The Use of AI and Social Media for "Black Campaign" in the 2024 General Elections in Indonesia: A Review of Indonesian Laws on Black Campaign

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Due to rapid technological advancement, there have been many recent developments, including AI and social media. However, despite the numerous merits of AI and social media, they also have their drawbacks, one of which is the spread black campaigns. In Indonesia, 'black campaigns' refers to negative campaigns that maliciously aim to destroying the character of a competitor through the spread of false information, slander, and accusations without any evidence. Black campaigns tend to reduce public trust and engagement, which lowers the quality of democracy. This article investigates if the extant laws on black campaign in Indonesia are adequate to deal with the menace.

This article uses doctrinal legal research to analyze the existing statutory provisions to determine if the law is appropriate for the problem of black campaigns. I analyze the laws related to black campaigns, including Law No. 7 of 2017 on General Election as amended by Law No. 7 of 2023, and Law No. 11 of 2008 on Electronic Information and Transactions as amended by Law No. 19 of 2016. I argue that AI-developed black campaign disseminated through social media can be categorized in three ways: fake news, false information about candidates, and manipulated media. Although the extant laws on black campaign in Indonesia prohibit insults based on religion, ethnicity, race, etc. as well as acts of defamation and those aimed at inciting violence, they do not specifically regulate AI-developed black campaign disseminated through social media, which leaves a loophole. My analysis of the above laws shows that they are inadequate to tackle the unique challenges posed by AI-developed black campaign disseminated through social media.

This article recommends that the extant laws on black campaigns be amended to plug the observed loopholes. Amendments should place regulatory burdens on

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social media networks to compel them to take drastic action against black campaign posts on their platforms.

I. Introduction

Indonesia is the third largest democracy in the world and the country held one of the world's biggest single-day elections on February 14, 2024 to elect a new president and vice president as well as parliamentary and local representatives.[2] The elections involved over 204 million eligible voters, about 73% of Indonesia's total population, which stands at around 278 million. Of the over 204 million eligible voters, 1.75 million are diaspora voters scattered across the globe.[3] Legislative elections at both regional and national levels were also held on the same day.[4] Although now confined to history, the Indonesian 2024 general elections continue to generate intense debate and discussions about its implementation. This year's event was unique in many ways, and one of the most talked-about aspects is the groundbreaking use of artificial intelligence (AI) in campaigns.

For the first time ever in Indonesia, various AI tools were employed to connect with voters, including chatbots for answering questions, personalized messages targeted at individual interests, and data analysis to identify potential supporters. AI was used both to woo voters and create disinformation. According to an article published by Channel News Asia, some of the extreme acts of disinformation include "the frontrunner in the upcoming presidential election speaking fluent Arabic; a long-deceased president praising the incumbent, and a presidential candidate being scolded by one of his political backers."[5] With respect to the use of data analysis to identify supporters, a pre-election study employed Naive Bayes

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[2] Katharina Buchholz, *The World's Biggest Democracies*, STATISTA (Feb. 14, 2024), https://www.statista.com/chart/31744/biggest-democracies/; Ika Krismantari & Nurul Fitra Ramadhani, *Indonesia Will Hold the World's Biggest Single Day Election: Here Is What You Need to Know* (Aug. 5, 2023), https://theconversation.com/indonesia-willhold-the-worlds-biggest-single-day-election-here-is-what-you-need-to-know-208673.

[3] INTERNATIONAL FOUNDATION FOR ELECTORAL SYSTEMS, ELECTIONS IN INDONESIA: 2024 GENERAL ELECTIONS – FREQUENTLY ASKED QUESTIONS (2024), https://www.ifes.org/sites/default/files/2024-02/2024_Elections_FAQ_Final.pdf.

[4] Krismantari & Ramadhani, *supra* note 3.

