

The Urgency of Legal Reform in Eradicating and Addressing Hate Speech

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Abstract

Hate speech is a significant issue that has been escalating with the rapid growth of social media. Hate speech involves communication actions such as provocation, incitement, or insults directed at individuals or groups based on race, skin color, gender, disability, sexual orientation, nationality, and religion. To address this issue, Indonesian law regulates such offenses through various articles in the Indonesian Penal Code (KUHP), including Articles 310, 311, 315, 317, and 318, as well as the Electronic Information and Transactions Law (UU ITE) Article 45A. Effective and consistent legal measures are necessary to curb the spread of hate speech and protect victims from its negative impacts. Awareness of legal consequences and ethical communication on social media is crucial for fostering a safer and more respectful digital environment.

Keywords: *Hate Speech, KUHP, UU ITE.*

1. INTRODUCTION

According to Datareportal, the number of internet users in Indonesia is projected to reach 185.3 million by 2024, resulting in an internet penetration rate of 66.5%. This figure indicates that over half of Indonesia's population is now connected to the Internet, reflecting significant growth in digital access across the country. Additionally, there are 139 million social media users in Indonesia, accounting for 49.9% of the total population. The data underscores the popularity of social media platforms among Indonesians and highlights their crucial role in daily life and digital interactions within the country.

The widespread use of social media in Indonesia has introduced a range of new challenges, one of which is the increasing incidence of hate speech. (Bina, 2021) Social media, with its capability to disseminate information quickly and widely, is usually used by individuals or groups to spread hatred, disinformation, and incite conflict. It has led to

increased social tension, polarization, and occasionally physical violence stemming from online conflicts. The government and various organizations continue to seek solutions to address this issue through stricter regulations, digital education, and raising awareness about internet ethics among users.

The rapid and unbridled development of communication technology has given individuals in the modern era greater freedom to express themselves. Social media has become a primary platform where individuals can share their thoughts, feelings, and experiences with a broad audience. While this freedom brings numerous benefits in terms of creativity and social connection, it also has negative aspects that need to be addressed. (Mawarti, 2018) Unfortunately, the freedom to express oneself on social media is often misused, leading to issues such as hate speech. Negative comments from social media users, for example on Instagram, can easily spread, incite conflicts, and exacerbate social tensions. (Astuti, 2019) Hate speech not only harms the individuals targeted but can also create an unhealthy and toxic digital environment. Therefore, social media users must communicate more responsibly, and for social media platforms and governments to implement measures that can minimize these negative impacts.

The increasing prevalence of hate speech on social media necessitates serious attention and strict legal action. The government needs to strengthen regulations and enforcement related to hate speech to prevent the spread of damaging content. More stringent law enforcement is required to deter offenders and ensure that social media does not become a vehicle for the dissemination of hatred. (Parera & Silambi, 2018) This approach involves collaboration between the government, social media platforms, and law enforcement to detect, trace, and prosecute perpetrators of hate speech by applicable legal provisions. In addition to legal enforcement, legal protection for victims of hate speech is also crucial. Victims need to feel safe and protected while accessing and using social media.

The government and relevant organizations must provide effective reporting mechanisms and psychological support for victims to help them cope with the negative impacts of hate speech. (Kardiyasa, Dewi, & Karma N, 2020) It includes access to legal

assistance, counseling, and other support services that can help victims recover. Education and raising public awareness about the dangers of hate speech and the importance of ethical communication on social media should also be a priority. Public awareness campaigns, digital education programs, and collaboration with various stakeholders can help foster a more positive and inclusive online culture. By doing so, social media can be utilized for more constructive purposes, supporting creativity and strengthening social cohesion.

2. METHOD

The research methodology employed in this study is Normative. This approach centers on analyzing legal norms, principles, and regulations, with an emphasis on how these laws are implemented and applied in practice.

