



Legal Certainty in the Enforcement of Online Defamation Following the 2024 Reform of Indonesia's Electronic Information and Transactions Law

Sutikni Sutikni^{1*}, Femmy Silaswaty, & Ida Aryati

^{1,2,3}Universitas Islam Batik
Surakarta, Indonesia

Correspondence

Sutikni Sutikni, Universitas Islam
Batik Surakarta, Indonesia, Jl. Agus
Salim No.10, Sondakan, Kec.
Laweyan, Kota Surakarta, Jawa
Tengah 57147, e-mail:
atiekni@gmail.com

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Original Article

Abstract

The rapid expansion of social media has increased online defamation cases and intensified legal uncertainty due to divergent interpretations of Indonesia's Electronic Information and Transactions (ITE) Law. This study examines the legal boundaries of online defamation under Law Number 1 of 2024 and evaluates its enforcement from the perspective of legal certainty. Using a normative legal research method, the study applies statutory, conceptual, and case-based approaches through the analysis of legislation, legal doctrines, and judicial decisions. The findings show that Article 27A enhances legal certainty by clarifying the constituent elements of the offense, reaffirming the *lex specialis derogat legi generali* principle, and balancing the protection of reputation with freedom of expression. Effective enforcement requires clear legal norms, consistent judicial interpretation, adequate digital competence among law enforcement authorities, and harmonized institutional practices. The reform represents a significant step toward strengthening legal certainty in addressing online defamation.

Keywords: *Defamation, Legal Certainty, Social Media*

Abstrak

Perkembangan media sosial meningkatkan kasus pencemaran nama baik sekaligus memunculkan ketidakpastian hukum akibat perbedaan interpretasi terhadap ketentuan dalam Undang-Undang Informasi dan Transaksi Elektronik (UU ITE). Penelitian ini bertujuan menganalisis batasan tindak pidana pencemaran nama baik melalui media sosial berdasarkan Undang-Undang Nomor 1 Tahun 2024 serta mengevaluasi penegakan hukumnya dalam perspektif kepastian hukum. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan kasus melalui analisis peraturan, doktrin, serta putusan pengadilan. Pasal 27A memperjelas unsur delik melalui frasa "menuduhkan suatu hal", mempertegas penerapan asas *lex specialis derogat legi generali*, dan memperkuat keseimbangan antara perlindungan reputasi serta kebebasan berekspresi. Integrasi Teori Kepastian Hukum dan *Space Transition Theory* menjelaskan bahwa kepastian hukum bergantung pada kejelasan norma, konsistensi interpretasi, kompetensi digital aparat, dan harmonisasi penegakan hukum. Disimpulkan bahwa reformulasi UU ITE merupakan langkah progresif, namun efektivitasnya memerlukan pedoman penerapan yang seragam dan peningkatan kapasitas penegak hukum.

Kata kunci: *Pencemaran Nama Baik, Kepastian Hukum, Media Sosial*

1. INTRODUCTION

The rapid advancement of information and communication technology has fundamentally transformed patterns of social interaction through the widespread use of the internet and social media as digital public spheres. These platforms enable individuals to express opinions, disseminate information, and shape public discourse instantly without geographical or temporal constraints. While this technological development has strengthened public participation and the exercise of freedom of expression, it has also facilitated various forms of cyber-enabled misconduct, including online defamation.

Unlike conventional defamation, defamatory content disseminated through cyberspace can spread rapidly, be reproduced indefinitely, and remain accessible despite attempts at removal, thereby causing extensive harm to victims' dignity, reputation, social relationships, and economic interests.¹ Consequently, online defamation has emerged as a rapidly growing form of cybercrime that presents significant challenges to Indonesia's criminal justice system.

The increasing use of social media in Indonesia has been accompanied by a corresponding rise in defamation cases processed through the criminal justice system. Many of these cases originate from posts, comments, or other forms of interaction on digital platforms that subsequently develop into criminal proceedings.² This phenomenon illustrates the tension between two constitutionally protected legal interests: the protection of individual honor and reputation, on the one hand, and the protection of freedom of expression, on the other. Accordingly, the legal framework must strike an appropriate balance between these competing interests to prevent the excessive use of criminal sanctions while ensuring effective legal protection for victims.

