

Legal Protection of Corporations as Objects of Defamation Criminal Acts

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Abstract. *The spread of false information about a company, products, or services offered by the company can damage the corporate image. For example, fake news about a product that causes material harm to consumers or fake news about illegal actions carried out by a company, hate speech: In the digital world, hate speech often spreads very quickly. If the hate speech is directed at a company or company employees, this can tarnish the company's good name and damage its reputation in the eyes of the public, unfounded negative assessments. The main question in this study is whether corporations can be considered as objects of defamation according to the latest Article 27 A of the ITE Law. Given that corporations are legal entities entitled to legal protection against all forms of harm, protection of corporate reputations in cyberspace should be applicable. In this regard, protecting a corporation's reputation in the digital world can be categorized as part of protecting the company's immaterial assets, which fall under the category of image and reputation rights. Some examples of actions that can be classified as corporate defamation include the spread of fake news or hoaxes about a company's products or services, the spread of baseless claims that the company is involved in illegal or unethical acts, hate speech directed at the company or company employees, and negative comments or reviews that can damage the company's reputation. Legal protection for corporations in the event of defamation is crucial in today's digitally connected world. With the development of information technology, corporations have become highly vulnerable to defamation, which can damage their reputation and credibility in the public eye.*

Keywords: *Criminal Acts; Corporations; Defamation; Legal Protection.*

1. Introduction

The spread of false information about a company, products, or services offered by the company can damage the corporate image.¹For example, fake news about a product that causes material harm to consumers or fake news about illegal actions carried out by a company, hate speech: In the digital world, hate speech often spreads very quickly. If the hate speech is directed at a company or company employees, this can tarnish the company's good name and damage its reputation in the eyes of the public, unfounded negative assessments². Social media provides a space for consumers or other parties to provide opinions or assessments of a company. However, it is not uncommon for these assessments to be based on incorrect or incomplete information, which can ultimately damage a company's reputation, as well as negative comments or reviews: On online platforms such as forums, review sites, or even social media, negative comments or bad reviews about a product or service can quickly spread and reduce the level of consumer trust in a company.

The main question in this study is whether corporations can be considered as objects of defamation according to the latest Article 27 A of the ITE Law.³Given that corporations are legal entities entitled to legal protection against all forms of harm, protection of corporate reputations in cyberspace should be applicable. In this regard, protecting a corporation's reputation in the digital world can be categorized as part of protecting the company's immaterial assets, which fall under the category of image and reputation rights.⁴One of the basic ideas underlying this argument is that even though corporations are not individuals, they still have the right to legal protection against things that could harm their good name.

Defamation committed against a company, for example by spreading false or detrimental information about the products or services offered, can have a negative impact on the trust of consumers and business partners, which in turn will be detrimental to the sustainability of the business.⁵Furthermore, with the advancement of digital technology, companies can easily become targets of defamation through various platforms such as social media, blogs, or online news sites. Therefore, it is crucial for the law to provide broader protection, not only for individuals but also for corporations, in order to maintain a healthy and fair business climate. Defamation of corporations through electronic media can take various forms.

¹ Sinta Nuriyah & Wiwik Afifah, (2022), "Analisis Kasus Pemerasan Akibat Penyalahgunaan Pada Sosial Media", *Bureaucracy Journal : Indonesia Journal of Law and Social-Political Governance*, Vol. 2 No. 3, p. 1247–1248 <https://doi.org/10.53363/bureau.v2i3.116>, accessed on November 20, 2020.

Some examples of actions that can be classified as corporate defamation include the spread of fake news or hoaxes about a company's products or services, the spread of baseless claims that the company is involved in illegal or unethical acts, hate speech directed at the company or company employees, and negative comments or reviews that can damage the company's reputation.⁶ Legal protection for corporations in the event of defamation is crucial in today's digitally connected world. With the development of information technology, corporations have become highly vulnerable to defamation, which can damage their reputation and credibility in the public eye. Therefore, the implementation of Article 27A of Law Number 1 of 2024, which regulates defamation, needs to be interpreted broadly to include corporations as legal objects that require protection against the dissemination of information that is detrimental to their reputation. This amendment will not only provide protection for their reputation, but also provide protection for their reputation.

