

The Criminal Acts of Perpetrators for Threats on the Social Media

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Abstract. *This study aims to learn more about the criminal provisions applied and identify the nature of the criminal consequences for perpetrators of threats in Indonesia, especially on social media by considering the elements of criminal acts and legal subjects. The writing method uses normative legal techniques. To resolve legal disputes, conceptual and legislative frameworks are used. The novelty of this research lies in the discussion of a broader scope, namely regarding the basis for criminal responsibility of perpetrators of threats and elements of criminal acts for perpetrators of threats in Indonesia. Based on the research concluded It is proven from the results that an act of threat and insult on social media can be subject to the articles regulated by Law No. 19 of 2016 (Articles 29 and 45B) concerning ITE has provided sanctions in accordance with a criminal penalty of no more than four (4) years in prison or a fine of 7,500,000 rupiah (Rp). On the other hand, when it comes to finding out how those who insult or threaten others in Indonesia may face criminal charges, it is not only seen from the elements but it is important to see it from the perspective of the legal subject. So that perpetrators who meet the requirements for criminal responsibility for threats on social media are required to be responsible for their actions before the law.*

Keywords: *Criminal; Liability; Media; Social.*

1. Introduction

In the realm of computer science and networking, there has been a tremendous growth in the modern period. The Internet consists of digitality, interactivity, and virtuality, and can serve as a reservoir of information, a medium for self-

expression, a method for gaining recognition, as well as a tool for fulfilling personal satisfaction needs.¹ The development of technology can improve cellphone technology, for example, now every individual has a cellphone allows it to operate social media platforms like X, Instagram, Facebook, and all the others, and for easy access to all documents.

Distance, time, and physical location are no longer barriers while using social media. Because it is possible to communicate at any time and from any location. However, the ease of accessing social media has resulted in negative effects, namely the emergence of a violation of society that can occur when using social media, such as spreading or uploading insulting and threatening speech.² Communication is a very important process in everyday life. Care must be taken in the language used so that it can be received and understood by the recipient. Courtesy in communication refers to politeness, ethics, and good behavior in communicating.³ The phenomenon of threatening in social media is a manifestation of the nature of impoliteness and practicality contained in the speech of social media texts.⁴ Linguistically, a threat is something that is threatened.⁵ At the same time, any endeavor, whether at home or abroad, that is deemed to jeopardize national interests in the domains of ideology, politics, economics, social, or security is deemed a threat in the legal sense according to State Intelligence Law No. 17 of 2011.⁶

In modern society, people are more likely to use the internet to socialize rather than just looking for information.⁷ Threats on social media can cause social conflicts that can lead to violence, and death if not handled properly, effectively, and in line with the law. In an effort to combat the crime of open insult, the government has made a regulation that According to the relevant sections clause (1) of article 335 and Law No. one of 2023 pertaining to the penal code, which

¹ Kusumawardani, S. P. (2015). Game Online Sebagai Pola Perilaku (Studi Deskriptif Tentang Interaksi Sosial Gamers Clash Of Clans Pada Clan Indo Spirit). *Jurnal Antropologi FISIP Universitas Airlangga*: Vol. 4, No. 2: 154-163.

² Alfetty, C. (2024). DUGAAN UJARAN PENGHINAAN DAN PENGANCAMAN DI MEDIA SOSIAL: KAJIAN LINGUISTIK FORENSIK. *Hasta Wiyata*: Vol. 7, No. 1: 90-99.

³ Sihite, J., & Adisaputera, A. (2023). UJARAN KEBENCIAN DALAM KOLOM KOMENTAR AKUN FACEBOOK DW INDONESIA: KAJIAN PRAGMATIK. *Jurnal Pendidikan Sosial dan Humaniora*: Vol. 2, No. 3.

⁴ Jayanti, M., & Subyantoro, S. (2019). Pelanggaran prinsip kesantunan berbahasa pada teks di media sosial. *Jurnal Sastra Indonesia*: Vol. 8, No. 2: 119-128.

⁵ Indonesia, T. R. K. B. (2008). *Kamus Bahasa Indonesia*. Jakarta: Pusat Bahasa Departemen Pendidikan Nasional, 725.