In response to these developments, the Indonesian government enacted Law Number 1 of 2024, amending the Electronic Information and Transactions Law (ITE Law). One of the most significant reforms is the replacement of Article 27(3) with Article 27A, which provides a more precise formulation of the offense by defining defamation as attacking another person's honor or reputation by making an accusation. This legislative reform was intended to clarify the constituent elements of the offense, reduce interpretative ambiguity, and strengthen legal certainty in criminal law enforcement. Nevertheless, judicial practice continues to demonstrate inconsistencies in interpreting these statutory elements, thereby limiting the uniform application of the law.

¹ Abdurrahman Harits Ketaren, "Application of Criminal Law Towards Cyberbullying In Social Media," *Proceeding 2nd Medan International Economics and Business* 2, no. 1 (2024): 2126–33, <https://doi.org/10.30596/miceb.v2i0.932>.

² Anis Mashdurohatun et al., "Combating Digital Defamation: Regulations, Challenges and Protecting Reputation," *Journal of Sustainable Development and Regulatory Issues* 3, no. 3 (2025): 486–514, <https://doi.org/10.53955/jsderi.v3i3.147>.

Behavior in cyberspace often differs from behavior in the physical world because online environments are characterized by anonymity, reduced social control, and a diminished perception of legal accountability.³ These conditions facilitate the commission of insulting and defamatory acts through social media more readily than in face-to-face interactions. From the perspective of Indonesian positive law, defamation is regulated not only under the ITE Law but also under the Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP). Consequently, the application of the principle of *lex specialis derogat legi generali* is essential in determining the governing legal framework for offenses committed through electronic systems.

The expansion of information technology has intensified the use of social media and contributed to the emergence of online defamation as one of the most prevalent forms of cybercrime in Indonesia. Previous studies have primarily focused on the legal regulation of online defamation under the ITE Law, the implementation of law enforcement, the protection of freedom of expression, and the challenges posed by inconsistent statutory interpretation. However, the enactment of Law Number 1 of 2024, representing the second amendment to the ITE Law, introduces a new legal framework, particularly through the replacement of Article 27(3) with Article 27A, which more clearly defines the constituent elements of the offense. This legislative development warrants further scholarly examination to evaluate the extent to which the revised provision enhances legal certainty and promotes consistent law enforcement in practice.

Research conducted by Simamora et al. demonstrates that the legal regulation of defamation continued to rely primarily on the Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP) and the 2008 Electronic Information and Transactions Law (ITE Law), with the analysis focusing on legal norms that existed prior to subsequent legislative reforms.⁴ Similarly, Abustam emphasizes the evidentiary role of electronic evidence, particularly social media screenshots, as a crucial component of criminal proceedings, but does not address the issue of legal certainty in interpreting the constituent elements of the offense.⁵ Lazuardi et al. further report that although Article 27(3) was implemented procedurally, its application remained grounded in the legal framework that preceded the enactment of Law Number 1 of 2024.⁶

³ Jaishankar Karuppannan, "Cyber Criminology and Space Transition Theory: Contribution and Impact," in *6th International Report on Crime Prevention and Community Safety: Preventing Cybercrime* (International Centre for the Prevention of Crime, 2019), <https://doi.org/10.13140/RG.2.2.18087.80806>.

⁴ Fidelis P. Simamora et al., "Kajian Hukum Pidana Terhadap Perbuatan Pencemaran Nama Baik Melalui Media Sosial," *Jurnal Retentum* 2, no. 1 (2020): 34–43, <https://doi.org/10.46930/retentum.v2i1.432>.

⁵ Abustam Abustam, "Penegakan Hukum Tindak Pidana Pencemaran Nama Baik Melalui Media Sosial Di Indonesia," *Jihad: Jurnal Ilmu Hukum Dan Administrasi* 3, no. 2 (2021): 75–79, <https://doi.org/10.58258/jihad.v3i2.2988>.

⁶ Abit Lazuardi et al., "Penegakan Hukum Terhadap Pelaku Pencemaran Nama Baik Melalui Media Sosial Menurut Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi Dan Transaksi Elektronik Di Kota Lhokseumawe," *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh* 6, no. 4 (2023): 1–10, <https://doi.org/10.29103/jimfh.v6i4.13100>.