[5] Nivell Rayda, Indonesia Elections 2024: How AI Has Become a Double-Edged Sword for Candidates and Election Officials, CHANNEL NEWS ASIA (Feb. 4, 2024 06:00 A.M.), https://www.channelnewsasia.com/asia/ai-disinformation-deepfakes-indonesia-elections-4091296 (last updated Feb. 5, 2024).

method to conduct sentiment analysis in order to predict the presidential election results. The research achieved an average accuracy of 76.67%.[6]

Indonesia has about 274 million internet users.[7] Therefore, many campaigns are carried out on digital platforms. According to the Indonesian General Election Commission, 52% of voters are below the age of 40.[8] This means that young voters are an important target for political marketers. In this regard, the campaign movements of candidates tend to use various digital platforms to communicate with and win the trust of young voters. According to a study by Susila et al., in political marketing, communication has a vital role in mobilization of voters and building trust.[9]

AI and machine learning now play a dominant role in election campaigns compared to traditional methods. AI and machine learning are used to analyze big data to achieve a better understanding of voter behavior.[10] Although AI provides opportunities in improving the effectiveness and efficiency of election campaigns through analysis of data, targeting of voters and personalized messages, it also constitutes a serious risk to the sanctity of the democratic process. Some of the major drawbacks of using AI in political campaigns are the use of AI to spread disinformation, manipulate voter opinion, and worsen cyber security susceptibility.[11]

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[6] Asno Azzawagama Firdaus, Anton Yudhana & Imam Riadi, *Prediction of Indonesian Presidential Election Results using Sentiment Analysis with Naïve Bayes Method*, 8 JURNAL MEDIA INFORMATIKA BUDIDARMA 41-40 (2024).

[7] *Number of Internet Users in Indonesia from 2014 to 2029*, STATISTA (Oct. 2023), https://www.statista.com/forecasts/1144747/internet-users-in-indonesia (last visited Mar. 19, 2024).

[8] Sherly, With 52 Percent of Young Voters, College Students Are Expected to Ensure an Honest and Open 2024 Election, UNIVERSITAS INDONESIA (Oct. 10, 2023), https://www.ui.ac.id/en/with-52-percent-of-young-voters-collegestudents-are-expected-to-ensure-an-honest-and-open-2024-election/.

[9] Ihwan Susila et al., *Symbolic Political Communication, and Trust: A Young Voters' Perspective of the Indonesian Presidential Election*, 19 J. POL. MKTG. 153 (2020).

[10] Md. Safiullah, Neha Parveen, *Big Data, Artificial Intelligence and Machine Learning: A Paradigm Shift in Election Campaigns*, *in* THE NEW ADVANCED SOCIETY: ARTIFICIAL INTELLIGENCE AND INDUSTRIAL INTERNET OF THINGS PARADIGM 247(2022).

[11] Yu Chen, *How Will AI Steal Our Elections? Centre for Open Science* (OSF Pre-Print, 2024), ORCID:0000-0002-8457-6757; Patrick A. Assibong et al., *The Politics of Artificial Intelligence Behaviour and Human Rights Violation Issues in the 2016 US Presidential Elections: An Appraisal, in* DATA MANAGEMENT, ANALYTICS AND INNOVATION: ADVANCES IN INTELLIGENT SYSTEMS AND COMPUTING 295-309 (Neha Sharma et al., eds., 2019).

II. Indonesia and Black Campaigns

Campaigns are an essential part of any democratic election. They provide an opportunity for candidates to communicate their vision, policies, and plans to the general public. Based on the nature of campaign messages, political campaigns may be divided into three types: positive, negative, and black campaigns. Many studies conceptualize criticism in campaigns as negative campaigning, but negative campaigns actually cover fair substantive criticism (those based on facts) and black campaigns (those based on falsehood).[12] Therefore, black campaign is a form of negative campaign. While positive campaigns focus on highlighting the good qualities of a candidate, negative campaigns highlight their shortcomings based on factual data. However, black campaigns are maliciouslyaimed at destroying the character of a competitor through the spread of false information, slander, and accusations without any evidence. Black campaigns are unethical and illegitimate. They aim to damage the reputation or defame a person or group without a strong basis.

Unfortunately, black campaigns were quite prevalent during the 2024 general election period. Although those who employ black campaigns believe that they are effective, a 2003 research on the effect of negative campaign produced inconclusive results.[13] Similarly, a 2007 meta-analytic reassessment indicates that the literature does not support the idea that negative campaigning is effective in winning votes or suppressing voter turn-out.[14] A more recent study sought to find out if negative campaigns depress the evaluation of the target or if they backfire against the sponsor. The study concluded that the effect of negative campaigns depends on the personality trait of the respondent: "Agreeable people tend to have a better opinion about the target of uncivil attacks," while "people high in Machiavellianism and psychopathy" have a better image of the sponsor of negative attacks.[15] This means that there is no clear evidence yet that negative campaigning is generally effective. Despite that, black campaigns seem to be on the increase.

