




The Restorative Justice Orientation to Hoax Spreaders on Social Media: Urgency and Formulation

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Article Info	Abstract	
<p>Keywords: Hoax; Restorative Justice; Criminal Act.</p>	<p>Introduction: The development of the use of digital media has had an impact on the amount of hoax information on social media. The large amount of hoax information in the community has made law enforcement officials immediately apply criminal law enforcement against hoax news spreaders.</p> <p>Purposes of the Research: The urgency and formulation of the application of restorative justice in the crime of spreading hoax information on social media.</p> <p>Methods of the Research: Normative legal research with a concept and statutory approach.</p> <p>Results of the Research: The urgency of implementing RJ for perpetrators of criminal acts of spreading hoaxes on social media because RJ's orientation is to provide compensation for victims as well as having a future orientation to educate the public so they can prevent criminal acts from occurring. The application of RJ in cases of criminal acts of spreading hoaxes on social media can be formulated by regulating the application of RJ in cases of criminal acts of spreading hoaxes on social media by revising the provisions of the SKB UU ITE. Revision of the Joint Decree on the ITE Law by incorporating the RJ aspect as an effort to resolve the criminal act of spreading hoaxes on social media as well as the criminal act of the ITE Law in general.</p>	

1. INTRODUCTION

One of the implications for the uncontrolled spread of hoax information is the development of hoax information. Hoax information is simply understood as false information, false, and has broad implications in society, especially can mislead the public. Hoax information is increasingly massive, one of which is due to developments regarding the use of social media.¹ As of March 2023, the AIS Team of the Directorate General of Information Applications has released 425 hoaxes in Indonesia until March 2023. This number is quite normal because in 2022, referring to JawaPos.com, a total of 1,698 hoax cases have been identified that year.² This also confirms that hoax information is becoming more massive, especially when the use of digital media in society is getting higher. The high

¹ Iredho Fani Reza, "Counteracting Hoax in Social Media Through Tabayyun By Islamic Student Community," *Ta'dib* 24, no. 2 (2021): 269, <https://doi.org/10.31958/jt.v24i2.4740>.

² Antara, "1.698 Kasus Hoaks Ditemukan Pada 2022" (www.jawapos.com, 2022).

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spread of hoax information in Indonesia is shown by the spread of hoax information that continues in the realm of criminal law. This is reinforced by data from SAFENet, that from 2013 to 2022 as many as 393 hoaxes have been followed up through criminal legal processes.³

Juridically, in Article 28 paragraph (1) of Law No. 11 of 2008 concerning ITE (ITE Law) juncto Article 45A paragraph (1) of Law No. 19 of 2016 concerning Amendments to the ITE Law (ITE Amendment Law) has affirmed sanctions regarding disseminators of false and misleading news. Even so, the blurring of the substance of Article 45A of the ITE Amendment Law which criminalizes the community a lot, then the formulation of the ITE Law Decree signed by the Minister of Communication and Information, the Attorney General, and the Chief of Police.⁴ The Joint Decree (*Surat Keputusan Bersama* or SKB) of the ITE Law is substantively related to Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law has provided several constructions, namely: Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law which regulates hoaxes must be understood in the context of transactions or trade through online or digital media. This confirms that the hoax in Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law is related to transaction activities, not hoaxes in general, so that the main characteristic of Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law is a special offense, not a general offense.

The update in the SKB UU ITE above actually provides an orientation to solve cases of spreading hoax information to be resolved by restorative justice (RJ), even though the SKB UU ITE has not been specifically regulated regarding RJ. RJ's settlement emphasizes the interests and recovery of the victim while ensuring efforts to make the perpetrator convert not to repeat his actions.⁵ RJ's orientation as an effort to solve the main crime of spreading hoax information is considered closer to the aspect of justice and has educational value to prevent potential hoaxes in the future.⁶ Therefore, this study aims to answer two legal issues, namely: the urgency of applying restorative justice in the criminal act of spreading hoax information on social media and the formulation of the application of restorative justice in the criminal act of spreading hoax information on social media.

