The legal consequences in Indonesia in dealing with the buzzer phenomenon in Indonesia are still fragile because they have not been regulated concretely in Indonesian law. Currently, buzzers have resolved illegal actions by using other regulations such as defamation and the spread of hoaxes which have created legal uncertainty. The buzzers mostly use social media accounts without registering real identities, so law violations are difficult to track. The first step that can be taken to overcome this is to work together with social media platforms to tighten the account registration process so that all account users use real identities and are easier to monitor.

The problem of conflict due to the use of social media and the rampant negative buzzer activity cannot actually be resolved by simply taking action in the form of stipulating legal rules or taking legal action against the violations that have occurred. There must be a long-term plan that must be carried out through educating the public through social engineering efforts. Social engineering is expected to be able to change people's mindsets and actions in using social media. Social change is a major concern for many social theorists. Many modern social scientists pay attention to these social changes or even predict projections of future social changes.

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<sup>21</sup> AP Edi Atmaja, *Kedaulatan Negara Di Ruang Maya : Kritik Uu Ite Dalam Pemikiran Satipto Rahardjo*, Jurnal Opinio Juris, Vol. 16, September 2014

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