⁶ Undang-Undang Republik Indonesia. (2011). Undang-Undang Nomor 17 Tahun 2011 tentang Intelijen Negara. Jakarta: Lembaran Negara Republik Indonesia.

⁷ Akhtar, H. (2020). Perilaku Oversharing di Media Sosial: Ancaman atau Peluang?. *Psikologika: Jurnal Pemikiran Dan Penelitian Psikologi*: Vol. 5, No. 2: 257-270.

carries a punishment of one year in jail, which is punishable by a maximum imprisonment of 4 years. But the focus of the author's research in this case, the insult in question is insult in social media. Therefore, a broad and sustainable alternative effort is needed to combat threats and insults in social media, law enforcement in Indonesia will continue to run ITE is addressed in Article 29 of Law No. 19 of 2016. In this article there is no mention of criminal sanctions for the perpetrator of the threat, criminal provisions for perpetrators of threats and insults are regarding ITE, Article 45B of Law No. 19, 2016 of the Indonesia is applicable.

When it comes to articles of criminal law. The Indonesia Criminal Code Law No. 1 of 2023 applies to anybody who uses social media to threaten or other content with the intent to incite violence against specific persons or groups. The article mentioned does not explain it better. Of course, this is a matter of consideration regarding how effective the law is when applied in national life. There are several paragraphs that only mention the types of prohibited acts without providing further explanation. So according to the researcher, to prevent the return of the idea of vagueness and multiple interpretations, it is very important to explain this more clearly. However, the government is trying to solve this problem by improving the law in particular, The ITE Law Amendments of 2016 (Law No. 19 of 2016).⁸

The research conducted by Kiki Andrian has explicitly described how to enforce the law against perpetrators of threats through social media. The research has a more specific focus on cybercrime.⁹ Then this research discusses a broader scope, namely the criminal liability of perpetrators of threats in general in Indonesia, doing research on the elements of criminal charges by reviewing ITE Law papers for those who inflict threats in Indonesia.

Second, Andi Irriana D. Sulolipu mentioned in her research that cybercrime is a new crime so that the research analyzed the disclosure of evidence for the crime of threatening committed through short messages.¹⁰ Meanwhile, this research provides a broader legal framework regarding the basics of criminal liability of threat actors and the elements of criminal offenses for threat actors in Indonesia.

⁸ Permatasari, I. A., & Wijaya, J. H. (2019). Implementasi Undang-Undang Informasi dan Transaksi Elektronik Dalam Penyelesaian Masalah Ujaran Kebencian Pada Media Sosial. *Jurnal Penelitian Pers Dan Komunikasi Pembangunan*: Vol. 23, No. 1: 27-41.

⁹ Andrian, K., Hapsari, I. P., & Wardana, D. J. (2022). Penegakan Hukum Terhadap Pelaku Tindak Pidana Pengancaman Dengan Kekerasan Melalui Media Sosial. *Jurnal Justisia: Jurnal Ilmu Hukum, Perundang-Undangan Dan Pranata Sosial*: Vol. 7, No. 1: 268-289.

¹⁰ Sulolipu, A. I. D. (2019). Analisis Tindak Pidana Pengancaman Melalui Pesan Singkat. *Al-Ishlah: Jurnal Ilmiah Hukum*: Vol. 22, No. 1: 45-52.

This study aims to ascertain if illegal acts constitute threats, with a focus on the fulfillment among the components of an illegal conduct, as well as the position of children and adults as legal subjects. This research is expected to help the Indonesian criminal law system to be better, especially in handling threat cases in Indonesia, and provide better policy recommendations.

2. Research Methods

In order to examine the examined legal concerns, this research employs a normative juridical technique. To resolve legal disputes, a conceptual and legislative framework is employed. The data for this study will be gathered through a literature review of relevant legal documents. Statutes and regulations are examples of primary legal sources, whereas scholarly works that are pertinent to the subject of the study, legal journals, papers, academic opinions of scholars and various related references.

3. Result and Discussion

3.1. Legal Regulations Against Perpetrators of Threats in Indonesia

Threatening is showing an intention to do something harmful, difficult, troublesome, or harmful to another person.¹¹ Threatening is one of the social conflicts that often occur in society. The crime of threatening can be considered a crime because threatening is considered a symptom that arises in society. Regarding the crime, making threats falls within the purview of the Criminal Code as an offense.