Research that discusses hoaxes on social media has actually been carried out by several researchers before. Research on hoaxes on social media, three of which were conducted by: First, Lestari and Sari (2020) in their research related to the effectiveness of the ITE Law in carrying out law enforcement against the spread of hoax information on social media emphasized that the ITE Law still has obstacles in efforts to carry out law enforcement against the spread of hoax information.⁷ The advantage of this research is that it empirically photographed law enforcement against the spread of hoax information using the ITE Law

³ Cindy Mutia Annur, "Hampir 400 Orang Dituntut Dengan UU ITE Dalam 9 Tahun Terakhir" (databoks.katadata.co.id, 2022).

⁴ Kementerian Komunikasi dan Informatika, "SKB Pedoman Implementasi UU ITE Ditandatangani, Menko Polhukam Berharap Beri Perlindungan Pada Masyarakat" (Jakarta: Kementerian Komunikasi dan Informatika, 2021).

⁵ Henny Saida Flora, Mac Thi Hoai Thuong, and Ratna Deliana Erawati, "The Orientation and Implications of New Criminal Code: An Analysis of Lawrence Friedman's Legal System," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 1 (April 4, 2023): 113–25, <https://doi.org/10.29303/ius.v11i1.1169>.

⁶ Dwi Kurniawan, "Pendekatan Restorative Justice Melalui Mediasi Penal Dalam Menangani Tindak Pidana Penganiayaan," *Idea Hukum* 8, no. 1 (2022): 4.

⁷ Zulfan, Lestari AKA, and Dewi Maya Sari, "Efektivitas Penerapan Undang-Undang Ite Terhadap Pelaku Penyebaran Hoaks Covid-19 Di Media Sosial," *Jurnal Transformasi Administrasi* 10, no. 2 (2020): 198–211, <https://doi.org/10.56196/jta.v10i02.164>.

instrument. The drawback of this research is that it has not analyzed other aspects besides the ITE Law that also hinder law enforcement for disseminators of hoax information.

Second, Prameswari and Astariyani (2021) in their research entitled legal comparison of hoax regulation provisions between Indonesia and other countries.⁸ The advantage of this research is the existence of comparative legal analysis so as to add to the scientific repertoire related to the regulation of hoaxes in Indonesia and other countries. The weakness of this study is that it has not described the practice of implementing and enforcing regulations regarding hoaxes in each country. Third, Sitorus, et al. (2023) in their research which discusses hoaxes with a focus on terrorism and radicalism spread with hoax information.⁹ The advantage of this study is that it describes the characteristics of hoax information and its patterns that are commonly carried out in efforts to lead to acts of terrorism and radicalism. The weakness of this study has not provided a normative analysis of the problems in laws and regulations regarding terrorism and radicalism which are spread with hoax information whether enforced through the ITE Law or the Terrorism Law. Of the three studies above, this study with a focus on the urgency and formulation of the application of restorative justice in the criminal act of spreading hoax information on social media is an original research because it has not been discussed comprehensively in the three previous studies.

2. METHOD

This research with a focus on the urgency and formulation of the application of restorative justice in the criminal act of spreading hoax information on social media is a normative legal research with the main focus being the analysis of the ITE Law and using an "analysis knife" in the form of the RJ concept. Analysis with concepts and based on laws and regulations is one of the characteristics of normative legal research. The primary legal materials used in this study include: the 1945 NRI Constitution, the ITE Law, the ITE Amendment Law, and the SKB of the ITE Law. Secondary legal materials are journal articles both in hardfile and softfile form, books (including e-books), and the results of studies that discuss hoax crimes and the concept of restorative justice. Non-legal materials include: legal dictionaries. The approach used is a concept and legislation approach.

3. RESULTS AND DISCUSSION

3.1 The Urgency of Implementing Restorative Justice in the Criminal Act of Disseminating Hoax Information on Social Media

Hoaxes are false information or false information intended to mislead or deceive the general public. Hoax information itself in its spread is increasingly massive when the use of social media becomes a "necessity" in everyday life.¹⁰ The majority of Indonesians even use social media at least 6 hours a day. This reality actually supports the spread of hoax information that can harm the community. The Big Dictionary Indonesian provides a

⁸ Ni Luh Gede Astariyani Pande Made Adhitya Prameswari, I Nyoman Sujana, "Pengaturan Hoax (Berita Bohong) Dalam Perspektif Perbandingan Hukum Di Indonesia," *Kertha Semaya : Journal Ilmu Hukum* 9, no. 9 (2021): 1688-1702.

