

Legal Analysis of Criminal Responsibility for Perpetrators of Hate Speech Through Electronic Media Within a Justice-Based Positive Legal Framework

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Abstract. *This study aims to comprehensively identify and analyze the criminal liability of perpetrators of hate speech through electronic media from a justice-based positive legal perspective. The spread of hate speech through electronic media not only disrupts public order but can also degrade human dignity and deepen social fragmentation. This study was conducted to examine the basis for criminal liability for perpetrators of hate speech from the perspective of Indonesian positive law, while also evaluating the extent to which its implementation reflects the principle of justice for all parties, including perpetrators, victims, and the community. Thus, this study seeks to provide a more proportional understanding of the relationship between freedom of expression and the protection of fundamental social values. This study uses a normative juridical method by adopting a statutory, conceptual, and case study approach. The analysis focuses on provisions in the Electronic Information and Transactions Law (UU ITE), the Criminal Code (KUHP), and several other relevant regulations. This approach is strengthened by a review of legal doctrine and theories of justice to explore the philosophical foundations and objectives of criminal punishment in the context of hate speech. Thus, this study not only examines norms as texts, but also considers ethical values, the principle of proportionality, and aspects of human rights protection, which are integral parts of the legal system. The results explain and demonstrate that the basis for criminal liability for perpetrators of hate speech via electronic media is formally regulated within Indonesia's positive legal framework. However, its implementation has not been fully effective in delivering substantive justice. This is due to several obstacles, including unclear norms, overlapping regulations, and the potential for misuse of articles by law enforcement officials. Furthermore, the application of the law often fails to consider the social context, the perpetrator's motives, and the real impact on the victim. Therefore, regulatory harmonization, more proportional application of the law, and an approach that favors substantive justice are needed so that the handling of hate speech can truly protect the public interest without neglecting the constitutional right to freedom of expression.*

Keywords: *Criminal Liability; Electronic Media; Hate Speech; Justice; Positive Law.*

1. Introduction

The development of information technology over the past two decades has brought about significant changes in people's communication patterns. The digital space, originally designed as a medium for sharing information and expanding access to knowledge, has now become an arena for the emergence of negative expressions in the form of hate speech targeting individuals and groups. This phenomenon not only disrupts public order but also has the potential to undermine human dignity, trigger social polarization, and threaten democratic values.¹ In the Indonesian context, the issue of hate speech in electronic media has become increasingly complex, involving aspects of criminal law, freedom of expression, and substantive justice for both victims and perpetrators. Positive legal frameworks such as the Electronic Information and Transactions Law (UU ITE), the Criminal Code, and their derivative regulations have provided a legal basis for prosecuting perpetrators of hate speech. However, their implementation often sparks debate, both regarding the interpretation of norms, the proportionality of punishment, and the aspect of justice that should be the primary basis for law enforcement. Several studies have shown that legal norms that are too flexible and open to interpretation create uncertainty and are potentially subject to abuse, particularly when dealing with politically and socially sensitive issues.² Therefore, a legal analysis of the criminal liability of perpetrators of hate speech via electronic media is crucial to ensure that law enforcement is not merely legalistic but also reflects substantive justice and the protection of human rights for all parties.

The corporate sector has been severely impacted by this growing type of crime. The government is considering passing a cybercrime law in response to concerns that the Criminal Code (KUHP) is inadequate in dealing with this growing crime. As mentioned, the ITE Law (Electronic Information and Transactions Law) has been under discussion since 2003. President Susilo Bambang Yudhoyono, who initiated the discussion, only formally submitted the proposal to the House of Representatives (DPRRI) on September 5, 2005, through a Presidential Letter (R/70/Pres/2005). After that, fifty people representing ten DPR factions were appointed by the DPRRI to become a Special Committee (Pansus) for the ITE Law. In a plenary session held on March 18, 2008, the Pansus ratified the first-level bill based on the final draft of the ITE Law and ratified the second-stage bill. Finally, the ITE Law was ratified and passed into law on March 25, 2008, in a Plenary Session of the National People's Congress. Law Number 11 of 2008, also known as the ITE Law, was promulgated in the State Gazette of the Republic of Indonesia Number 58 of 2008 and regulates electronic information and transactions.³

¹ M. Anshori, "Freedom of Expression and Its Limits in the Perspective of Indonesian Positive Law," *RechtsVinding Journal*, 2020.