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[12] Franz Reiter & Jörg Matthes, *"The Good, the Bad, and the Ugly": A Panel Study on the Reciprocal Effects of Negative, Dirty, and Positive Campaigning on Political Distrust*, 25 MASS COMMC'N & SOC'Y 649 (2022).

[13] Lee Sigelman & Mark Kugler, *Why Is Research on the Effects of Negative Campaigning So Inconclusive? Understanding Citizens' Perceptions of Negativity*, 65 J. POL. 142 (2003).

[14] Richard R. Lau, Lee Sigelman & Ivy Brown Rovner, *The Effects of Negative Political Campaigns: A Meta-Analytic Reassessment*, 69 J. POL. 1176 (2007).

[15] Alessandro Nai & Jürgen Maier, *Is Negative Campaigning a Matter of Taste? Political Attacks, Incivility, and the Moderating Role of Individual Differences*, 49 AM. POL. RSCH. 269 (2020).

Criticism is a vital aspect of political campaigns as it allows politicians to bring up unfavorable aspects of political rivals, which help voters make more informed choices.[16] However, some forms of criticism, like black campaigns, can increase public distrust and disengagement, which tends to reduce the quality of democracy.[17] Black campaigns are likely to lead to conflicts and further divide the society. Therefore, all campaigns should be conducted ethically and with integrity to promote healthy competition and ensure that the election process is fair and just.

The 2019 general elections in Indonesia was marred by fake news and black campaigns. In this regard, the Ministry of Communication and Information Technology (MOCIT) of the Republic of Indonesia reported 64 fake news stories about the general election between 18 April 2019 and 20 April 2019. Additionally, there were 259 politically-themed hoaxes in the second half of 2018: while some of the hoaxes were targeted at the Prabowo-Sandi pair, the majority were targeted at the the Jokowi-Amin pair.[18] Based on the experience of the 2019 general elections and to prevent a recurrence, many institutions were proactive in a joint effort to combat disinformation. For example, the Anti-Defamation Society (MAFINDO) collaborated with youth and journalists to help control the spread of hoaxes. A special taskforce of fact-checkers was created to monitor the internet and social media platforms in search of "misinformation, disinformation, and malinformation," and any wrong information found was corrected by providing the true narrative.[19]

The efforts to tackle disinformation did not seem to discourage political actors. According to the Civil Society Coalition against Election Disinformation, throughout 2023, 1292 disinformation cases related to the 2024 general elections were recorded on social media, more than double the figure of the 2019 general elections. Further, Septiaji Eko Nugroho, Chair of MAFINDO, predicted that the number of cases will increase as the elections drew near.[20] A comparison of the number of cases of disinformation between the 2019 and 2024 general elections shows that disinformation is on the increase.

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[16] RICHARD R. LAU & GERALD M. POMPER, NEGATIVE CAMPAIGNING: AN ANALYSIS OF U.S. SENATE ELECTIONS (2004).

[17] Sigelman & Kugler, *supra* note 13.

[18] Rizky P. P. Karo Karo et al., *College Student Participation to Prevent Black Campaign from Creating Dignified Simultaneous Elections in Indonesia*, *in* PROCEEDINGS OF THE INTERNATIONAL CONFERENCE ON LAW STUDIES 254 (INCOLS 2023).

[19] *Curbing the Spread of Hoaxes*, USAID, https://www.usaid.gov/indonesia/multimedia/feb-2023-curbing-spread-of-hoaxes (last visited Mar. 26, 2024).

[20] Ajid Fuad Muzaki, *Disinformation Turbulence Ahead of the 2024 Electionsm*, RUMAH PEMILU (Feb. 12, 2024), https://rumahpemilu.org/en/disinformation-turbulence-ahead-of-the-2024-elections/.

Since black campaigns involve the use of falsehood to tarnish the image of a political rival, there is need for the law to protect individuals against such campaigns. Also, as mentioned earlier, black campaigns can reduce public engagement and participation. Therefore, there is a need for strict regulations against black campaigns. In light of the foregoing, this article examines the extent to which existing laws and regulations deal with the issue of black campaigns, to determine if there is a need to amend the relevant laws.

III. Disinformation and Indonesia's 2024 Elections

This article is a doctrinal legal research, which analyzes the existing statutory provisions and cases by applying the power of reasoning to determine if a legal proposition is appropriate.[21] The type of data collected is secondary data, which include primary legal materials, such as laws, court cases, statutes, etc., as well as secondary legal materials, such as journal articles and books. The data were collected from print and online sources.