2. Research Methods

The approach used in this research is a sociological-juridical approach. This sociological-juridical approach combines two main aspects: legal (juridical) and social (sociological).⁷ This approach aims to understand how legal norms apply in social reality and how legal regulations are implemented in society. With this approach, it is hoped to obtain an empirical picture of how law functions in social life and how these legal norms significantly impact society. This type of research prioritizes primary data, obtained directly from the field or primary sources, and not yet processed by other parties. This primary data is crucial for providing an accurate and in-depth understanding of the legal phenomena being studied.

² Gusti Made Dan Ngurah Bagus, (2023), *"Strategi Promosi Dengan Pemanfaatan Media Sosial Tiktok Pada Toko Online Raja Accessories Seminyak"* (Politeknik Negeri Bali, p. 21.

³ Ikka Puspitasari & Erdiana Devintawati, (2018), *"Urgensi Pengaturan Kejahatan Korporasi dalam Pertanggungjawaban Tindak Pidana Korporasi Menurut RKUHP"*, *Kanun Jurnal Ilmu Hukum*, Vol. 20 No. 2, p. 237–254 <https://doi.org/10.24815/kanun.v20i2.10661>, accessed on November 20, 2024.

⁴ Heriansyah, *"The Effect of Corporate Governance, Profitability, Liquidity, and Solvency on Corporate Social Responsibility (CSR) Disclosure: A Literature Review Pengaruh Corporate Governance, Profitabilitas, Likuiditas Dan Solvabilitas Terhadap Corporate Social Respon."*

⁵ Erwin Asmadi, (2020), *"Rumusan Delik Dan Pemidanaan Bagi Tindak Pidana Pencemaran Nama Baik Di Media Sosial"*, *De Lega Lata: Jurnal Ilmu Hukum*, Vol. 6 No. 1, p. 16–33.

⁶ Ari Wibowo, (2012), *"Kebijakan Kriminalisasi Delik Pencemaran Nama Baik di Indonesia"*, *Pandecta*, Vol. 7 No. 1, p. 1–12.

⁷ Muhammad Chairul Huda, (2021), *METODE PENELITIAN HUKUM (Pendekatan Yuridis Sosiologis)*, The Mahfud Ridwan, p. 20-21.

3. Results and Discussion

3.1. Legal Construction of the Criminal Act of Defamation Against Corporations

Based on the findings of this study which focuses on the legal construction of criminal acts of defamation against corporations in Indonesian positive law, the discussion is structured systematically, empirically, and logically by integrating a doctrinal (normative) approach, established legal theories, as well as empirical-practical highlights on how law enforcement works in the field, where the starting point of the analysis is the change in the architecture of norms in cyberspace after the Second Amendment to the Electronic Information and Transactions Law (Law No. 1 of 2024) and its resonance with the 2023 Criminal Code (Law No. 1 of 2023), which together have shifted the "axis" of criminal protection of honor or good name towards personal, not institutional, protection, with direct consequences for the legal position of corporations when they feel their reputation is harmed by electronic or non-electronic content; within the normative framework,⁸

In Article 27A of the 2024 ITE Law, the offense of electronic insult is formulated as an act of attacking the honor or good name of another person in the form of Electronic Information or Electronic Documents carried out through an Electronic System and is subject to criminal penalties in Article 45 paragraph (4) with a maximum imprisonment of two years or a maximum fine of four hundred million rupiah, while on April 29, 2025, the Constitutional Court through Decision No. 105/PUU-XXII/2024 provided a very fundamental rule-of-law safeguard by determining that the phrase "other person" in Article 27A jo. Article 45 paragraph (4) must be interpreted as limited to individuals (natural persons) and explicitly excludes government agencies, institutions, corporations, professions or positions, as well as groups of people with certain identities, so that the consequence is that corporations cannot be positioned as victims of the offense under Article 27A, and reports or complaints from non-individual entities regarding alleged electronic defamation do not fulfill the objective elements regarding the protected subject (victim object) and must be transferred to the appropriate legal forum, namely the civil forum through a lawsuit for unlawful acts or other non-criminal mechanisms; the coherence of this legal construction is strengthened by Article 433 of the 2023 Criminal Code which formulates verbal defamation against "other people" as a complaint offense, which in its doctrine and explanation from the beginning is oriented towards protecting individuals, not legal entities, so that both in the cyber criminal law regime (ITE Law) and non-cyber (Criminal Code), the construction of the object of the offense of insult or