² Siti Marwiyah, "The Existence of Criminal Law in Combating Cyber Crime," *Journal of Law UNISSULA*, Vol. 8 No. 2 (2021).

³ Iman Amanda Permatasari and Junior Hendri Wijaya, Implementation of the Electronic Information and Transactions Law in Resolving Hate Speech Problems on Social Media, *Journal of Press Research and Development Communication* 23, no. 1 (2019): 28.

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Freedom of technology ownership, efficiency, good faith, legal certainty, and prudence are the guiding principles in the formation of the Information and Electronic Transactions Law. The goal is to increase national intelligence, grow national trade and the economy, improve the effectiveness and efficiency of public services, provide a fair opportunity for everyone to learn how to use IT, and ensure that everyone involved in the IT industry is safe and protected. No one can deny that social media platforms are now essential to modern society. Thanks to social media, people can now voice complaints, share stories, and even start debates. However, the dissemination of information through social media has been restricted since the enactment of the Information Technology Criticism Law (Law No. 11 of 2008). Unfortunately, hate speech is on the rise. Those who criticize the government through the use of information technology facing legal complications, such as criminal charges and other sanctions, due to the application of criminal law in laws that limit criticism in cyberspace.

Based on Article 128 of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia), everyone is guaranteed the freedom of association, assembly, and expression. This right encompasses all human rights, including the freedom to express opinions. This is because ICT is often needed in community activities to facilitate the completion of tasks in a more timely, easy, cost-effective, and efficient manner. This is crucial given the contemporary social stigma associated with technological ignorance. However, technology has become crucial, opening up a world of possibilities in every aspect of life.⁴ In the Indonesian context, the Electronic Information and Transactions Law (ITE Law) is the legal instrument most frequently used in handling hate speech cases through electronic media. Certain articles in the ITE Law, such as Article 27 paragraph (3) and Article 28 paragraph (2), are designed to be a legal instrument that protects the public from attacks on dignity and honor, while preventing hostility based on ethnicity, religion, race, and intergroup relations (SARA). However, since its enactment, this regulation has sparked widespread controversy. Many academics and legal practitioners believe that the formulation of norms in the ITE Law is often open to multiple interpretations, thus opening up opportunities for abuse or over-application of the law (overcriminalization). As a result, law enforcement against hate speech often gives rise to uncertainty, inconsistent decisions, and even accusations of criminalizing freedom of expression.⁵

The problem that then arises is how to place the perpetrators of hate speech within the correct framework of criminal responsibility. truly reflect justice. Justice in law does not stop at the strictness of sanctions, but also relates to the balance between individual rights and the public interest, recognition of the social context of a speech, and the extent to which the perpetrator is aware of the impact of their actions.

⁴ Rizky Pratama Putra Karo Karo, Hate Speech: Deviations from the ITE Law, Freedom of Expression and the Values of Dignified Justice, Jurnal Lemhannas RI 10, no. 4 (2023): 53.

⁵ Eko Soponyono, "Criminal Law Politics and Problems of Enforcing the ITE Law," Jurnal Law Reform UNISSULA, Vol. 17 No. 1 (2021).

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Is all hurtful speech worthy of criminalization? Can the motive, intention, and impact of speech be assessed consistently? Has law enforcement against hate speech been carried out proportionally and non-discriminatory? These questions make a legal study of criminal liability for perpetrators of hate speech crucial. New types of crimes that utilize information technology are just one example of the positive and negative social impacts that technological advances can bring. Several types of technology-related crimes have been identified in the literature. These include illegal content, data falsification, cyber espionage, cyber sabotage and extortion, privacy violations, and intellectual property rights violations.⁶ The following is an example of a case of hate speech on social media and the effects it caused. In 2017, a social media user named A (initials) posted an upload on his Facebook account.

Conventional crimes such as defamation involving information technology are also regulated under the Information Technology Criticism Law, in addition to cybercrimes under the Cybercrime Convention. These provisions mirror the criminal sanctions imposed by the Information Protection and Electronic Transactions Law (ITE Law) on anyone who intentionally and without permission distributes, transmits, or provides electronic information or documents containing elements of defamation or slander. Such acts are punishable by a maximum prison sentence of one billion US dollars or six years, as stipulated in Article 45 paragraph 1 of the Information Protection and Electronic Transactions Law.

