

Defamation on Social Media: A Review of Article 1365 of the Indonesian Civil Code

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Abstract. *The development of social media as a digital public space brings both benefits and legal risks, particularly concerning defamation. Under Indonesian civil law, such acts can be classified as unlawful acts based on Article 1365 of the Indonesian Civil Code, which obliges the perpetrator to compensate for damages. This study aims to analyze legal policies regarding defamation on social media and the implementation of Article 1365 of the Civil Code in practice. The method used is normative juridical, examining legislation, legal doctrines, and judicial practice. The results indicate that Article 1365 plays a crucial role in providing legal protection, both for material and immaterial losses. However, its application faces challenges, including evidence collection, identification of anonymous perpetrators, and the limited capacity of law enforcement authorities. Strengthening digital literacy and supporting cyber-legal infrastructure are necessary to ensure the effectiveness of legal protection for victims.*

Keywords: *Civil Liability; Digital Literacy; Defamation; Social Media; Unlawful Acts.*

1. Introduction

The rapid development of information and communication technology in today's digital era has brought significant changes to patterns of social interaction. Social media, as one of the products of this technological advancement, has become a new public space that is extensive, open, and freely accessible to anyone without geographical or temporal limitations. This condition creates a new space for society to interact, express opinions, and communicate in various forms, ranging from text, images, to videos. However, this convenience also carries significant risks, particularly regarding the dissemination of information that may harm others, including acts of defamation (Nasrullah, 2012).

Defamation in English is commonly referred to as defamation, slander, calumny, or vilification (Rochman, 2021). According to Oemar Seno Adji, defamation is an act that attacks the honor or good name of a person (aanranding of goede naam) (Adji, 1990). One form of defamation is written defamation, which involves accusing someone of something in written form.

As society evolves, human activities have become increasingly diverse, largely due to advances in information technology. In the past, human activities were dominated by physical means. However, in the era of information technology, activities are now largely dominated by technology-based tools. This shift has inevitably impacted law enforcement, particularly in criminal law, as cybercrimes such as defamation have become increasingly prevalent (Ramadhan, 2015).

In determining the applicable legal provisions for defamation on social media, both content and context are two crucial elements that cannot be separated in the process of evidence evaluation or in establishing the relevant legal basis. Content refers to the substance or material of the information disseminated via social media, whether in the form of text, images, videos, or a combination of these. However, content alone cannot automatically be categorized as defamation without considering the context in which it was created, disseminated, and received by the public.

Essentially, the assessment of whether someone's good name has been harmed or tarnished is highly personal and subjective. Only the victim can directly experience and evaluate the extent to which the circulating information has damaged their honor or reputation in the eyes of the public. Therefore, in every alleged case of defamation on social media, the victim's perception serves as the starting point for determining whether there has been a violation of the right to a good name. This aligns with the constitutional mandate, particularly Article 28G paragraph (1) of the 1945 Constitution of Indonesia, which guarantees protection of the dignity and honor of every citizen as part of human rights. Legal protection in cases of defamation is thus aimed at victims who have demonstrably suffered harm, rather than third parties who have no direct interest in the matter (Agustina et al., 2023).

Meanwhile, context plays a crucial role in providing an objective framework for assessing whether content meets the elements of defamation. Understanding context involves several factors, such as the mood, motives of the perpetrator, purpose of disseminating the information, social circumstances at the time the content is shared, and the impact resulting from the dissemination of that content. In this regard, context becomes the determinant in distinguishing whether a statement is criticism, satire, personal opinion, or deliberately intended to attack someone's honor (Oktavira, 2025).

Defamation has long been regulated under the Indonesian Criminal Code through Articles 310 and 311, as well as in Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE), which has been amended by Law Number 1 of 2024. However, criminal law does not always provide a comprehensive solution for victims, particularly regarding the restoration of reputation and compensation for experienced losses. Therefore, civil law, particularly Article 1365 of the Indonesian Civil Code on unlawful acts, serves as an important alternative in providing legal protection for victims of social media defamation (Rumani, 2015).

Article 1365 of the Indonesian Civil Code states: “Any act that violates the law and causes harm to another obliges the person at fault to compensate for such harm.” Within this framework, victims have the right to file a civil lawsuit to claim both material and immaterial compensation, as well as to restore their tarnished reputation. The use of civil remedies is especially relevant considering that defamation on social media can cause psychological harm, damage careers, social relationships, and even compromise personal security.

