

LEGAL ANALYSIS OF THE SPREAD OF HATE SPEECH THROUGH SOCIAL MEDIA IN REGIONAL HEAD ELECTIONS

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ABSTRACT

The issues in this study are how the law regulates criminal acts of spreading hate speech, the forms of criminal acts of spreading hate speech through social media in regional head elections (Pilkada), and the criminal liability for spreading hate speech through social media in regional head elections (Pilkada). The research conducted is normative research supported by empirical legal data and data obtained, which is analyzed using qualitative data analysis. Based on the research results, it is known that the legal regulations regarding criminal acts of spreading hate speech in Indonesia are regulated in the Electronic Information and Transactions Law (UU ITE), specifically Article 28 paragraph (2), which states that anyone who intentionally and without authorization disseminates information that incites hatred or hostility based on ethnicity, religion, race, and intergroup relations (SARA) is guilty of a criminal offense. This provision is also regulated in the Criminal Code (KUHP) through Articles 154 to 157, although some of the previous articles have been invalidated by the Constitutional Court. Forms of criminal acts involving the dissemination of hate speech through social media in regional head elections (Pilkada) may take the form of incitement to hate or commit acts of violence against certain groups based on SARA.

1. Introduction

One of the requirements for implementing a democratic system is the participation of the people in the process of governance. The community has access to the system of government, allowing them to participate in choosing who will be their leaders. In a system of government where a People's Representative Council is formed, the will of the people is represented by those who sit in the People's Representative Council. General elections, as a means of channeling the aspirations of the people, are the most tangible manifestation of the implementation of democracy.¹ Therefore, it is only right to oppose and take

¹ Rozali Abdullah. *Realizing Better Quality Elections (Legislative Elections)*, PT. Raja Grafindo Persada, Jakarta, 2019, p. 7

action against any actions that aim to make the general election undemocratic (dishonest and unfair). General elections are a form of political participation by the people in a democratic country, so it is not an exaggeration to say that the integrity, honesty, and fairness of the general election process will reflect the quality of democracy in the country concerned. Indonesia, as a democratic country, should have clear legal regulations regarding the protection of voters, those conducting elections, and the general public from fear, intimidation, bribery, fraud, and other fraudulent practices that could affect the integrity of election results.

The problem that arises is the prevalence of various types of criminal acts committed in various regions in the selection of regional heads.² Even now, it is difficult to obtain written evidence to process these cases legally. However, Indonesian law requires written evidence in order to bring someone to court on charges of committing a criminal offense in regional elections. Electoral crimes in Indonesia have undergone several developments. These developments include an expansion of the scope of election crimes, an increase in the types of election crimes, and an increase in criminal penalties. A significant change in election law is the introduction of minimum penalties for each election crime, as well as the inclusion of fines that can be imposed alongside prison sentences.

The resolution of election crimes is carried out in accordance with applicable laws and regulations, which place the police at the forefront of conducting investigations and inquiries, followed by the prosecutor's office to prosecute, and the court to adjudicate cases, and so on in accordance with the criminal procedure as stipulated in the Criminal Procedure Code (KUHAP). Thus, the resolution of election-related criminal offenses under existing laws and regulations takes place within the criminal justice system. Resolution outside this system is contrary to the law because it does not comply with applicable laws and regulations. However, looking at the resolution of election-related criminal cases to date, few cases have reached the court level. Electoral crimes are considered serious offenses that must be resolved quickly in order to achieve the objective of establishing criminal provisions to protect the democratic process through elections.³ In line with the mandate of reform, future elections must be conducted and implemented in a more qualitative manner. Ensuring free and fair elections, which are very important for a democratic country, requires protection for voters, for all parties participating in the elections, and for the general public from all forms of fear, intimidation, bribery, fraud, and other forms of cheating that will affect the purity

² Agung Wibawanto, *Winning the People's Hearts and Minds*, Update, Yogyakarta, 2015, p. 6

³ Sintong Savage. *Election Crimes*. Pustaka Sinar Harapan, Jakarta, 2010, p. 11.

of the election results. If elections are conducted fraudulently, it is difficult to say that the leaders or legislators elected to parliament are truly representatives of the people.

