



Law Enforcement Against Perpetrators of Defamation Through Social Media Based on the ITE Law

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Abstract

We see the conclusion of an extraordinary era of globalization, a phenomenon that is symptomatic of technological development. The development of electronic crime is one of the unexpected effects of globalization being the driving force behind the start of the era of information technology (Cyber Crime). The ITE Law gives freedom to everyone who feels they have been defamed. This thesis will examine law enforcement against defamation violations on social media platforms and the limits of defamation on these sites. The author uses a normative juridical methodology, examining the topic through the prism of current legal theory and related legislation. In accordance with Article 310 of the Criminal Code, criminal defamation through social media is limited to those directed at any person and involves the deliberate and unauthorized dissemination of information with the intent to incite hatred or hostility towards certain individuals and/or groups of people.

Keywords: *Technology Crime; Defamation; ITE Law*

Introduction

The end of the globalization period is a sign of how far humans have come in terms of technology. The modern era of information technology has been driven by globalization. Many elements of human life, especially in developing countries such as Indonesia, have been transformed by the current wave of globalization. Natural evolution is reflected in the law because it is inevitable that people's desires will develop both numerically and qualitatively all the time. Advances in information and communication technology (ICT) are in line with social and political changes. Since these crimes can only be committed with the help of computers or the internet, they have evolved along with the introduction of the internet in contemporary life, which was not realized by the general public before the invention of computers.¹

Any criminal act involving the use of a computer or network can be classified as a cybercrime (as a device, target, or location). It was originally passed in March 2008 as "ITE Law or Law no. 11 of 2008 on Electronic Information and Transactions, revised in 2016 to Law No. 19 of 2016 commonly known as

¹ Budi Suharyanto, *Cyber Crime: The Urgency of Regulation and Its Legal Loopholes*, (Jakarta: Rajawali Pers, 2013), p. 1.

the ITE Law". New and expanded legal principles and criminal repercussions have made online defamation, previously not illegal, a crime. However, criminal procedures and expanded evidence are not the only things covered by the ITE Law; it also controls new types of evidence related to electronic media that were not previously governed by criminal proceedings or evidence rules.

If a person is accused of violating the prohibition as referred to in Article 27 paragraph (3). It is important to underline that the unlawful nature has an exclusion value if it is associated with this provision because Article 310 subsection (3) indicates that "it is not defamation or defamation if the act was clearly done in the public interest or out of compulsion. defend yourself. " If the ITE Law is approved, it can provide certain legal protections to local residents. Careful verification of this Article is necessary to avoid haughty parties escaping easily by serving as a stamp on their own actions. Paragraph (3) of Article 27 of the ITE Law requires a more complex and thorough interpretation than that offered by the Criminal Code and the Law on Electronic Information and Transactions alone. ²

When comparing this study with others, such as "Criminal Law Study Against Defamation Acts Through Social Media" by Fidelis P. Simamora, Legal Expert D. Simarmata, and Muhammad Ansori Lubis, the authors note that the focus is on the ITE Law and how the Defamation Limits have changed since the ratification of the agreement with the Police Privilege Council.

Given this background, the author asks, how is the criminal law enforced against defamation actions in Indonesia? and What are the constraints of defamation in Indonesia?

The authors use normative research to answer the aforementioned questions; This research is a study of documents taken from secondary sources such as statutes, court decisions, and legal theories, and uses qualitative analysis to provide explanations of data in the form of words and phrases.

Discussion

1. Law Enforcement against Perpetrators of Criminal Defamation Through Social Media Based on Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions

Strict adherence to the concept of legality and positive law as applicable in Indonesia is essential for effective law enforcement. Conviction is often seen as a "criminal consequence" that is nothing more than a carefully organized "political procedure" because criminal law enforcement is part of the (criminal) law enforcement apparatus. This signals that there is a multi-step process for carrying out punishments:

1. "The stage of criminal determination by lawmakers;"
2. "Stages of criminal administration by the competent body; and"
3. "The stage of criminal implementation by the competent implementing agency."

