

# Implementation of the ITE Law and Democracy in Civil Space

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**Abstract:** The implementation of the ITE Law in general has not been implemented optimally, because the general public's understanding of the ITE Law is still imperfect, including community activities in cyberspace. Activities in cyberspace cannot be separated from human factors and their legal consequences also intersect with humans in society who are in the physical world, therefore the idea emerged about the need for legal rules to regulate activities in cyberspace. The word "Democracy" comes from two words, namely demos which means people, and kratos/cratein which means government, so it can be interpreted as people's government, or what we know better as government of the people, by the people and for the people. This research uses an explanatory type, namely research that explains the implementation of the ITE Law and democracy in cyberspace. From the results of the research that has been carried out, through the process of filling out questionnaires and interview results, it can be concluded that the implementation of the ITE Law in Indonesia is related to democracy in the moderate category.

**Keywords:** ITE Law, Democracy, Cyberspace

## 1. INTRODUCTION

Information Technology (IT), which is now developing very rapidly, cannot be denied that IT makes a significant contribution to the entire process of globalization and contemporary developments. Starting from the simplest IT facilities in the form of radio and television equipment, to the internet and mobile phones with wireless application protocols (WAP), information flows very quickly and enters the consciousness of many people. Changes in information now no longer exist on the scale of weeks or days or even hours, but rather on a scale of minutes and seconds (Azhar & Fikri, 2020). Activities on the internet cannot be separated from human factors and their legal consequences also intersect with humans in society who are in the physical world, so then the idea emerged about the need for legal rules to regulate activities in cyberspace (Sidik, 2013).

The law that regulates this is Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Electronic/ITE Information and Transactions or what is usually called the ITE Law. The Information and Electronic Transactions Law (UU ITE) is a law that discusses legal provisions regarding problems that occur in the field of information and communication technology development that arise in society (Alvat, 2019).

Following the enactment of the ITE Law, a number of cases emerged which were linked to elements of criminal acts regulated in the ITE Law. The case that has recently been widely discussed is the Kendari Dandim's wife who made a status post. This status caused her husband, Dandim Kendari Colonel HS to be removed after 52 days of serving as Kodim Commander in Kendari City and detained for 14 days for violating UU 25/2014 concerning Military Discipline Law. Due to the post by his wife, with the initials IZN, on social media about the stabbing experienced by the Coordinating Minister for Political, Legal and Security Affairs, Wiranto, it was deemed to have violated military discipline. The caption in the upload of Colonel HS's wife was, "Don't be sad, sir... Your incident is not comparable to the millions of lives lost," he wrote. This article was uploaded after Coordinating Minister for Political, Legal and Security Affairs Wiranto experienced a stabbing incident. At that time, Wiranto suffered two stab wounds in the stomach. From the screenshot circulating, there were 43 likes and 29 comments. His post was then commented on by a netizen named Togar Panjaitann. "This mother is the wife of a Dandim in Kendari. It is inappropriate for the wife of a TNI AD officer to make a statement like this," wrote Togar. Colonel HS's wife then replied to Togar's comments. "Sorry, Mr. Togar Panjaitann, why is it inappropriate? I am a wife and an ordinary human being who has feelings. What I said did not insult anyone. In fact, I am an officer's wife, sir, who feels the feelings of millions of dead people are more heartbreaking, I apologize if you I don't like it," replied Colonel HS's wife. Apart from Togar's comments, dozens of other statements also filled the comments column. However, only Togar Panjaitann's comments appear in the screenshot. As a result of the upload made by IZN, it was reported to the police on charges of hate speech (Yana & Bawono, 2020). IZN was reported by a person with the initials MHP, IZN was charged with Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008

concerning Electronic Information and Transactions/ITE. Until now, the case is still ongoing and is still in the legal process at the police (Žofčinová et al., 2022).

