



Analysis of Human Rights Protection in Defamation Charges Based on Indonesian Laws (Case Study Number: 560/PDT.G/202/PN JKT.PST)

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ABSTRACT

Indonesia is a country that has a forum to voice or give opinions stipulated in the laws. However, the more freedom in giving opinions, people sometimes forget to filter what must be informed and not. In this situation, there is a defamation accusation case that won by Dr. Richard Lee. This study had reviewed the nature of defamation charges and the laws involved in it. Based on this background, this study used legal research with legislative and comparative approaches. This study examined legal norms and practices in Indonesia. It was a descriptive study which aimed to get a complete analysis and conclusion on the matter. Data collection used secondary data which includes literature study. The conclusion obtained about defamation law is through ITE Law and 310 Indonesian Criminal Codes which in this case, the law on defamation can be civil and criminal laws depending on the context of the losses made by the perpetrator.

ABSTRAK

Indonesia merupakan Negara yang memiliki wadah untuk menyuarakan atau memberikan pendapat yang diatur dalam undang-undang. Namun semakin memiliki kebebasan dalam memberikan pendapat terkadang masyarakat lupa untuk memfilter yang seharusnya diinformasikan dan tidak. Dalam hal ini kasus tuduhan pencemaran nama baik memang dimenangkan oleh Dr. Richard Lee, namun penelitian ini ingin mengulas balik mengenai apa hakekat dari pencemaran nama baik dan hukum yang terlibat didalamnya. Berdasarkan latar belakang tersebut, penelitian ini menggunakan penelitian hukum dengan pendekatan perundang-undangan dan komparatif. Penelitian ini memeriksa norma dan praktik hukum di Indonesia. Penelitian ini adalah studi deskriptif untuk mendapatkan analisis dan kesimpulan lengkap tentang masalah ini. Pengumpulan data menggunakan data sekunder yang meliputi studi *literature* Kesimpulan yang didapat mengenai hukum pencemaran nama baik ialah melalui UU ITE dan 310 KUHP yang dimana dalam hal ini hukum dalam pencemaran nama baik bisa menjadi perdata dan pidana tergantung konteks kerugian yang diciptakan pelaku.

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I. INTRODUCTION

Freedom of expression is part of a fundamental right and becomes the cornerstone of a democratic society. It is also protected in international law. Freedom of expression guarantees that everyone

conveys, seeks, receives, processes, and distributes various information to convey opinions or ideas through various means and media that assumed to be appropriate. In international human rights, freedom of expression, speech, and opinion are adopted in a legal global instrument for all states parties that ratify it (Nasution, 2020).

The United Nations General Assembly (1948) issued the Universal Declaration of Human Rights (UDHR). As a member of the United Nations, Indonesia must comply with this declaration. In 1966, the United Nations also issued International Covenant on Civil and Political Rights (ICCPR) to strengthen the protection of fundamental rights of persons, ratified by Indonesia in 2005. Article 19 of the UDHR and Article 19 of the ICCPR report that a state party should protect the freedom of expression for its people (Lestari & Arifin, 2019). The Indonesian government shall ensure that all laws are consistent with freedom of expression, including its procedural law, which is the law that sets out the series of rules and methods used to ensure fair process in the enforcement of the legal rights of subjects of law. Procedural law is limited to the rules used in court and the process of investigation and collection of evidence, freedom of expression, to some extents, then it may conflict with other protected rights (Isnaini, 2020).

Rights that need to be protected, such as the right to speak must be burdened with the guarantees that what it disseminates information is factually and vital to the public. The possibility of such contradictions creates an urgency for the government to set some limits to these freedoms. Therefore, the law of defamation was established. Meanwhile, social media is already in common use, reports of defamation are increasingly being created. The UDHR and ICCPR guarantee freedom of expression, both orally and through other communication media, including via the internet (Ningtias, 2018).

Human Rights emphasizes that everyone should feel similar rights both online and offline. Therefore, Indonesia enacted the Information and Electronic Transactions Act 11/2008 (UU ITE) to comply with both international instruments, which aimed at protecting freedom of expression in the internet regime through online defamation (Siregar, 2021). However, a recent case have attracted public attention after Richard Lee, a doctor, posted content on his social media about skin health. Celebrity named Kartika Putri reports him with the defamation charges (Ningtias, 2018).