Cases of information dissemination that result in criminal reports are often carried out by those who feel harmed by haters (social media followers who post derogatory or even insulting comments). by invoking provisions under Law No. 19 of 2016 Amending Law No. 11 of 2008 on Information and Electronic Transactions and the Criminal Code (KUHP).⁴ Hate speech is an abnormal act, such as mocking, spreading false rumors, inciting, ostracizing, intimidating, threatening, oppressing, or physically attacking. Hate speech is extremely dangerous and has negative effects on the mental well-being of victims. Hate speech is a criminal offense and constitutes a violation of human rights, which may be subject to legal penalties under Indonesian law.⁵ Hate speech crimes also occur against election contestants in the form of verbal behavior such as harsh criticism, slander, and insults. Hate speech, in a relational context, systematically undermines the victim's self-esteem through exclusion, neglect, or avoidance, while electronic hate speech can be carried out by sending messages or images via the internet or mobile phones. Such forms of hate speech can occur among the general public, including local election candidates. This hate speech is carried out by a group of people using social media platforms with the aim of undermining one another. Hate speech can take the form of provocative words in tweets that incite the public to criticize the vision and mission of election candidates, or persuasive caricatures that disparage opponents. The phenomenon of hate speech directed at election candidates on social media can be seen in memes featuring photos or images of candidates with added text or modifications intended to undermine a particular candidate. Such memes or images can be used merely for humor or may be intended to undermine and damage the reputation of a specific election candidate (smear campaign), and many members of the public then spread them virally through social media.

Perpetrators of hate speech against election contestants in electronic media usually do so by posting images or photos of an election contestant with minimal modification so that readers can still easily recognize the victim. Not only are the images modified and uploaded to social media accounts, but the perpetrators also add inappropriate words, mockery, insults, abuse, and even humiliation. The bullying experienced by election candidates ranges from inappropriate words to

⁴ Rony Wiyanto, *Law Enforcement of Elections of the DPR, DPD and DPRD*. Mandar Maju, Bandung 2014, p. 179

⁵ A Battle of the Sexes, *Election Crimes*, Jakarta, Pustaka Sinar Harapan, 2018, p.5.

mockery. Based on the above considerations, the researcher is interested in examining, researching, and analyzing the research problem entitled "Legal Analysis of the Spread of Hate Speech Through Social Media in Regional Head Elections (Pilkada). The issues addressed in this study are as follows: 1. How are hate speech crimes regulated by law? 2. What are the forms of criminal acts involving the dissemination of hate speech through social media in regional head elections (Pilkada)? 3. What is the criminal liability for the dissemination of hate speech through social media in regional head elections (Pilkada)?

2. Research Method

This research is descriptive and analytical in nature,⁶ This means that this research describes, examines, explains, and analyzes issues in insurance agreements in relation to laws and regulations, which are then analyzed. This research is a scientific activity based on specific methods, systems, and thinking aimed at studying a particular law by analyzing it.⁷ Based on the research object, which is positive law, the approach method used in this study is:

- a. *Case Approach*,⁸ This is done by reviewing cases related to the issue at hand that have been decided by the court.
- b. *Copceptual Approach*),⁹ This is done by studying the views and doctrines within legal science, which will uncover ideas that can give rise to legal understandings, legal concepts, and legal principles relevant to the issue at hand. Understanding these perspectives and doctrines serves as a foundation for researchers in constructing a legal argument to resolve the issue at hand.
- c. *Statute Approach*, This is done by studying the views and doctrines within legal science, which will uncover ideas that can give rise to legal understandings, legal concepts, and legal principles relevant to the issue at hand. Understanding these perspectives and doctrines serves as a foundation for researchers in constructing a legal argument to resolve the issue at hand.¹⁰

Data collection in this study was conducted through library research to gather secondary data by reading and studying literature, research results, applicable laws and regulations, theories, and legal principles related to the research material.

⁶ Bambang Waluyo, *Legal Research in Practice*, Sinar Grafika, Jakarta, 2016, p. Sec. 8.

⁷ Soerjono Soekanto and Sri Mamudji, *Normative Legal Research, A Brief Review*, Grafindo, Jakarta, 2013, p. Sec. 43.

⁸ Peter Mahmud Marzuki, *Legal Research*, Kencana, Jakarta, 2016, p. 94

⁹ *Ibid*, p. 95

¹⁰ *Ibid*, p.96

Data collection in this study was conducted through library research to gather secondary data by reading and studying literature, research results, applicable laws and regulations, theories, and legal principles related to the research material.¹¹ The secondary data obtained was then systematized, processed, researched, and analyzed using descriptive methods through a qualitative approach.