3. RESULTS AND DISCUSSION

Hate Speech

Hate speech refers to communication by individuals or groups that involves provocation, incitement, or derogation directed at other individuals or groups based on race, skin color, gender, disability, sexual orientation, nationality, religion, and other characteristics. Legally, hate speech encompasses all forms of spoken, written, or displayed content that is prohibited due to its potential to incite violence and prejudice, whether from the speaker or the recipient of the speech as stated by Yudha Prawira in (Zulkarnain, 2020)

With the advancement of technology, various forms of social media have emerged. It has also led to negative impacts, such as an increase in hate speech, as these platforms expand the potential for provocation, incitement, and derogation. Social media provides a space for individuals or groups to disseminate negative messages more widely and rapidly, often targeting aspects such as race, skin color, gender, disability, sexual orientation, nationality, and religion. (Abdillah, et al., 2023) Anonymity and easy access to social media often lead perpetrators to feel freer to express hate speech without fear of

immediate consequences. It not only incites violence and prejudice in the real world but also creates a toxic and unhealthy digital environment for all users. Therefore, it is crucial to address and control the spread of hate speech on social media through strict law enforcement and increased public awareness about the importance of ethical online communication.

According to the Chief of Police Circular Letter Number: SE/6/X/2015 regarding the Handling of Hate Speech, (Ryanto, 2015) The Chief of Police Circular Letter Number: SE/6/X/2015 explains that hate speech can constitute a criminal offense regulated under the Criminal Code (KUHP) and other penal provisions outside the KUHP, which may include, among other forms:

1. Insult
2. Defamation
3. Blasphemy
4. Offensive behavior
5. Provocation
6. Incitement
7. Spread of false information and all of these actions have the potential to lead to or impact discriminatory behavior, violence, loss of life, and/or social conflict.

The occurrence of hate speech is typically influenced by various underlying factors that contribute to such behavior. According to (Sa'idah, Santi, & Suryanto, 2021) There are several factors that contribute to the occurrence of hate speech:

1. The primary factor driving an individual to engage in hate speech originates from within the person, particularly psychological factors related to motivation. According to Maslow's theory, an individual's personality is influenced by a hierarchy of needs and motivations, where the need for belonging and recognized existence becomes a major driver.

Individuals who engage in hate speech are often motivated by feelings of envy and dissatisfaction with themselves, perceiving others as happier or superior in various aspects of life.

2. A lack of public understanding about hate speech is also a significant factor contributing to its spread. Many people are unaware that insults on social media fall into the category of hate speech and often regard such behavior as acceptable. Insufficient awareness and education about the dangers and impacts of hate speech lead to a general disregard for this crime. This phenomenon is evident in social media comments that frequently normalize body shaming or insults based on physical appearance.
3. The increasing accessibility of social media platforms also plays a role in the rise of hate speech. In the era of globalization, social media has become a primary tool for quickly obtaining information. However, without proper monitoring and policies, this ease of access can facilitate the spread of hate speech. A clear example is the psychological pressure faced by both international and local celebrities due to malicious comments on social media, with some even resorting to suicide or leaving the entertainment industry.
4. A lack of social control from internal environments such as family, and external environments such as the surrounding community, also contributes to the spread of hate speech. Many people do not fully grasp the seriousness of cyber-crimes, including hate speech. The loss of social control results in a blurring of social norms that should be enforced, leading to conflicts and tensions within society.
5. The final factor is the overall public interest, particularly in the era of globalization, which facilitates the dissemination of false or misleading information. This misinformation often increases the incidence of hate speech by fueling distrust and hostility between individuals or groups. Therefore, it is crucial to address and manage these factors

comprehensively to reduce and control the spread of hate speech in society.

These factors are not the only causes of hate speech, but according to Eriyanto in (Sa'idah, Santi, & Suryanto, 2021), also identifies several forms of hate speech, including:

1. Euphemism: This is a rhetorical device used to soften or disguise the true meaning of something, aiming to make something unpleasant sound more acceptable.
2. Dysphemism: This involves expressions with derogatory connotations. Such expressions are usually based on fear, dislike, or hatred, and often include ethnic, religious, or racial slurs.
3. Labeling: This refers to the use of offensive terms directed at individuals or groups with deviant behavior, marking them negatively.
4. Stereotyping: This involves making generalized and negative judgments about individuals or groups, clearly highlighting their negative traits.