Defamation, based on the report on the *TikTok* content of Lee revealed important facts to the public related to the composition of allegedly dangerous skin care where Kartika became a brand ambassador. These facts were stated by the results of laboratory tests, which were not generally disclosed because they require special paid tests. Although the legal process was unclear, a big question arised, is this defamation report legitimate if what the doctor told is factual and useful? In Indonesia, previous studies have shown that the public interest is the crime elimination. The first review connected the issue with the theory of crime elimination, which was also supported by the president (Setiawan, 2021).

Article 310 paragraph (3) has removed the element of acts against the law perpetrators' actions who commit explicit defamation for the greater important (Marwandianto & Nasution, 2020). Recent studies on defamation in journalism state that the action of someone is not categorized as defamation as long as it is to defend individual needs or ordinary since it reveals the truth. Other civil law countries in Asia, which also believe in the defense of the public interest on defamation acts, such as South Korea and Japan, state that one of the criteria for the defense of the public interest is the factual alleged defamation. For Example, the Korean Criminal Law Act (*hyeongbeop*) in Article 310 states that the alleged facts are true and solely in the public interest can not be punished. On the other case, Article 230 paragraph (2) of the Japanese Criminal Code states that the element of immunity from criminal liability in defamation law is facts related to matters of public interest, statements made in the public interest and facts mentioned are true facts (Adi Tirto Koesoemo, 2020).

Since data technology and social liaison have replaced people's civilization with an outline way, Indonesia made a defamation article in the ITE Law (Eka Prastiwi et al., 2021). In current condition,

there are no laws, regulations, decrees or guidelines that define the meaning and criteria of defamation. It distorts the judge in judging whether an act constitutes defamation. This study does not necessarily contradict the conclusions reached by these authors, but the starting point is different (Noor Hediati, 2021).

II. RESEARCH METHOD

This research employed legal research with law and comparative approach. It examined legal norms and practices in Indonesia in the form of descriptive study to get a complete analysis and conclusion on the matter. Data collection used secondary data which includes literature research (Sulaiman, 2018). Literature research was done by accumulating some legal deeds, such as primary, secondary, and tertiary legal documents. Primary legal documents were binding laws and regulations (Sugiyono, 2017). Secondary legal documents were books, journal articles, doctrines, and web pages. Meanwhile, tertiary legal documents were in the form of legislation (Sugiyono, 2019).

III. RESULTS AND DISCUSSIONS

In Indonesia, defamation charges is regulated both in criminal and civil laws (Ningtias, 2018). In the Civil Criminal Code, defamation is regulated from articles 1372 to 1380 on indemnification and restoration of honor and good name/reputation (Heriyana et al., 2020). This arrangement indicates that the Civil Criminal Code categorizes defamation as an unlawful act. This is a normal situation because, according to doctrine, it meets four qualifications for mistakes; first, it contradicts to the legal obligations of the offender; secondly, contradicts the subjective rights of others; and thirdly, contradicts decency. These are arranged from Article 310 to 320. More than 30% of Indonesia's population is an active internet user, policy makers further regulate the defamation carried out on the internet. Then the ITE Law was promulgated in 2008, where defamation is included in Article 27 paragraph (3). The defamation clause regulates for criminal sanctions in Article 45 (1) (Adi Tirta Koesoemo, 2020). Indonesian society tends to process defamation with common law use both laws. In contrast to countries that do not criminalize acts of defamation (Yanto, 2019). However, the regulation of defamation in Indonesian criminal law seems problematic.

Defamation in the Indonesian Criminal Codes

In the Indonesian Criminal Code, defamation can take five forms. It consists of defamation, a deliberate attack on someone's honor or good name, by accusing them publicly, verbally (*smaad*), or by writing (*smaadschrift*) this is also a scam (*laster*), insults, false denunciations (*lasterlijke aanklacht*), or slander by conveying a complaint to the authorities, and false accusations, false incitement to someone by saying that he had committed a criminal act (Susilowati & Irpan, 2020).

The discussion of this study predominantly rested on defamation and slander, regulated in articles 310 and 311 of the Indonesian Criminal Code. According to Article 310 (3), neither slander nor libel will exist as long as the giver acts in the public interest or for the necessary defense. The perpetrator may not be the subject of defamation in the public interest or necessary defense. According to the Explanation of Article 310 of the Indonesian Criminal Code, if the perpetrator declares that defamation was committed in the public interest or forced to defend himself, cannot prove it in front of a judge. In the case examination, it was proved that what was alleged to the perpetrator was invalid. The perpetrator is not blamed for defamation but slander, according to Article 311 of the Indonesian Criminal Code (Punusingon et al., 2017).

