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JURIDICAL DYNAMICS BETWEEN FREEDOM OF DIGITAL EXPRESSION AND DEFAMATION OFFENSES: A CASE STUDY OF MEME MAKING GOVERNMENT OFFICIALS IN THE PERSPECTIVE OF LAW NUMBER 1 OF 2024

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Abstract

This study examines the juridical dynamics between the protection of digital freedom of expression and the enforcement of defamation offenses, with a focus on the creation of internet memes that target government officials. The formulation of the problem in this study centers on the legal limitations of political satire and the potential criminalization of social criticism in cyberspace. The research method used is normative juridical with a legislative approach and a conceptual approach, utilizing primary and secondary legal materials including analysis of the meme case of Bahlil Lahadalia and ITB students. The results of the study show that Law Number 1 of 2024 has accommodated escape devices through Article 45 paragraph (7) which excludes criminal sanctions if the act is carried out in the public interest or criticism. Nevertheless, inconsistencies and ambiguities in interpretation at the level of law enforcement officials on digital visual culture products still occur, so that it has the potential to trigger a chilling effect that threatens the constitutional rights of citizens. This study concludes the need for standard and strict interpretation guidelines for law enforcement officials in order to realize substantive justice.

Keywords: Freedom of Expression, Political Memes, Public Officials, Defamation, ITE Law.



A. Introduction

The development of information and communication technology in the era of *cyber society* has radically changed the landscape of freedom of expression. The digital space is no longer just a transactional media, but has mutated into a *new public sphere* where social and political discourses are massively produced by the public.¹ One of the most dominant and responsive digital culture products in this dynamic is the meme internet. As a form of visual communication that blends text, imagery, and satire, internet memes have evolved from mere a means of casual entertainment to a highly effective social control mechanism and instrument of political criticism.² Its virality and easy to

reproduce make memes a tactical weapon for netizens to break down the rigidity of conventional political communication and dismantle the ambiguity of public policy.

However, within the Indonesian legal ecosystem, this visual-based critical expression often hits the thick wall of digital criminal law formalism. The constitutional right of citizens to express their thoughts, both orally and in writing, is expressly guaranteed by Article 28E paragraph (3) and Article 28F of the Constitution of the Republic of Indonesia of 1945.³ This supreme guarantee requires a safe space for public participation in supervising the running of government. Juridical tension arises when satirical content in memes

¹ Agus Wibowo, *Information Security Cyber Law*, ed. M.Kom. Dr. Joseph Teguh Santoso, S.Kom., 1st ed. (Semarang: stekom, 2024), p. 45, https://digilib.stekom.ac.id/assets/dokumen/ebook/feb_AsODON7rWAAumI-eyUfM-KqX7dg_crFXgDCn9z-EkA7XoNcA_H7XTA_1731900608.pdf.

² Untung Wahyudi, "Meme Narrative as a Mechanism of Social Control: An Analysis of Visual Discourse in

Digital Culture," *Journal of Mandalika Social Science Narrative* 3, no. 1 (2025): p. 49, doi:<https://doi.org/10.59613/jomss.v3i1.251>.

³ Indonesia, "Constitution of the Republic of Indonesia of 1945" (1945), Article 28E paragraph (3) and Article 28F, [https://www.mkri.id/public/content/infoumum/regulation/pdf/UUD45 ASLI.pdf](https://www.mkri.id/public/content/infoumum/regulation/pdf/UUD45%20ASLI.pdf).



targeting government officials is interpreted subjectively by law enforcement officials as defamation, insult, or honor attack. The repressive nature of previous cyber regulations, namely Law Number 11 of 2008 concerning Information and Electronic Transactions, often gives birth to the *chilling effect*, a psychological-juridical condition in which people experience a massive fear to express criticism due to the shadow of criminalization.⁴

This juridical ambiguity and the pull of interests are increasingly evident in some contemporary cases. For example, the ripple of law enforcement in the case of criminalization of female students of the Bandung Institute of Technology (ITB) was

due to the upload of political satire memes processed by artificial intelligence.⁵ Likewise, the escalation of digital disputes in meme cases involving state officials such as Bahlil Lahadalia, where the line between the right to criticize (*legitimate criticism*) and malicious intent to defame (*mens rea in defamation*) has become very blurred at the investigation level.⁶ Reports from third parties or mass organizations that do not have direct *legal standing* as victims often trigger unnecessary detention, which in turn harms the right to fair legal certainty. This scientific phenomenon indicates that cyber law is often forced to operate as a tool to protect the reputation of the ruling elite rather than as an

⁴ Yoanda Widi Pranata, "Reconstruction of Article 27 Paragraph (3) of the ITE Law and Its Implications for Freedom of Opinion in Indonesia," *Indonesian Journal of Law Research* 3, no. 2 (2025): p. 33, doi:<https://doi.org/10.60153/ijolares.v3i2.164>.