Subsequent studies have examined the implications of the 2024 legislative reform. Josef Swisman et al. argue that the revised provisions continue to generate debate regarding the appropriate balance between protecting individual reputation and safeguarding freedom of expression, while falling short of providing adequate legal certainty.⁷ Likewise, Zahsy underscores the need to reformulate the statutory provisions to distinguish constitutionally protected criticism from criminally punishable defamation.⁸ Aprilia et al. describe the evolution of Indonesia's defamation framework from the Criminal Code to Law Number 1 of 2024 but do not evaluate the practical implications of these reforms for law enforcement.⁹ Similarly, Setianegara and Agus identify inconsistent interpretation among law enforcement authorities and divergent understandings of the statutory elements of defamation as persistent obstacles to achieving legal certainty.¹⁰

More recent studies by Fajar et al. and Hamdani have begun to examine the implementation of Law Number 1 of 2024, highlighting revisions to the constituent elements of the offense, reductions in criminal sanctions, and the growing emphasis on restorative justice.¹¹ Nevertheless, these studies do not integrate Legal Certainty Theory with Space Transition Theory to explain behavioral patterns in cyberspace and their implications for interpreting Article 27A. Consequently, significant research gaps remain concerning the legal definition of online defamation following the amendment of the ITE Law, the application of the *lex specialis derogat legi generali* principle in resolving the relationship between the Criminal Code and the ITE Law, and the development of a legal certainty framework capable of addressing contemporary law enforcement challenges in the digital environment.

The existing literature has generally focused on the regulation of defamation under the ITE Law prior to the 2024 amendments, the implementation of law enforcement, or descriptive analyses of legislative developments. To date, no study has comprehensively examined the offense of online defamation under Article 27A of Law Number 1 of 2024 by integrating Legal Certainty Theory, Space Transition Theory, and the application of the *lex specialis derogat legi generali* principle within law enforcement

⁷ Andreas Josef Swisman et al., "Penegakan Hukum Tindak Pidana Pencemaran Nama Baik Dalam Rangka Memberikan Kepastian Hukum Bagi Pengguna Media Sosial," *Mutiara: Multidisciplinary Scientific Journal* 2, no. 11 (2024): 1232–47, <https://doi.org/10.57185/mutiara.v2i11.288>.

⁸ Velly Al Zahsy, "Tindak Pidana Pencemaran Nama Baik Di Media Sosial: Antara Kebebasan Berekspresi Dan Batasan Hukum ITE," *Jurnal Legalitas* 3, no. 2 (2025): 68–79, <https://doi.org/10.58819/jle.v3i2.172>.

⁹ Rizky Aprilia et al., "Dinamika Hukum Tindak Pidana Pencemaran Nama Baik," *Jurnal Ilmiah Advokasi* 13, no. 3 (2025): 851–57, <https://doi.org/10.36987/jiad.v13i3.6373>.

¹⁰ Ery Setianegara and Agus Agus, "Penegakan Hukum Terhadap Tindak Pidana Penghinaan Atau Pencemaran Nama Baik Melalui Media Sosial," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 2 (2025): 333–39, <https://doi.org/10.61104/alz.v3i2.1018>.

¹¹ Muhammad Din Al Fajar et al., "Pengaturan Pencemaran Nama Baik Dalam KUHP Baru Dan UU ITE Dalam Perspektif Hukum Pidana," *Causa: Jurnal Hukum Dan Kewarganegaraan* 16, no. 5 (2026), <https://doi.org/10.6679/ahk65105>; Muhammad Alfian Hamdani, "Ketentuan Pidana Terhadap Pencemaran Nama Baik Di Media Sosial Menurut UU Nomor 1 Tahun 2024 Tentang Informasi Dan Transaksi Elektronik" (Universitas Islam Kalimantan, 2026), <https://eprints.uniska-bjm.ac.id/35887/>.

practice. The integration of these three theoretical and doctrinal perspectives constitutes the principal novelty and original contribution of the present study.

Accordingly, this study aims to analyze the legal definition of online defamation under Law Number 1 of 2024 by examining the relationship between the ITE Law, the Indonesian Criminal Code (KUHP), and the application of the *lex specialis derogat legi generali* principle. In addition, the study evaluates law enforcement from the perspective of legal certainty by integrating Legal Certainty Theory and Space Transition Theory to assess the consistency of statutory interpretation, the protection of individual reputation, and the maintenance of an appropriate balance between reputation rights and freedom of expression within the digital environment.

