

Criminal Act of Attack on Honor Following the Constitutional Court Decision No. 105/PUU-XXII/2024: Human Rights Perspective

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Abstract. *The criminal act of attack on honor under Article 27A of Law No. 1 of 2024, following Constitutional Court Decision Number 105/PUU-XXII/2024, reflects Indonesia’s ongoing effort to balance the protection of individual dignity with the constitutional guarantee of freedom of expression. This study aims to analyze the human rights implications of the Constitutional Court’s ruling, which clarifies the interpretation of the phrases “other person” and “a matter” in Article 27A. Employing a normative legal research method and a qualitative descriptive approach, the study examines statutory provisions and the Court’s reasoning through the principles of legality, necessity, and proportionality as articulated in international human rights standards. The findings indicate that the Court’s conditional interpretation—restricting “other person” to natural persons and defining “a matter” as “an act that demeans the honor or reputation of an individual”—constitutes a significant normative improvement toward legal certainty. However, law enforcement practice continues to reveal the potential for this article to be misused to silence criticism of public officials, generating a persistent tension between normative ideals and implementation realities. This research’s novelty lies in providing the first human rights–based analysis of Article 27A following the Constitutional Court’s ruling, offering a new framework for evaluating the proportionality of criminal restrictions on freedom of expression in Indonesia’s digital democratic era.*

Keywords: Attack; Freedom; Honor; Human Rights.

1. Introduction

Article 27A of Law No. 1 of 2024 on the Second Amendment to Law No. 11 of 2008 concerning Electronic Information and Transactions (EIT Law) constitutes a new provision replacing Article 27 paragraph (3) of the previous ITE Law on the criminal act of defamation. This article stipulates that any person who intentionally attacks the honor or reputation of another person through electronic media may be subject to criminal sanctions. The amendment was made as an effort by the House of Representatives (DPR), as the legislative

body, to provide greater clarity of norms to ensure easier understanding and implementation, while also responding to the problems arising from the previous provision.

The change from Article 27 paragraph (3) of the former ITE Law to Article 27A of the new ITE Law originated from widespread public objections to the previous article, which was considered unjust and prone to criminalizing individuals expressing criticism in digital spaces. The substance of this article essentially refers to Article 310 paragraph (1) of the Indonesian Criminal Code (KUHP) concerning defamation, but with a significantly heavier criminal penalty. Previously, Article 27 paragraph (3) of the ITE Law prescribed a maximum imprisonment of four years and/or a fine of up to IDR 750 million. The amended Article 27A reduces this to a maximum imprisonment of two years and/or a fine of up to IDR 450 million. In contrast, Article 310 of the Criminal Code only provides for a maximum imprisonment of nine months or a fine of up to IDR 4.5 million. The core substance of defamation or insult cannot be separated from Article 310 of the Criminal Code, as it does not create a new offense but merely transfers or extends the scope of traditional defamation offenses into the electronic or digital realm. However, the heavier criminal sanctions in the ITE Law create disharmony with the sentencing system under the Criminal Code.

Criticism of this pattern of excessive punishment was also expressed by Chairul Huda, who argued that there is a “one-size-fits-all” approach in the ITE Law, where minor offenses such as defamation and obscenity are punished more severely—up to six years in prison—when committed through electronic media, whereas more serious crimes such as extortion or gambling do not receive proportional increases in penalties. This reflects that the provisions in the ITE Law fail to embody the principles of justice and proportionality in criminal punishment and risk creating legal uncertainty for the public. (Huda, 2011: 517-518)

Such criticism led to two judicial review petitions submitted to the Constitutional Court (MK) by Narliswandi Piliang through Case No. 50/PUU-VI/2008. In this case, the petitioner challenged Article 27 paragraph (3) and Article 45 paragraph (1) of Law No. 11 of 2008 concerning Electronic Information and Transactions (EIT Law), arguing that they violated Articles 28D, 28E, and 28F of the 1945 Constitution because they potentially threatened freedom of expression, press freedom, and legal certainty. However, the Constitutional Court rejected the petition in its entirety, reasoning that the challenged provisions did not contradict the Constitution and were instead necessary to protect personal honor and reputation. The Court also emphasized that the element of defamation under Article 27 paragraph (3) of the ITE Law must be interpreted in accordance with Articles 310 and 311 of the Criminal Code, meaning that it constitutes a complaint-based offense (*delik aduan*), not a public offense (*delik umum*).

Subsequently, another petition was filed by Eddy Cahyono et al. under Case No. 2/PUU-VII/2009, which also challenged Article 27 paragraph (3) of the ITE Law as being inconsistent with constitutional rights guaranteed under Article 28D paragraph (1), Article 28E paragraphs (2) and (3), and Article 28F of the 1945 Constitution. The petitioners argued that the provision could hinder freedom of expression, particularly for journalists, bloggers, and internet users

expressing opinions online. However, the Constitutional Court ruled that the substance and provision being reviewed were identical to those adjudicated in Case No. 50/PUU-VI/2008, which had already been declared constitutional. Pursuant to the *ne bis in idem* principle as stipulated in Article 60 of the Constitutional Court Law, the Court declared the petition inadmissible (*niet ontvankelijk verklaard*) since the same matter had already been reviewed.

According to the 2025 World Press Freedom Index published by Reporters Without Borders (RSF), Indonesia ranks 127th out of 180 countries, with a press freedom score of 44.13 out of 100, categorized as “difficult.” This marks a significant decline from the previous year’s position of 111th. RSF identified problematic regulations, particularly the ITE Law, as one of the main factors contributing to this drop. The ITE Law was deemed to enable excessive criminalization of the press and freedom of expression, thereby constraining journalistic work and negatively impacting press freedom overall. RSF noted that despite Indonesia’s major democratic transition since the 1998 reform era, press freedom continues to face serious challenges due to restrictive regulations (Reporters Without Borders, 2021).

At the same time, the implementation of the ITE Law revealed that the formulation of Article 27 paragraph (3) of the previous ITE Law led to serious problems. The 2008 case of Prita Mulyasari serves as the most prominent example, in which her online complaint regarding the service of Omni Hospital was deemed defamatory. In reality, her letter merely expressed personal criticism as a patient. The case sparked widespread public sympathy and highlighted the potential of the article to suppress freedom of opinion.

A similar case occurred in 2019 with Saiful Mahdi, a lecturer at Syiah Kuala University, who criticized the lecturer selection process in an internal WhatsApp group. His academic critique was deemed an insult, leading to a nine-month prison sentence under Article 27 paragraph (3) of the ITE Law. The verdict was widely condemned by the academic community for threatening academic freedom. Together with the Prita Mulyasari case, these incidents demonstrated the broad and inconsistent interpretation of the article, prompting the introduction of Article 27A in the second amendment to the ITE Law.

