

DIGITAL COMMUNICATION AND ITS IMPLICATIONS FOR DEFAMATION LAW: TOWARD RESTORATIVE JUSTICE

Rahmad Lubis¹, Heri Sulaiman², Desi Purnama³, Nuranisah⁴, Ali Mutakin⁵

Nurul Iman Islamic College, Jl. Nurul Iman, Waru Jaya Village, Regency, West Java

¹ email: lubisrahmad26@gmail.com

² e-mails: herisulaiman2511@gmail.com

³ e-mail: desipurnama@gmail.com

⁴ email: nisah2773@gmail.com

⁵ email: alimutakin@stai-nuruliman.ac.id

Abstract

The rise in defamation cases in the digital era has accompanied the rapid growth of social media, which enables information to spread widely and quickly. In Indonesia, regulations—notably Article 27(3) and Article 28(2) of the ITE Law—were designed to address this issue. However, their implementation has often been controversial, as they risk restricting freedom of expression and are sometimes applied repressively. This study evaluates the effectiveness of these regulations and explores the use of restorative justice as an alternative for resolving defamation cases. Employing a normative juridical approach, it analyzes various countries' laws, jurisprudence, and legal practices. The findings suggest that restorative justice mechanisms—such as mediation, apologies, and content removal—are more effective in resolving disputes than criminal approaches, which tend to escalate conflicts. Therefore, regulatory reforms, enhanced digital literacy, and collaboration among the government, social media platforms, and the community are essential to implementing restorative-based solutions. A more proportionate approach would enable Indonesia's legal system to handle defamation cases more fairly, without undermining freedom of expression.

Keywords: Defamation, Restorative Justice, ITE Law, Freedom of Expression, Digital Mediation, Legal Regulation, Content Moderation, Human Rights, Digital Literacy, Hate Speech.

INTRODUCTION

Progressive digital technology has changed how people communicate significantly, with social media as one of the leading platforms. In the beginning, social media functioned as a means to share personal life, but now has developed into a public platform connecting global society to discuss various social, economic, political, and cultural issues (Nord et al., 2017). Speed and ease of distribution of information via social media allow individuals to put forward their opinions and fight for fundamental rights, including freedom of expression. (AZ, 2023). However, progress also presents new challenges, including increasing case defamation.

Phenomenon : This creates tension between the right to freedom of expression and the protection of individual privacy (Jin & Kakkar, 2023).

Generally, normative freedom is expressed in various international law instruments, such as Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR). In the context of national law, freedom of expression is guaranteed in Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD 1945), which states that " Everyone has the right to freedom to associate, gather, and issue opinion ." In addition, Article 28F of the 1945



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Constitution emphasizes that " Everyone has the right For communicate and obtain information to develop personal and environmental " However, the rights This is not without limits, as set up in Article 28J paragraph (2) of the 1945 Constitution which states that "In carrying out their rights and freedoms, everyone is obliged to bow down to restrictions set with Constitution with Meaning For ensure confession as well as respect on the rights and freedoms of others." (Prasetyo Wicaksono et al., 2023) .

In criminal law, the protection of the reputation and privacy of individuals is set up in Articles 310 and 311 of the Criminal Code (KUHP). Article 310 paragraph (1) of the Criminal Code states that " Whoever on purpose attack honor or good name somebody with accuse something what it means bright so that matter That known general, threatened Because pollution with criminal maximum nine years in prison month or criminal "Article 311 of the Criminal Code regulates about defamation committed with intentionally and proven as slander, with threat criminal more weight. (Tektona , 2023) .

In the digital context, defamation experience expansion through Constitution Number 11 of 2008 concerning Information and Electronic Transactions (ITE Law), which has been revised with Constitution Number 19 of 2016. Article 27 paragraph (3) of the ITE Law states that " Everyone with intentionally and without right distribute and/ or transmit and/ or make can accessible information electronics and/ or document electronics that have load insults and/ or defamation can convicted with criminal imprisonment for a

maximum of 4 years and/ or maximum fine of Rp. 750,000,000." Regulation This refers to Articles 310 and 311 of the Criminal Code, but it has wider implications because it covers the distribution of information through digital media. (Simbolon & Kurniawan, 2023) .

In addition, Article 28, paragraph (2) of the ITE Law stipulates a prohibition on the distribution of potential information that triggers hatred or hostility based on Tribe, Religion, Race, and Inter-Group (SARA). Regulation. This is often related to defamation in the digital realm. Although aiming to prevent the utterance of hate speech, provisions usually trigger debate about limitations between legitimate criticism and statements that can be considered defamation or slander. (Alifa & Harefa, 2023) .

Applying Article 27 paragraph (3) and Article 28 paragraph (2) of the ITE Law often raises controversy. Many parties consider the provision of ITE Law to be repressive and potentially silences criticism and freedom of expression. On the other hand, arguments state that regulation is required to protect the aggrieved individual and distribute information based on social media. Dilemma: This shows the need to reconstruct more adaptive laws to balance freedom of expression and protection of individual rights in the digital era. (Ilmania et al., 2023) .

This dynamic is more complex with the emergence of drafts, insufficient answers, digital platforms controlling distribution, and potential content defamation. Various countries have started to adopt regulations that require social media platforms to delete problematic content in specific terms, as

applied in Germany's NetzDG (Network Enforcement Act) and the European Union's Digital Services Act. Although this step can speed up the response to distributing detrimental information to individuals, its implementation challenges are determining the boundaries between censorship and fair moderation.