2. RESEARCH METHODOLOGY

This study employs a normative legal research (doctrinal legal research) methodology that focuses on analyzing the legal norms governing online defamation within the Indonesian legal system. The research adopts four complementary approaches: the statutory approach, conceptual approach, case approach, and philosophical approach. The statutory approach examines relevant legal instruments, including the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 2024 concerning the Second Amendment to the Electronic Information and Transactions (ITE) Law, the Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP), the New Criminal Code, and the Criminal Procedure Code. The conceptual approach is employed to analyze the theoretical foundations of legal certainty, cybercrime, freedom of expression, and the protection of the right to honor and reputation. The case approach examines judicial decisions concerning the application of Article 27A of the ITE Law, while the philosophical approach evaluates the normative balance between the protection of individual reputation and the constitutional guarantee of freedom of expression.

The study relies on primary, secondary, and tertiary legal materials collected through an extensive literature review. Data are analyzed qualitatively using a prescriptive legal analysis based on grammatical, systematic, historical, and teleological methods of statutory interpretation. In addition, normative harmonization is conducted through the application of the *lex specialis derogat legi generali* principle to resolve the relationship between the ITE Law and the general provisions of the Indonesian Criminal Code. To strengthen the analytical framework, the study integrates Legal Certainty Theory and Space Transition Theory to evaluate the consistency of law enforcement in addressing online defamation following the enactment of Law Number 1 of 2024.

3. RESEARCH RESULT AND DISCUSSION

3.1. The Legal Boundaries of Online Defamation Under Law Number 1 of 2024

The reformulation of Article 27A, replacing Article 27(3) of the Electronic Information and Transactions (ITE) Law, the modification of the constituent elements of the offense, and the resulting implications for legal certainty represent more than mere editorial revisions. Rather, these changes reflect a fundamental shift in Indonesia's cybercriminal law paradigm toward a more restrictive approach to criminalization, stronger protection of the constitutional right to freedom of expression, and greater legal certainty in the enforcement of online defamation offenses.

Prior to the rapid development of digital technology, the protection of honor and reputation was governed by the Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP) through provisions criminalizing insult and defamation. These provisions were designed to regulate conventional forms of communication characterized by limited dissemination. However, the emergence of the internet and social media has fundamentally transformed the nature and consequences of defamatory conduct.

Electronic information can be disseminated instantaneously to millions of users, replicated indefinitely, and remain accessible within the digital environment even after the original content has been removed by the perpetrator.¹² Consequently, the harm extends beyond psychological injury to encompass long-term damage to an individual's reputation, social relationships, and economic interests. These developments prompted the enactment of a specialized legal framework through the ITE Law to address the distinctive characteristics of cybercrime, which could no longer be adequately regulated under the general provisions of the Criminal Code.

One of the most significant reforms introduced by Law Number 1 of 2024 is the replacement of the phrase "containing insults and/or defamation" with "attacking another person's honor or reputation by making an accusation." This reformulation narrows the scope of criminal liability by requiring an allegation of a specific factual circumstance capable of harming another person's honor or reputation. Consequently, criticism, opinions, evaluations, or other forms of expression that do not involve factual allegations cannot automatically be classified as criminal conduct. This legislative amendment reflects the legislature's intention to achieve a more appropriate balance between protecting individual reputation and safeguarding the constitutional right to freedom of expression as guaranteed under Article 28E(3) of the 1945 Constitution of the Republic of Indonesia.

The application of Article 27A requires the cumulative satisfaction of all constituent elements of the offense. These include the existence of a legal subject ("any

¹² Rivad Achmad Fahrezi Abdullah, "Digital Forensic Urgence in Analyzing Electronic Evidence for Evidence of Criminal Actions in Information and Electronic Transactions," *Journal of Development Research* 7, no. 2 (2023): 264–71, <https://doi.org/10.28926/jdr.v7i2.238>.

person”), the element of intent (*opzet*), an act that attacks another person’s honor or reputation, the communication of a specific factual accusation, and the use of an electronic system as the medium for disseminating the defamatory content. Collectively, these elements provide clearer legal criteria for distinguishing constitutionally protected criticism from criminally punishable defamation.

The reformulation of Article 27A also reinforces the principle of *nullum crimen sine lege certa* by providing a more precise statutory definition and reducing the potential for inconsistent interpretation. Nevertheless, legal certainty depends not only on the clarity of legislative drafting but also on the consistent interpretation and application of the law by investigators, public prosecutors, and judges.¹³ Accordingly, the effectiveness of Article 27A ultimately depends on objective, consistent, and proportionate law enforcement capable of maintaining an appropriate balance between protecting individual dignity and preserving freedom of expression in the digital environment.