Threats to press freedom and democratic public space in Indonesia are among the most significant consequences of online hate speech, along with increasing social division and violence. Social polarization, increased intra-community conflict, and the erosion of press freedom as a democratic public arena in Indonesia are some of the major consequences that may arise from the spread of damaging content through digital media. Several previous studies, including those from the academic environment of Sultan Agung Islamic University (UNISSULA), have highlighted several problems in the implementation of the ITE Law⁷ such as legal uncertainty, differences in interpretation among law enforcers, and the public's weak understanding of the limits of freedom of expression. However, few previous studies have specifically discussed how the principle of justice is applied in the process of enforcing the law against hate speech based on electronic media. Therefore, a well-organized evaluation of the effectiveness of criminal sanctions for internet abuse is very important. According to Article 27 paragraph (3) of the Information and Communication Technology Law, there are many things related to the crime of defamation. Problems in this system include unclear or even non-existent definitions of criminal acts, repeated laws, and penalties that are disproportionate to the severity of the crime. A thorough examination of these regulations is necessary.

⁶ Dwi Hapsari, "Human Rights Dimension in Handling Hate Speech Cases," National Commission on Human Rights Journal Human Rights, 2020.

⁷ Noor Fatimah, "Law Enforcement Against Hate Speech on Social Media," Journal UNISSULA Legal Update, Vol. 6 No. 2 (2019).

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Therefore, this research not only complements existing studies but also offers a new, more holistic and humanistic understanding of how law enforcement should operate. By examining normative regulations, law enforcement practices, and their relevance to theories of justice, this article seeks to provide a comprehensive overview of the principles that should serve as the basis for determining criminal accountability for perpetrators of speech.

Hate speech. It is hoped that this research can contribute to strengthening Indonesia's legal system to be more just, humane, and responsive to the dynamics of digital society.

2. Research Methods

This research uses a normative juridical approach, a legal research method that focuses on the norms, principles, and rules of applicable positive law. This approach was chosen because the main issue analyzed is criminal liability for perpetrators of hate speech through electronic media, which is directly related to the normative construction in the Electronic Information and Transactions Law (UU ITE), the Criminal Code (KUHP), and the principles of justice in legal theory and human rights. Normative juridical research views law as a normative order, so the main focus of the research is directed at the interpretation and evaluation of the norms, principles, and provisions of laws and regulations governing hate speech in the digital space. More specifically, the research mechanism uses methods such as a statute approach and a conceptual approach, which examines legal doctrines, academic views, and legal theories relevant to the issue of hate speech.⁸ The data collection method relevant to this research uses several data collection techniques, namely literature studies, interviews, and observation or documentation.⁹

3. Results and Discussion

3.1. Criminal Accountability Mechanism for Perpetrators of Hate Speech Through Electronic Media Within a Positive Legal Framework

Law serves as a protector of the rights and interests of the community. To achieve this, the law must be enforced. While law enforcement can proceed normally, errors can also occur due to violations. In this case, the law that has been violated must be enforced. Law enforcement is an effort to realize the ideas or concepts of justice, certainty, and benefit into reality. The process of realizing these ideas or concepts is the essence of law enforcement, or what is known as law. Enforcement.¹⁰ There are three elements that must be considered in enforcing the law: the purpose of the law itself: legal certainty, justice, and expediency. Many obstacles are encountered because this type of crime encompasses a very broad scope, namely cyberspace.

The first is legal certainty. Society expects legal certainty because it promotes a more orderly society. The law's duty is to create legal certainty, as its purpose is to maintain public

⁸ Soerjono Soekanto & Sri Mamudji, *Normative Legal Research: A Brief Review*, Rajawali Pers, Jakarta, 2015, p. 23.

⁹ Ronny Hanitijo Soemitro, *Legal Research Methodology*, Second Edition, Jakarta: Ghalia Indonesia, 2015, p. 24.

¹⁰ SanyotoSanyoto, "LAW ENFORCEMENT IN INDONESIA," *Journal of Legal Dynamics* 8, no. 3 (2008): 199–204.

