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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

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Abstract

President Joko Widodo (Jokowi) officially approved the second revision of Law Number 1 of 2024 on the Second Amendment to Law Number 11 of 2008 on Electronic Information and Transactions (EIT) on January 4, 2024, reflecting the government's effort to align regulations with the rapid development of information and communication technology. While this revision introduces significant changes, particularly Articles 27A and 27B regulate actions that attack a person's honor or reputation. The public views it as a missed opportunity to eliminate existing ambiguities and potential misuse. This research employs normative legal methods with statutory, conceptual and comparative approaches, adopting a descriptive-prescriptive nature. The analysis reveals that the unclear definitions and potential for multiple interpretations of Articles 27A and 27B negatively impact freedom of expression, creating fear and uncertainty among the public, journalists,

and government critics. Furthermore, these provisions violate fundamental human rights principles and contradict the 1945 Constitution and the values of Pancasila, which uphold freedom of expression and social justice. Therefore, while this revision reflects an effort to address the challenges of the digital era, further revisions are necessary to ensure that the law not only meets the needs of law enforcement but also protects human rights, freedom of expression, and remains consistent with the 1945 Constitution and Pancasila. This will prevent the law from becoming a tool for suppressing critical voices and journalistic investigations, which are essential to a healthy democratic society.

Keywords
Legal Awareness, Legal Reform, Freedom of Expression, Human Rights, Pancasila.

Introduction

The globalization of information has made Indonesia an essential part of the global information society. This integration has created the need for national regulations that govern electronic information and transactions in response to developments at both regional and international levels.[1] To address these challenges, the Government of the Republic of Indonesia enacted Law Number 11 of 2008 on Electronic Information and Transactions (EIT Law).[2] Recorded in the State Gazette of the Republic of Indonesia Number 58 of 2008, this law is recognized as a strategic move to respond to global dynamics in the information and technology sectors.[3] Through the EIT Law, the government seeks to regulate and safeguard the continuity and security of electronic transactions while meeting the need for regulations that

[1] Safitri, Ria. "Undang-Undang Informasi dan Transaksi Elektronik Bagi Perguruan Tinggi." *SALAM: Jurnal Sosial Dan Budaya Syar-I* 5.3 (2018): 197-218, https://doi.org/10.15408/sjsbs.v5i3.10279.

[2] Fernando, Zico Junius, et al. "The freedom of expression in Indonesia." *Cogent Social Sciences* 8.1 (2022): 1–11, https://doi.org/10.1080/23311886.2022.2103944.

[3] Elpina, Elpina. "Legal Challenges in Managing Intellectual Property Rights in Business Information Systems." *Jurnal Minfo Polgan* 13.1 (2024): 270-277, https://doi.org/10.33395/jmp.v13i1.13571.

align with the evolving times. However, the rapid growth of information technology in Indonesia has introduced new challenges, prompting the enactment of Law Number 1 of 2024, the Second Amendment to Law Number 11 of 2008 on Electronic Information and Transactions (EIT Law). Since the original law's enactment in 2008, there have been significant changes in how people use technology, particularly the internet. These changes have brought new challenges, including issues related to privacy, data security, and the spread of false information. As a result, updating legal regulations to remain relevant to the current conditions has become imperative.[4] Although the first amendment was made through Law Number 19/2016, there remained a need for further improvements. Consequently, the House of Representatives passed the second amendment on December 5, 2023, reflecting not only the government's response to technological advancements but also addressing various legal issues that have arisen in recent years. This amendment was signed into law by President Joko Widodo on January 2, 2024, as announced on the official website of the State Secretariat, reaffirming Indonesia's commitment to updating its legal framework for information technology and electronic transactions while balancing freedom of expression with the protection of individual rights in the digital space.[5]

Despite its intended purpose of regulating electronic transactions and information, the implementation of the EIT Law has sparked controversy within society. Since its enactment in 2008, many individuals have been reported to authorities and subsequently charged with defamation through electronic media.[6] Several high-profile cases

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[4] Suryanto, Salsa Octaviani, and Mulyana, Aji. "Legal Challenges in Overcoming Changes in Social Behaviour Due to the Development of Technology and Information." *Golden Ratio of Law and Social Policy Review* 3.2 (2024): 84-96, https://doi.org/https://doi.org/10.52970/grlspr.v3i2.359.

[5] Dian Erika Nugraheny, "Ditandatangani Jokowi, Revisi Kedua UU ITE Resmi Berlaku," Kompas.com, 2024, https://nasional.kompas.com/read/2024/01/04/10273621/ditandatangani-jokowi-revisi-kedua-uu-ite-resmi-berlaku.

[6] Irrynta, Dwilani, and Prasetyoningsih, Nanik. "An Analysis of Freedom of Speech: Whether the Indonesian Electronic Information and Transactions Law is Contradictory." *SASI* 29.2 (2023): 200-213., https://doi.org/10.47268/SASI.V29I2.1061.

highlight the controversial application of the EIT Law. The first notable case is that of Baiq Nuril Maknun in 2017. Baiq Nuril, a teacher in Lombok, recorded a phone conversation with her superior, who allegedly verbally sexually harassed her. Instead of receiving legal protection, Baiq Nuril was charged under Article 27(1) of the EIT Law for allegedly distributing content deemed indecent. After a lengthy legal battle, Baiq Nuril was granted amnesty by President Joko Widodo in 2019.[7] Another prominent case is that of Prita Mulyasari in 2009. Prita, a housewife, wrote a complaint about poor service at a hospital in a private email. The email was circulated widely, leading to her being sued for defamation under Article 27(3) of the EIT Law. The case drew significant public support, and eventually, the Supreme Court acquitted Prita of all charges in 2012.[8]

A third case involves Ahmad Dhani, a musician and politician, who was charged under Article 27(3) of the EIT Law in 2019 for his social media posts that were deemed offensive to certain groups. He was found guilty and sentenced to 1 year and 6 months in prison.[9] Jerinx, the drummer of the band Superman is Dead, faced similar charges in 2020 under Article 27(3) of the EIT Law. His Instagram posts allegedly defamed the Indonesian Doctors Association (IDI), resulting in a conviction and a sentence of 1 year and 2 months in prison.[10] Another case is that of Jonru Ginting, a writer and social media activist, who in 2017 was charged under Article 28(2) of the EIT Law for spreading information that could incite hatred based on race, ethnicity, religion,

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[7] Manthovani, Reda, and Tejomurti, Kukuh. "A Holistic Approach of Amnesty Application for Baiq Nuril Maknun in the Framework of Constitutional Law of Indonesia." *Yustisia Jurnal Hukum* 8.2 (2019): 277-291, https://api.semanticscholar.org/CorpusID:211339265.

[8] Arviana, Nerissa, et al. "Analisis Kasus Prita Mulyasari Dalam Putusan Peninjiauan Kembali No. 225 Pk/Pid. Sus/2011." *YUSTISIA MERDEKA: Jurnal Ilmiah Hukum* 6.2 (2020): 78-81, https://doi.org/10.33319/yume.v6i2.47.

[9] Nugraha, Ricky Mohammad, et al, "Ahmad Dhani Sentenced to 1.5 Years in Prison in Hate Speech Case," News En.tempo.co, accessed September 3, 2024, https://en.tempo.co/read/1169710/ahmad-dhani-sentenced-to-1-5-years-in-prison-in-hate-speech-case.

[10] Dianita, Komang Vita. "The Freedom of Speech Based on Jerinx Case, ITE Law Approach." *Journal of Digital Law and Policy* 1.1 (2021): 29-36, https://doi.org/https://doi.org/10.58982/jdlp.v1i1.91.

and intergroup relations (SARA). Jonru was sentenced to 1 year and 6 months in prison.[11] Finally, the case of Ananda Badudu in 2019 also drew public attention. Ananda, a musician and activist, was summoned by the police after organizing a crowdfunding campaign on social media to support student protests.[12] Although he was not detained, the case was regarded as an example of using the EIT Law to suppress freedom of expression.

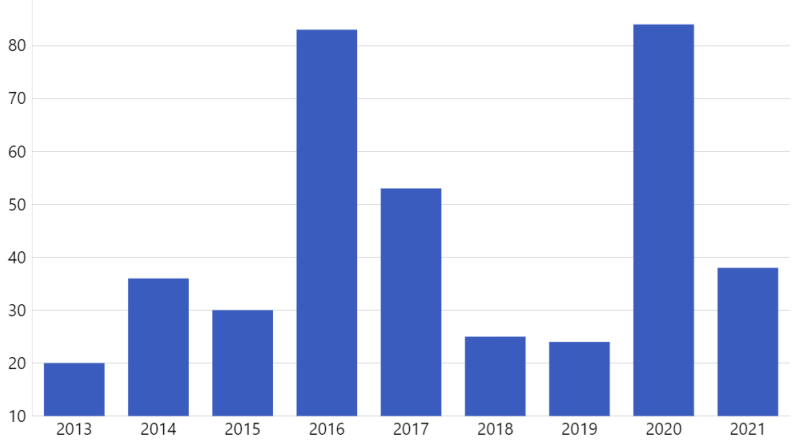
These cases illustrate how certain provisions of the EIT Law, particularly Article 27(3) on defamation and Article 28(2) on incitement to hatred, have often become sources of controversy. There is concern that the EIT Law, originally intended to regulate electronic transactions and information, has been used as a tool to suppress criticism and dissenting views.[13]

[11] Mamduh, Naufal. "Jonru Divonis 1,5 Tahun Penjara, Lebih Ringan Dari Tuntutan Jaksa," tirto, 2018, https://tirto.id/jonru-divonis-15-tahun-penjara-lebih-ringan-dari-tuntutan-jaksa-cFzn.