A central issue in the enforcement of online defamation concerns the determination of the applicable legal framework when a particular act satisfies the constituent elements of both the Indonesian Criminal Code (KUHP) and Law Number 1 of 2024 concerning the Second Amendment to the ITE Law. Without a coherent interpretative framework, this overlap creates the potential for inconsistent legal application and uncertainty in criminal proceedings.

In this context, the principle of *lex specialis derogat legi generali* serves as a fundamental doctrine within the Indonesian criminal justice system by providing that a specific statutory provision prevails over a general provision governing the same legal subject matter (Agustina, 2015). With respect to online defamation, Article 27A of Law Number 1 of 2024 constitutes the *lex specialis* because it specifically regulates defamatory acts committed through electronic systems, whereas the defamation provisions of the Indonesian Criminal Code continue to operate as the *lex generalis*. The proper application of this principle is therefore essential to ensuring legal certainty, preventing normative conflicts, and promoting consistent enforcement of criminal law in the digital era.

The application of the *lex specialis derogat legi generali* principle does not require the exclusion of the fundamental concepts of criminal law embodied in the Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP). Core legal concepts—including honor, reputation, criminal intent (*mens rea*), justifications, and excuses—continue to provide the interpretative foundation for the constituent elements of the offense under Article 27A of the Electronic Information and Transactions (ITE) Law. Accordingly, the relationship between the ITE Law and the Criminal Code is complementary rather than substitutive. The reformulation of Article 27A does not establish an entirely new criminal law regime; instead, it adapts the established principles

¹³ Itok Dwi Kurniawan and Souad Ezzerouali, “Revisiting the Principle of Legal Certainty: A Contemporary Analysis through the Lens of Legal Positivism,” *Nusantara: Journal of Law Studies* 3, no. 2 (2024): 137–46, <https://doi.org/10.5281/ZENODO.17385496>.

of conventional criminal law to the distinctive characteristics of cybercrime. Such normative harmonization is essential to preventing inconsistent interpretations of the phrase “attacking another person’s honor or reputation” while recognizing that the use of electronic systems remains the defining feature distinguishing offenses under the ITE Law from those governed by the Criminal Code.

The findings of the present study both converge with and depart from those reported in previous research. Lazuardi et al. examined the implementation of Article 27(3) of Law Number 19 of 2016 in judicial practice in Lhokseumawe and concluded that law enforcement generally complied with procedural requirements.¹⁴ However, that study did not address the substantive legal changes introduced by Law Number 1 of 2024. Similarly, Josef Swisman et al. found that the regulation of online defamation continued to generate legal uncertainty because of inconsistent statutory interpretation and the ongoing tension between reputation protection and freedom of expression.¹⁵ Aprilia et al. and Zahsy further emphasized the need to reformulate the relevant statutory provisions to distinguish constitutionally protected criticism from criminal defamation more clearly.¹⁶ More recently, Fajar et al. identified an emerging shift in law enforcement toward a more proportionate and restrained approach following the enactment of Law Number 1 of 2024.¹⁷

These findings may also be understood through the analytical framework of Space Transition Theory, which posits that individual behavior in cyberspace differs from behavior in the physical environment because of anonymity, diminished social control, and a reduced perception of legal accountability.¹⁸ These characteristics help explain the increasing tendency for individuals to use social media platforms to disseminate accusations capable of damaging another person’s reputation. From this perspective, limiting criminal liability under Article 27A to accusations involving specific factual allegations constitutes an important legal mechanism for distinguishing constitutionally protected criticism from conduct that legitimately warrants criminal sanction.

Accordingly, the consistent application of Article 27A, combined with normative harmonization between the ITE Law and the Indonesian Criminal Code through the *lex specialis derogat legi generali* principle, has the potential to strengthen legal certainty, preserve an appropriate balance between the protection of reputation and freedom of expression, and establish a more coherent and proportionate framework for the enforcement of criminal law in the digital era.

¹⁴ Lazuardi et al., “Penegakan Hukum Terhadap Pelaku Pencemaran Nama Baik Melalui Media Sosial Menurut Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi Dan Transaksi Elektronik Di Kota Lhokseumawe.”

¹⁵ Josef Swisman et al., “Penegakan Hukum Tindak Pidana Pencemaran Nama Baik Dalam Rangka Memberikan Kepastian Hukum Bagi Pengguna Media Sosial.”

¹⁶ Aprilia et al., “Dinamika Hukum Tindak Pidana Pencemaran Nama Baik”; Zahsy, “Tindak Pidana Pencemaran Nama Baik Di Media Sosial.”