Article 1372 of the Civil Code grants individuals who feel their good name has been defamed the right to legally demand the restoration of their reputation. This becomes particularly important in the digital era, where harmful information can spread rapidly and widely, beyond control. The psychological, social, and economic impacts experienced by victims often cannot be fully remedied through criminal law alone, making the civil approach essential for achieving more comprehensive justice.

According to Maria Farida Indrati, the law must protect individual rights from the abuse of freedom of expression that can harm others (Indrati, 2007). In the context of social media, legal protection should not only be repressive in the form of criminal sanctions but also provide avenues for restoring individual rights through compensation for both material and immaterial losses. Such protection is necessary to maintain a balance between freedom of expression and the right to honor and a good name (Tazmi, 2025).

In cases of social media defamation, unlawful acts can take the form of disseminating information, content, or statements that attack a person’s honor and damage their reputation, whether through text, images, videos, or comments. Perpetrator liability can be established through either intentional actions or negligence, such as sharing content without verifying its truth or with malicious intent to tarnish the victim’s name. If the act results in actual harm to the victim—such as psychological distress, damaged social relationships, lost job opportunities, or economic loss—and it can be proven that these harms are a direct consequence of the perpetrator’s actions, then the perpetrator can be held legally accountable through a civil lawsuit. Victims may seek material compensation for financial losses, immaterial compensation for non-economic damages such as emotional suffering and reputational harm, and even request rehabilitative court orders, such as declaring that the perpetrator’s accusations are false and unlawful, to restore the victim’s honor and public reputation (Dikdik & Gultom, 2015).

Various cases of defamation in Indonesia demonstrate that perpetrators are not only anonymous accounts but also social media users with identifiable identities. For example, a TikTok user identified as “FR” knowingly uploaded a video and narrative accusing a specific individual of fraud without valid legal evidence. The content went viral and spread across other platforms such as Facebook and Instagram, causing serious impacts on the victim, ranging from mental distress and damaged social relationships to diminished public image. The actions of “FR” clearly meet the elements of an unlawful act as described in Article 1365 of the Civil Code, including the unlawful act itself, fault of the perpetrator, actual harm, and a causal link between the act and the harm. Furthermore, Article 1372 provides a legal basis for victims to demand restoration of their good name through civil procedures, while Article 1373 allows victims to request that the court declare the perpetrator’s actions as defamatory. Therefore, civil law serves not only as a means of compensation but also as a formal mechanism to restore the dignity and honor of victims harmed by social media misuse (Ali, 2010).

Thus, this study presents novelty in two main aspects. First, it emphasizes the importance of integrating content and context analysis in assessing defamation on social media, so that civil law enforcement considers not only the information itself but also the situation, motive, and impact of its dissemination. Second, this study highlights the relevance of Articles 1365 and 1372 of the Indonesian Civil Code as adaptive legal instruments in the digital era, particularly for restoring reputation and claiming non-material damages, which were previously more focused on criminal law. This approach offers a new perspective for protecting individual rights in the digital space, while strengthening the balance between freedom of expression and the protection of personal dignity.

These provisions highlight the importance of Article 1365 of the Civil Code in the context of social media defamation. Defamation can be categorized as an unlawful act if it meets the elements set out in Article 1365, namely: an unlawful act, fault or negligence of the perpetrator, harm suffered by the victim, and a causal relationship between the act and the harm. An unlawful act occurs when a person intentionally or negligently disseminates information containing insults or false accusations that attack someone’s honor. If the dissemination causes material harm, such as loss of employment or business, or immaterial harm, such as damage to reputation and dignity in the eyes of the public, the victim has the right to file a civil lawsuit under Article 1365 to seek compensation.

2. Research Methods

This study employs a normative juridical approach, which relies on the analysis of written legal norms through legislation, legal doctrines, and court decisions (Ali Z., 2019). The research focuses on civil law policies regarding defamation on social media based on Article 1365 of the Indonesian Civil Code, as well as its relevance in providing protection for an individual’s honor and reputation in the digital space.