3. Results and Discussion

1) Criminal Liability of Perpetrators of Hate Speech Through Social Media in Regional Head Elections

M. Hamdan states that a criminal act is an act or series of acts committed by a person that contravenes the law or other legislation, for which punishment is imposed.¹² Dogmatically speaking, the main issues related to criminal law are threefold:

1. Prohibited acts;
2. The person who committed the prohibited act; and
3. Penalties imposed on violators of the prohibition.¹³

According to Mahrus Ali, a criminal act is an act that is prohibited and punishable by law for anyone who commits it.¹⁴ Moeljatno states that a criminal act is an act that is prohibited by a legal rule, accompanied by a threat (sanction) in the form of a specific criminal penalty for anyone who violates the prohibition. It can also be said that a criminal act is an act prohibited by a legal rule and subject to criminal penalties, provided that it is understood that the prohibition is directed at the act (i.e., a state or event caused by a person's conduct), while the criminal penalty is directed at the person who caused that event.¹⁵ A criminal offense is an act that is prohibited or required by law, and if committed or neglected, the person who commits or neglects it is subject to punishment.

Ensuring that an act constitutes a criminal offense is prohibited by criminal law and the perpetrator is subject to criminal punishment, while being unlawful and harmful to society indicates the nature of the act. An act that is unlawful and harmful to society is not necessarily a criminal offense until it is confirmed that there is a prohibition or criminal law (Article 1 of the Criminal

¹¹ Soerjono Soekanto and Sri Mamudji, *Op.Cit*, p. 41.

¹² Mr. Hamdan. *Op. Cit.* p. 9.

¹³ *Ibid.*, p. 8.

¹⁴ Mahrus Ali (II). *Op. Cit*, p. 98.

¹⁵ Moeljatno. *Op.Cit*, p. 59.

Code) that threatens the perpetrator with punishment. There are many acts that are unlawful and harmful to society, but they only fall under criminal law if there is a prohibition by criminal law and the perpetrator is threatened with punishment.¹⁶

Whether an act constitutes a criminal offense or not must be determined based on the applicable criminal law provisions (positive criminal law). In the current Criminal Code, criminal offenses are divided into two categories: crimes regulated in Book Two and violations regulated in Book Three. The Criminal Code itself does not provide an explanation of the criteria used to classify these two types of criminal acts, leading people to assume that crimes are serious acts or criminal acts, while offenses are minor acts or criminal acts. This is also based on the fact that, in general, the criminal penalties imposed for crimes are more severe than those imposed for offenses.¹⁷ The definition of a criminal act does not include the definition of criminal liability. A criminal act only refers to an act that is prohibited and punishable by a criminal penalty. Liability in criminal law is central to the doctrine of fault. In Latin, the doctrine of fault is known as *mens rea*. The doctrine of *mens rea* is based on the principle that an act does not render a person guilty unless the person had malicious intent. According to Chairul Huda, the basis for criminal acts is the principle of legality, while the perpetrator can be punished on the basis of fault. This means that a person will be criminally liable if they have committed an act that is wrong and contrary to the law. In essence, criminal liability is a mechanism created to respond to violations of certain agreed-upon acts.¹⁸

Criminal acts and criminal responsibility are closely related, as are acts and the people who commit them. The ability to be responsible is the ability to recognize the unlawful nature of an act and, based on that recognition, to determine one's will. The advent of modern communication technologies such as the internet has changed people's views on life. The paradigm of human communication in economic activities, business, social interactions, and politics has changed. Previously, humans were dominated by physical activities conducted face-to-face with one another. In practice, such activities naturally have many limitations. However, with the internet, the limitations that once constrained human activities are gradually disappearing. In terms of communication, when using the internet, the space, distance, and time that

¹⁶ Mahrus Ali (I). *Op.Cit*, p. 152.

¹⁷ Mr. Hamdan. *Op.Cit.* p. 11.

¹⁸ Chairul Huda, *Op. Cit.*, p. 68.

once limited humans are no longer barriers. In other words, the internet has made the world borderless.

The existence of social media connected to the internet not only brings many conveniences, but also challenges. One of them is the issue of poor ethics displayed by netizens, which is increasing along with the rapid growth of internet-based media usage. For example, the spread of information or even messages containing hate speech in the online realm. Hate speech is not only carried out in the mass media or social media. Many incidents of hate speech occur outside of these media. Hate speech can also be carried out when one or more people give speeches in public, religious lectures, or even through written forms such as banners or posters. Many people who feel harmed by the rampant hate speech are taking legal action. The use of legal action, including criminal law, as one of the efforts to address social issues falls under the realm of law enforcement policy. Crime prevention policies, or what is commonly referred to as criminal policy, are rational efforts by society to combat crime.¹⁹

2) Resolving Issues Related to Hate Speech in Regional Head Elections (Pilkada) Through Social Media.

