

## The Influence of Social Media on Criminal Defamation in Indonesia

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ARTICLE INFO	ABSTRACT
<p><b>Keywords:</b> Influence, Social Media, Crime, Defamation.</p>	<p><i>The purpose of this study is to explore and understand the legal arrangements related to criminal defamation through social media, which are reviewed based on Law Number 19 of 2016 concerning Electronic Information and Transactions (ITE), as well as analyzing the application of the law against perpetrators of criminal defamation through social media. The research method used in this research is the normative juridical method, which refers to theoretical and normative legal analysis based on applicable laws and regulations. The discussion results show that the legal regulation of criminal defamation through social media has been regulated in Article 45 paragraph (3) of the ITE Law, which regulates criminal sanctions for perpetrators who intentionally and without the right to disseminate information or electronic documents containing insults or defamation. The application of the law related to criminal defamation on social media can also be seen in court decisions, for example, in the Decision of the Rokan Hilir District Court Number 649/PID.SUS/2019/PN-RHL. In the verdict, the Defendant was found guilty and sentenced to imprisonment and a fine by the applicable provisions. The results of this study imply that ITE law provides a strong foundation for dealing with criminal defamation on social media. The application of the law has been proven through court decisions based on the provisions of the current law. This shows the importance of supervision and law enforcement against behavior that harms others through social media to prevent similar criminal acts in the future.</i></p>

### INTRODUCTION

These days, social media is essential to the support of day-to-day human activity. Social media's existence in today's world is thought to offer many advantages, where social media is quite helpful in erasing the distance between humans so that its existence is considered very effective as a substitute for direct self to shorten the time to communicate because it is hindered by distance and time. Humans use social media to send messages to friends and family, share current and past information, and find information that is currently viral and updated in the world; we can find out through social media, meaning that social media really benefits daily human activities (Setiadi, 2016). However, although the social media that we know today is very beneficial for humans because it has a positive impact on its use, it turns out that this social media can also have a high negative impact on its use (Mahendra, 2017).

The terms "media" and "social" make up the phrase "social media." "Media" refers to a channel of communication (Meilinda, 2018). In the meantime, the term "social" refers to the social reality that each and every person takes acts that advance society. It is emphasized by this statement that media and software in general are "social" in the sense that they are byproducts of social activities (Mulawarman & Nurfitri, 2017).

Social media can be defined as a digital platform that gives users the tools they need to engage in social interactions (Parenden & Hatidja, 2022). Social media can be used for a variety of activities, such as exchanging written, photographic, and video content as well as engaging in conversation. A variety of data inside the shared content may be available to all users for a full day. The evolution of social media is interwoven with the history of the internet. Social media could not have developed and spread as swiftly and broadly as it has in the last few

decades without its existence. This is what enables everyone with an internet connection to distribute content or information at any time and from any location.

In other words, social media is a communication instrument that people utilize for social engagement in society (Sari et al., 2018). Social media that are popular today include WhatsApp, BBM, Facebook, Line, Instagram, YouTube, Twitter, and others. With the presence of social media in society, people tend to communicate through social media because its use is straightforward, so social media has become the primary alternative for exchanging news or providing information quickly. However, social media can eliminate the boundaries in socializing and interacting; there are no restrictions on space and time, and with whom someone communicates, someone can communicate whenever and wherever they are (Cahyono, 2016). So, it cannot be denied that social media has a considerable influence and impact on a person's life at this time.

The positive impacts of social media include:

- a. Facilitate learning activities because they can be used to find information and discuss.
- b. Make new friends and even find old friends who have not interacted with each other.
- c. As a means of entertainment during leisure time.

Meanwhile, the negative impacts of social media include:

- a. It can reduce study time for students because people who use social media usually spend more time online, resulting in losing track of time and forgetting everything.
- b. Disrupts learning concentration in both school and activities
- c. It can be demoralizing to consume inappropriate or damaging services that can corrupt the mind.
- d. Health may be compromised by prolonged and frequent use of social media.