In addition, the development of artificial intelligence (AI) to detect utterance hatred and defamation also poses ethical and legal challenges. The algorithm used for filtering content often exhibits bias that can lead to errors in detecting or interpreting a statement as defamation. Therefore , it is necessary to have a transparent and accountable supervision mechanism in the implementation of technology, so that it doesn't harm the rights of individuals to express themselves.

On the other hand, the restorative justice approach is considered a more human solution to defamation cases. Approach This emphasizes mediation between the party who feels harmed and the perpetrator, aiming to reach a fair deal without going through lengthy and costly litigation . Several countries have developed this model as an alternative to settle digital disputes, which can reduce the burden on the criminal justice system and give room for restoring the victim's good name without sacrificing the principle of freedom of expression. (Community, 2023)

In this research, the analysis will focus on Article 27 paragraph (3) of the ITE Law as the basis for handling defamation cases and its relevance to Articles 310 and 311 of the Criminal Code. In addition, it will be under review how Article 28, paragraph (2) of the ITE

Law has the potential to expand defamation coverage in the context of uttering hatred. Research. This aims to evaluate the extent to which the existing regulations can give balanced protection between freedom of expression and individual privacy rights in an increasingly complex digital space. (Sulaiman et al., 2024)

This study will specifically aim to answer several central questions: (1) How is the policy law applicable to criminal law in handling cases of defamation on social media? (2) What are they? What is the weakness in applying Article 27 paragraph (3) and Article 28 paragraph (2) of the ITE Law regarding protecting freedom of expression and the right to privacy? (3) What is the reconstruction strategy? A law that can adapt with development technology and meet the needs of a digital society in a delicate balance between freedom of expression and protection of individual reputation. (Enim , 2025)

Thus, research is expected to contribute academically and practically to formulate more proportional laws so that freedom of expression is still guaranteed without sacrificing individual rights. This is necessary to protect against defamation in the digital age. (Pawelec, 2024) .

RESEARCH METHODS

Study This applies an approach to legal normative, which, given Soerjono Soekanto and Sri Mamudji, is a method of studying law with a primary focus on studying legal norms written as a primary source in the analysis. Approach: This focuses on studies of documents, such as regulatory legislation, court decisions, and developing law. In Peter Mahmud Marzuki's view, research on legal

normative is done to study the system of applicable law and the concepts underlying the law to find principles that can be used to break down a problem in law. (Alfarizi & Listyaningrum, 2024)

Approach: This was applied in a study to analyze cases of defamation in the digital age, especially involving social media and other digital platforms. Data collected through studies of the literature, which includes relevant laws and regulations, such as Article 27 paragraph (3) and Article 28 paragraph (2) of the ITE Law, as well as decisions of relevant courts with defamation in the digital world (Mochamad Arsyah Nugraha et al., 2024). In addition, this research also applies comparative studies to study similar regulations in other countries to evaluate the gap in Indonesian law and seek a more effective regulatory model in balancing freedom of expression and protection of individual rights.

Analysis was done to identify weaknesses in existing regulations and their impact on freedom, opinion, and rights. Analysis results will be used to recommend reconstructing more balanced and adaptive laws to develop technology and challenge the law in the digital age. (Casanovas et al., 2024)

RESULTS AND DISCUSSION

Legal Limits between Freedom of Expression and Defamation in National and International Regulations

The right to express one's opinions is part of the rights guaranteed by fundamental human rights in various regulatory laws at the international and national levels. Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 19 of the

International Covenant on Civil and Political Rights (ICCPR) state that every individual has the right to disclose their opinion without interference and the freedom to seek, receive, and disseminate information in various forms. However, freedom expresses no nature. (Nissen, 2024) In Article 19, paragraph (3), the ICCPR limits the right to express oneself, respect for the rights or reputation of other people, and protect national security, order, general or public health, and morals. Thus, defamation regulation is one form of legitimate restriction to freedom of expression within proportional limits. (Alfarizi & Listyaningrum, 2024)

In the natural realm, the Indonesian constitution also adopts principles similar to those of the law nationally. Article 28E paragraph (3) and Article 28F of the 1945 Constitution (UUD 1945) guarantee every individual's right to convey opinions and obtain information. However, Article 28J paragraph (2) also regulates that freedom under its limitations, namely, it must honor the rights of others and consider the general interest. (Setiadi, 2023). As implementation, Provisions about sanctions on defamation are set up in Articles 310 and 311 of the Criminal Code (KUHP), which require that the action be done in a way that openly attacks the honor of someone. While that, in a digital context, Law Information and Electronic Transactions (ITE Law) expands the scope of defamation regulation through Article 27 paragraph (3), which regulates criminal acts related to the distribution of electronic information containing elements of insult or defamation. (Casanovas et al., 2024) However, the different interpretations of freedom of expression and defamation

often cause polemic law in practice. One of the primary debates is whether defamation regulation is used in a proportional or precise way, becoming a tool for silencing freedom of opinion. Several countries have develop approach based on standard three the three-part test that was established in practice law international, namely : (Sudarta, 2022) (1) restrictions must set up in clear and unambiguous law ambiguous, (2) limitation must own legitimate purpose like protect right or reputation individuals, and (3) restrictions must proportional so that No excessive and not violate essence freedom express That itself (Mendel, 2010). Unfortunately, the implementation regulations in several jurisdictions still show bias in implementation, where individuals with strong political or economic interests tend to use defamation law as a tool for press criticism, especially on digital platforms. (Nissen, 2024)

