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Prison and Non-Prison Sanctions in Cases of Defamation through Social Media

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ABSTRACT: The increase in online defamation in Indonesia in line with the growing number of internet users, which is often responded to with prison sentences of up to 4 years based on the Electronic Information and Transactions Law, has raised a debate regarding the effectiveness and proportionality of such punishments. This article aims to compare the effectiveness of prison sanctions versus non-prison sanctions such as fines, community service, and their alignment with the principles of restorative justice and the 2023 Criminal Code. The research method uses a comparative-normative approach by analyzing the rulings on defamation cases via Facebook, the ITE Law, and regulatory changes in the Criminal Code (Law No. 1/2023). The study results show that the defendants were sentenced to prison (2–8 months), only 3 received probation, the 2023 Criminal Code (effective 2026) abolishes prison sentences for minor offenses, switching to fines (maximum Rp10 million) or community service, online defamation has now become a complaint-based crime following the changes to the ITE Law in 2016. In conclusion, short-term prison sentences are less effective because they have the potential to sacrifice freedom of expression and have minimal preventive impact, while non-custodial sentences are more suitable for minor cases in line with the adoption of restorative justice. Recommendations include amendments to the Electronic Information and Transactions Law (UU ITE) to integrate alternative sanctions of fines or community service, prioritizing mediation as a preliminary step, and socializing the limits of digital freedom.

KEYWORDS: defamation, prison, criminal fine

I. INTRODUCTION

The number of internet users worldwide is estimated to reach 5.56 billion by 2025 out of a total population of 8.2 billion, with Indonesia being one of the largest contributors with 221 million users, or 79.5% of its population.¹ The use of technology to express opinions must respect legal boundaries and the interests of others.² Article 27 paragraph 3 of the ITE Law ensnares offenders with a maximum prison sentence of 4 years, but its application has sparked controversy regarding the proportionality of the punishment and the potential criminalization of freedom of expression.³ This research is urgently needed to balance the protection of individual reputation with civil rights in the digital era, especially in anticipation of the implementation of the new Criminal Code (Law No. 1/2023) in 2026, which changes the paradigm of criminal sanctions.

Although the main regulations such as the ITE Law Article 27A and the Criminal Code Article 310 threaten perpetrators with imprisonment of up to 4 years or a fine of Rp750 million, ironically this results in only 30% of defamation cases truly resolving the immaterial losses of the victims.⁴ The phrase attacking honor in Article 27A of the ITE Law 2024 lacks objective boundaries and is heavily dependent on the sensitivity of the victim, leading to

¹ Muhammad Andimaja, "Komitmen Pemerintah Melindungi Anak Di Ruang Digital," <https://www.komdigi.go.id/berita/artikel/detail/komitmen-pemerintah-melindungi-anak-di-ruang-digital>, February 27, 2025.

² I Made Vidi Jayananda, I Nyoman Gede Sugiarta, and Made Minggu Widiananta, "Analisis Tentang Pencemaran Nama Baik Dan Penyalahgunaan Hak Kebebasan Berpendapat Di Media Sosial," *Jurnal Analogi Hukum* 3, no. 2 (September 30, 2021): 261–65, <https://doi.org/10.22225/ah.3.2.2021.261-265>.

³ Rezkyta Pasca Abrini Daeng Ngiji, Sigid Suseno, and Budi Arta Atmaja, "Penerapan Pasal 27 Ayat (3) UU ITE Dalam Perkara Pencemaran Nama Baik Melalui Media Sosial Terhadap Kelompok Orang," *Jurnal Fundamental Justice*, April 11, 2022, 19–34, <https://doi.org/10.30812/fundamental.v3i1.1796>.

⁴ Mikhael Feka et al., "Navigating the Legal Minefield: The Impact of Articles 27A and 27B of Indonesia's EIT Law on Freedom of Expression and the Path to Legal Reform," *Journal of Law and Legal Reform* 6, no. 1 (March 13, 2025): 265–304, <https://doi.org/10.15294/jllr.v6i1.19116>.

normative multitinterpretation, as seen in the case of Jerinx vs IDI in 2020 where criticism on Instagram could be charged as defamation.⁵ The average cost of imprisonment is Rp5 million/month per detainee and the loss of employment for the offender, coupled with the failure of prison sentences to restore immaterial losses such as depression or social stigmatization, results in significant socio-economic impacts.

Article 28E Paragraph (3) of the 1945 Constitution guarantees the freedom to associate, assemble, and express opinions, often conflicting with Article 28G Paragraph (1) of the 1945 Constitution, which grants individuals the right to personal protection, family, honor, dignity, and property under their control, including the right to feel secure and protected from threats of fear regarding actions or inactions that are human rights. Protection of dignity demands a reformulation of sanctions that is more proportional. Otherwise, a chilling effect will continue to occur, as evidenced by a 40% decrease in public policy criticism on social media.⁶ Without that, the chilling effect will continue to be reflected in the 40% decrease in criticism of public policy on social media, so freedom of expression is not fully protected, and the public's control function over the state weakens.

The urgency of the research lies in three aspects; First, the need to harmonize the ITE Law and the new Penal Code before 2026 to avoid dualism of sanctions. Second, the potential of mediation to resolve cases based on decision patterns thus reducing the burden on the judiciary. Third, the protection of civil liberties through the clarification of the boundaries between constructive criticism and defamation. With a synthesis of empirical data and policy analysis,

⁵ Lani Diana, "4 Fakta Kasus Jerinx SID Vs Selebgram Adam Deni," *Tempo*, 2021, <https://www.tempo.co/hukum/4-fakta-kasus-jerinx-sid-vs-selebgram-adam-deni-494332>.

⁶ Putri Limilia and Ikhsan Fuady, "Literasi Media, Chilling Effect, Dan Partisipasi Politik Remaja," *Jurnal Kajian Komunikasi* 9, no. 1 (June 28, 2021): 40, <https://doi.org/10.24198/jkk.v9i1.31939>.

this paper serves as a foundation for fair digital criminal law reform. The application of prison sanctions in defamation cases through social media still raises issues of proportionality, multiple interpretations, and the criminalization of freedom of expression, necessitating the reformulation of laws through the harmonization of the EIT Law and the new Criminal Code with alternative non-prison sanctions based on penal mediation and restorative justice to protect individual reputations while ensuring civil rights in the digital era.

II. METHODS

This research uses a normative juridical method with a focus on the analysis of primary and secondary legal sources.⁷ Primary legal materials include the ITE Law (Article 27 paragraph 3), the Old Criminal Code (Articles 310–321) and the New Criminal Code (Law No. 1/2023, Articles 432–436), as well as court decisions on defamation cases through social media. Secondary sources include doctrinal studies, journals, and legislation. Data collection was carried out through document studies and critical literature reviews to inventory regulations, patterns of sanctions, and judges' considerations in their rulings. Data analysis applies a statutory approach to compare the provisions of sanctions in the ITE Law and the New Penal Code, and a case-based approach to identify patterns of penalization.

III. RESULT & DISCUSSION

A. Defamation of Character Through Social Media: Regulations and Prison Sanctions in Indonesia

⁷ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2005).

The defamation regulations originally governed under Articles 310 and 311 of the Criminal Code to attack honor and spread accusations have been updated to cover the online domain in line with technological developments.⁸ The rapid development of information technology in Indonesia has led to the birth of Law Number 1 of 2024 as the second amendment to the ITE Law, because the previous law was no longer relevant to new challenges regarding privacy, data security, and the spread of false information that has emerged alongside the significant changes in internet usage by the community since 2008.⁹ The regulation on defamation in Article 27 paragraph 3 of Law No. 11 of 2008 on Information and Electronic Transactions, which was amended by Law No. 19 of 2016, carries a prison sentence of up to 4 years or a maximum fine of Rp750 million based on Article 45 paragraph 3. This leads to the fact that, although the legal scope is expanded to the virtual world, the wording of the article often causes multiple interpretations and controversies in its application.