The first step is often referred to as the "in abstracto" stage of criminal administration, while the second and third phases are dubbed the "in concreto" stage of criminal administration. Based on how the criminal law enforcement mechanism works, the three phases must form an interconnected chain.

Currently, legislators have established several legal provisions governing criminal threats to a number of criminal offenders who are included in criminal defamation crimes, as regulated in "Law Number 11 of 2008 jo. Law 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, especially in Article 27 paragraph (3) juncto. Article 45

² Andi Hamzah (1), Criminal Code and Criminal Code, (Jakarta: Rineka Cipta, 2015), p. 125.

paragraph (3) which regulates criminal sanctions. The interpretation of Article 27 paragraph (3)" is as follows:³

“Any Person intentionally and without permission disseminates, transmits, or makes available Electronic Information and Electronic Documents that use derogatory and/or defamatory language.”

To be able to understand the acts prohibited in the Article holistically, it is necessary to discuss each element of the law as follows:

a) Deliberate

One of the types of errors is deliberate actions, which are part of the subjective component. Hiariej claims that the severity of potential punishment depends on the nature of bad behavior. The public prosecutor has the burden of establishing that the defendant acted intentionally while committing the crime, as is the type of error specified in this Article.⁴

b) No Rights

The phrase refers to anything "illegal" or "wederrechtelijk" in Utrecht. A phrase used to describe the character of an unlawful act or purpose. According to van Hamel, there are two schools of thought when it comes to "wederrechtelijk": Simons, who takes a more positive view, sees it as "contrary to the law," and Noyon, who sees it as violating the rights of others.

Disappointing understanding According to the principles upheld by Hoge Raad, this means that it is "not based on law" or "without rights."

According to Hazewinkel-Suringa, one must understand "wederrechtelijk" as "zonder eigen recht" (without one's own rights) or "in the absence of rights that exist in oneself" because of its position in the formulation of delik. The word "true" is loaded with political connotations. The subjectivistic law has a Dutch name: subjectief recht. In fact, "authority" is more appropriate in the public domain, but the idea of authority is often associated with holding official positions. However, the context of the ITE Law is important to consider, as it regulates the administration and execution of electronic information and transactions without directly discussing postal authority. The word "contrary to the law" should be used, as stated in the Explanatory Memory of the draft Dutch Criminal Code. That's because failure to do so raises concerns that people will be subject to the prohibition of relevant Articles of the Act when they exercise rights that are technically illegal but still protected by the Constitution. Since the only individual who has to face punishment for exercising his rights is a person who actually violates the law, the article in question must include the phrase "against the law" as part of a prohibited act. Because there is likely to be such an act, which is intended to be illegal. For example, a police officer who is ordered by his superiors to publish a search list of people or DPOs to the internet so that the public can see him innocent of a crime because he is acting within the scope of his power. Article 3103 of the Criminal Code is also

³ Angkupi, Prima. "Kejahatan Melalui Media Sosial Elektronik Di Indonesia Berdasarkan Peraturan Perundang-Undangan Saat Ini." Jurnal Mikrotik Volume. 2, Nomor. Tahun 2014. Hlm. 1-8.

⁴ Eddy O.S. Hiariej, *Prinsip-prinsip Hukum Pidana*, (Yogyakarta: Cahaya Atma Pustaka, 2016), hlm. 149.

cited, which states that defamation cannot be punished if it is committed in the public interest or because it is obliged to defend itself.⁵

Both "intentionally" and "without rights" must be met because of their cumulative nature. If any one of these conditions is not met, the requirements of this Article cannot be enforced. In this light, the law's authors are seen to have argued that the combination of "negligent" and "without rights" does not constitute a crime, but the combination of "deliberate" and "unlawful" does.⁶

c) Distribute and/or Transmit and/or Make Accessible Electronic Information and/or Electronic Documents