The legal materials used in this study consist of primary and secondary sources. Primary legal materials include the Indonesian Civil Code and the Law on Electronic Information and

Transactions. Secondary legal materials encompass legal literature, scholarly journals, articles, and expert opinions related to civil law and defamation (Sugiyono, 2016).

Data collection was conducted through library research by reviewing relevant legislation, as well as various literature and scientific documents that support the analysis. This study focuses on legal provisions regulating unlawful acts and liability for immaterial damages resulting from defamation on social media.

The obtained data were analyzed using descriptive qualitative methods by systematically organizing and interpreting the legal materials. This analysis aims to provide a comprehensive overview of the effectiveness of Article 1365 of the Indonesian Civil Code as a basis for claims for compensation, as well as to assess the extent to which civil law policies are capable of providing fair protection and restitution for victims of defamation in the digital era.

3. Results and Discussion

3.1. Legal Policy on Defamation on Social Media under the Civil Code

Civil law serves as an instrument regulating legal relationships between legal subjects, particularly those related to the protection of civil rights (Dewi, 2022). In this context, honor and reputation are regarded as part of personal rights inherent to every individual and must be protected by law. Such protection is not only moral in nature but also carries legal consequences in the event of a violation (Cevitra & Djaputra, 2023).

The concept of unlawful acts is formulated in Article 1365 of the Indonesian Civil Code. This norm stipulates that any unlawful act causing harm obliges the perpetrator to compensate for the damage. Modern doctrine expands the meaning of “unlawful” beyond mere statutory violations to include infringements of another person’s subjective rights, legal obligations, morality, and societal standards of propriety (Sunarto, Ompusunggu, & Adnan, 2025).

Systematically, the elements of an unlawful act consist of: the act itself, the unlawful nature, fault, harm, and a causal link between the act and the harm. These five elements serve as the primary parameters for determining the existence of civil liability. Emphasis on the elements of fault and causality is crucial, as both determine the legitimacy of a claim for compensation (Aldyan, Rustamaji, & Septiningsih, 2022).

Conceptually, defamation is understood as an act that attacks a person’s honor or reputation through false accusations or statements. In contemporary developments, defamation is no longer limited to print or verbal media but has rapidly expanded through social media, which is characterized by speed, wide reach, and high potential for virality. This significantly increases the risk of harm to victims, both socially and psychologically (Mertokusumo, 2019).

The civil law regime, in conjunction with the development of cyber law in Indonesia, remains highly relevant. Although defamation is also regulated under the Law on Electronic Information and Transactions, the civil law approach retains strategic importance due to its focus on the restoration of victims’ rights. Civil procedures allow claims for both material and

immaterial compensation, which are often not fully accommodated within criminal proceedings.

In terms of liability, the application of the fault-based liability theory serves as the primary foundation for civil claims. Perpetrators who intentionally or negligently disseminate information that harms others can be held accountable as long as actual harm can be proven. Immaterial losses, such as psychological distress, embarrassment, and reputational damage, are recognized as significant in civil court practice (Asis, 2024).

This conceptual framework integrates the notion of unlawful acts with the phenomenon of defamation in the digital space. It emphasizes that Article 1365 of the Indonesian Civil Code remains relevant and adaptive in addressing the challenges of the digital era, provided its normative interpretation is progressively developed. Thus, the theoretical foundation outlined in Chapter II serves as a strong basis for comprehensively and contextually analyzing civil liability for defamation on social media.

3.2. Implementation of Article 1365 of the Indonesian Civil Code in Handling Defamation on Social Media

The application of Article 1365 of the Indonesian Civil Code to cases of defamation on social media represents a form of civil law adaptation to the dynamics of information technology development. This chapter emphasizes the juridical construction of civil liability and its relevance in addressing increasingly complex digital challenges. In principle, Article 1365 of the Civil Code stipulates that any unlawful act causing harm to another person obliges the perpetrator to provide compensation. In the context of social media, this norm serves as a legal instrument to uphold an individual's right to honor and reputation, which may be impaired due to the dissemination of harmful content. Juridical analysis is conducted through the examination of legal facts, identification of the elements of unlawful acts, and evaluation of dispute resolution practices through civil litigation (Muldani, 2022).

