

CRIMINAL DEFAMATION THROUGH SOCIAL MEDIA AND ITS LEGAL IMPLICATIONS IN INDONESIA

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Abstract: *The digital era has brought about a fundamental transformation in the communication patterns of Indonesian society through social media platforms, while at the same time giving rise to complex challenges in the field of criminal law. Statistical data reveals that defamation cases through social media reached 838 cases in 2023, ranking second after online fraud with 1,414 cases from total 3,758 cybercrime cases (Polri, 2024). The Constitutional Court Decision No. 105/PUU-XXII/2024, issued on April 29, 2025, has shifted the legal paradigm of defamation by restricting the object of the offense solely to individual persons. This study analyzes the evolution of legal regulation of defamation in the digital era, the impact of the Constitutional Court's decision on freedom of expression, and the challenges in implementing Law No. 1 of 2024 concerning the Second Amendment to the Electronic Information and Transactions Law (ITE Law) in law enforcement practices. Social media has become a virtual public sphere that can influence the reputation of both individuals and institutions with unlimited speed and reach, thereby requiring adaptive legal regulation. This research employs a normative juridical method with a statutory approach and judicial decision analysis. The analysis shows that although the Constitutional Court's decision provides broader space for criticism of public institutions, technical challenges and legal harmonization still require regulatory strengthening and capacity-building for law enforcement officials. This study recommends the necessity of comprehensive dissemination to law enforcement authorities, the development of standardized operational procedures, and the enhancement of digital literacy among the public to prevent criminal defamation through social media.*

Keywords: *Defamation; social media; ITE Law; Constitutional Court Decision No. 105/PUU-XXII/2024; freedom of expression*

1. INTRODUCTION

To establish a robust theoretical foundation for this normative legal study, several fundamental concepts require clarification. Defamation in Indonesian legal context refers to intentional acts that attack someone's honor or reputation by making accusations with the intent that such accusations become publicly known, as regulated in Article 310 of the Indonesian Penal Code and Article 27A of the ITE Law. Freedom of expression constitutes a fundamental right guaranteed by Article 28E

paragraph (3) of the 1945 Constitution of the Republic of Indonesia, encompassing the freedom to express opinions orally and in writing through digital media, while remaining subject to legal responsibilities and social norms. Digital evidence refers to electronic information stored in computer systems or digital devices that can serve as legal evidence in judicial proceedings, characterized by its volatile nature and susceptibility to manipulation, thus requiring specialized procedures for handling.

The digital era has transformed the way society interacts and expresses opinions through social media platforms. The ease of access to information and the rapid dissemination of content in the digital space create both opportunities and new challenges in the field of Indonesian criminal law. Developments in information technology in the 21st century have brought significant changes in various aspects of social life, including the emergence of new forms of criminal acts that exploit digital technologies, such as cybercrime, internet-based fraud, and the distribution of illegal content through social media. In the Indonesian legal context, strict regulations have been established to address defamation through social media, with Law No. 1 of 2024 on the Second Amendment to the Electronic Information and Transactions Law (ITE Law) providing detailed provisions regarding acts categorized as defamation and the sanctions that may be imposed (Rumondor, 2024).

Within the framework of Indonesian criminal law, According to Indonesian National Police data, defamation cases through social media reached 838 cases in 2023, ranking second after online fraud with 1,414 cases out of 3,758 total cybercrime cases. SAFEnet data indicates 146 cases of digital freedom of expression violations throughout 2024 with 170 individuals becoming either reporters or victims. Legal regulation, which initially referred to Articles 310–321 of the Indonesian Penal Code (KUHP) and Article 27 paragraph (3) of the ITE Law, underwent significant evolution with the enactment of Law No. 1 of 2024 on the Second Amendment to the ITE Law. The unique characteristics of digital evidence, which can be easily modified, copied, and hidden within storage media that are not physically visible, constitute both strengths and weaknesses in the evidentiary process.