The amendment aimed to strengthen legal certainty, guarantee recognition and respect for the rights of others, and maintain public order in a democratic society. Thus, the primary goal of Article 27A is to create a balance between protecting individual dignity and maintaining a healthy digital environment without undermining the principle of freedom of expression.

Although it serves as an improvement over the previous Article 27 paragraph (3), Article 27A has not fully resolved the same underlying issues. Its wording remains subjective, allowing for broad interpretation—particularly in distinguishing between criticism and attacks on personal honor. According to data from the Southeast Asia Freedom of Expression Network (SAFEnet), dozens of problematic cases under the ITE Law were recorded, including 33 cases involving Article 27A on attacks against honor in 2024 and 25 cases up to September 2025. These findings demonstrate that the revision has not fully addressed the root problems related to interpretation and application in the digital sphere.

The discrepancy between normative intent and practical implementation creates a serious conflict. The article, originally designed to protect personal dignity, instead generates a chilling effect on citizens wishing to express opinions in public spaces. Fear of being reported or criminally sanctioned leads people to become overly cautious or even refrain from expressing their views.

This situation ultimately erodes the space for freedom of expression guaranteed under Article 28E paragraph (3) of the 1945 Constitution, which states that every person has the right to freedom of association, assembly, and expression. The guarantee is reinforced by Article 23 paragraph (2) of Law No. 39 of 1999 on Human Rights, which affirms that everyone is free to hold, express, and disseminate opinions according to their conscience. Internationally, freedom of expression is protected under Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR), both of which have been ratified by Indonesia through Law No. 12 of 2005.

The main distortion of Article 27A lies in the differing interpretations between defamation and insult. The elements of “another person” and the phrase “a certain matter” constitute key weaknesses, as they are inherently ambiguous and subjective. In practice, these elements are often used to criminalize expressions that are actually forms of criticism, satire, or opinion in the public sphere. Consequently, the boundary between protected criticism and punishable insult becomes blurred, creating legal uncertainty and enabling misuse of the article for certain interests.

Thus, the implementation of Article 27A reveals a gap between *das sollen* (normative ideals) and *das sein* (practical reality). The provision, intended to protect individual dignity, instead poses new threats to freedom of expression. Its subjective wording allows law enforcement authorities to interpret it broadly, even manipulatively, according to particular interests. As a result, Article 27A risks deviating further from its ideal purpose as an instrument for protecting human dignity in digital spaces.

The Constitutional Court Decision No. 105/PUU-XXII/2024 emerged within this context of concern. The petitioners filed a judicial review because the article was considered ambiguous and prone to misuse in its implementation. One of the crucial issues concerns the interpretation of the phrases “another person” and “a certain matter.” A fundamental question arises: do public officials, corporations, or state institutions fall within the meaning of “another person”? If interpreted broadly, criticism of state institutions could also be deemed an attack on honor. Here, the Constitutional Court is expected to provide a clearer interpretation to prevent legal uncertainty.

This research is motivated by ongoing debates around Article 27A of Law No. 1 of 2024, which criminalizes attacks on honor via electronic media. While previous studies, such as Afrilia Raranta (2025), have examined the application of Article 27A in court practice, there remains ambiguity and potential for misinterpretation in how the law is enforced, particularly regarding digital expression. The gap lies in the lack of analysis on the normative changes

following Constitutional Court Decision No. 105/PUU-XXII/2024, which clarified that the provision applies only to individuals and functions as a complaint-based offense.

This study seeks to fill this gap by analyzing Article 27A post-MK decision from a human rights perspective, focusing on the balance between protecting personal reputation and safeguarding freedom of expression. Unlike previous research that primarily addresses practical enforcement, this research highlights the normative and rights-based implications of the revised provision (Afrilia Raranta, 2025).

Based on the foregoing, analyzing the application of Article 27A of Law No. 1 of 2024 is crucial to understanding how the boundaries of freedom of expression are implemented in practice, particularly following Constitutional Court Decision No. 105/PUU-XXII/2024. A deeper understanding is necessary to ensure that the provision is not misused to restrict criticism and that its enforcement remains consistent with the principles of the rule of law and the protection of human rights.

2. Research Methods

This study employs a normative legal research method using a juridical-normative approach combined with a qualitative descriptive method. The approach applied is the statute approach, which involves examining relevant legislation and regulations, particularly Law No. 1 of 2024 on the Second Amendment to Law No. 11 of 2008 concerning Electronic Information and Transactions (EIT Law) and Constitutional Court Decision Number 105/PUU-XXII/2024. Data collection is conducted through library research, while data analysis is carried out qualitatively to identify, describe, and interpret legal norms, principles, and theories related to the research problem.

3. Results and Discussion

3.1. Regulation of Criminal Attack on Honor under Article 27A Post Constitutional Court Decision

Before the issuance of Constitutional Court Decision No. 105/PUU-XXII/2024, Article 27A of the 2024 Electronic Information and Transactions Law (ITE Law) contained wording that was highly biased and open to various subjective interpretations. In the second amendment through Law No. 1 of 2024, the provision was refined and separated into Article 27A, which states: "Any person who intentionally commits an attack on the honor or reputation of another person by attributing a matter with the intention that such matter becomes known to the public in the form of electronic information and/or electronic documents carried out through an electronic system." (Constitutional Court of the Republic of Indonesia, 2024)

Article 27A explicitly formulates the elements of the criminal offence of an attack on honor or reputation, namely: (i) any person; (ii) intentionally; (iii) committing an attack on the honor or reputation of another person; by attributing a matter; (iv) with the intention that the matter becomes publicly known in the form of electronic information and/or electronic documents through an electronic system. (Constitutional Court of the Republic of Indonesia, 2024: 445)

This formulation clarifies that the term “insult” is no longer used and is replaced with the phrase “attack on the honor or reputation of another person,” thereby narrowing the scope of interpretation. However, the presence of two phrases in Article 27A—“other person” and “a matter”—gives rise to new issues in practice. These phrases are considered overly general and lacking clear boundaries, thereby creating potential for misuse to target criticism or expression in digital spaces. As a result, various groups, including academics and freedom-of-expression advocates, argue that the amendment has not fully addressed the root causes of the misuse of defamation provisions in the digital sphere.