The increase in cybercrime creates a dilemma between handling digital insults and protecting freedom of expression, which requires a wise approach to balance these two interests.¹⁰ The rapid dissemination of information and user-generated content that transforms public discourse in the digital era causes the interaction between defamation law and media to continue evolving, thereby increasing the risks of defamation that pose challenges to the legal

⁸ Syofyan Al Barozi, Ary WahyudiAry Wahyudi, and Tijani Isnaeni, "Pertanggungjawaban Pidana Terhadap Pelaku Pencemaran Nama Baik Melalui Media Sosial Berdasarkan Undang-Undang Republik Indonesia Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik," *Unizar Recht Journal (URJ)* 2, no. 4 (December 30, 2023): 701–14, <https://doi.org/10.36679/urj.v2i4.153>.

⁹ Salsa Octaviani Suryanto and Aji Mulyana, "Legal Challenges in Overcoming Changes in Social Behaviour Due to the Development of Technology and Information," *Golden Ratio of Law and Social Policy Review* 3, no. 2 (May 29, 2024): 84–96, <https://doi.org/10.52970/grlspr.v3i2.359>.

¹⁰ Rohit Ray, "Defamation and Social Media: The Parcel That Keeps on Being Passed," *Journal of Legal Studies & Research* 08, no. 03 (2022): 71–56, <https://doi.org/10.55662/JLSR.2022.8305>.

framework.¹¹ Because the ITE Law No. 11 of 2008, which was amended to Law No. 19 of 2016 and subsequently Law No. 1 of 2024, specifically regulates actions in electronic media, the distribution of electronic information in the form of insults or defamation on platforms such as X or Instagram can be subject to legal action, as the Penal Code through Articles 310-321 also addresses defamation in both online and offline cases.

The Constitutional Court Decision No. 2/PUU-VII/2009 states that Article 27 paragraph 3 does not conflict with the rights of citizens, freedom of expression, or the principles of the rule of law because human rights in Indonesia balance rights and obligations.¹² Article 45 paragraph 3 of the ITE Law stipulates that disseminating electronic information containing insults or defamation is a criminal offense.¹³ Defamation is regulated in the Criminal Code both verbally in Article 310 and in writing in Article 310 paragraph 2, and it is also criminalized by the ITE Law if done electronically with the intention to defame and without legal justification, and if the information is disseminated.¹⁴ Legal regulations in Indonesia, both through the Penal Code and the Electronic Information and Transactions Law, emphasize the commitment to maintain a balance between freedom of expression and the protection of individual reputation, particularly in the digital realm.

¹¹ Melisa Zukić and Abdurrahman Zukić, "Defamation Law and Media: Challenges of the Digital Age," *MAP Education and Humanities* 5, no. 1 (November 1, 2024): 98–109, <https://doi.org/10.53880/2744-2373.2024.5.98>.

¹² Mahrus Ali, "Pencemaran Nama Baik Melalui Sarana Informasi Dan Transaksi Elektronik (Kajian Putusan MK No. 2/PUU-VII/2009)," *Jurnal Konstitusi* 7, no. 6 (May 20, 2016): 119, <https://doi.org/10.31078/jk765>.

¹³ Sry Wahyuni and Yoserwan, "Pertanggungjawaban Pidana Terhadap Pencemaran Nama Baik Melalui Media Sosial," *UNES Law Review* 6, no. 1 (September 3, 2023), <https://doi.org/https://doi.org/10.31933/unesrev.v6i1.851>.

¹⁴ Gilang Rizky Ramadhan, Yosaphat Diaz, and Asmak Ul Hosnah, "Penanganan Tindak Pidana Pencemaran Nama Baik Yang Dihubungkan Dengan KUHP," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 2, no. 1 (June 25, 2024): 51–64, <https://doi.org/10.61104/alz.v2i1.208>.

The issue of Article 27 Paragraph (3) of the ITE Law reflects the lack of clarity in the norms, the still weak law enforcement, and the low digital literacy of the public in distinguishing between criticism and defamation.¹⁵ Article 27 paragraph (3) of the ITE Law, which prohibits the distribution of electronic information containing defamation or slander, with a criminal penalty of up to 4 years in prison or a fine of Rp750 million based on Article 45 paragraph (1), causes its implementation to depend on Articles 310 and 311 of the Criminal Code as the basis for the offense, in accordance with the Constitutional Court's decision. Considering the still vague norms, ineffective law enforcement, and low digital literacy among the public, Article 27 paragraph (3) of the ITE Law regarding defamation poses challenges in its implementation as it still refers to the Criminal Code.

Several provisions of the ITE Law, especially those related to defamation, are deemed to be multi-interpretable and have the potential to be misused, thus threatening freedom of opinion and expression.¹⁶ Although originally designed with a socio-legal nature to regulate economic transactions, the ITE Law has practically shifted to become an instrument often used to criminalize expression in technological media such as defamation and hate speech.¹⁷ The cases of Walhi and Robet illustrate that the implementation of the ITE Law is often influenced by socio-political interests, raising concerns about deviations from its primary purpose as an instrument of legal

¹⁵ Dhea Hafifa Nanda and Faishal Amirudin Hariyanta, "Problematika Operasionalisasi Delik Pasal 27 Ayat (3) Uu Ite Dan Formulasi Hukum Perlindungan Freedom Of Speech Dalam HAM," *Jurnal Hukum Dan Pembangunan Ekonomi* 9, no. 2 (January 25, 2022): 214, <https://doi.org/10.20961/hpe.v9i2.52779>.

¹⁶ Vita Fajrin Jahriyah et al., "Kebebasan Berekspresi Di Media Elektronik Dalam Perspektif Pasal 27 Ayat (3) Undang- Undang Nomor 19 Tahun 2016 Perubahan Atas Undang- Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Pelayanan Transaksi Elektronik (UU ITE)," *Sosio Yustisia: Jurnal Hukum Dan Perubahan Sosial* 1, no. 2 (November 30, 2021): 65–87, <https://doi.org/10.15642/sosyus.v1i2.96>.

¹⁷ Zaka Firma Aditya and Sholahuddin Al-Fatih, "Indonesian Constitutional Rights: Expressing and Purposing Opinions on the Internet," *The International Journal of Human Rights* 25, no. 9 (October 21, 2021): 1395–1419, <https://doi.org/10.1080/13642987.2020.1826450>.

justice.¹⁸ Various criticisms of Article 27 paragraph (3) of the ITE Law, particularly due to the potential for multiple interpretations and abuses that could threaten freedom of expression, highlight the need to reassess the foundation of defamation regulations in both the Penal Code and the ITE Law. Therefore, a summary of the articles regulating the crime of defamation is presented below.

Table 1. Articles on Defamation

Legal basis	Form of Action	Criminal Threat	Description
Article 310 paragraph 1 of the Criminal Code	Attacking honor or good name by making verbal accusations in public.	Prison for a maximum of 9 months or a fine	Common defamation (slander)
Article 310 paragraph 2 of the Criminal Code	Attacking honor or reputation through writing, images, or media that is broadcast, displayed, or posted in public.	The prison sentence is a maximum of 1 year and 4 months or a fine.	Written defamation (libel)

¹⁸ Atikah Mardhiya Rohmy, Teguh Suratman, and Arini Indah Nihayaty, "UU ITE Dalam Perspektif Perkembangan Teknologi Informasi Dan Komunikasi," *Dakwatuna: Jurnal Dakwah Dan Komunikasi Islam* 7, no. 2 (August 12, 2021): 309, <https://doi.org/10.54471/dakwatuna.v7i2.1202>.