¹⁷ Fajar et al., “Pengaturan Pencemaran Nama Baik Dalam KUHP Baru Dan UU ITE Dalam Perspektif Hukum Pidana.”

¹⁸ Karuppannan, “Cyber Criminology and Space Transition Theory.”

3.2. Law Enforcement of Online Defamation Through the Integration of Legal Certainty Theory and Space Transition Theory

The reformulation of Article 27A has strengthened the normative foundation for enforcing online defamation laws by providing a more precise definition of the constituent elements of the offense. Nevertheless, legal certainty in practice continues to depend on the quality of statutory interpretation by law enforcement authorities, the capacity to obtain and authenticate digital evidence, and the consistent application of the law throughout every stage of the criminal justice process.

The enforcement of criminal liability for online defamation differs fundamentally from that of conventional offenses because evidentiary proof is primarily based on electronic information, electronic documents, social media accounts, metadata, and digital footprints.¹⁹ Such evidence must satisfy the requirements of authenticity, integrity, and relevance through digital forensic examination before it can be admitted in judicial proceedings. Consequently, effective law enforcement depends not only on compliance with the Indonesian Criminal Procedure Code but also on the digital competence of investigators, public prosecutors, and judges in understanding information technology and the distinctive characteristics of online communication.

Under Indonesian law, online defamation constitutes an absolute complaint-based offense (*delik aduan absolut*), meaning that criminal proceedings may be initiated only upon a complaint filed by the victim. Once a complaint has been submitted, investigators are required to establish all constituent elements of Article 27A, including the identity of the offender, the element of criminal intent (*opzet*), the existence of a specific factual allegation, and the use of an electronic system as the medium through which the defamatory content was disseminated.

During the prosecution stage, public prosecutors must ensure that the electronic evidence satisfies the applicable evidentiary standards and that the disputed content genuinely constitutes an attack on another person's honor or reputation. Subsequently, judges evaluate the admissibility and probative value of all evidence by considering the context in which the statement was made, the defendant's intent, the existence of a legitimate public interest, and the possible application of legal justifications or excuses. Accordingly, the enforcement of Article 27A should not be viewed as merely punitive but rather as an effort to balance the protection of individual reputation with the constitutional guarantee of freedom of expression.

Despite these normative improvements, several challenges continue to impede effective law enforcement. First, inconsistent interpretations of the phrase "making an accusation" have resulted in situations where criticism expressed in the public interest is still treated as criminal defamation. Second, the use of electronic evidence presents

¹⁹ Budi Santoso, "Evidence of Social Media Accounts in the Investigation Process," *Legal Brief* 13, no. 4 (2024): 960–68, <https://doi.org/10.35335/legal.v13i4.1077>.

significant practical challenges, including anonymous accounts, false identities, metadata manipulation, deletion of digital content, and the repeated dissemination of information by third parties. Third, limited levels of digital literacy among social media users contribute to widespread misunderstanding regarding the distinction between constitutionally protected criticism and factual allegations capable of unlawfully damaging another person's reputation.

According to Radbruch, legal rules must be formulated with sufficient clarity and applied consistently to ensure legal certainty, justice, and legal utility.²⁰ The reformulation of Article 27A advances the principle of *lex certa* by expressly emphasizing the requirement of making a specific accusation. However, the practical effectiveness of this legislative reform ultimately depends on the consistent interpretation and application of the provision by law enforcement authorities and the judiciary.

Accordingly, legal certainty can be fully realized only if the revised statutory framework is accompanied by comprehensive enforcement guidelines, enhanced digital forensic expertise among criminal justice officials, and consistent judicial interpretation of Article 27A. The distinctive characteristics of cyberspace require a law enforcement model that extends beyond a purely punitive orientation and instead protects individual honor and reputation while simultaneously safeguarding freedom of expression as a fundamental constitutional right within a democratic society.²¹

The enforcement of online defamation laws therefore requires an approach that differs substantially from conventional criminal law because cyberspace possesses characteristics that are absent from the physical environment. Individuals often behave differently in digital spaces due to anonymity, diminished social control, the ease of adopting pseudonymous identities, and the lack of direct interpersonal interaction with victims.²² These conditions significantly increase the likelihood of insulting, accusing, and defaming others through social media platforms. Moreover, the widespread use of anonymous or fictitious accounts, combined with the rapid and repeated dissemination of digital content, amplifies the harm inflicted upon victims' honor and reputation. Consequently, effective law enforcement must adopt a framework capable of addressing the unique characteristics of cybercrime while ensuring legal certainty and proportional protection of competing constitutional rights.