Various countries have adopted legal reform approaches in response to potential abuse of defamation regulations. For example, the Digital Services Act requires social media platforms to handle harmful content quickly in the European Union. Still, it gives a transparent mechanism so as not to impose excessive censorship. While that, in the United States, the policy more laws side with freedom express applied through standard tall in proof defamation for figure public, as set in landmark decision *New York Times Co. v. Sullivan* (376 U.S. 254, 1964), which required evidence existence intention evil (*actual malice*) in distribution alleged information defamation. (Casanovas et al ., 2024)

Thus, the limitations of the law between freedom of expression and

defamation depend on the balance between protecting individual rights and the public's interests. Legal reform in Indonesia is necessary to adopt progressive principles with an emphasis on the proportionality test mechanism, clearer restrictions in the implementation of articles related to defamation, and guarantee that the regulation will not be used as a tool for silencing criticism. (Abdurrahman Harits Ketaren, 2024) . In the future, the approach based on restorative justice can also become a solution to handle cases of defamation, to allow the restoration of the victim's good name without sacrificing the principle of freedom of essential expression in democracy. (Alfarizi & Listyaningrum, 2024) .

Effectiveness of the Implementation of Article 27 Paragraph (3) and Article 28 Paragraph (2) of the ITE Law in Handling Defamation Cases

Information and Transactions Law (ITE Law) is a regulation that was created to regulate the utilization of technology information in Indonesia, including the handling of defamation cases. (Zukić, 2024) . Article 27, paragraph (3) of the ITE Law regulates the prohibition for individuals to intentionally and without right distribute, transmit, or make accessible information charged with electronic defamation. While that is, Article 28 paragraph (2) emphasizes the prevention of the distribution of information containing elements of hatred based on SARA. Both chapters have a good purpose in protecting individuals and groups from the negative impact of the internet. abuse (Nissen, 2024) However, in implementation, the effectiveness of the second chapter still

becomes a debate among academics, legal practitioners, and society in general. One of the biggest challenges in implementing regulations is ensuring that existing law truly runs with fairness, is not used in a discriminatory way, and does not threaten freedom to express what has been guaranteed in the Constitution. (Shi, 2024)

In Article 27, paragraph (3), many criticisms have been directed at the ambiguous definition of defamation in digital space. Criminal law, conventionally regulated in Articles 310 and 311 of the Criminal Code, still gives room for proof whether a statement is based on truth. However, in the ITE Law, the limitations about defamation are often interpreted in a way that is so wide that there is an open opportunity for abuse. This is certain. Some cases show that the chapter is more often used as a tool of criminalization to criticize the official public or individuals with political and economic power. Phenomenon This is a cause and effect deterrent (chilling effect), where society is reluctant to convey opinions or criticism openly, because of the fear of being ensnared by the law. As a result, not only is freedom of speech threatened, but also the role of the public in controlling social policy becomes weak. Therefore, there is a need to urge a review and repeat implementation of the chapter, so that it doesn't contradict the principles of the rule of law and democracy.

Article 28, paragraph (2) of the ITE Law, which regulates the prohibition of uttering hatred, also faces challenges in its implementation (Aisah et al., 2023) . The main objective of this chapter is to prevent provocation based on SARA,

which can trigger conflict, social and disturbing order, and general disorder. In some cases, the article is effective in taking action against uttering absolute hatred, such as calling for violence against a particular group. However, there are many cases where the article is used in a way that is not proportional to the individual or the group that expressed opinion or criticism. The difference in interpretation between utterances of legitimate hatred and criticism often becomes the main problem. Several cases show that this chapter is more often applied to group opposition, political activists, or those who convey criticism to the government, while utterances of hatred committed by a group are usually not subject to the same legal action. Inconsistency in the implementation of the law. This causes distrust in the public of the system of justice and strengthens the assumption that the law only takes sides with the group that has power. (Behr, 2024) .

One of the main challenges in the implementation of the second chapter is that a more criminalized approach is put forward compared to settlement in a way that is civil law. In many countries with a more complex legal system, like England and the United States, defamation cases are completed through civil courts, with compensation as the primary mechanism. Approach: This is considered more proportional because it allows the court to evaluate the extent to which the victim suffers the impact of the losses without dragging the perpetrator into the criminal justice system. In contrast, in Indonesia, a more severe criminalization often worsens the condition of the victim and the report. The legal process is long, the costs are

high, and potential criminalization that is not proportional can cause injustice for the second split parties. Therefore, reform is needed to implement the law to make it more restorative and justice-oriented. (Hidayat et al., 2024)

In addition, the effectiveness of the ITE Law in handling defamation is also influenced by society's low level of digital literacy. Many individuals have not understood deeply the limitations between freedom of expression and utterance, which can be categorized as defamation or utterance of hatred. Low awareness. This often causes many people to spread information easily without considering the consequences of the law. One of the impacts of low digital literacy is a phenomenon called trial by social media, where individuals or groups are found guilty by public opinion before a transparent legal process. Therefore, education about digital ethics and literacy law becomes a vital step to take to integrate efforts to enforce the law related to defamation in the digital world. (Nugroho, 2024)

To increase the effectiveness of the implementation of Article 27 paragraph (3) and Article 28 paragraph (2) of the ITE Law, further regulatory reform must be balanced and fair. One of the steps that can be taken is reformulating the definition of defamation in a digital context to make it more straightforward and not easily misused. Regulation must also consider the element of intention (*mens rea*) in every defamation case to ensure that the law is not used arbitrarily. In addition, the civil settlement mechanism must be more optimized for defamation cases, which can be

completed more fairly without always leading to criminal prosecution.