Instead of providing legal certainty, the ITE Law poses a threat to democracy, and even has the potential to suppress freedom of expression. As an illustration, still in a related context, the BPS version of the Indonesian Democracy Index recorded a low score from 2009 to 2013, namely in the range of 60 or in the medium category (Cobbe, 2019). This figure rose in 2014 to 73.04, but fell again to 70.09 in 2016. When viewed by year, the decline in the democracy index coincided with the number of ITE Law reports submitted to the police. Democracy, which requires an open electoral system and guarantees political contestation, seems to be a double-edged sword. On the one hand, open political contestation encourages Indonesia's democratic system to become better. However, on the other hand, open political contestation also creates tension, including in relation to identity politics (Kurniawan, 2020).

In May 2019, for example, the Ministry of Communication and Information (Kominfo) closed thousands of social media accounts and websites. A total of 551 Facebook accounts have been blocked, 848 Twitter accounts, 640 Instagram accounts, 143 YouTube accounts, and 1 each for website URLs and LinkedIn (Mulyadi & Gusfa, 2019). A total of 2184 accounts and websites have been blocked. Not only that, the government also limits access to instant messaging applications, especially WhatsApp (Santosa et al., 2021). The government argues that this policy is an effort to suppress the spread of hoax, slander and provocation content. Social media platforms are considered to be open spaces that have the potential to facilitate messages circulating quickly in society and can trigger certain cases of violations (Ginting et al., 2018). The same situation repeated itself in the case of conflict in Papua and West Papua at the end of August 2019. The government 'blacked out' and slowed down internet access in the area for more than a week. The reasons are more or less the same (Mahaputra & Saputra, 2021). Coordinating Minister for Political, Legal and Security Affairs (Menkopolkam), Wiranto said the policy was taken to prevent "damaging" communications (Pavlova et al., 2019).

The characteristics of a democratic government are as follows:

1. There is involvement of citizens (people) in political decision making, both directly and indirectly.
2. There are equal rights for all citizens in all fields
3. there is freedom and independence for all citizen
4. There is a general election to elect people's representatives who sit in the people's representative institutions

The essence of democracy is the opportunity for the aspirations and voices of the people to influence decisions. In democracy, people's participation is also required, which arises from political awareness to get involved and take part in the government system (Capers, 2021). Democracy has several principles, namely as follows:

1. Population sovereignty
2. Government is based on the consent of the governed
3. Majority rule
4. Minority rights
5. Human rights guarantee
6. Free and honest elections
7. Equality before the law
8. Due legal process
9. Constitutional government restrictions
10. Social, economic and political pluralism
11. Values of tolerance, pragmatism, cooperation and consensus.

Cyberspace is a translation of cyberspace which is often used to identify a space created by advances in information technology, especially the internet. Cyberspace is a conception that explains the spatial aspects of technological results such as the internet (Iman et al., 2022). This conception is an idea that is formed based on spatial concepts in the real world. However, virtual space works with different principles and rules from real space (Saragih & Berlian, 2018).

Electronic Information is one or a collection of electronic data, including but not limited to writing, sound, images, maps, designs, photographs, electronic data, electronic letters, telegrams or the like, letters, signs, numbers, access codes, symbols or perforations that has been processed to have meaning or can be understood by people who are able to understand it (Gaffar et al., 2021). Electronic transactions are legal acts carried out using computers, computer networks and/or other electronic media. Information Technology is a technique for collecting, preparing, storing, processing, announcing, analyzing and/or disseminating information (Khasanah, 2020).

Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE) is the first law in the field of Information Technology and Electronic Transactions as a much needed legislative product and has become a pioneer in laying the foundation for regulation in the field of utilization of Information Technology and Transactions (Moh. Yusuf DM & Roki Hardianto, 2022). Electronic. However, in reality, the implementation journey of the ITE Law has experienced problems (Truby, 2018). So the ITE Law was amended to become Law no. 19 of 2016, by updating several articles. The article that is often considered a limitation on expression is Article 27 (3), namely: Every person

intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents which contain insulting and/or defamatory content. Good.

## 2. METHOD

This research uses an explanatory type, namely research that explains the implementation of the ITE Law and democracy in cyberspace. The sample for this study consisted of 50 people aged 20-40 years. The sampling method used is Volunteer Non Random Sampling, namely a method where the subject volunteers to become a respondent or research subject (Heiss, 2023).