Article 310 paragraph 3 of the Criminal Code	Pollution committed for the public interest or self-defense.	is Not criminally charged	Justification reason
Article 311 Criminal Code	Accusing something of the (slander)	The prison sentence is a maximum of 4 years.	Heavier than ordinary pollution
Article 315 Criminal Code	Mild insults, such as rude words, curses, mockery, humiliating actions without specific accusations.	Imprisonment for a maximum of 4 months and 2 weeks or a fine.	lighter criminal offenses
Article 316 Criminal Code	Insulting officials who are carrying out their legitimate duties	Added 1/3 of the main criminal threat	Pressure due to the victims being officials
Article 317 Criminal Code	Making defamation of the complaints or false reports to the authorities that harm others.	The prison sentence is a maximum of 4 years.	Special form of official defamation

Article 318 of Criminal Code	Making false accusations that result in someone being investigated by law enforcement.	The prison sentence is a maximum of 4 years.	Similar to Article 317, but more on the consequences of the inspection.
Article 319 of Criminal Code	Insult with aggravating circumstances, for example, carried out in a certain way that broadens the impact.	Added 1/3 of the main criminal threat	Special weighting
Article 27 paragraph 3 of the ITE Law in conjunction with Article 45 paragraph 3 of Law 19/2016	Disseminating, transmitting, or making accessible electronic information/electronic documents that contain insults or defamation.	Imprisonment for a maximum of 4 years and/or a fine of up to 750 million IDR	Applicable on social media, messaging apps, email, and digital platforms.

Source: Criminal Code and Information and Electronic Transactions Law

The case of defamation via social media is specifically regulated in Article 27 paragraph 3 of the ITE Law in conjunction with Article 45 paragraph 3 of Law No. 19 of 2016, which stipulates a prison sentence of up to 4 years and/or a maximum fine of IDR 750 million. The

formulation and/or provisions here allow the judge to impose either prison sanctions or non-prison sanctions in the form of fines, so it does not always have to involve deprivation of liberty. Normatively, this pattern indicates an effort for a more flexible differentiation of sanctions compared to the classic Penal Code, where most offenses of insult still predominantly use imprisonment. In practice, the application of non-prison penalties such as fines is often considered more proportional for cases of online insults that often occur due to momentary emotions or debates in the digital world, while prison sentences are usually imposed in cases that cause serious harm, broadly tarnish reputations, or are carried out with strong malicious intent. Thus, the development of this regulation emphasizes a paradigm shift from the dominance of prison sentences to non-custodial options, in line with the principle of *ultimum remedium* and the protection of freedom of expression while still considering the dignity and honor of others.

The amendment of the ITE Law by the government is a response to public criticism and the multi-interpretation of its articles as a form of responsibility in protecting the rights of internet users in Indonesia.¹⁹ The defamation law in Indonesia, regulated by the Penal Code and the ITE Law, criminalizes false accusations that damage a person's reputation, both verbally and in writing, including through electronic means such as the internet.²⁰ Although the addition of Articles 27A and 27B in the ITE Law aims to adapt to technological developments, this change is still seen as failing to address the fundamental issues related to legal ambiguity and the potential threat to freedom of

¹⁹ Yoga Vikriansyah Wijaya, Adhithia Erfina, and Cecep Warman, "Analisis Sentimen Seputar UU ITE Menggunakan Algoritma Support Vector Machine," *Progresif: Jurnal Ilmiah Komputer* 17, no. 2 (August 17, 2021): 1, <https://doi.org/10.35889/progresif.v17i2.644>.

²⁰ Gilang Rizky Ramadhan, Yosaphat Diaz, and Asmak UI Hosnah, "Penanganan Tindak Pidana Pencemaran Nama Baik Yang Dihubungkan Dengan KUHP," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 2, no. 1 (June 25, 2024): 51–64, <https://doi.org/10.61104/alz.v2i1.208>.

expression and human rights.²¹ The failure is evident in several cases, one of which is the case of Prita Mulyasari, which started from a housewife's complaint email about hospital services, became a legal highlight due to a criminal defamation lawsuit based on the ITE Law, but she was ultimately acquitted by the Supreme Court after receiving significant public support.²² This debate shows that the issue of defamation is not only related to the ITE Law but also to the Penal Code (KUHP), which has long regulated various forms of insults and slander. The Penal Code includes both verbal and written defamation, slander, and false reports with varying sanctions, although Article 310 paragraph 1 has been declared unconstitutional in 2024.

The rapid development of technology since 2008 has brought up new challenges such as privacy issues and disinformation, prompting the government to update the ITE Law through Law Number 1 of 2024 to remain relevant in regulating the current digital space.²³ The Electronic Information and Transactions Law (UU ITE) is intended to regulate digital transactions and information, but its implementation has sparked public controversy due to the numerous cases of individuals being reported and prosecuted for electronic defamation since the law took effect in 2008.²⁴ Defamation in Indonesia, especially on social media, involves malicious intent, statements that harm

²¹ Mikhael Feka et al., "Navigating the Legal Minefield: The Impact of Articles 27A and 27B of Indonesia's EIT Law on Freedom of Expression and the Path to Legal Reform," *Journal of Law and Legal Reform* 6, no. 1 (March 13, 2025): 265–304, <https://doi.org/10.15294/jllr.v6i1.19116>.

²² Nerissa Arviana, Sari Mandiana, and Jusup Jacobus Setyabudhi, "Analisis Kasus Prita Mulyasari Dalam Putusan Peninjauan Kembali No. 225 PK/Pid.Sus/2011," *YUSTISIA MERDEKA : Jurnal Ilmiah Hukum* 6, no. 2 (September 29, 2020), <https://doi.org/10.33319/yume.v6i2.47>.

²³ Salsa Octaviani Suryanto and Aji Mulyana, "Legal Challenges in Overcoming Changes in Social Behaviour Due to the Development of Technology and Information," *Golden Ratio of Law and Social Policy Review* 3, no. 2 (May 29, 2024): 84–96, <https://doi.org/10.52970/grlspr.v3i2.359>.

²⁴ Dwilani Irrynta and Nanik Prasetyoningsih, "An Analysis of Freedom of Speech: Whether the Indonesian Electronic Information and Transactions Law Is Contradictory," *SASI* 29, no. 2 (April 19, 2023): 200, <https://doi.org/10.47268/sasi.v29i2.1061>.

reputation, publication, harm to the victim, and electronic context according to the ITE Law, with effects exacerbated by the public nature and rapid dissemination of information on platforms like X or WhatsApp.

The cases that have emerged show that Article 27 paragraph 3 regarding defamation and Article 28 paragraph 2 regarding incitement to spread hatred in the ITE Law often generate controversy. There is great concern that this law, which is supposed to regulate electronic transactions and information, is instead being misused to silence criticism and differing views in society.²⁵ The drummer of the band Superman is Dead, Jerinx, was previously caught under Article 27 paragraph 3 of the ITE Law in 2020 and was sentenced to 1 year and 2 months in prison due to his Instagram post that allegedly defamed the Indonesian Medical Association (IDI).²⁶ The controversy surrounding the ITE Law, particularly Article 27 paragraph 3 and Article 28 paragraph 2, arises from the potential for abuse to silence criticism, as seen in the case of Jerinx who was sentenced due to his social media posts.

The evolution of defamation regulation in Indonesia, originally governed by Articles 310-311 of the Criminal Code for offline actions, has expanded to the online realm through the ITE Law, most recently amended by Law No. 1/2024 to address challenges of privacy and digital misinformation. However, the wording of articles such as Article 27 paragraph 3 of the old ITE Law, which carries a criminal penalty of 4 years or a fine of IDR 750 million, and Article 27A of the new ITE Law is considered multi-interpretative and has the potential

²⁵ Hary Isdyanto et al., "Advantages and Disadvantages of Implementing the Electronic Information and Transactions Law on Freedom of Speech," in *Proceedings of the 2nd International Conference on Law, Economic, Governance, ICOLEG 2021, 29-30 June 2021, Semarang, Indonesia* (EAI, 2021), <https://doi.org/10.4108/eai.29-6-2021.2312615>.

