

Balancing Justice and Reconciliation: Restorative Approaches to Criminal Defamation Settlement

Antony^{1*}

*Corresponding Author

ABSTRACT

Received: 28-1-2023
Revised: 20-2-2023
Accepted: 31-3-2023
Published: 25-5-2023

Citation:
Antony, A. (2023).
Balancing Justice and
Reconciliation:
Restorative Approaches
to Criminal Defamation
Settlement in Indonesia.
*Barelang Journal of Legal
Studies*, 1(1), 15-30.

Articles that are potentially and often used to ensnare someone who is considered to have committed defamation include Article 310 of the Criminal Code and Article 27, paragraph (3) of the ITE Law, as well as Article 45, Paragraph 1 of the ITE Law. Indeed, the issue of sanctions is of utmost importance in implementing criminal law as it reflects the norms and rules that encompass societal values. Given that defamation is categorized as a complaint offense, there exists a potential alternative for resolving such cases through a Restorative Justice approach, with the aim of achieving three legal values: Justice, Benefit, and Certainty. This research study adopts normative legal research methods, utilizing a statutory approach and conceptual approach. The findings of this normative research indicate that the Restorative Justice Approach can serve as an alternative for addressing defamation crimes, effectively realizing the three legal values of justice, certainty, and benefits for both the victims and perpetrators of criminal acts.

Keywords: Defamation; Restorative Justice; Criminal Law
DOI: <http://dx.doi.org/10.37253/barjoules.v1i1.7749>

¹ Faculty of Law, Universitas Internasional Batam, Indonesia, 2051091.antony@uib.edu

INTRODUCTION

Based on the fourth amendment of the 1945 Constitution (UUD 1945) in article 1 paragraph (3) states that the State of Indonesia is a State of Law. Based on this statement, all aspects of life in this country have been regulated by legal rules and legal norms both in the economic, social, political culture, and others (Arifin & Muthia, 2019). All community actions are regulated by norms and rules in order to minimize the emergence of problems between individuals and groups and all problems that arise in community life must be resolved in accordance with applicable law (Muchladun, 2015). In the criminal world, there are legal norms that protect the interests of the general public of the Indonesian state which have been codified, namely the Criminal Code (KUHP). It cannot be denied that although there are rules and norms that have regulated, in reality there are still many crimes and violations that occur in people's lives. Coupled with technological developments, especially in the information sector, it also makes it easy to carry out crimes in cyberspace with sophisticated modus operandi so that it is difficult to control (Ningrum et al., 2019). In essence, humans have two strata functions in life, namely as "individuals" and "social beings". As social beings, humans interact in the form of communication between each other and is one of the important needs. Telecommunications experts agree that the current modern era is characterized by the information age (Wuryantai, 2013).

This information age is characterized by the high intensity of exchange and use of information technology. The adage "information is the lifeblood that sustains political, social and business decisions" has caused people to start opening up to the development of information technology. Basically, technology is good, but along with its development it also has a negative impact on the wider community due to the misuse of technology (Sepima et al., 2021). Globalization is a pillar of progress in various fields in human life, especially in the fields of telecommunications, transportation and information. However, globalization can be considered like a double-edged sword which means that there are two sides that have positive and negative effects. especially with internet technology. On the one hand, internet technology can make it easier if utilized wisely and correctly, but it can be a problem if not used properly. This causes major changes, especially in the way of thinking and acting of a nation's society (Sushanty, 2019). One of the misuses of technology, especially in the information sector, is defamation on social media. Defamation in English is called defamation (Mintowati, 2016). The rise of defamation cases

is a form of character assassination and violation of human rights. Defamation cases can also be included in the class of cybercrime.

The crime of defamation is a subjective offense so that among the types of criminal acts regulated in the Criminal Code, defamation is included in the complaint offense. Complaint offense is a criminal offense that can only be prosecuted if there is a complaint from the person who is harmed (Zainal, 2016). This has been regulated in Chapter VII of the Criminal Code concerning filing and withdrawing complaints in the case of crimes that are only prosecuted upon complaint. The crime of defamation is regulated in Article 310 to Article 321 of the Criminal Code. Legal arrangements for other defamation crimes are regulated in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE), Law Number 32 of 2002 concerning Broadcasting and several other specific laws. When looking at the explanation of the Criminal Code, defamation is categorized into insults and blasphemy against a person (Jayananda et al., 2021). Defamation is categorized as insulting and desecrating a person's name and honor. So far, the size of an act that can be categorized as defamation of another person is still unclear because there are still many factors that must be reviewed further (Lumenta, 2020). As for one pragmatic study using the heuristic strategy, it concludes that there are variants of expression in defamatory speech, namely accusations, ridicule and reproach (Muthia, 2015).