The evidentiary process in cases of online defamation depends heavily on the ability of law enforcement authorities to identify, collect, and authenticate electronic evidence. Unlike conventional criminal offenses, establishing the identity of an alleged offender requires digital footprint analysis, metadata examination, Internet Protocol (IP) address verification, and digital forensic techniques to confirm the authenticity and integrity of electronic evidence. Consequently, the effectiveness of law enforcement

²⁰ Gustav Radbruch, *Legal Philosophy* (Harvard University Press, 1950).

²¹ Karuppannan, "Cyber Criminology and Space Transition Theory."

²² Karuppannan, "Cyber Criminology and Space Transition Theory."

depends not only on the clarity of Article 27A of Law Number 1 of 2024 but also on the technical competence of investigators, public prosecutors, and judges in applying digital technologies and forensic methodologies. Without sustained capacity building in these areas, the legislative objective of enhancing legal certainty cannot be fully realized.

The findings of this study both corroborate and extend previous research. Lazuardi et al. primarily examined the implementation of the ITE Law prior to the 2024 amendments, focusing on procedural aspects of criminal law enforcement in judicial practice.²³ Similarly, Josef Swisman et al. identified persistent inconsistencies in the interpretation of online defamation provisions and highlighted the continuing tension between protecting individual reputation and safeguarding freedom of expression.²⁴ Aprilia et al. and Zahsy further emphasized the need for a more proportionate statutory framework capable of distinguishing constitutionally protected criticism from criminally punishable defamation.²⁵ More recently, Fajar et al. concluded that the enactment of Law Number 1 of 2024 has shifted the paradigm of law enforcement toward a more balanced and restrained approach while expanding opportunities for dispute resolution through restorative justice mechanisms.²⁶

Based on these findings, this study proposes an ideal model for the enforcement of online defamation laws. The proposed model comprises four interrelated components.

First, the normative dimension requires the consistent application of Article 27A by treating the element of making a specific accusation as the principal criterion for distinguishing constitutionally protected criticism from criminal defamation. Second, the institutional dimension emphasizes strengthening the capacity of law enforcement authorities through specialized training in digital forensics, electronic evidence analysis, and the technical characteristics of various social media platforms. Third, the preventive dimension focuses on improving public digital literacy so that social media users clearly understand the legal distinction between the exercise of freedom of expression and conduct that constitutes unlawful defamation. Fourth, the repressive dimension advocates the proportionate application of criminal sanctions by taking into account the public interest, the purpose and context of the disputed communication, and the availability of restorative justice as an alternative mechanism for dispute resolution. Collectively, this integrated enforcement model prioritizes legal certainty while maintaining an appropriate balance between protecting individual honor and reputation,