At first, no further context was provided for verbs that were part of forbidden acts. The drafters of the law assumed that everyone would know what this word meant. The act of broadcasting involves transmission, while the act of distribution refers to the sharing of something. Both are physically demanding. However, "making it available" may be an active or passive act, as it may take the form of negligence to ensure that others can have access to data and files. By comparing Articles 186, verses 2 and 2, 231 and verses 3, 292 and verses 1, 304, 387 and paragraph 2, as well as 388 and paragraph 2, we can show that this kind of negligence can also be done deliberately. Furthermore, 'making it available' may be a 'sapujagad' phrase when the act is not included in 'distributing' or 'transmitting,' but the prohibited material becomes accessible to others.⁷

d) Distribute and/or Transmit and/or Make Accessible Electronic Information and/or Electronic Documents

Regarding the definition of "contempt and/or defamation" not defined in Article 27 paragraph 2 of the Law, it first raises concerns about how the ITE Law handles such cases (3). In Hendrik's view, the term "contempt and/or defamation" should be interpreted here the same as that in the articles of the Criminal Code. This article is interpreted in accordance with the norms of criminal law stipulated in "Articles 310 and 311 of the Criminal Code" as decided by the Constitutional Court. When announcing the amendment of the ITE Law, the author clarifies this by adding an explanatory section to "Article 27 paragraph 3 to make it clear that the provisions in this paragraph are in accordance with the prohibition of defamation and/or slander regulated in the Criminal Code (KUHP)", The relevant parts of the Criminal Code are not discussed directly in paragraph 3 of Article 27; rather, defamation is in principle provided for in Article 310, and libel is regulated in Article 311.⁸

It is impossible to fully apply the law against criminal libel, therefore not all crimes committed by criminals can be tried. A person's capacity to be sued is limited by the law itself; For example, criminal acts cannot be processed without prior complaint. Article 27 of the ITE Law was revised into various articles in the previous ITE Law, with one of the most crucial points being paragraph 3, which in its explanation offers a clear phrase indicating that the complaint in question is a complaint which is then commonly made to the Constitutional Court because it is felt that this regulation restricts freedom of speech.⁹

⁵Sutrisno, Bambang, and FX Bhirawa Braja Paksa. "Law enforcement against criminal defamation according to Article 27 paragraph (3) of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law)." *MIZAN, Journal of Legal Sciences* Volume.8, No. 1, (2019). p. 20.

⁶E.Utrecht, *Criminal Law 1*, (Bandung: Pustaka Tinta Mas, 1986), p. 269.

⁷Ocean, Anton Hendrik. "Defamation and humiliation through the media of information and communication technology in Indonesia after the amendment of the ITE Law." *Journal of Law & Development* Volume. 50, No.1, Year.2020. pp. 91–105.

⁸Anton Hendrik S., "Law Enforcement Against Criminal Contempt through Cyber Media in Indonesia," paper presented in the National Seminar of the University of Muhammadiyah Surabaya", January 19, 2011 accessed February 9, 2018, p. 9.

⁹Immanuel, Alexander, and Korassa Sonbai. "Defamation through social media inside." *Criminal Liability of Perpetrators of Defamation Through Social Media in Indonesian Criminal Law*, (Faculty of Law, Udayana University, 2016). pp. 1–5.

Defamation incidents have topped the list of public reports and complaints to the "National Police of the Republic of Indonesia (Polri) in recent years (2015-2017)". The police are responsible for enforcing the law in the criminal justice system. To this end, the enforcement provisions of the Code of Criminal Procedure are followed when dealing with police-related defamation charges.

In the field of law enforcement, defamation, law enforcement officers in carrying it out, namely the Police, the Police themselves have the authority regulated in the "Circular Letter of the Chief of Police Number: SE/6/X/2015" regarding defamation that has a connection with defamation, where the handling steps in carrying out preventive measures are stated as follows in Number 3:

1. Every member of the national police force must be experienced in the different types of slander that may occur in society.
1. Every member of the national police force must be experienced in the different types of slander that may occur in society.
2. Police officers tend to pay more attention to the signs of defamation that appear in the community when they have a deeper awareness of the impact of different types of hate speech.
3. Third, all members of the national police force are expected to engage in activities that analyze or investigate the circumstances and conditions in their local communities, with special attention paid to defamation issues.
4. Fourth, all members of the national police force are required to report any suspicious activity, especially if it involves defamation, to their superiors or website.