In this case, it can be seen that the act of defamation is to protect a person's honor. Honor means the feeling of respect for an individual in the eyes of society, where every individual has the same right to be treated with respect in society. The crime of defamation is an act which attacks the honor of an individual through public judgment in order to attack someone's honor. According to Baryadi, defamation of a person using speech is a form of verbal violence. Verbal violence contains words used by speakers to injure the self-respect of a person or individual (Baryadi, 2012). A person who utters verbal violence does not just convey verbal symbols but he also commits violence directly but is realized in words (Austin, 1962). Based on the ideology of Pancasila, defamation is an act that does not reflect the character of the nation and violates the norms of decency and even violates religious norms if it contains slander. In this case, Indonesia as a state of law has codified positive law and implemented the law, especially the provision of criminal sanctions against perpetrators based on the Criminal Code and ITE Law as well as

several other special laws. A person will be held accountable for his actions if his actions are against the law and cause harm.

A person will be held accountable for his actions if his actions are against the law and cause harm. Criminal liability in the form of sanctions as regulated in the Law is expected to create a deterrent effect for the perpetrator. The existence of regulations and imposition of sanctions arises because of the reactions and needs of the community. In its current implementation, the determination of criminal sanctions in the law now prioritizes “Primum Remedium” (first resort) rather than as “Ultimum Remedium” (last resort) (Anindyajati et al., 2016). However, defamation is still widely found and has even increased. Therefore, there has been a shift in legal policy regarding the application of criminal law from the last resort to the first resort (Atmasasmita, 2012). Basically, the imposition of sanctions against the perpetrators of criminal acts is not only imprisonment but the perpetrators of criminal acts get guidance and changes in their behavior (reconstruction of the perpetrator's behavior). In other words, the imposition of punishment is not only about retaliation, but also how the punishment continues to humanize humans. restore the position of criminals to society after passing the sanctions and change the behavior that was originally criminal behavior to be better, both in terms of morals and in terms of self-ability so that they can survive properly in society (Sukoco, 2016).

When looking at the victim's side, often the criminal verdict imposed does not restore the victim's condition. According to Bagir Manan, law enforcement in Indonesia can still be said to be “Communis Opinio Doctorum”, which means that current law enforcement is considered to have failed to achieve the objectives required by law (Arafat, 2017). This has triggered demands for criminal law reform from alternative solutions to finding alternative punishments. As for now, there is one alternative to solving criminal offenses commonly known as the Restorative Justice Approach. Restorative Justice is an approach in solving criminal problems with a legal dispute resolution process carried out by bringing together the victim and the suspect to sit together in a meeting to find a middle ground (not only compensation but prioritizing the restoration of relations between the victim and the perpetrator) (Jackson, 2006). Based on the description above, it can be concluded that defamation is one of the criminal acts regulated in the Criminal Code (KUHP) which is included in the complaint offense. In contrast to ordinary offenses which are in fact classified as disturbing the public interest so that the state determines the prosecution

of the perpetrator. It is this difference that makes the process of resolving ordinary and complaint cases different. Cases based on complaints can use the Restorative Justice approach as an alternative to case settlement that focuses on fair resolution and focuses on restorative (recovery) back to its original state rather than on retributive (retaliation). By using the Restorative Justice approach in defamation cases as a form of implementation and upholding the *ultimum remedium* principle (Masna Nuros, 2022).

Considering previous research that focuses on discussions related to analyzing the causes of a person committing a criminal offense of defamation through facebook with a case study of decision No.25/Pid.Sus/2020/PN SNB (Riaki & Purba, 2022), research on the freedom of social media on the dissemination of public information containing insults and defamation (Ramadhan & Kahfi, 2022), research on the application of restorative justice to criminal defamation in Islamic criminal law (Noercholis Rafid A, 2022) and research that examines the criminological review of the use of social media as a means of committing criminal defamation (Muakad, 2023). Unlike the research that has been reviewed, this research focuses on the purpose of resolving criminal defamation through information technology with a restorative justice approach that is expected to fulfill the value of certainty, usefulness and legal justice in society and implement the values of Pancasila which always prioritizes deliberation in society. To criticize the regulation and legal impact of the implementation of the regulation on criminal defamation in the current digital era and find justification for the form of regulation regarding the settlement of criminal defamation that is effective and fulfills the value of certainty, usefulness and legal justice. Based on the above description, the problems raised in this research are: 1). How is the Legal Structure and Substance of the Settlement of Criminal Defamation in Indonesia? 2). How is the Settlement of Criminal Defamation with Restorative Justice Approach in Indonesia?