²⁶ Komang Vita Dianita, "The Freedom of Speech Based on Jerinx Case, ITE Law Approach," *Journal of Digital Law and Policy* 1, no. 1 (September 29, 2021): 29–36, <https://doi.org/10.58982/jdlp.v1i1.91>.

to threaten freedom of expression and is vulnerable to abuse for the criminalization of criticism, as seen in cases like *Jerinx vs IDI* and environmental activists. Although the Constitutional Court in Decision No. 78/PUU-XXI/2023 reaffirmed the verbal element in Article 310 of the Criminal Code and limited the phrase 'other people' in Article 27A of the ITE Law only to individuals and not institutions/corporations, the inconsistency of law enforcement and the low level of digital literacy in society still create a dilemma in balancing reputation protection with civil liberties. This issue is exacerbated by the application of disproportionate sanctions, such as the threat of fines up to IDR 750 million under the ITE Law compared to IDR 50 million under the New Criminal Code, and the dependence on subjective interpretations of insult versus legitimate criticism, which in practice is often influenced by political interests.

The provisions of the defamation crime in Law 1/2023 concerning the Penal Code raise concerns about substantive justice, where broad restrictions on defamation could potentially threaten freedom of speech, while the use of information technology requires strict oversight to prevent human rights violations; this must be balanced with guarantees of freedom of expression.²⁷ Criminal law regulates unlawful acts along with their sanctions, including the crime of defamation that damages the reputation of individuals/groups, where this research will analyze the Crime of Defamation and the Principles of Criminal Law in the New Criminal Code with a focus on substantive justice.²⁸

²⁷ Fatmawati Fatmawati, Muhammad Shuhufi, and Anita Chaturvedi, "Defamation in the New Criminal Code: A Review of Substantive Justice," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 3 (December 28, 2023): 465–80, <https://doi.org/10.29303/ius.v11i3.1288>.

²⁸ Mansure Madani et al., "Policy Considerations to Achieve Practical Ethics: Closing the Gap between Ethical Theory and Practice," *Journal of Medical Ethics and History of Medicine*, September 1, 2020, <https://doi.org/10.18502/jmehm.v13i8.4075>.

Human rights-oriented legal philosophy emphasizes that freedom of expression is a fundamental right that must be guaranteed by the state.²⁹ The new Penal Code regulates the crime of defamation in Article 433 as a form of light insult, defining it as an open accusation that damages the honor or reputation of another person with the intent of being disseminated.³⁰

The Penal Code 2023 in Section Six regulates minor insults (Article 436) as acts that demean a person's dignity without reaching the serious level of defamation or slander, thus applying lighter sanctions according to the gradation of the seriousness of the offense.³¹ The Criminal Code 2023 adds a 1/3 heavier criminal threat for insults via information technology, acknowledging the wide and rapid impact of the spread of defamatory content on digital platforms.³² The development of defamation regulations from the old Criminal Code to the latest ITE Law shows an expansion into the digital realm with significant penalties, yet it still raises controversy due to multiple interpretations, criminalization of criticism, and inconsistency in rulings, although the Constitutional Court has made efforts to clarify the boundaries of defamation objects so as not to weaken freedom of expression.

B. ALTERNATIVE PRISON FOR DEFAMATION THROUGH SOCIAL MEDIA

²⁹ Vina Salviana Darvina Soedarwo et al., "Gender Sensitivity among Political Parties in Indonesia and India," *KnE Social Sciences*, July 29, 2020, <https://doi.org/10.18502/kss.v4i10.7394>.

³⁰ Kazuki Shimizu and Leesa Lin, "Defamation Against Healthcare Workers During COVID-19 Pandemic," *International Journal of Health Policy and Management*, September 27, 2020, <https://doi.org/10.34172/ijhpm.2020.184>.

³¹ Ahmad Irzal Fardiansyah, "Why Indonesia Maintain Capital Punishment?," *Fiat Justisia: Jurnal Ilmu Hukum* 15, no. 1 (February 16, 2021): 25–38, <https://doi.org/10.25041/fiatjustisia.v15no1.1904>.

³² Rizka Rizka et al., "Criminal Liability of People with Mental Disorders: Health Law Perspective," *Open Access Macedonian Journal of Medical Sciences* 10, no. E (February 3, 2022): 435–38, <https://doi.org/10.3889/oamjms.2022.8449>.

Imprisonment as a form of deprivation of independence has become a focus in online defamation cases in Indonesia, reflecting the evolving paradigm of criminal punishment.³³ Good regulations aim to enhance accountability in technology use, balance interests, and prevent disparities in legal treatment.³⁴ Regulations regarding defamation are necessary to limit freedom of expression so as not to harm the reputation of others, as such actions violate laws, ethics, and morals.³⁵ To effectively address defamation on social media, it is essential to consider the values of Pancasila and the legal culture of Indonesia, which balance the protection of human dignity with the freedom of expression and dissemination of information.

In human rights-oriented legal philosophy, freedom of expression is a fundamental right the state must protect.³⁶ Article 27B paragraph (2) of the ITE Law, with its unclear definition, has the potential to threaten freedom of expression and cause public fear, which is contrary to the principles of utilitarianism that prioritize happiness and the most significant benefit for society.³⁷ Law No. 1 of 2024 amending the ITE Law by introducing a new article regulating defamation in electronic media, emphasizing more proportional sanctions in line with the protection of freedom of expression. Civil

³³ Didik Purnomo, Prija Djatmika, and Nurini Aprilianda, "Pidana Penjara Untuk Anak Pelaku Tindak Pidana Terorisme Dalam Perspektif Perlindungan Anak," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 7, no. 1 (March 30, 2022): 8, <https://doi.org/10.17977/um019v7i1p8-18>.

³⁴ Erwin Asmadi, "Rumusan Delik Dan Pidanaan Bagi Tindak Pidana Pencemaran Nama Baik Di Media Sosial," *DE LEGA LATA: Jurnal Ilmu Hukum* 6, no. 1 (2021), <https://doi.org/https://doi.org/10.30596/dll.v6i1.4910>.

³⁵ Andreas Josef Swisman, Puguh Aji Hari Setiawan, and Dewi Iryani, "Penegakan Hukum Tindak Pidana Pencemaran Nama Baik Dalam Rangka Memberikan Kepastian Hukum Bagi Pengguna Media Sosial," *Mutiara: Multidisciplinary Scientific Journal* 2, no. 11 (November 29, 2024), <https://doi.org/10.57185/mutiara.v2i11.288>.

³⁶ Amatus Venantius Sabubun and Roberth Kurniawan Ruslak Hammar, "Protection of Freedom of Expression Through Social Media from The Perspective of Human Rights," *Eduvest - Journal of Universal Studies* 4, no. 3 (March 20, 2024): 880–87, <https://doi.org/10.59188/eduvest.v4i3.1080>.

³⁷ Fransiskus Xaverius Renda, "Kebahagiaan Dalam Utilitarianism John Stuart Mill," *Proceedings of The National Conference on Indonesian Philosophy and Theology* 1, no. 1 (March 1, 2023): 59–67, <https://doi.org/10.24071/snf.v1i1.8368>.

Code Article 1365 regulates compensation for unlawful acts as a non-penal alternative in cases of defamation, while the Chief of Police Regulation No. 6 of 2019 promotes a restorative justice approach, such as mediation, to resolve minor cases without going through formal criminal processes.

Law No. 1 of 2024 introduces Article 27A, which regulates defamation and insult through electronic media with penalties of up to 4 years in prison and fines of up to Rp750 million. Article 27B, paragraph 2 establishes sanctions for disseminating information that diminishes honor, focusing on fines and community service for minor cases. Meanwhile, the elements of defamation law include malice, defamatory statements, publication, and the harm suffered by the victim.

Handling cases of subjective insult requires legal clarity with objective criteria to distinguish legitimate criticism from insults while protecting freedom of expression.³⁸ Article 310 of the Criminal Code, as interpreted by the Constitutional Court Decision No. 78/PUU-XXI/2023, regulates criminal sanctions for defamation spoken up to 9 months in prison or a fine of Rp4.5 million and written defamation up to 1 year and 4 months in jail or a fine of Rp4.5 million, with exceptions if done for the public interest or in self-defense. Article 433 of Law No. 1/2023 stipulates that anyone who verbally attacks the honor or reputation of another person may be punished with imprisonment for up to 9 months or a maximum fine of Rp10 million, while if done in writing or through images, the sanctions can reach imprisonment for 1 year and 6 months or a fine of up to Rp50 million, with the exception if the act is done for public interest or in self-defense.