It is the duty of every member of the national police force to take the following steps after discovering any conduct that may constitute defamation:

1. Mencari signs of community strife and interference before things get out of hand.
2. Keep an eye out for signs of community strife and interference before things get out of hand.
3. contact parties suspected of defamation.
4. Third, facilitating communication between the party suspected of defamation and the victim.
5. Attempting to mediate a ceasefire between the warring parties and
6. Describe the affects you anticipate of defamation.

In the event that the National Police's precautions are ineffective in dealing with the problems posed by defamation lawsuits, repressive measures, including but not limited to:

1. The victim filed a complaint with law enforcement.
2. The police then sent investigators to look at the situation and collect evidence after receiving the complaint.
3. Thirdly, if two reliable pieces of evidence are found, it is the duty of the public prosecutor to take the matter to court for prosecution upon receipt of the file. According to Article 45 paragraph 1, if convicted, the perpetrator is threatened with a maximum imprisonment of 4 (four) years and a maximum fine of Rp. 750,000,000, the amount of which is determined by the court (1). (seven hundred and fifty million rupiah).

2. Restriction of Criminal Defamation Through Social Media Based on Law Number 19 of 2016 Concerning Amendments to Law Number 11 of 2008 Concerning Electronic Information and Transactions

According to Indriyanto Seno Adji, a coercive approach, exemplified by law enforcement, and the promotion of a culture of tolerance as a cornerstone of prevention are viable options to end defamation. However, the first step needed is an appreciation of the difference between free speech and hate speech.

Through to protect the right to freely express one's ideas in speech, writing and other forms of expression, it is important to understand the difference between these two concepts. Because the 1945 Constitution of the Republic of Indonesia regulates and guarantees the right to freedom of expression of views and opinions through oral, written, and expression, it is very important to understand the difference between freedom of opinion and defamation (UUD RI 1945). To further ensure that the idea of hate speech is not misinterpreted by law enforcement and the public, it is important to understand and evaluate whether or not an activity can be included in hate speech. As a result, human rights-compliant law enforcement can be used for cases involving violations of defamation prohibitions.¹⁰

Defamation, on the other hand, differs from other forms of communication, even if it also combines hostility, attack and violence. The difference is in the meaning behind the words, and whether the words are intended to have an immediate or delayed effect (stopping at intention). If, as Susan Benesch argues, slanderous remarks encourage others to harm or even kill another person or group, then it has achieved its goal.

On the other hand, David O. Brink argues that there are examples of discriminatory speech that may not constitute defamation. Examples include generalizations that are prejudiced and dangerous, but do not get to the point of actual social exclusion, humiliation, or physical pain. Hate speech, in Brink's view, is far more dangerous than just discriminating comments. As a way to show his hatred and disgust towards the intended victim and show his loyalty to a particular group, he uses the use of traditional symbols in his campaign of psychological abuse.¹¹

The second problem it raises is that protecting free speech is very close to protecting hate speech. When opinions and ideas are held back due to errors in measuring and labeling speech, speech or speech as hate speech, the wrong person will be hurt. Instead, individuals are placed in positions of mutual hostility, mutual distrust, intolerance, discrimination, and even violence against some weaker groups when the speech spigot opens as widely as possible without heeding the features of speech including defamation. Human rights experts have gathered to draft the Camden Principle, which calls on all governments to pass laws prohibiting advocacy of hostilities between countries, races, or religions, as well as the spread of prejudice, hatred and violence. The law must define terms strictly to prevent the abuse of restrictions on rights, such as the terms "hatred" and "violence," which refer to extreme and irrational feelings of contempt, hatred, and hostility towards a particular group; "advocacy," which requires the intention to openly promote hatred against a particular group; and "dissemination," which refers to the disclosure of statements against a particular national, racial, or religious group.