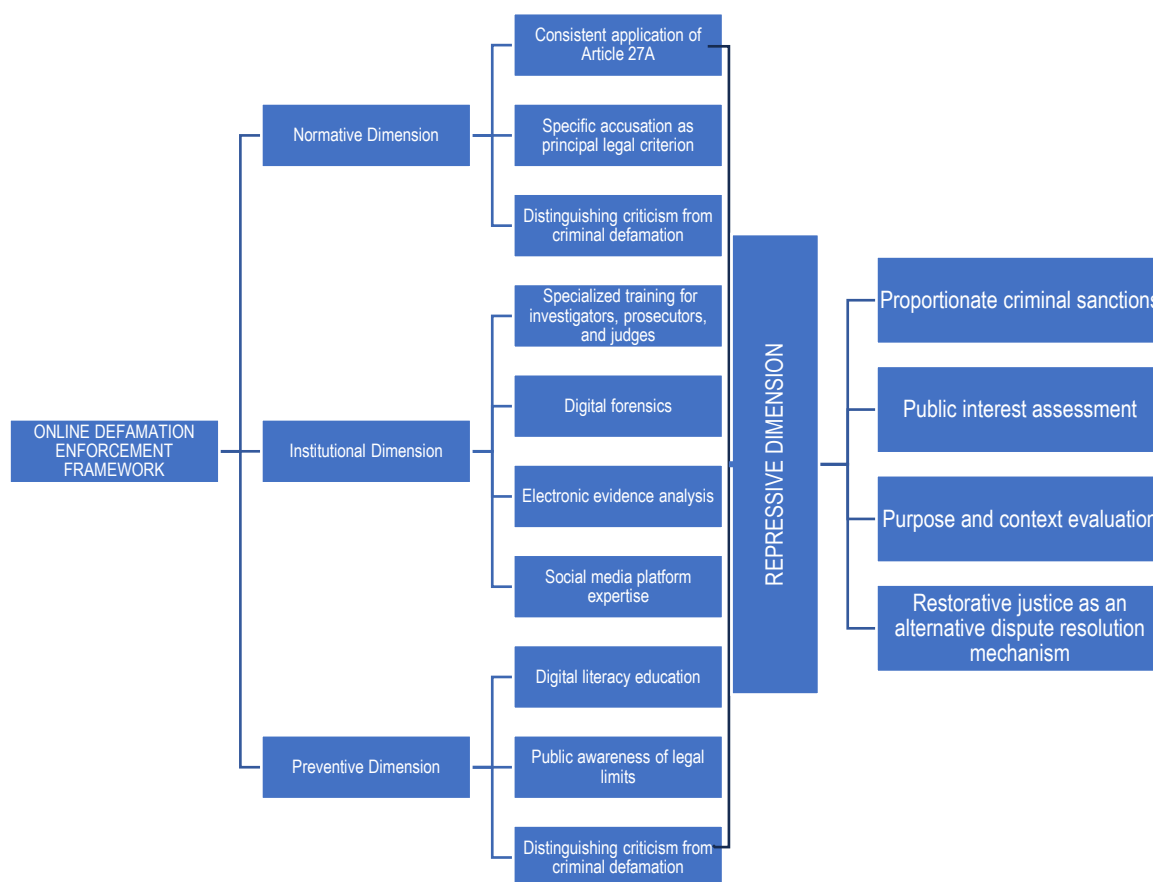
²³ Lazuardi et al., "Penegakan Hukum Terhadap Pelaku Pencemaran Nama Baik Melalui Media Sosial Menurut Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi Dan Transaksi Elektronik Di Kota Lhokseumawe."

²⁴ Josef Swisman et al., "Penegakan Hukum Tindak Pidana Pencemaran Nama Baik Dalam Rangka Memberikan Kepastian Hukum Bagi Pengguna Media Sosial."

²⁵ Aprilia et al., "Dinamika Hukum Tindak Pidana Pencemaran Nama Baik"; Zahsy, "Tindak Pidana Pencemaran Nama Baik Di Media Sosial."

²⁶ Fajar et al., "Pengaturan Pencemaran Nama Baik Dalam KUHP Baru Dan UU ITE Dalam Perspektif Hukum Pidana."

safeguarding freedom of expression, and ensuring that the criminal justice system remains responsive to the evolving challenges posed by digital technology.



Picture 1. Integrated Model for the Enforcement of Online Defamation Laws under Article 27A of the Indonesian Electronic Information and Transactions Law

4. CONCLUSION

The reformulation of Article 27A has narrowed the scope of criminal liability by emphasizing the element of making a specific accusation, thereby establishing a clearer distinction between constitutionally protected criticism and criminally punishable defamation. The application of the *lex specialis derogat legi generali* principle further confirms that the Electronic Information and Transactions (ITE) Law constitutes the primary legal framework governing defamation committed through electronic media, while the Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP) continues to provide the interpretative foundation for the legal concepts of honor, reputation, and criminal liability. Moreover, legal certainty depends not only on the clarity of statutory provisions but also on the consistent interpretation and application of those provisions by law enforcement authorities, the reliability and admissibility of electronic evidence, the digital forensic competence of criminal justice officials, and the harmonization of the protection of individual reputation with the constitutional guarantee of freedom of expression. In addition, the distinctive characteristics of

cyberspace require an adaptive law enforcement framework that integrates both penal and non-penal approaches.

This study contributes to the development of cyber law scholarship by proposing a law enforcement model that integrates statutory reform, Legal Certainty Theory, Space Transition Theory, and the protection of fundamental human rights within the digital environment. However, the study is limited by its reliance on a normative legal research methodology, which does not permit an empirical evaluation of the implementation of Law Number 1 of 2024 in judicial practice. Accordingly, the Indonesian government should develop comprehensive and uniform technical guidelines for law enforcement authorities, strengthen institutional capacity in digital forensics, and promote greater public digital literacy. Future research should adopt empirical or socio-legal approaches to examine the practical implementation of Article 27A, evaluate the consistency of judicial decision-making, and assess its effectiveness in protecting both freedom of expression and the right to honor and reputation in the digital era.

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