There have been many criminal cases of defamation in Indonesia. The Case of Dr. Richard Lee's recent case is different from previous cases. He is an aesthetic doctor who owns an aesthetic clinic. He bought various skin treatments requested by her audience, tested them in official laboratories, and showed the results to her audience through social media named TikTok application. He pointed

out the dangerous composition, especially mercury and hydroquinone. In one of the Tiktok content, he revealed that a skincare brand named Helwa Beautycare contains mercury and hydroquinone in its products. Kartika Putri, who is Helwa Beautycare brand ambassador, feels attacked by the video content of dr. Richard that seems to vilify Helwa Beautycare products. Many defamation convicts have committed insults by using abusive words on social media, which can be seen publicly without proving the existence of elements of the defamation article in the ITE Law (Susilowati & Irpan, 2020; Toni, 2020). Uniquely, Dr. Richard did not express words that were generally considered insulting by the public.

Richard's publication can help a group of local skincare users, particularly Helwa Beautycare users. Based on the above criteria, what Dr. Richard did protect the public health of this group. However, Dr. Richard has another burden of proof, this is important to answer because it shows a high degree of public interest. In addition, laws that do not regulate these criteria may result in decisions that vary between jurisdictions because they rely solely on the opinion of judges. In countries of common law, this kind of blurring or unclear thing will not be a problem because it can refer to the court ruling. However, since Indonesia is a civil law country, there must be a legally binding law or regulation on the criteria that must be met in order to use public interest defense. Dissemination of information and commenting on matters of public interest due to the risk of liability for damages or exposure to costly litigation. While, the chilling effect which was initially studied based on journalism and social media developments can have an impact on social media influencers or content creator. The obscurity of standards in determining defamation can be categorized as the public interest silencing people who intend to uncover hidden facts that might harm society. Not only being harmful to society, but it would also threaten people's right to speak up. The original purpose of the defamation law, which was intended to balance freedom of speech and the right to protect reputation, was not achieved due to this obscurity.

The difficulty of proving a public interest defense makes defamation law more protective of the right to protect a good name. It is very important to compare and examine the rules and practices in other countries that classify defamation as unlawful action. These countries use the *tort* law to process defamation cases. Meanwhile, Indonesian defamation law is different since in that criminal reports for defamation are available in Indonesia, and the concept of public interest defense is the same between tort and civil laws.

Events categorized as absolute privilege include statements made during judicial proceedings and parliamentary proceedings qualified as allowing accessible communication in a particular relationship without the risk of the act being defamation. Qualifying privileges occur on occasions where the person communicating the statement has a legal, moral, or social obligation to make it. Besides, the recipient has a corresponding interest in receiving it, such as references to job applicants, answering police questions, communication between teachers and parents, employers and employees, or merchants and credit institutions. Eligible privileges must relate to an existing business and cannot be abused to convey gossip (Sufiana Julianja, 2018).

The concept of privilege creates a neat boundary between acts categorized as defamation and acts exempt from defamation. Based on various court decisions in the UK, it is implied that the public interest is considered an extension of qualifying privileges. However, now public defense is different and separate from existing forms of privilege. It is a different form of defense made up of two elements. First, the subject matter of the publication must be in the public interest. Secondly, communication must be responsible. The judge decides both elements, where the defendant is burdened with evidence.

Defamation Charges in Indonesia According to the ITE Law

In the Decision of the Constitutional Court No. 50/PUU-VI/2008 regarding the Testing of Law 11/2008 on the 1945 Constitution, the court remains on its establishment. Th belief that Article 27

paragraph (3) of the ITE Law does not contradict the rights of citizens, freedom of opinion, and the principle of the rule of law. Thus, although it is not clear, this provision remains in force. Based on the Constitutional Court Decision No. 50/PUU-VI/2008, the definition of insult and defamation in the ITE Law refers to Articles 310 and 311 of the Indonesian Criminal Code (Andini, 2019).

Indonesia recognizes defamation as a crime, unlike the UK, Canada, New Zealand, and especially the most common law countries. When Indonesian law does not have clear definitions and limits on acts of defamation, it is caused problems. Indonesia also does not recognize the concept of privilege that limits any action that is categorized as defamation. Given the nature of defamation cases in Indonesia, people tend to challenge allegations through civil and criminal laws. They are very high-profile parties and tend to increase their exposure by reporting alleged police defamation rather than simply suing under tort law.