[12] Kahfi, Kharishar. "'I Am No Pinocchio': Musician Ananda Badudu Ready to Face Cops and Voice Truths," The Jakarta Post, 2019, https://www.thejakartapost.com/news/2019/10/02/i-am-no-pinocchio-musician-ananda-badudu-ready-to-face-cops-and-voice-truths.html.

[13] Isdyanto, Hary, et al. "Advantages and Disadvantages of Implementing the Electronic Information and Transactions Law on Freedom of Speech." *ICOLEG 2021: Proceedings of the 2nd International Conference on Law, Economic, Governance, ICOLEG 2021, 29-30 June 2021, Semarang, Indonesia*. European Alliance for Innovation, 2021, https://doi.org/10.4108/EAI.29-6-2021.2312615.

Figure 1. The Number of Citizens Prosecuted Under the ITE Law (2013-2021)



Source: Southeast Asia Freedom of Expression Network (SAFEnet)

According to a report from the Southeast Asia Freedom of Expression Network (SAFEnet), between 2013 and 2021, 393 individuals were prosecuted under various articles of the Electronic Information and Transaction Law (EIT Law). However, this trend revealed a decline in 2021, as indicated by the available data. SAFEnet's monitoring and advocacy efforts throughout 2021 revealed at least 30 cases of criminalization, involving a total of 38 victims. This represents nearly a 50% decrease from the previous year's total of 84 victims. In 2021, activists were the most affected group, with 10 individuals, or approximately 26.3% of the total victims, being targeted under the EIT Law. Additionally, 8 individuals (21.1%) who were victims of violence, along with their supporters, were also prosecuted under this law, while 7 individuals (18.4%) were from the general public. Other victims included journalists, academics, students, laborers, politicians, and members of civil society organizations. SAFEnet also highlighted that public officials increasingly utilized the ambiguous provisions of the EIT Law to silence critical voices. Over the past nine years, nearly 400 individuals have faced prosecution under the EIT Law, illustrating how this legislation has often been used as a tool to suppress freedom of expression in

Indonesia.[14] This report underscores the need for a critical evaluation of the EIT Law's implementation, particularly regarding articles that have the potential to be misused to limit free speech and hinder active participation in public discourse.

In a recent case that has drawn significant public attention, Haris Azhar, the Executive Director of Lokataru, and Fatia Maulidiyanti, the Coordinator of the Commission for Missing Persons and Victims of Violence (KontraS), have been named as suspects by investigators from Polda Metro Jaya. They are accused of defamation and violating Article 27 Paragraph 3 of the Electronic Information and Transactions Law (EIT Law). This case once again underscores the contentious application of the EIT Law, particularly regarding defamation charges, which frequently ignite debates surrounding freedom of expression in Indonesia.[15] Several previous cases involving the EIT Law have similarly demonstrated its impact on press freedom and freedom of expression. One notable case is that of Muhammad Asrul, an editor at berita.news. Asrul was charged with defamation under Article 27 Paragraph 3 of the EIT Law after publishing a news article that highlighted allegations of corruption. This case culminated in a three-month prison sentence handed down by the Palopo District Court in South Sulawesi last November.[16] The case was controversial, as it was perceived as an attempt to use the EIT Law to suppress press freedom.

Another relevant case is that of Sadli Saleh, a journalist and editor-in-chief of Liputanpersada.com. In July 2019, after publishing an opinion piece titled "Abracadabra: Simpang Lima Labungkari Disulap Menjadi Simpang Empat," Sadli was charged with defamation as well as spreading information that could incite hatred based on ethnicity,

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[14] Annur, Cindy Mutia. "Hampir 400 Orang Dituntut Dengan UU ITE Dalam 9 Tahun Terakhir," katadata.co.id, 2022, https://databoks.katadata.co.id/datapublish/2022/07/18/hampir-400-orang-dituntut-dengan-uu-ite-dalam-9-tahun-terakhir.

[15] KontraS. "Indonesia: Solidarity for Human Rights Defenders Fatia Maulidiyanti and Haris Azhar," Kontras.org, 2023, https://kontras.org/en/2023/11/23/indonesia-solidarity-for-human-rights-defenders-fatia-maulidiyanti-and-haris-azhar/.

[16] Taher, Andrian Pratama. "Janggalnya Kasus Jurnalis Asrul: Abaikan UU Pers & Dijerat UU ITE," Tirto.id, 2021, https://tirto.id/janggalnya-kasus-jurnalis-asrul-abaikan-uu-pers-dijerat-uu-ite-gkwL.

religion, race, and inter-group relations (SARA) under the EIT Law. As a result, in March 2020, he was sentenced to one and a half years in prison.[17] Similarly, Diananta Putera Sumedi, editor-in-chief of Banjarhits, faced charges under the EIT Law. In August 2020, the Kotabaru Court sentenced him to 3 months and 15 days in prison for spreading information that incited hatred against a particular group based on SARA. These charges were related to his report titled "Tanah Dirampas Jhonlin, Dayak Mengadu ke Polda Kalsel".[18]

Dandhy Dwi Laksono, a journalist from Watchdoc, also became a victim of EIT Law criminalization in 2019. According to a report by tempo.co, Dandhy was arrested by the police after posting comments on Twitter about the political situation in Wamena and Jayapura. He was charged under the article related to hate speech against individuals or specific groups, sparking a debate over the fine line between social criticism and hate speech.[19] Another journalist, Gencar Jarot, the owner of the online news outlet koranindigo.online in Parigi Moutong, Central Sulawesi, also faced criminalization under the EIT Law. In April 2019, he was named a suspect by the Parigi Moutong Police after being reported by Nurlela Harate, the Director of RSUD Anuntaloko Parigi. The report was in response to an article written by Gencar that criticized the hospital's policies, which allegedly led to the death of a patient in January 2019.[20] Another case involves journalists Fadli Aksar and Wiwid

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[17] Fua, Ahmad Akbar. "Kisah Sadli Wartawan Buton Tengah Yang Dibui Karena Kritik Pemerintah," Regional Liputan6.com, 2020, https://www.liputan6.com/regional/read/4174843/kisah-sadli-wartawan-buton-tengah-yang-dibui-karena-kritik-pemerintah.

[18] Nurita, Dewi, et al. "Divonis 3 Bulan Penjara, Pemred Banjarhits: Ini Lonceng Kematian Kebebasan Pers - Nasional Tempo.Co," nasional.tempo.co, 2020, https://nasional.tempo.co/read/1374368/divonis-3-bulan-penjara-pemred-banjarhits-ini-lonceng-kematian-kebebasan-pers.

[19] International Federation of Journalists, "Indonesia: Journalist Arrested for Twitter Post on Conditions in Papua," International Federation of Journalists, 2020, https://www.ifj.org/media-centre/news/detail/category/press-releases/article/indonesia-journalist-arrested-for-twitter-post-on-conditions-in-papua.

[20] Aditya, Nicholas Ryan, et al, "Catatan SAFEnet: 8 Kasus Jurnalis Terjerat UU ITE Sepanjang 2019 Halaman All - Kompas.Com," Kompas.com, 2020, https://nasional.kompas.com/read/2020/11/14/05050021/catatan-safenet--8-kasus-jurnalis-terjerat-uu-ite-sepanjang-2019?page=all.

Abid Abadi from detiksultra.com and okesultra.com. They reported allegations of maladministration during the 2019 Legislative Election in Southeast Sulawesi, exposing an alleged document forgery by Andri Tendri Wahyu, a legislative candidate from the National Mandate Party (PAN). This led to their being reported to the police on charges of violating the EIT Law.[21] However, with the support of the journalist community, who protested the local police's actions, the case was successfully brought before the Press Council.

These incidents reflect an increase in the number of journalists and activists who have become victims of criminalization under the EIT Law. They come from various backgrounds, including activists and journalists critical of public policies. This pattern of criminalization is troubling because it appears to be used as a tool to silence dissent and discourage critical voices in society.

The legislation in Indonesia, particularly the Electronic Information and Transactions Law (EIT Law), has been the subject of ongoing controversy among the public. One of the most criticized provisions is Article 27 Paragraph 3, which regulates defamation or slander through electronic information.[22] This article has often been labeled as a "rubber article" due to its perceived broad scope, which could lead to inconsistent interpretations and potentially be used to suppress freedom of expression. In response to the widespread criticism, the government revised the EIT Law, and in the second revision, it claimed to have removed Article 27 Paragraph 3. However, rather than completely eliminating potential issues, the government introduced Articles 27A and 27B, which are also seen as potentially problematic. Article 27A regulates actions that attack the honor or reputation of a person using electronic information, while Article 27B addresses the distribution of electronic information for extortion purposes.[23] These

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[21] Afifa, Laila, et al. "ITE Law Criminalization Cases Incriminating Journalists," News En.tempo.co, 2021, https://en.tempo.co/read/1532760/ite-law-criminalization-cases-incriminating-journalists.

[22] Rahmazani, "Problematika Hukum Penerapan Undang-Undang Informasi Dan Transaksi Elektronik (UU ITE) Di Indonesia," *Mimbar Hukum Hukum* 34, no. 1 (2022): 161–85.

[23] Wandira, Leni, et al. "Berpotensi Jadi Pasal Karet, Begini Isi Pasal 27A Dan 27B Setelah Revisi UU ITE," nasional.kontan.co.id, 2024,

two articles have continued to raise concerns among the public, as they are seen as potentially open to misuse. Despite these concerns, the government has yet to provide an official response to the criticisms regarding the changes. This controversy highlights the challenges in balancing the enforcement of laws that protect individual reputations with the preservation of freedom of expression in the digital age.