A landmark moment in the regulation of defamation in Indonesia occurred on April 29, 2025, with the issuance of Constitutional Court Decision No. 105/PUU-XXII/2024. This decision firmly declared that the phrase “another person” in the defamation provision must be interpreted restrictively, applying solely to individual persons and not to government institutions or corporations. Constitutional Court Decision No. 105/2024 is considered a breath of fresh air for freedom of speech, as conducive criticism plays a balancing role in the growth of a democratic state (DPR RI, 2025).

Practical Implications of Constitutional Court Decision No. 105/PUU-XXII/2024 encompass three fundamental aspects. First, limitation of legal subjects who may file complaints, where only individual persons who feel harmed can act as complainants, while government institutions, corporations, and non-personal entities lose the ability to use criminal channels. Second, digital sphere commotion no longer constitutes criminal offense under the ITE Law, providing broader space for public criticism of

institutions. Third, law enforcement officials can only process criminal cases if the complainant is an individual who feels harmed, not institutions or groups with specific identities.

The unique characteristics of social media as a borderless communication space pose specific challenges in the application of criminal law. The massive and rapid spread of information can cause irreparable reputational harm, while legal proceedings require a relatively long time to resolve cases. Cybercrime in the form of defamation through social media has become an alarming phenomenon in the digital era, as the psychological and social impacts experienced by victims often do not receive adequate attention in judicial processes (Darmawansayah et al., 2024).

This study is significant in analyzing the legal implications of recent regulatory changes, understanding the challenges of implementation in practice, and providing recommendations for improving the legal enforcement system. It also examines the effectiveness of law enforcement in addressing defamation through social media and its impact on social life in the digital age.

2. METHODS

This research employs normative legal research with a qualitative approach, focusing on the analysis of statutory regulations, judicial decisions, and relevant legal doctrines. Normative legal research was chosen because this topic requires an in-depth examination of positive legal norms governing defamation offenses in the digital era. The objective is to analyze statutes, legal doctrines, and legal principles relevant to the subject matter, encompassing legal principles, systematics of law, levels of legal synchronization, legal history, and comparative law (Soekanto & Mamudji, 2013).

The study applies three main approaches, as outlined in contemporary legal research methodology:

Statute Approach by analyzing Law No. 1 of 2024 on the Second Amendment to the ITE Law, the Penal Code, and other related regulations. The analysis focuses on Article 27A of the ITE Law and criminal provisions concerning defamation, as well as comparisons with previous regulations. This approach involves examining statutory laws forming the legal basis of the issue under study, with particular attention to the Criminal Procedure Code (KUHAP), Law No. 48 of 2009 on Judicial Power, and various Supreme Court regulations and other related provisions.

Case Approach by reviewing Constitutional Court Decision No. 105/PUU-XXII/2024 and court decisions from the first instance up to cassation relating to defamation on social media. This approach also examines relevant judicial rulings to understand the implementation of defamation provisions in judicial practice. Case analysis is used to assess how principles of justice are applied in practice and to identify potential discrepancies between written legal norms and their implementation in the field (Marzuki, 2011).

Conceptual Approach by analyzing the concepts of freedom of expression,

defamation, and the balance of interests in the digital sphere. This approach helps clarify the definitions and meanings of these concepts from both national and international legal perspectives.

The sources of research data consist of:

1. Primary legal materials: the ITE Law and its amendments, the Penal Code, Constitutional Court decisions, and relevant court rulings
2. Secondary legal materials: scholarly journals, books, academic articles, and previous studies
3. Tertiary legal materials: law dictionaries, encyclopedias, and other reference sources.

The data analysis technique employed is descriptive-normative analysis, examining positive legal provisions and linking them with law enforcement practices in the field.