³⁸ Yazid Bustomi, "The Relevance of Behavior of Law Theory to Law Enforcement in Indonesia," *Jurnal Hukum Prasada* 9, no. 1 (March 14, 2022): 53–64, <https://doi.org/10.22225/jhp.9.1.2022.53-64>.

Article 28, paragraph 2 of the ITE Law, which is unclear in defining hate speech, results in broad interpretations and inconsistencies in court decisions.³⁹ Attacking honor or reputation is an act that belittles or damages someone's reputation, including defamation or slander, thereby causing harm. Criminal law should limit insults to actions that threaten public interests, such as national stability, public order, or national security, not merely criticism or expression of opinion.⁴⁰

Law 1/2024 Article 28 paragraph 2 in conjunction with Article 45A paragraph 2 prohibits the spread of information that incites hatred based on ethnicity, religion, and race with a threat of imprisonment of up to 6 years or a maximum fine of IDR 1 billion. The Joint Decision Letter (SKB) regarding the guidelines for the implementation of the ITE Law classifies minor insults as offenses under Article 315 of the Criminal Code or Article 436 of Law No. 1 of 2023, not Article 27A of Law No. 1 of 2024. Meanwhile, defamation on social media, which is regulated in Article 310 of the Criminal Code and Article 27A in conjunction with Article 45 paragraph (4) of Law No. 1 of 2024, is a complaint offense, so it can only be processed if the victim themselves reports it to the police.

Table 2. New and Old Penal Code

Old Penal Code (WvS 1915)	New Penal Code (Law No. 1 of 2023, effective 2026)	Main Differences
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³⁹ Devita Kartika Putri, "Hate Speech and the Harm in Indonesian Judicial Decisions," *Cogent Social Sciences* 9, no. 2 (December 15, 2023), <https://doi.org/10.1080/23311886.2023.2274430>.

⁴⁰ Joseph Andy Hartanto, "The Philosophy of Legal Reason in Indonesian Law," *Beijing Law Review* 11, no. 01 (2020): 119–27, <https://doi.org/10.4236/blr.2020.111008>.

Legal Basis	Articles 310-321 of the Indonesian Penal Code	Articles 435-440 of the Criminal Code 2023	Numbering changes, simplifying the systematization
Common Pollution (Oral)	Article 310, paragraph 1: imprisonment for 9 months or a fine	Article 435: a threat of 9 months imprisonment or a category II fine	Same, only the penalty system has been updated.
Written Defamation (Libel)	Article 310 paragraph 2: threat of 1 year and 4 months	Article 436: a danger of 1 year and 6 months or a category III fine	Higher criminal threats
Justification Reasons	Article 310, paragraph 3: public interest/ self-defense, shall not be punished	Article 437 is the same provision	The principle is maintained
libel	Article 311 threatens with 4 years	Article 438 threats of 4 years or category IV fines	The same, but there is a penalty option.
Light Insult	Article 315 threatens	Article 439: a threat of 6	Heavier threats

	months and 2 months or a weeks or a fine.	category II fine	
Insulting an Official	Article 316 of the penal code is increased by 1/3 if the victim is an official.	Article 440: The punishment is more severe if it is against an official in the line of duty.	The principle remains, the editorial is more modern.
Penalty System	Fixed nominal value is small & irrelevant	Category system I–VIII (Rp 1 million – Rp 2 billion)	More flexible and adaptive
Digital Context	Not regulated, only in the ITE Law	Still unregulated, still subject to the ITE Law.	The ITE Law remains a <i>lex specialis</i> in the cyber domain.

Source: data processed

The offense of defamation through social media, as regulated in Article 27 paragraph 3 in conjunction with Article 45 paragraph 3 of the ITE Law, carries a maximum prison sentence of 4 years and/or a fine of IDR 750 million, as well as regulations in the 2023 Penal Code with a category fine system, indicating there is an alternative to imprisonment.⁴¹ The formulation and/or possibility for the judge to choose non-custodial sanctions in the form of fines more proportional than prison sentences is critical because many cases of defamation on

⁴¹ Didik Purnomo, "Contradiction and Legal Transformation in the Shift of the Correctional System from Retributive to Social Reintegration in Indonesia," *Yustisia Tirtayasa* 5, no. 2 (2025): 138–65, <https://doi.org/http://dx.doi.org/10.51825/yta.v5i2.32432>.

social media arise from personal conflicts, emotional debates, or carelessness in communication. The application of prison sentences in this context has the potential to lead to over-criminalization, limit freedom of expression, and worsen the issue of overcrowding in correctional facilities.⁴² Therefore, fines, the obligation to apologize, rehabilitation, and restorative justice approaches are more appropriate alternatives, in line with the principle of *ultimum remedium* in criminal law, while maintaining a balance between protecting individual dignity and respecting freedom of expression in the digital space.

Regulations on defamation in Indonesia have seen significant developments through various laws. In the Old Criminal Code (WvS), Article 310 governs oral defamation with a maximum prison sentence of 9 months or a fine of Rp4.5 million, while written defamation, including on social media, carries a penalty of 1 year and 4 months in prison or the same fine. Legal exceptions are provided for criticism in the public interest. With the enactment of the ITE Law (Law No. 1/2024), Article 27A penalizes the distribution of electronic information containing defamation with a threat of imprisonment for up to 2 years and/or a fine of IDR 400 million, with the provision that only individuals can file a complaint. Additionally, Article 28(2) regulates hate speech based on ethnicity, religion, race, and inter-group relations (SARA) with a threat of 6 years imprisonment and/or a fine of IDR 1 billion. Finally, in the New Penal Code (Law No. 1/2023), Article 433 reformulates written defamation with a threat of 1.5 years imprisonment or a fine of IDR 50 million. It provides additional sanctions for the revocation of political rights for severe cases.

⁴² Purnomo.

The elements of digital defamation consist of two main categories: subjective elements and objective elements. The subjective element includes mens rea or the intentional desire to attack someone's honor, with the intent that the accusation is made public. Meanwhile, the objective elements include the distribution of electronic information such as status, comments, or images that contain content degrading to the dignity or reputation of individuals, as well as the specific identity of the victim, including initials if identified. The impact of these actions can lead to immaterial losses that are psychological, social, and economic in nature. However, there are exceptions for offenses based on verified facts, public interest, and artistic expression or satire that are not intended to degrade. Thus, this legal framework seeks to protect individuals from defamation in an increasingly complex digital era.

The restriction of complaints regarding offenses against the government/state institutions must balance the protection of the institution's reputation with freedom of expression, considering the potential for abuse by authorities to silence policy critique. Article 442 of the New Penal Code regulates additional penalties by revoking certain rights as sanctions that the judicial system can impose. The regulation of offenses against insults in the New Penal Code must protect freedom of speech as a fundamental democratic right, applying strict and proportional criminal sanctions to prevent abuse and restrict freedom of expression.

Article 442 of the New Penal Code implements additional sanctions in the form of the revocation of certain rights (Article 86 a-d) for perpetrators of defamation or slander who are proven guilty, including civil rights such as political rights or public office, as an

effort to aggravate the punishment.⁴³ The regulation of defamation offenses must align with human rights principles, particularly protecting freedom of expression in international human rights instruments, where substantive justice demands that criminal sanctions should not conflict with the individual's right to express opinions or ideas.⁴⁴ In subjective cases such as defamation, the principle of presumption of innocence should take priority, where a person should not be declared guilty without strong evidence that legally proves the elements of defamation.