The data collection technique was carried out through distributing a Google Form questionnaire and interviews (Lubis et al., 2023). The data analysis technique used is descriptive statistical analysis (to analyze data by describing or explaining the data that has been collected in research according to existing conditions).

## 3. RESULTS AND DISCUSSION

This research involved 50 respondents consisting of 30 female respondents (60%), and 20 (40%) male respondents. All respondents are teenagers who live in Jambi City.

**Table 1. Frequency Distribution of Respondents**

Gender	Frequency	Percentage
Man	20	40
Woman	30	60
Amount	54	100

### Principle of Popular Sovereignty

The principle of popular sovereignty is the main principle in the realization of democracy, where Pancasila is the basis for every step. In the draft ITE Law, Pancasila values have certainly been implemented, but what is at issue is the implementation of the ITE Law. In fact, the people are the holders of the highest power, this is also the case in implementing the ITE Law, but there are still cases of the ITE Law which override the sovereignty of the people (Tarakanov et al., 2019).

Respondents who had a very low opinion in the principle of popular sovereignty were 3 people (6%), in the low category 3 people (6%), in the medium category 30 people (60%), in the high category 9 people (18%), and in the very high category 5 people (10%). From the table it is known that many respondents have a moderate level of opinion on the principle of popular sovereignty.

**Table 2. Questionnaire Score Categories for Principles of Popular Sovereignty**

Category	Frequency	Percentage
Very low	3	6%
Low	3	6%
Currently	30	60%
Tall	9	18%
Very high	5	10%
Total	50	100%

### Principle of Majority Rule

For this principle, the public is of the opinion that now it does not mean that the majority has power but that office holders have power, there are many conflicts of interest carried out by parties in positions related to the implementation of the ITE Law (Ismanto et al., 2021). There are still cases of misuse of articles in the ITE Law to protect office holders and personal interests. One of them is that the defamation article tends to be used to silence criticism (Abraham, 2020).

Respondents who believed in the principle of majority power in the very low category were 6 people (12%), in the low category 7 people (34%), in the medium category 22 people (44%), in the high category 5 people (10%) and in the very high category very high 0 people (0%). From this table it is known that the majority of respondents believe that the principle of majority power is in the medium category.

**Table 3. Principle of Majority Rule Questionnaire Score Categories**

Category	Frequency	Percentage
Very low	6	12%
Low	17	34%
Currently	22	44%
Tall	5	10%
Very high	0	0%
Total	50	100%

### Principles of Minority Rights

According to respondents, minority rights still need to be monitored and facilitated so that minority groups do not feel discriminated against in the enforcement of the ITE Law.

Respondents who had a very low opinion on the principle of minority rights amounted to 9 people (18%), low category 11 people (22%), medium category 25 people (50%), high category 3 people (6%), and category very high 2 people (4%). From this table it is known that the majority of respondents are of the opinion that the principle of minority rights is in the medium category, namely 25 people (50%).

**Table 4. Category Scores for the Principles of Minority Rights Questionnaire**

Category	Frequency	Percentage
Very low	9	18%
Low	11	22%
Currently	25	50%
Tall	3	6%
Very high	2	4%
Total	50	100%

### Principles of Human Rights Guarantee

On this principle, respondents have two opinions. First, respondents think that the ITE Law supports this principle where everyone's privacy and good name and honor are protected. However, on the other hand, the ITE Law can also limit a person's expression and opinion (Zariah Nur & Mahzaniar, 2022). Almost all Indonesian people use the internet and have social media, the ITE Law is needed to regulate people in communicating on social media (De Filippi & Wright, 2018).

Respondents who had a very low opinion on the principle of guaranteeing human rights were 0 people (0%), in the low category 9 people (18%), in the medium category 38 people (76%), in the high category 3 people (6%), and in the very high category 0 people (0%). From this table, it is known that the majority of respondents are of the medium category of opinion on the principle of guaranteeing human rights, namely 38 people (76%) (Patchin et al., 2020).