Disinformation is information that has the function to mislead.[22] In other words, any information whose purpose is to mislead amounts to disinformation. For the purpose of the study, cases of disinformation were categorized into three: fake news, false information about candidates, and manipulated media. In the following subsections, several cases of disinformation that fall into the above categories are highlighted.

A. Fake News

Any news article that is intentionally and verifiably false amounts to fake news.[23] In the 2024 general elections, false or misleading information were spread through the use of social media, websites, and messaging platforms. This disinformation is strategically deployed to deceive voters and sway public opinion, exploiting the speed and reach of online communication. As disinformation may include false details about voting procedures, such tactics can have a significant

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[21] Shiram Tiwary, *Doctrinal and Non-Doctrinal Methods of Legal Research* (Amity Univ. Gurgaon Rsch. Paper, 2020), https://www.academia.edu/40656281/Doctrinal_and_Non_Doctrinal_Methods_of_Legal_Research.

[22] Don Fallis, *What Is Disinformation?*, 63 LIBR. TRENDS 401 (2015).

[23] Hunt Allcott & Matthew Gentzkow, *Social Media and Fake News in the 2016 Election*, 31 J. ECON. PERSPECTIVES 211 (May 2017).

impact on the electoral process like inaccurate polling locations, voter eligibility criteria, and election dates. By spreading these falsehoods, certain groups of voters may be discouraged from participating in the election, thereby potentially influencing the outcome. This type of disinformation can spread rapidly online and is often difficult to debunk effectively.

Some cases of fake news in the 2024 general elections follow.

(1) A short video claimed a change in the ballot-paper order of presidential and vice-presidential candidate pairs for the 2024 presidential election, circulated on TikTok, YouTube, Instagram, and Facebook. It was meant to mislead voters. This video circulated around two weeks before the election. By then, the Indonesian General Election Commission (KPU) had already published the official design for the ballots, confirming the disinformation in this short video.[24]

(2) A trending video claimed that the results of the election have already been determined by the KPU before the election was held, stating, "This is KPU's data on the 2024 general election. Incredible, this country is indeed magical, the voting has not yet taken place, but the results have already been determined." Obviously, the claim is false. The KPU Chairman, Hasyim Asy'ari, asserted that the viral video was nonsensical and fabricated.[25]

(3) Images of cards labelled as voter cards, complete with the KPU logo on the right side, circulated before the election. These cards display a photo, National Identification Number (NIK), name, complete address, and polling station number. It was claimed that the blue voter cards are available both in physical form and through the Ministry of Home Affairs (Kemendagri) application. However, the KPU denies issuing such cards.[26]

(4) A video circulated through WhatsApp of a certain brand of bottled water alongside the narrative that there were poisoning attempts (by way of the mineral

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[24] Tim Cek Fakta Tempo [Tempo Fact Check Team], *Keliru, Video Berisi Nomor Urut Pasangan Capres dan Cawapres Pilpres 2024 Pada Surat Suara Berganti* [False, Contains Serial Numbers of Presidential Candidates and Vice Presidential Candidates for 2024 Presidential Election on Changed Ballot Papers] (Feb. 12, 2024), https://cekfakta.tempo.co/fakta/2760/keliru-video-berisi-nomor-urut-pasangan-capresdan-cawapres-pilpres-2024-pada-surat-suara-berganti.

[25] Medcom Files, *Cek Fakta: Ternyata Data KPU Hasil Pemilu 2024 sudah Jadi? Ini Faktanya* [Fact Check: The KPU Data on the 2024 Election Results Are Ready? These are the Facts] (Apr. 27, 2023), https://www.medcom.id/telusur/cek-fakta/0kpMoOWK-cek-fakta-ternyata-data-kpu-hasilpemilu-2024-sudah-jadi-ini-faktanya.