⁵ Randi Maulana Muhamad et al., "Political Meme in the Digital Era: The Dilemma of Freedom of Expression and Law Enforcement in a Pancasila

Democratic State," *Journal of Education and Citizenship of Indonesia* 2, no. 2 (2025): p. 298, doi:<https://doi.org/10.61132/jupenkei.v2i2.476>.

⁶ Tempo, "Why Can't the Bahlil Meme Maker Be Immediately Punished?," *Tempo*, 2025, retrieved April 24, 2026, <https://www.tempo.co/hukum/mengapa-pembuat-meme-bahlil-tak-bisa-serta-merta-dipidana-2083188>.



instrument of maintaining order in the digital space with justice.

The birth of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions brings a hope of paradigmatic reconstruction. This change radically reformulates conventional cyber offenses by shifting the former Article 27 paragraph (3) to Article 27A which constructs the offense of contempt more specifically through the condition that there are "accusations made directly" and "attacking honor with the intention of being known to the public."⁷ Most crucially, this new regulation introduces an *escape device* in Article 45 paragraph (7), which explicitly states that acts committed in the "public

interest" or "criticism" are excluded from criminal threats. Theoretically, this norm reform is designed to align cyber law with the principles of the Pancasila democratic state that respects public supervision, while affirming that criticism of government officials is not a crime.

Studies on the intersection between digital expression and criminal law have actually been widely discussed by previous researchers (*state of the art*). I Made Vidi Jayananda highlighted how freedom of opinion on social media is often abused until it slips into defamation without any basis for evidence.⁸ From the security aspect, Fadhila Rahman Najwa emphasized that the inconsistency in the implementation of cyber regulations in Indonesia is rooted in the weak

⁷ The House of Representatives of Indonesia, "UNDANG. INVITE THE REPUBLIC OF INDONESIA. A NUMBER 1 OF 2024 CONCERNING THE SECOND AMENDMENT TO LAW NUMBER 11 OF 2008 CONCERNING INFORMATION AND ELECTRONIC TRANSACTIONS," Pub. L. No. Law No. 1 OF 2024

(2024), <https://peraturan.bpk.go.id/details/274494/uu-no-1-tahun-2024>.

⁸ I Made Vidi Jayananda, "Analysis of Defamation and Abuse of Freedom of Expression Rights on Social Media," *Journal of Legal Analogy* 3, no. 2 (2021): p. 262, doi:<https://doi.org/10.22225/ah.3.2.2021.261-265>.



interpretation capacity of law enforcement officials.⁹ Meanwhile, analysis from the perspective of the sociology of digital culture as carried out by Untung Wahyudi positions the pure meme narrative as a social control mechanism born from the cultural resistance of netizens.¹⁰ However, the majority of the literature is still trapped in reading the old legal regime or only looking at memes from the lens of visual semiotics without conducting a deep legal synchronization of the post-revision norms of the ITE Law in 2024.

The statement of scientific *novelty* of this article lies in a deconstructive and interdisciplinary analysis of the effectiveness of the operationalization of Article 45 paragraph (7) of Law Number 1 of 2024 as *an escape device* in protecting political meme

creators. This research offers a conceptual development using the analytical knife of Progressive Law to radically test whether the reformulation of Article 27A is able to stop the criminalization of law enforcement officials in disputes involving government officials. In contrast to previous research that is theoretical-descriptive, this article marries constitutional legal dogmatics with the empirical facts of the latest meme disputes in the 2024-2026 period, in order to formulate standard parameters that can remove the ambiguity of interpretation between critical satire and real defamation.

B. Problem Formulation

Based on the landscape of norm conflict between digital expression and cyber criminal law above, the limits of the legal

⁹ Fadhila Rahman Najwa, "Legal Analysis of Cybersecurity Challenges: A Case Study of Cyber Law Enforcement in Indonesia," *AL-BAHST* 2, no. 1 (2024): p. 12, doi:10.32520/albahts.v2i1.3044.