Enforcement of the law against defamation and speech hatred must also be done transparently and in an accountable manner. The community must be given more access to supervise how the chapter is applied, so there is no bias or abuse of authority by the law enforcers. In addition, the relationship between the government and social media platforms must be improved to ensure that content moderation works effectively and fairly. Internet service providers must have clear standards for handling defamation and hate speech without waiting for intervention from the law, which can introduce certain biases. (Giordano & Cocco, 2023) .

Thus, the practical application of Article 27 paragraph (3) and Article 28 paragraph (2) of the ITE Law in handling defamation cases still faces various challenges that must be overcome quickly. Existing regulations must put forward the principle of justice and balance between protecting individuals and the freedom to express themselves. More legal reforms, transparent and evidence-based justice, and restorative justice become urgent steps for regulation . This can be applied more effectively. With a more holistic approach, the ITE Law can become an instrument to protect the rights of citizens without sacrificing the principles of democracy. (Agustina et al., 2023)

One crucial aspect that needs to be noticed in applying Article 27 paragraph (3) and Article 28 paragraph (2) of the ITE Law is how far the law can ensure substantive justice for all parties involved. In many cases, regulation is more often

utilized by the party that has access to more of the system's laws, such as official public and capital owners, compared to the general public, who are the real victims. This shows the existence of inequality in implementing the law, where individuals with Power and resources can easily report defamation cases. In contrast, small publics often have trouble getting protection laws when facing similar problems. Therefore, the effectiveness chapter must be measured not only based on the number of cases that are prosecuted, but also at the level of justice that is produced for all elements of the public without discrimination. (Setiadi, 2023)

In addition, the rapid development of technology and information also contributes to the emergence of new challenges in enforcement law related to defamation. The emergence of digital-first platforms, anonymity, and freedom of expression often becomes a difficult space to control and enforce regulations. To avoid legal consequences, many actors defame others using false identities or anonymous accounts. Situation: This demand exists to improve the capacity of the apparatus to enforce the law in digital investigations to identify the perpetrator more effectively. In addition, the mechanism of the same international work must also be reinforced. Many cases of defamation occur on social media platforms that operate across countries, so coordination between various jurisdiction laws is essential. (Widodo, 2024)

On the other hand, it is also essential to study how similar regulations apply in various countries to find the best practice that can be applied in the Indonesian context. For example, in

European countries, the approach used to handle defamation puts forward a better balance between protecting reputation and freedom of speech. This model can become a material consideration for Indonesia in reforming policies related to the ITE Law so that it is not only a repressive law but also provides a fair space for public expression. In addition, the approach model based on technology applied in several developed countries, such as using artificial intelligence algorithms to detect content loaded with defamation before it spreads widely, can also become a solution implemented in Indonesia. (Viko musadad & Chepi Ali Firman Zakaria, 2024)

Furthermore, the restorative justice approach can also become an alternative solution in cases of defamation that occur in the digital space. Rather than directly bringing a criminal case to court, attempting mediation and settlement of disputes in a non-litigation manner can be more prioritized, especially in cases of a non-nature. This model has been implemented in several countries with sufficient success in reducing conflict and prolonged law. (Sudarta , 2022) With this mechanism's existence, the defamation victim still gets justice. At the same time, the perpetrator is given a chance to provide a responsible answer without having to face excessive punishment . This step can also reduce the burden on the court, which is often filled with real things, and can be completed outside the formal justice system. (Sptyska , 2024)

Finally, the effectiveness of the ITE Law also depends heavily on public participation and active public involvement in preventing and handling

defamation cases. High legal awareness will help individuals understand the limitations of freedom of expression and the consequences of the laws that accompany it. Government, academics, and public civil organizations need to collaborate to organize comprehensive digital education to improve the public's understanding of the ethics of the internet. In addition, the initiative to form a community monitor content that works like social media platforms can become a practical step in reducing the distribution of defamatory information. Thus, implementing the ITE Law can be more effective in protecting the public from the impact of negative digital information, without sacrificing fundamental rights to freedom of expression. (Indriasari, 2024)

Implementation Draft Justice Restorative in Settlement of Defamation Cases in the Digital Age: Perspectives, Regulations and Legal Implications

Restorative justice is an alternative approach in settlement case law that emphasizes restoring social connections and resolving conflicts through dialogue and agreement between the perpetrator and the victim. In the case of defamation in the digital age, approaches to overcome the potential problems that arise from the implementation of the Constitution Information and Electronic Transactions (ITE Law), especially Article 27 paragraph (3) and Article 28 paragraph (2) (Abdurrahman Harits Ketaren, 2024) Both chapters are often criticized because they are multi-interpretable and potentially misused. In many cases, sanctions are used to complicate things rather than to end the conflict. Therefore, implementing restorative justice can

become a more proportional solution while still considering victims' and perpetrators' legal, social, and psychological aspects. (Rida Ista Sitepu & Yusona Piadi, 2019)