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order. Second, justice, which means law enforcement must be fair in order to create harmony and equality for all. Third, the law's benefits, which serve society in both its implementation and enforcement. These three elements must receive attention and balance. However, in reality, this is not always the case; many still ignore these three elements. The goal of law enforcement is to bring order to society in order to ensure legal certainty. One factor that prevents law enforcement from functioning optimally is the law enforcer itself.¹¹

Cybercrime is a problem that must be addressed immediately by law enforcement, as perpetrators must be held accountable before the law. Regarding criminal liability in cyberspace, specifically the internet, particularly in cases of hate speech, legal regulations already exist and clearly provide certainty, ensuring justice and benefiting society.¹² Hate Speech is an act of communication carried out by an individual or group in the form of provocation, incitement or insults to other individuals or groups in terms of various aspects such as race, skin color, gender, disability, sexuality, nationality, religion and others. In the legal sense, Hate Speech is words, behavior, writing, or performances that are prohibited because they can trigger acts of violence and prejudice either from the party who made the statement or the victim of the act. The law does not consider a person's social strata in determining justice. Equality before the law is part of the principles adopted by the law.¹³ Almost all countries around the world have laws that regulate Hate Speech, in Indonesia the articles that regulate actions regarding Hate Speech against a person, group or institution based on the Circular Letter of the Chief of Police No: SE/06/X/2015 are contained in Article 156, Article 157, Article 310, Article 311, then Article 28 jis. Article 45 paragraph (2) of Law No. 11 of 2008 concerning information & electronic transactions and Article 16 of Law No. 40 of 2008 concerning the elimination of Racial and Ethnic Discrimination. Based on the Circular Letter of the Chief of Police Number SE/06/X/2015 concerning Hate Speech, it is stated that Hate Speech can be a criminal act regulated in the Criminal Code and other criminal provisions outside the Criminal Code, which are in the form of:

- a. Insult
- b. Defamation
- c. Blasphemy
- d. Unpleasant acts
- e. Provoke
- f. Incite
- g. Spreading fake news

¹¹ Rif'ah Roihanah, "LAW ENFORCEMENT IN INDONESIA: A Hope And Reality," *Justicia Islamica* 12, no. 1 (2015): 39–52.

¹² Novi Rahmawati, "Implications of Changes to the Electronic Information and Transactions Law on Hate Speech Crimes," *Mahupiki Journal* 1, no. 1 (2017): 1–21

¹³ Julita Mellisa Walukow, "The Realization of the Principle of Equality Before the Law for Prisoners in Correctional Institutions in Indonesia," *Lex et Societatis* 1, no. 1 (2013): 163–172.

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Regulations on law enforcement regarding alleged hate speech crimes based on the Circular Letter of the Chief of Police Number SE/06/X/2015 concerning Hate Speech refer to the following provisions:

- a. Article 156 of the Criminal Code
- b. Article 157 of the Criminal Code
- c. Article 310 of the Criminal Code
- d. Article 311 of the Criminal Code
- e. Article 28 paragraph (2) in conjunction with Article 45 paragraph (2) of Law Number 11 of 2008 concerning Electronic Information and Transactions
- f. Article 16 of Law Number 40 of 2008 concerning the Elimination of Racial and Ethnic Discrimination

The basis for reference to criminal responsibility for perpetrators of hate speech crimes on social media based on the principle of legality refers to the provisions of Article 28 paragraph (2) jis. Article 45A paragraph (2) of the Republic of Indonesia Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. Where in criminal responsibility if proven to fulfill the elements of a crime in Article 28 paragraph (2) ITE based on Article 45A paragraph (2) ITE is a maximum prison sentence of 6 years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah). This provision was born from the legal need to respond to technological developments, where expressions of hatred, provocation, or insults can now spread very quickly and have a wide impact. The law must be firm enough to prevent division and protect victims from the real impact of hate speech, but also wise enough not to become a tool to criminalize public voices or constructive criticism. This approach encourages more transparent, objective, and equitable law enforcement, in line with the spirit of human rights protection and the public's need for a healthy digital space.

3.2. Weaknesses in Criminal Liability for Perpetrators of Hate Speech Through Electronic Media

Criminal liability for perpetrators of hate speech via electronic media under Indonesian positive law still faces several weaknesses that impact the achievement of substantive justice. One major weakness lies in the formulation of norms that are still broad and open to multiple interpretations, such as the provisions prohibiting the spread of hate speech, which opens up inconsistent law enforcement and has the potential to lead to excessive criminalization of public expression.

3.2.1. The formulation of norms that are open to multiple interpretations and disproportionate

The main weakness in criminal liability for perpetrators of hate speech through electronic media lies in the formulation of norms that are still very broad and open to multiple interpretations, particularly in Article 28 paragraph (2) in conjunction with Article 45A

paragraph (2) of the Electronic Information and Transactions Law (ITE Law). Formulations such as "causing hatred or hostility" are not accompanied by objective limitations regarding the scale of hatred, who the protected group is, and the element of the perpetrator's intention. This ambiguity causes law enforcement to rely heavily on subjective interpretations by law enforcement officials, thus creating legal uncertainty. Within the framework of substantive justice, unclear norms contradict the principle that the law must be predictable and not open up space for excessive criminalization of public expression that is actually criticism or legitimate opinion.