¹⁰ Wahyudi, "Meme Narrative as a Mechanism of Social Control: An Analysis of Visual Discourse in Digital Culture," p. 51.



issues that are at the core of this normative analysis are formulated as follows:

1. What is the juridical dynamic of the intersection between the protection of the constitutional right to freedom of digital expression of netizens and the enforcement of defamation offenses after the enactment of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions?
2. How is the formulation of objective juridical parameters that can be used by law enforcement officials to limit and distinguish the creation of the internet meme of government officials as a product of political satire protected by law, or as an act of defamation that meets the qualifications of cyber criminal offenses?

C. Research Objectives

Referring to the limitations of legal issues in the formulation of the above problem, the academic and practical goals to be achieved through the writing of this scientific article are as follows:

1. To analyze and describe in depth the juridical dynamics of the intersection between the protection of constitutional rights to freedom of digital expression of netizens and the enforcement of defamation offenses after the enactment of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions.
2. To formulate and find the formulation of objective juridical parameters that can be used by law enforcement officials in limiting and distinguishing the creation of the internet meme of government officials as a political satire product protected by the constitution or as an act



of defamation that meets the qualifications of cyber criminal offenses, in order to realize substantive justice in cyberspace.

D. Research Methods

This scientific research uses a type of normative *legal research* or what is often classified as doctrinal legal research.¹¹ Based on the methodological conception formulated by Muhaimin, normative legal research views law as a complete system of internal norms, which includes principles, rules, laws and regulations, court decisions, and authoritative legal doctrines.¹² The normative characteristics were deliberately chosen considering that the main legal issues in this article focus on the analysis of norm synchronization, ambiguity of articles, and juridical dialectics between the constitutional

guarantee of the right of expression and criminal restrictions in the latest cyber regulations. This research does not intend to examine the social effectiveness of law in the field empirically, but rather to test the dogmatic consistency of digital criminal law in maintaining substantive justice.¹³

The approach method applied in this study combines three relevant types of approaches to dissect the problem formulation holistically. First, the statutory *approach*, which is used to examine vertically and horizontally the hierarchy of legal regulations, starting from the 1945 Constitution of the Republic of Indonesia to the limits of norm reformulation in Law Number 1 of 2024.¹⁴ Second, a *conceptual approach*, which moves from progressive legal doctrines, understandings, and theories

¹¹ Muhaimin, *LEGAL RESEARCH METHODS*, 1st ed. (Mataram: Mataram University Press, 2020), p. 45, [https://eprints.unram.ac.id/20305/1/Metode Hukum.pdf](https://eprints.unram.ac.id/20305/1/Metode_Hukum.pdf) Research.

¹² *Ibid.*, p. 47.

¹³ *Ibid.*, p. 49.

¹⁴ *Ibid.*, p. 56.



as well as the principles of cyber criminal law to build arguments about the nature of *political satire* and the limits of *mens rea* in defamation. Third, the *case approach*, which is applied by analyzing real legal disputes in cyberspace, such as the controversy over the meme making of government official Bahlil Lahadalia and ITB students, to test how the norm of criminal exemption is applied by law enforcement officials.¹⁵

The data sources used in this normative research are purely secondary data, which in the legal doctrinal tradition are more appropriately termed as legal materials.¹⁶ Muhaimin divides the legal material into three main qualifications applied in this research:

1. The Primary Legal Material, which is binding and has formal legal authority, consists of the 1945 Constitution of the

Republic of Indonesia, Law Number 11 of 2008 concerning Information and Electronic Transactions, and Law Number 1 of 2024 concerning the Second Amendment to the ITE Law.

2. Secondary Legal Materials, providing scientific explanations and interpretations of primary legal materials, including digital criminal law textbooks and introduction to cyber law, various accredited scientific journal articles on meme semiotics and freedom of expression, as well as exclusive reports from credible news portals (*Tempo*, *BBC News Indonesia*, *Hukumonline*).
3. Tertiary Legal Materials, function to provide instructions and meaningful explanations to primary and secondary legal materials, in the form of the Great

¹⁵ Ibid., pp. 59-61.

¹⁶ Ibid., p. 67.