⁹ Ilham Prisgunanto, Rahmadsyah Lubis, and Tigor Sitorus, "Strategi Pencegahan Penyebaran Berita Hoax Terkait Dengan Radikalisme Dan Terorisme," *Ilmu Kepolisian* 16, no. 2 (2022): 111-25.

¹⁰ Morissan A, Andy Corry Wardhani, and Tri Dhiah Cahyowati, "Who Believes Hoaxes? Xenophobia and Religiosity as Hoax Predictors among Social Media Users," *International Journal of Academic Research in Business and Social Sciences* 11, no. 2 (2021): 1-21, <https://doi.org/10.6007/ijarbss/v11-i2/8383>.

definition of hoax that hoaxes are related to false information intended to cover up real information.¹¹ In the Legal Dictionary, hoaxes are identified as false information spread to cover up the truth.¹² Referring to the definition from the Big Indonesian Dictionary and Legal Dictionary above, hoaxes actually include three aspects, namely: false information, disseminated, intended to cover up real information. These three aspects are cumulative aspects to describe hoax information.

The false information aspect is considered an appropriate term rather than misinformation. This is because any misinformation is not necessarily false whereas false information is definitely false information. False information in this context is also synonymous with false information. Both false information and false information have an orientation that the information is information that is fabricated by certain parties so that there is no objective dimension.¹³ The disseminated aspect is an important aspect of hoax information because one of the purposes of hoax information is false information or it is disseminated to the general public. The next aspect is the purpose of spreading hoax information, which is to cover up the real information. Information that is actually deliberately closed for certain interests so that hoaxes can be formulated briefly as an attempt to "twist or fabricate" information that is misleading the audience for certain purposes.¹⁴

Referring to the conception of hoaxes above, positive law in Indonesia is formulated regarding the prohibition of spreading false information or false information that can mislead the public. Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law actually regulates provisions regarding the prohibition of the dissemination of hoax information and its sanctions. Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law actually explains the elements referred to as hoax information, namely: deliberately, without the right to disseminate, false and misleading news, results in consumer losses in electronic transactions. The first element is deliberately meant that hoax information is deliberately intended to mislead people or other parties.¹⁵ This means that if the information is "accidental" to be conveyed or not intended to mislead other people or parties, then the information cannot be called hoax information. The second element is without the right to disseminate which one of the efforts so that hoax information can have an impact on other people or parties is when the information is disseminated. The third element is fake and misleading news where the provisions in Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law expressly affirm that so-called hoax information is "false and misleading" information.¹⁶

¹¹ Pusat Bahasa Departemen Pendidikan Nasional, *Kamus Bahasa Indonesia* (Jakarta: Departemen Pendidikan Nasional, 2008).

¹² Viswandro, *Kamus Istilah Hukum: Sumber Rujukan Peristilahan Hukum*, ed. Alex, Cetakan ke (Yogyakarta: Penerbit Medpress Digital, 2014).

¹³ Bambang Hartono, I Ketut Seregig, and Budi Wibowo, "Strategies in Countering Hoax and Hate Speech in Indonesia," *Sociological Jurisprudence Journal* 4, no. 2 (2021): 134-44, <https://doi.org/10.22225/scj.4.2.2021.134-144>.

¹⁴ Mompang L Panggabean, "Handling of Hoax News According to Law Number 1 of 1946," *International Journal of Advanced Science and Technology* 29, no. 08 (2020): 1275-87.

¹⁵ Marcelo F. Aebi and Fernando Miró-Llinares, "Crime, Criminal Justice, and the COVID-19 Crisis Lockdown: A Special Issue Introduction," *Journal of Contemporary Criminal Justice* 37, no. 4 (2021): 476-79, <https://doi.org/10.1177/104398622111061887>.

¹⁶ Agnieszka Gryszczyńska, "The Impact of the COVID-19 Pandemic on Cybercrime," *Bulletin of the Polish Academy of Sciences: Technical Sciences* 69, no. 4 (2021): 1-9, <https://doi.org/10.24425/bpasts.2021.137933>.

This emphasizes that if there is false or false information but does not have the orientation and tendency to mislead, then the information cannot be called hoax information.