According to these authorities, the scope of defamation is limited to expressions of hatred, attacks, and escalations that have the potential to incite violence or harm to other people or groups, whether or not those effects are realized (i.e., stop at intent).

"The author's main objective is to establish a chain of reference between various international instruments regarding defamation, such as the 1948 UN Declaration of Human Rights, the Convention on the Elimination of All Forms of Racial Discrimination (CERD), and the International Covenant on Civil and Political Rights, and then to the laws and regulations in Indonesia (ICCPR). "

Furthermore, "according to Law Number 11 of 2008, as amended by Law Number 19 of 2016," any person who disseminates defamation or false information is threatened with criminal punishment ("ITE Law"). According to Article 27 paragraph (3) and Article 45 of this Law, defamation of a person

¹⁰ Alviolita, Fifink Praiseda, and Barda Nawawi Arief. "Policy Formulation of The *Formulation of Criminal Defamation Acts in the Renewal of Criminal Law in Indonesia*." *Legal Reform* Volume.15, No. 1, Year.2019. p. 130.

¹¹ Widayati, Lidya Suryani. "Hate speech: its limits and prohibitions." (Jakarta: *Brief Info* 2018), pp. 1–6.

online without his consent is against the law. The nature of this offense is explicitly defined. If the criminal act results in the loss of an electronic transaction customer, then the criminal act is successful. In order for a criminal act to be judged as intentional, the perpetrator must have known or reasonably suspected that spreading false and misleading information will harm consumers. The perpetrator understands that his actions are immoral (have characteristics that are objectively prohibited) and that the use of technology in his crimes will result in financial losses for the victim. Distributing SARA-based content (Article 28 paragraph (1) juncto Article 45 of the ITE Law) with the intention of inciting hatred or hostility towards certain groups is also illegal. That burdensome composition is also available. These crimes were resolved due to heightened tensions between different communities, violations of the ITE Law and the Criminal Code (Articles 207 and Articles 310-321, respectively) (Criminal Code). The contents of these articles have been re-regulated in the Criminal Code Bill. The term "contempt" is defined as "contempt for the dignity of others" in the proposed Criminal Code. When a person's dignity is attacked in any way—verbally, in writing, or through the use of images—we call it defamation.

1. "Articles 310 and 311 of the Criminal Code are the basis and cannot be separated from any discussion about the content of contempt and/or defamation, as stated in the Constitutional Court Decision Number 50/PUU-VI/2008 of 2008 and the Explanation of Article 27 paragraph (3) of the ITE Law. Article 310 of the Criminal Code prohibits false accusations made publicly against others. Meanwhile, Article 311 of the Criminal Code deals with false charges. "
2. "Articles 310 and 311 of the Criminal Code are the basis and cannot be separated from any discussion about the content of contempt and/or defamation, as stated in the Constitutional Court Decision Number 50/PUU-VI/2008 of 2008 and the Explanation of Article 27 paragraph (3) of the ITE Law. Article 310 of the Criminal Code prohibits false accusations made publicly against others. Meanwhile, Article 311 of the Criminal Code deals with false charges. "
3. According to the Constitutional Court Decision No. 50/PUU-VI of 2008, sending, sharing, or "gaining any access containing insults, ridicule, or inappropriate language is not a crime under Article 27(3) of the ITE Law. According to the Explanation of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 and the Decision of the Constitutional Court, the qualification of moderate contempt of Article 315 of the Criminal Code does not contain a reference in Article 27" paragraph (3) of the ITE Law, so it can rely on these provisions.
4. "Article 27 paragraph (3) of the ITE Law does not apply in terms of the content of communication, dissemination, and/or the presence of non-insulting and/or slanderous because it is stated in the form of judgment, opinion, evaluation results, or reality. "
5. Complaints of contempt and/or desecration of the ITE Law are not processed by Law Enforcement Officers if the facts stated include acts that are in legal process.
6. "According to Article 45 paragraph (5) of the ITE Law, the complaint of violations mentioned in Article 27 Paragraph 3 is an absolute complaint. Unless there is a minor or legal guardian involved, only the victim can report the incident to the police. "
7. To qualify as a source, victims cannot be entities such as corporations, government agencies, or other groups.
8. In "imposing a criminal sentence of Article 27 paragraph (3) of the ITE Law, it is considered the intention (*dolus*) of the perpetrator in disseminating, sending, or providing material whose content is detrimental to a person's honor by accusing him of doing something. victim's feelings (Article 310 of the Criminal Code). "
9. References to "Article 27 paragraph (3) of the ITE Law can be found in Articles 310 and 311 of the Criminal Code; To avoid prosecution, the following requirements must be met: The substance "to make public" (through means of dissemination, availability, or transmission). "
10. Having "public recognition is the same as having broad recognition. People in populations are often seen as faceless mobs who don't know or care about each other. "
11. Content "uploaded to social media accounts with public privacy settings, material or broadcasts in chat group apps with an open group nature where anyone can join chat groups, and unmoderated