⁸ La Ode Hariru, Suriani Bt Tolo, & La Niasa, "Kedudukan Hukum Badan Usaha Milik Negara (persero) sebagai Perusahaan Berbadan Hukum," *Arus Jurnal Sosial dan Humaniora* 2, no. 3 (2022): 160–68, doi:10.57250/ajsh.v2i3.99.

defamation is firmly and consistently oriented towards humans (individuals) and not towards legal entities.⁹

In law enforcement practice, the discretionary space of law enforcement officers who previously interpreted "other people" broadly to include institutions, agencies, and corporations has now been corrected by the Constitutional Court, with the aim of preventing overcriminalization of public criticism targeting institutions, brands, or positions, even though such expressions are often a form of legitimate social control and are of public interest, so that the protection of responsible freedom of expression obtains a stronger constitutional basis; however, the new design of legal protection does not immediately abandon the interests of corporate reputation, but rather shifts its path to non-criminal remedies, especially through lawsuits for unlawful acts (PMH) based on Article 1365 of the Civil Code which demands cumulative proof regarding the elements of unlawful acts, errors, losses, and causal relationships, as well as through the right of reply and the right of correction according to Press Law No. 40 of 1999 when reputation disputes stem from journalistic works. Strategically, the PMH pathway provides space for corporations to file compensation claims based on quantitative data that can include economic losses such as lost sales, loss of goodwill or brand value, decreased public trust, to sentiment analysis in the digital space, and accompanied by a request for injunctive remedies in the form of orders to delete content, rectifications, or statements of reputation restoration, while the right of reply and correction mechanism provides a more proportional fast track to reputation restoration in the press ecosystem and has been recognized as a constitutional obligation of the press to serve the public interest and the interests of parties who feel aggrieved.

Theoretically, this legal construction is in line with the theory of legal subjects that distinguishes between natural persons and legal persons and with the principle of legality (*lex certa*) that demands certainty about the object of the offense, because when the formulation of the law explicitly refers to "other people" and the authoritative interpretation of the Constitutional Court confirms it as an individual, then the extension by interpretation to include corporations as victims of defamation offenses is clearly unjustifiable; this is also in line with the theory of legal protection and the doctrine of *ultima ratio* which emphasizes that criminal law must be the last means in providing legal protection, so that the criminalization of expression that targets institutions or legal entities must be avoided when effective and proportional non-criminal mechanisms are available, especially in the context of the digital space that demands a balance between reputation protection and freedom of expression; at the same time, the theory of

⁹ Oheo Kaimuddin Haris & Sabrina Hidayat, "Perlindungan Hukum Terhadap Korporasi Atas Terjadinya Pencemaran Nama Baik di Media Elektronik Legal Protection Against Corporations Upon Occurrence Defamation in Electronic Media" 5, no. 1 (2023): 324–37.

corporate criminal liability established in the 2023 Criminal Code remains relevant and important because it ensures that corporations can be held criminally responsible in their capacity as perpetrators of certain crimes, but this recognition does not automatically change the object of defamation offenses to corporate reputation.¹⁰

The dynamics following Decision 105/PUU-XXII/2024 and the reformulation of the ITE Law show a new pattern: first, investigators are now more assertive in filtering reports based on the victim's standing, so that reports from non-individual entities alleging defamation are directed to civil channels or to ethical-administrative channels such as the Press Council; second, corporate strategies are shifting from a criminal orientation to reputation management by prioritizing rapid clarification through the right of reply, presentation of quantitative evidence of losses, and PMH litigation if necessary; third, the chilling effect on public criticism tends to decrease because the boundaries of the object of the crime have been confirmed to only protect individuals, not institutions, so that the space for criticism of brands or institutions remains protected as long as it is carried out proportionally; From a public policy perspective, this discussion recommends codifying post-decision guidance across institutions so that the Constitutional Court's interpretation is translated into a uniform SOP from upstream to downstream, strengthening correction mechanisms at the digital platform level for non-press content (e.g., influencer posts, consumer reviews in marketplaces, or other UGC content) with clear, transparent, and accountable notice-and-action, developing a court-friendly reputational damage valuation model by combining legal, economic, and data analysis approaches to strengthen the effectiveness of PMH lawsuits, as well as ongoing training for law enforcement officers on the issue of fact-opinion sorting, public interest, and restorative justice practices in defamation cases involving individuals; meanwhile, for the press, the realization of the right to reply and the right to correction that is fast, proportional, and documented will reduce the burden of litigation while maintaining public trust; for corporations, the development of a Reputation Response Protocol that combines issue monitoring, rapid fact-checking, data-based public communication, the right to reply, and ADR/mediation options will accelerate reputation recovery compared to taking the criminal route which is now closed to corporations as victims.¹¹