3. RESULTS AND DISCUSSION

3.1. Impact of Constitutional Court Decision No. 105/PUU-XXII/2024: Revolution of Freedom of Expression versus Individual Protection

The Constitutional Court Decision No. 105/PUU-XXII/2024 issued on April 29, 2025 constitutes one of the most significant landmark decisions in the history of Indonesian cybercriminal law. It introduces a fundamental paradigm shift in balancing freedom of expression and the protection of honor in the digital era. The decision arose from a judicial review petition submitted by Daniel Frits Maurits Tangkilisan, an environmental activist affiliated with the Kawal Indonesia Lestari Coalition (Kawali), who questioned the constitutionality of the phrase "other person" in Article 27A of the 2024 ITE Law. The Court affirmed a revolutionary interpretation that "the phrase 'other person' in Article 27A and Article 45 paragraph (4) of the ITE Law applies only to natural persons, not to institutions, entities, or legal persons" (Kurnia, 2025). The ratio decidendi of this decision was based on a profound philosophical understanding of human dignity as the foundation of criminal law protection. Constitutional Justice Arief Hidayat emphasized that "the application of Article 27A must refer to Article 310 paragraph (1) of the Criminal Code concerning defamation against a person or individual, not against abstract entities such as institutions or corporations."

The legal implications of this decision are transformative in two major respects. First, there is a restriction on the legal subject who may file a complaint in defamation cases. Only individuals who feel harmed may act as complainants. This radically changes the landscape of defamation law enforcement in Indonesia by eliminating the ability of state institutions, corporations, civil society organizations, and other non-individual entities to pursue criminal remedies for defamation (Rachman & Yamin, 2025). Second, the decision provides clarity in legal interpretation that had previously been ambiguous. The affirmation that "commotion in the digital sphere does not constitute a criminal offense under the ITE Law"

reduces the potential for over-criminalization in the digital realm and strengthens legal certainty, which had long been one of the main criticisms of ITE Law enforcement.

The positive impact of this decision on freedom of expression is substantial. As argued by Todung Mulya Lubis, the petitioner's counsel, "Constitutional Court Decision 105/2024 is a breath of fresh air for freedom of speech, since freedom of opinion expressed through constructive criticism is an essential counterbalance for the growth of a democratic state" (House of Representatives of the Republic of Indonesia, 2025). The decision grants strong constitutional protection for public criticism of state institutions and corporations, prevents the instrumentalization of criminal law for political or economic purposes inconsistent with democratic rule of law, and reinforces checks and balances in the democratic system.

Nevertheless, the decision also faces criticism and implementation challenges. Concerns have been raised that "public awareness of the difference between criticism and insult" remains limited, which may allow irresponsible attacks on the reputation of institutions under the guise of criticism (Faculty of Law, University of Indonesia, 2025). Another systemic weakness lies in the "inadequacy of civil law mechanisms for protection," given that civil proceedings often present obstacles in terms of accessibility, costs, and enforcement effectiveness. Law enforcement agencies also face practical challenges because "criminal proceedings can only be initiated if the complainant is an individual who feels harmed, not a government institution, group of people with specific identities, profession, office, or corporation." This situation requires comprehensive socialization and capacity-building for law enforcement officials (Rachman & Yamin, 2025).

Although the Indonesian Constitutional Court's decision aligns with global trends in protecting freedom of expression in the digital age, as seen in *New York Times Co. v. Sullivan* (1964) in the United States and various judgments of the European Court of Human Rights, Indonesia's approach is distinctive. It explicitly differentiates between legal subjects eligible to be victims of defamation, which is more progressive than the approach in some ASEAN countries that still maintain criminal protection for the reputation of institutions.

The long-term implications of this decision will be highly significant for the development of Indonesian cybercriminal law. Comprehensive measures are therefore required, including regulatory harmonization through the review of other sectoral regulations that still allow for the criminalization of criticism against institutions, strengthening civil law mechanisms for more effective and accessible protection of institutional reputation, enhancing digital literacy through public education on communication ethics and the limits of freedom of expression, and continuous training for law enforcement officials to apply this new interpretation. This decision marks a new era in balancing freedom of expression and the protection of honor in Indonesia. Its success will depend greatly on the commitment of all stakeholders to understand and implement the democratic spirit embodied in this

ruling while maintaining the balance between protecting individual rights and preventing the abuse of freedom of expression that could undermine human dignity and personal honor.