Article 27 paragraph (3) of the ITE Law prohibits the distribution and/ or transmission of information electronics containing insulting or defamatory elements. Sanctions for violations. This is set up in Article 45 paragraph (3) of the ITE Law, which stipulates a criminal prison up to 4 years and/ or a maximum fine of Rp750 million. While Article 28 paragraph (2) of the ITE Law regulates the distribution of information containing elements of utterance hatred based on SARA, with criminal threats as outlined in Article 45A paragraph (2), namely a maximum of 6 years ' imprisonment and/ or a fine of up to Rp1 billion. In practice, both provisions are often applied in cases of defamation in the digital world. However, a more repressive enforcement of the law usually ignores the mechanisms of mediation and reconciliation, which became the principal mainstay of restorative justice. (Aziz et al., 2023) .

One challenge in implementing restorative justice in defamation cases is balancing protecting victims ' rights and freedom to express themselves. Article 28E paragraph (3) of the 1945 Constitution emphasizes that everyone has the right to express opinions and their mind. In addition, Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which has been ratified through Law No. 12 of 2005, also guarantees freedom of speech, even though it still gives limitations to protect the reputation of other parties. Therefore, the implementation of restorative justice

needs to be done in a balanced law to accommodate victims ' rights without ignoring the freedom of expression of the accused party. (Emaliawati , 2024) .

The primary mechanism in justice restorative is penal mediation, as set up in Regulation of the Republic of Indonesia Attorney General's Office No. 15 of 2020 concerning Termination of Prosecution Based on Justice Restorative. Regulation This allows certain cases, including defamation, to be completed outside court with a note of agreement between the victim and the perpetrator. This step aligns with Article 3, paragraph (1) of the Criminal Procedure Code, which states that criminal law enforcement must consider the principle of proportionality and benefits. (Yoga Pratama Widiyanto (1) Zainuri (2, 2022) . With this, in case of defamation, if the victim and the perpetrator reach an agreement, the apparatus of the law can stop the criminal process for greater substantive justice. (Nurlatu et al., 2024) .

In addition, the new Article 74 of the Criminal Code in Constitution Number 1 of 2023 concerning the Criminal Code also opens the opportunity to implement restorative justice with a more modern and rehabilitative criminal law draft. In the context of defamation in digital media, resolution based on restorative justice can be done through a request. Sorry, open, revocation of content considered defamatory, and moral compensation to the victims. Approach: This not only provides victims justice but also prevents perpetrators from being impacted by excessive criminal penalties, especially if the perpetrator had no intention of committing a heinous crime (mens rea). (Bahari et al., 2024) .

In some countries, restorative justice has been applied similarly in Handling cases. For example, in Canada, the "Restorative Justice Dialogue" mechanism has been used in cases of defamation and hate speech online. This process involves perpetrators, victims, mediators, and a representative community to build a fair solution for all parties. In Australia, the "Online Harms Mediation" approach is starting to be applied in settling digital conflicts, including defamation, with sufficient effective results in dampening conflict and reducing the number of incoming criminal justice cases. (Widodo, 2024) .

In Indonesia, implementing restorative justice in defamation can be reinforced through regulations with additional Details related to the mediation mechanism in cases involving the ITE Law. Some significant defamation cases are currently being processed criminally without considering alternative settlements. Therefore, revision regulation or at least a letter circular from the Supreme Court confirmed that the restorative approach must become an option in defamation before going through the formal legal process. This can reduce excessive criminalization and increase the justice system's effectiveness in handling more serious cases. (Taufiqurokhman et al., 2024) .

Also crucial to involving social media platforms in support of restorative justice in the case of defamation. Based on Article 26 of the ITE Law, every organizer of electronic systems (including social media) must delete infringing content of individuals upon request from the owner of the related rights. Suppose the social media platform

accommodates mediation between perpetrators and victims and provides a feature for settling digital disputes. In that case, many defamation cases can be completed without involving apparatus enforcer law. (Anggraini , 2022) .

In the end, the implementation draft of justice restorative in case defamation in the digital age must be based on the principle of proportionality, a balance between protecting individual rights and the freedom to express oneself, and effectiveness in dampening conflict. With more regulatory support and good coordination between the apparatus, enforcer law, victims, perpetrators, and digital platform organizers, this approach can become a fairer, faster solution and not hurt the long-term interests of the second split parties. Therefore, revising policies and implementing restorative justice regulations must become a priority agenda in Indonesia's legal reform of digital crime. (Safitri & Wahyudi, 2022)

Apart from the role of regulation in supporting the implementation of restorative justice in cases of defamation, it is necessary to consider the aspect of digital education and literacy in reducing potential conflict in cyberspace. ITE Law and the new Criminal Code have given a strong legal base, but the approach to law is not sufficient if the public still has a low understanding of digital communication ethics. Government, institutions of education, and social media platforms must collaborate to increase public awareness about the limitations between freedom of expression and defamation. A digital literacy program focusing on aspects of law, ethics, and the psychological impact of social media speech can help prevent conflicts and

push more peace-oriented solutions. (MO'O et al., 2024) .

In addition, sociology plays a vital role in forming effective restorative justice in defamation cases. In many societies, conflict based on reputation is often more complex than criminal cases because it involves psychological, social, and economic aspects. In the Indonesian context, where the culture of cooperation and deliberation still plays a vital role in resolving disputes, a restorative justice approach can be more effective by involving community figures, independent mediators, or institutions with moral authority to help fairly resolve conflicts. Thus, the solution based on restorative justice holds perpetrators and victims accountable and positively impacts social stability more broadly. (Goanta et al., 2022) .