From the perspective of legal theory and methodology, the changing landscape of defamation offenses can be read as an effort to harmonize the design of criminal law between the protection of individual dignity and the digital expression

¹⁰ Rizky Ramadhan, Diaz, & UI Hosnah, "Penanganan Tindak Pidana Pencemaran Nama Baik Yang Dihubungkan Dengan KUHP."

¹¹ Muhandar, (2010). *Perlindungan Saksi dan Korban Dalam Sistem Peradilan Pidana*, Surabaya: Putra Media Nusantara

ecosystem, with the principle of proportionality as the adjusting principle; in the grand narrative of criminal law reform, the 2023 Criminal Code places corporations primarily as criminal subjects (perpetrators) with a detailed accountability scheme, while the 2024 ITE Law, following the Constitutional Court's interpretation, ensures that the object of protection in defamation offenses remains individual, so that systemic contradictions do not occur and encourage right-sizing of law enforcement: cases that essentially concern institutional reputation are directed to civil or administrative forums, while cases that attack personal dignity can still be processed through criminal channels. With this configuration, the conclusion that can be emphasized is that Indonesian positive law does not recognize the crime of "defamation against corporations" either under Article 27A of Law No. 1 of 2024 and Article 433 of the 2023 Criminal Code, as a result of the normative design that focuses the victim object on the individual and the affirmation of the Constitutional Court that closes the interpretative space to include corporations as protected parties, so that corporations that feel their reputation is harmed must take the civil lawsuit route on the basis of unlawful acts and/or the right of reply and correction mechanism as well as administrative remedies and digital platforms by building a robust and measurable case file, while individuals who are personally attacked still have access to the criminal justice system in accordance with the applicable media and elements of the crime. Thus, this legal construction normatively fulfills the principle of legal certainty (*lex certa*), is in line with the doctrine of criminal *ultima ratio*, maintains responsible freedom of expression, and at the same time provides effective and proportional remedies for real reputational damage through the appropriate forum as provided by the Indonesian legal system.¹²

¹² Haris & Hidayat, "Perlindungan Hukum Terhadap Korporasi Atas Terjadinya Pencemaran Nama Baik di Media Elektronik Legal Protection Against Corporations Upon Occurrence Defamation in Electronic Media."

3.2. Forms of Legal Protection for Corporations as Objects of Defamation

Corporations, as legal entities, have the right to defend their reputation and good name in the public sphere, just as individuals do. In the context of Indonesian positive law, corporate reputation protection can be achieved through two main channels: civil law and administrative law. The criminal approach is limited, given that the element of a complaint in defamation requires the victim to be an individual.¹³

In civil law, corporations can pursue legal action based on the provisions of Article 1365 of the Civil Code, which regulates unlawful acts. In this context, corporations can file a lawsuit for damages if there is an action that harms the company's reputation, either materially or immaterially. Such a lawsuit can be filed against parties who convey baseless or detrimental statements, either through mass media or digital media. Legal protection is also available in the form of administrative sanctions imposed by state institutions in accordance with their authority. For example, if defamation occurs through broadcast media or the press, corporations can file a complaint with the Indonesian Broadcasting Commission (KPI) or the Press Council. Similarly, if detrimental content is disseminated through digital platforms, the Ministry of Communication and Information can take administrative action in accordance with statutory regulations. Meanwhile, the criminal legal route does not provide the same space for corporations, because in both Articles 310 and 311 of the Criminal Code and Article 27 paragraph (3) of the ITE Law, the elements of the crime of defamation emphasize the existence of a complaint from an individual as a victim. Thus, when the aggrieved party is a legal entity, criminal proceedings cannot be directly applied, and the corporation must pursue other available legal avenues. Nevertheless, corporations can still utilize non-litigative legal protection mechanisms such as the right of reply, public clarification, or civil action to maintain the integrity of the corporation's image.¹⁴