The issue was subsequently reviewed by the Constitutional Court in Case No. 105/PUU-XXII/2024. The petitioner argued that the phrase “*other person*” should be interpreted in line with Article 433(1) of the 2023 Criminal Code, which restricts the victims of defamation to natural persons rather than corporations, government bodies, or public officials. The petitioner further contended that the phrase “*a matter*” is overly vague and susceptible to expansive interpretation, potentially blurring the distinction between opinion, criticism, and an allegation concerning a specific factual act. In its consideration, the Constitutional Court observed that the phrase “*other person*” indeed carries the risk of legal uncertainty if not strictly circumscribed. Without clarification, it could be interpreted broadly to include institutions or identifiable groups, even though Article 433(1) of the 2023 Criminal Code expressly limits defamation victims to natural persons and excludes government bodies or groups.

The Court also emphasized that because Article 27A constitutes a complaint-based offence (*delik aduan*), only individuals who personally feel that their honor or reputation has been attacked may file a complaint—not legal entities or institutions represented by another person. Accordingly, legal persons, institutions, and government bodies cannot act as complainants because they do not meet the statutory requirement of being victims under this criminal offence. This exclusion of non-individual parties is intended to prevent Article 27A from being weaponized to suppress criticism of public institutions. Nevertheless, the Court noted that institutions or corporations alleging reputational harm may pursue civil remedies, thereby maintaining a balance between reputation protection and freedom of expression. For these reasons, the Court declared the phrase conditionally unconstitutional unless interpreted to mean “excluding government institutions, groups with specific or identifiable characteristics, institutions, corporations, professions, or official positions.”

Meanwhile, with respect to the phrase “*a matter*”, the Constitutional Court held that the element must bear a direct connection to a specific factual act alleged against an individual. The element of “*alleging a matter*” constitutes the core of the offence of defamation as regulated under Article 310(1) of the Criminal Code and Article 433(1) of the 2023 Criminal Code. However, unlike the Criminal Code, which explicitly refers to “a specific act,” Article 27A employs the more general phrase “*a matter*”. This lack of specificity risks enabling an overly broad interpretation and blurring the distinction between the criminal offence of defamation and the offence of simple insult, thereby threatening legal certainty and safeguards for freedom of expression.

In criminal law, the principle of *nullum crimen sine lege certa* requires that statutory criminal provisions be drafted with clarity and precision so as to prevent arbitrary law enforcement. If the phrase “*a matter*” is left undefined, it may generate legal uncertainty by conflating two offences with distinct legal characteristics. To prevent such overreach, the Court issued a conditional interpretation, holding that the phrase must be understood as “a specific act that attacks the honor or reputation of an individual.” This interpretation is intended to maintain a balance between protecting individual reputation and ensuring respect for freedom of expression within the public sphere.

Table 1. Number of Reported Individuals under Article 27A Post–Constitutional Court decision period (starting from Q2 2025)

Year	Quarter I	Quarter II	Quarter III
2025	9	9	7

Source: Southeast Asia Freedom of Expression Network, 2025

Based on the data in Table 1, the number of reports submitted under Article 27A of Law No. 1 of 2024 in the first and second quarters of 2025 reached nine cases, the highest figure recorded during this period. This increase occurred shortly after the Constitutional Court issued Decision No. 105/PUU-XXII/2024 in April 2025, marking the beginning of the second quarter. Although the decision affirmed the constitutionality of Article 27A and clarified its normative boundaries, the high number of reports indicates that law enforcement practices and public perceptions of this provision have not yet fully adjusted to the revised legal framework.

The application of Article 27A in judicial practice reveals an instructive dynamic between efforts to protect an individual’s honor and the potential use of this provision as a tool to restrict freedom of expression. In District Court Decision No. 10/Pid.Sus/2025/PN Sanana, for example, the panel of judges imposed criminal sanctions on Nursina Galela, who was found to have unlawfully attacked another person’s honor through social media. This decision demonstrates that Article 27A can be applied without resulting in the criminalization of legitimate expression, as the defendant’s conduct clearly satisfied the elements of intentionally attacking another person’s honor in a personal context, rather than criticizing a public official.

Nevertheless, it cannot be denied that the potential for misdirected or disproportionate criminalization remains open, particularly when reports are filed by actors who hold positions of power in the public sphere. The case involving the creator of a meme about Bahlil Lahadalia,

for instance, illustrates how reports made under Article 27A may raise concerns regarding the misuse of a complaint-based offence. According to *Tempo* (2025), the report in that case was filed by a political party's youth wing—the Angkatan Muda Partai Golkar (AMPG)—rather than by Bahlil himself. This prompted criticism from institutions such as the Institute for Criminal Justice Reform (ICJR) (2025), which argued that such a report was improper because Article 27A constitutes an absolute complaint offence, meaning that only the individual who directly suffers the alleged harm has standing to report. This situation shows that, despite the normative clarification introduced through the revised ITE Law, its practical implementation still leaves room for the disproportionate criminalization of expression, especially when the protected subject is a public official.

To further enrich this analysis, it is essential to examine the characteristics of the parties who most frequently rely on Article 27A as the basis for filing reports. The following data provide an overview of the profiles of complainants in several cases, revealing a tendency for this provision to be used more frequently by public figures—such as politicians, state officials, and prominent individuals—than by the general public.

Table 1. Background of Complainants in Digital Expression

Title level	Quarter I	Quarter II	Total
Police	1	11	12
Politican	6	4	10
Public Officials	5	3	8
Public Figure	2	4	6
Citizen	1	2	3

Source: Southeast Asia Freedom of Expression Network, 2025

Reporting data under the Electronic Information and Transactions Law (UU ITE)—including Article 27A—provides a general overview of usage patterns and potential misuse during the same period. Based on the available data, the police were recorded as the institution submitting the largest number of reports concerning alleged violations of freedom of

expression in digital spaces during the third and fourth quarters of 2025, with a total of 11 reports. This finding demonstrates that the practice of filing reports under the UU ITE is not only carried out by individuals or private parties but also involves state institutions, indicating a tendency toward disproportionate use of the law's provisions compared to their original legislative purpose.

Meanwhile, the number of reports submitted by individuals, organizations, or civil society institutions was significantly lower. This condition suggests that the enforcement of the UU ITE—including Article 27A—remains predominantly top-down, whereby law enforcement authorities are more proactive in initiating legal processes than the parties who are directly affected.