[26] Dwi Andayani, *Beredar Kartu Pemilih Pemilu 2024, KPU Pastikan Tak Buat dan Terbitkan* [2024 Election Voter Cards Circulating, KPU Ensures Not to Create and Publish], DETIK NEWS (Mar. 29, 2023), https://news.detik.com/pemilu/d6644588/beredar-kartu-pemilih-pemilu-2024kpu-pastikan-tak-buat-dan-terbitkan

water) at a candidate's campaign event at Jakarta International Stadium (JIS). However, no casualty was identified. Also, after internal and market investigations, the company that manufactured the product assured the public not to worry. The company assured that their products meet the required standards and provided a guarantee that their products are safe and healthy. The public were advised not to consume mineral water with unusual packaging. [27]

B. False Information About Candidates

False information about candidates involves the spreading of deceptive or inaccurate details regarding their backgrounds, qualifications, policies, or actions. This form of disinformation includes the dissemination of fake news, fabrication of scandals, and distortion of past statements or deeds, aimed at discrediting a candidate. Furthermore, this false information often comes in the form of conspiracy theories, which frequently exploit existing social divisions and capitalize on public fears or anxieties, ultimately undermining confidence in democratic institutions.

Notable examples of this modus follow.

(1) The narrative of Prabowo arrest by the authorities and facing the risk of failing to run for the presidential election appeared on social media via a 7-minute and 33-second video was shared on January 9, 2024, with the title: "Exposing the world, suddenly Prabowo arrested because of this, Prabowo threatened with disqualification from the presidential [election]." The video features several clips unrelated to the narrative of Prabowo's arrest and potential failure to advance in the presidential election, such as when Prabowo was caught off guard when attacked by other candidates with data. Most of the clips only showcase the opinions of a social and political observer, Rudi S. Kamri, on YouTube. In the video, Rudi expresses his views on the perception that Prabowo could not respond well to questions during the presidential debate. Therefore, the narrative suggested by the title does not match the content of the video. [28]

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[27] *SALAH: Modus meracuni peserta kampanye akbar 01 di JIS* [FALSE: Poisoning Method in Grand Campaign 1 in JIS], CEKHOAX.ID (Feb. 16, 2024), https://cekhoax.id/cek-fakta/salah-modus-meracuni-peserta-kampanye-akbar-01-di-jis.

[28] Tim Cek Fakta [Fact Check Team], *HOAKS: Prabowo Ditangkap dan Terancam Gagal Maju Pilpres* [Hoax: Prabowo Arrested and Threatened with Failure to Run for Presidential Election], KOMPAS (10 Jan. 2024), https://www.kompas.com/cekfakta/read/2024/01/10/190900582/-hoaks-prabowo-ditangkap-dan-terancam-gagal-maju-pilpres?page=all&page2.

(2) A social media post suggested that Anies initiated a mass movement to hold demonstrations. The account @warga_konoha404 on Instagram uploaded a short video with a caption stating that Anies met with demonstrators who are dissatisfied with the results of the 2024 presidential election. At the time of the post, it had been viewed more than 7,000 times and had received 91 likes and approximately 200 comments. Data from Facebook reels also indicate that the video had been shared five times. Examining several top comments indicates that some individuals believed the narrative presented, while others suggested that the video clip was from a different event that occurred during Anies' tenure as the Governor of Jakarta. The result of the fact-checking investigation is that the claim is false and misleading. The short video that circulated on social media was a clip from a different event in the past, specifically when Anies met with student demonstrators opposing the Omnibus Law on October 8, 2020.[29]

(3) A video circulated on X (formerly Twitter) claiming that Gibran Rakabuming Raka (a VP candidate) did not graduate from high school (SMA) in Solo. Upon investigation, the claim was found to be false. As reported on the kpu.go.id website, the VP candidate was educated at Orchid Park Secondary School Singapore and graduated in 2004. In 2007, Gibran continued his studies in the Insearch program at the University of Technology (UTS), Sydney, Australia. Therefore, the claim that Gibran did not graduate from high school is untrue.[30]

(4) A social media post supporting the candidate pair Ganjar Pranowo and Mahfud MD, featuring Minister of Finance Sri Mulyani, was posted on Facebook on January 21, 2024. A fact-checking investigation did not find any valid information regarding the Minister's support for the pair. At that time, Sri Mulyani, the Minister, had not declared support for any specific candidate pair in the election.[31]

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[29] Alfons Yoshio Hartanto, *Fact Check: Hoaks Anies Pimpin Demonstrasi Hasil Pemilu 2024* [Fact Check: Hoax Anies Leads Demonstration on 2024 Election Results], TIRTO (Feb. 23, 2024), https://tirto.id/hoaks-anies-pimpin-demonstrasi-hasil-pemilu-2024-gWea.