Indonesia is the largest active social media user country. Based on the 2016 report 'We Are Socio', out of a total of 262 million Indonesians, as many as 132.7 million people are internet users and of this number 106 million are active social media users. The majority of these social media users access social media through their smartphones. Youtube is the most widely used social media followed by Facebook, Instagram, Twitter and Google+. "The existence of social media in Indonesia is a new tool to convey freedom of expression which is a basic right of citizens guaranteed by the constitution".²⁰ Interestingly, the high number of social media users in Indonesia is followed by the high number of police reports related to violations of Law No. 11 of 2008 concerning Information and Electronic Transactions as amended by Law No. 19 of 2016. Based on data from the North Sumatra Regional Police in 2019, there were only 20 reports and in 2020 there was an increase of 35 reports, but in 2021 there was a sharp spike of 200 reports. Of these figures, reports of violations of Article 27 Paragraph (3) of the ITE Law regarding defamation ranked first with 141 reports, followed by violations of Article 28 paragraph (2) of the ITE Law

¹⁹ Nursariani Simatupang & Faisal, *Criminology of an Introduction*, Pustaka Prima, Medan, 2017, p. 248.

²⁰[http://business-law.binus.ac.id/upaya-sosial-penyelesaian-hukum-kicauan-di-media-sosial/diakses on May 05, 2025 at 20.00 WIB](http://business-law.binus.ac.id/upaya-sosial-penyelesaian-hukum-kicauan-di-media-sosial/diakses%20on%20May%2005,%202025%20at%2020.00%20WIB).

regarding hate speech as many as 23 reports.²¹ Facebook dominates the highest media used as a place for violations with 56.5% and followed by Twitter with 12.4%. The report on violations of Article 27 paragraph (3) and Article 28 paragraph (2) of the ITE Law is related to violations of freedom of expression.²²

Regarding the rampant police report, in the concept of a democratic country like Indonesia, censorship of freedom of expression is prohibited. Restrictions on freedom of expression are through laws, especially in civil law and criminal law. In the current situation of Indonesian society, the institution of criminal law is prioritized by the victim even though the nature of criminal law is *ultimum remedium*. It is not surprising that if a person or a group of people is not happy with the other party's statements conveyed on social media, then reporting to the police is a common thing to do to "punish" the other party's statement. Many reports that are actually not suitable for criminal cases are then forwarded to the court and convicted. Indeed, if analyzed further, the police report has many words from social media users that are reported to the police because opinions are *offensive speech* which is then seen as an insult or hate speech. As a result, as stated by the *Institute for Criminal Justice Reform* (ICJR), there was inaccuracy on the part of the judge in deciding criminal cases for alleged violations of Article 27 paragraph (3) and Article 28 paragraph (2) of the ITE Law.

The application of criminal law is considered less effective in resolving the problem of tweeting on social media. Preventive measures are needed to overcome this problem and the Police have realized this. According to the Circular Letter of the Chief of the National Police of the Republic of Indonesia No. SE/6/X/2015 concerning the Handling of *Hate Speech* dated October 8, 2015 (SE Kapolri No. SE/6/X/2015), the police must prioritize preventive methods first to overcome the problem of tweets that are seen as hate speech before repressive efforts are carried out by processing them in the criminal justice system.²³ The Indonesian Ulema Council (MUI) issued Fatwa No. 24 of 2017 concerning the Law and Guidelines for Muamalah Through Social Media. Although it is not a product of laws and regulations in positive Indonesian law, this MUI Fatwa aims to make Muslims wiser in using social media as a

²¹Results of an Interview with AKBP Muhammad Alan Haikel, Head of the Sub-Directorate of Tipidter of the North Sumatra Regional Police, Tuesday 06 May 2025 at 10.00 WIB.May 2025.

²²Results of an Interview with AKBP Muhammad Alan Haikel, Head of the Sub-Directorate of Tipidter of the North Sumatra Regional Police, Tuesday 06 May 2025 at 10.00 WIB.May 2025.

²³Results of an Interview with AKBP Muhammad Alan Haikel, Head of the Sub-Directorate of Tipidter of the North Sumatra Regional Police, Tuesday 06 May 2025 at 10.00 WIB.May 2025.

means of communication. but as a religious norm that can ultimately be one of the solutions to overcome the problem of social media use in Indonesia.