3.2.2. Weaknesses in Inconsistent Law Enforcement

From an institutional perspective, law enforcement regarding hate speech remains fraught with inconsistency. Certain cases are processed swiftly and decisively, while others of equal or greater gravity are not. This inconsistency opens up room for the emergence of power bias, group bias, and certain social pressures that influence decisions.

law enforcement officers. From a justice perspective, inconsistency is a serious violation because it treats individuals unequally before the law. Inconsistency also undermines public trust in the legal system, creating the perception that the law can be used selectively.

3.2.3. Absence of Independent Oversight Mechanism

Another weakness is the lack of an independent mechanism to oversee law enforcement in hate speech cases. The absence of a dedicated oversight body makes it difficult to control the potential for abuse of authority. Within the framework of justice, independent oversight is crucial to ensure that the legal process is objective, proportional, and uninfluenced by political interests or particular powers. Furthermore, the state must guarantee the protection of human rights, as stipulated in Article 28E of the 1945 Constitution and the International Covenant on Civil and Political Rights. Therefore, law enforcement against hate speech must not ignore the principles of proportionality and substantive justice. Ultimately, the weakness of criminal liability for perpetrators of hate speech via electronic media demonstrates that positive law still requires refinement to balance protection of the public with respect for freedom of expression. The ambiguity of norms, inconsistent application, and the potential for abuse of authority emphasize that law enforcement cannot be based solely on formal legality. A more proportional, contextual, and substantive justice-oriented approach is needed, so that the law becomes not merely a tool of control but a true means of preserving human dignity and social harmony. Thus, legal reforms that are more sensitive to humanitarian values are an important step to ensure that regulations regarding hate speech can operate fairly and responsibly in an increasingly complex digital space.

3.3. Guarantee of Legal Protection in Freedom of Expression for Perpetrators of Hate Speech Through Electronic Media Within a Positive Legal Framework

Freedom of expression is a fundamental human right guaranteed by both the constitution and international legal instruments. In the digital era, human expression has found a new space through electronic media, which allows for the rapid and widespread dissemination of information. In this context, the state has an obligation to ensure that freedom of

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expression remains protected, but it must also establish limits to prevent abuse that could harm others or threaten public order. These limits have given rise to regulations on hate speech, an inevitable phenomenon in the modern digital communication space. Legal research shows that restrictions on hate speech must be implemented proportionally, not excessively, and still guarantee the protection of the rights of perpetrators to prevent unjust criminalization.¹⁴ Freedom of expression itself has actually existed since the time of the Polis of Athens in Greece, approximately 2,400 years ago. However, this freedom of expression at that time was still limited and could only be exercised by small groups in society. The history of the modern era began in the 14th century, when printing had developed in Europe. The struggle for human rights in Europe culminated in the Declaration of the Rights of Man and of the Citizen (Declaration des Droits L'Hommes et du Citoyen) in 1789 in France.

Freedom of expression is also included in the Four Freedoms stated by President Franklin D. Roosevelt in 1941 which contain;

1. Freedom of Speech (freedom of expression)
2. Freedom to Religion (freedom of religion)
3. Freedom from Want (freedom from poverty)
4. Freedom from Fear¹⁵

Within Indonesia's positive legal framework, the Electronic Information and Transactions Law (UU ITE) is the primary instrument for combating hate speech through electronic media. However, various academic studies note that the law's implementation often presents a dilemma between maintaining public order and protecting a healthy space for freedom of expression in a democratic society. Several studies at UNISSULA highlight the need for law enforcement that adheres to the principle of due process of law, including examining the elements of "intent" and "context" in every statement suspected of being hate speech.¹⁶ According to the study, substantive justice can only be achieved if law enforcement is able to distinguish between legitimate criticism and satire, and between expressions that genuinely contain hostility based on ethnicity, religion, race, or intergroup relations. A humanist approach also demands that perpetrators of hate speech continue to receive adequate legal protection. This protection is not intended to condone the negative impacts of hate speech, but to ensure that the law enforcement process is not carried out in a repressive or discriminatory manner. Previous research has emphasized that a just law enforcement model must position humans as subjects with the right to be heard, defended, and treated fairly, including those who perpetrate hate speech.¹⁷ This approach reflects the

¹⁴ Nur Azisa Baihaki, Law Enforcement Against Hate Speech Crimes Through Social Media, *Khaira Ummah Law Journal*, Sultan Agung Islamic University, Vol. 12 No. 3, 2017.