The evaluation of defamation regulations should focus on their impact on freedom of expression, creating a balance between protecting individual or institutional reputation and the assurance of the space for expression and critical discussion vital for democracy.⁴⁵ Probation focuses more on the resocialization of offenders than punishment, so it needs to be reviewed to ensure that the goals of modern criminal law are achieved.⁴⁶ Conditional sentences require complex considerations, including the evaluation of the perpetrator, public safety, rehabilitation, and prevention of legal violations so that judges can make fair and effective decisions.⁴⁷ Thus, the use of imprisonment as the primary sanction in defamation cases should

⁴³ Bambang Slamet Riyadi, Usman, and Elly Sudarti, "The Disparity in Criminal Prosecution against Acid Attack on Investigator of Corruption Eradication Commission: "Novel Baswedan" Case," *International Journal of Criminology and Sociology* 9 (April 5, 2022): 1676–87, <https://doi.org/10.6000/1929-4409.2020.09.191>.

⁴⁴ Gehan Gunatilleke, "Justifying Limitations on the Freedom of Expression," *Human Rights Review* 22, no. 1 (March 1, 2021): 91–108, <https://doi.org/10.1007/s12142-020-00608-8>.

⁴⁵ Anwar Sadat, Herman Lawelai, and Ansar Suherman, "Sentiment Analysis On Social Media: Hate Speech To The Government On Twitter," *PRAJA: Jurnal Ilmiah Pemerintahan* 10, no. 1 (February 25, 2022): 69–76, <https://doi.org/10.55678/prj.v10i1.584>.

⁴⁶ Alvina Khusnul Khotimah, Winarno Budyatmojo, and Diana Lukitasari, "Penerapan Tindak Pidana Pencemaran Nama Baik Melalui Media Sosial," *Recidive : Jurnal Hukum Pidana Dan Penanggulangan Kejahatan* 11, no. 3 (November 18, 2022): 285, <https://doi.org/10.20961/recidive.v11i3.67461>.

⁴⁷ Nuryanto D. Nusa, Nurwita Ismail, and Robby W. Amu, "Penjatuhan Putusan Pidana Bersyarat Dalam Mencapai Tujuan Pemidanaan Dalam Sistem Peradilan Pidana (Studi Di Pengadilan Negeri Marisa)," *Terang : Jurnal Kajian Ilmu Sosial, Politik Dan Hukum* 1, no. 2 (May 20, 2024): 247–65, <https://doi.org/10.62383/terang.v1i2.234>.

rightly be abandoned and replaced with more humane, proportional penal alternatives that align with the rehabilitative goals of modern criminal law.⁴⁸

A historic ruling recorded in the South Jakarta District Court Decision No. 757/Pid.Sus/2020/PN Jkt.Sel, documentary journalist Dandhy Dwi Laksono, faced legal charges based on the ITE Law. The accusations arose in response to his critical film, *Sexy Killers*, which highlighted controversies in the coal industry. However, the court ultimately acquitted Dandhy, stating that the charges brought by the prosecutor were invalid. This event was celebrated as a brilliant victory for freedom of expression in the homeland, a testament that constructive criticism through journalistic work is protected. Additionally, the East Jakarta District Court (Decision No. 279/Pid.Sus/2023/PN Jkt.Tim) acquitted Fatia Maulidiyanti and Haris Azhar of defamation charges, considering that criticism of public officials is part of the freedom of expression guaranteed by the constitution.

Social media now serves a dual function: as a tool for public oversight of law enforcement and a mechanism for viral cases to attract mass attention.⁴⁹ In the globalized digital era, social media has become the leading platform for disseminating information and mobilizing public opinion. Still, this ease also creates complex challenges in law enforcement.⁵⁰ Decision of the Surabaya District Court No. 234/Pid.Sus/2024/PN. Sby, the court annulled the charges against a

⁴⁸ Didik Purnomo, "Indonesian Prison System: An Analysis of Constitutive Penology Amidst the Crisis of Overcapacity Based on Islamic Law," *Justitia Law Review* 1, no. 1 (2025): 23–36, <https://ojs.justisialegalresearch.com/index.php/jlr/article/view/15>.

⁴⁹ Mika Hietanen and Johan Eddebo, "Towards a Definition of Hate Speech—With a Focus on Online Contexts," *Journal of Communication Inquiry* 47, no. 4 (October 5, 2023): 440–58, <https://doi.org/10.1177/01968599221124309>.

⁵⁰ Henny Saida Flora, Mac Thi Hoai Thuong, and Ratna Deliana Erawati, "The Orientation and Implications of New Criminal Code: An Analysis of Lawrence Friedman's Legal System," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 1 (April 4, 2023): 113–25, <https://doi.org/10.29303/ius.v11i1.1169>.

Surabaya resident reported by the village head due to criticism of policies in a WhatsApp group, because the space for community discussion is a private realm that does not meet the criteria of publicity according to the ITE Law.

The achievement of substantive justice requires regulations that balance the protection of vulnerable groups with freedom of expression through transparent and proportional legal provisions, with definitive limits on insults that take into account the statement's context, intensity, and intent.⁵¹ Law enforcement, based on the virality of social media, has emerged as a phenomenon where the non-viral means no justice, where public pressure drives disproportionate case resolutions, often overlooking progressive legal principles such as equality before the law and presumption of innocence, and sacrificing substantive justice for the sake of image.⁵² Regulatory changes must be based on strong empirical evidence through periodic evaluations to measure the effectiveness of protecting social values and their impact on freedom of expression, supported by in-depth research on the legal implications of defamation in society.⁵³

As a rapidly growing platform for social interaction, social media offers many benefits but also faces serious challenges with the rise of criminal acts that emerge alongside its technological innovations.⁵⁴ Restrictions in criminal law can threaten freedom of expression,

⁵¹ Raju Moh Hazmi, Asep Saepudin Jahar, and Nurul Adhha, "Construction of Justice, Certainty, and Legal Use in the Decision of the Supreme Court Number 46 P/HUM/2018.," *Jurnal Cita Hukum* 9, no. 1 (March 30, 2021), <https://doi.org/10.15408/jch.v9i1.11583>.

⁵² Arthur Josias Simon Runturambi, Munarni Aswindo, and Eliza Meiyani, "No Viral No Justice: A Criminological Review of Social Media-Based Law Enforcement from the Perspective of Progressive Law," *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 1 (April 30, 2024): 177–95, <https://doi.org/10.29303/ius.v12i1.1361>.

⁵³ Jerico Mathias and Rosamine Blessica, "Hate Speech and the Freedom Discourse," *Indonesia Media Law Review* 1, no. 1 (January 31, 2022): 1–22, <https://doi.org/10.15294/imrev.v1i1.56673>.

⁵⁴ Rijvan Beg et al., "Unmasking Social Media Crimes," in *Online Social Networks in Business Frameworks* (Wiley, 2024), 1–26, <https://doi.org/10.1002/9781394231126.ch1>.

where, although aimed at protecting social values, they may appear to be tools for limiting individual expression. The provisions on defamation in the new Penal Code that are overly broad, especially regarding criticism of the government or state institutions, could restrict the public's freedom of expression and trigger the misuse of law to silence criticism, threatening government transparency and public accountability. At the same time, it should focus on actions that genuinely harm the public interest.

IV. CONCLUSION

Regulations on defamation through social media in Indonesia have seen significant development from the old Penal Code to the latest Information and Electronic Transactions Law. Yet, they still leave behind issues of multiple interpretations, the potential for criminalization, and threats to freedom of expression. Despite the provisions in the ITE Law and the new Penal Code's system of fines providing alternative options to prison sentences, the implementation in the field is still dominated by imprisonment, which risks excessive criminalization and overcrowding in correctional facilities. The significance lies in the urgency of balancing the protection of individual dignity with the guarantee of freedom of expression in the digital era. The legal system must be more consistent, proportional, and oriented towards *ultimum remedium* through non-custodial sanctions or restorative justice. However, the limitation of this study is the lack of empirical research regarding the effectiveness of implementing these alternative sanctions in judicial practice. Therefore, further research and legal reform are needed to strengthen clear, proportional regulations that favor substantive

justice while also increasing the digital literacy of the public to distinguish legitimate criticism from defamation.