**Table 5. Principle Questionnaire Score Categories Human rights guarantee**

Category	Frequency	Percentage
Very low	0	0%
Low	9	18%
Currently	38	76%
Tall	3	6%
Very high	0	0%
Total	50	100%

### Honest and Clean Elections

According to respondents, the ITE Law is often used as a tool to attack each other between disputing groups. The ITE Law can also protect candidates for people's representatives when someone criticizes them with harsh words (Kuspratomo & Wahyuningsih, 2020). The ITE Law should be able to protect every citizen's rights in enforcing the law, as well as the right to vote in a clean and honest process. With the ITE Law, those who spread fake news can be punished so that the truth of news about the general election can be trusted (Arifin, 2020).

Respondents who had a very low opinion on the principle of honest and clean elections were 4 people (4%), 11 people in the low category (22%), 31 people in the medium category (62%), 2 people in the high category (4%), and 2 people in the high category (4%). very high category 2 people (4%). From this table, it is known that the majority of respondents are of the opinion that the principle of honest and clean elections is in the medium category, namely 31 people (62%).

**Table 6. Principle Questionnaire Score Categories Honest and clean elections**

Category	Frequency	Percentage
Very low	4	8%
Low	11	22%
Currently	31	62%
Tall	2	4%
Very high	2	4%
Total	50	100%

### Equality Before the Law

The implementation of the IT Law should prioritize equality in law enforcement. The equality referred to here is related to religion, race, economic status, education and position. Indonesia is a unitary country that has various religions and ethnicities, and this is given sufficient attention in law enforcement of the ITE Law, but there are still cases that look at economic status and position so that weak groups are discriminated against.

Respondents who had a very low opinion on the principle of equality before the law were 0 people (0%), low category 7 people (14%), medium category 41 people (82%), high category 1 person (2%), and category very high 1 person (2%). From this table, it is known that the majority of respondents are of the opinion that the principle of equality before the law is in the medium category, namely 41 people (82%) (Situmorang et al., 2021).

**Table 7. Questionnaire Score Categories for the Principle of Equality before the Law**

Category	Frequency	Percentage
Very low	0	0%
Low	7	14%
Currently	41	82%
Tall	1	2%
Very high	1	2%
Total	50	100%

### Reasonable Legal Process

According to Respondents, the concept of the ITE Law is good, but in its implementation there are still many loopholes for fraud and crime. With the cases that have occurred, there are many cases related to the ITE Law that have not been thoroughly investigated and many cases appear to be made up. It is good that the implementation of the ITE Law is neutral and transparent for all community groups (Koto, 2021).

Respondents who had a very low opinion on the principle of a fair legal process amounted to 9 people (18%), 13 people in the low category (26%), 25 people in the medium category (50%), 3 people in the high category (6%), and 3 people in the very high category. high 0 people (0%). From this table, it is known that the majority of respondents believe that the principle of a fair legal process is in the medium category, namely 25 people (50%) (Hartati et al., 2022).

**Table 8. Category Scores for the Principles of Fair Legal Process Questionnaire**

Category	Frequency	Percentage
Very low	9	18%
Low	13	26%
Currently	25	50%
Tall	3	6%
Very high	0	0%
Total	50	100%

#### 4. CONCLUSION

From the results of research that has been carried out, through the process of filling out questionnaires and interview results, it can be concluded that the majority of people regarding the application and implementation of the ITE Law in Indonesia are still in the moderate category. Starting from the principle of popular sovereignty, the principle of majority rule, the principle of minority rights, the principle of guaranteeing human rights, honest and clean elections, equality before the law, and due process of law. can be understood that the implementation and implementation of the ITE Law in Indonesia has not yet been carried out effectively and efficiently, so it needs to be improved both in terms of the preparation and implementation of the ITE Law in Indonesia.