Thus, relying on how social media is used or employed, its effects can be either positive or bad (Fitri, 2017). We know that criminal offenses can occur due to someone's use of social media. Social media can provide sound benefits when interacting with one another. However, the lousy impact is that someone can become a criminal offender because of the wrong use of social media. Someone can send good and true news and even send the desired hoax news; even with this tool, someone can spread negative issues about someone who falls into the category of defamation of the person concerned. Nowadays, the issue of defamation is trending in Indonesian society. Either the perpetrator or the victim can target anyone. Defamation is categorized as a criminal offense whose penalties have been regulated by law. Law Number 19 of 2016 concerning Electronic Information and Transactions, abbreviated as ITE, has, in such a way, regulated criminal sanctions for someone who commits such acts (Asmadi, 2021). This law provides legal certainty for people who experience defamation committed by someone through social media facilities.

As stated in the above description, the goal of this research is to examine and comprehend the legal framework surrounding criminal defamation on social media. This framework is examined in light of Law Number 19 of 2016 concerning Electronic Information and Transactions (ITE), and it also examines how the law is applied to those who engage in criminal defamation on social media. The advantages of this research include giving law enforcement, attorneys, and the general public a clearer grasp of the relevant legislation and its ramifications when it comes to defamation in the digital sphere.

## METHOD

This research employs the normative juridical research technique as its research methodology. Normative juridical study examines the relationship between regulations that explain regional challenges, explains the rules controlling a certain legal category in a methodical manner, and may forecast future development.

## RESULTS AND DISCUSSION

### Legal regulation of criminal defamation through social media means in terms of Law Number 19 Year 2016 on ITE and Criminal Code.

Defamation is an unlawful act. This is done by using social media tools such as blasphemy or insults that lead to defamation of a person. Defamation can be done directly or indirectly. Indirectly, one of them is social media (Zainal, 2016). Defamation is the same as insult. Defamation is an act to attack a person's good name and honor, causing immaterial losses to the victim (Sirande, 2021).

Although honor and good name have distinct meanings, they are inextricably linked because an individual's honor and good name will be tarnished if they are attacked; similarly, an individual's good name and honor will be tarnished if they are attacked (Purnomo, 2020). Therefore, attacking honor or a good name is enough to accuse someone of insult.

Responsibility for the crime of defamation in cyberspace can be applied with criminal sanctions imprisonment or fines by the provisions of the applicable law (Tengker, 2021). Liability for criminal defamation in social media (cyberspace) can be applied with criminal sanctions, imprisonment, or fines by the provisions of the applicable Law (Mangode et al., 2023).

Forms of criminal defamation through social media from the perspective of criminal law include:

- a. Oral defamation (small) Article 310 paragraph (1) of the Criminal Code states, "Whoever deliberately attacks someone's honor or good name by alleging something, with the clear intention of making it known to the public, shall, being guilty of defamation, be punished by a maximum imprisonment of nine months or a maximum fine of three hundred Rupiahs."
- b. Defamation by writing (smaadschrift) Article 310 paragraph (2) of the Criminal Code states, "If it is committed by writing or portrait broadcast, exhibited or affixed in public, it shall be punished for defamation in writing by a maximum imprisonment of one year and four months or a maximum fine of three hundred Rupiahs."
- c. Slander (laster) Article 311 paragraph (1) of the Criminal Code states, "If the person who commits the crime of libel or slander is allowed to prove that what is alleged is true, does not prove it, and the accusation is made contrary to what is known, he shall be punished by a maximum imprisonment of four years."
- d. Defamation by act (laserlike verdachtmaking) Article 318 of the Criminal Code; "Any person who by any act deliberately creates a false suspicion in a person that he has committed a criminal act, shall, being guilty of creating a false suspicion, be punished by a maximum imprisonment of four years."
- e. Defamation of a deceased person. Article 320 paragraph (1) and 321 paragraph (1) of the Criminal Code; "Any person who in respect of a dead person commits an act which, if the person were still alive, would constitute defamation or libel, shall be punished by a maximum imprisonment of four months and two weeks or a maximum fine of three hundred Rupiahs." "Any person who disseminates, openly demonstrates or puts up a writing or portrait of an insulting content or a defamatory nature against a dead person, with intent to give publicity to the contents or to enhance the publicity thereof, shall be punished by a maximum imprisonment of one month and two weeks or a maximum fine of three hundred Rupiahs."