This happens to many people in Indonesia, therefore, cases of defamation are increasing, and it seems to be punished excessively. The court ruling created a new concept of public interest defense. With its requirements, as a civil law country, Indonesia cannot rely on court decisions on various defamation cases. The defense of the public interest must be stated in law in order to be legally binding. Otherwise, the media, especially social media, has a cold effect and interferes with freedom of expression protected by the Indonesian constitution. In addition, it also makes people afraid to convey useful publications that may be useful to others.

In Indonesia, defamation law is specifically regulated in the Indonesian Criminal Code and ITE Law. Most defamation cases in Indonesia refer to Articles 310 and 311 of the Indonesian Criminal Code, while the defense of the public interest is regulated in Article 310 paragraph (3) of the Indonesian Criminal Code. However, there is no specific requirement for the defense of the public interest to prevail, confusing the emergence of new cases, such as the case of Richard Lee. In comparison, in other civil law countries, such as South Korea and Japan, Richard Lee's case can use the defense in the public interest because it has fulfilled the defense criteria.

Other foreign law perspectives on the public interest defense provide a better explanation of the issue. For the sake of legal certainty and to avoid excessive criminalization of defamation, Indonesia needs to create regulations to determine which actions include protecting the public interest. Several determining factors are the basis of this study's literature review: the ITE Law, Freedom of Expression, Censorship, Defamation, and the Nature of the article of the law itself, which contains elements of "*catch-all*". The first literature review is the Indonesian Electronic Information Technology Laws 2016 (ITE Laws), which is a government-issued state law that regulates the use and benefits of electronic information, such as video sharing, social networking/social media, and others that aim to be used as a tool to educate the public, develop trade and the national economy, improve the efficiency and effectiveness of public services, provide opportunities for the public to obtain knowledge and information, and provide security, justice, and legal certainty for users of electronic information.

Freedom of Expression is a right of every person from birth that has been guaranteed by the constitution and the state. Therefore, as a state of law and democracy, the Republic of Indonesia is authorized to regulate and protect its implementation. Furthermore, freedom of expression upon significant pressure from any party as well as freedom of thought are regulated in the Fourth Amendment to the Constitution of the Republic of Indonesia Art. 28 E paragraph (3) that everyone has the right to freedom of association, assembly, and expression. Censorship by itself can control what can or cannot be distributed, assuming that all state individuals need protection from such threatening/offensive material.

The sensor is basically an involuntary act, which means that the act of censorship of content or material is carried out by one party without the other subject having the right or ability to communicate or have any disclosure regarding censorship. The majority of censorship is often symbolic censorship, but it does not rule out the censorship as a means for moral reasons or to

protect the interests of some parties (for example, political, religious reasons). There are two types of entities that can carry out censorship; by the government through legislation, and by the private sector which means private companies themselves that provide platform who also performs censorship (for example Instagram's Community Guidelines against pornographic content or content deemed sensitive to viewing).

Next is about defamation changes. Slander is a publication by a person about another person that degrades another person's dignity. A more comprehensive definition given by Silvano Domenico Orsi in 2011 states that defamation is a statement communicated with a claim, whether expressly stated, implied, or implied to be factual, that results in a person, business, government, group, or even a nation being negatively created. However, in Indonesia, the context of defamation is an attack on the honor and reputation of a person, be it a legal entity or a human being, which is not related to sexual affairs. The last critical determining factor that the literature review of this study is the nature of the all-encompassing chapters.

Article of "*catch-all*" is not a legal term but a media in narrating an article that generally has multiple interpretations so that it is used arbitrarily by both the public and law enforcement. In addition, in the context of the *catch-all* article about Art. paragraph (3) ITE Law, Art. 27 Article 3 in the ITE Law is considered as *catch-all* article, which is considered the ultimate "tool" to ensnare legal cases related to ITE. To understand the implementation of w. 27 paragraph (3) of the ITE Law in Indonesia. First, it is necessary to analyze the article from a legal perspective. An analysis of the legal perspective will break down Art. 27 paragraph (3) of the ITE law. The first element is "everyone." This element implies that the subject of law is for every person in Indonesia, including legal entities, regardless of nationality. The second element "intentionally and without rights", which means that the subject of a legal act intentionally without having the right to commit the act. The word of "intentionally" implies that the subject of the law has realized his intention to commit the act (*mens rea*). The third element distributes and/or transmits and/or causes the inaccessibility of Electronic Information and/or Electronic Documents is the legal subject that carries out the distribution, transmission, and makes something digitally accessible.