METHOD

The writing in this scientific research uses normative legal research methods using a statutory approach (Statute Approach) and a conceptual approach (Conceptual Approach) (Jaya, 2020). The legal material search technique uses literature study techniques and studies with quantitative analysis. Through this research process, the data that has been collected and

processed is analyzed and constructed in order to obtain the truth. Normative legal research (literature) is research conducted by examining applicable laws and regulations with other library materials (secondary data) to be applied to legal problems that occur (Disemadi, 2022). The focus of attention of normative legal science as a practical science is to offer solutions to problems that occur in society, both concrete and potential (Tan, 2021).

DISCUSSION AND ANALYSIS

Legal Structure and Substance of the Settlement of Defamation Crimes in Indonesia

Indonesia as a country that adheres to democracy, provides freedom to every citizen in expressing opinions and opinions in public (Pandapotan Hutagaol, Daniel Megawaty, 2023). However, considering Indonesia as a state of law, there are also limitations that have been regulated in law (M.Wiryawan, 2011). Defamation can literally be interpreted as an act that harms a person's good name / honor. Indonesia as a state of law has regulated defamation which is contained in the Criminal Code (KUHP) in Book II Chapter XVI (considered very relevant) (Arifin & Muthia, 2019). The Criminal Code owned by Indonesia is dominantly a form of duplication of the Wetboek Van Strafrecht voor Netherland Indie (Dutch Criminal Code) which was lifted from the French Penal Code (Roman Law) (Zainal, 2016). Defamation is termed as insult or defamation in general against someone in Indonesia contained in Book I of the Criminal Code, Chapter XVI, especially article 310, article 311, article 315, article 317, and article 318 of the Criminal Code. According to Article 310 paragraph 1 of the Criminal Code, an insult is punishable if it is committed by accusing a person of having done/doing certain acts with the intention that the accusation will be known by the public (spread). The act in question need not be an unlawful act but an ordinary act that is certainly a shameful act (attacking honor) such as accusing someone of having an affair. The accusation must be made orally and if it is made in writing/pictures then it may be subject to Article 310 paragraph 2 of the Criminal Code which is called "defaming/insulting by letter (in writing)". The object/target of defamation can be: 1). Against private individuals; 2). Against a group/group; 3). Against a belief/religion; 4). Against a deceased

person; 5). Against officials (civil servants, heads of State / their representatives and foreign representative officials).

According to R. Soesilo, there are 6 types of defamation in the Criminal Code, namely: 1). Defamation orally (smaad); 2). Defamation by letter/written (smaad schrift); 3). Slander (laster); 4). Mild insult (cenvoudige belediging); 5). Slandorous denunciation (lasterlijke aanklacht); 6). Defamatory accusation (lasterlijke verdachtmaking). The crime of defamation via the internet can be classified as a world crime. This crime has been regulated in Article 27 paragraph (3) of Law Number 11 of 2008 concerning information and electronic transactions which states that every person intentionally and without right distributes and/or transmits and or makes accessible electronic information that has insulting content and/or defamation. If someone disseminates data relating to someone's personal data through social media (without the permission of the person concerned) and causes harm or negative impact then based on civil law the perpetrator is subject to Article 1365 of the Civil Code which explains that every unlawful act, which therefore causes harm to others, obliges the person who through his fault causes the loss to compensate. If we look as a whole at the national legal basis, there are articles that have the potential and are often used / used to ensnare someone who is considered to have committed defamation, such as Article 310 of the Criminal Code, Article 27 paragraph (3) of the ITE Law and Article 45 Paragraph 1 (1) of the ITE Law.

Law enforcement against criminal defamation verbally or through social media in this case is carried out by the Police Substance. The police is an institution that has the authority regulated in the Criminal Procedure Code (KUHAP) to carry out investigations and investigations. Investigation is the beginning of the legal process in a criminal case. In the context of law enforcement against criminal defamation verbally or through social media will be carried out if after a complaint from an individual or the community that there has been defamation. Given that the criminal offense of defamation is included in the complaint offense. There are two efforts in the framework of law enforcement against criminal defamation used by police institutions, namely: 1). Preventive efforts, which are efforts that focus on the element of prevention, meaning that countermeasures are carried out before the occurrence of criminal defamation either verbally or through social media. The police are law enforcement officers who have duties and authorities in public services in the form of protecting, guarding, serving and protecting the community. 2).