The rapid development of technology means that cybercrime can occur.¹² Threats can appear in various forms, either in cyberspace or in public. In cyberspace, it can be because the emergence of social media is not only to facilitate communication between people but can also lead to the emergence of responses and actions that are not good from others. Indonesian law strictly prohibits the act of threats on social media, these threats can be through text messages or in social media. The following is a mapping of regulations regarding criminal threats in Indonesia:

Table 1. Implications of Criminal Law from the Perspective of the Criminal Code and the ITE Law on the Perpetrators of Threats

¹¹ Geraldo, H., & Waluyo, B. (2023). PERTANGGUNGJAWABAN PIDANA PELAKU TINDAK PIDANA PENGANCAMAN SECARA ELEKTRONIK. *Jurnal Yuridis*: Vol. 10, No. 2: 33-51.

¹² Edrisy, I. F., & Rozi, F. (2021). Penegakan Hukum Terhadap Pelaku Pengancaman Pornografi (Study Kasus Polres Lampung Utara). *Jurnal Hukum Legalita*: Vol. 3, No. 2: 98-109.

No.	Article	The Law	Article reads
1	Article 335 paragraph (1)	KUHP CRIMINAL CODE OF CRIMINAL LAW	“The crime of coercing another person to do, refrain from doing, or tolerate something unlawfully through physical force, threats of physical force, or other unpleasant treatment, whether directed at another person or oneself, carries penalties of up to 4,500 rupiah in the form of fines or imprisonment for up to one year.” ¹³
2	Article 483	Legislation pertaining to the Criminal Code, No. 1 of 2023	“Anyone who, for their own or another’s illicit gain, resorts to slanderous threats, libel, or disclosure to coerce another person into: 1. giving up any property that belongs to them or someone else; or 2. paying off a debt, acknowledging a debt, or canceling a debt. This behavior carries a maximum sentence of four years behind bars or a category IV fine.” ¹⁴
3	When read with Article 45B, Article 29	UU no. 19 of 2016 concerning ITE	“Someone can sending As stated in Article 29, the possession of electronic material or documents that include explicit threats of violence or terror may lead to a maximum penalty of four years in prison and/or a fine of 750,000,000 rupiahs.” The following is an explanation of the criminal punishments for offenders included in Article 45B, as the article itself does not specify how these provisions are to be implemented: “Anyone found guilty of willfully and unlawfully transmitting according to Article 29, there is a potential sentencing of four years in prison or a fine of 750,000,000 rupiahs for electronic information or papers that include threats of violence or terror.” ¹⁵

¹³ Prof. Moeljatno, SH. (2003). *KUHP Dilengkapi Dengan UU No. 27 Tahun 1999 Tentang Perubahan KUHP Yang Berkaitan Dengan Kejahatan Terhadap Keamanan Negara* (Baru). Jakarta: PT Bumi Aksara.

¹⁴ Undang-Undang Republik Indonesia. (2023). *Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 tentang KUHP*. Jakarta: Lembaran Negara Republik Indonesia

¹⁵ Undang-Undang Republik Indonesia. (2016). *Undang-Undang Republik Indonesia Nomor 19 Tahun 2016 tentang Perubahan atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik*. Jakarta: Lembaran Negara Republik Indonesia.

Both the Criminal Code's Article 335 paragraph (1) and Law No. 1 of 2023's Article 483 address threats, however they are broad in scope and do not address the particulars of the instruments used for extortion and threats.¹⁶

Meanwhile, threats made in social media Articles 29 and 45B of Law No. 19 of 2016 specifically address this matter. concerning ITE because a special explanation is given about the methods or tools used for extortion and/or threats, including Computer Networks and the Electronic Storage and Transmission of Data and Documents. So it can be said that the ITE Law is a rule that specifically regulates threats about the online use of ICT.