3.2. Digital Forensic Implementation Challenges

Recent research shows that digital forensic implementation in defamation cases adopts the *Digital Forensic Research Workshop* (DFRWS) methodology, which includes six stages: identification, preservation, collection, examination, analysis, and presentation. Tools such as *Mobiledit Forensic Express* have proven effective in extracting digital evidence from social media platforms like Facebook Messenger and Twitter, including deleted data. However, the primary challenge lies in ensuring the validity of the chain of custody and the standardization of procedures. More than 60% of cybercrime cases in Indonesia fail to reach court due to the limited technical expertise of law enforcement officers in handling digital evidence.

To address these challenges, advanced digital forensic training is required for investigators, including the use of forensic tools such as EnCase, FTK, and Autopsy to analyze evidence from various social media platforms. In addition, certification for handling digital evidence according to ISO/IEC 27037:2012 standards is essential to ensure chain of custody integrity. A workshop on understanding social media architecture is also needed to equip investigators with the technical knowledge of digital platforms in a legal context.

Revisions to the standard operating procedures (SOPs) for investigations are crucial, particularly in standardizing digital data acquisition procedures. This should include documentation of hash values using tools such as WinMD5 to ensure data authenticity. Furthermore, cybercrime suspect interview protocols should adopt a digital literacy approach to facilitate more effective information gathering. Coordination mechanisms among law enforcement agencies such as the Police, Prosecutor's Office, and Courts also need to be strengthened to ensure consistency in handling electronic evidence.

Investigation SOPs should also address legal and social considerations. Reporter identity verification must ensure that complaints are filed by individuals personally, not as institutional representatives. Additionally, psychological and social impact assessments on individual victims should serve as the basis for determining sanctions. Finally, alternative dispute resolution mechanisms through mediation should be considered as a preliminary step before criminal proceedings, to reduce the burden on the judicial system and promote more restorative resolutions.

3.3. Challenges in Implementing the Second Amendment to the ITE Law in Law Enforcement Practice

The enactment of Law No. 1 of 2024 on the Second Amendment to the ITE Law has introduced significant reforms in the regulation of defamation through

digital platforms. Nevertheless, the implementation of this law in practice still faces a number of fundamental challenges that are both technical and structural.

First, the characteristics of digital evidence. The main difficulty lies in the forensic management of electronic evidence, which is highly vulnerable to alteration, duplication, and concealment in digital storage media. Law enforcement authorities often lack adequate human resources and facilities to conduct comprehensive digital forensic examinations. This situation creates evidentiary challenges in court, particularly in ensuring the authenticity and reliability of digital evidence presented.

Second, disparities in interpretation and application. There are inconsistencies among law enforcement officers, prosecutors, and judges in interpreting the provisions of Article 27A and related articles in the ITE Law. Some judicial decisions still treat institutional defamation as a criminal act, although the Constitutional Court has expressly limited its scope to individuals. This inconsistency reflects weak socialization and the absence of standardized operational guidelines.

Third, the tendency toward over-criminalization. The ITE Law is still frequently used as an instrument to suppress freedom of expression, especially when digital criticism is perceived as offensive. This phenomenon often occurs in politically sensitive contexts, where law enforcement may be influenced by pressure from certain institutions or elites. Although the Constitutional Court decision has narrowed the scope of defamation, in practice, the risk of selective enforcement remains.

Fourth, the imbalance between criminal and civil mechanisms. Indonesian law still places emphasis on criminal sanctions rather than strengthening civil remedies as an alternative dispute resolution mechanism in defamation cases. This orientation toward penalization results in a "chilling effect" on freedom of expression in the digital public sphere.

Fifth, the challenge of digital literacy. Public awareness regarding the boundaries of freedom of expression, ethics of digital communication, and the legal consequences of online speech remains very low (Darmawansayah et al., 2024). Many social media users are not aware that their actions may be categorized as defamation. Conversely, there is also insufficient understanding that criticism of public institutions does not constitute defamation.

From a theoretical perspective, these challenges are consistent with Lawrence Lessig's argument that "law is only one of the four modalities regulating cyberspace, alongside norms, markets, and architecture" (Lessig, 1999). Thus, legal regulation alone is insufficient to control digital behavior. Instead, it must be complemented by cultural changes, economic incentives, and technological design.