Repressive Efforts, namely law enforcement efforts after the occurrence of criminal defamation. The form of repressive efforts will be carried out if the police receive a complaint from the victim and an investigation will be carried out. After that, the police will take both penal and non-penal approaches.

The penal approach is carried out when police officers receive complaints from the public and follow up on complaints by conducting investigations and investigations into allegations of criminal defamation verbally or through electronic social media. The non-punitive approach is carried out by police officers by providing opportunities for victims and suspects to resolve cases that have occurred outside the court. Police institutions can provide facilities as a third party (neutral) to reach a peace agreement between the victim and the suspect. Efforts as a third party (mediation) in resolving cases between victims and suspects are carried out based on the provisions of Article 16 paragraph (1) letter 1 of Law Number 2 of 2002 concerning the Indonesian National Police.

Settlement of Defamation Crime with Restorative Justice Approach in Indonesia

If look for the implementation of the regulation of criminal defamation through information technology in Indonesia today, it is contained in the ITE Law which is a *Lex Specialis* of criminal law because it specializes in criminal law that covers the use of technology and the internet (Darmawan & Tawang, 2019). It is known that Article 27 paragraph (3) of the ITE Law regulates defamation on social media. there are two elements in this article, namely subjective elements and objective elements. The subjective element of the article is the element of intentional wrongdoing, while the objective element of the article is the act of disseminating and / or transmitting and / or creating unpleasant electronic documents and / or content that means insult (Anggaraini & Gunawan, 2019). The ITE Law emphasizes the criminal responsibility of the perpetrator as a subjective factor, namely in the intentional wrongdoing of those who commit such acts in Articles 27-36 of the ITE Law. To find the truth that the perpetrator committed an act of defamation on social media, law enforcement must be able to prove that the perpetrator consciously intended and knew what he was doing (Arief, H., & Ambarsari, 2018). Defamation against internet media

can be threatened and subject to criminal sanctions, which can be in the form of imprisonment to other criminal sanctions such as fines and compensation in accordance with applicable legal provisions.

This responsibility is determined by the conditions of the criminal offense that are fulfilled according to criminal responsibility, so that those guilty of committing the crime of defamation can be held accountable for their actions in the manner decided by the court. Imprisonment in reality is the deprivation of one's freedom. Imprisonment is carried out by locking the convict in prison and forcing him to obey all the rules and regulations that apply in prison. Imprisonment is one of the criminal sanctions most often used to solve criminal problems (Pratiwi et al., 2022). The use of imprisonment to punish criminals only began in the late 18th century, rooted in the concept of individualism and the humanitarian movement, so that imprisonment plays an increasingly important role in changing the moral position of the death penalty and corporal punishment which is considered cruel (Asmadi, 2021). In addition, fines are considered not as severe as imprisonment, especially when compared to the death penalty. According to Niniek Suparni, fines are threatened or imposed on defendants for minor offenses, or minor crimes. Therefore, this punishment is the only punishment that can be shared by anyone other than the convict. Although the fine is imposed on the convict personally, it is not prohibited for someone to voluntarily pay the fine for the benefit of the convict (Suparni, 1996).

Looking at the Prita Mulyasari case, the public is faced with the fact that the existence of the ITE Law has created an atmosphere of disharmony. This is because public justice has been disrupted by the unfair practices of law enforcers. Just because Prita Mulyasar's complaint against OMNI International Hospital was conveyed in the form of an email, she was considered to have defamed OMNI International Hospital (Maskun et al., 2013). The amendment of Article 45 paragraph (1) of Law No. 11 of 2008 to Article 45 paragraph (3) of Law No. 19 of 2016 because there were individuals who protested defamation and/or Article 27 paragraph (3). Internet violations that led to the Constitutional Review of Article 27 paragraph (3) at the Constitutional Court, where both parties filed motions, the first by Narliswandi Piliangi on November 25, 2008 and the second motion by Eddy Cahyono and friends on January 5, 2009. The Constitutional Review of the Constitutional Court found that the plaintiffs' objection was aimed at the ITE Law contained in the Criminal Code, specifically the criminal penalty of imprisonment for a maximum of 6 (six)

years and/or a maximum fine of Rp1,000,000,000.00 (one billion rupiah). This provision is considered too burdensome compared to the punishment imposed in Article 310(1) of the Criminal Code, which is imprisonment for a maximum of 9 (nine) months or a maximum fine of four thousand five hundred rupiahs. Imprisonment of more than 5 years has the effect that violators can be detained by the authorities during the investigation, as stated in Article 21 paragraph (4) letter a of KUHAP, namely “Imprisonment can only be imposed on suspects or defendants who commit and/or attempt or assist in committing a crime, if the crime is punishable by a minimum imprisonment of five years.”