content or streams of information" where anyone can post and submit everything according to the criteria for "known to the public" (open groups).

12. If it is spoken in a personal situation, such as among friends or family, at work or at school, or in a similar place where freedom of speech is restricted, then it cannot be considered an insult or defamation.
13. Because "the nature of online reporting of press institutions as journalistic activities based on the provisions of Law Number 40 of 1999 concerning the Press, this law, not Article 27 paragraph (3) of the ITE Law, is the right mechanism. In all topics related to the press, the Press Council should be consulted. However, if journalists publish their own writings online or on social media, the ITE Law, especially Article 27 paragraph (3), remains in effect.

However, it is clear from the comparison of the definitions of legal subjects in the Criminal Code and the ITE Law that these two parts of the law take a very different approach, with the former focusing exclusively on the "person" as the perpetrator / subject of a criminal act and the latter providing greater specificity by also including business entities. There are three possible legal structures for this corporation: sole proprietorship, partnership, or corporation. In certain circumstances, individuals voice their displeasure with a business or other legal entity by commenting on or filing a complaint about actual events. This is because contempt can only be punished if there is a complaint from someone who considers his honor or good reputation to be harmed and feels offended by the insult.

In fact, the meaning of "contempt" varies greatly depending on the tenor of the times, popular opinions, the prevailing moral and social climate, and the many perspectives that make up society. Harrassment, however, is generally understood as any action taken against another person that damages his reputation to the point of causing others to see that person less well or preventing them from interacting with that person. The impact of such insults on the minds of the audience is what causes reputational damage. This perspective suggests that when defining "contempt" or "defamation," legislators (in the House and Government) should focus on criteria, definite provisions, and not multi-interpretation, leading to the type of activity classed as hate speech. In addition, legislators should inquire about citizens' perspectives on the issue.

Polri also released a circular on the handling of defamation, numbered SE/6/X/2015 (SE Polri). According to the National Police, the types of defamation include: humiliation, defamation, blasphemy, unpleasant acts, stimulating, inciting, spreading fake news, which has a purpose or may have an influence on acts of discrimination, violence, loss of life, and/or public discord. A lawyer representing the Jakarta Legal Aid Institute (LBH), Nicodemus, argued that "objectionable behavior" should no longer be included in any kind of defamation. The Constitutional Court annulled Article 335 subsection (1) 1, which refers to "objectionable conduct," on January 16, 2014. The court found the term highly illegal and disproportionate. Defamation is unlikely to occur in democracies if it is applied regularly. There are concerns that some articles in the criminal law could impede citizens' right to freedom of speech. In most cases, civil law rather than criminal law will be used to punish behavior deemed to harm a person's reputation. Because of concerns that the incumbent government or other strongmen could influence prosecutors to silence opposition or critics, much of the modern state has abandoned criminal prosecutions out of contempt.