Keywords in this element correspond to Article. 27 paragraph (1) explanation of the ITE Law is that distributing means sending information and/or electronic documents to several parties, transmitting means sending electronic information and/or electronic documents to one party, and causing accessibility means that the act of dissemination and/or transmission has caused electronic documents and/or electronic information to be known by other parties or the public. The fourth element contains insults and/or defamation. Based on the explanation of ITE Law in Article. 27 paragraph (3), insulting and defamatory words have the same meaning as these words in the Indonesian Criminal Code. However, it is important to note that both the word insult and slander belong to the same category, namely defamation, and are regulated by Article 310 paragraph (1) of the Indonesian Criminal Code.

For the sake of clarity, the term insult and slander will henceforth be referred to as slander. Defamation means an attack on the honor and good name of a person who is not related to sexual affairs. Based on the explanation of Article 27 paragraph (3) of the ITE Law, the element of defamation follows the cumulative element listed in Article. 310 paragraph (1) of the Indonesian Criminal Code; first, there must be intentionality; second, attack someone's honor or reputation; third, the accusation; fourth, the charges were announced, and fifth, the action is not to defend themselves or the public interest. Therefore, to prosecute a person under Article 27 paragraph (3) of the ITE Law, the act must be committed by a foreigner or Indonesian including a legal entity, without the right to commit the act or to defend themselves or the public interest, sending documents or information to one party or several parties, with the intention that the contents that damage the honor and good name of a person are published. As proposed by Simons, a brief definition of criminal liability is a psychic situation.

More comprehensively, the basis for error in criminal law is a certain psychological state in the person of the person who committed the crime and the connection between the state of the soul and the committed act in such a way that the person can be prosecuted for committing the act. Thus, it can be concluded that the core of the error in criminal law is firstly the psychic or mental state of a person and secondly the relationship between the psychological state and the act committed. Therefore, civil liability is the fault of the person who committed defamation in a civil act. While the nature of a criminal offense is based on the principle of legality, the theoretical basis for punishing the perpetrator is called the principle of guilt. Criminal liability is a mechanism established by criminal law to cope with a violation of an agreement to refuse a certain act. At the dawn of the development of the criminal law theory, the criminal liability could be imposed only on human as a subject of natural law. Non-human legal entities cannot perform legal acts because they are considered incapable. Thinkers of the past defended this thought. However, due to the development of crime in society, new theories and ideas have emerged to expand the scope of criminal liability to include legal entities.

The crimes that prompted the development of this criminal law theory are often economic-related crimes committed by individuals and corporations. This is related to the ITE Law, under Art. 1 point 21 of the ITE Law, criminal liability lies with every person who is a subject of law, whether a person, an individual, a foreign citizen, or a legal entity. Therefore, any immoral person who uses electronics and other media to commit unlawful acts can be held the responsibilities. Therefore, the ITE Law recognizes a wider scope of criminal liability, including individuals and legal entities.

Besides the scope of the subject matter of criminal law, this chapter also described the types of offenses to clarify each element of criminal liability. At this point, it is necessary to underline that many parties consider Article 27 paragraph (3) of the ITE Law to be an ordinary offense (*gewone delict*). This understanding is misleading because of two factors: the essence of the offense of insult according to Art. 27 verse (3) and the historical perspective of the offense. First, the crime of insult and defamation is essentially attacking the honor or good name of a person, so that it is polluted or damaged.

In determining whether an act of defamation or defamation has been committed, content are the important factors taken into consideration. Understanding the context means knowing the state of mind of the victim and the perpetrator, the intent and purpose of the perpetrator spreading the information, as well as the interests involved in such spreading. In this process, the opinion of experts, such as linguists, psychologists, and communication experts may be required. However, the person concerned can only assess an intrinsically polluted or damaged reputation. This means that, based on the ITE Law, the victim can subjectively assess the content or part of the information or electronic document suspected of defamation to determine whether defamation is carried out. It is also an implication of constitutional protection of one's dignity as a human right. Overall, legal protection is only given to victims of defamation or insult. Meanwhile, the context only plays a role in providing objective value to the content.

Provisions of Art. 27 paragraph (3) of the ITE Law historically refers to the defamation provisions in the Indonesian Criminal Code ("KUHP"), particularly art. 310 and 311 of the Indonesian Criminal Code. Defamation is expressly regulated as a crime upon complaint (*klacht delict*). Whereas in the ITE act and before its amendment, it is unclear whether art. 27 paragraph (3) is a 'crime on complaint' or just an offense. However, the Constitutional Court declared insult or defamation under the pre-amended ITE Law as a 'complaint crime' in Decision no. 50/PUU-VI/2008.