Dictionary of Indonesian Language (KBBI) and the Cyber Law Dictionary.¹⁷

The technique of retrieving or collecting legal materials in this article is carried out through the library *research* method or document study. This process is carried out by identifying, searching, reading, classifying, and recording the content of legal material systematically based on its relevance to the issue of freedom of expression and defamation offenses.¹⁸ Regarding the location of the research, because the basic nature of this research is normative-literary, the research locus does not refer to a specific geographical area of the field, but is within the scope of the library space (Medan State University Library) and scientific digital databases (*Google Scholar, Garuda Portal, and National JDIH*). The reason for choosing

this digital location and library is based on considerations of the availability, completeness, and validity of highly dynamic cyber secondary and primary legal materials, so as to enable researchers to obtain cutting-edge literature for the 2024–2026 period comprehensively.¹⁹

The data analysis techniques or legal materials that have been collected are managed qualitatively with a descriptive-prescriptive analysis model.²⁰ Through its prescriptive nature, this analysis not only aims to explain the interweaving of facts in digital disputes, but is aimed at providing legal *reasoning* about what is right, what is wrong, and how the law should be implemented in order to provide fair legal certainty.²¹ The process of deductive thinking (legal syllogism) is used as the main

¹⁷ Ibid., p. 71.

¹⁸ E. E. Scott, et al., *INTRODUCTION TO INDONESIAN CYBER LAW*, 1st ed. (Sada Kurnia Pustaka, 2025), p. 89.

¹⁹ Muhaimin, *LEGAL RESEARCH METHODS*, p. 82.

²⁰ Ibid., p. 101.

²¹ Ibid., p. 104.



analytical knife, where the normative provisions of Article 45 paragraph (7) of Law Number 1 of 2024 are placed as the major premise (*rules*), the act of creating internet memes of government officials is positioned as a minor premise (*facts*), so that a concrete juridical conclusion can be drawn to answer the status of legal protection for netizens in the era of digital democracy

E. Research Results and Discussion

1. Constitutional Dynamics of Digital Freedom of Expression After the Norm Reform of the ITE Law

The protection of human rights in expressing thoughts and expressions in cyberspace is one of the fundamental indicators of the maturity of a democratic state of law. Dogmatically speaking, this

constitutional guarantee is rooted in Article 28E paragraph (3) and Article 28F of the 1945 Constitution of the Republic of Indonesia, which provides the absolute right for every individual to communicate, obtain, and convey information through any digital channel.²² However, in the reality of cyber law enforcement in Indonesia before 2024, the protection of constitutional rights continues to deteriorate due to the repressive nature of the provisions of the norms of Law Number 11 of 2008 jo. Law Number 19 of 2016 concerning Information and Electronic Transactions. The phrases "insult" and "defamation" in the former Article 27 paragraph (3) of the law often operate as a multi-interpreted rubber article that is vulnerable to abuse by power actors to suppress public criticism.²³ This textual

²² Indonesia, Constitution of the Republic of Indonesia of 1945, Article 28E paragraph (3) and Article 28F.

²³ Pranata, "Reconstruction of Article 27 paragraph (3) of the ITE Law and its implications for freedom of opinion in Indonesia," p. 35.



ambiguity creates a wide dividing gulf between formal legal certainty and substantive justice for netizens on social media.

The promulgation of Law Number 1 of 2024 marks a significant phase of legal reconstruction of the governance of digital expression in Indonesia. Through radical reformulation, the lawmakers shifted the defamation offense from Article 27 paragraph (3) which is abstract to a more specific and limited Article 27A. Article 27A of the new ITE Law strictly requires the act of "attacking the honor or good name of a person by accusing something with the intention of making it known to the public."²⁴ The addition of the phrase "alleging something" adopts an essential element of

Article 310 of the conventional Criminal Code (KUHP), thus revoking the "rubber" nature attached to the previous cyber insult article. This change theoretically shifts the legal paradigm from a *reputation-oriented approach* to the protection of the human rights of netizens (*rights-oriented approach*) in order to recover cyberspace from *the chilling effect*.²⁵

Although editorial reform has been achieved in Article 27A, the juridical intersection between the digital expression of netizens and cybercriminal offenses does not necessarily disappear. Cyber law enforcement in Indonesia is still overshadowed by the challenge of inconsistency stemming from differences in interpretive capacity at the level of law

²⁴ Indonesia, UNDANG. INVITE THE REPUBLIC OF INDONESIA. A NUMBER 1 OF 2024 CONCERNING THE SECOND AMENDMENT TO LAW NUMBER 11 OF 2008 CONCERNING INFORMATION AND ELECTRONIC TRANSACTIONS, Article 27A.