[30] Relawan Mafindo [Mafindo Volunteers], *SALAH: Gibran Baru SMA Kelas 2 & Belum Lulus* [FALSE: Gibran is Only in High School Year 2 and Hasn't Graduated Yet], TURN BACK HOAX (Feb. 22, 2024), https://turnbackhoax.id/2024/02/22/salah-gibran-baru-sma-kelas-2-belum-lulus/.

[31] Tim Cek Facta [Fact Check Team], *Cek Fakta: Hoaks Poster Sri Mulyani Berikan Imbauan untuk Mencoblos Pasangan Ganjar-Mahfud* [Fact Check: Hoax Poster Sri Mulyani Appeals to Vote for Ganjar-Mahfud Pair], LIPUTAN 6 NEWS (Jan. 24, 2024), https://www.liputan6.com/cek-fakta/read/5511499/cek-fakta-hoaks-poster-sri-mulyani-berikan-imbauan-untuk-mencoblos-pasangan-ganjar-mahfud?page=2.

C. Manipulated Media

The emergence of new technologies such as AI has introduced a concerning trend in electoral disinformation known as manipulated media. These advancements allow for the creation of highly realistic manipulated content, including deepfake videos or audio recordings, capable of deceiving voters by portraying candidates engaging in actions or making statements they never actually did. Combatting AI-generated disinformation demands a comprehensive approach that integrates technological advancements, policy implementations, and public awareness campaigns.

Manipulated media in the 2024 general election include the following:

(1) A video showing the Minister of Defense and presidential candidate Prabowo Subianto, delivering a speech in foreign languages, namely Arabic and Mandarin, circulated on WhatsApp, TikTok, and Facebook. A part of the video features Prabowo, dressed in white, delivering a speech at a podium in Arabic. Another part shows him dressed in light blue, delivering a speech in Mandarin, accompanied by his running mate, Gibran Rakabuming Raka. Based on a review with AI detection tools, the video was found to be a deepfake, which was obtained by manipulating the original video in which Prabowo was speaking Bahasa Indonesia.[32]

(2) There was a trending screenshot showing a tweet from Taylor Swift saying "Thank you Mr. Prabowo Subianto for helping me. I thank you very much, I hope you live a long time when I play in Indonesia." After conducting a search, no original post from Taylor Swift expressing thanks to Prabowo was found. Taylor Swift's official account also last posted content on December 13, 2023, but the purported tweet had January 10, 2024 as its date. Therefore, the circulated content was manipulated. [33]

(3) A video showing presidential candidate Prabowo Subianto, delivering a speech while shouts of "Anies for president" are heard, emanated from an

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[32] *Keliru, Video dengan Klaim Prabowo Berpidato Menggunakan Bahasa Arab dan Mandarin* [False, Video Claims Prabowo Speeches Using Arabic and Mandarin], TEMPO (Feb. 23, 2024), https://cekfakta.tempo.co/fakta/2794/keliru-video-dengan-klaim-prabowo-berpidato-menggunakan-bahasa-arab-dan-mandarin.

[33] Diva Lufiana Putri & Inten Esti Pratiwi, *Marak soal Masyarakat Percaya Hoaks Taylor Swift Berterima Kasih ke Prabowo, Ini Kata Pakar* [A Lot of People Believe in Hoaxes. Taylor Swift Thanked Prabowo, This is What the Experts Say], KOMPAS (Feb. 7, 2024), https://www.kompas.com/tren/read/2024/02/07/133000665/marak-soal-masyarakat-percaya-hoaks-taylor-swift-berterima-kasih-ke-prabowo?page=all.

Instagram account named zara.abidah on January 24, 2024. Upon investigation, an identical video to the claimed one was found from an upload on Suaradotcom's official YouTube channel titled "Reminded to Speak Politely and Carefully, Don't Get Provoked by Emotions, Here's Prabowo's Response," which aired on January 11, 2024. The video captures a moment when Prabowo was delivering a speech during a volunteer consolidation event in Bengkulu Province at Balai Buntar, Bengkulu City on January 11, 2024. The original video does not contain any shouts of "Anies for president" while Prabowo was speaking. Therefore, it can be confirmed that the video has been manipulated. [34]

(4) A short message circulated via WhatsApp, purporting to be TPS (Polling Station) data and accompanied by an attached document in Android Package Kit (APK) format named "*Data TPS Pemilu 2024.Apk.*" The file sent is a form of phishing scam, targeting individuals' private data, including banking information. Perpetrators will send APK files to victims and take advantage of the recipients' negligence in not checking the type of file received beforehand. The APK files sent by perpetrators are suspected to be programmed to steal victims' personal data, especially banking information.[35]

Having identified the types of disinformation that characterized the 2024 general elections, it becomes clear that AI plays a central role in developing fake and deceptive contents (images and videos) as well as distorting original content. The fake and distorted contents are then spread through social media. Given that AI and social media are relatively new innovations, it is pertinent to analyze the extant laws regarding black campaigns to determine if they offer adequate protection against disinformation.