This change in society's perspective then shows that improvements must be made immediately, this can be done by reducing the sentence to less than 5 years so that suspects in defamation cases do not have to be detained during the trial. The most important form of defamation is Article 310 Paragraph 2 of the Criminal Code, namely written defamation, which is punishable by 1 (one) year and 4 (four) months. Then 2 (two) years are added due to the use of electronic information technology devices such as the criminal justice model. So that the punishment becomes 3 (three) years and 4 (four) months. Therefore, the aim is to reconcile the emphasis on the criminal threat of pollution of the electronic information technology environment with the wishes of the community who demand a reduction in criminal threats under the age of 5 years (Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia, 2015). Indeed, the issue of sanctions is a very important issue in the implementation of the content of criminal law because it is a reflection of norms and rules that contain the values of a society. The application of criminal law sanctions also does not always solve the problems that have arisen because it turns out that criminal sanctions do not contain the restoration of justice damaged by criminal acts. Therefore, justice must also contain the concept of restoration to peace. J.E. Sahetapy said peace without justice is an oppression, and justice without peace is a new form of persecution (Sahetapy, 2014). Not always criminal sanctions in principle aim to provide punishment.

There is a blending between the perpetrator and the victim until they become one whole unit to find a solution in the hope of returning to a good relationship in society later. This alternative to punishment is commonly referred to as restorative justice. From a restorative justice perspective, crime is a violation of interpersonal relationships. Restorative justice can be

implemented in the following ways: victim-offender mediation; family group discussions; community services that provide healing for both victims and offenders. The application of restorative justice principles depends on which legal system the country follows. If the legal system does not require it, then the application of the law to restore a just state cannot be enforced. It can be concluded that Restorative Justice is one of the alternatives in the planning of the country's legal system. Even if a country does not legalize, this does not rule out the possibility of applying Restorative Justice principles to the delivery of justice and legal benefits (Arief, H., & Ambarsari, 2018). The resolution of criminal cases with the approach or concept of Restorative Justice focuses more on the direct involvement of both perpetrators, victims, and the community in the case resolution process. In addition, the concept of Restorative Justice prioritizes the values of balance, harmony, harmonization, peace, tranquility, equality, brotherhood and kinship in society rather than punishment or imprisonment. Efforts to resolve cases in this way not only solve the problems that arise, but go deeper, because the concept of resolving cases with an approach that aims to restore a fair situation is seen as bringing more justice to society (Flora, 2018).

The concept of restorative justice approach is an approach that focuses on the requirements to realize justice and compensation for the perpetrators and victims of crime themselves. Decision-oriented procedures and criminal justice mechanisms are transformed into dialogue and mediation processes to reach an agreement to resolve criminal cases that is fairer and more just for victims and perpetrators. Restorative justice itself means restoring justice, while restoration itself has a broader meaning of justice compared to the traditional criminal justice process with the presence of restitution or compensation for victims (Juhari, 2019). However, the concept of restorative justice includes restoring the relationship between victims and offenders. This restoration can be based on mutual understanding between victim and offender. The victim can mediate the harm he or she has suffered, and the offender is given the opportunity to make up for it through amicable settlements, community service and other agreements. This is important because traditional criminal procedure law does not provide space for the parties, in this case the victim and offender, to actively participate in resolving the problem. Restorative justice approaches must be implemented in an integrated manner. This is important because if one of the sections does not apply the concept or approach of restorative justice, then restorative decisions cannot be enforced. For example, the police and prosecutors have adopted the concept of

restorative justice, but judges still follow the litigation procedural way of thinking, and in such cases judges make very normative decisions, so prisons cannot apply the concept of restorative justice.

Therefore, the approach or concept of restorative justice must be implemented in an integrated manner between one component and another, otherwise if one component does not apply the approach or concept of restorative justice, then restorative justice itself will not run well (Barkatullah, 2017). Passing Circular Letter Number SE/8/VII/2018 concerning the Application of Restorative Justice in the Settlement of Criminal Cases and circular letter SE/2/II/2021 related to Ethical Cultural Awareness to Realize a Clean, Healthy and Productive Indonesian Digital Space has changed the way certain criminal actions are taken in law enforcement to fulfill the rights of victims and their interests. According to SE/2/II/2021, if a criminal offense in the form of defamation occurs on social networks, the victim must report the criminal offense to the authorities, but before the case is brought to court. Investigators must communicate with the victim and provide facilities and space for the parties to conduct mediation first (Badrih, 2021). A mediation approach to the Indonesian criminal justice system can create progressive law that requires the state not to control the resolution of all offenses to the exclusion of others, including the court's monopoly on dispute resolution. A restorative justice approach to criminal justice has the power to restore relationships between offenders and victims (Azizah & Suarda, 2023).