The fourth element and the most important element in Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law is that it is referred to as hoax information when the information harms consumers in digital transactions.¹⁷ This provision of harming consumers is actually the "main requirement" for criminal acts in the form of hoax information.¹⁸ In relation to consumer losses, to be said to be hoax information, there must be a legal relationship between business actors and consumers. In legal science, especially consumer protection law, there is indeed a juridical obligation that business actors are obliged to provide correct information to consumers.¹⁹ Therefore, the provisions of Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law with its orientation to protect consumers are to reinforce aspects of consumer protection in the digital transaction process. This also emphasizes that Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law is a crime of hoax information specifically applicable in the realm of digital transactions so that the provisions in Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law are not applied in the public domain.

Referring to the elements of hoax information crime in Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law, it can be concluded that: first, the provisions for hoax information crime are special in nature so that they cannot be applied in the public domain. Second, the hoax information crime above only applies to digital transaction relationships, namely between business actors and consumers, and the three hoax information crimes above must specify what kind of consumer losses are experienced due to the hoax information. With this description, the existence of various hoaxes on social media actually cannot be directly categorized as hoax information, because hoaxes that occur on social media are not always in the realm of digital transactions. The application of Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law, which is substantively only aimed at perpetrators of criminal acts disseminating hoax information in the realm of digital transactions which is then applied to the public domain so that it also targets disseminators of fake news information.²⁰

In this context, the noble purpose of Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law actually encounters discrepancy in its application because it is precisely about the disseminators of hoax information not intentionally, but because they only participate in sharing information.²¹ The phenomenon of people participating in sharing this information actually does not meet the deliberate elements in Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law so

¹⁷ Vokhid Sunnatov and Tashkent State, "Issues of Classification of The Crime of Career Fraud In Uzbekistan," *İlköğretim Online* 20, no. 3 (2021): 1508-13, <https://doi.org/10.17051/ilkonline.2021.03.168>.

¹⁸ Azenia Tamara Davina, Sigid Suseno, and Mustofa Haffas, "Penyebaran Konten Yang Mengandung Hoax Mengenai Covid-19 Melalui Media Sosial Facebook Berdasarkan Uu Ite Dan Hukum Pidana," *Media Keadilan: Jurnal Ilmu Hukum* 12, no. 1 (April 29, 2021): 1-25, <https://doi.org/10.31764/jmk.v12i1.4255>.

¹⁹ Budi Santoso Yustina Dhian Novita, "Urgensi Pembaharuan Regulasi Perlindungan Konsumen Di Era Bisnis Digital," *Pembangunan Hukum Indonesia* 3, no. 1 (2021): 48.

²⁰ Nur Cahyo Ari Prasetyo and Sri Endah Wahyuningsih, "The Handling Of Hoax/False Information In The Legal Jurisdiction Area," *Law Development Journal* 3, no. 3 (2021): 564, <https://doi.org/10.30659/ldj.3.3.564-572>.

²¹ Hendral Venno et al., "Criminal Response Formulation Policy Distribution News (Hoax) through Social Media," *Journal La Sociale* 2, no. 6 (2021): 13-21, <https://doi.org/10.37899/journal-la-sociale.v2i6.495>.

that it cannot actually be subject to punishment based on Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law. The application of Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law which is "mistakenly" applied is actually a means of criminalization for the community. People who are actually "not wrong" based on the purpose of a criminal law law actually become victims of the criminalization.²²

The fact that there was a shift in the application of the provisions of Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law then received a response by the government through the issuance of the SKB of the ITE Law.²³ One of the points in the SKB UU ITE is the affirmation that the provisions of Article 28 paragraph (1) of the ITE Law juncto Article 45A of the ITE Amendment Law are specific to the criminal act of electronic transactions and cannot be applied in general. The provisions in the SKB of the ITE Law actually reinforce the teleological or sociological orientation in the ITE Law which is intended to protect consumers in electronic transactions and not in order to criminalize society. Although it has been emphasized in the SKB of the ITE Law that not every disseminator of fake news can be criminalized, there is a problem that the provisions of the ITE Law and its amendments only emphasize the aspect of imprisonment as a solution to the existence of fake news that harms other parties.²⁴ In fact, the impact of fake news cannot be directly resolved with imprisonment, but can be resolved through restorative justice (RJ).