IV. Disinformation and Indonesian Law

It is crucial to understand the stark contrast between negative campaigns and black campaigns in electoral law. According to Professor Topo Santoso of Universitas Indonesia, negative campaigns are permissible, while black campaigns

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[34] Tim Kalimasda, *[Salah] Prabowo Diteriaki "Anies Presiden" Saat Berpidato* [False: Prabowo Jeered with "Anies for President" During His Speech], TURN BACK HOAX (Feb. 7, 2024), https://turnbackhoax.id/2024/02/07/salah-prabowo-diteriaki-anies-presiden-saat-berpidato/.

[35] *SALAH: File APK Data TPS Pemilu 2024* [FALSE: Election Polling Station Data APK File], Turn Back Hoax (Feb. 13, 2024), https://turnbackhoax.id/2024/02/13/salah-file-apk-data-tps-pemilu-2024/.

are strictly prohibited and can lead to criminal sanctions.[36] Negative campaigns are geared towards highlighting the flaws and errors of political opponents based on verifiable facts, whereas black campaigns refer to a type of negative campaign that involves making false or unsubstantiated allegations or bringing up irrelevant matters like religion or race. While negative campaigns may assist voters in making informed decisions, black campaigns are unlawful and can be reported to the Election Supervisory Body; thus, the use of disinformation or hate speech can be categorized as black campaign.

In Indonesia, the laws related to the issue of black political campaigns are Law No. 7 of 2017 on General Election as amended by Law No. 7 of 2023 (hereafter referred to as Electoral Law) and Law No. 11 of 2008 on Electronic Information and Transactions as amended by Law No. 19 of 2016 (hereafter referred to as ITE Law). Article 280, paragraph (1), letter c of the Electoral Law prohibits insulting someone based on their personal identity, religion, ethnicity, race, class, and, by extension, political affiliation, particularly during election season.[37] Although this regulation does not specifically use the term "black campaign," many experts have concluded that it can be used to punish black campaign activities. In order to create a fair and respectful environment for all candidates and their supporters, it is important to punish those who indulge in black campaign. Anyone caught engaging in black campaign activities could face legal consequences under this law.

In relation to the prohibition on insults mentioned above, Article 521 of the Electoral Law states that anyone who intentionally violates the prohibitions listed in Article 280 paragraph (1) letters a, b, c, d, e, f, g, h, i, or j, is liable to a maximum sentence of two years in prison and a maximum fine of 24 million rupiah.[38] Similarly, Article 280, paragraph (1), letter d of the Electoral Law prohibits political actors from inciting or bringing about conflict between individuals or groups within the society.[39] However, the law maintains a loud silence on the kinds of activities that amount to "incitement and causing conflicts between individuals or groups," which could lead to lack of legal certainty. In this regard, a study by Rizky, Jordan and Ridwan tries to answer the question regarding the kinds of activities that amounts to "incitement and causing conflicts between individuals or groups." The study points to Law No. 8 of 2015, whose provisions indicate that black campaigns can incite and cause conflict. Hence, the study asserts that black

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[36] Humas Fui, *Negative Campaigns and Black Campaigns: What's the Difference?*, Universitas Indonesia Fakultas Hukum [University of Indonesia Faculty of Law] (Oct. 10, 2024), https://law.ui.ac.id/negative-campaigns-and-black-campaigns-whats-the-difference/.

[37] Electoral Law, Law No. 7 (2017) (amended by Law No. 7 (2023)) (Indon.).