The North Sumatra Police Directorate of Criminal Investigations in dealing with ITE crimes spreading hate speech based on SARA does not always run according to what has been targeted. There are several obstacles or obstacles found during the process of dealing with criminal acts, especially in the stage of criminal action. AKBP Muhammad Alan Haikel, Head of the Sub-Directorate of Tipidter of the North Sumatra Regional Police, explained that in overcoming criminal acts, especially at the stage of taking action against perpetrators of criminal acts of disseminating information and electronic transactions that cause hatred and/or hostility to certain individuals and/or groups based on SARA, there are several obstacles experienced, including:²⁴

1. Internal factors

One of the obstacles/inhibiting factors of the North Sumatra Police Directorate of Criminal Investigation in dealing with criminal acts is in terms of personnel. In the Cyber Sub-Directorate of Criminal Investigation there are only 15 members, while the cases handled by the Cyber Sub-Directorate of the North Sumatra Police until 2021 there are approximately 200 cases. This makes it an obstacle for the Directorate of Criminal Investigation in handling ITE cases because the number of personnel is not proportional to the number of cases handled.

2. External factors

For obstacles that come from outside the police (external), there are no serious enough obstacles, which becomes a problem if the suspect is not cooperative in the investigation process, but investigators consider this a challenge in the criminal investigation process.

2) Efforts of the North Sumatra Police Directorate of Criminal Investigation in Tackling the Crime of Spreading Hate Speech Through Social Media in the Regional Head General Election (Pilkada)

One of the criminal acts that has emerged as a result of technological developments and has become the domain of the North Sumatra Police Directorate of Criminal Investigations Sub-Directorate is the spread of hate speech carried out through electronic media. The crime of hate speech itself is a conventional crime, but because it is carried out through electronic media, the handling is also different from conventional crimes. Many electronic media are a forum for the spread of hate speech, one of which is social media such as *Facebook, Twitter, Instagram, Telegram, WhatsApp*. The problem of

²⁴Results of an Interview with AKBP Muhammad Alan Haikel, Head of the Sub-Directorate of Tipidter of the North Sumatra Regional Police, Tuesday 06 May 2025 at 10.00 WIB. May 2025.

tweeting on social media is not only a legal problem but must be seen as a social problem so that the solution must also be reviewed from various social aspects. The results of research in the field of psychology show that the presence of social media has changed the communication model and social interaction of its users. Furthermore, the behavior of social media users, which is dominated by the younger generation, shows that the psychological needs of the users who want to show the need for attention and recognition from others are expressed through social media. Therefore, to solve the problem of tweeting on social media, you should also look at the aspect of social media users. Studies from various social sciences are needed to support the resolution of this problem as well as as an effort to overcome non-penalties and input to develop countermeasures through penal means.

The phenomenon of social media use in Indonesia is also a lot of deviation. Based on the news in our national media, there are so many crimes that originate from social media, be it fraud, kidnapping, mutual wars, arguments that lead to imprisonment. In social-media, it is good to know how ethics and things must be considered in the healthy use of social media. Currently, hate speech spreads through social media such as twitter, *facebook*, instagram and so on. Each group attacked the other group wildly. If you read carefully the hate speech will never end, and the content of the sentence is very provocative and can potentially cause physical clashes and even ethnic riots that harm the nation and state. *Hate Speech* or hate speech is an act of speech or words that use certain media, such as the internet, to insult or criticize others, under the pretext or basis of a certain ethnicity, race, religion, gender, group or nation. *Hate Speech* using social media such as *facebook*, twitter, instagram, bbm, WA and so on is increasingly prevalent today. There are many factors that cause *Hate speech*. The occurrence of *Hate* and *Hate speech* is increasing along with the increasing number of social media users. The victim also did not know his age. Both young and old are the targets of this case.

A number of hate speech cases and SARA cases on *Facebook* were handled with *restore justice*. *Restore justice* is a coaching for perpetrators to foster ethical awareness in the use of information technology or cyber or social media so that it is hoped that later perpetrators can become agents of change who can educate their communities. *Restore justice* is carried out because law enforcement alone will not be effective.²⁵ *Restore justice* is also carried out due to the limited number of personnel. Not only the perpetrators who are used as agents of change, the National Police also collaborates with a number of

²⁵ Bambang Rianto, "Police Ai Have Difficulty Cracking Down on Spreaders of Hate Through Social Media", via <http://www.majalahict.com>, accessed May 05, 2025 at 9 p.m.⁰⁰ WIB

cyber communities to straighten out various fake news circulating on social media. In addition, the steps taken by law enforcement in Indonesia in taking action against hate speech perpetrators seem to be still hesitant. There are fears that cracking down on hate speech will be considered a violation of human rights, or that law enforcement officials themselves are not fully prepared to carry out *enforcement*.²⁶