The article follows the tenet of the '*Lex Specialis Derogat Legi Generalis*' concept, which states that '*lex specialis*' refers to specialized legislation, have a higher priority than general laws.¹⁷ Such legal principles serve to ensure that principles are consistent and valid, and to help resolve conflicts or disagreements within the applicable legal system.¹⁸

Each article in the law consists of several important elements that must be met in order for the article to be applied in a case. These elements serve as criteria or conditions that must be met to reveal that a legal event has occurred. Intentionally and without authorization sending electronic documents and information containing threats of violence or terror to an considered a crime, according this ITE Law, namely Article 29. There is no include corporations because what is meant personally is a natural individual, namely a human being or a natural individual. Looking at the ITE Law in Article 29, the elements are the transmission must be intentional, the recipient must not have the legal right to receive the electronic information or documents, the message must contain threats of violence or intimidation and very person.

What is meant by the element "every person" in this case is the person who makes threats that are carried out consciously on social media. Then the element of "intentionally" is intentional or deliberate in this case means that the

¹⁶ Pradipta, R. B., Budyatmojo, W., & Setiyanto, B. (2020). MENELAAH ASAS LEX SPECIALIS DEROGAT LEGI GENERALI PADA TINDAK PIDANA PEMERASAN DAN PENGANCAMAN MELALUI SISTEM ELEKTRONIK (STUDI PUTUSAN PENGADILAN NEGERI PADANG PANJANG NOMOR 15/PID. B/2015/PN. PDP). *Recidive: Jurnal Hukum Pidana dan Penanggulangan Kejahatan*: Vol. 9, No. 3: 238-243.

¹⁷ Fardila, P. M. N., & Alya'Labibah, H. (2024). Penerapan Asas Lex Specialis Derogat Legi Generali Terhadap Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi Dan Transaksi Elektronik Berkaitan Dengan Kejahatan Judi Online. *JUSTITIABLE-Jurnal Hukum*: Vol. 7, No. 1: 157-172.

¹⁸ Triputri, D. H., Mofea, S., Yulviani, D., & Pratama, R. (2023). Analisis Yuridis Terhadap Penerapan Sanksi Pidana Bagi Pelaku Penipuan Dalam Transaksi Elektronik Berdasarkan Asas Lex Specialis Derogat Legi Generali Ditinjau Dari Kuhp Dan UU ITE. *Lex Veritatis*: Vol. 2, No. 01: 42-51.

individual does know and want information that contains threats with the intention of making threats.¹⁹

These two elements cannot be said to be categorized as articles of threatening without the elements of “the recipient must not have the legal right to receive the electronic information or documents” and “must contain threats of violence or intimidation.” Because in this case the perpetrator does not have permission to carry out acts of threatening on social media that expressly call for physical aggression and fear that indicate the purpose and intent of the perpetrator's actions. Therefore, all elements must be fulfilled for the article to function as criteria or conditions that must be met to declare that a legal event occurs.

So as to maintain security and comfort in using social media, the regulation used Articles 29 and 45B of Law No. 19 of 2016 pertaining to ITE state because it is able to prevent social conflicts that stem from threats in cyberspace and protect human rights to live in a safe and peaceful atmosphere. To be the basis of the ITE Law is crucial for the utilization of IT. It also serves as a legal umbrella for various information technology law violations and criminal offenses. Users of the Internet in Indonesia should rest easy knowing that UU ITE has their backs and will do what's right.

3.2. Forms of Criminal Liability of Threat Offenders in Indonesia

The existence of a rule is mandatory and there are sanctions for those who do not comply with it. A person who has committed an act of violating a rule must be able to take responsibility for his actions in line with the applicable rules. People who use social media starting from several age groups are required to understand the rules so that in using cellphones, especially when using social media, they can be wise in using them. In terms of criminal provisions for cases that occur when there are social media users committing acts of threatening in social media, it is quite clearly regulated under the ITE-related provisions of Law No. 19 of 2016 (Articles 29 and 45B). Perpetrators should be aware that their social media activities may put them in legal jeopardy, this consequence becomes a new problem when small communities with their ignorance cause them to pay fines or be imprisoned.²⁰

Indonesia has the consequence of embracing a dualistic doctrine where there is a separate discussion of criminal acts and criminal liability. However, the doctrine