[38] *Id.*

[39] *Id.*

campaign is prohibited by Article 280, paragraph (1), letter d of the Electoral Law.[40]

Further, Article 27, paragraph 3 of the ITE Law prohibits the electronic distribution or transmission of contents related to defamation, while Article 45, paragraph 3 prescribes the punishment for those who violate Article 27, paragraph 3 with maximum of 4 years imprisonment and a maximum fine of 750 million rupiah. [41] Further, Article 28, paragraph 2 of the ITE Law prohibits the dissemination of information aimed at causing hatred or division among individuals or groups based on ethnicity, religion, race, etc. Article 45A, paragraph 2 prescribes the punishment for those who violate the provisions of Article 28, paragraph 2 with a maximum of 6 years imprisonment and a maximum fine of 1 billion rupiah.[42]

Some experts are of the opinion that the relevant extant laws, explained above, are appropriate to tackle the menace of black campaigns.[43] However, the fact that the above mentioned provisions do not specifically regulate black campaign may pose some challenges when prosecuting suspects of black campaign. Although Article 280, paragraph (1), letter c of the Electoral Law prohibits insults based on religion, race, ethnicity, etc., due to the complexity of black campaigns developed by AI, some black campaigns, like manipulated media, may not fully fall under these prohibited acts. Also, although Article 280, paragraph (1), letter d of the Electoral Law and Article 28, paragraph 2 of the ITE Law prohibit acts aimed at inciting violence and causing division, it may be argued that the aim of black campaigns is not to incite violence or cause division but to win elections. This may be a loophole in these provisions.

Similarly, although Article 27, paragraph 3 of the ITE Law prohibits defamation using electronic information, some black campaigns, which clearly amounts to disinformation, may not amount to defamation. For example, if a video is manipulated to show a popular individual endorsing a candidate, even if the act of endorsement never took place, it is difficult to prove a case of defamation.

The complexity of AI-developed black campaign makes the relevant extant laws on black campaign inadequate, as explained above. The fact that black campaign,

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[40] Law No. 8 (2015) (amendment of Law No. 1 (2015), on the Stipulation of Government Regulation in Lieu of Law No 1 (2014), on the Election of Governors, Regents, and Mayor), art. 69(c) and its explanation (Indon.); *cited in* Sahid Muhammad Rizky, Jeremy Jordan & Muhammad Ridwan, *Political Education to Dispel the Misinterpreted Negative Campaign in General Election in Indonesia*, 11 INDONESIAN L.J. 1 (2018).

[41] ITE Law, Law No. 11 (2008) (amended by Law No. 19 (2016)) (Indon.).

[42] *Id.*

[43] Fhui, *supra* note 36; Rizky, Jordan & Ridwan, *supra* note 40.

especially AI-developed black campaign disseminated using social media, is not specifically regulated by law leads to legal uncertainty. The principle of legal certainty stipulates that the law must be sufficiently clear to make it easy for legal subjects to regulate their own behavior and to prevent the arbitrary use of state power.[44] Therefore, the relevant laws should be amended to capture the unique features of AI-developed black campaign disseminated using social media to ensure legal certainty. Also, the amendments should place regulatory burdens on social media networks. Such companies should be required by law to put in place a mechanism to identify and take down posts containing black campaigns and there should be stringent sanctions for those who flout the law.

V. Conclusion

Due to the increasing trend of black campaigns in Indonesia, this article sought to find out if the current regulations governing black campaign are adequate to combat the vice. Law No. 7 of 2017 on General Election as amended by Law No. 7 of 2023, and Law No. 11 of 2008 on Electronic Information and Transactions as amended by Law No. 19 of 2016, were assessed to find out the level of protection they offer against the increasing threat of AI-developed black campaign disseminated using social media, which is a threat to democracy.

The analysis revealed that both laws do not offer adequate protection against AI-developed black campaign disseminated using social media. This is because the laws do not specifically address the issue of black campaigns developed by AI and spread by social media, which is complex in nature. Although some experts believe that some provision of the above laws can be applied to tackle black campaigns, the fact that the mentioned laws do not specifically take into consideration the unique features of black campaign could lead to legal uncertainty. The principle of legal certainty states that the law must be sufficiently clear to make it easy for legal subjects to regulate their own behavior and to prevent the arbitrary use of state power.

Therefore, there is a need to amend the above-mentioned laws to plug the observed loophole. The amendments should consider the unique features of AI-developed black campaign disseminated using social media. Also, the amendments should impose regulatory burdens on social media networks. They should be

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[44] Mark Fenwick & Stefan Wrbka, *The Shifting Meaning of Legal Certainty*, *in* LEGAL CERTAINTY IN A CONTEMPORARY CONTEXT 1 (2016).

required to develop an efficient system that quickly identifies and takes down black campaigns posted on their networks.