In the future, strengthening restorative justice in defamation cases in the digital age must be supported by synergy between policy, law, system technology, and social awareness. The government can adopt a mechanism for settlement of more responsive digital disputes, such as forming an independent body that serves as a mediator between the victim and the perpetrator before the case is continued under formal law. In addition, integration technology in settlement disputes, such as online mediation platforms or systems that report more efficiently on social media, can help reduce the escalation of conflicts and ensure that every case is handled fairly and by the principles of restorative justice. With these steps, the system of Indonesian law can be more adaptive to the dynamics of the digital era, creating a balance between the protection of the law

and the freedom of expression in an increasingly diverse society connected virtually. (Emaliawati, 2024)

CONCLUSION

Based on the findings of this study, it can be concluded that defamation regulations in the digital realm—notably Article 27(3) and Article 28(2) of the ITE Law—continue to face significant challenges in their implementation. On the one hand, these provisions aim to protect individuals from the dissemination of harmful information that damages reputations or incites hatred based on SARA (ethnicity, religion, race, and intergroup relations). On the other hand, their application often creates a dilemma between legal protection and restricting freedom of expression. Several cases have shown that these provisions are frequently misused to silence legitimate criticism of public officials and institutions, resulting in a chilling effect on society.

The prevailing legal approach, which emphasizes criminalizing alleged defamation, also poses problems, especially given social media's dynamic and difficult-to-control nature. Technological developments, such as artificial intelligence algorithms and digital platforms, influence how information spreads and is interpreted as defamation. In this context, restorative justice emerges as a more effective and fair alternative, particularly through mediation between the victim and the perpetrator, removal of defamatory content, and non-litigation dispute resolution.

Implementing restorative justice in defamation cases in the digital era has significant potential to reduce the burden

on the justice system and prevent excessive criminalization. However, this approach requires more detailed regulations and precise implementation mechanisms. Furthermore, legal education and digital literacy among the public are crucial to reducing the number of defamation cases and increasing awareness of ethical digital communication. With a more adaptive and balanced legal approach that protects both reputation and freedom of expression, the Indonesian legal system is expected to handle the challenges of the digital era more effectively.

SUGGESTION

1. Revise the ITE Law

The government should revise Article 27(3) and Article 28(2) of the ITE Law to define the elements of defamation and hate speech more clearly. This reformulation must ensure that the regulations are not open to multiple interpretations and cannot be misused to silence legitimate criticism.

2. Strengthen Restorative Justice Mechanisms

Specific rules are needed to require that defamation cases in digital media go through mediation before entering the criminal justice system. The Prosecutor's Office and other legal institutions should optimize Prosecutor's Regulation No. 15 of 2020 to implement restorative justice in defamation cases.

3. Improve the Capacity of Law Enforcement

Law enforcement personnel, including police and prosecutors, should receive better training on digital law and

more proportional, fair investigative techniques for defamation cases. Specialized training on handling technology-based cases is also essential to ensure the law is applied fairly and not arbitrarily.

4. Enhance Digital Literacy and Legal Awareness

The government and educational institutions should expand digital literacy programs that teach communication ethics, the legal consequences of disseminating false or defamatory information, and the distinction between legitimate criticism and defamation. A greater understanding of these issues will help the public use social media more responsibly.

5. Collaborate with Digital Platforms

Social media platforms must play a greater role in handling defamation cases by implementing more transparent content moderation systems. Faster mechanisms for content removal and technology-based dispute resolution procedures should be strengthened to resolve disputes effectively without involving formal legal processes.

6. Develop Technology-Based Regulations

The government should develop policies that support the use of technology—such as artificial intelligence (AI)—to detect defamatory content without infringing on users' rights. Such regulations must ensure that AI-based content moderation remains transparent and unbiased when evaluating whether a statement constitutes defamation or legitimate criticism.

LIST LIBRARY

Agustina, R. A., Madjid, A., & Noedajasakti, S. (2023). Freedom of Expression in Regulating Criminal Acts of Defamation Against the Government and State Institutions. *Path of Science*, 9(8), 1008–1018. <https://doi.org/10.22178/pos.95-31>

Almujaddedi, M. S., and Revi Hayati. "Perspective of Islamic Law on Hate Comments in Social Media." *JCH (Jurnal Cendekia Hukum)* 7.2 (2022): 243-256.

Alhakim, A., Girsang, J., & Wadhi, G. Y. (2023). Kajian Yuridis Sanksi Pidana Terhadap Tindak Pidana Hate Speech Cyberbullying di Indonesia. *Legalitas: Jurnal Hukum*, 15(2), 158. <https://doi.org/10.33087/legalitas.v15i2.449>

Aniskina, E. G., Mullakhmetova, N. E., & Magankova, A. A. (2022). Cyber-Libel: Proving And Qualification Challenges. 20–25. <https://doi.org/10.15405/epsbs.2022.01.4>

Benesch, S., Bugher, M., Buerger, C., Douek, E., Glavinic, T., & Kaye, D. (2018). But Facebook 's Not a Country: How to Interpret Human Rights Law for Social Media Companies government does , and their platforms are being used to bring about seri- to freedom of expression – for use by social media companies , in novel de-. 86–111.