¹⁹ Lumenta, A. (2020). Tinjauan yuridis terhadap tindak pidana pencemaran nama baik menurut KUHP dan Undang-Undang Nomor 19 Tahun 2016 tentang ITE. *Lex Crimen: Vol. 9, No. 1.*

²⁰ Febriansyah, F. I., & Purwinarto, H. S. (2020). Pertanggungjawaban Pidana Bagi Pelaku Ujaran Kebencian di Media Sosial. *Jurnal Penelitian Hukum De Jure: Vol. 20, No. 2: 177-188.*

of criminal offense is derived from the doctrine of criminal responsibility, both of which are closely related, especially in terms of blameworthiness. In this case, the blameworthiness of no connection between the illegal conduct and the one who performs it, on the contrary, the blameworthiness of the act is objective, because it is attached to the criminal act and its consequences, while the blameworthiness of the individual who commits it is subjective, which is related to the assessment of subjective circumstances when committing a criminal act.

Crime is a paraphrase of *“strafbaar feit”*, which means an act of abstinence regulated by law that is threatened with criminal punishment and the perpetrator can be considered as the subject of a criminal offense.²¹ Criminal offense and criminal responsibility have been divided in the Criminal Code, Book II, Section 1 of Law No. 1 of the of 2023. Here is what a criminal crime is defined as according to Article 12, paragraph (1), Part One: Things that may get you in trouble with the law and/or require you to follow certain restrictions are referred to as criminal crimes. From the content of the article, it can be seen that it only discusses the aspect of the criminal offense without mentioning what kind of criminal liability.

Meanwhile, criminal responsibility is a continuation of the subjective and objective demands attached to the criminal acts of a person who is eligible to be convicted of his/her crime. Criminal responsibility is regulated in the Second Section. This section covers the ability to be held responsible, the requirements for criminal responsibility, and excuses. Thus, criminal offense and criminal responsibility are two different things. Seeing the number of modern people who use social media ranging from various types of age groups, from children to adults, not all perpetrators of threats may face criminal charges.

Everything that may be punished criminally is unlawful in Indonesia, according to a code of criminal law. The issue of juvenile delinquency responsibility is addressed in Articles 40 and 41 of 2023's Law No. 1, which pertains to the criminal law. According to the article, a juvenile offender cannot be prosecuted for a crime committed when under the age of twelve, but they can still be placed in a foster home and integrated in the community in guidance, mentoring, or education programs by investigators, community supervisors, and social workers.²² In fact, minors under the age of twelve are not allowed to be accountable not because they are excused for their actions, but because of their

²¹ Erlina, E. (2014). Analisa Kriminologi terhadap kekerasan dalam kejahatan. *Al Daulah: Jurnal Hukum Pidana dan Ketatanegaraan*: Vol. 3, No. 2: 217-228.

²² Saptama, D. A., Putri, A. R., Indradjaja, N., & Chamdani, C. (2024). NEUROHUKUM DAN BATAS USIA ANAK DALAM PERTANGGUNGJAWABAN PIDANA. *Wijaya Putra Law Review*: Vol. 3, No. 1: 21-38.

state of being considered unable to determine their “will”, which means they are in a state of birth where it is unethical to hold them criminally responsible. Article 113 paragraph (3) Section 1, Law of 2023 Concerning the Criminal Codes establishes that punishment is not permissible for minors under the age of fourteen; only measures are permissible.

are solely liable to legal action. These actions are as follows returning to each parent or guardian individually, transfer to another person, the care provided by a mental health facility, institutionalized treatment, being compelled to participate in official educational or training programs run by public or private organizations, driving privileges revoked; or repairing the damage caused by the crime.

Criminal responsibility requires that the producer has the capacity to bear responsibility. Some legal experts argue, according to Simons, that “The ability to take responsibility is a mental condition that provides rationale for a punitive action from both an aggregate and an individual perspective.” Furthermore, it is said that individuals are able to be responsible when their minds are healthy, namely if have the ability to realize or understand that their actions are contrary to the law and he/she is capable of deciding his/her authority in line with such awareness.