Although the Constitutional Court has provided a conditional interpretation of the phrase “a matter,” the formulation of Article 27A must still be assessed through the lens of the legality principle. This is crucial because, in criminal law, the clarity of a legal norm is not determined solely by judicial interpretation but also by its adherence to the essential elements of the legality principle. Accordingly, any analysis of this provision must consider the extent to which its wording aligns with the requirement of legal certainty. As Moeljatno explains, the legality principle demands that criminal provisions be formulated clearly and precisely to avoid generating legal uncertainty or potentially arbitrary law enforcement (Moeljatno, 2008).

The Constitutional Court, through Decision No. 105/PUU-XXII/2024, affirmed the importance of reforming criminal law norms to better uphold the principle of *lex certa* (legal certainty) while preventing the misuse of state authority in restricting citizens' constitutional rights. The Court held that the phrase “a matter” in Article 27A of the ITE Law previously lacked normative clarity and was prone to multiple interpretations due to its overly broad scope—it could refer to an event, a condition, or even a discussion topic—thereby blurring the line between defamation and legitimate criticism. To address this, the Court narrowed the interpretation of the phrase to “an act that degrades a person's honor or reputation,” making the formulation of the offense more specific, measurable, and consistent with the *lex certa* principle in criminal law.

Meanwhile, the requirement of *lex praevia* has been relatively fulfilled, as Article 27A applies prospectively following its enactment in Law No. 1 of 2024 and does not operate retroactively on conduct occurring before its enactment. However, practical challenges remain, particularly in transitional cases from the previous version of the ITE Law to the amended one. When prosecution concerns conduct committed before the amendment, the principle of *lex mitior* (the application of the more lenient law) must be applied in accordance with Article 1 paragraph (2) of the Criminal Code. Thus, temporal aspects of enforcement must be carefully considered to ensure adequate protection of constitutional rights.

Overall, Article 27A of Law No. 1 of 2024, following Constitutional Court Decision No. 105/PUU-XXII/2024, reflects the Court's effort to clarify the boundaries of reputational harm offenses to better align them with *lex certa*, particularly through the refinement of the phrase “a matter” to “an act that degrades a person's honor or reputation.” This reform strengthens

the specificity of the norm and reduces the risk of arbitrary interpretation by law enforcement authorities. However, this ideal has not been fully realized in practice, as inconsistencies in the application of *lex mitior* persist—illustrated, for instance, by District Court Decision No. 589/Pid.Sus/2024/PN Jkt.Pst involving Septia Dwi Pertiwi, where authorities continued to apply the older, harsher provision despite the existence of a more lenient new regulation. This demonstrates that while the normative dimension of *lex certa* has been enhanced, its practical implementation remains vulnerable to discretionary interpretation, undermining the objective of ensuring legal certainty and safeguarding freedom of expression.

Accordingly, the post-Constitutional Court formulation of Article 27A should not be assessed solely through the lens of normative clarity and the legality principle but must also be situated within the broader framework of proportionality in criminalization. Every criminal norm reflects the state's moral and social judgment about which behaviors merit penal sanction. At this point, criminological analysis becomes central—not merely to assess the provision's effectiveness but also to ensure that criminal punishment is applied proportionately and not excessively to social behavior.

In the broader context of criminal lawmaking, criminological inquiry is essential in determining whether a particular act should rightfully be classified as a criminal offense. At the very least, several considerations must guide this process:

1. The conduct must be genuinely “harmful” or socially undesirable, causing concrete harm to legally protected interests—whether individual, societal, or state interests.
2. The readiness and capacity of law enforcement institutions must be considered, both in terms of professional competency and available resources, to prevent the law from becoming a counterproductive burden.
3. A careful assessment of the cost–benefit dimension is required, as formulating and enforcing criminal law without adequate planning or resources may ultimately “harm” society through inefficient or disproportionate law enforcement (Prasetyo, 2017).

These three considerations can only be evaluated through empirical research and robust criminological analysis. Without a comprehensive understanding of the social context, institutional readiness, and economic consequences, criminal norms risk becoming *dead letter laws*—provisions that exist only on paper, ineffective in practice, and potentially burdensome to the very society they intend to protect (Prasetyo, 2017).

For this reason, in Decision No. 105/PUU-XXII/2024, the Constitutional Court emphasized the necessity of legal certainty to prevent Article 27A from producing ambiguity through overly expansive interpretation. Without clear boundaries, various forms of insult previously categorized separately could be subsumed under defamation through a loose interpretative

framework. This would risk turning the provision into a “catch-all” or “rubber” article (*pasal karet*) capable of absorbing a wide range of expressions, despite each having distinct dimensions, contexts, and legal implications. Accordingly, to uphold legal certainty as mandated by Article 28D paragraph (1) of the 1945 Constitution, the Court underscored the importance of limiting the meaning within Article 27A and Article 45 paragraph (4) of Law No. 1 of 2024.

3.2 Freedom of Expression Limits under Article 27A post Constitutional Court Decision

Freedom of expression constitutes one of the fundamental pillars of a healthy democracy, as it provides the space in which criticism, innovation, and public participation can flourish. The intrinsic relationship between democracy and freedom of expression forms the basis of an equally significant argument: that citizens must be free to exercise this right, including the freedom to receive information influencing their choices in collective decision-making processes, particularly during elections. There is no democracy without freedom of expression, for this liberty is both a prerequisite and a benchmark for any democratic system. At the same time, freedom of expression is valued and can only operate effectively within a democratic order (Sadurski, 1999).

As a state that adheres to democratic principles, the application of *trias politica*—the separation of executive, legislative, and judicial powers as articulated by Montesquieu—demands the existence of freedom of expression to enable democratic governance to function and evolve. Yet Indonesia has experienced a regression in the guarantee of this freedom. According to the World Justice Project’s 2024–2025 report, Indonesia’s score on the “Fundamental Rights” index declined from 0.49 to 0.47, with the specific indicator “freedom of opinion and expression is effectively guaranteed” also dropping from 0.65 to 0.59. This decline signals a weakening of effective protections for independent media, civil society, and individuals seeking to express their views without fear of retaliation (World Justice Project, 2024).

John Stuart Mill, in his seminal work *On Liberty*, articulates one of the most influential defenses of liberty through an integrated theory that combines both individual and social values. Mill grounds his argument in the supremacy of the individual over oneself—over one’s own body and mind—and the inherent right to determine one’s form and manner of life in accordance with personal convictions. On the basis of this strong conception of individual freedom, interference by the state or society in the exercise of personal autonomy is deemed unacceptable. Accordingly, Mill advances a single exception to individual liberty, which he terms the *harm principle*. Under this principle, individual freedom (including other associated rights) loses its immunity from restriction only when its exercise causes harm to others. Even then, the scope of permissible intervention by the state or society remains narrow: limitations on liberty may be justified solely when the exercise of an individual’s freedom poses a potential “harm to others,” thereby rendering legal sanctions or social pressure legitimate. (Gray & Smith, 2012).