Method

This research adopts a normative legal approach by applying statutory, conceptual, comparative methods to provide a comprehensive analysis of the latest amendments to Indonesia's Electronic Information and Transaction Law (EIT Law).[24] The statutory approach is employed to identify the legal norms that have been modified or added in the EIT Law and to assess their alignment with the 1945 Constitution and the values of Pancasila. Through the conceptual approach, this research delves into the philosophical and theoretical foundations of these changes, focusing on how they align with the core principles of Pancasila and the mandates of the 1945 Constitution. The comparative approach allows for a comparison between the EIT Law and similar laws in other countries, such as the United States, Germany, the United Kingdom, Australia, and Canada. This provides global insights, particularly in examining how principles of freedom of expression and protection against defamation are regulated in different legal systems. This research is descriptive-prescriptive in nature, not only describing the current state of the law but also offering recommendations and insights for necessary improvements or changes.[25] This is particularly crucial to ensure the EIT Law's harmonization with the 1945 Constitution and Pancasila, while also maintaining a balance between freedom of expression and the protection of human rights. By adopting content analysis, this research

https://nasional.kontan.co.id/news/berpotensi-jadi-pasal-karet-begini-isi-pasal-27a-dan-27b-setelah-revisi-uu-ite.

[24] Widyawati, Anis, et al. "The Regulation of Integrity Zone and the Corruption-Free Zone in Indonesia and Rusia." *Bestuur* 11 (2023): 253-270, https://doi.org/10.20961/BESTUUR.V11I2.76306.

[25] Fernando, Zico Junius, et al. "Preventing bribery in the private sector through legal reform based on Pancasila." *Cogent Social Sciences* 8.1 (2022): 1-14, https://doi.org/10.1080/23311886.2022.2138906.

conducts a detailed examination of legal documents, focusing specifically on the latest revisions to the EIT Law, with an emphasis on Articles 27A and 27B. The findings from this content analysis provide a deep understanding of the changes made to the EIT Law, the implications of these new provisions, and the potential impact of these revisions on freedom of expression and human rights in Indonesia.[26] Through the combination of normative legal methods, content analysis, and comparative legal study, this research not only opens the door for further improvement recommendations but also details the impact of the EIT Law amendments on freedom of expression, human rights, and their alignment with the principles of Pancasila and the 1945 Constitution in the digital era. This research makes a significant contribution to understanding the legal and social implications of the revised EIT Law and provides a foundation for developing more equitable laws consistent with Indonesia's constitutional values.

Result and Discussion

A. Recent Amendments to the Electronic Information and Transaction Law (EIT Law)

Although enacted in 2008, the history of the formation of the Electronic Information and Transactions (EIT) Law, officially known as the UU ITE, actually began in 2003 when the draft law was first discussed. In early May 2003, the government had initiated discussions on the Draft Law on the Utilization of Information Technology and the Draft Law on Electronic Information and Transactions. These discussions were a response to the rapid development of information technology and the internet in Indonesia. At that time, the digital world was beginning to significantly influence the lives of the Indonesian people, evidenced in the increasing number of internet users and the growing popularity of online transactions.[27] Having recognized this, the

[26] Effendi, Erdianto, et al. "Trading in influence (Indonesia): A critical study." *Cogent Social Sciences* 9.1 (2023): 1-13, https://doi.org/10.1080/23311886.2023.2231621.

[27] Mahrina, Mahrina, Joko Sasmito, and Candra Zonyfar. "The electronic and transactions law (EIT law) as the first cybercrime law in Indonesia: an introduction

Indonesian government felt the need to regulate various aspects of information technology use and electronic transactions through comprehensive legislation. The EIT Law was subsequently adopted as the legal framework regulating various aspects of electronic transactions, personal data protection, electronic transaction security, and intellectual property rights in the digital realm.[28] According to the book *Questions and Answers Regarding Law No. 11 of 2008 on Information and Electronic Transactions* (2008), the EIT Law has two main objectives. First, it aims to facilitate the development of the digital economy in Indonesia. Second, it seeks to ensure safety, justice, and legal certainty for internet users and providers in Indonesia. Additionally, the EIT Law serves as a replacement and expansion of two previous laws: Law No. 7 of 1996 on Telecommunications and Law No. 36 of 1999 on Telecommunications. As a regulation governing the field of information technology, the EIT Law covers various issues, including the rights and obligations of internet users and electronic system providers. This includes the protection of personal data and information, the safeguarding of intellectual property rights in the digital world, and the responsibilities of those who use information technology and electronic transactions in Indonesia. The lengthy process of enacting the EIT Law notes that the government completed the discussion of the draft law in August 2003, only four months after the discussion began. However, the draft law was delayed and not immediately submitted to the DPR (House of Representatives) for enactment. A year later, in November 2004, the draft EIT Law was finally submitted to the DPR for further discussion. It took two years for the DPR to hold a series of public hearings on the draft EIT Law from May to July 2006, which consisted of 13 chapters and 49 articles.[29]

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and its implementation." *Pena Justisia: Media Komunikasi dan Kajian Hukum* 21.2 (2022): 345-362, https://doi.org/10.31941/PJ.V21I2.2680.

[28] Aditya, Zaka Firma, and Sholahuddin Al-Fatih. "Indonesian constitutional rights: expressing and purposing opinions on the internet." *The International Journal of Human Rights* 25.9 (2021): 1395-1419, https://doi.org/10.1080/13642987.2020.1826450.

[29] Narasi TV, "Sejarah UU ITE Di Indonesia: Perkembangan Regulasi Dan Kontroversi Dunia Digital," narasi.tv, 2023, https://narasi.tv/read/narasi-daily/sejarah-uu-ite.

After going through these public hearings, the DPR finally approved the enactment of the EIT Law in March 2008. On April 21, 2008, the draft EIT Law was ratified and enacted by President Susilo Bambang Yudhoyono as Law No. 11 of 2008, consisting of 13 chapters and 53 articles. Less than a year after its enactment, on January 5, 2009, the EIT Law was challenged by several organizations and individuals who believed that the law had the potential to violate human rights. The petitioners, including Edy Cahyono, Nenda Inasa, Amrie Hakim, PBHI, AJI, and LBH Pers, filed a judicial review against Article 27 Paragraph (3) of the EIT Law. However, the Constitutional Court (MK) rejected the judicial review and declared that Article 27 Paragraph (3) of the EIT Law did not conflict with the 1945 Constitution. Not long after the MK rejected the judicial review, the EIT Law came under scrutiny when RS Omni International Tangerang used it to prosecute Prita Mulyasari, a 32-year-old mother, who shared her unfavorable experience as a patient at the hospital via email. According to a report by Antara, Prita sent the email on August 15, 2008. Initially, the email was intended for a limited group, but it eventually spread widely across various mailing lists on the internet. As a result of this incident, RS Omni International sued Prita for defamation, and she was charged under Articles 310 and 311 of the Criminal Code (KUHP) as well as Article 27 Paragraph (3) of the EIT Law. According to the Dewan Pers website, Prita was subsequently imprisoned on May 13, 2009, at the Tangerang Women's Penitentiary. This case became a national phenomenon and garnered widespread media attention, leading to public pressure for Prita's release, as she was seen as a victim of restrictions on freedom of expression.

The recent revision of Indonesia's Electronic Information and Transaction Law (EIT Law), as announced by the Ministry of Communication and Information Technology, includes substantial modifications and the introduction of new articles. This update affects 14 existing articles and introduces 5 new ones, covering areas such as electronic evidence, certification, transactions, seals, website authentication, and digital identity. A notable change is in Article 27, which has been criticized as a "rubber article" due to its broad and vague application. The revised Article 27 has now removed provisions related to insult and defamation and introduced Articles 27A and 27B, which specifically address slander and coercion through threats.

The revision also includes Articles 16A and 16B, addressing child protection when accessing electronic services, including age limits and user verification for children. Article 16A outlines the obligations of electronic system operators to protect children who use or access these systems. This protection encompasses the rights of children as stipulated by relevant laws and regulations, particularly concerning the use of products, services, and features developed by electronic system operators. Operators are required to implement technological and operational steps that cover all stages, from development to implementation of the electronic system. Additionally, to safeguard children, electronic system providers must provide information regarding the minimum age limit for children who can use their products or services. They are also required to implement a mechanism for verifying the age of child users and to provide a reporting system for the misuse of products, services, and features that could harm or potentially violate children's rights. Further details on child protection in electronic systems are regulated through government regulations. Therefore, Article 16A comprehensively outlines the responsibilities and specific actions that electronic system operators must take to protect children's rights in the digital environment. Article 16B establishes provisions for administrative sanctions that may be applied if there are violations of the rules outlined in Article 16A. These violations could result in administrative sanctions as specified in the article. The possible administrative sanctions include several options: written warnings, administrative fines, temporary suspension, and/or termination of access. A written warning is the first option that can be issued as a caution against violations. Following that, the imposition of administrative fines serves as the next step, providing financial penalties. Temporary suspension and access termination are more severe sanction options, where access can be halted either temporarily or permanently. Furthermore, the procedures and the amount of sanctions, as well as their enforcement, are further detailed in a government regulation. Article 16B as a whole provides a clear legal basis for administrative sanctions applicable in response to violations of child protection provisions in electronic systems as stipulated in Article 16A.