²⁵ Andreas Antonio and Ade Adhari, "Assessing the Implementation of the ITE Law in Enforcing Legal Certainty in Defamation Cases," *Research Domain* 6, no. 4 (2024): p. 515, doi:<https://doi.org/10.38035/rj.v6i4.979>.



enforcement officials.²⁶ When digital content mutates into an object of dispute, a clash of norms occurs again between the right of citizens to oversee the running of government through digital criticism and the right of individual officials to defend their personal reputation. Therefore, the presence of this new regulation requires operational guarantees that are able to ensure that cyber law is no longer used selectively as a tool to criminalize critical groups, but purely to enforce a fair digital public order.²⁷

2. The Empirical Anatomy of the Government Official Meme Case: Between Political Satire and Defamation

As part of the evolution of visual communication on social media, the internet of memes has transformed into a very massive instrument of political criticism. Referring to the study of digital cultural semiotics, internet memes cannot be read purely literally (denotative), but must be dissected through the layers of connotative meaning, cultural values, and accompanying ideological myths.²⁸ The characteristics of memes that use metaphors, humor, and satire are often put by netizens as a narrative of cultural resistance and a social control mechanism against the deviant behavior of public officials.²⁹ However, the complexity of this cultural meaning often fails to be digested by law enforcement institutions that

²⁶ Najwa, "Legal Analysis of Cybersecurity Challenges: A Case Study of Cyber Law Enforcement in Indonesia," p. 15.

²⁷ Jayananda, "An Analysis of Defamation and Abuse of Freedom of Expression Rights on Social Media," p. 263.

²⁸ Cut Dian Rahmawati, Hasan Busri, and Moh. Badrih, "The Meaning of Denotations and

Connotations of Memes in Social Media Twitter: A Study of Roland Barthes' Semioticism," *Onoma Journal: Education, Language and Literature* 10, no. 2 (2024): p. 112, doi:<https://doi.org/10.20961/recidive.v10i1.58844>.

²⁹ Wahyudi, "Meme Narrative as a Social Control Mechanism: An Analysis of Visual Discourse in Digital Culture," p. 52.



tend to rely on rigid and literal methods of interpreting legal texts, thus equating visual satire expression as a criminal offense of real insult.³⁰

This empirical tension is clearly illustrated in two cases of contemporary digital disputes in the 2024-2025 period. The first case is cyber criminal law enforcement against a student of the Bandung Institute of Technology (ITB) for uploading a political satire meme processed using *artificial intelligence* technology.³¹ The detention of the female student sparked a public polemic regarding the proportionality of law enforcement and the relevance of the use of cyber morality articles to digital artworks that contain criticism. The second case that is no

less crucial is the wave of legal reports related to the creation and dissemination of visual memes targeting the Minister of Energy and Mineral Resources, Bahlil Lahadalia.³² In the case of the Bahlil meme, the juridical controversy escalated when the legal report was not filed directly by the individual concerned, but was mobilized by a civil society organization or a third party that claimed to be the honorary defender of the state official.³³

The anatomy of the two cases above reveals a serious anomaly in the practice of cyber criminal law enforcement in Indonesia. Based on the doctrine of pure criminal law, defamation offenses in the digital space are absolute *klachtdelict*, which imperatively

³⁰ Fista Anin Gamara and Rehnalemken Ginting, "CRIMINAL ACTS OF INSULT AS A REPRESENTATION OF THE DISSEMINATION OF MEMES ON DIGITAL PLATFORMS," *Recidivism* 10, no. 1 (2016): p. 88, doi:<https://doi.org/10.20961/recidive.v10i1.58844>.

³¹ Muhamad et al., "Political Meme in the Digital Era: The Dilemma of Freedom of Expression and Law Enforcement in a Pancasila Democratic State," p. 299.

³² Tempo, "Why Can't Bahlil Meme Makers Be Immediately Punished?," accessed April 24, 2026.