Bloch-Wehba, H., Balkin, J., Berman, E., Crootof, R., Daskal, J., Eichensehr, K., Estrin, M., Haupt, C., Keller, D., Kirtley, J., Kitrosser, H., Klonick, K., & Reed, C. (2019). *Global Platform Governance: Private Power in the Shadow of the Global Platform Governance: Private Power in the Shadow of the State State*. Southern Methodist University Law Review, 72(1), 27–80.

- <https://scholarship.law.tamu.edu/facscholar/1402>
- Chatzakou, D., Leontiadis, I., Blackburn, J., Cristofaro, E. De, Stringhini, G., Vakali, A., & Kourtellis, N. (2017). Detecting Cyberbullying and Cyberaggression in Social Media *. *YUSTISIA MERDEKA: Jurnal Ilmiah Hukum*, 8(2), 22–28. <https://doi.org/10.33319/yume.v8i2.153>
- Erdem, B. (2022). The Elements of Freedom of Expression in the Light of the European Convention on Human Rights. *European Journal of Interdisciplinary Studies*, 8(2), 70–80. <https://doi.org/10.26417/ejis.v4i2.p181-187>
- Espinoza-Rausseo, A. P., & Rivas-Alberti, J. F. (2023). Freedom of expression in the tripartite legal relations of defamation and privacy in the jurisprudence of the United States and a brief comparative approach. *Anuario Iberoamericano de Justicia Constitucional*, 27(1), 153–181. <https://doi.org/10.18042/cepc/aijc.27.05>
- Fish, B. (2020). No 主観的健康感を中心とした在宅高齢者における健康関連指標に関する共分散構造分析Title. 2507(February), 1–9.
- Friastutu, R. (2021). Pencemaran Nama Baik di Media Sosial. *Kumparan.Com*, 6(4), 16–32. <https://kumparan.com/kumparannews/polri-kasus-uu0ite-terbanyak-terkait-pencemaran-nama-baik-ada-1-794-laporan-1vKQXF6cNx>
- Gizaw, T. S. (2017). The Voice of the People Compromised and Accountability Denied. *Journal of Public Administration and Governance*, 7(4), 58. <https://doi.org/10.5296/jpag.v7i4.12058>
- Jannah, R., & Hidayat, N. A. (2022). Pertanggungjawaban Pidana Bagi Orang Tua Pelaku Eksploitasi Anak Untuk Konten Media Sosial. *YUSTISIA MERDEKA: Jurnal Ilmiah Hukum*, 8(2), 22–28. <https://doi.org/10.33319/yume.v8i2.153>
- Jin, Y., & Kakkar, H. (2023). The Effect of Social Media on Dominance. *Academy of Management Proceedings*, 2023(1), 7–11. <https://doi.org/10.5465/amproc.2023.11045abstract>
- Journal, D. L., Inozemtsev, M. I., Journal, D. L., Journal, D. L., & Journal, D. L. (2020). От редакции 4.0. 1(1), 10–11.
- Kamran, Muhammad, Ahmadi Miru, and Maskun Maskun. "Online Selling And Buying Fraud: The Law Of Electronic Transaction Perspective." *JCH (Jurnal Cendekia Hukum)* 6.2 (2021): 270-288.
- Kanci, H. V. P., Leo, R. P., & Amalo, H. (2023). Criminal Liability Of Disseminator's Pornographic Content On Social Media. *Journal of Digital Law and Policy*, 2(3), 119–128. <https://doi.org/10.58982/jdlp.v2i3.384>
- Klonick, K. (2015). Re-Shaming the Debate: Social Norms, Shame, and Regulation in an Internet Age. *SSRN Electronic Journal*, 75(4). <https://doi.org/10.2139/ssrn.2638693>
- Küpper, H. (2020). Expert Opinions on Foreign Law in Court: Applied Comparative Law in the Munich Institute for East European Law. *Central European Journal of Comparative Law*, 1(1), 111–130. <https://doi.org/10.47078/2020.1.111-130>