In this context, Mill's *harm principle* becomes highly relevant in delineating the boundary between expressions that must be protected and those that may legitimately be restricted. Hate speech—which produces tangible social and psychological harm to victims and threatens societal cohesion—may be understood as a form of expression that has crossed the threshold of harm itself. The difficulty, however, does not lie merely in identifying when an expression causes “harm,” but in determining how the state interprets and enforces that boundary without sliding into practices of suppression that ultimately undermine the very spirit of free expression. It is at this point that the paradox of liberty emerges: efforts to shield society from the dangers of hate speech may, if exercised without due care, generate new risks to freedom of expression itself (Ghanem, 2024, pp. 58–59).

Amid this tension between liberty and protection, the digital sphere functions not merely as a new medium of communication but as a battleground of ideas and emotions. Social media has transformed into a social laboratory in which Mill's *harm principle* is tested on a massive scale—where a single post can ignite solidarity or hostility in a matter of seconds. The paradox that was once largely theoretical now manifests in concrete form: anyone can become both the subject and object of harm, the perpetrator and the victim, within an ecosystem of boundless expression. This phenomenon renders contemporary debates on hate speech in the digital age no longer solely a matter of communication ethics, but a question of how freedom itself can survive amid the algorithmic flood and social tensions it helps generate.

The ability to disseminate information more quickly and easily through social media has heightened the prevalence of hate speech, thereby presenting significant challenges to the safety of both individuals and society. Article 20 of the International Covenant on Civil and Political Rights (ICCPR) states that “any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence shall be prohibited by law.” The UN Special Rapporteur on Freedom of Expression emphasizes that Article 20 should be applied broadly to cover a wide range of groups targeted by hate speech, including those based on religion, ethnicity, language, nationality, race, color, descent (including caste), gender, refugee or asylum-seeker status, migrant status, involvement in human rights protection, sexual orientation, and other identity factors.

The right to freedom of expression and the prohibition of incitement to hatred are mutually reinforcing, in the sense that openness in public debate, as well as interreligious and intercultural dialogue, can serve as effective “antidotes” to hatred and intolerance. In practice, however, certain forms of expression may trigger hatred and place individuals or vulnerable groups at real risk. Therefore, although Articles 19 and 20 of the ICCPR are “complementary and aligned,” the primary challenge for social media platforms lies in balancing the need to address inciting hate speech—which is unlawful—with the obligation to protect freedom of expression, which encompasses all forms of lawful expression, including non-inciting hate speech. Achieving this balance requires a judicial approach capable of harmonizing these competing rights based on the facts and circumstances of each individual case.

When a state restricts freedom of expression under Article 20 of the ICCPR, the legal basis for such restrictions must still refer to Article 19(3). This provision establishes that limitations may only be imposed if they are prescribed by law and aimed at protecting the rights or reputations of others, national security, public order, public health, or public morals. Article 19(3) cannot be considered in isolation from the General Comments, as the authoritative interpretation of ICCPR norms—including the scope, limitations, and standards for application—is provided through General Comments issued by the UN Human Rights Committee.

General Comment No. 34 offers a more concrete elaboration on how restrictions on freedom of expression should be applied. This instrument emphasizes that any restriction must satisfy the three-part test, which requires that limitations: (1) are prescribed by law; (2) are narrowly tailored to serve a legitimate purpose; and (3) are necessary in a democratic society to protect that purpose. Accordingly, restrictions on this right are not merely exceptions but must adhere to strict grounds and conditions to avoid infringing the fundamental right to freedom of expression (Timothewos, 2010).

The principle of legality asserts that restrictions must be established by law, rejecting any limitations that are not legally prescribed, even if there is a legitimate rationale. Without clear legal regulation, public authorities such as legislative, executive, or judicial bodies cannot lawfully limit the exercise of freedom of expression. Laws enacted to restrict this right must be clear, precise, and publicly accessible (Mendel, 2010). The Human Rights Committee, through General Comment No. 34, emphasizes that legal clarity is a mandatory requirement in the enactment of laws limiting freedom of expression, so that individuals can adjust their behavior in accordance with the law, and the law itself must be accessible to the public.

Following the Constitutional Court Decision No. 105/PUU-XXII/2024, Article 27A of Law No. 1 of 2024 now better aligns with the principle of legality, as previously ambiguous norms have been clarified. The phrase “other persons” now explicitly refers only to individual persons, with exceptions for government institutions, specific groups, institutions, corporations, professions, or offices, thereby preventing overly broad or arbitrary interpretations. Meanwhile, the replacement of the phrase “a certain matter” with “an act that diminishes the honor or good name of a person” makes the scope of prohibited conduct more specific and measurable, enabling both law enforcement authorities and the public to understand legal boundaries more clearly.

The legitimacy test requires that any restriction be lawful and serve a legitimate public interest (Yohanes, 2019). In this regard, international human rights instruments permit limitations on freedom of expression only on specific grounds (Gunatilleke, 2021). Any intervention on the right to freedom of expression must aim to protect one of the legitimate interests enumerated in the ICCPR—namely, the rights of others, national security, public health, or public morals—and any grounds beyond these are considered unlawful (UN Human Rights Committee, General Comment No. 34, Article 19, 2011, Par. 52). This also implies that restrictions must be based on a pressing social need, the justifications provided by the state must be relevant and

sufficient, and any limitation on freedom of expression must conform to international standards as outlined in Article 19(3) ICCPR (Bakircioglu, 2008).

Following the Constitutional Court decision affirming that the phrase “other persons” in Article 27A of Law No. 1 of 2024 must be interpreted restrictively—i.e., encompassing only individual persons and excluding government institutions, corporations, institutions, professions, offices, or specific groups—and the replacement of the phrase “a certain matter” with “an act that diminishes the honor or good name of a person,” the provision now better aligns with the legitimacy test of restrictions as stipulated in Article 19(3) ICCPR. These restrictions are more acceptable because their purpose is directed toward protecting individuals’ personal honor and reputation, rather than safeguarding institutions with public authority. Thus, Article 27A, in its post-Constitutional Court form, meets the recognized legitimate interests under international human rights standards—specifically, the rights of others—and prevents the misuse of defamation provisions as tools to stifle criticism of state institutions or public officials.