Article 28 has been expanded with a new clause that explicitly prohibits the spread of false information that could incite riots. This

article outlines forbidden actions in relation to the use of electronic information and/or electronic documents. First, it prohibits anyone from intentionally transmitting electronic information and/or electronic documents that contain false or misleading notifications, which could cause financial harm to consumers in electronic transactions. Second, it prohibits any person from intentionally and without authorization, distributing or transmitting electronic information and/or electronic documents that incite, encourage, or influence others to develop hatred or hostility towards specific individuals or groups. This is particularly forbidden when it is based on race, nationality, ethnicity, color, religion, belief, gender, or mental or physical disability. Third, the article prohibits anyone from intentionally disseminating electronic information and/or electronic documents that they know contain false information capable of causing public unrest. Article 28 clearly bans the dissemination of electronic information that could harm consumers, incite hatred or hostility based on specific characteristics, or spread false information with the potential to cause riots. Violations of these prohibitions can result in legal sanctions as specified by applicable law.

Meanwhile, Article 29, which initially focused on threats of physical violence, has now been revised to encompass a broader scope. Article 29 addresses prohibited actions involving the use of electronic information and/or electronic documents. According to this article, it is prohibited for any person to intentionally and without authorization use electronic information and/or electronic documents to directly target a victim with the intent to threaten, commit violence, or cause fear. Article 29 clearly prohibits the misuse of electronic information and/or electronic documents to send threats of violence or to directly intimidate victims. Violations of this provision may result in sanctions under applicable law. This article is designed to protect individuals from potential threats, violence, or fear caused by the misuse of electronic media.

Changes were also made to Article 30, which removed the provisions regarding illegal access, and Article 36, which previously addressed the aggravation of punishment for offenders. Additionally, the revision introduced Article 40A, which governs government intervention in electronic systems to create a secure and innovative digital ecosystem. Article 40A outlines the government's responsibility to

support the development of a fair, accountable, safe, and innovative digital ecosystem. To fulfill this responsibility, the government is granted the authority to issue directives to electronic system providers, requiring them to make adjustments to their systems and/or undertake specific actions. Electronic system operators are obligated to comply with these government orders as specified in paragraph (2). If an operator fails to meet this obligation, they may face administrative sanctions as detailed in paragraph (4). The potential administrative sanctions, as described in paragraph (5), include written warnings, administrative fines, temporary suspension, and/or termination of access. Further details regarding the government's responsibilities, its authority, the obligations of electronic system operators, and the application of administrative sanctions are further elaborated in a government regulation. Article 40A provides a comprehensive framework for the government's role and responsibilities in managing the digital ecosystem, grants the authority to regulate electronic system providers, and establishes administrative sanctions as a means of enforcing regulations to ensure the ecosystem's sustainability. It aligned with the principles of fairness, accountability, security, and innovation.

Article 43 has also been revised to grant investigators the authority to take actions such as closing social media accounts, bank accounts, electronic money, and related digital assets. This article defines the role and authority of specific civil servant officials within the government who are responsible for investigating offenses related to information technology and electronic transactions. These civil servant investigators, alongside investigators from the Indonesian National Police, are granted special powers to conduct investigations into criminal activities in this field. The investigations must adhere to the principles of privacy protection, confidentiality, continuity of public services, and data integrity, in accordance with existing laws and regulations. Article 43 further specifies the powers granted to these investigators by receiving reports or complaints, summoning and questioning suspects or witnesses, verifying the accuracy of reports, investigating individuals or business entities suspected of involvement, conducting searches, confiscating and sealing data or electronic systems, requesting information from electronic system providers, seeking expert assistance, terminating investigations, and ordering the temporary suspension of

access. The arrest and detention of individuals involved in criminal activities related to information technology and electronic transactions are governed by the provisions of criminal procedure law. Additionally, investigators are required to ensure that public services are not disrupted during their investigations. The investigation process requires coordination with the Public Prosecutor, and once it is concluded, the results are submitted to the Public Prosecutor through the investigator from the Indonesian National Police.

The revisions to Article 45, which address the criminalization of offenses related to decency and defamation, demonstrate an effort to better balance the protection of human rights with law enforcement in the digital age. This is achieved by allowing for the possibility that perpetrators may not be criminally prosecuted under certain circumstances.

B. Controversy and the Potential for Criminalization in the Revised ITE Law: A Review of Articles 27A and 27B

Since the enactment of the EIT Law, civil society in Indonesia has consistently called for revisions, particularly concerning the so-called "rubber articles" that are often regarded as vague and prone to misuse by officials to suppress public criticism.[30] However, the government's and parliament's responses have been perceived as insufficient. In the latest revision of the EIT Law through Law No. 1 of 2024, the expectation of eliminating these controversial provisions was not fully realized. Instead, the revision introduced several new norms that further complicate the interpretation of the articles. The public believes that rather than clarifying or reducing the potential for abuse, this revision has expanded the law's scope with norms that still allow for subjective and excessive interpretation. This could prolong or even worsen the suppression of freedom of expression and the use of the EIT Law as a tool to silence critical voices. The lack of a meaningful response to public demands for

[30] Indriasari, Devi Tri. "Kebebasan Berekspresi dalam Tekanan Regulasi: Studi terhadap Undang-Undang Informasi dan Transaksi Elektronik (UU ITE)." *Masyarakat Indonesia* 49.2 (2024): 243-256, https://doi.org/10.14203/jmi.v49i2.1373.

legal reform reflects the tension between the need to regulate the digital space fairly and transparently and the tendency to maintain control over public narratives. As a result, this revision of the EIT Law is seen as a missed opportunity to improve a law that has long been a source of controversy and concern regarding human rights and freedom of expression in Indonesia.

Article 27A reads, "Every person intentionally attacks the honor or good name of another person by alleging a matter with the intention that it becomes public knowledge in the form of electronic information and/or electronic documents carried out through an electronic system." This article appears to be aimed at protecting individuals from actions that could harm their reputation through electronic media. However, a deeper analysis reveals several potential issues that warrant special attention. The phrase "attacking the honor or reputation of others" in Article 27A provides significant room for interpretation. According to the explanation of the article, this action includes acts that degrade or harm someone's reputation or dignity, including defamation and/or slander. However, without clear and measurable definitions of what constitutes "degrading" or "harming" a reputation, this article has the potential to create multiple interpretations that could lead to legal uncertainty. Any action or statement deemed to damage someone's reputation could easily be interpreted as a criminal act, even if the statement was made in the context of legitimate criticism or healthy public discourse. Furthermore, Article 27A focuses on the act of "accusing something with the intention of making it known to the public." In practice, this emphasis can be a double-edged sword. Claims or criticisms against individuals, companies, or public institutions often form an essential part of public discussion and are key elements of press freedom and freedom of expression. However, with the emphasis on the intent to make the accusation public, this article could be used to criminalize those who voice legitimate opinions or criticisms under the pretext of defamation. It raises concerns that the article could be used to silence opposition or criticism against the government and other institutions, thus stifling the space for freedom of expression and healthy public discourse.

In legal positivism, law is regarded as a normative system of rules that must be followed without necessarily being linked to morality or

justice.[31] According to positivists like Hans Kelsen, law must be understood as a hierarchical and logical set of rules, where the validity of a law depends on its existence within a legitimate legal order.[32] However, Article 27A, with its ambiguous definitions, fails to meet the normative clarity expected in legal positivism. The vagueness in the phrases "attacking the honor or good name" and "making allegations with the intention that it becomes public knowledge" makes this article susceptible to multiple interpretations, which in turn creates legal uncertainty. Kelsen emphasized the importance of clarity and precision in legal norms to ensure predictability and certainty in the application of the law.[33] The ambiguity in Article 27A, therefore, does not satisfy this requirement, raising concerns about the potential misuse of power by law enforcement authorities.

Further complicating matters, critical legal studies (CLS) view law as a tool often employed to sustain existing power structures. From this perspective, law is not neutral but is instead influenced by dominant political, economic, and social interests.[34] In the context of Article 27A, CLS would interpret this provision as a potential instrument for those in power to silence dissent or criticism. The article's ambiguity allows for interpretations that can be molded to align with the interests of those in authority, thereby reinforcing authoritarian tendencies. This practice could suppress freedom of expression and stifle public discourse critical of the government or other institutions. CLS would stress that without clear boundaries and precise definitions, Article 27A could serve as a repressive tool contrary to the principles of democracy and social justice.

In legal philosophy, theories of justice, such as those proposed by John Rawls, emphasize the importance of fair and equal treatment for all

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[31] Marmor, Andrei. "Legal positivism: still descriptive and morally neutral." *Oxford Journal of Legal Studies* 26.4 (2006): 683-704, https://doi.org/10.1093/ojls/gqi028.

[32] Kelsen, Hans. "On the pure theory of law." *Israel Law Review* 1.1 (1966): 1-7, https://doi.org/DOI: 10.1017/S0021223700013595.

[33] Paine, Joshua. "Kelsen, Legal Normativity, and Formal Justice in International Relations." *Leiden Journal of International Law* 26.4 (2013): 1037-1053, https://doi.org/DOI: 10.1017/S092215651300054X.