According to Moeljatno, there must be the ability to be responsible including the ability to differentiate between moral and illegal actions and knowing the pros and cons of an action and letting that knowledge guide one's decision-making. The first factor is the intellectual factor, which enables them to evaluate between permissible and impermissible actions. The second factor is the feeling or will, which allows them to position their behavior based on their beliefs about what is permissible and what is not. Consequently, individuals who have not been able to control their actions based on their awareness of whether they are good or bad, do not have culpability. In addition, individuals who carry out unlawful acts can be held accountable.²³

Article 38 of Law No. 1 of 2023, which is part of the Criminal Code, makes it clear that criminal offenses committed by individuals who have certain mental or intellectual conditions, may be reduced in punishment or subject to measures that mean less capable of responsibility. In this case, it must be proven that the individual falls into the category mental disabilities include girls and boys, including developmental disorders, namely autism and hyperactivity and psychosocial disorders, in particular delusions, manic-depressive episodes,

²³ Krismiarsi, K. (2018). *SISTEM PERTANGGUNGJAWABAN PIDANA INDIVIDUAL*. Semarang: Pustaka Magister.

anxiety, and personality disorders and down syndrome, slow learning and intellectual disabilities are examples of intellectual disabilities.

The concept of carelessness ought not to be incorporated into criminal culpability in Article 38 of Criminal Codes. This is because if the consequences only cause the criminal sentence to be reduced by the judge, it is more appropriately placed as a reason for mitigating the punishment. Meanwhile, Article 39 of the Criminal Codes, Law 1 of 2023, governs the capacity to be accountable. But it must be proven by violations of the law by people with intellectual impairments experiencing a return of psychotic symptoms to an acute stage and violations of the law by individuals who are intellectually disabled to varying degrees.

Psychiatrists are medically authorized to examine mental disabilities that are relapsing and exhibit psychotic features and moderate or severe intellectual disabilities. Whether or not judges are bound by such medical assessments is unknown. Thus, when a criminal offense is committed by an individual for whom intellectual disability is moderate to severe and recurrent mental disability is present, article 39 is applied as a criminal expungement reason. The issue is placed outside the issue of criminal liability which requires juridical judgment by the judge when assessing this with more medical examinations.

Pursuant to Article 36 of in the Criminal Code's Article 38 no punishment without blame is affirmed. "Error in this case takes a structure that includes "intentionality" (general error) and "negligence" (special error). In terms of intentionality, it means that the individual who commits the act intentionally wants and knows what he is doing, or is aware of his intentions. The science of criminal law classifies 3 (three) types of intent, namely intentionality as intention (*opzet als oogmerk*) this intentional motive is the general and simple form of an author's intentional act aimed at the forbidden result. if that result does not exist, it does not exist, as a result, there is a need for the act and its consequences, the second is willfulness with conscious certainty (*opzet met zekerheidsbewustzijn* atau *noodzakelijkheidbewustzijn*) in this case, the act has two consequences: the consequences that the actor actually intended. This may be a unique fault and have unnecessary consequences, but they are necessary to achieve the purpose and will occur, and illfulness based on contingency (*idolus eventualis* atau *voorwaardelijk opzet*) In this context, the specific situation that has the potential to arise at the outset may happen at a later date.²⁴

²⁴ Sudarto. (1987). *Hukum Pidana I*. Semarang: Badan Penyediaan Bahan-Bahan Kuliah Fakultas Hukum Universitas Diponegara.

In addition to mental attitudes that indicate intentionality, there are also mental attitudes related to negligence, which may include negligence, carelessness, inaccuracy, or lack of caution. According to Hazewinkel Suringa, negligence is lack of forethought and lack of caution. Meanwhile, according to Simon, negligence is an error caused by lack of attention and foreseeable consequences. Although an action is performed with care, the person performing it may not realize that the action may produce a result that is prohibited by law.²⁵ It is less serious than willfulness, but not as serious as intentionality. A maker can be found guilty when there is intent or negligence in committing a criminal offense. Criminal liability then focuses on finding and proving the existence of such willfulness and negligence.