REFERENCES

- Aditya, Zaka Firma, and Sholahuddin Al-Fatih. "Indonesian Constitutional Rights: Expressing and Purposing Opinions on the Internet." *The International Journal of Human Rights* 25, no. 9 (October 21, 2021): 1395–1419. <https://doi.org/10.1080/13642987.2020.1826450>.
- Ali, Mahrus. "Pencemaran Nama Baik Melalui Sarana Informasi Dan Transaksi Elektronik (Kajian Putusan MK No. 2/PUU-VII/2009)." *Jurnal Konstitusi* 7, no. 6 (May 20, 2016): 119. <https://doi.org/10.31078/jk765>.
- Andimaja, Muhammad. "Komitmen Pemerintah Melindungi Anak Di Ruang Digital." <https://www.komdigi.go.id/berita/artikel/detail/komitmen-pemerintah-melindungi-anak-di-ruang-digital>, February 27, 2025.
- Arviana, Nerissa, Sari Mandiana, and Jusup Jacobus Setyabudhi. "Analisis Kasus Prita Mulyasari Dalam Putusan Peninjauan Kembali No. 225 PK/Pid.Sus/2011." *YUSTISIA MERDEKA: Jurnal Ilmiah Hukum* 6, no. 2 (September 29, 2020). <https://doi.org/10.33319/yume.v6i2.47>.
- Asmadi, Erwin. "Rumusan Delik Dan Pemidanaan Bagi Tindak Pidana Pencemaran Nama Baik Di Media Sosial." *DE LEGA LATA: Jurnal Ilmu Hukum* 6, no. 1 (2021). <https://doi.org/https://doi.org/10.30596/dll.v6i1.4910>.
- Beg, Rijvan, Vivek Bhardwaj, Mukesh Kumar, Prathamesh Muzumdar, Aman Rajput, and Kamal Borana. "Unmasking Social Media Crimes." In *Online Social Networks in Business Frameworks*, 1–26. Wiley, 2024. <https://doi.org/10.1002/9781394231126.ch1>.

- Bustomi, Yazid. "The Relevance of Behavior of Law Theory to Law Enforcement in Indonesia." *Jurnal Hukum Prasada* 9, no. 1 (March 14, 2022): 53–64. <https://doi.org/10.22225/jhp.9.1.2022.53-64>.
- Daeng Ngiji, Rezkyta Pasca Abrini, Sigid Suseno, and Budi Arta Atmaja. "Penerapan Pasal 27 Ayat (3) UU ITE Dalam Perkara Pencemaran Nama Baik Melalui Media Sosial Terhadap Kelompok Orang." *Jurnal Fundamental Justice*, April 11, 2022, 19–34. <https://doi.org/10.30812/fundamental.v3i1.1796>.
- Dianita, Komang Vita. "The Freedom of Speech Based on Jerinx Case, ITE Law Approach." *Journal of Digital Law and Policy* 1, no. 1 (September 29, 2021): 29–36. <https://doi.org/10.58982/jdlp.v1i1.91>.
- Fardiansyah, Ahmad Irzal. "Why Indonesia Maintain Capital Punishment?" *Fiat Justisia: Jurnal Ilmu Hukum* 15, no. 1 (February 16, 2021): 25–38. <https://doi.org/10.25041/fiatjustisia.v15no1.1904>.
- Fatmawati, Fatmawati, Muhammad Shuhufi, and Anita Chaturvedi. "Defamation in the New Criminal Code: A Review of Substantive Justice." *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 3 (December 28, 2023): 465–80. <https://doi.org/10.29303/ius.v11i3.1288>.
- Feka, Mikhael, Pujiyono, R.B. Sularto, and JT. Pareke. "Navigating the Legal Minefield: The Impact of Articles 27A and 27B of Indonesia's EIT Law on Freedom of Expression and the Path to Legal Reform." *Journal of Law and Legal Reform* 6, no. 1 (March 13, 2025): 265–304. <https://doi.org/10.15294/jllr.v6i1.19116>.
- Flora, Henny Saida, Mac Thi Hoai Thuong, and Ratna Deliana Erawati. "The Orientation and Implications of New Criminal Code: An Analysis of Lawrence Friedman's Legal System." *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 1 (April 4, 2023): 113–25. <https://doi.org/10.29303/ius.v11i1.1169>.
- Gunatilleke, Gehan. "Justifying Limitations on the Freedom of Expression." *Human Rights Review* 22, no. 1 (March 1, 2021): 91–108. <https://doi.org/10.1007/s12142-020-00608-8>.

- Hartanto, Joseph Andy. "The Philosophy of Legal Reason in Indonesian Law." *Beijing Law Review* 11, no. 01 (2020): 119–27. <https://doi.org/10.4236/blr.2020.111008>.
- Hazmi, Raju Moh, Asep Saepudin Jahar, and Nurul Adhha. "Construction of Justice, Certainty, and Legal Use in the Decision of the Supreme Court Number 46 P/HUM/2018." *Jurnal Cita Hukum* 9, no. 1 (March 30, 2021). <https://doi.org/10.15408/jch.v9i1.11583>.
- Hietanen, Mika, and Johan Eddebo. "Towards a Definition of Hate Speech—With a Focus on Online Contexts." *Journal of Communication Inquiry* 47, no. 4 (October 5, 2023): 440–58. <https://doi.org/10.1177/01968599221124309>.
- Irrynta, Dwilani, and Nanik Prasetyoningsih. "An Analysis of Freedom of Speech: Whether the Indonesian Electronic Information and Transactions Law Is Contradictory." *SASI* 29, no. 2 (April 19, 2023): 200. <https://doi.org/10.47268/sasi.v29i2.1061>.
- Isdyanto, Hary, Alvi Syahrin, Madisa Ablisar, and Mahmud Mulyadi. "Advantages and Disadvantages of Implementing the Electronic Information and Transactions Law on Freedom of Speech." In *Proceedings of the 2nd International Conference on Law, Economics, Governance, ICOLEG 2021, 29-30 June 2021, Semarang, Indonesia*. EAI, 2021. <https://doi.org/10.4108/eai.29-6-2021.2312615>.
- Jahriyah, Vita Fajrin, Moch. Tommy Kusuma, Kuni Qonitazzakiyah, and Muh. Ali Fathomi. "Kebebasan Berekspresi Di Media Elektronik Dalam Perspektif Pasal 27 Ayat (3) Undang- Undang Nomor 19 Tahun 2016 Perubahan Atas Undang- Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Pelayanan Transaksi Elektronik (UU ITE)." *Sosio Yustisia: Jurnal Hukum Dan Perubahan Sosial* 1, no. 2 (November 30, 2021): 65–87. <https://doi.org/10.15642/sosyus.v1i2.96>.
- Jayananda, I Made Vidi, I Nyoman Gede Sugiarta, and Made Minggu Widianara. "Analisis Tentang Pencemaran Nama Baik