[34] Sciaraffa, Stefan. "CRITICAL LEGAL STUDIES:: A Marxist Rejoinder." *Legal Theory* 5.2 (1999): 201-219, https://doi.org/DOI: 10.1017/S1352325299052040.

individuals within society.[35] Rawls introduced the "veil of ignorance" principle, whereby rules should be designed so that those creating them do not know their position within society, thus promoting genuine and unbiased justice.[36] From this perspective, Article 27A can be criticized for potentially fostering injustice. The article allows law enforcement to impose sanctions based on interpretations that may be inconsistent or biased, particularly against individuals or groups critical of those in power. Rawls' principle of justice mandates that laws be applied consistently and non-discriminatorily, ensuring that all individuals enjoy equal freedom, including the freedom to express their views without fear of unjust retaliation.[37] In this context, the ambiguity of Article 27A threatens to violate this principle by disproportionately restricting freedom of expression.

Moreover, in human rights-oriented legal philosophy, freedom of expression is one of the fundamental rights that must be protected by the state.[38] Article 27A, with its broad potential for interpretation, can be seen as a threat to this right. Legal philosophers like Ronald Dworkin argue that individual rights, including freedom of expression, must be safeguarded even when they conflict with the interests of the majority or the state. Dworkin asserts that good law is one that respects human rights, where every individual has the right to express their views without fear of state retaliation. From this standpoint, Article 27A is problematic not only due to its vagueness but also because it contradicts the human rights principles that the law should protect. A law that permits repressive enforcement against freedom of expression is not legitimate within the context of human rights. On a broader scale, Article 27A has serious implications for the legal system and democracy in Indonesia. The legal

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[35] Faiz, Pan Mohamad. "Teori Keadilan John Rawls (John Rawls' Theory of Justice)." *Jurnal Konstitusi* 6.1 (2009): 135-149, https://doi.org/http://dx.doi.org/10.2139/ssrn.2847573.

[36] Rawls, John. "A theory of justice." *Applied ethics*. Routledge, (2017): 21-29., https://doi.org/10.4324/9781315097176-4.

[37] Smith, Paul. "Moral and Political Philosophy: Key Issues, Concepts and Theories." (2008): 185–210, https://doi.org/10.1007/978-0-230-59394-7_12.

[38] Sabubun, Amatus Venantius, and Hammar, Roberth Kurniawan Ruslak. "Protection of Freedom of Expression Through Social Media from The Perspective of Human Rights." *Eduvest-Journal of Universal Studies* 4.3 (2024): 880-887, https://doi.org/10.59188/eduvest.v4i3.1080.

uncertainty generated by this article creates an atmosphere of fear and distrust in the legal system, particularly among journalists, activists, and the public who wish to voice their criticisms. This situation contradicts the principles of the rule of law, which require that laws be clear, predictable, and fairly applied. Furthermore, in a healthy democratic system, freedom of expression is a crucial pillar that enables society to monitor and critique the government and other institutions. The ambiguity and potential for misuse inherent in Article 27A threaten this pillar, which could lead to the erosion of democratic quality and transparent governance. An analysis of various legal theories and legal philosophies reveals that Article 27A of the UU ITE has several fundamental weaknesses that require serious attention. From a legal positivist perspective, the article fails to achieve the normative clarity essential for good law. From the viewpoint of critical legal studies, it has the potential to be used as a tool to maintain power and suppress dissent. Meanwhile, in the context of justice theories and human rights, Article 27A is at odds with the principles of justice and freedom of expression that must be protected in a democratic society. Therefore, revision or reinterpretation of this article is necessary to ensure that the law in Indonesia not only protects individual honor but also respects the fundamental freedoms that underpin a healthy democracy.

Article 27B paragraph 2 of the Law on Information and Electronic Transactions (UU ITE) states, "Any person who intentionally and without right distributes and/or transmits electronic information and/or electronic documents, with the intention of unlawfully benefiting themselves or others, by threatening defamation or disclosure, forces someone to: a. give property that is partially or wholly owned by that person or another person; or b. provide a loan, acknowledge a debt, or forgive a debt." This article exemplifies another instance of ambiguity within the EIT Law, which can lead to confusion in its application. The primary focus of this article is on the act of distributing or transmitting information with the intent to unlawfully benefit oneself or others, through threats of defamation or the disclosure of secrets, with the aim of coercing someone to hand over property, acknowledge a debt, or forgive a debt. One of the core issues with this article lies in the phrase "threat of defamation," which is defined in the explanation as a threat to attack someone's honor or good name by making an accusation public.

However, this explanation does not provide sufficient clarity and still leaves room for ambiguity in interpreting the article. The lack of clear definitions and boundaries makes this article vulnerable to varied and subjective interpretations, which in turn can lead to abuse in its enforcement. This ambiguity could pose serious problems in legal practice, where individuals who legitimately wish to disclose important information or provide constructive criticism may feel intimidated by unclear legal threats. In such situations, journalists, activists, and the general public might feel reluctant to speak out or share information due to the fear of being ensnared by this ambiguous article. This is clearly contrary to the principles of freedom of expression, which should be guaranteed in a democratic country. Therefore, it is crucial for lawmakers to provide stricter and clearer definitions so that the law can be applied fairly and consistently without compromising freedom of expression.[39]

The key phrase in this article "threat of defamation," is a primary source of legal ambiguity that can lead to potential misuse. This ambiguity can be analyzed through the lens of legal certainty theory as proposed by Gustav Radbruch, emphasizing that laws must be clear, predictable, and free from ambiguity in their application.[40] In the context of Article 27(2), the lack of clarity regarding the definition of "threat of defamation" creates legal uncertainty that could harm individuals who should be protected by the law itself. The enforcement of an uncertain law will be subjective and poses the risk of abuse of power, as warned by the critical legal studies approach. This theory reveals that laws often reflect certain power interests, and in this case, the ambiguity in definition could be exploited to suppress freedom of speech, particularly when the information or criticism conveyed touches on the interests of those in power.

This ambiguity can also be examined from the perspective of the philosophy of freedom of speech, as articulated by John Stuart Mill in his essay "On Liberty," where freedom of expression is viewed as a

[39]Restrepo, Ricardo. "Democratic freedom of expression." (2013): 380-390, https://doi.org/10.4236/OJPP.2013.33058.

[40] Zegarlicki, Jakub. "Pewność prawa jako istotna wartość państwa prawnego." *Filozofia Publiczna i Edukacja Demokratyczna* 6.2 (2017): 143-166, https://doi.org/10.14746/FPED.2017.6.2.19.

fundamental pillar in a democratic society.[41] The vague definition in Article 27B paragraph 2 of the ITE Law could threaten freedom of speech as it may cause individuals or groups to fear expressing opinions or sharing information that could be valuable to the public. Furthermore, the utilitarian approach, which evaluates policies or laws based on their benefits to the greatest happiness, would also criticize Article 27B paragraph 2 due to its potential to create widespread fear in society.[42] This fear not only stifles freedom of expression but also obstructs public access to truthful and important information.

Without clear and strict definitions, Article 27B paragraph 2 of the ITE Law opens the door to subjective interpretation and potential misuse, whether by authorities or interested individuals. This could lead to a chilling effect, where people are reluctant to voice criticism or share important information due to fear of unclear legal sanctions. To address this issue, lawmakers should amend the article by providing a more concrete definition of "threat of defamation" and specifying the situations in which such actions could be considered unlawful. The law will then become more predictable and be implemented consistently, ultimately strengthening public trust in the legal system and ensuring that freedom of expression remains protected in line with democratic principles and human rights.

The analysis of Article 27A and Article 27B of the UU ITE reveals several weaknesses based on the criteria for good and proper legislation. In terms of legal certainty, both Article 27A and Article 27B contain ambiguous phrases such as "attacking the honor or good name" and "threat of defamation," which are open to multiple interpretations. This lack of clarity creates legal uncertainty, making it difficult for various parties to consistently apply the law, and leaving the public unsure of the specific boundaries of conduct that could be considered illegal. From a justice perspective, the vague definitions in these articles may lead to unfair application of the law, particularly against individuals or groups

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[41] Friedman, Richard B. "A new exploration of Mill's essay On Liberty." *Political Studies* 14.3 (1966): 281-304, https://api.semanticscholar.org/CorpusID:145444059.

[42] Renda, Fransiskus Xaverius. "Kebahagiaan dalam Utilitarianism John Stuart Mill." *Proceedings of The National Conference on Indonesian Philosophy and Theology* 1.1. (2023): 59–67, https://doi.org/10.24071/snf.v1i1.8368.

who express legitimate criticism. These articles are also prone to discriminatory enforcement, especially when used to intimidate those who seek to expose the truth or voice opinions in public discourse.

The proportionality of punishment under Article 27A and Article 27B is also questionable, as the potential to criminalize legitimate criticism or expression of opinions could be seen as disproportionate, especially when such criticism is a part of healthy public discourse. Without clear definitions, these articles may result in punishments that are not commensurate with the offense, ultimately suppressing freedom of expression or the right to reveal the truth. Furthermore, the lack of transparency in these articles indicates that the public may not fully understand the risks or consequences of actions deemed to violate these provisions. This exacerbates the situation, as unclear and non-transparent laws can lead to uncertainty and injustice in their application.

Moreover, Article 27A and Article 27B also pose a potential violation of human rights principles, particularly the right to freedom of expression, which is a fundamental right that must be protected in a democracy. The ambiguity in the definitions and application of these articles could lead to the restriction of freedom of expression and access to information, ultimately undermining democracy and individual rights. To address these weaknesses, the government should revise the definitions and boundaries used in these articles to be clearer and more measurable, ensuring that the application of the law aligns with human rights principles. Additionally, cases involving these articles should be adjudicated in an independent and transparent manner, considering justice and proportionality in the application of the law. The government must also conduct public outreach and education to ensure that the public understands the changes made and how the law will come into effect fairly and transparently. Strong oversight and effective complaint mechanisms are also necessary to prevent the misuse of these articles and to provide the public with a means to file complaints if they feel their rights have been violated. The revision and improvement of Article 27A and Article 27B of the UU ITE are expected to create laws that are more just, clear, and consistent with the principles of democracy and human rights in Indonesia.