The criminal mediation process can be conducted constructively by holding perpetrators accountable to repair the harm caused by their mistakes. In addition, the traditional view of the community and the police regarding the settlement of criminal cases, which still adheres to the old paradigm that criminal cases cannot be resolved outside the court, can be dismantled and reformed into laws that create laws that prioritize society, harmonization and a welfare state (Fadly, 2022). There are requirements for the implementation of the Restorative Justice approach as stipulated in the Attorney General's Regulation No. 15 of 2022 concerning Termination of Prosecution Based on Restorative Justice and Police Regulation No. 8 of 2021 concerning Handling Crimes based on Restorative Justice, namely formally it must contain peace from both parties as evidenced by a peace agreement (except for narcotics crimes) and the most important thing is the fulfillment of the rights of the victim and the responsibility of the perpetrator in the form of replacing the losses that have been caused, return of goods, reimburse the cost of damage

caused by criminal acts as evidenced by a statement contained in a deed of agreement (except narcotics crimes) (Pandapotan Hutagaol, Daniel Megawaty, 2023). Using the Restorative Justice approach in the case of criminal defamation (Hate Speech) is a form of implementation in upholding the *Ultimum Remedium* principle and is a justification for the form of regulation regarding the settlement of criminal defamation that is effective and fulfills the value of legal certainty, expediency and justice. The Restorative Justice approach is a reflection and ideal of Pancasila which is the ideology of the Indonesian state which always prioritizes deliberation in Indonesian society (family principle) (Hartanto et al., 2022).

CONCLUSION

Indonesia as a state of law has regulations related to criminal defamation which in its operation is carried out verbally or in cyberspace. However, in fact, the issue of sanctions is a very important issue in the implementation of the content of criminal law because it is a reflection of norms and rules that contain the values of a society. The application of criminal law sanctions also does not always solve the problems that have arisen because it turns out that criminal sanctions do not contain the restoration of justice damaged by criminal acts. Seeing that criminal defamation in Indonesia is included in the complaint offense, it is likely that the form of settlement of criminal defamation cases in Indonesia can be resolved using the Restorative Justice approach in order to realize the value of certainty, usefulness and legal justice in society and implement the values of Pancasila which always prioritizes deliberation in Indonesian society (family principle).

ACKNOWLEDGMENTS

I want to thank my lecturer as my advisor, Mr. Hari Sutra Disemadi, for helping me prepare this article, providing input and suggestions on this article, also helping me in the publishing process. I would also like to thank the authors of the articles that I have quoted as references in making this article. Lastly, I would like to thank myself for working on this article.

REFERENCES

- Anggaraini, & Gunawan, B. I. (2019). Upaya Hukum Penghinaan (Body Shaming) dikalangan Media Sosial Menurut Hukum Pidana dan UU ITE. *Jurnal Lex Justitia*, 1(2), 113–124.
- Anindyajati, T., Rachman, I. N., & Onita, A. A. D. (2016). Konstitusionalitas Norma Sanksi Pidana sebagai Ultimum Remedium dalam Pembentukan Perundang-undangan. *Jurnal Konstitusi*, 12(4), 872. <https://doi.org/10.31078/jk12410>
- Arafat, Y. (2017). Penyelesaian Perkara Delik Aduan Dengan Perspektif Restorative Justice. *Borneo Law Review*, 1(2), 134.
- Arief, H., & Ambarsari, N. (2018). Penerapan Prinsip Restorative Justice Dalam Sistem Peradilan Pidana Di Indonesia. *Al-Adl: Jurnal Hukum*, 10(2), 173–190. <https://doi.org/10.31602/al-adl.v10i2.1362>
- Arifin, R., & Muthia, F. R. (2019). Kajian Hukum Pidana Pada Kasus Kejahatan Mayantara (Cybercrime) Dalam Perkara Pencemaran Nama Baik di Indonesia. *RESAM Jurnal Hukum*, 5(1), 21–39.
- Asmadi, E. (2021). Rumusan Delik dan Pemidanaan Bagi Tindak Pidana Pencemaran Nama Baik di Media Sosial. *DELEGA LATA: Jurnal Ilmu Hukum*, 6(4), 16–32.
- Atmasasmita, R. (2012). *Teori Hukum Integratif: Rekonstruksi Terhadap Teori Hukum Pembangunan dan Teori Hukum Progresif*. Genta Publishing.
- Austin, J. L. (1962). *How to Do Things with Words*. Oxford University.
- Azizah, A., & Suarda, I. G. W. (2023). *Prinsip Keadilan Restoratif Dalam Penghentian Penuntutan Perkara Pidana Berdasarkan Peraturan Jaksa Agung Nomor 15 Tahun 2020*. 2(2).
- Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia. (2015). *Laporan Akhir Penyelarasan Naskah Akademik Rancangan Undang-Undang Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik*. 49.
- Badrih, M. A. (2021). Restoratif Justice Dalam Penyelesaian Tindak Pidana Pencemaran Nama Baik Di Media Sosial. *SENASIF*, 5.
- Barkatullah, A. H. (2017). *Hukum Transaksi Elektronik di Indonesia sebagai Pedoman dalam Menghadapi Era Digital Bisnis E-Commerce di Indonesia*. Nusa Media.
- Baryadi, I. P. (2012). Bahasa, Kekuasaan, dan Kekerasan. In *Universitas Sanata Dharma*.
- Darmawan, F. S., & Tawang, D. A. D. (2019). Penerapan Asas Lex Specialis Derogat Legi Generalis Terhadap Undang-Undang Informasi dan Transaksi Elektronik Dalam Tindak Pidana Perjudian Togel Secara Online Studi Kasus Putusan Pengadilan Negeri Jakarta Utara Nomor 599/PID.B/2018/PN.JKT UTR. *Jurnal Hukum Adigama*, 1(2), 497–521.
- Disemadi, H. S. (2022). *Lenses of Legal Research: A Descriptive Essay on Legal Research*