The identification of forms of defamation on social media shows that violations can occur through various mediums, including text, images, and videos. Posts or comments that are defamatory, distort facts, or spread false information can cause significant harm to victims, both materially and immaterially. The characteristics of social media being open, fast-spreading, and far-reaching add complexity to case management. The digital space, though seemingly "free," must still be regarded as a new public sphere, where all actions are subject to legal norms and may give rise to legal responsibility for its users. The openness and viral nature of social media amplify the potential for harm, meaning that legal consequences for perpetrators cannot be ignored (Juita, 2024).

The application of the elements of unlawful acts in digital defamation cases involves a comprehensive analysis of five key elements: the act, unlawfulness, fault, harm, and causality. The element of the act can be identified through activities such as posting or distributing content that contains information detrimental to others. Unlawfulness is associated with the violation of an individual's right to honor and reputation protected by law. The fault of the

perpetrator, whether intentional or negligent, is a crucial aspect in determining the level of civil liability, while harm and causality are analyzed based on the tangible impact caused by the dissemination of such content (Sunarto, Adnan, Karo Karo, & Khair, 2023).

In practice, evidentiary challenges are a primary obstacle in social media defamation cases. Electronic evidence plays a vital role, including screenshots, digital footprints, metadata, and testimony from information technology experts. Common challenges include the use of anonymous accounts, deletion of content before legal proceedings commence, and difficulty in objectively measuring immaterial harm. Nevertheless, information technology also provides opportunities for victims to document evidence in increasingly accurate and court-admissible ways. Effective evidence strategy becomes a determinant of the success of civil lawsuits, ensuring that victims gain access to the restoration of their rights and proportional legal justice.

Civil lawsuits in the context of digital defamation offer a broader avenue for the restoration of victims' rights compared to criminal proceedings. Through civil action, victims may seek both material and immaterial compensation, public apologies, and the cessation or removal of harmful content. This approach emphasizes restitution and the restoration of reputation rather than solely punishing the perpetrator. Mohamad (2025) highlights that the advantage of the civil law approach lies in its ability to provide more measurable compensation for the harm suffered by victims, while also minimizing additional conflicts that may arise from confrontational criminal processes.

Moreover, the complexity of the digital environment requires courts and legal practitioners to develop adaptive methods for evaluating electronic evidence. Technical aspects such as the authenticity of metadata, content distribution traces, and account identity verification are crucial factors in constructing a sound juridical framework. This underscores the need for collaboration between legal experts and information technology specialists to ensure that each element of unlawful acts can be proven legally and accurately in court. Such integration is part of efforts to modernize civil law to effectively respond to the challenges of the digital era.

Defamation on social media also demonstrates that the law must be able to adjust to changing patterns of communication and social interaction. User behavior that perceives social media as a space free from accountability often conflicts with the principle of legal responsibility established in Article 1365 of the Civil Code. Therefore, preventive approaches such as legal education, digital awareness campaigns, and ethical guidelines for social media use are relevant to reduce the risk of disputes. Integrating legal norms with digital literacy has the potential to foster a more responsible society in utilizing information technology.

The application of Article 1365 of the Civil Code to social media defamation emphasizes the importance of the principle of civil liability in facing digital challenges. Juridical analysis of the elements of unlawful acts, electronic evidence, and dispute resolution practices demonstrates that civil law can provide effective protection for victims. This approach not only seeks compensation but also emphasizes reputation restoration, enabling the harmonization between traditional legal norms and digital dynamics. This chapter affirms that, despite the

rapid development of technology, the fundamental principles of legal accountability remain relevant and must be upheld.

3.3. Perpetrators and Challenges in the Legal Policy of Article 1365 of the Indonesian Civil Code in Social Media Defamation

Article 1365 of the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata) continues to demonstrate high relevance in addressing acts of defamation on social media, even though the digital context presents new challenges not found in traditional practice. The principle of civil liability contained in this article allows for legal enforcement against actions that harm others, provided that the act, fault, harm, and causal link between the act and its consequences can be proven. In practice, the digitalization of communication does not eliminate an individual's right to honor and reputation; rather, it expands the scope of legal protection to the virtual realm, which has now become a new public space for social interaction (Lumban Toruan & Sidauruk, 2024).