In the Indonesian context, the ITE Law reform needs to be followed by three concrete steps. First, strengthening the capacity of law enforcement through digital forensic training and the development of special cybercrime units. Second, the drafting of standard operating procedures that provide clear and uniform guidelines in handling defamation cases, based on Constitutional Court Decision No. 105/2024.

Third, implementing a national-scale digital literacy program to cultivate a culture of healthy and responsible communication in cyberspace.

3.4. The Implications of Constitutional Court Decision Number 105/PUU-XXII/2024 on Freedom of Expression in Digital Platforms.

The transformation of information technology in the last two decades has presented fundamental challenges for the Indonesian criminal law system, particularly in regulating the crime of defamation. Comparative analysis is an important instrument in understanding the evolution of legal regulation, as it is stated that comparative law as a science not only examines the existence or absence of similarities or differences but also investigates the reasons behind them, which become the background of such similarities or differences.

Defamation as an offense that protects individual honor has undergone significant regulatory metamorphosis, from the classical regulation in Articles 310-321 of the Criminal Code which emerged in the pre-digital era, to the contemporary formulation in Law Number 1 of 2024 concerning the Second Amendment to the ITE Law which responds to the complexities of cyberspace. This comparative study uses an Applied Comparative Law approach, which not only collects and describes data on the legal systems being compared, but also further analyzes the results of descriptive comparison to achieve objectives in solving the problems at hand.

The urgency of this comparative analysis is increasingly pressing given the characteristics of social media that allow the dissemination of information regardless of geographical and temporal boundaries. In the context of Indonesia with 191 million social media users, the impact of defamation through digital platforms has a multiplier effect that is far more complex compared to conventional defamation. This requires harmonization between legal instruments of different generations, as emphasized that normative integration refers to efforts to align norms through dialogical and participatory processes (Pangaribuan & Triadi, 2025).

3.4.1. Historical Foundation of Defamation Regulation in the Criminal Code

The regulation of defamation crimes in Indonesia has long historical roots, starting from the legacy of Dutch colonial law which was then adopted in the Indonesian Criminal Code (KUHP). In Indonesian legislation, defamation (insult) is regulated and formulated in Article 310 of the Criminal Code, which consists of three paragraphs with provisions that were quite comprehensive for its time (PN Karanganyar, 2024). Article 310 of the Criminal Code has historically been the foundation of criminal law in protecting the honor and good name of a person from attacks on reputation.

The formulation of Article 310 of the Criminal Code contains very specific elements that have been tested in judicial practice for decades. The elements of defamation or insult according to Article 310 of the Criminal Code include: (1) intentionally; (2) attacking honor or good name; (3) accusing of committing an act; and (4) broadcasting the accusation so that it is known by the public (Lumenta,

2020). This formulation shows that the legislators at that time already understood the importance of protecting honor as an integral part of human rights.

A special characteristic of the regulation of defamation in the Criminal Code is its distinction between oral and written defamation. Oral defamation is punishable by a maximum of nine months imprisonment and/or a fine of up to Rp. 4,500,000, while written defamation is punishable by a maximum of one year and four months imprisonment and/or a fine of up to Rp. 4,500,000 (Sitepu & Brahmana, 2025). This distinction reflects the understanding that written media has a wider spread and impact compared to spoken words.

One of the unique features of the Criminal Code in regulating defamation is the existence of a justification clause in Article 310 paragraph (3) which states that "It shall not constitute defamation or written defamation if the act is clearly carried out in the public interest or by necessity for self-defense" (Business Law Binus, 2017). This provision is known as a special defense which provides room for criticism that has constructive objectives and public interest.

3.4.2. Transformation of Regulation in the Digital Era: The Birth of the ITE Law

The development of information technology at the end of the 20th century and the beginning of the 21st century presented new challenges that could not be anticipated by the classical Criminal Code. Electronic media and the internet created a communication space that transcends geographical and temporal boundaries, thereby multiplying the impact of defamation. In response to this development, the Indonesian government issued Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), which for the first time regulated crimes in cyberspace.