The principles of necessity and proportionality constitute the third branch of the three-part test used to assess the legitimacy of any restriction on the right to freedom of expression. The necessity principle emphasizes that restrictions may only be imposed if they are intended to address a pressing social need and protect a legitimate aim, such as the rights of others, national security, public order, public health, or public morals. The proportionality principle, as an integral component of necessity, adds two important criteria: first, the benefits of the restriction must outweigh the harm it causes to freedom of expression; second, the chosen restriction must represent the least intrusive measure available (UN Human Rights Committee, General Comment No. 34, 2011, Par. 22).

These principles are explicitly reflected in the reasoning of the Constitutional Court in its decision concerning Article 27A of the ITE Law following amendments through Law No. 1 of 2024. The Court emphasized that restrictions on freedom of expression through criminal provisions in Article 27A are only justified to the extent necessary to protect personal honor and must be implemented proportionally so as not to produce a chilling effect on civil liberties. In its deliberation, the Court stressed the importance of balancing the protection of individual honor with freedom of opinion in the digital space, ensuring that any limitation adheres to the principles of legality, legitimacy of purpose, and proportionality. This is operationalized through the constitutional interpretation of the phrases “other persons” and “a certain matter” in Article 27A, which are each construed narrowly—“other persons” refers solely to individual persons, whereas “a certain matter” is interpreted as “an act that diminishes the honor or good name of a person.” Thus, the Court concretely applies the principles of necessity and proportionality to ensure that restrictions on freedom of expression are genuinely required, not excessive, and aligned with the values of a democratic society.

The three-part test, emphasizing legality, legitimacy, necessity, and proportionality, serves not only as a standard for states in imposing restrictions on freedom of expression but also as a foundation for various international legal instruments and non-binding guidelines (soft law)

that delineate the boundary between protected expression and expression that may be restricted. One such guideline is the Rabat Plan of Action (2012). Although not legally binding, the Rabat Plan of Action is considered soft law in international law because it provides a set of recommendations and guidance rather than a legally enforceable treaty. The document offers direction on how to distinguish between freedom of expression and incitement to hatred, which is prohibited under international law. The Rabat Plan is frequently cited by international organizations such as the United Nations, the European Union, and the Council of Europe, and has also been adopted by technology companies like Meta in their content moderation policies. This demonstrates that, despite its non-binding nature, the Rabat Plan of Action has a significant influence on international practice regarding restrictions on freedom of expression and the handling of hate speech.

Although designed to regulate the criminalization of provocative hate speech, the Rabat Plan of Action provides a practical framework for social media platforms seeking to moderate illegal hate speech. According to the Plan, when determining whether a statement constitutes prohibited provocative hate speech, six factors should be considered: (1) the context of the expression; (2) the status and public position of the speaker; (3) the speaker's intent to spread hate speech; (4) the content and form of the expression; (5) the scope and reach of the expression; and (6) the likelihood (including urgency and speed) that the expression will trigger action against the targeted group (Geiß, 2023: 8–9).

Thus, the mere dissemination of hate speech on social media platforms is not sufficient to fall within the permissible restrictions under Article 20 of the ICCPR. What is crucial for this study is the contextual nature of the assessment. The Rabat Plan emphasizes that whether the regulation of a particular act of speech is permissible under Article 20 largely depends on the specific circumstances of each case, including “local conditions, history, and the surrounding cultural and political tensions.” This contextual approach has also been applied by the European Court of Human Rights (ECtHR) (Farah, 2025: 12).

In addition, the content and form of the expression constitute important considerations. Social media platforms must assess the extent to which the expression is provocative and direct, as well as the form, style, and nature of the arguments employed, including the balance of the arguments presented, the frequency of repetition, and whether the speech occurs publicly or in a limited, private setting. This final aspect renders social media platforms potential spaces where speech may shift from being merely offensive—which is protected under Article 19—to becoming provocative of violence and discrimination, thereby justifying restriction under Article 20. Regarding causation, it is sufficient to establish actual causality or a “reasonable probability” that the harmful outcome may occur. However, it is important to recognize that this probability must be direct. The Rabat Plan stresses that speech that is offensive or rooted in prejudice and intolerance, but does not involve a direct threat or incitement to violence or discrimination, must not be restricted (Farah, 2025: 12–13).

The approach to Article 27A of the ITE Law following the Constitutional Court ruling highlights the need for a more careful and contextual reading of the boundary between speech that is

merely offensive and speech that genuinely carries a high potential for social harm. The Constitutional Court essentially affirmed that the article remains constitutional as long as it is interpreted strictly as a complaint-based offense (*delik aduan*) and understood in accordance with the elements of insult or defamation under Articles 310 and 311 of the Criminal Code. However, an overly textual reading risks preserving the repressive nature of the article, as it fails to account for the complex context of speech in digital spaces. A more progressive analysis should go beyond the mere element of “attacking dignity” and assess whether the statement in question genuinely embodies malicious intent, causes tangible social harm, or is simply an expression within public debate protected by the right to freedom of expression. This is particularly important given that the concept of “attacking dignity” under this article is inherently subjective—only the person who feels defamed may file a complaint—thereby maintaining a high potential for abuse if not balanced with a public interest test and consideration of the context and intent of the statement (Supreme Court Decision No. 10/Pid.Sus/2025/PN, 2025:22).

Within this framework, the Rabat Plan of Action offers a relevant analytical tool that can be used to reinterpret the application of Article 27A in a more proportional manner. The six factors outlined in the Rabat Plan can serve as guidelines for law enforcement officials to avoid automatically criminalizing speech that is merely offensive or satirical. Through this approach, Article 27A can be read in a more constitutional light: not as an instrument of censorship, but as a legitimate mechanism for restricting only those expressions that directly and concretely incite hatred, discrimination, or violence. This perspective simultaneously serves as a critique of the current “one-size-fits-all” law enforcement pattern, as not all expressions that offend personal dignity automatically pose a threat to public order.

Indonesia ratified the International Covenant on Civil and Political Rights (ICCPR) through Law No. 12 of 2005, making the provisions of the Covenant binding within the national legal system. Under these provisions, human rights are divided into two categories. First, non-derogable rights, which cannot be restricted under any circumstances, such as the right to life, freedom of belief, and equality before the law. Second, human rights that may be restricted under certain carefully regulated conditions, referred to as derogable rights, such as the right to family life, the right to access sensitive information, and the right to travel abroad (Prawira, 2020:327).