Basically, excuses are reasons to negate guilt. Although the act is still a criminal offense, the perpetrator is excused due to external circumstances that suppress his or her will unintentionally. Because children under 12 years old who commit crimes are not punished, there is no particular situation that suppresses the child's free will. Therefore, the ability to be responsible is more appropriately placed in according to the rules laid down in Law No. 1's Criminal Code Sections 40 and 41. of 2023. Considering that the court should base his or her decision to grant forgiveness on the defendant's circumstances, it follows that the grounds for forgiveness should be considered or the environmental conditions at the time the incident was committed.²⁶

Article 42 of the Criminal Codes Law 1 of the Indonesia, 2023, specifies the grounds for pardon, or overmatch, including absolute coercive power forces the perpetrator to act without freedom, and driven by fear, intimidation, or unavoidable force (relative coercive power), namely when it is logically impossible to resist the threat, pressure, or force. There, the interests lost are about the same as, or somewhat higher than, the interests gained.

The excessive defense of necessity is contained under According to Article 43 of Law No. 1 of 2023, which is part of the Criminal Code of Indonesia, it claims that excessive defense of necessity is not proportional when compared to attacks, whether violence or threats of violence or a series of others that are received or received by another individual, either against himself, honor or property. In addition, the excessive defense is only limited to the body, moral honor, and

²⁵ Nusantara, H. U. (2021). Analisis Pertanggungjawaban Pelaku Tindak Pidana Penggelapan Berdasarkan Pasal 372 Kitab Undang-Undang Hukum Pidana. *MAQASIDI: Jurnal Syariah dan Hukum*, 136-144.

²⁶ WISUDANTO, W. T. (2013). Penggunaan daya paksa sebagai alasan pemaaf oleh hakim dalam memutus perkara pidana (Studi kasus di Pengadilan Negeri Yogyakarta). *Jurnal Ilmu Hukum*, 1-18.

property. The body includes the soul, wounds, and freedom of movement of the body, while moral honor includes feelings of sexual shame.²⁷

In determining the form of criminal responsibility for perpetrators of threats in Indonesia, it is not only seen from the elements but it is important to see it from the perspective of the legal subject. Is the legal subject capable and competent in being responsible. If the age of the perpetrator is less than 12 years old, he will not be held accountable as stated under the Republic of Indonesia's Criminal Codes, specifically Article 40, Law No. 1 of 2023. Then if the perpetrator has a mental state, his sentence can be reduced or he can be subject to actions according to Articles 38 and 39 as outlined in Law No. 1 of the Criminal Codes by Indonesia, 2023. So if the perpetrator who is considered capable and able to be responsible for his crime and who is 16 years of age or older who has common sense is then proven in order to have broken the law, if that happens, someone must be held criminally responsible.²⁸

Therefore, the law functions to maintain order and justice in society. Every individual is bound by the law and is required to be responsible for their actions if they violate it. This is a serious problem because threat can occur at any time and by anyone, including minors. All individuals have the right to live in a safe and orderly environment. As a result, every individual has an obligation to comply with applicable regulations and rules. Violating the law disrupts public order and security as well as the rights of other individuals.

4. Conclusion

This study concludes that an act of threat and insult in social media can be subject to the articles regulated in Article 29 when ITE is being considered under Article 45B of Law No. 19 of 2016 has provided appropriate sanctions by being sentenced all the way up to a 750 million rupiah fine or four years in jail, whichever is greater. The issue, however, is how to classify those responsible for threats in Indonesia's criminal justice system, it is not only seen from the elements but it is important to see it from the perspective of the legal subject. So that perpetrators who meet the requirements for criminal responsibility for threatening are required for the purpose of facing legal consequences for their conduct. Basically, threatening on social media is a criminal act in cyberspace that has a negative impact. This crime is committed by anyone, regardless of age,

²⁷ Dumgair, W. (2016). Pembelaan Terpaksa (Noodweer) Dan Pembelaan Terpaksa Yang Melampaui Batas (Noodweer Axces) Sebagai Alasan Penghapus Pidana. *Lex Crimen: Vol. 5, No. 5.*

²⁸ Ida, O. V., & Suryawati, N. (2023). Pertanggungjawaban Pidana Bagi Pelaku Tindak Pidana Dengan Gangguan Kejiwaan Menurut Ketentuan Hukum Positif. *Binamulia Hukum, 12(2)*, 263-275.

as long as they can use social media on the internet and do it. This is regulated by law to determine whether someone can be punished for threatening or not.

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