Methodologies. *Journal of Judicial Review*, 24(2), 289–304.
<https://doi.org/10.37253/jjr.v24i2.7280>

- Fadly, T. (2022). Pemenuhan Hak-Hak Korban Tindak Pidana Melalui Restoratif Justice Dalam Perspektif Hukum Pidana Islam dan Hukum Positif. *Universita Muhammadiyah Sumatera Utara*, 1–87.
- Flora, H. S. (2018). Keadilan Restoratif Sebagai Alternatif Dalam Penyelesaian Tindak Pidana Dan Pengaruhnya Dalam Sistem Peradilan Pidana Di Indonesia. *University Of Bengkulu Law Journal*, 3(2), 142–158. <https://doi.org/10.33369/ubelaj.3.2.142-158>
- Hartanto, Budiarto, D., & Rhiti, H. (2022). Penerapan Restorative Justice Kepolisian Terhadap Pencemaran Nama Baik Dalam Dunia Digital. *Jurnal Hukum Caraka Justitia*, 2(2), 95–174.
- Jackson, R. (2006). *Sistem Pelaksanaan Pidana Penjara di Indonesia*. Refika Aditama.
- Jaya, F. (2020). Perlindungan Hak-Hak Pekerja Perempuan. *Jurnal Kertha Semaya*, 8(12), 1886–1897.
- Jayananda, I. M. V., Sugiarta, I. N. G., & Widiantara, M. M. (2021). Analisis Tentang Pencemaran Nama Baik dan Penyalahgunaan Hak Kebebasan Berpendapat di Media Sosial. *Jurnal Analogi Hukum*, 3(2), 261–265. <https://doi.org/10.22225/ah.3.2.2021.261-265>
- Juhari. (2019). Restorative Justice Dalam Pembaharuan Hukum Pidana Di Indonesia. *SPEKTRUM HUKUM*, 14(1), 96. <https://doi.org/10.35973/sh.v14i1.1104>
- Lumenta, A. (2020). Tinjauan Yuridis Terhadap Tindak Pidana Pencemaran Nama Baik Menurut KUHP dan Undang-Undang Nomor 19 Tahun 2016 Tentang ITE. *Applied Microbiology and Biotechnology*, 2507(1), 1–9.
- M.Wiryawan, S. (2011). Perjuangan Meretas Batas. *Jurnal Kebebasan Internet Indonesia*, 7.
- Maskun, Manuputty, A., Noor, S. M., & Sumardi, J. (2013). Kedudukan Hukum Cyber Crime Dalam Perkembangan Hukum Internasional Kontemporer. *Mmh2*, 42(4), 511–519.
- Masna Nuros, S. (2022). Pendekatan Restorative Justice Dalam Tindak Pidana Pencemaran Nama Baik Melalui Media Sosial sebagai Implementasi Asas Ultimum Remedium. *Universitas Pembangunan Nasional Veteran Jawa Timur*.
- Mintowati. (2016). Pencemaran Nama Baik : Kajian Linguistik Forensik. *Paramasastra*, Vol. 3(No.2), 198–208.
- Muakad, K. (2023). Tinjauan Kriminologis Penggunaan Media Sosial Sebagai Sarana Melakukan Tindak Pidana Pencemaran Nama Baik. *Universitas Pancasakti Tegal*.
- Muchladun, W. (2015). Tinjauan Yuridis Terhadap Tindak Pidana Pencemaran Nama Baik. *Jurnal Ilmu Hukum Legal Opinion*, 3, 1–8.
- Muthia, R. (2015). Kajian Pragmatik Terhadap Tuturan dan Penghinaan Pencemaran Nama Baik Dalam Bahasa Indonesia. *PRASASTI: CONFERENCE SERIES*, 329–334.
- Ningrum, D. J., Suryadi, S., & Chandra Wardhana, D. E. (2019). Kajian Ujaran Kebencian Di Media