Article 27 paragraph (3) of the 2008 ITE Law became a historical milestone in regulating defamation in the digital era with the formulation: "Every Person who intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain insults and/or defamation." In the 2008 ITE Law, insults/defamation were categorized as ordinary offenses so that they could be legally processed even without a complaint from the victim (MA RI, 2022).

The fundamental difference between the Criminal Code and the ITE Law lies in the medium and scope of the act. Articles 310 and 311 of the Criminal Code regulate defamation in general, while Article 27 paragraph (3) of the ITE Law regulates defamation through electronic media with different characteristics (Sitepu & Brahmana, 2020). This difference is not only technical but also reflects a paradigm shift in understanding public space and privacy in the digital era.

The next evolution occurred through Law Number 19 of 2016 which amended the ITE Law, with significant modifications in terms of procedures and criminal threats. Defamation through social media, which was originally punishable by 6 years imprisonment and/or a fine of 1 billion rupiah, was changed by Law No. 19 of

2016 to a maximum of 4 years imprisonment and/or a fine of 750,000,000 rupiah, indicating the government's attempt to reduce the potential for over-criminalization (Sitepu & Brahmana, 2020).

3.4.3. Paradigm Shift in Law Number 1 of 2024

The most revolutionary change occurred with the enactment of Law Number 1 of 2024 concerning the Second Amendment to the ITE Law, which brought about a fundamental transformation in the regulation of defamation. The ITE Law No. 1 of 2024 did not include the previous provision in Article 27 paragraph (3) concerning criminal defamation or insult, but replaced it with Article 27A which has a substantially different formulation (Wahyuni, 2024).

Article 27A of the 2024 ITE Law regulates: "Any Person who intentionally attacks the honor or good name of another person by accusing something, with the intent that the matter be known to the public in the form of Electronic Information and/or Electronic Documents carried out through Electronic Systems." This change shows an effort to harmonize with the Criminal Code, where in order to determine whether the elements of defamation in the ITE Law have been fulfilled, one must refer to Article 310 of the Criminal Code (Zhafira et al., 2023).

This transformation also reflects lessons learned from various criticisms of the implementation of previous defamation provisions. The second amendment to the ITE Law still retains problematic articles such as defamation and insult, hate speech, false information, and access termination, but with more specific and measurable formulations (Aliansi Jurnalis Independen, 2023).

3.4.4. Implications of Regulatory Changes on the Indonesian Legal System

The evolution of defamation regulation from the classical Criminal Code to the 2024 ITE Law demonstrates the Indonesian legal system's attempt to adapt to technological developments and social dynamics. The similarities between defamation according to the Criminal Code and the ITE Law are that both attack honor, dignity, reputation, and the good name of a person with the intention of making it publicly known. However, the differences lie in the medium and criminal sanctions which are adjusted to the characteristics of the digital era (Sitepu, 2025).

This transformation also reflects the challenge of finding a balance between protecting individual rights and freedom of expression. The elimination of defamation through electronic media in the 2024 ITE Law potentially results in defamation through social media being prosecuted again under the Criminal Code as the legal basis, which requires harmonized interpretation between the two legal instruments (MK RI, 2024).

This comparative analysis shows that the regulation of defamation in Indonesia has undergone significant development, from a simple classical model to more complex formulations to accommodate the realities of the digital era. However, the challenge ahead is to ensure that this regulatory evolution does not sacrifice the

balance between the protection of individual rights and freedom of expression, which are the foundations of democracy.