RJ is actually a form of criminal settlement based on the conception of corrective justice.²⁵ In the conception of corrective justice, the most important thing is not the punishment for the victim but how the recovery and compensation for the victim.²⁶ The victim is placed as "central" in corrective justice, particularly in the RJ concept. In addition to emphasizing the interests of victims, RJ also focuses on three aspects, namely: first, RJ is oriented towards recovery from the impact of criminal acts. Thus, in addition to being oriented towards healing and compensation for victims, RJ is also oriented to recover the perpetrators of criminal acts so that they do not commit criminal acts again.²⁷ Second, RJ is also oriented towards efforts to maintain balance and order in society.²⁸ It also allows RJ to carry out its efforts to engage the community in a participatory manner in terms of crime

²² Henny Saida Flora, Fradhana Putra Disantara, and Mac Thi Hoai Thuong, "The Lex Favor Reo Principle After New Criminal Code: A Corrective Justice's Perspective," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 22, no. 2 (2023): 67–80.

²³ Trisno Muldani, "Implikasi Awal Penerbitan SKB UU ITE Pasal 27 Ayat (3)," *Mukasi: Jurnal Ilmu Komunikasi* 1, no. 2 (2022): 150.

²⁴ Riana Susmayanti, "Hoax Versus Freedom Of Speech (In The Perspective Of Pancasila)," *Jurnal Supremasi* 11, no. December 2016 (2021): 15–29, <https://doi.org/10.35457/supremasi.v11i1.1205>.

²⁵ I Putu Maha Widharta and I Gede Agus Kurniawan, "Perlindungan Hak Cipta Bagi Pencipta Komik Berbentuk Aplikasi Dalam Telepon Pintar," *Jurnal Kertha Semaya* 9, no. 9 (2021): 1676–87, <https://doi.org/https://doi.org/10.24843/KS.2021.v09.i09.p17>.

²⁶ Rebecca Banwell-Moore, "The Delivery of Restorative Justice in Youth Offending Teams in England and Wales: Examining Disparities and Highlighting Best Practice," *Laws* 11, no. 4 (2022): 3, <https://doi.org/10.3390/laws11040060>.

²⁷ Nasirudin Saefudin, Wahyu, "Implementation Of Restorative Justice By Probation And Parole Officers In Indonesia," *Journal of Correctional Issues* 5, no. 1 (2022): 4.

²⁸ Sri Wiyanti Eddyono, "Restorative Justice for Victim's Rights on Sexual Violence: Tension in Law and Policy Reform in Indonesia," *Journal of Southeast Asian Human Rights* 5, no. 2 (2021): 176–201, <https://doi.org/10.19184/jseahr.v5i2.28011>.

reduction. Third, RJ has an educational and futuristic dimension which means trying to sensitize criminal offenders while educating the public not to commit a crime.²⁹

Of the three orientations of RJ above, there are actually three urgencies why dispute resolution based on RJ is more optimal for hoax spreaders on social media, namely: first, social media is actually a "second world" for society and therefore almost every day there is information that is false and even has the potential to harm society.³⁰ Due to the large amount of hoax information on social media, dispute resolution through criminal law is generally considered not a practical solution,³¹ but instead has the potential to cause new problems with many people getting criminal sanctions. Punishment for hoax perpetrators is not a solution and the investigation based on RJ is considered more appropriate and appropriate. Second, the punishment of perpetrators of spreading hoaxes on social media is not oriented to provide compensation for perpetrators. In fact, the most important thing from the consequences of the criminal act of spreading hoaxes on social media is compensation to the perpetrators.³² Therefore, a settlement based on RJ is actually more appropriate because it can economically directly compensate victims.

Third, the criminal act of spreading hoax information on social media occurs due to lack of public understanding and literacy.³³ Punishment is not a solution but the real solution is how to educate the public to be able to use social media properly and wisely. This is in line with RJ which has an educational orientation and places community participation as the main orientation in solving the crime of spreading hoax information on social media. Based on the description above, the urgency of implementing RJ for perpetrators of hoax spreading crimes on social media is because of RJ's orientation to provide compensation for victims as well as having a future orientation to educate the public in order to prevent criminal acts. RJ's idea has relevance to be applied to perpetrators of hoax spreading crimes on social media because it is oriented to provide compensation for hoax victims on social media as well as oriented to prevent hoax spreaders on social media from repeating their actions.