C. Exploring Articles 27A and 27B of the EIT Law: Implications for Human Rights, the 1945 Constitution, Pancasila, and International Comparisons

The phrase "attacking the honor or reputation of another person" in Article 27A allows for a rather broad interpretation. According to the explanation of this article, such actions include those that demean or harm a person's reputation or dignity, including defamation and/or slander. However, without a clear and measurable definition of what constitutes "demeaning" or "harming" someone's reputation, this article has the potential to create various interpretations that could lead to legal uncertainty. Any action or statement that is perceived to damage someone's reputation could easily be interpreted as a criminal act, even if that statement is made in the context of legitimate criticism or healthy public discourse. Furthermore, Article 27A emphasizes actions that "accuse something with the intent to be known by the public." In practice, this emphasis can be a double-edged sword. Claims or criticisms against individuals, companies, or public institutions are often an essential part of public discussion and are key elements of press freedom and freedom of expression.

However, with the focus on the intent to publicize allegations, this article could be used to criminalize those who voice legitimate opinions or criticisms under the pretext of defamation. This raises concerns that the article could be used to silence opposition or criticism of the government and other institutions, thereby stifling the space for freedom of expression and healthy public discourse. In relation to human rights, particularly freedom of expression, Article 27A of the EIT Law has serious implications. Freedom of expression is a universally recognized human right and is guaranteed by various international instruments, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), both of which have been ratified by Indonesia. Article 19 of the ICCPR specifically asserts that everyone has the right to hold opinions without interference and has the right to seek, receive, and impart information

and ideas through any media regardless of frontiers.[43] However, Article 27A of the EIT Law, with its ambiguity, has the potential to threaten this right. The ambiguity in the phrase "attacking the honor or reputation" can allow for broad and subjective interpretations by authorities, which could be used to limit or even suppress freedom of expression. In many cases, legitimate criticism of the government, public officials, or other public figures could be treated as a legal offense under this article, even though such criticism is made in a legitimate context and aims for the public interest.[44] Freedom of expression is not only important as an individual right but also as a fundamental foundation in a democratic society. A healthy democracy requires space for open discussion, criticism, and the exchange of ideas without fear of disproportionate legal repercussions.[45] Article 27A, in its current form, risks creating a "chilling effect," where individuals, particularly journalists, activists, and the general public, may hesitate to voice their opinions or criticisms for fear of unclear legal consequences. From the perspective of international human rights law, Article 27A should be reconsidered or revised to ensure that the law not only protects individual honor but also respects the fundamental freedoms that support a healthy democracy. Under the principles of human rights law, restrictions on freedom of expression can only be justified if those restrictions are necessary, proportionate, and clearly prescribed by law.[46] Article 27A, with its ambiguity and potential for misuse, does not seem to meet these criteria, and therefore, changes are needed to prevent future human rights violations. In conclusion, Article 27A of the EIT Law requires a thorough review with consideration of human rights principles. Without clear definitions and

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[43] de Zayas, Alfred, and Martín, Áurea Roldán. "Freedom of opinion and freedom of expression: some reflections on General Comment No. 34 of the UN Human Rights Committee." *Netherlands International Law Review* 59.3 (2012): 425-454, https://doi.org/10.1017/S0165070X12000289.

[44] Agustina, Recha Armenia, et al. "Freedom of Expression in Regulating Criminal Acts of Defamation Against the Government and State Institutions." *Path of Science* 9.8 (2023): 1008-1018., https://doi.org/10.22178/POS.95-31.

[45] Marashini, Sashi Nath. "Freedom of Expression in International Law." *Communication Journal* (2022): 9-22, https://doi.org/10.3126/cj.v2i1.57009.

[46] Badar, Mohamed Elewa. "Basic principles governing limitations on individual rights and freedoms in human rights instruments." *The International Journal of Human Rights* 7.4 (2003): 63-92, https://doi.org/10.1080/13642980310001726226.

strict limitations, this article has great potential to become a tool used to silence freedom of expression, which is a fundamental human right. Urgent revisions are needed to ensure that Indonesian law not only protects individual honor but also respects the freedoms that are the cornerstone of democracy and human rights.

Article 27B, paragraph 2 of the EIT Law is designed to protect individuals from extortion or threats carried out through electronic media, with the intent of obtaining unlawful gains. However, similar to Article 27A, Article 27B, paragraph 2 also raises significant issues, particularly from a human rights perspective. The phrase "extortion and/or threats" in Article 27B, it provides a broad and ambiguous scope for interpretation. Extortion and threats, in a legal context, typically refer to actions taken with the intent to force someone to do something detrimental to themselves or beneficial to the perpetrator. However, without a clear definition of what is meant by "extortion" and "threats" in the context of electronic information, this article has the potential to create legal uncertainty. This uncertainty could lead to various subjective interpretations that risk misuse in its application. From a human rights perspective, the legal uncertainty created by Article 27B, paragraph 2 has the potential to violate several fundamental rights universally recognized, including the right to freedom of expression, the right to justice, and the right not to be subjected to arbitrary treatment. The right to freedom of expression is guaranteed in various international instruments, such as the International Covenant on Civil and Political Rights (ICCPR), which asserts that everyone has the right to freedom of expression without interference.[47] The ambiguity in Article 27B, paragraph 2 could result in people being afraid to express themselves or share important information, especially if that information could be considered a threat by certain parties. Furthermore, the broad and ambiguous understanding of "extortion" and "threats" in this article could also be used as a tool to suppress legitimate criticism or the disclosure of important information. For example, if someone discloses important information about corruption or legal violations by a public official, such disclosure could

[47] Howie, Emily. "Protecting the human right to freedom of expression in international law." *International journal of speech-language pathology* 20.1 (2018): 12-15, https://doi.org/10.1080/17549507.2018.1392612.

be interpreted as "extortion" or "threats," even if the actual intent is for the public interest. This creates the risk of legal abuse, where this article could be used to protect the interests of those in power and suppress individuals trying to reveal the truth. From a human rights perspective, the legal uncertainty created by the phrase "extortion and/or threats" in Article 27B, paragraph 2 also violates internationally recognized principles of justice. These principles, as outlined in the Universal Declaration of Human Rights and various other human rights instruments, emphasize that the law must be applied fairly, without discrimination, and must provide equal protection for all individuals. The ambiguity in this article could lead to inconsistent and discriminatory law enforcement, where certain individuals may become targets of legal abuse by authorities. To address these issues, a revision of Article 27B, paragraph 2 of the EIT Law is needed, emphasizing clarity in definitions and strict boundaries regarding "extortion" and "threats." More specific and clear definitions will help prevent subjective interpretations and allow for more fair and consistent law enforcement. Additionally, this revision should also consider the protection of human rights, especially the right to freedom of expression and the right to access information. Without urgent revision, Article 27B, paragraph 2 risks becoming a tool to suppress freedom of expression and create legal uncertainty that is detrimental.

Articles 27A and 27B of the Indonesian Electronic Information and Transactions Law (UU ITE), when analyzed within the context of the 1945 Constitution (UUD 1945) and Pancasila, reveal significant potential conflicts with the fundamental principles that underpin Indonesia as a nation. The 1945 Constitution, particularly in Articles 28E (2) and (3) and Article 28F, guarantees every individual's right to freedom of opinion, expression, and the pursuit and dissemination of information. However, the vagueness in the definitions of "attacking someone's honor or reputation" in Article 27A and the phrases "extortion and/or threats" in Article 27B of the UU ITE create broad and ambiguous interpretative space, which in turn can lead to legal uncertainty and potential abuse by authorities. This ambiguity risks infringing upon freedom of expression and endangering human rights, which are explicitly protected by the 1945 Constitution, including the right to express opinions and voice criticism, a crucial element in a

democratic society. The lack of clarity in these provisions also contradicts the principle of *due process of law*, which mandates that every law must be applied fairly, transparently, and without bias, providing legal certainty to all citizens. Selective or biased enforcement of these articles could undermine public trust in the legal system and lead to injustices, which are contrary to the principles of justice and non-discrimination guaranteed by the 1945 Constitution. Furthermore, Pancasila, as the ideological foundation of the state, emphasizes the importance of respecting human dignity and social justice, requiring that the law not only protects individual honor but also respects fundamental freedoms, such as freedom of expression, which are the bedrock of democracy. The second principle of Pancasila, "Just and Civilized Humanity," demands that every legal action respect human right. The fourth principle, "Democracy Led by the Wisdom of Deliberation among Representatives," underscores the importance of open discussion and criticism in the democratic process. Therefore, a revision of Articles 27A and 27B of the EIT Law is necessary to ensure that these laws not only protect individual honor but also respect the freedom of expression guaranteed by the 1945 Constitution and align with the values of Pancasila, thereby preventing legal abuse and ensuring fair and proportional law enforcement.

To conduct a robust comparative analysis of Articles 27A and 27B of the Indonesian ITE Law, we can examine similar regulations in other countries that face similar challenges in balancing the protection of individual reputations with freedom of expression. One relevant country for comparison is the United States, with the First Amendment in its Constitution, guaranteeing freedom of speech and expression. Additionally, U.S. defamation law, as developed through cases like *New York Times Co. v. Sullivan* (1964), distinguishes between public figures and private individuals, and requires proof of "malice" or intent to harm in defamation cases involving public figures.[48] This approach offers strong protection for press freedom and free expression, particularly in the context of criticism of the government or public figures. Indonesia

[48] Kenyon, Andrew T. "Libel, Slander, and Defamation." *The International Encyclopedia of Journalism Studies* (2019): 1-8, https://doi.org/10.1002/9781118841570.IEJS0110.

could consider adopting a similar approach by clarifying that defamation charges against public officials or public figures should meet higher standards, such as proof of malice, to protect free expression and prevent legal misuse.