- Kuznetsova, J. A., & Kalmazova, N. A. (2022). The Concept Of Defamation In The Russian And American Law: Comparative Analysis. 378–384. <https://doi.org/10.15405/epsbs.2022.01.61>
- Laidlaw, E. B. (2019). Re-Imagining Resolution of Online Defamation Disputes. *Osgoode Hall Law Journal*, 56(1), 162–202. <https://doi.org/10.60082/2817-5069.3390>
- Lavis, A., & Winter, R. (2022). # Online harms or benefits ? An ethnographic analysis of the positives and negatives of peer support around selfharm on social media # Online harms or benefits ? An ethnographic analysis of the positives and negatives of peer-support around self-harm on social media. <https://doi.org/10.1111/jcpp.13245>
- Ludvigsen, K. R., Nagaraja, S., & Daly, A. (2022). The Dangers of Computational Law and Cybersecurity; Perspectives from Engineering and the AI Act. <http://arxiv.org/abs/2207.00295>
- Maghfiroh, R., Abbas, R., Syariah, F., E-mail, I. J., Syariah, F., & E-mail, I. J. (2020). Studi Komparasi Penyebaran Berita Bohong (Hoax) Perspektif UU ITE dan Hukum Pidana Islam Pendahuluan Perkembangan teknologi saat ini sangat mempengaruhi pola perilaku kehidupan. 1(August), 154–165.
- Manfrin, N. R. (2019). A comunicação digital Como possibilidades de integração social. *Regrad, UNIVEM*, 12(1), 45–62. <https://revista.univem.edu.br/REGRAD/article/view/2774>
- Michaelsen, M., & Thumfart, J. (2023). Drawing a line: Digital transnational repression against political exiles and host state sovereignty. *European Journal of International Security*, 8(2), 151–171. <https://doi.org/10.1017/eis.2022.27>
- Mochamad Arsyia Nugraha, Neni Sri Imaniyati, & Muhammad Ilman Abidin. (2024). Perlindungan Hukum Konten Kreator pada Platform Youtube terhadap Pengunggahan Ulang Video di Instagram Tanpa Izin Ditinjau Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta. *Bandung Conference Series: Law Studies*, 4(1), 356–362. <https://doi.org/10.29313/bcsls.v4i1.9870>
- Muhammad Feby Andreawan, & Safik Faozi. (2022). Tinjauan Yuridis Terhadap Tindak Pidana Berita Hoax Penyebaran Kebencian. *The Juris*, 6(2), 551–556. <https://doi.org/10.56301/juris.v6i2.628>
- Nord, J. H., Achituv, D. B., & Paliszkievicz, J. (2017). Communication through Social Technologies: A Study of Israeli Women. *Journal of International Technology and Information Management*, 26(1), 45–80. http://libaccess.mcmaster.ca/login?url=https://www.proquest.com/scholarly-journals/communication-through-social-technologies-study/docview/1938528460/se-2?accountid=12347%0Ahttp://sfx.scholarsportal.info/mcmaster?url_ver=Z39.88-2004&rft_val_fmt=info:ofi/f
- Ortega-barón, J. (2018). Malestar psicológico y apoyo psicosocial en víctimas de ciberbullying. 357–366.
- Pater, J. A., Kim, M. K., Mynatt, E. D., & Fiesler, C. (2016). Characterizations of online harassment: Comparing policies across social media platforms. *Proceedings of the International ACM SIGGROUP*

- Conference on Supporting Group Work, 13-16-November-2016, 369–374.
<https://doi.org/10.1145/2957276.2957297>
- Peleschyshyn, A., Klynina, T., & Gnatyuk, S. (2019). Legal mechanism of counteracting information aggression in social networks: From theory to practice. CEUR Workshop Proceedings, 2392.
- Permatasari, I. A., & Wijaya, J. H. (2019). Implementasi Undang-Undang Informasi dan Transaksi Elektronik Dalam Penyelesaian Masalah Ujaran Kebencian Pada Media Sosial. *Jurnal Penelitian Pers Dan Komunikasi Pembangunan*, 23(1), 27–41. <https://doi.org/10.46426/jp2kp.v23i1.101>
- Prahassacitta, V. (2021). Offences Principles and a Limitation for Disinformation Via the Internet in Indonesia. *Indonesian Law Journal*, 14(1), 37–51. <https://doi.org/10.33331/ilj.v14i1.49>
- Rochford, F. (2023). ‘ Mind-forg ’ d Manacles ’: Virtual Experience and Innocent. 2193–2206.
- Said, Muhammad Fachri. "Perlindungan hukum terhadap anak dalam perspektif hak asasi manusia." *JCH (Jurnal Cendekia Hukum)* 4.1 (2018): 141-152.
- Sarr, M. G. (2019). Potential benefit and harm of social media and predatory publishing: a commentary on B Antibiotic-treated acute appendicitis — reception in social media [^]. 351–352.
- Sidorenko, E. L., & Von Arx, P. (2020). Transformation of law in the context of digitalization: defining the correct priorities. *Digital Law Journal*, 1(1), 24–38. <https://doi.org/10.38044/dlj-2020-1-1-24-38>
- Tzelios, K., & Williams, L. A. (2020). The Psychological Impact of Digital Signatures : A Multistudy Replication. 1–5.
- Ukum, H., Eknologi, T., Cyber, R., Puri, V. Y., & Siregar, M. R. (2020). P s n h t. 1(1).
- Ur Rahman, M. W., Shao, S., Satam, P., Hariri, S., Padilla, C., Taylor, Z., & Nevarez, C. (2022). A BERT-based Deep Learning Approach for Reputation Analysis in Social Media. *Proceedings of IEEE/ACS International Conference on Computer Systems and Applications, AICCSA*, 2022-December. <https://doi.org/10.1109/AICCSA56895.2022.10017489>
- Victoriia, P. (2020). Psychology the Psychological Role of Ethnic Identity. 3(March), 31–34. <https://doi.org/10.31435/rsglobal>
- Widyati, L. S. (2017). Tindak Pidana Penghinaan Terhadap Presiden Atau Wakil Presiden: Perlukah Diatur Kembali Dalam Kuhp? (Defamation Against the President or Vice President: Should It Be Regulated in the Criminal Code?). *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan*, 8(2), 215–234. <https://doi.org/10.22212/jnh.v8i2.1067>
- Wong, H. Y., Mo, H. Y., Potenza, M. N., Ni, M., Chan, M., Lau, W. M., Chui, T. K., Pakpour, A. H., & Lin, C. (2020). Relationships between Severity of Internet Gaming Disorder , Severity of Problematic Social Media Use , Sleep Quality and Psychological Distress. 1–13.