Law No. 19 of 2016 concerning ITE in terms of criminal defamation is contained in Article 45, paragraph (1), which reads: "Every person who fulfills the elements as referred to in Article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4) shall be punished with a maximum imprisonment of 6 (six) years and a maximum fine of Rp.1,000,000,000.00 (one billion rupiah). Furthermore, Article 45 paragraph (3) states: "Any person who intentionally and without proper distributes and transmits and makes accessible electronic information that contains insults and defamation as referred to in Article 27 paragraph (3) shall be punished with a maximum imprisonment of 4 (four) years and a maximum fine of Rp.750,000,000.00 (seven hundred fifty million rupiahs).

### **Application of Law against perpetrators of criminal defamation committed by a person through social media**

The enforcement or application of criminal offenses against someone who commits a criminal crime is the best way in justice that should be enforced (Hambali, 2020). Criminal crimes can cause deep sadness to victims, for example, criminal defamation and defamation through social media. It should be given an appropriate and maximum sanction punishment if there is a need for punishment against the perpetrator.

The application of the law against perpetrators of criminal acts that commit defamation through social media, one of which is FB social media, can be seen as follows:

Decision of ROKAN HILIR District Court Number 649/Pid.Sus/2019/PN Rhl, Dated May 14, 2020

In his ruling, the trial judge stated:

1. That RUDY HARTONO Alias RUDY is legally and convincingly proven guilty of committing a criminal offense, namely "Deliberately and without the right to distribute and make accessible electronic information and electronic documents that have insulting content and defamation that are related in such a way that it is seen as a continuing act."
2. Sentenced against the Defendant RUDY HARTONO Alias RUDY with imprisonment for 1 (one) year and a fine of Rp 50.000.000,- (fifty million rupiah), provided that if not paid, it can be replaced with confinement for 15 (fifteen) days;
3. Stating the evidence in the form of:
  - 1) 1 (one) unit of white V-GEN brand Flashdisk containing evidence of evidence of defamation through social media Facebook committed by Br. RUDY HARTONO in the form of:

- 2) Screenshot of RUDI HARTONO's FB status on July 19, 2018.
- 3) Screenshot of RUDI HARTONO's FB status on July 24, 2018.
- 4) Screenshot of RUDI HARTONO's FB status on August 03, 2018.
- 5) Screenshot of RUDI HARTONO's FB status on August 07, 2018.
- 6) Screenshot of RUDI HARTONO's FB status on August 30, 2018.
- 7) Screenshot of RUDI HARTONO's FB status on September 10, 2018.
- 8) VIDEO uploaded on FB RUDI HARTONO.
- 9) It remains attached to the file;
- 10) 1 (one) Mobile phone unit brand SAMSUNG GALAXY J7 (2016) model number SM - J710FN address IP10.96.74. 187 gold color;
- 11) 1 (one) TRI SIM CARD with number +=62895 6182 88725.

The conclusion is that the defamation committed by the Defendant through the means of social media deserves to be criminally accountable, Taking into account that defamation is illegal when it is committed by someone who lacks the authority to disseminate and make available electronic information and documents with offensive content and defamatory statements connected in a way that makes the victim feel injured. Defamation means defaming the public with the intention of humiliating or embarrassing the victim so that the public knows about it and thinks wrongly of the victim. As for the application of the law for the perpetrators of criminal defamation, according to researchers, it is by the rules enacted by Law Number 19 of 2016 concerning ITE.

## CONCLUSION

1. Legal arrangements for criminal defamation through social media means, in terms of Law No. 19 of 2016 concerning ITE, that legal arrangements for defamation through social media can be found in Article 45 paragraph (3) of Law No. 19 of 2016 concerning ITE which states that, "Every person who intentionally and without right distributes and or transmits and or makes accessible electronic information and or electronic documents that have insulting content and or defamation. 19 of 2016 concerning ITE, which states that "Any person who intentionally and without right distributes and or transmits and or makes accessible electronic information and or electronic documents that have insulting content and or defamation as referred to in Article 27 paragraph (3) shall be punished with a maximum imprisonment of 4 (four) years and or a maximum fine of Rp750,000,000, - (seven hundred and fifty million rupiah) ". Second, applying the law related to defamation on social media can be seen from the Rokan Hilir District Court Number 649/PID Decision.SUS/2019/PN-RHL, where the decision states that the Defendant was legally and convincingly proven guilty of committing a criminal offense. "Deliberately and without the right to distribute and make accessible electronic information and electronic documents that have insulting content and defamation that are related in such a way that they are seen as a continuing act." Sentencing the Defendant to 1 (one) year imprisonment and a fine of Rp 50,000,000 (fifty million rupiah), provided that if not paid, it can be replaced with 15 (fifteen) days of confinement. Stating the evidence in the form of 1 (one) unit of white V-GEN brand Flashdisk containing evidence of defamation through social media Facebook committed by Defendant in the form of Screenshots of the Defendant's FB Status dated July 19, 2018, July 24, 2018, August 03, 2018, August 07, 2018, August 30, 2018, September 10, 2018; VIDEO uploaded on the Defendant's FB; 1 (one) Mobile Phone brand SAMSUNG GALAXY J7 (2016) model number SM - J710FN address IP10.96.74. 187 gold color; 1 (one) TRI SIM CARD with number +62895 6182 88725 ...