Germany also offers an interesting example through its *German Criminal Code* (*Strafgesetzbuch, StGB*), which includes provisions on insult, defamation, and slander, with very strict but clear limitations.[49] German law balances the right of individuals to protect their reputation with the public's right to information, particularly through strong protection of opinions expressed in public discourse and journalism. Indonesia could study how Germany balances the protection of individual reputations and press freedom, and consider implementing stricter standards and clearer definitions of insult, defamation, and slander to reduce legal uncertainty.

In the United Kingdom, the *Defamation Act 2013* introduced a requirement that defamation must cause "serious harm" to an individual's reputation.[50] Additionally, this law provides special protection for statements that are opinions or honest comments and offers further protection for publications made in the public interest. Indonesia could consider the concept of "serious harm" as a condition for defamation cases to filter out trivial cases and allow greater space for free expression, particularly in the context of public discourse.

Australia, with its Uniform Defamation Laws across all states and territories, provides protection for reputations while also ensuring that legitimate criticism and public interest are safeguarded.[51] One important aspect of this law is that truth is an absolute defense against defamation claims. Therefore, individuals or media outlets that publish true information cannot be sued merely because the information harms

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[49] Carlson, Caitlin Ring, and Christopher Terry. "The devil's in the details: how countries' defamation laws can (and can't) combat hate speech." *Journalism Practice* 18.2 (2024): 242-264, https://doi.org/10.1080/17512786.2023.2251976.

[50] Groppo, Mathilde. "Serious harm: A case law retrospective and early assessment." *Journal of Media Law* 8.1 (2016): 1-16, https://doi.org/10.1080/17577632.2016.1174392.

[51] Coe, Peter. "An analysis of three distinct approaches to using defamation to protect corporate reputation from Australia, England and Wales, and Canada." *Legal Studies* 41.1 (2021): 111-129, https://doi.org/10.1017/LST.2020.38.

someone's reputation. Indonesia could adopt the principle that truth is an absolute defense in defamation cases to ensure fair and proportional application of the law.

Canada, with the *Canadian Charter of Rights and Freedoms* and defamation law developed through precedents such as *Hill v. Church of Scientology of Toronto* (1995), balances the protection of reputation with freedom of expression.[52] Canada also recognizes the concept of "qualified privilege," which provides protection for statements made in certain contexts, such as journalistic reporting or political discussions, as long as there is no malice. Indonesia could consider implementing the concept of "qualified privilege," which would protect statements made in good faith in certain contexts, such as journalism or public discussions, from defamation claims.

Indonesia could clarify the definitions and standards of proof in cases of insult, defamation, extortion, and threats as regulated in Articles 27A and 27B of the ITE Law by studying the approaches of other countries such as the United States, Germany, the United Kingdom, Australia, and Canada. Through revisions that consider best practices from other countries, Indonesia could develop laws that are more just, transparent, and aligned with the principles of human rights and democracy enshrined in the 1945 Constitution and Pancasila.

Conclusion

The recent amendments to Indonesia's Electronic Information and Transaction Law (UU ITE), particularly the introduction of Articles 27A and 27B, reflect the government's intention to adapt to the evolving landscape of information and communication technology. However, these changes have not fully addressed longstanding concerns about legal ambiguity and the potential for misuse, particularly regarding the protection of freedom of expression and human rights. The analysis reveals that the vague definitions in these articles create significant legal uncertainty, which could lead to the suppression of legitimate criticism, stifling public discourse, and undermining democracy. From a normative

[52] Hughes, Thomas A. "The actual malice rule: Why Canada rejected the American approach to libel." *Communication Law and Policy* 3.1 (1998): 55-97, https://doi.org/10.1080/10811689809368641.

legal perspective, the lack of clear definitions and boundaries in Articles 27A and 27B fails to meet the standards of legal certainty and proportionality expected in a democratic society. This ambiguity leaves room for varied interpretations that can be subjectively applied, potentially leading to the misuse of these provisions by authorities to silence dissent. This issue is further compounded by the risk of infringing upon fundamental human rights, as outlined in the 1945 Constitution and international human rights instruments like the ICCPR. The principles of Pancasila, which emphasize justice, respect for human dignity, and democracy, are also at odds with the potential for these articles to be used as tools for legal repression. The inconsistency between these provisions and the foundational values of Indonesia suggests an urgent need for revision. Such revisions should focus on providing clear and measurable definitions to ensure that the law protects both individual reputations and the essential freedoms that underpin a healthy democracy. Comparative analysis with defamation and freedom of expression laws in other countries, such as the United States, Germany, the United Kingdom, Australia, and Canada, underscores the importance of balancing the protection of individual reputations with the need to safeguard freedom of expression. Lessons from these countries demonstrate that implementing stricter standards, such as requiring proof of malice in defamation cases involving public figures or adopting the concept of "serious harm," could enhance the clarity and fairness of the EIT Law. In conclusion, while the revision of the EIT Law represents a step toward addressing the challenges of the digital era, it is incomplete without further refinements. To align with the principles of the 1945 Constitution, Pancasila, and international human rights standards, it is imperative to revise Articles 27A and 27B to provide clearer definitions, establish higher thresholds for criminalization, and ensure that the law is applied in a manner that protects freedom of expression and upholds democratic values. Without these changes, the risk remains that the EIT Law could continue to be used as a tool for legal repression, thereby undermining Indonesia's commitment to human rights and democracy.

References

Safitri, Ria. "Undang-Undang Informasi dan Transaksi Elektronik Bagi Perguruan Tinggi." *SALAM: Jurnal Sosial Dan Budaya Syar-I* 5.3 (2018): 197-218, https://doi.org/10.15408/sjsbs.v5i3.10279.

Fernando, Zico Junius, et al. "The freedom of expression in Indonesia." *Cogent Social Sciences* 8.1 (2022): 1–11, https://doi.org/10.1080/23311886.2022.2103944.

Elpina, Elpina. "Legal Challenges in Managing Intellectual Property Rights in Business Information Systems." *Jurnal Minfo Polgan* 13.1 (2024): 270-277, https://doi.org/10.33395/jmp.v13i1.13571.

Suryanto, Salsa Octaviani, and Mulyana, Aji. "Legal Challenges in Overcoming Changes in Social Behaviour Due to the Development of Technology and Information." *Golden Ratio of Law and Social Policy Review* 3.2 (2024): 84-96, https://doi.org/https://doi.org/10.52970/grlspr.v3i2.359.

Dian Erika Nugraheny, "Ditandatangani Jokowi, Revisi Kedua UU ITE Resmi Berlaku," Kompas.com, 2024, https://nasional.kompas.com/read/2024/01/04/10273621/ditandatangani-jokowi-revisi-kedua-uu-ite-resmi-berlaku.

Irrynta, Dwilani, and Prasetyoningsih, Nanik. "An Analysis of Freedom of Speech: Whether the Indonesian Electronic Information and Transactions Law is Contradictory." *SASI* 29.2 (2023): 200-213, https://doi.org/10.47268/SASI.V29I2.1061.

Manthovani, Reda, and Tejomurti, Kukuh. "A Holistic Approach of Amnesty Application for Baiq Nuril Maknun in the Framework of Constitutional Law of Indonesia." *Yustisia Jurnal Hukum* 8.2 (2019): 277-291, https://api.semanticscholar.org/CorpusID:211339265.

Arviana, Nerissa, et al. "Analisis Kasus Prita Mulyasari Dalam Putusan Peninjiauan Kembali No. 225 Pk/Pid. Sus/2011." *YUSTISIA MERDEKA: Jurnal Ilmiah Hukum* 6.2 (2020): 78-81, https://doi.org/10.33319/yume.v6i2.47.

Nugraha, Ricky Mohammad, et al, "Ahmad Dhani Sentenced to 1.5 Years in Prison in Hate Speech Case," News En.tempo.co, accessed September 3, 2024, https://en.tempo.co/read/1169710/ahmad-dhani-sentenced-to-1-5-years-in-prison-in-hate-speech-case.

Dianita, Komang Vita. "The Freedom of Speech Based on Jerinx Case, ITE Law Approach." *Journal of Digital Law and Policy* 1.1 (2021): 29-36, https://doi.org/https://doi.org/10.58982/jdlp.v1i1.91.

Mamduh, Naufal. "Jonru Divonis 1,5 Tahun Penjara, Lebih Ringan Dari Tuntutan Jaksa," tirto, 2018, https://tirto.id/jonru-divonis-15-tahun-penjara-lebih-ringan-dari-tuntutan-jaksa-cFzn.

Kahfi, Kharishar. "'I Am No Pinocchio': Musician Ananda Badudu Ready to Face Cops and Voice Truths," The Jakarta Post, 2019, https://www.thejakartapost.com/news/2019/10/02/i-am-no-pinocchio-musician-ananda-badudu-ready-to-face-cops-and-voice-truths.html.

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

Annur, Cindy Mutia. "Hampir 400 Orang Dituntut Dengan UU ITE Dalam 9 Tahun Terakhir," katadata.co.id, 2022, https://databoks.katadata.co.id/datapublish/2022/07/18/hampir-400-orang-dituntut-dengan-uu-ite-dalam-9-tahun-terakhir.