North Sumatra Police Criminal Investigation Director Kombes Pol. John Charles Edison Nababan said that many cases that started with hate speech turned into *digital harassment* (aggressive attacks in the digital world), because these cases were not handled properly. But there are indeed regulatory constraints. The weak legal handling of *hate speech* has resulted in increasingly massive pressure, discrimination, and repression against minority groups, especially in the context of democracy in Indonesia, there is an adage (assumption) that the most voters are truthholders. In fact, minority groups should also have a place and aspirations.²⁷ The spread of hate speech is certainly intended to cause hatred based on ethnicity, religion, race and intergroup (SARA). The crime of spreading hate speech based on SARA is very dangerous for the unity of Indonesia, starting from the words placed on social media, but the impact can cause conflicts and even cause the loss of a person's life. Therefore, action is needed from the police in tackling the criminal act of ITE spreading hatred based on SARA, namely by means of non-penal efforts to prevent criminal acts in the form of pre-emptive and preventive efforts, as well as efforts to prosecute criminal acts (*penal*).

The handling of *hate speech* in Indonesia is dominated by the interests of political elites, and is usually related to ethnic, religious, racial, and intergroup (SARA) issues that are used as instruments to achieve political goals. Hate speech attacks are very massive, including those that carry religious names, so the government should control the flow of social media, because it has an extraordinary influence on the life of the nation and state.²⁸ Repressive measures and law enforcement efforts are not enough to solve the problem of rampant hate speech on the basis of identity in society. Likewise, the government's censorship efforts against accounts that are suspected of spreading hatred on social media. Groups that spread hate material tend to

²⁶Results of an Interview with AKBP Muhammad Alan Haikel, Head of the Sub-Directorate of Tipidter of the North Sumatra Regional Police, Tuesday 06 May 2025 at 10.00 WIB.May 2025.

²⁷Results of an Interview with AKBP Muhammad Alan Haikel, Head of the Sub-Directorate of Tipidter of the North Sumatra Regional Police, Tuesday 06 May 2025 at 10.00 WIB.May 2025.

²⁸Results of an Interview with AKBP Muhammad Alan Haikel, Head of the Sub-Directorate of Tipidter of the North Sumatra Regional Police, Tuesday 06 May 2025 at 10.00 WIB.May 2025.

reproduce and multiply even though the police have taken action. Repressive measures will not be able to counteract all of this and do not believe that legal approaches alone can overcome them.²⁹

Persuasive and educational efforts by the government to the public as internet users are more effective to suppress the spread of hate speech. That way the awareness of internet and social media users will be formed to regulate themselves. These efforts are a long-term solution. The government must build national awareness on plurality and diversity as social capital.³⁰

4. Conclusion

- a. The legal regulation on the crime of spreading *hate speech* in Indonesia is regulated in the Electronic Information and Transaction Law (UU ITE), especially Article 28 paragraph (2), which states that everyone deliberately and without the right to disseminate information that causes hatred or hostility based on ethnicity, religion, race, and intergroup (SARA). This article is also regulated in the Criminal Code (KUHP) through Articles 154 to 157, although several previous articles have been canceled by the Constitutional Court.
- b. Forms of criminal acts of spreading *hate speech* through social media in the general election of regional heads (Pilkada) can be in the form of invitations to hate or commit acts of violence against certain groups based on SARA, as well as the dissemination of content that causes hatred and/or hostility. This hate speech can be in the form of images, videos, voices, or writings that contain incitement to hate
- c. Criminal liability for spreading *hate speech* through social media in the general election of regional heads (Pilkada) with varying threats of punishment. Hate speech spread through social media can be subject to criminal sanctions in accordance with the relevant articles in the ITE Law, namely the person who is proven guilty will be sentenced to a maximum of 6 (six) years in prison or a maximum fine of Rp. 1,000,000,000.00,- (one billion rupiah). In addition, law enforcement has been carried out optimally by involving a special cyber team of the National Police to minimize cybercrimes related to hate speech.

References

²⁹Results of an Interview with AKBP Muhammad Alan Haikel, Head of the Sub-Directorate of Tipidter of the North Sumatra Regional Police, Tuesday 06 May 2025 at 10.00 WIB.May 2025.

³⁰Results of an Interview with AKBP Muhammad Alan Haikel, Head of the Sub-Directorate of Tipidter of the North Sumatra Regional Police, Tuesday 06 May 2025 at 10.00 WIB.May 2025.