In the context of human rights, restrictions on freedom of expression, as discussed through the Rabat Plan of Action and General Comment No. 34, indicate that freedom of expression is a derogable right—meaning it may be limited or suspended under certain circumstances, particularly when there is a serious threat to national life or public order. Although it is a fundamental right within democratic systems, freedom of expression is not absolute, as its exercise is subject to limitation and derogation clauses provided under the International Covenant on Civil and Political Rights (Article 19(3)) and the European Convention on Human Rights (Articles 10(2) and 15).

When imposing restrictions on human rights, certain fundamental principles must not be ignored. First, some human rights are *iures infinitae*, meaning they cannot be subjected to any restriction, such as the prohibition of torture or cruel, inhuman, and degrading treatment (Article 5 of the Universal Declaration of Human Rights; Article 7 ICCPR; Article 3 ECHR; Article 4 of the Charter of Fundamental Rights of the European Union). Second, any restriction on the exercise of human rights must be clearly prescribed by law and applied only within the bounds of a legitimate normative mandate. The clearer the legal basis for a restriction, the lower the risk of abuse of authority in its implementation.

In regional European instruments, such as the European Convention on Human Rights (ECHR), there are clear provisions regarding absolute rights. The ECHR stipulates that certain rights cannot be restricted under any circumstances, even during a state of emergency, as emphasized in Article 3, which prohibits torture and inhuman or degrading treatment, Article 4(1) concerning the prohibition of slavery, and Article 7 regarding the principle of legality (European Convention on Human Rights, 1950: 7–11). These rights are not subject to limitation or derogation, leaving member states no discretion to justify violations. The European human rights regime, through the consistent practice of the European Court of Human Rights (ECtHR), treats these absolute rights as hard limits that cannot be compromised for any reason, including national security, political stability, or public interest.

Third, restrictions on human rights—as exceptions to the principle of respect for rights and freedoms—should not be interpreted implicitly but must be grounded in the principle of *praesumptio in favorem iurium humanorum*, that is, the presumption favoring the protection of human rights. Fourth, such restrictions must not be interpreted or applied broadly; rather, they should be interpreted narrowly to ensure the protection of fundamental rights within the framework of a democratic rule of law (Bilgorajski, 2023).

The Siracusa Principles explain that any limitation on human rights must essentially meet nine key criteria to be considered legitimate and consistent with the International Covenant on Civil and Political Rights (ICCPR). These nine criteria include: (i) being prescribed by law, (ii) applied within a democratic society, (iii) aimed at maintaining public order (*ordre public*), (iv) protecting public health, (v) preserving public morals, (vi) safeguarding national security, (vii) ensuring public safety, (viii) protecting the rights and reputations of others, and (ix) restricting publication in certain judicial proceedings (Siracusa Principles, 1984).

Formally, Article 27A of the ITE Law meets the “prescribed by law” criterion because it is explicitly regulated under national legislation of general application, namely Law No. 1 of 2024 concerning the Second Amendment to the ITE Law. This provision has also undergone constitutional review by the Constitutional Court, thereby establishing its formal legitimacy as positive law that is valid and in force at the time of application. In terms of form, the article fulfills the criterion by having a national legal basis of general applicability.

From a normative perspective, Article 27A of the ITE Law post-MK decision is intended to maintain a balance between freedom of expression and the protection of human dignity. In Constitutional Court Decision No. 29/PUU-XIX/2021, the Court emphasized that this article is

not intended to silence public criticism but rather to restrict personal insults that attack an individual's honor in the digital space. Theoretically, this objective can be considered consistent with the principle of "in a democratic society" as outlined in the Siracusa Principles, since democratic societies require limited restrictions to ensure that public spaces remain civil and free from personal attacks. A democratic constitutional order cannot survive without freedom of expression, as such freedom is necessary to effectively protect individual rights (Biłgorajski, 2022).

However, in practical reality, the application of Article 27A often shows the opposite trend—it is more frequently used to suppress the expression of citizens who criticize public officials or state institutions. In many cases, reports of violations under this article originate from law enforcement authorities or individuals in positions of power, rather than from civil society members who have genuinely suffered harm. Such reporting patterns indicate that Article 27A has yet to distinguish effectively between criticism of power and attacks on personal dignity. Within a democratic context, restrictions that blur this distinction risk "disrupting the democratic functioning of society," as democracy fundamentally relies on the freedom to oversee authority through critical expression.

Furthermore, the principle of "in a democratic society" presupposes a state responsibility to demonstrate that any imposed restrictions do not undermine the functioning of democracy itself. In this regard, the burden of proof should not be limited to a normative argument that Article 27A is "necessary to protect honor," but must also be supported by empirical evaluation: does its application strengthen or weaken public trust in the law? The fact that many cases under Article 27A have resulted in the criminalization of expression indicates that the state has not fully met this burden of proof.

Textually and conceptually, Article 27A of the ITE Law post-MK decision can indeed be associated with the objective of maintaining public order, as defamation in the digital space is perceived to potentially generate social unrest, polarization, or even public disorder if left unregulated. In this context, the Constitutional Court emphasized that such restrictions are necessary to ensure that digital spaces remain venues for the healthy exchange of ideas and do not disrupt social order. Normatively, therefore, this regulation aligns with the meaning of *ordre public* as "a set of rules ensuring the proper functioning of society" (Siracusa Principles, 1984: 7).

Public order must always be interpreted in the context of the right being restricted. In this case, the restricted right is freedom of expression, which is itself a prerequisite for a well-ordered and democratic society. Therefore, restrictions under Article 27A should be directed at preventing actual social disorder—such as hate speech that threatens safety or public order—rather than merely protecting the sensibilities of specific individuals from criticism. When interpretation shifts toward protecting the personal reputation of public officials or corporations, the restriction exceeds its legitimate scope and loses the true legitimacy of *ordre public*.

Under the principle of public health, it is clear that restrictions on freedom of expression on this basis are highly limited and specific, applicable only to serious threats to public health, such as pandemics, the spread of disease, or situations that directly endanger human physical safety. In this context, applying a public health rationale to Article 27A of the ITE Law is not relevant.

Article 27A of the ITE Law regulates defamation through electronic media with the aim of protecting individual reputation, not public health. There is no causal link between defamatory speech and threats to public health, as the provision is not designed to prevent disease or health crises, as contemplated under the public health principle. While hate speech may cause stress or psychological distress, such effects do not meet the public health criteria under the Siracusa Principles, since public health-based restrictions must be specifically aimed at preventing disease or injury and addressing broader public health concerns, rather than merely safeguarding individual emotional well-being. In this context, the psychological impact of defamation is more appropriately addressed under the protection of reputation and dignity—covered by the eighth criterion, “rights and reputation of others”—rather than under public health.