¹⁵ Mansour Fakih, *Upholding Justice and Humanity*, (Yogyakarta: Insist Press, 2003), p.45.

¹⁶ Khoirur Roziqin, Legal Analysis of Article 28 Paragraph (2) of the ITE Law Regarding Hate Speech Cases, *Media Bhakti Law Journal*, UNISSULA Faculty of Law, 2020.

¹⁷ Dian Latifiani, The Principle of Due Process of Law in Criminal Law Enforcement in Indonesia, *Journal of Legal Reform*, UNISSULA, Vol. 5 No. 2, 2018.

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principle that law should not be a tool of power, but should be an ethical instrument to maintain a balance between individual freedom and social order.

Furthermore, a number of studies underscore the importance of a more comprehensive understanding of hate speech as a social phenomenon, not just a violation of the law.¹⁸ This is because hate speech is often rooted in specific social, economic, and political conditions that require a multidisciplinary approach. Therefore, legal protection for freedom of expression is determined not only by the presence or absence of legal norms, but also by the state's sensitivity in considering the social context and its impact on democracy. This aligns with the concept of restorative justice, which, according to several studies, is the most effective approach to reducing the negative impacts of hate speech without compromising civil liberties.¹⁹ Ultimately, guaranteeing legal protection for freedom of expression in cases of hate speech via electronic media must be understood as an effort to find common ground between individual freedom and the public interest. When positive law is interpreted fairly, proportionally, and humanistically, law enforcement not only provides a sense of security for the public but also ensures that the right to express opinions remains respected as part of human dignity. This principle aligns with the recommendations of various UNISSULA legal studies that encourage a reinterpretation of regulations based on substantive justice values, rather than merely normative enforcement.²⁰ Freedom of expression is essential to protect citizens from corrupt and tyrannical rulers. A democratic government typically requires its citizens to be able to assess the performance of the government system. To fulfill this need for control and assessment, citizens have all the information they need about their country's governance. Furthermore, citizens can disseminate this information and then discuss it with one another.

4. Conclusion

This study confirms that based on the overall findings and analysis outlined above, it can be concluded that criminal liability for perpetrators of hate speech through electronic media must be placed within a legal framework that not only upholds positive norms, but also upholds the principles of justice and human rights. The ITE Law and its amendments to Law Number 19 of 2016 do provide a firm legal basis through Article 28 paragraph (2), which regulates criminal penalties for anyone who intentionally spreads hate speech based on ethnicity, religion, race, and intergroup relations (SARA). However, this provision can only be applied if there is evidence of an element of intent or mens rea to cause hostility in society. Without a clear element of malicious intent, expressions in the form of social criticism, opinions, or differences of opinion cannot be automatically qualified as criminal acts of hate speech. This condition shows that the boundary between freedom of expression and hate speech still often creates uncertainty in law enforcement practices. Therefore, the judicial system must implement the ITE Law with great care, proportionality, and sensitivity to democratic values to prevent abuse of authority or excessive criminalization. In this context,

¹⁸ M. Syafi'ie, *Hate Speech and Digital Democracy*, UNISSULA Journal: Pancasila & Citizenship, 2019.

¹⁹ Siti Mahmudah & Hartiwiningsih, *Restorative Approach in Handling Minor Crimes*, Journal of Legal Reform, UNISSULA, Vol. 3 No. 1, 2016.

²⁰ Anis Mashdurohatun, *Substantive Justice in Criminal Law Enforcement in the Digital Era*, UNISSULA Law Journal, 2020.

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a restorative justice approach is crucial because it provides space for social restoration, dialogue, legal education, and long-term prevention, rather than just punishment. Furthermore, comprehensive legal reform is urgently needed to ensure regulations on hate speech are more adaptable to developments in digital technology and more specific in defining their boundaries, thus achieving harmony between legal certainty, utility, and justice, as emphasized in Gustav Radbruch's thinking. Thus, law enforcement against hate speech will be more aligned with the principles of a humanistic, democratic, and just state based on the rule of law.

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