- Achmad Ali, *Revealing Legal Theory and Judicial Prudence*, Sinar Grafika, Jakarta, 2010.
- Adami Chazawi., *Criminal Law Lesson Part I*, PT. Raja Grafindo Persada, Jakarta, 2010.
- Ade Irawan, *Election Corruption Monitoring Guide*, Indonesia Corruption Watch, Jakarta, 2014
- Agung Wibawanto, *Winning the People's Hearts and Minds*, Update, Yogyakarta, 2015.
- Alfian. *General Elections and the Prospects of Democracy in Indonesia*, in *Democracy and the Political Process*. Jakarta: LP3ES, 2015
- Andi Hamzah, *Principles of Criminal Law*. Rineka Cipta, Jakarta, 2014
- ; *Criminal Code and Criminal Code*, Rineka Cipta, Jakarta, 2013.
- ; *Criminal Law Terminology*, Sinar Grafika, Jakarta, 2019
- A.M. Tri Anggraeini, *Prohibition of Monopoly and Unfair Competition, Illegal Purse or Rule of Reason*, University of Indonesia, Jakarta, 2013
- Abdul Kadir Muhammad, *Law and Legal Research*, Citra Aditya Bakti, Bandung, 2014.
- Ansori Sabuan, *Criminal Procedure Law*, Angkasa, Bandung, 2010
- Bagir Manan, *Growth and Development of a Country's Constitution*, CV. Mandar Maju, Bandung, 2015
- Barda Nawawi Arief Bunga *Rampai Criminal Law Policy*, Citra Aditya Bhakti, Bandung, 2014.
- ; *Criminal Law II*. Faculty of Law, Diponegoro University, Semarang, 2014
- Bambang Waluyo, *Implementation of Judicial Power of the Republic of Indonesia*, Sinar Grafika, Jakarta, 2011.
- ; *Legal Research in Practice*, Sinar Grafika, Jakarta, 2016,
- Bambang Sunggono, *Legal Research Methodology*, Raja Grafindo Persada, Jakarta, 2017
- Bernard L. Tanya, *Legal Theory: Human Order Strategy, Cross-Spatial and Generational*, Genta Publishing Yogyakarta, 2010
- B. Simanjuntak., *Introduction to Criminology and Social Pathology*, Tarsito, Bandung, 2012
- Chairul Huda. *From no crime without fault to no criminal liability without fault*. Prenada Media Group, Jakarta, 2018.
- C.S.T Kansil, *Constitutional Law of the Republic of Indonesia*, Rineka Cipta, Jakarta, 2010.
- ; *Introduction to Indonesian Law and Legal Systems*, Balai Pustaka, Jakarta 2012.
- Carl Joachim Friedrich, *Philosophy of Law from a Historical Perspective*, Nuances and Nusamedia, Bandung, 2014
- Dedi Mulyadi, *Comparison of Legislative Election Crimes in a Legal Perspective in Indonesia*, Refika Aditama, Bandung, 2013
- Djoko Prakoso., *Election Crimes*, Rajawali Press, Jakarta, 2011.