Legal Measures Concerning Hate Speech

The need for legal measures to address hate speech is particularly urgent in this digital age. Clear and stringent regulations are required to govern online behavior, ensuring that hate speech can be legally prosecuted (Kartika & Nurhayati, 2023). Strong legal frameworks not only deter perpetrators but also provide protection for victims and prevent violence and harmful prejudice. A comprehensive legal framework aims to make the digital environment safer and more conducive, encouraging responsible and ethical use of social media platforms. Additionally, consistent law enforcement will enhance public awareness of the importance of communication ethics and respect for individual human rights.

Clear legal actions against hate speech are outlined in various provisions of the Criminal Code (KUHP), such as Article 310 concerning defamation, Article 311 concerning libel, Article 315 concerning minor insults, and Articles 317 and 318 addressing false accusations and false reports. Furthermore, the Electronic Information

and Transactions Law (UU ITE) Article 45A introduces a more specific legal dimension related to the digital realm, regulating penalties for those disseminating information containing elements of hatred or hostility towards individuals or groups based on ethnicity, religion, race, and inter-group relations (SARA). Additionally, Book 1 of the Criminal Code (KUHP) elaborates on hate speech within several articles, detailing the relevant legal provisions.

Article 310:

- (1) Anyone who intentionally attacks the honor or reputation of another person by accusing them of something, with the intent that it be widely known, shall be punished for defamation with a prison sentence of up to nine months or a fine of up to four thousand five hundred rupiahs.
- (2) If this act is carried out through written or visual means that are broadcast, exhibited, or posted in public, the perpetrator shall be punished for written defamation with a prison sentence of up to one year and four months or a fine of up to four thousand five hundred rupiahs.
- (3) The act shall not be considered defamation or written defamation if it is done for the public interest or out of necessity to defend oneself.

Article 311:

- (1) If the perpetrator of defamation or written defamation is allowed to prove the truth of the accusation but fails to do so, and the accusation is made contrary to what is known, then the perpetrator is punishable for libel with a prison sentence of up to four years.

Article 315:

"Any intentional insult that is not considered defamation or written defamation, directed at an individual, whether in public through spoken or written words, or directly to the person through spoken words, actions, or a letter sent or delivered to them, is punishable for minor insults with a prison sentence of up to four months and two weeks or a fine of up to four thousand five hundred rupiahs."

Article 317:

- (1) Anyone who intentionally files a false complaint or notification with authorities, whether in writing or intended to be written, about someone in a manner that damages their honor or reputation shall be punished for making a false accusation with a prison sentence of up to four years.

Article 318:

- (1) Anyone who deliberately creates a false impression that someone has committed a criminal act through any action shall be punished for causing false suspicion, with a prison sentence of up to four years.

In addition to the Criminal Code (KUHP), there are other regulations outlined in Law Number 19 of 2016, specifically Article 45A, which notes that:

- (1) Any person who intentionally and unlawfully disseminates false and misleading information that causes harm to consumers in electronic transactions, as referred to in Article 28, paragraph (1), shall be punished with a prison sentence of up to 6 (six) years and/or a fine of up to Rp1,000,000,000.00 (one billion rupiahs).
- (2) Any person who intentionally and unlawfully spreads information aimed at inciting hatred or hostility against individuals and/or specific groups based on ethnicity, religion, race, and inter-group relations (SARA), as referred to in Article 28, paragraph (2), shall be punished with a prison sentence of up to 6 (six) years and/or a fine of up to Rp1,000,000,000.00 (one billion rupiahs).

The existence of these provisions should be a serious concern for social media users, encouraging them to be more cautious in their comments and expressions. By understanding the legal consequences that may arise from their actions, social media users are expected to act more responsibly and respect the rights of others, thereby fostering a safer and more harmonious digital environment.

4. CONCLUSION

Hate speech is a serious issue that requires effective legal attention and intervention due to its significant impact on individuals and society. According to the Criminal Code (KUHP), articles such as Articles 310, 311, 315, 317, and 318 address various forms of defamation and libel, while Article 45A of the Electronic Information and Transactions Law (UU ITE) provides specific protection in the digital realm by regulating penalties for online hate speech. Clear and consistent law enforcement against perpetrators of hate speech is crucial for preventing the spread of hatred and protecting victims. Additionally, raising awareness and fostering a deep understanding of the law among social media users is essential for creating a safer communication environment and respecting individual rights.

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