3.2 Formulation of the Application of Restorative Justice in the Criminal Act of Disseminating Hoax Information on Social Media

One of the problems regarding the criminal act of spreading hoaxes on social media is because of the criminal approach, which is always oriented towards criminal settlements related to the crime of spreading hoaxes on social media.³⁴ Although the SKB UU ITE has emphasized that the punishment for spreading hoaxes on social media can only be imposed

²⁹ Fahmi Fahmi, Rai Iqsandri, and Rizana Rizana, "The Use Of The Concept Of Restorative Justice Against The Criminal Act Of Murse In The Policepekanbaru City Resort," *Jurnal Gagasan Hukum* 4, no. 01 (2022): 42–49, <https://doi.org/10.31849/jgh.v4i01.10165>.

³⁰ Shuai Chen et al., "Exploring the Global Geography of Cybercrime and Its Driving Forces," *Humanities and Social Sciences Communications* 10, no. 1 (2023): 3, <https://doi.org/10.1057/s41599-023-01560-x>.

³¹ Fradhana Putra Disantara, "The Implementation Of Diplomatic Legal Principles: German Embassy Staff Visiting Islamic Defenders Front (Fpi) Headquarters Case," *International Journal of Law Reconstruction* 5, no. 1 (March 7, 2021): 1, <https://doi.org/10.26532/ijlr.v5i1.13636>.

³² Andi Muhammad Aswin Anas et al., "Optimalisasi Penegakan Hukum Terhadap Penyebaran Berita Bohong Tentang Vaksinasi," *Amanna Gappa* 29, no. 1 (2021): 2021.

³³ Bagus Winarko Novianto Puji Raharjo, "Analisis Tingkat Literasi Digital Generasi Milenial Kota Surabaya Dalam Menanggulangi Penyebaran Hoaks," *Komunika* 10, no. 1 (2021): 33–44.

³⁴ Ciara M. Greene and Gillian Murphy, "Quantifying the Effects of Fake News on Behavior: Evidence From a Study of COVID-19 Misinformation," *Journal of Experimental Psychology: Applied* 27, no. 4 (2021): 773–84, <https://doi.org/10.1037/xap0000371>.

on digital transactions, the regulations in the SKB UU ITE are considered incomplete without regulating the settlement of criminal acts of the ITE Law, especially hoax spreaders on social media. Regulations regarding the resolution of RJ-based crimes in expressive verbis have not been specifically regulated in the laws and regulations in Indonesia.³⁵ Arrangements regarding the settlement of RJ-based crimes are still regulated separately in the internal regulations of each law enforcement agency, such as within the Supreme Court, the Prosecutor's Office, to the Police. The separate arrangement regarding the settlement of RJ-based crimes above actually has implications for the settlement of cases in the ITE Law which are considered not to be carried out in RJ. It can be seen that the regulation regarding the SKB of the ITE Law also only interprets the provisions in the ITE Law and its amendments, and has not specifically regulated the orientation of the application of RJ in the criminal act of spreading hoaxes on social media.

In order for RJ-based solutions to be applied in the criminal act of spreading hoaxes on social media, it is necessary to regulate specifically in laws and regulations.³⁶ This is a guideline for law enforcement officials in carrying out their duties and authorities to orient RJ-based solutions to be applied to the crime of spreading hoaxes on social media. RJ-based solutions are actually relevant to be applied to the crime of spreading hoaxes on social media and other ITE Law crimes based on three arguments, namely: first, the reform of criminal law in Indonesia, one of which is marked by the passing of the New Criminal Code Law, actually mandates the importance of RJ as one of the solutions to criminal acts.³⁷ This is because the orientation of the passing of the New Criminal Code Law is to ensure corrective aspects of justice in society. Recovery of victims and prevention for perpetrators to repeat their actions became the main orientation in criminal law reform.³⁸ Second, RJ is actually a solution to various problems in prisons such as overcapacity in prisons. Overcapacity in prisons occurs because every criminal act is always resolved with a prisoner-based approach.³⁹ In fact, imprisonment is not the main solution in solving the problem of criminal acts in society.