- Gun Gun Heryanto, *Political Communication An Introduction*, Ghalia Indonesia, Bogor, 2013
- Hafied Cangara, *Political Communication: Concepts, Theories and Strategies*, Rajawali Press, Jakarta, 2011
- Kuffal, *Application of the Criminal Code in Legal Practice*, UMM Press, Malang, 2018
- Lexy J Moleong, *Qualitative Research Methodology*, Rosdakarya Youth, Bandung, 2013.
- Lili Rasjidi, *Law as a System*, Mandar Maju, Bandung, 2013
- Liliana Tedjosaputro, *Professional Ethics of Notaries in Criminal Law Enforcement*, Yogyakarta, Bigraf Publishing, Yogyakarta, 2012.
- L.J. van Apeldorn, *Introduction to Law*, Pradnya Paramita, Jakarta, 2014
- Lilik Mulyadi, *Normative Criminal Procedure Law, Theoretical, Practice, and Its Problems*, Alumni, Bandung.
- M. Abdul Kholiq, *Criminal Law Perspective on the Phenomenon of Money Politics and Political Corruption in Elections*. Faculty of Law, Islamic University of Indonesia Yogyakarta, 2014
- Made Darma Weda., *Criminology*, PT. Raja Grafindo Persada, Jakarta, 2016.
- Mahrus Ali. *Basics of Criminal Law*. Sinar Grafika, Jakarta, 2011
- Martiman Prodjohamidjodjo, *Understanding the Basics of Indonesian Criminal Law*, Paradnya Paramita, Jakarta, 2016
- M. Kamaluddin Lubis, *Criminal and Civil Proof Law in Theory and Practice*, Medan, 2012.
- Mochtar Kusumaatmaja, *Legal Concept in Development*, Alumni, Bandung, 2012
- ; *Introduction to Law, An Introduction to the Scope of Legal Science*, Ghalia Indonesia, Jakarta, 2011
- M. Solly Lubis, *Philosophy of Science and Research*, Mandar Maju, Bandung, 2014.
- Moeljatno, *Principles of Criminal Law*, Rineka Cipta, Jakarta, 2014.
- Moh. Taufik Makaro, *Principles of Civil Procedure Law*, Rineka Cipta, Jakarta, 2014.
- M. Hamdan., *Bribery and Money Politics*, Pustaka Bangsa Press, Medan, 2015.
- Mohammad Taufik Makarao and Suhasril, *Criminal Procedure Law in Theory and Practice*, Ghalia Indonesia, Jakarta, 2010.
- Nikolas Simanjuntak, *Indonesian Criminal Events in Legal Circus*, Ghalia, Jakarta, 2019.
- Ramlan Surbakti et al., *Handling Election Violations*, Partnership, Jakarta, 2011
- R. Herlambang Perdana Wiratraman, *General Election*, Faculty of Law, Airlangga University, Surabaya, 2018.
- Rozali Abdullah. *Realizing Better Quality Elections (Legislative Elections)*, PT. Raja Grafindo Persada, Jakarta, 2019
- R. Soesilo, *Criminal Code*, Politea, Bogor, 2018.

- R. Herlambang Perdana Wiratraman, *General Election*, Faculty of Law, Airlangga University, Surabaya, 2018.
- R. Wirjono Prodjodikoro, *Certain Criminal Acts in the Criminal Code. Eresco*, Bandung, 2012
- Rusli Muhammad, *Portrait of the Indonesian Court Institution*, Raja Grafindo Persada, Jakarta, 2016
- Samadi Suryabrata, *Research Methodology*, Raja Grafindo Persada, Jakarta, 2018.
- Soedirjo, *Prosecutor and Judge in Criminal Proceedings*, First Edition, Academic, Pressindo, Jakarta, 2015.
- Sudarto, *Criminal Law and Community Development*, Sinar Baru, Bandung, 1983.
-----; *Criminal Law*, Sudarto Foundation, Semarang, 2010
- Sudikno and Pitlo, *Chapters on Legal Discovery*, Citra Aditya Bakti, Bandung 2013
- Sudikno Mertokusumo, *Getting to Know the Law*, Atma Jaya University Yogyakarta, 2010
- Sintong Silaban, *Election Crimes*, Jakarta, Pustaka Sinar Harapan, 2018.
- Soerjono Soekanto, *Factors Affecting Law Enforcement*, PT. Raja Grafindo Persada, Jakarta, 2014.
-----; *Introduction to Legal Research*, UI Press, Jakarta, 1986.
- Soerjono Soekanto and Sri Mamudji, *Normative Law Research, A Brief Review*, Grafindo, Jakarta, 2013
- Soedjono Dirdjosisworo., *Scope of Criminology*, Remadja Karya, Bandung, 2016.
- Adding Sembiring, *The Process of Examining Criminal Cases in the District Court*, USU Press, Medan, 2013
- Topo Santoso, *Election Crimes*, Jakarta, Sinar Grafika, 2016.
- Tomi Tresnady, *General Election Module for Beginners*, Sinar Grafiti, Jakarta, 2018.
- Pasaribu, A. S. ., Akhyar, A. ., & Purba, N. (2023). Law Enforcement Against Narcotics Addicts and Abusers According to Law Number 35 of 2009 concerning Narcotics (Study of District Court Decision Number 296/Pid.Sus/2021/PN. Kis). *Journal of Meta Law*, 2(3), 1-17. <https://doi.org/10.47652/jmh.v2i3.445>
- Arianto, A., Mustamam, M., & Marlina, M. (2023). Legal Protection of Children Victims of Sexual Abuse (Study at the Subulussalam Resort Police). *Journal of Meta Law*, 2(3), 18-33. <https://doi.org/10.47652/jmh.v2i3.446>
- Siburian, M. R., Marzuki, M., & Putra, P. S. . (2023). Restorative Justice on the Handling of Narcotics Abuse Crimes (Study at the Asahan Police). *Journal of Meta Law*, 2(3), 50-62. <https://doi.org/10.47652/jmh.v2i3.460>