3.5. Effectiveness of Law Enforcement and Restorative Justice in Defamation Crimes through Social Media

The effectiveness of law enforcement against defamation crimes through social media in Indonesia still faces significant challenges, as shown by research at the Makassar City Police Department which found that “the effectiveness of the law in handling defamation crimes through social media so far cannot be said to be effective due to the widespread cases of defamation through social media regulated in Law of the Republic of Indonesia Number 19 of 2016 concerning amendments to Law Number 11 of 2008 on Electronic Information and Transactions” (Ramadhani et al., 2024). The evaluation of this effectiveness can be analyzed through court verdict patterns, which show that from 16 defamation cases through Facebook, “as for the length of sentences handed down, 3 people were sentenced to imprisonment with probation periods and 13 people were sentenced to prison ranging from 2 (two) to 10 (ten) months” (Supreme Court of the Republic of Indonesia, 2022), where this variation of punishment reflects inconsistencies in the application of sentencing standards caused by differences in judges’ interpretations of the level of culpability, the impact caused, and other subjective considerations.

Judges’ considerations in deciding defamation cases through social media demonstrate complexity involving various factors, where the courts take into account “the extent of information dissemination, psychological impact on the victim, the perpetrator’s good faith, and the social context in which the act was committed” (Rumondor, 2024). However, research shows that “the interpretation of the element of insult is also not uniform, thus creating legal uncertainty” and “the limited understanding of digital technology among law enforcement officers has become a hindering factor”. This lack of uniformity is aggravated by weak coordination among law enforcement agencies, where “the decision of the Kotabumi District Court shows inconsistency among law enforcement officers and weak coordination in the judicial process,” which highlights the need for standardized procedures and improved competence of officers in handling cybercrime cases.

The psychological and social impacts experienced by victims of defamation through social media often do not receive adequate attention in conventional judicial processes, where “often, law enforcement tends to protect the rights of the accused more, while the rights of victims, such as protection of reputation and rehabilitation, are often neglected” (Jekson Kipli Lumban Toruan & Jinner Sidauruk, 2024). This shows an imbalance in the criminal justice system, which is more oriented toward punishment than victim recovery. Victims of defamation experience various long-term negative impacts, including “damage to reputation that can affect their career or social life,” so a more holistic approach is needed in handling these cases, one

that focuses not only on punishing perpetrators but also on restoring victims' conditions.

The restorative justice approach emerges as a more effective alternative in resolving defamation cases through social media, where "the manifestation of protecting the rights of cybercrime victims based on restorative justice can in fact be carried out by providing assistance, facilitation, and compensation, which are considered more relevant and essential to fulfill the rights of victims" (Flora et al., 2023). Restorative justice offers a more comprehensive approach by "emphasizing recovery and compensation for victims, relevant to efforts to guarantee the protection of victims' rights in cybercrime cases," which is considered more relevant than focusing solely on catching cybercrime perpetrators, who tend to be more difficult to pursue and at the same time do not substantively fulfill the reduced rights of victims as a result of cybercrime.

The implementation of restorative justice in social media defamation cases can be carried out through various mediation and Alternative Dispute Resolution (ADR) mechanisms, where "the settlement of cybercrime disputes through restorative justice has a positive impact, because the restorative justice approach focuses on restoring relationships, encouraging perpetrator accountability, and supporting victim recovery". The rehabilitation of victims' reputations can be carried out in various forms adapted to the characteristics of digital media, where "in the form of oral rehabilitation, the perpetrator may be required to make a direct public apology to the victim or in an agreed forum," while "reputation rehabilitation can also be carried out in writing through various print media, such as newspapers, magazines, or other publications that reach the same audience as the media previously used to spread the defamation" (Jekson Kipli Lumban Toruan & Jinner Sidauruk, 2024).

Rehabilitation through social media plays a very important role given the digital characteristics that enable massive and viral information dissemination, where "perpetrators of defamation can be required to post apologies and clarifications on their social media accounts, with the posts required to remain visible for a certain period of time and not to be deleted, to ensure that the clarification or apology can be seen by the public who previously received the false information". In addition, "reputation rehabilitation also includes the deletion or removal of defamatory content from various platforms, involving actions such as deleting posts containing defamation, requesting social media platforms to remove related content, as well as taking steps to stop the spread of information that harms victims."