From the above explanations, it tends to be suspected that the Act referred to in Art. 27 paragraph (3) of the ITE Law is a criminal complaint. Otherwise, the provision of insult or defamation in law no after the amendment. in Laws, number 19 of 2016 (amended ITE Law) is a criminal complaint 27. This means that in order to be convicted under this article, the victim of defamation must complain

to the official authorized to receive the complaint, namely the National Police investigator or the Civil Servant investigator, which clarifies elements of the article "*catch-all*" from Art. 27 paragraph (3) UU ITE, the author will analyze how the implementation of the article in court decisions. Many cases used Article 27 paragraph (3) on defamation ITE law as a legal basis in Indonesia.

The implementation of Article 27 paragraph (3) of the ITE Law produced many divided reactions whether it was arbitrary, whether its use was justified, but most importantly, whether its implementation followed international standards as outlined in Article 19 The International Covenant on Civil and Political Rights (ICCPR) which guarantees the right of the people to opinion and to disclose information without coercion or interference that may restrict freedom. Despite this, freedom of expression is not an absolute right and can be restricted if it is fundamental and exercised proportionally. Under the ICCPR, the opportunity for articulation should be limited by statute.

It is very important to pay attention to the reputation rights of others, the protection of national security, the protection of public order, or public morals because of these parameters, defamation laws and hate speech can be legitimate as a guarantee of other reputation rights, as long as they are not excessive. However, some rights guaranteed under the ICCPR are allowed to reduce freedom of expression.

Regardless of specific restrictions on the occasion of articulation intended to ensure these rights are reasonable and will depend on more explicit thinking about the restriction in question and its conditions. Since then, the Human Rights Committee has clarified its view that the precondition in Article 19 paragraph (3) that action restricting freedom of expression are 'necessary' compels significant justifications on the government. It has been stated that this is proportional to the precondition that any 'restrictive measure' must conform to the principle of proportionality.

If the application of Article 27 paragraph (3) of the ITE Law has fulfilled Article 19 of the ICCPR threshold. In this case, it is best to consider certain actions that the government may or may not perform after implementing the law. The above-mentioned action is whether the government in regulating Article 27 paragraph (3) of the ITE Law on defamation meets the criteria of a country to "apply valid reasons to restrict freedom of expression", which contains elements of threat, as well as the inevitability and proportionality of enacting such laws. In conclusion, the application of Article 27 paragraph (3) ITE law is important as a means of protection from defamation. However, the threshold must be clear, as Indonesia currently has no restrictions or criteria on what constitutes defamation to apply for the clause. Based on elements of Article 27 paragraph (3) of the ITE Law, there is a threshold that must be fulfilled before a person can be convicted under the article. The threshold by which defamation must be committed with the intent to attack the honor or good name of a person, the perpetrator does not do so in the name of self-defense or the public interest, and that the article falls within the scope of the crime on complaint after constitutional *review* and amendments. However, in practice, the legal implications of Article 27 paragraph (3) of the ITE Law are used roughly; this does not mean that freedom of expression must be restricted. Restrictions related to freedom of expression in the ICCPR can be regulated by law which in this case can be fostered by the government of Indonesia with a note that restrictions must be necessary to respect the rights or good name of others, to protect the rights of citizens, security, public order, or public health or morals. However, the absence of more rigid rules on this subject regarding the rights then becomes a crucial article that is often abused.

IV. CONCLUSION

Indonesian government with lawmakers, to neutralize the character of "*catch-all*" Article 27 paragraph (3) on defamation and other regulations containing elements of defamation. Second, the government recommended supervising future court proceedings so that the use of these "*catch-all*" article is no longer happened. It is also recommended that the government be transparent if such persecution

events under "catch-all". Third, for lawmakers, the authors recommend that lawmakers, along with researchers and the government, look at existing cases and regulations and revise the ITE Law so that the nature of "catch-all" elements Article 27 paragraph (3) on defamation is dispensed, along with other articles of the same "catch-all" character. Last, but no less important, for Indonesian citizens. Indonesian citizens are advised to share, report, write any story or collect any information/data they want. But please keep in mind that citizens may still have to take certain precautions or extra steps pending rule changes so that no sensitive material/content is posted on electronic media.

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