- Dan Penyalahgunaan Hak Kebebasan Berpendapat Di Media Sosial." *Jurnal Analogi Hukum* 3, no. 2 (September 30, 2021): 261–65. <https://doi.org/10.22225/ah.3.2.2021.261-265>.
- Josef Swisman, Andreas, Puguh Aji Hari Setiawan, and Dewi Iryani. "Penegakan Hukum Tindak Pidana Pencemaran Nama Baik Dalam Rangka Memberikan Kepastian Hukum Bagi Pengguna Media Sosial." *Mutiara: Multidisciplinary Scientific Journal* 2, no. 11 (November 29, 2024). <https://doi.org/10.57185/mutiara.v2i11.288>.
- Khotimah, Alvina Khusnul, Winarno Budyatmojo, and Diana Lukitasari. "Penerapan Tindak Pidana Pencemaran Nama Baik Melalui Media Sosial." *Recidive: Jurnal Hukum Pidana Dan Penanggulangan Kejahatan* 11, no. 3 (November 18, 2022): 285. <https://doi.org/10.20961/recidive.v11i3.67461>.
- Madani, Mansure, Nazafarin Ghasemzadeh, Ali Dizani, Ahad Famararz Gharamaleki, and Bagher Larijani. "Policy Considerations to Achieve Practical Ethics: Closing the Gap between Ethical Theory and Practice." *Journal of Medical Ethics and History of Medicine*, September 1, 2020. <https://doi.org/10.18502/jmehm.v13i8.4075>.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2005.
- Mathias, Jerico, and Rosamine Blessica. "Hate Speech and the Freedom Discourse." *Indonesia Media Law Review* 1, no. 1 (January 31, 2022): 1–22. <https://doi.org/10.15294/imrev.v1i1.56673>.
- Nanda, Dhea Hafifa, and Faishal Amirudin Hariyanta. "Problematika Operasionalisasi Delik Pasal 27 Ayat (3) Uu Iti Dan Formulasi Hukum Perlindungan Freedom Of Speech Dalam HAM." *Jurnal Hukum Dan Pembangunan Ekonomi* 9, no. 2 (January 25, 2022): 214. <https://doi.org/10.20961/hpe.v9i2.52779>.
- Nusa, Nuryanto D., Nurwita Ismail, and Robby W. Amu. "Penjatuhan Putusan Pidana Bersyarat Dalam Mencapai Tujuan Pemidanaan Dalam Sistem Peradilan Pidana (Studi Di Pengadilan Negeri Marisa)." *Terang: Jurnal Kajian Ilmu Sosial*,

- Politik Dan Hukum* 1, no. 2 (May 20, 2024): 247–65. <https://doi.org/10.62383/terang.v1i2.234>.
- Octaviani Suryanto, Salsa, and Aji Mulyana. “Legal Challenges in Overcoming Changes in Social Behaviour Due to the Development of Technology and Information.” *Golden Ratio of Law and Social Policy Review* 3, no. 2 (May 29, 2024): 84–96. <https://doi.org/10.52970/grlspr.v3i2.359>.
- — —. “Legal Challenges in Overcoming Changes in Social Behaviour Due to the Development of Technology and Information.” *Golden Ratio of Law and Social Policy Review* 3, no. 2 (May 29, 2024): 84–96. <https://doi.org/10.52970/grlspr.v3i2.359>.
- Purnomo, Didik, Prija Djatmika, and Nurini Aprilianda. “Pidana Penjara Untuk Anak Pelaku Tindak Pidana Terorisme Dalam Perspektif Perlindungan Anak.” *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 7, no. 1 (March 30, 2022): 8. <https://doi.org/10.17977/um019v7i1p8-18>.
- Putri, Devita Kartika. “Hate Speech and the Harm in Indonesian Judicial Decisions.” *Cogent Social Sciences* 9, no. 2 (December 15, 2023). <https://doi.org/10.1080/23311886.2023.2274430>.
- Ray, Rohit. “Defamation and Social Media: The Parcel That Keeps on Being Passed.” *Journal of Legal Studies & Research* 08, no. 03 (2022): 71–56. <https://doi.org/10.55662/JLSR.2022.8305>.
- Renda, Fransiskus Xaverius. “Kebahagiaan Dalam Utilitarianism John Stuart Mill.” *Proceedings of The National Conference on Indonesian Philosophy and Theology* 1, no. 1 (March 1, 2023): 59–67. <https://doi.org/10.24071/snf.v1i1.8368>.
- Riyadi, Bambang Slamet, Usman, and Elly Sudarti. “The Disparity in Criminal Prosecution against Acid Attack on Investigator of Corruption Eradication Commission: “Novel Baswedan” Case.” *International Journal of Criminology and Sociology* 9 (April 5, 2022): 1676–87. <https://doi.org/10.6000/1929-4409.2020.09.191>.
- Rizka, Rizka, Arief Budiono, Yogi Prasetyo, Chrisna Bagus Edhita Praja, Hasna Atikah Khairunnisa, Hasna Atikah Khairunnisa, Dewi Iriani, and Hary Abdul Hakim. “Criminal Liability of

- People with Mental Disorders: Health Law Perspective." *Open Access Macedonian Journal of Medical Sciences* 10, no. E (February 3, 2022): 435–38. <https://doi.org/10.3889/oamjms.2022.8449>.
- Rizky Ramadhan, Gilang, Yosaphat Diaz, and Asmak Ul Hosnah. "Penanganan Tindak Pidana Pencemaran Nama Baik Yang Dihubungkan Dengan KUHP." *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 2, no. 1 (June 25, 2024): 51–64. <https://doi.org/10.61104/alz.v2i1.208>.
- — —. "Penanganan Tindak Pidana Pencemaran Nama Baik Yang Dihubungkan Dengan KUHP." *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 2, no. 1 (June 25, 2024): 51–64. <https://doi.org/10.61104/alz.v2i1.208>.
- Rohmy, Atikah Mardhiya, Teguh Suratman, and Arini Indah Nihayaty. "UU ITE Dalam Perspektif Perkembangan Teknologi Informasi Dan Komunikasi." *Dakwatuna: Jurnal Dakwah Dan Komunikasi Islam* 7, no. 2 (August 12, 2021): 309. <https://doi.org/10.54471/dakwatuna.v7i2.1202>.
- Runturambi, Arthur Josias Simon, Munarni Aswindo, and Eliza Meiyan. "No Viral No Justice: A Criminological Review of Social Media-Based Law Enforcement from the Perspective of Progressive Law." *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 1 (April 30, 2024): 177–95. <https://doi.org/10.29303/ius.v12i1.1361>.
- Sabubun, Amatus Venantius, and Roberth Kurniawan Ruslak Hammar. "Protection of Freedom of Expression Through Social Media from The Perspective of Human Rights." *Eduvest - Journal of Universal Studies* 4, no. 3 (March 20, 2024): 880–87. <https://doi.org/10.59188/eduvest.v4i3.1080>.
- Sadat, Anwar, Herman Lawelai, and Ansar Suherman. "Sentiment Analysis On Social Media: Hate Speech To The Government On Twitter." *PRAJA: Jurnal Ilmiah Pemerintahan* 10, no. 1 (February 25, 2022): 69–76. <https://doi.org/10.55678/prj.v10i1.584>.
- Salviana Darvina Soedarwo, Vina, Gautam Kumar Jha, Gonda Yumitro, and Nurul Zuriah. "Gender Sensitivity among Political

- Parties in Indonesia and India." *KnE Social Sciences*, July 29, 2020. <https://doi.org/10.18502/kss.v4i10.7394>.
- Shimizu, Kazuki, and Leesa Lin. "Defamation Against Healthcare Workers During COVID-19 Pandemic." *International Journal of Health Policy and Management*, September 27, 2020. <https://doi.org/10.34172/ijhpm.2020.184>.
- Syofyan Al Barozi, Ary WahyudiAry Wahyudi, and Tijani Isnaeni. "Pertanggungjawaban Pidana Terhadap Pelaku Pencemaran Nama Baik Melalui Media Sosial Berdasarkan Undang-Undang Republik Indonesia Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik." *Unizar Recht Journal (URJ)* 2, no. 4 (December 30, 2023): 701–14. <https://doi.org/10.36679/urj.v2i4.153>.
- Wahyuni, Sry, and Yoserwan. "Pertanggungjawaban Pidana Terhadap Pencemaran Nama Baik Melalui Media Sosial." *UNES Law Review* 6, no. 1 (September 3, 2023). <https://doi.org/https://doi.org/10.31933/unesrev.v6i1.851>.
- Wijaya, Yoga Vikriansyah, Adhitia Erfina, and Cecep Warman. "Analisis Sentimen Seputar UU ITE Menggunakan Algoritma Support Vector Machine." *Progresif: Jurnal Ilmiah Komputer* 17, no. 2 (August 17, 2021): 1. <https://doi.org/10.35889/progresif.v17i2.644>.
- Zukić, Melisa, and Abdurrahman Zukić. "Defamation Law and Media: Challenges of the Digital Age." *MAP Education and Humanities* 5, no. 1 (November 1, 2024): 98–109. <https://doi.org/10.53880/2744-2373.2024.5.98>.