The challenge in implementing restorative justice within the Indonesian legal system lies in the limited regulations supporting this approach, where "the implementation of protection of victims' rights in cybercrime cases based on restorative justice can be carried out by revising the ITE Law and its amendments by adding a restorative justice orientation as an initial step to provide protection of victims' rights in cybercrime cases" (Flora et al., 2023). Increasing the digital literacy

of society also becomes an important preventive aspect, where “the effectiveness of criminal law enforcement against defamation through social media requires regulatory strengthening, improvement of law enforcement officers’ competence, and continuous legal education for the public”, because good understanding of communication ethics in the digital space can reduce the incidence of defamation.

The ideal model for resolving defamation cases through social media is a combination of punitive and restorative approaches, where the justice system provides space for mediation and negotiation between perpetrators and victims, facilitated by professional mediators who understand the dynamics of digital communication, while still maintaining a deterrent effect through proportional sanctions for perpetrators who show no good faith in correcting their wrongdoing. The success of this approach requires adequate legal infrastructure support, the enhancement of law enforcement officers’ capacity in understanding digital technology and victims’ psychology, as well as the development of compensation and rehabilitation mechanisms that are easily accessible to victims, so that the Indonesian criminal justice system can deliver substantive justice for all parties involved in defamation cases in the digital era.

3.6. International Comparative Analysis: Digital Defamation Regulation

Comparative analysis with other jurisdictions reveals diverse approaches to balancing freedom of expression with reputation protection in digital platforms. Germany's Network Enforcement Act (NetzDG) of 2017 emphasizes platform responsibility by requiring social media companies to remove defamatory content within 24 hours for "manifestly unlawful" content and within 7 days for other illegal content, with penalties up to €50 million for non-compliance. However, this approach has been criticized for incentivizing over-policing, as platforms prefer removing borderline content rather than risking substantial fines (Lee, 2017).

Japan's approach focuses on swift content removal procedures through the revised Provider Liability Limitation Law enacted in May 2024, which mandates social media platforms to establish clear contact points for deletion requests and transparent criteria for content removal. This legislation emerged following high-profile cyberbullying cases and emphasizes procedural clarity over criminal sanctions, requiring platforms to notify users before content removal and providing streamlined court procedures for identifying anonymous defamers (KYODO NEWS, 2024).

Singapore's dual-track system maintains both criminal defamation under Section 499 of the Penal Code (punishable by up to 2 years imprisonment) and civil remedies under the Defamation Act. Singapore's approach is distinctive in explicitly covering both libel (written) and slander (spoken) defamation in digital contexts, while providing broader defenses for public interest communications compared to Indonesia's more restrictive framework (Law Practice LLC, 2024).

These international models demonstrate that Indonesia's Constitutional Court Decision No. 105/PUU-XXII/2024 aligns with global trends toward narrowing criminal

defamation scope while strengthening procedural protections. However, Indonesia's explicit exclusion of institutional complaints represents a more progressive approach than Germany's comprehensive platform liability model or Singapore's retained institutional protection mechanisms.

4. CONCLUSION

The regulation of criminal defamation through social media in Indonesia has undergone significant transformation from the classical Criminal Code to the 2024 ITE Law, culminating in the landmark Constitutional Court Decision No. 105/PUU-XXII/2024. This decision represents a paradigmatic shift that restricts defamation complaints to individual persons only, thereby strengthening freedom of expression while maintaining protection for personal honor.

The implementation faces technical challenges in digital forensics, legal harmonization, and capacity building for law enforcement officials. Comparative analysis with Germany, Japan, and Singapore reveals that Indonesia's approach of excluding institutional complaints is more progressive, though it requires strengthening of civil protection mechanisms and alternative dispute resolution frameworks. The effectiveness of current law enforcement remains limited, necessitating a restorative justice approach that emphasizes victim recovery and perpetrator accountability.

This study recommends comprehensive socialization of the Constitutional Court decision, enhancement of digital forensic capabilities, and development of alternative dispute resolution mechanisms to achieve balanced protection between freedom of expression and individual rights in the digital era. The success of this transformation depends on harmonized implementation among law enforcement agencies, strengthened civil remedies, and enhanced public digital literacy as preventive measures.

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