The elements of unlawful acts regulated by Article 1365 of the Civil Code can accommodate various forms of digital reputation violations, including text, image, or video posts containing defamatory content. The act of disseminating harmful information through social media fulfills the "act" element if it can be proven that the perpetrator performed it. Meanwhile, the "unlawfulness" element pertains to the violation of the victim's subjective rights to honor and reputation, which lies at the core of civil protection. This approach underscores that civil law norms have the flexibility to adapt to technological developments and the interaction patterns of modern society.

Perpetrator fault is a crucial element in determining liability. Intentional dissemination of harmful content or negligence in spreading unverified information can give rise to civil responsibility. Assessing fault provides the foundation for determining compensation and recovery mechanisms. In the digital realm, this element becomes more complex due to anonymity, the use of fake accounts, and the ease of content deletion before legal proceedings commence, making the proof of fault reliant on accurate digital forensic approaches and techniques.

Civil litigation offers a more comprehensive orientation for restoring victims' rights compared to criminal proceedings. Through compensation mechanisms, reputation restoration, and orders to remove content, victims receive restitution that is both restorative and corrective. Civil proceedings not only punish the perpetrator but also focus on restoring the disturbed balance of rights. This restorative approach is particularly relevant in the digital era, as the harm suffered by victims is often immaterial, such as damage to reputation, loss of public trust, and psychological pressure, which are difficult to quantify materially (Ponno, 2023).

A major challenge in implementing Article 1365 of the Civil Code in digital cases is proving immaterial harm and identifying the perpetrator. The transboundary and easily manipulated nature of the digital space poses challenges for law enforcement in collecting admissible electronic evidence. Evidence such as screenshots, metadata, digital traces, and testimony

from information technology experts is crucial but requires technical proficiency and adequate legal understanding. This situation indicates that the effectiveness of legal protection heavily depends on the readiness of electronic evidence systems and the capacity of law enforcement to navigate the dynamics of information technology (Al Zahsy, 2025).

A progressive interpretation of the concept of “unlawfulness” has become an urgent need in facing internet-based communication phenomena. Civil law cannot be understood statically but must evolve in response to social and technological changes. The multidimensional nature of digital interaction demands contextual interpretation, ensuring that existing norms remain relevant in resolving modern disputes. This approach also emphasizes the integration of traditional legal principles with digital practices, preventing legal gaps in addressing virtual defamation cases (Rauf, Ahmad, & Moha, 2025).

Efforts to standardize the determination of immaterial compensation are important for creating consistency in judicial decisions. Clearer judicial guidelines will assist judges in assessing the extent of harm experienced by victims, while also providing legal certainty for perpetrators and the wider community. Furthermore, strengthening regulations regarding electronic evidence and enhancing public digital literacy are preventive measures to minimize the risk of reputation violations on social media. Legal education and digital literacy can cultivate awareness that the digital space remains subject to legal rules and social norms.

The protection of reputation in the digital era is part of efforts to uphold human dignity in modern society. The existence of Article 1365 of the Civil Code as a basis for civil liability must continue to be optimized through responsive interpretation, professional implementation, and strengthened law enforcement capacity. Thus, civil law remains an effective instrument in ensuring justice, legal certainty, and the protection of the rights of victims of defamation in the digital space. This approach not only enforces legal norms but also restores social balance disrupted by the dissemination of harmful information (Zakiya, Cannavaro, Pangestu, Ilham, & Syamsiah, 2025).

4. Conclusion

Article 1365 of the Indonesian Civil Code remains relevant and adaptive as the basis for civil liability in cases of defamation on social media, as the elements of unlawful acts including the act itself, unlawful nature, fault, harm, and causality conceptually extend to actions in the digital space, provided they can be legally proven. Civil lawsuits offer a more comprehensive restorative approach through mechanisms such as material and immaterial compensation, reputation restoration, and the cessation or removal of harmful content. However, in practice, challenges remain, including electronic evidence, identification of anonymous perpetrators, and the lack of standardized measures for immaterial damages. Therefore, the effectiveness of legal protection for honor and reputation in the digital era requires a progressive interpretation of the concept of unlawful acts, strengthening of information-technology-based evidentiary systems, and the establishment of consistent judicial guidelines to ensure legal certainty, justice, and optimal protection for victims of social media defamation.

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