Corporations as objects of defamation, it can be understood that the existence of corporations as legal subjects in Indonesia has a different position compared to individuals in the context of protecting dignity, because criminal law norms as regulated in Article 27A of Law No. 1 of 2024 concerning Electronic Information and Transactions and Article 433 of the 2023 Criminal Code emphasize that the object of the crime of defamation is limited to individuals or natural persons, so that legally corporations cannot file criminal complaints on the basis of defamation; this is reinforced by the Constitutional Court Decision No. 105/PUU-

¹³ Yohana & Sahari, "Pertanggungjawaban Pidana Korporasi Perbankan."

¹⁴ Fifink Praiseda Alviolita & Barda Nawawi Arief, "Kebijakan Formulasi Tentang Perumusan Tindak Pidana Pencemaran Nama Baik Dalam Pembaharuan Hukum Pidana Di Indonesia," *Law Reform: Jurnal Pembaharuan Hukum* 15, no. 1 (2019): 130–48, doi:10.14710/lr.v15i1.23359.

XXII/2024 which provides a conditional constitutional interpretation that the phrase "other people" in Article 27A in conjunction with Article 45 paragraph (4) of the ITE Law is only interpreted as individuals and explicitly excludes corporations, government institutions, professions, and groups of people, so that the legal protection path for corporate reputation must be taken through other legal instruments outside of criminal law, especially through civil law, administrative law, the right of reply mechanism in press law, and non-litigation dispute resolution, each of which has its own scope, mechanism, and challenges.¹⁵ Normatively, the main protection available is through a lawsuit for unlawful acts (PMH) which is regulated in Article 1365 of the Civil Code which states that every unlawful act that causes harm to another person requires the perpetrator to compensate for the loss, which in practice also applies to corporations as legal subjects, so that when a corporation's reputation is harmed by defamatory acts carried out by another party, it can file a lawsuit in civil court to obtain compensation.

The forms of losses that can be claimed by a corporation in a PMH lawsuit include material losses, such as reduced income or loss of business contracts, as well as immaterial losses such as reduced brand reputation, damaged goodwill, or loss of public trust; to prove this, corporations usually have to involve economists, brand valuation experts, or use quantitative data such as decreased sales figures, reduced share value, or the results of public surveys regarding negative perceptions due to defamation; in addition to the PMH route, other legal protection available is through the right of reply and the right of correction as regulated in Law No. 40 of 1999 concerning the Press, where if defamation against a corporation occurs through journalistic products, the corporation has the right to file a right of reply so that the media provides space for clarification or rebuttal of detrimental news, as well as the right of correction if the news published contains errors; this mechanism is considered a form of legal protection that is fast, effective, and balances the interests of the corporation's reputation with press freedom; In addition, in the realm of administrative law, legal protection for corporations can be obtained by filing complaints with supervisory institutions such as the Press Council, the Indonesian Broadcasting Commission (KPI) for content broadcast through broadcast media, or the Ministry of Communication and Information for digital content on social media platforms, even to the Business Competition Supervisory Commission (KPPU) if defamation is carried out in the form of a black campaign that is detrimental to business competition, this shows that administrative protection has an important role in maintaining the reputation of corporations because it provides a forum for dispute resolution that is fast and does not always require court proceedings.

¹⁵ Simamora, Simarmata, & Lubis, *"Kajian Hukum Pidana Terhadap Perbuatan Pencemaran Nama Baik Melalui Media Sosial."*

In the perspective of consumer protection law, if defamation is carried out by a business competitor by spreading misleading advertisements or false information about corporate products, then the corporation can use the instrument of Law No. 8 of 1999 concerning Consumer Protection. To sue the perpetrator for carrying out business practices that are detrimental to consumers and at the same time tarnish the reputation of competitors; in addition to litigation, legal protection for corporations can also be carried out through Alternative Dispute Resolution (ADR) such as mediation, negotiation, conciliation, or arbitration, which are increasingly developing along with the increase in disputes in the digital space, where corporations can choose dispute resolution outside the courts that are faster, cheaper, and maintain business confidentiality and the Company's reputation.¹⁶In the development of international practice, the form of legal protection for corporate reputation is also taken through global mechanisms such as notice and take down submitted to global digital platforms (for example Google, Facebook, or X/Twitter) so that detrimental content is immediately removed, which is in line with regulations in the European Union through the Digital Services Act (DSA) as well as good governance practices on various platforms that regulate community standards.¹⁷