#### REFERENCES

- Abraham, K. S. (2020). The Long-Tail Liability Revolution: Creating the New World of Tort and Insurance Law. *U. Pa. JL & Pub. Aff.*, 6, 347.
- Alvat, A. P. (2019). Politics Of Law Human Rights Protection In Indonesia. *Jurnal Daulat Hukum*, 2(4), 513–520.
- Arifin, R. (2020). Legal Reform Discourse in Indonesia and Global Context: How Does The Law Respond to Crime. *Journal of Law and Legal Reform*, 1(2), 193–196.
- Azhar, A., & Fikri, K. M. S. N. S. (2020). Study of law number 9 off regarding freedom of speech in publice. *International Journal of Scientific & Technology Research*, 9(1), 4002–4006.
- Capers, B. (2021). The Law School as a White Space. *Minn. L. Rev.*, 106, 7.
- Cobbe, J. (2019). Administrative law and the machines of government: judicial review of automated public-sector decision-making. *Legal Studies*, 39(4), 636–655. <https://doi.org/https://doi.org/10.1017/lst.2019.9>
- De Filippi, P., & Wright, A. (2018). *Blockchain and the law: The rule of code*. Harvard University Press.
- Gaffar, S., Karsona, A. M., Pujiwati, Y., & Perwira, I. (2021). The concept of procedural law regarding the implementation of collective agreements with legal certainty in termination of employment in Indonesia. *Heliyon*, 7(4), e06690. <https://doi.org/https://doi.org/10.1016/j.heliyon.2021.e06690>
- Ginting, B., Sembiring, R., Siregar, M., & Abduh, A. (2018). The Role of Law in Economic Development: To Develop a Special Economic Zone in Order to Build a National and Regional Economy. In *Proceedings of MICoMS 2017* (bll 209–214). Emerald Publishing Limited. <https://doi.org/10.1108/978-1-78756-793-1-00012>
- Hartati, S., Karyono, H., & Karno Sabowo, H. (2022). Implementation of The Law on Information and Electronic Transactions and Pancasila Law Enforcement Related to Cybercrimes in Indonesia. *International Journal of Educational Research & Social Sciences*, 3(1), 425–436. <https://doi.org/10.51601/ijersc.v3i1.290>
- Heiss, H. (2023). The Future of European Private Law. In A. Janssen, M. Lehmann, & R. Schulze (Reds), *The Future of European Private Law*. Nomos Verlagsgesellschaft mbH & Co. KG. <https://doi.org/10.5771/9783748913078>
- Iman, A. S., Firmanto, T., & Ridwan, R. (2022). Law Enforcement of the Criminal Action of Corruption in the Time of the Pandemic Covid-19. *International Journal of Social Science Research and Review*, 5(10), 266–273. <https://doi.org/10.47814/ijssrr.v5i10.602>
- Ismanto, H., Gunarto, G., & Wahyuningsih, S. E. (2021). The Juridical Formulation of Hate Speech Cyber Crime and Its Law Enforcement Implementation. *Law Development Journal*, 3(4), 710–718.
- Khasanah, N. U. (2020). The Criminal Cases of Children in Conflict with The Law: Litigation and Non-Litigation Resolutions. *Justicia Islamica: Jurnal Kajian Hukum dan Sosial*, 17(2), 281–298. <https://jurnal.iainponorogo.ac.id/index.php/justicia/article/view/1711>
- Koto, I. (2021). Cyber Crime According to the ITE Law. *International Journal Reglement & Society (IJRS)*, 2(2), 103–110. <https://doi.org/10.55357/ijrs.v2i2.124>
- Kurniawan, M. B. (2020). Implementation of Electronic Trial (E-Litigation) on the Civil Cases in Indonesia Court As a Legal Renewal of Civil Procedural Law. *Jurnal Hukum dan Peradilan*, 9(1), 43–70.