KontraS. "Indonesia: Solidarity for Human Rights Defenders Fatia Maulidiyanti and Haris Azhar," Kontras.org, 2023, https://kontras.org/en/2023/11/23/indonesia-solidarity-for-human-rights-defenders-fatia-maulidiyanti-and-haris-azhar/.

Taher, Andrian Pratama. "Janggalnya Kasus Jurnalis Asrul: Abaikan UU Pers & Dijerat UU ITE," Tirto.id, 2021, https://tirto.id/janggalnya-kasus-jurnalis-asrul-abaikan-uu-pers-dijerat-uu-ite-gkwL.

Fua, Ahmad Akbar. "Kisah Sadli Wartawan Buton Tengah Yang Dibui Karena Kritik Pemerintah," Regional Liputan6.com, 2020, https://www.liputan6.com/regional/read/4174843/kisah-sadli-wartawan-buton-tengah-yang-dibui-karena-kritik-pemerintah.

Nurita, Dewi, et al. "Divonis 3 Bulan Penjara, Pemred Banjarhits: Ini Lonceng Kematian Kebebasan Pers - Nasional Tempo.Co," nasional.tempo.co, 2020, https://nasional.tempo.co/read/1374368/divonis-3-bulan-penjara-pemred-banjarhits-ini-lonceng-kematian-kebebasan-pers.

International Federation of Journalists, "Indonesia: Journalist Arrested for Twitter Post on Conditions in Papua," International Federation of Journalists, 2020, https://www.ifj.org/media-centre/news/detail/category/press-releases/article/indonesia-journalist-arrested-for-twitter-post-on-conditions-in-papua.

Aditya, Nicholas Ryan, et al, "Catatan SAFEnet: 8 Kasus Jurnalis Terjerat UU ITE Sepanjang 2019 Halaman All - Kompas.Com," Kompas.com, 2020, https://nasional.kompas.com/read/2020/11/14/05050021/catatan-safenet--8-kasus-jurnalis-terjerat-uu-ite-sepanjang-2019?page=all.

Afifa, Laila, et al. "ITE Law Criminalization Cases Incriminating Journalists," News En.tempo.co, 2021, https://en.tempo.co/read/1532760/ite-law-criminalization-cases-incriminating-journalists.

Rahmazani, "Problematika Hukum Penerapan Undang-Undang Informasi Dan Transaksi Elektronik (UU ITE) Di Indonesia," *Mimbar Hukum Hukum* 34, no. 1 (2022): 161–85.

Wandira, Leni, et al. "Berpotensi Jadi Pasal Karet, Begini Isi Pasal 27A Dan 27B Setelah Revisi UU ITE," nasional.kontan.co.id, 2024, https://nasional.kontan.co.id/news/berpotensi-jadi-pasal-karet-begini-isi-pasal-27a-dan-27b-setelah-revisi-uu-ite.

Widyawati, Anis, et al. "The Regulation of Integrity Zone and the Corruption-Free Zone in Indonesia and Rusia." *Bestuur* 11 (2023): 253-270, https://doi.org/10.20961/BESTUUR.V11I2.76306.

Fernando, Zico Junius, et al. "Preventing bribery in the private sector through legal reform based on Pancasila." *Cogent Social Sciences* 8.1 (2022): 1-14, https://doi.org/10.1080/23311886.2022.2138906.

Effendi, Erdianto, et al. "Trading in influence (Indonesia): A critical study." *Cogent Social Sciences* 9.1 (2023): 1-13, https://doi.org/10.1080/23311886.2023.2231621.

Mahrina, Mahrina, Joko Sasmito, and Candra Zonyfar. "The electronic and transactions law (EIT law) as the first cybercrime law in Indonesia: an introduction and its implementation." *Pena Justisia: Media Komunikasi dan Kajian Hukum* 21.2 (2022): 345-362, https://doi.org/10.31941/PJ.V21I2.2680.

Aditya, Zaka Firma, and Sholahuddin Al-Fatih. "Indonesian constitutional rights: expressing and purposing opinions on the internet." *The International Journal of Human Rights* 25.9 (2021): 1395-1419, https://doi.org/10.1080/13642987.2020.1826450.

Narasi TV, "Sejarah UU ITE Di Indonesia: Perkembangan Regulasi Dan Kontroversi Dunia Digital," narasi.tv, 2023, https://narasi.tv/read/narasi-daily/sejarah-uu-ite.

Indriasari, Devi Tri. "Kebebasan Berekspresi dalam Tekanan Regulasi: Studi terhadap Undang-Undang Informasi dan Transaksi Elektronik (UU ITE)." *Masyarakat Indonesia* 49.2 (2024): 243-256, https://doi.org/10.14203/jmi.v49i2.1373.

Marmor, Andrei. "Legal positivism: still descriptive and morally neutral." *Oxford Journal of Legal Studies* 26.4 (2006): 683-704, https://doi.org/10.1093/ojls/gqi028.

Kelsen, Hans. "On the pure theory of law." *Israel Law Review* 1.1 (1966): 1-7, https://doi.org/DOI: 10.1017/S0021223700013595.

Paine, Joshua. "Kelsen, Legal Normativity, and Formal Justice in International Relations." *Leiden Journal of International Law* 26.4 (2013): 1037-1053, https://doi.org/DOI: 10.1017/S092215651300054X.

Sciaraffa, Stefan. "CRITICAL LEGAL STUDIES:: A Marxist Rejoinder." *Legal Theory* 5.2 (1999): 201-219, https://doi.org/DOI: 10.1017/S1352325299052040.

Faiz, Pan Mohamad. "Teori Keadilan John Rawls (John Rawls' Theory of Justice)." *Jurnal Konstitusi* 6.1 (2009): 135-149, https://doi.org/http://dx.doi.org/10.2139/ssrn.2847573.

Rawls, John. "A theory of justice." *Applied ethics*. Routledge, (2017): 21-29., https://doi.org/10.4324/9781315097176-4.

Smith, Paul. "Moral and Political Philosophy: Key Issues, Concepts and Theories." (2008): 185–210, https://doi.org/10.1007/978-0-230-59394-7_12.

Sabubun, Amatus Venantius, and Hammar, Roberth Kurniawan Ruslak. "Protection of Freedom of Expression Through Social Media from The Perspective of Human Rights." *Eduvest-Journal of Universal Studies* 4.3 (2024): 880-887, https://doi.org/10.59188/eduvest.v4i3.1080.

Restrepo, Ricardo. "Democratic freedom of expression." (2013): 380-390, https://doi.org/10.4236/OJPP.2013.33058.

Zegarlicki, Jakub. "Pewność prawa jako istotna wartość państwa prawnego." *Filozofia Publiczna i Edukacja Demokratyczna* 6.2 (2017): 143-166, https://doi.org/10.14746/FPED.2017.6.2.19.

Friedman, Richard B. "A new exploration of Mill's essay On Liberty." *Political Studies* 14.3 (1966): 281-304, https://api.semanticscholar.org/CorpusID:145444059.

Renda, Fransiskus Xaverius. "Kebahagiaan dalam Utilitarianism John Stuart Mill." *Proceedings of The National Conference on Indonesian Philosophy and Theology* 1.1. (2023): 59–67, https://doi.org/10.24071/snf.v1i1.8368.

de Zayas, Alfred, and Martín, Áurea Roldán. "Freedom of opinion and freedom of expression: some reflections on General Comment No. 34 of the UN Human Rights Committee." *Netherlands International Law Review* 59.3 (2012): 425-454, https://doi.org/10.1017/S0165070X12000289.

Agustina, Recha Armenia, et al. "Freedom of Expression in Regulating Criminal Acts of Defamation Against the Government and State Institutions." *Path of Science* 9.8 (2023): 1008-1018., https://doi.org/10.22178/POS.95-31.

Marashini, Sashi Nath. "Freedom of Expression in International Law." *Communication Journal* (2022): 9-22, https://doi.org/10.3126/cj.v2i1.57009.

Badar, Mohamed Elewa. "Basic principles governing limitations on individual rights and freedoms in human rights instruments." *The International Journal of Human Rights* 7.4 (2003): 63-92, https://doi.org/10.1080/13642980310001726226.

Howie, Emily. "Protecting the human right to freedom of expression in international law." *International journal of speech-language pathology* 20.1 (2018): 12-15, https://doi.org/10.1080/17549507.2018.1392612.

Kenyon, Andrew T. "Libel, Slander, and Defamation." *The International Encyclopedia of Journalism Studies* (2019): 1-8, https://doi.org/10.1002/9781118841570.IEJS0110.

Carlson, Caitlin Ring, and Christopher Terry. "The devil's in the details: how countries' defamation laws can (and can't) combat hate speech." *Journalism Practice* 18.2 (2024): 242-264, https://doi.org/10.1080/17512786.2023.2251976.

Groppo, Mathilde. "Serious harm: A case law retrospective and early assessment." *Journal of Media Law* 8.1 (2016): 1-16, https://doi.org/10.1080/17577632.2016.1174392.

Coe, Peter. "An analysis of three distinct approaches to using defamation to protect corporate reputation from Australia, England and Wales, and Canada." *Legal Studies* 41.1 (2021): 111-129, https://doi.org/10.1017/LST.2020.38.

Hughes, Thomas A. "The actual malice rule: Why Canada rejected the American approach to libel." *Communication Law and Policy* 3.1 (1998): 55-97, https://doi.org/10.1080/10811689809368641.

Cum adsunt testimonia rerum, quid opus est verbist

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