Furthermore, restrictions on human rights based on public morality involve a concept that is inherently ambiguous and varies across time and place, making it impossible for the European Convention to establish a single uniform criterion. This has led the European Court of Human Rights (ECtHR) to adopt the doctrine of the margin of appreciation, granting states discretion to interpret morality in accordance with their social and cultural context. Nevertheless, restrictions on human rights on the grounds of public morality must be genuinely essential to protect the fundamental values of society, rather than merely reflecting the moral views of the majority. Such discretion remains limited and must not violate the principle of non-discrimination as stipulated in the ICCPR (Zuhir et al., 2019).

In the context of Article 27A of the ITE Law following the Constitutional Court ruling, restrictions based on public morals can be considered largely irrelevant and difficult to justify. This provision primarily focuses on protecting the honor and reputation of individuals from attacks in the digital sphere, rather than enforcing public morality in the sense of maintaining social decency, ethical standards, or the religious values of society. Therefore, the application of this article has no direct connection to the preservation of public morals as outlined in the Siracusa Principles.

Nonetheless, in practice, public morality is often implicitly invoked by law enforcement as a social justification behind the reporting or enforcement of Article 27A—for instance, when expressions are deemed inappropriate, offensive toward public figures, or “impolite” in the digital space. However, restrictions based on notions of “impoliteness” or “violating digital etiquette” cannot be justified under the public morals criterion according to international standards, as this criterion requires evidence that the restriction is essential to maintain respect for fundamental community values, rather than merely reflecting social or political sensitivities.

According to the national security criterion in the Siracusa Principles, restrictions on human rights can only be justified if they aim to protect the existence of the state, its territorial integrity, or its political independence from threats of violence or the use of force (Siracusa Principles, 1984: 8). In other words, national security cannot be invoked to justify restrictions that are local, isolated, vague, or arbitrary, and any such restriction must be accompanied by legal safeguards to prevent abuse.

In the context of Article 27A of the ITE Law following the Constitutional Court ruling, the restriction is designed to protect the reputation of individuals in the digital sphere and is not directly related to national defense, territorial integrity, or political sovereignty. This provision does not address threats to national security or acts that could undermine the existence of the state. In other words, a national security justification is irrelevant to Article 27A, as the purpose of the restriction is social and personal rather than strategic or political in the context of state defense.

Public safety clarifies that restrictions on human rights can only be justified if they aim to protect the physical safety of individuals, life, or property from real and imminent harm. Any restriction applied must be clear, measurable, and accompanied by legal safeguards to prevent abuse. Restrictions that are vague, arbitrary, or excessive cannot be justified under this principle. In the context of Article 27A of the ITE Law following the Constitutional Court's ruling, the primary objective of the restriction is to protect individual reputation in the digital sphere, namely to prevent defamation through electronic media. While defamation may affect the honor and psychological well-being of the victim, its impact does not directly pose a threat to physical safety, life, or property. Therefore, restrictions under Article 27A do not meet the public safety parameter as outlined in the Siracusa Principles, as there is no direct connection between the act and the protection of physical integrity or public property.

Meanwhile, the criterion of "rights and reputations of others" allows for human rights restrictions if necessary to protect the fundamental rights of others, including their reputations, provided that such restrictions are not used as a tool to shield the state or public officials from criticism and remain proportional to the rights being safeguarded. This principle emphasizes that the protection of individual reputation must be balanced with freedom of expression and other public rights, ensuring that it cannot serve as a pretext to suppress discussion or critique in a democratic society.

In the context of Article 27A post-Constitutional Court interpretation, the Court clarified who may be the subject of protection—that is, individuals whose reputations genuinely warrant safeguarding, while public officials, public figures, corporations, government institutions, and certain groups are excluded. This clearly aligns with the Siracusa Principles, which require that restrictions on human rights to protect the reputation of others must be specific and proportional, and not employed to curtail public freedom in expressing criticism.

Thus, following the Constitutional Court's decision, Article 27A aligns more closely with the principle of the "rights and reputations of others," as the restrictions imposed aim to protect the reputation of individuals who legitimately hold such rights, without arbitrarily expanding

their scope, while still respecting the public's right to comment on public officials or matters of public concern. This reflects a balance between individual rights and freedom of expression, which underpins democratic societies, as emphasized in the Siracusa Principles.

Prior to Constitutional Court Decision No. 105/PUU-XXII/2024, Article 27A of the ITE Law was among the most frequently criticized provisions for excessively restricting freedom of expression. The ambiguous wording of the article, particularly the phrases "other persons" and "any matter," created broad interpretive space and potential for misuse to criminalize critical expression aimed at public officials or state institutions. In practice, this article was often applied to prosecute individuals expressing opinions, criticism, or grievances through social media—even though such forms of expression are essential components of a functioning democracy. Substantively, therefore, Article 27A prior to the Constitutional Court's ruling can be categorized as a disproportionate restriction on freedom of expression, as it did not meet the standards of necessity and proportionality outlined in Article 19(3) of the ICCPR and the Siracusa Principles.

Through its conditional interpretation, the Constitutional Court acknowledged that Article 27A does impose restrictions on freedom of expression, yet deemed such restrictions constitutionally justifiable as long as they are applied strictly and proportionally. By clarifying that "other persons" refers solely to individual persons and interpreting "a matter" as "an act that degrades a person's honor or reputation", the Court sought to ensure that the provision is used exclusively to protect personal dignity rather than as a tool to suppress public criticism. This conditional interpretation demonstrates the Court's effort to balance the right to personal honor with the right to freedom of expression. Consequently, Article 27A, in its post-decision form, can be regarded as a constitutionally valid restriction, provided its implementation adheres to the principles of legality, legitimacy, necessity, and proportionality, which constitute the core pillars of a democratic rule-of-law state.

4. Conclusion

Article 27A of Law No. 1 of 2024, following Constitutional Court Decision No. 105/PUU-XXII/2024, demonstrates normative progress toward legal certainty; however, it also reveals a new paradox in Indonesia's digital democracy: clarity of norms does not automatically guarantee freedom of expression. Restrictions designed to protect individual dignity are still frequently used as instruments to legitimize the silencing of critical public expression. Consequently, the primary issue is no longer about *what* is prohibited by law, but rather *who* interprets it and *for what purpose* it is enforced. Article 27A now reflects that the supremacy of law is measured not merely by textual certainty, but by the state's commitment to enforcing criminalization rationally and proportionally, while upholding freedom of expression as a foundational principle of a democratic rule-of-law state.

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