- <https://doi.org/http://dx.doi.org/10.25216/jhp.9.1.2020.43-70>
- Kuspratomo, Y. P., & Wahyuningsih, S. E. (2020). Making Implementation Deed Electronically Based on Law of Notary. *Jurnal Akta*, 6(4), 324754.
- Lubis, F. S., Lubis, M., Hakim, L., & Fakhurroja, H. (2023). The Text Mining Analysis Approach for Electronic Information and Transaction (ITE) Implementation Based on Sentiment in the Social Media. In *Intelligent Sustainable Systems: Selected Papers of WorldS4 2022, Volume 1* (bll 263–271). Springer. [https://doi.org/https://doi.org/10.1007/978-981-19-7660-5\\_23](https://doi.org/https://doi.org/10.1007/978-981-19-7660-5_23)
- Mahaputra, M. R., & Saputra, F. (2021). Application Of Business Ethics And Business Law On Economic Democracy That Impacts Business Sustainability. *Journal of Law, Politic and Humanities*, 1(3), 115–125. <https://www.dinastires.org/JLPH/article/view/56>
- Moh. Yusuf DM, & Roki Hardianto. (2022). Socialization of the ITE Law, Amid the Widespread Use of Social Media. *Journal of Community Engagement Research for Sustainability*, 2(1), 12–19. <https://doi.org/10.31258/cers.2.1.12-19>
- Mulyadi, E., & Gusfa, H. (2019). The Regulation (ITE Law) Socialization and Implementation Model by Kominfo to Mitigate Negative Content on Social Media. *Proceedings of the First International Conference on Administration Science (ICAS 2019)*, 474–479. <https://doi.org/10.2991/icas-19.2019.98>
- Patchin, J. W., Schafer, J., & Jarvis, J. P. (2020). Law enforcement perceptions of cyberbullying: evolving perspectives. *Policing: An International Journal*, 43(1), 137–150. <https://doi.org/10.1108/PIJPSM-08-2019-0136>
- Pavlova, T., Zarutskaya, E., Pavlov, R., & Kolomoichenko, O. (2019). Ethics and law in Kant's views: the principle of complementarity. *International Journal of Ethics and Systems*, 35(4), 651–664. <https://doi.org/10.1108/IJOES-04-2019-0080>
- Santosa, A. A. G. D. H., Sudiarawan, K. A., & Wijaya, I. M. M. (2021). The Employment Cluster of Omnibus Law: Embodiment the Concept of Nachtwakerstaat or Welfarestate? *Fiat Justisia: Jurnal Ilmu Hukum*, 15(2), 93–118. <https://doi.org/https://doi.org/10.25041/fiatjustisia.v15no2.2219>
- Saragih, Y. M., & Berlian, B. (2018). The Enforcement of the 2009 Law Number 46 on Corruption Court: The Role of Special Corruption Court. *Sriwijaya Law Review*, 2(2), 193–202.
- Situmorang, J., Sahman, A., Suryanto, T., & Gani, Z. (2021). Literation of land rights law in (Tola gumi) protection of indigenous peoples and its impact on community welfare. *Journal of Social Studies Education Research*, 12(2), 180–209. <https://www.learntechlib.org/p/219845/>
- Tarakanov, V. V., Inshakova, A. O., & Dolinskaya, V. V. (2019). Information Society, Digital Economy and Law. In *Ubiquitous Computing and the Internet of Things: Prerequisites for the Development of ICT* (bll 3–15). Springer. [https://doi.org/10.1007/978-3-030-13397-9\\_1](https://doi.org/10.1007/978-3-030-13397-9_1)
- Truby, J. (2018). Decarbonizing Bitcoin: Law and policy choices for reducing the energy consumption of Blockchain technologies and digital currencies. *Energy research & social science*, 44, 399–410. <https://doi.org/https://doi.org/10.1016/j.erss.2018.06.009>
- Yana, S. A., & Bawono, B. T. (2020). Effectiveness of Implementing ITE Laws and Investigations of Damnation through Social Media. *Law Development Journal*, 2(3), 433–440.
- Zariah Nur, & Mahzaniar, M. (2022). IMPLEMENTATION OF THE ELECTRONIC TRANSACTION LAW (UU ITE) REVIEWED BASED ON THE BOOK OF CRIMINAL LAW (KUHP) ON FREEDOM OF COMMUNITY EXPRESSION IN SOCIAL MEDIA. *Fox Justi: Jurnal Ilmu Hukum*, 13(1), 57–61. <https://doi.org/10.58471/justi.v13i1.437>
- Žofčínová, V., Čajková, A., & Král, R. (2022). Local Leader and the Labour Law Position in the Context of the Smart City Concept through the Optics of the EU. *TalTech Journal of European Studies*, 12(1), 3–26. <https://doi.org/https://doi.org/10.2478/bjes-2022-0001>