In Indonesia, this administrative authority lies with the Ministry of Communication and Information Technology which has the right to order the termination of access to content deemed detrimental to the public interest or the reputation of certain parties; from a theoretical perspective, legal protection for corporations as objects of defamation can be understood through Philipus M. Hadjon's theory of legal protection, where preventive legal protection for corporations is realized through regulatory policies that prevent defamation by requiring media or platforms to provide a right of reply, while repressive protection is realized through PMH lawsuits or administrative mechanisms after defamation occurs; in addition, the theory of legal responsibility emphasizes that corporations as legal subjects also have the right to protection as individuals, although the available protection mechanisms are different because criminal law is only intended for individuals, so that the form of protection for corporations emphasizes the aspect of remedial damages rather than punishment (punitive).

From the perspective of the theory of the rule of law (*rechtstaat*), the state has an obligation to provide effective legal protection, both through litigation and non-litigation instruments, so that the reputation of corporations is not arbitrarily harmed, but at the same time maintain that this protection is not used excessively

¹⁶ Ni Komang Ayu Nira Relies Rianti, "Tanggung Jawab Pelaku Usaha Terhadap Konsumen Dalam Hal Terjadinya Shortweighting Ditinjau Dari Undang-Undang Ri No 8 Tahun 1999 Tentang Perlindungan Konsumen," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 6, no. 4 (2017): 521, doi:10.24843/jmhu.2017.v06.i04.p10.

¹⁷ Shidarta, (2000). *Hukum Perlindungan Konsumen Indonesia*, Jakarta: PT Grasindo.

to silence legitimate criticism from the public; in global practice, countries such as the United States and the United Kingdom have a corporate defamation or libel doctrine that allows corporations to sue if they can prove commercial losses due to pollution, although the burden of proof is higher than for individuals, so Indonesia can learn a lesson by strengthening the aspect of proving losses in PMH lawsuits to prevent arbitrary lawsuits; Therefore, the main conclusion of this discussion is that the form of legal protection for corporations as objects of defamation in Indonesia is not in the realm of criminal law, but rather lies in the civil law channel through lawsuits for unlawful acts, the administrative law channel through supervisory mechanisms by relevant institutions, the right of reply and right of correction mechanisms in press law, consumer protection instruments, as well as alternative dispute resolution and digital platform mechanisms, with an orientation towards reputation restoration, compensation for losses, and prevention of recurrence of defamation, so that the design of this protection still ensures a balance between the interests of corporations to maintain their reputation and the public interest to express legitimate criticism, in line with the principles of legal certainty, justice, and benefit that are characteristics of the Indonesian rule of law.

4. Conclusion

The legal construction of criminal defamation against corporations shows that Indonesian criminal law, both in the Criminal Code and the ITE Law, still limits the reporting subject in defamation crimes to individuals. Articles 310 and 311 of the Criminal Code and Article 27 paragraph (3) of the ITE Law (before and after the Constitutional Court Decision) stipulate that this crime is a complaint (*klacht delict*) and must be filed by an individual victim. Therefore, corporations as legal entities do not have the legal standing to become reporters in defamation cases based on the current criminal provisions. Nevertheless, corporations are still recognized as entities that have a reputation and can suffer losses from statements that damage their good name. Legal protection for corporations as objects of defamation is more widely available through civil and administrative legal channels. Under Article 1365 of the Civil Code, corporations can file a lawsuit for damages for unlawful acts against parties who disseminate information detrimental to the company's reputation. Administrative mechanisms can also be pursued through oversight bodies such as the Indonesian Broadcasting Commission (KPI), the Press Council, or the Ministry of Communication and Information Technology, depending on the medium used to disseminate the allegedly defamatory content. Corporations can also exercise the right of reply, clarification, and other non-litigation approaches to protect their reputation in the public sphere.

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