Based on this description, it may be related to the study of spatial transitions. Obviously, the moral deterioration in society has a significant impact on the character of the individual, which has far-reaching consequences for his behavior in cyberspace. Similarly, the subjective nature of the crime of defamation means that each individual will have a different reaction to the same set of words. Therefore, if a person is moral, it will undoubtedly be wiser when he issues an opinion, according to the theory of spatial transitions, which concludes that his opinion hammers electronic communications, given the concerns mentioned above.

Proof in criminal defamation through the internet has a very simple evidentiary process for phrases and words that if someone feels defamatory, then from this theory, of course, a person's moral attitude is very influential in cyberspace if it is associated with spatial transition theory. Given the current climate, where anyone can easily find material to report someone they consider defamatory simply by using the word "defamation," and when anyone can easily degrade the dignity of others by arguing in public, defamation is an overused term.

According to the author's reasoning, the wider public must use discretion when using social media while maintaining awareness of ingrained moral values and a commitment to social justice if the law is to be enforced effectively and mutual respect must be fostered among citizens and if they want to argue on social media, they must do so based on evidence rather than guesswork.

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Polri also released a circular on the handling of defamation, numbered SE/6/X/2015 (SE Polri). Harassment, defamation, slander, blasphemy, offensive behavior, provocation, incitement, and dissemination of false information that is intended or potentially incites or contributes to discrimination, violence, death, or social conflict are examples of defamation that have been identified by the National Police. A lawyer representing the Jakarta Legal Aid Institute (LBH), Nicodemus, argued that "objectionable behavior" should no longer be included in any kind of defamation. The Constitutional Court annulled Article 335 subsection (1) 1, which refers to "objectionable conduct," on January 16, 2014. The court found the term highly illegal and disproportionate. Defamation is unlikely to occur in democracies if it is applied regularly. There are concerns that some articles in the criminal law could impede citizens' right to freedom of speech. In most cases, civil law rather than criminal law will be used to punish behavior deemed to harm a person's reputation. Because of concerns that the incumbent

government or other strongmen could influence prosecutors to silence opposition or critics, much of the modern state has abandoned criminal prosecutions out of contempt.

Therefore, according to the previous description, it is related to the concept of spatial transition; Of course, changes in a person's character when in cyberspace are greatly influenced by the moral deterioration that exists in society; Thus, in this case, it has far-reaching implications for its actions in cyberspace; and of course, with his grievances; and of course, the category of crimes of defamation includes a type of crime of a subjective nature, in which everyone has their own penny Therefore, if a person is moral, it will undoubtedly be wiser when he issues an opinion, according to the theory of spatial transitions, which concludes that his opinion hammers electronic communications, given the concerns mentioned above.

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Conclusion

Meanwhile, fines for defamation crimes are regulated in Article 27 paragraph (3) and Article 45 paragraph (3) of Law No. 11 of 2008, both of which are enacted in response to Law No. 19 of 2016, which amends Law No. 11 of 2008 concerning Information and Electronic Transactions. The police, in their role as law enforcement, take preventive and repressive measures when it comes to dealing with defamation crimes. Precautionary measures include educating the public about what is illegal, while repressive measures involve investigating and responding to complaints from those who feel their reputation has been damaged.

SARA limits defamation actions committed through social media to those committed by anyone who intentionally and without justification spreads material that is likely to incite hostility or hatred towards a particular person or group of people. Circular Letter Regulation No. SE/6/X/2015 on Handling Defamation also includes these restrictions (SE Polri). Defamation is defined by the National Police as "contempt, defamation, defamation, unpleasant acts, provocations, incitement, spreading false news, with the intent or may have an influence on acts of discrimination, violence, loss of life, and/or social discord," among others.

Suggestion

Due to the expansive nature of Article 27 paragraph (3), people are urged to be careful when expressing themselves openly, especially on social media platforms. Because every legal event on social media, especially defamation, is very broad in scope, despite the limitations, there are still many things that, if criticized and suggestions based on facts, are actually interpreted as defamation, the law enforcement agency that receives the complaint must sort out the incoming complaint correctly.

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