- Sosial. *Jurnal Ilmiah KORPUS*, 2(3), 241–252. <https://doi.org/10.33369/jik.v2i3.6779>
- Noercholis Rafid A. (2022). *Penerapan Restorative Justice Terhadap Tindak Pidana Pencemaran Nama Baik Dalam Hukum Pidana Islam*. 3(1), 71–87.
- Pandapotan Hutagaol, Daniel Megawaty, M. (2023). Penerapan Asas Restorative Justice Dalam Tindak Pidana Pencemaran Nama Baik Di Wilayah Kejaksaan Negeri Balige. *Legal Standing Jurnal Ilmu Hukum*, 7(2), 221–223.
- Pratiwi, S. J., Pongoh, J. K., & Tuwaidan, H. (2022). Pencegahan Tindak Pidana Kekerasan Melalui Media Sosial (Cyberbullying) Berdasarkan Perspektif Hukum Positif. *Lex Crimen*, 11(3), 1–12.
- Ramadhan, A. T., & Kahfi, A. (2022). Analisis Kebebasan Bermedia Sosial Pada Penyebaran Informasi Publik Bermuatan Penghinaan Dan Pencemaran Nama Baik. *Alauddin Law Development Journal (ALDEV)*, 4(1), 78–88.
- Riaki, F., & Purba, N. (2022). Tinjauan Yuridis Terhadap Tindak Pidana Pencemaran Nama Baik Di Facebook Pada Kabupaten Simeulue. *JUSTITIA : Jurnal Ilmu Hukum Dan Humaniora*, 9(2), 974–984.
- Sahetapy, J. . (2014). *Asas-Asas Hukum Pidana dan Kriminologi Serta Perkembangan Dewasa Ini*. Fakultas Hukum Universitas Gadjah Mada dengan Masyarakat Hukum Pidana dan Kriminologi.
- Sepima, A., Siregar, G., & Siregar, S. A. (2021). Penegakan Hukum Ujaran Kebencian di Republik Indonesia. *Jurnal Retentum*, Vol 2(1 Februari), 108–116.
- Sukoco, B. (2016). Pendekatan Restoratif Justice Sebagai Upaya Penyelesaian Cybercrime Dengan Pelaku Anak (Studi Kasus Penyelesaian Tindak Pidana Anak Usia Sekolah). *Law and Justice*, 1(1), 54. <https://doi.org/10.23917/laj.v1i1.2859>
- Suparni, N. (1996). *Eksistensi Pidana Denda Dalam Sistem Pidana dan Pemidanaan*. Sinar Grafika.
- Sushanty, V. R. (2019). Pornografi Dunia Maya Menurut Kitab Undang-Undang Hukum Pidana, Undang-Undang Pornografi dan Undang-Undang Informasi Elektronik. *Jurnal Gagasan Hukum*, Vol. 1 No., 109–129.
- Tan, D. (2021). Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum. *Nusantara: Jurnal Ilmu Pengetahuan Sosial*, 8(8), 2463–2478. <https://doi.org/10.31604/jips.v8i8.2021.2463-2478>
- Wuryantai, A. E. W. (2013). Digitalisasi Masyarakat: Menilik Kekuatan dan Kelemahan Dinamika Era Informasi Digital dan Masyarakat Informasi. *Jurnal ILMU KOMUNIKASI*, 1(2), 131–142. <https://doi.org/10.24002/jik.v1i2.163>
- Zainal, A. (2016). Pencemaran Nama Baik Melalui Teknologi Informasi Ditinjau Dari Hukum Pidana. *Jurnal Al'Adl*, 9(1), 57–74.