Third, RJ is considered to have coherence with the ideals of Pancasila law so that it is in accordance with the cultural dimension of Indonesian law.⁴⁰ By applying RJ, the crime of spreading hoaxes on social media can be solved wisely and wisely with a family approach. This approach implies that between the victim and the perpetrator is a unity of community members so that the solution must also pay attention to the values in society. Of the three relevance of the application of RJ in the case of hoax spreader crimes on social media, RJ-based solutions have two benefits, namely: first, the application of RJ in the case of hoax

³⁵ Sri Wahyu Kridasakti, Abd. Majid, and Henny Yuningsih, "Restorative Justice Tindak Pidana 'Elopement' Hukum Adat Dalam Konstruksi Hukum Pidana Positif Indonesia," *Jurnal Supremasi* 12 (2022): 94-110, <https://doi.org/10.35457/supremasi.v12i2.1839>.

³⁶ Henny Saida Flora, "The Living Law's Restorative Justice: Implementation of Restorative Justice as an Integrative Mechanism in Criminal Law," *Unram Law Review* 7, no. 1 (April 30, 2023): 131-40, <https://doi.org/10.29303/ulrev.v7i1.279>.

³⁷ Muhammad Rustamaji Faisal, "Pembaruan Pilar Hukum Pidana Dalam RUU KUHP," *Magister Hukum Udayana* 10, no. 2 (2021): 293.

³⁸ A N Fata, "The Prosecutor's Authority In Criminal Law Enforcement With A Restorative Justice Approach," *Jurnal Hukum Khaira Ummah* 2, no. 4 (2022): 1-14.

³⁹ Satria Nenda, Eka Saputra, and Muridah Isnawati, "Overcrowding Lembaga Pemasyarakatan (Lapas) Dalam System Pemidanaan Di Indonesia," *Pagaruyuang Law Journal* 6, no. 1 (2022): 52-70.

⁴⁰ Hajairin Hajairin et al., "Kebijakan Pidana Pengawasan Dalam Pembaharuan Hukum Pidana Indonesia," *Iblam Law Review* 2, no. 2 (2022): 165-74, <https://doi.org/10.52249/ilr.v2i2.81>.

spreader crimes on social media can focus on the losses experienced by victims. With this focus, compensation can be maximized so that law enforcement related to criminal acts can be more optimal. Second, the application of RJ in cases of hoax spreaders on social media is considered to be faster and more effective so that it is in accordance with the principles of fast and simple justice in criminal law. This can also revitalize local values that can be used as the main orientation in solving a crime.

Of the two benefits of implementing RJ in the case of hoax disseminator crimes on social media above, a special formulation is needed in the form of RJ-based settlement arrangements in hoax spreading crimes on social media. Ideally, the formulation of regulations regarding RJ-based settlement in the crime of spreading hoaxes on social media requires revision of the ITE Law so as to emphasize RJ as the main orientation in solving criminal acts. Even so, because the revision of the ITE Law is a political process that has the urgency of "attraction of interest", it is temporarily pending the revision of the ITE Law, it is necessary to revise the SKB of the ITE Law which provides regulations also regarding RJ's practices in cases of hoax spreading crimes on social media and ITE Law crimes in general. Regulation through the revision of the SKB of the ITE Law by including RJ as the main orientation in solving criminal acts is needed to provide guidelines for law enforcement officials. Based on the results of the analysis above, it is concluded that the application of RJ in the case of hoax spreaders on social media can be formulated by regulating the application of RJ in cases of hoax spreaders on social media by revising the provisions of the SKB of the ITE Law. Revision of the SKB of the ITE Law by including aspects of RJ as a resolution effort in cases of hoax spreading crimes on social media and ITE Law crimes in general. This is intended as a means to provide guidelines for the implementation of RJ in cases of hoax spreading crimes on social media for law enforcement officials.

4. CONCLUSION

The urgency of implementing RJ for perpetrators of hoax spreading crimes on social media is due to RJ's orientation to provide compensation for victims as well as having a future orientation to educate the public in order to prevent criminal acts from occurring. RJ's idea has relevance to be applied to perpetrators of hoax spreading crimes on social media because it is oriented to provide compensation for hoax victims on social media as well as oriented to prevent hoax spreaders on social media from repeating their actions. The application of RJ in cases of hoax spreaders on social media can be formulated by regulating the application of RJ in cases of hoax spreaders on social media by revising the provisions of the SKB of the ITE Law. Revision of the SKB of the ITE Law by including aspects of RJ as a resolution effort in cases of hoax spreading crimes on social media and ITE Law crimes in general. This is intended as a means to provide guidelines for the implementation of RJ in cases of hoax spreading crimes on social media for law enforcement officials.

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