## REFERENCES

Asmadi, E. (2021). Rumusan Delik Dan Pemidanaan Bagi Tindak Pidana Pencemaran Nama Baik Di Media Sosial. *De Lega Lata: Jurnal Ilmu Hukum*, 6(1), 16–32.

Cahyono, A. S. (2016). Pengaruh media sosial terhadap perubahan sosial masyarakat di Indonesia. *Publiciana*, 9(1), 140–157.

Fitri, S. (2017). Dampak positif dan negatif sosial media terhadap perubahan sosial anak: dampak positif dan negatif sosial media terhadap perubahan sosial anak. *Naturalistic: Jurnal Kajian Dan Penelitian Pendidikan Dan Pembelajaran*, 1(2), 118–123.

Hambali, A. R. (2020). Penegakan Hukum Melalui Pendekatan Restorative Justice Penyelesaian Perkara Tindak Pidana. *Kalabbirang Law Journal*, 2(1), 69–77.

Mahendra, B. (2017). Eksistensi sosial remaja dalam Instagram (sebuah perspektif komunikasi). *Jurnal Visi Komunikasi*, 16(1), 151–160.

Mangode, Y. R., Koesomo, A. T., & Kasenda, V. D. (2023). Tindak Pidana Pencemaran Nama Baik Melalui Media Sosial Ditinjau Berdasarkan UU No. 19 Tahun 2016 Tentang Perubahan Atas UU No. 11 Tahun 2008 Tentang

Informasi Dan Transaksi Elektronik. *Lex Administratum*, 11(5).

Meilinda, N. (2018). Social media on campus: studi peran media sosial sebagai media penyebaran informasi akademik pada mahasiswa di program studi ilmu komunikasi FISIP UNSRI. *The Journal of Society and Media*, 2(1), 53–64.

Mulawarman, M., & Nurfitri, A. D. (2017). Perilaku pengguna media sosial beserta implikasinya ditinjau dari perspektif psikologi sosial terapan. *Buletin Psikologi*, 25(1), 36–44.

Parenden, A., & Hatidja, S. (2022). Pelatihan Pengenalan Inovasi Usaha Melalui Sosial Media di Desa Lamanda Kab Bulukumba. *ABDINE: Jurnal Pengabdian Masyarakat*, 2(2), 242–248.

Purnomo, H. (2020). Penegakan Hukum Terhadap Tindak Pidana Pencemaran Nama Baik Melalui Media Berdasarkan Konsep Hukum Pidana. *Soumatera Law Review*, 3(2), 119–134.

Sari, A. C., Hartina, R., Awalia, R., Irianti, H., & Ainun, N. (2018). Komunikasi dan media sosial. *Jurnal The Messenger*, 3(2), 69.

Setiadi, A. (2016). Pemanfaatan media sosial untuk efektifitas komunikasi. *Cakrawala-Jurnal Humaniora*, 16(2).

Sirande, E. (2021). *Penyelesaian Perkara Tindak Pidana Pencemaran Nama Baik Pada Tingkat Penyidikan Melalui Pendekatan Restorative Justice*. Universitas Hasanuddin.

Tengker, M. V. (2021). Tindak Pidana Pencemaran Nama Baik Menggunakan Media Sosial Elektronik Dengan Pelaku Anak Di Bawah Umur. *Lex Privatum*, 9(10).

Zainal, A. (2016). Pencemaran Nama Baik Melalui Teknologi Informasi Ditinjau Dari Hukum Pidana. *Al-'Adl*, 9(1), 57–74.