³³ BBC News Indonesia, "Bahlil Lahadalia Meme Case: Why Is It Considered a Threat to Freedom of Expression?," *BBC News Indonesia*, 2025, retrieved April 26, 2026, <https://www.bbc.com/indonesia/articles/czel388wydl> o.



means that only direct victims who have suffered reputational losses have legal *standing* to file a police report.³⁴ When law enforcement officials process reports submitted by third parties without special authority from the officials concerned, it is a clear violation of the principle of legality of cyber criminal procedure law. This law enforcement practice that goes beyond authority confirms the concern that the culture of legal feudalism is still deeply entrenched, where the reputation of a public official is placed above the constitutional right of citizens to exercise democratic oversight.³⁵

3. Formulation of Objective Juridical Parameters of Criminal Exemption in the Public Interest

In order to end the criminalization of orgasm and ensure fair legal certainty, Law Number 1 of 2024 introduces a very progressive legal element through an escape *device* regulated in Article 45 paragraph (7). The provisions of this norm affirm that the offense of attacking honor in Article 27A is absolutely punishable if the act is done in the "public interest" or "self-defense."³⁶ In the Explanatory Section of Article 45 paragraph (7) letter a, the lawmakers gave an authentic affirmation that what is meant by "done in the public interest" is to protect the interests of the community expressed through the right to

³⁴ Inggou David Purba, "Juridical Analysis of the Crime of Defamation through the Use of Meme on Social Media," *His Authority* 4, no. 1 (2023): p. 76, doi:<https://doi.org/10.33648/jtm.v4i1.374>.

³⁵ Jayyidan Falakhi Mawaza and Abdussatar Khalil, "Social Problems and Public Policy in Indonesia (Case Study of ITE Law No. 19 of 2016)," *Journal of*

Governance Innovation 2, no. 1 (2020): p. 94, doi:<https://doi.org/10.22225/ah.3.2.2021.261-265>.

³⁶ Indonesia, UNDANG-UNDANG. INVITE THE REPUBLIC OF INDONESIA. A NUMBER 1 OF 2024 CONCERNING THE SECOND AMENDMENT TO LAW NUMBER 11 OF 2008 CONCERNING INFORMATION AND ELECTRONIC TRANSACTIONS, Article 45 paragraph (7).



expression and the right to democracy, including the act of protest and the submission of political criticism.³⁷ This exclusionary norm explicitly recognizes that in a democratic country, criticism, even if it contains sharp disapproval and is processed in the form of visual satire, is an important part of social control that must be protected from all forms of criminal threats.

Departing from the presence of Article 45 paragraph (7), this normative research formulates a formulation of objective juridical parameters that can be used by police investigators, prosecutors, and judges to expressly separate between satirical meme products that are protected by law and defamation acts that meet the qualifications of cyber criminal offenses. These objective parameters must be tested through three

layers of accumulative tests (*three-pronged tests*) as follows:

1. Subject Parameters (Public Office Character): Law enforcement must assess whether the figure who is the object of the meme is a public *official* or a private *citizen*. Doctrinally, a public official who holds state authority has voluntarily surrendered part of his privacy threshold to the public, so consequently they must have a much higher level of tolerance for public criticism, satire and scrutiny in the performance of their functions.³⁸
2. Object of Content Parameters (Policy Criticism vs. Personal Attacks): Visual and textual analysis of memes should be focused to assess whether the content of the message in the meme targets policies,

³⁷ Ibid., 45 paragraph (7) letter a.

³⁸ ClickLegal, "The Case of the Badlil Meme: The Boundary Between Satire, Criticism, and Pollution,"

ClickLegal, 2025, retrieved April 25, 2026, <https://kliklegal.com/kasus-meme-bahlil-batas-antara-satire-kritik-dan-pencemaran/>.



performance, integrity of office, or public scandals involving the official, or whether it purely attacks the domestic sphere, physical disability, and personal human dignity that is completely unrelated to the public sphere. If the meme expresses criticism of a policy (such as a case of corruption or abuse of power), then for the sake of the law the content must be categorized as an act in the public interest.³⁹

3. Parameters of Malicious Intent (*Mens Rea/Animus Injuriandi*): Law enforcers must be able to prove objectively whether the inner motivation of the meme creator is based on an evil will to bring down someone's personal honor without a basis in fact (*animus*

injuriandi), or whether it is driven by the critical awareness of netizens to inform, correct, and remind the public of an injustice (*animus criticandi*).⁴⁰

The formulation of these three parameters requires a shift in the way of thinking of law enforcement from the original formalistic-legal to more substantive-teleological. If a political meme passes the test of the parameters of the subject and the object of content, then the unlawful element (*wederrechtelijkheid*) of the act automatically falls for the sake of the law, so the investigation process must be stopped immediately to prevent digital human rights violations.⁴¹

4. A Theoretical Repositioning of Progressive Law on the

³⁹ Sunaryanto, Andi Faisal Bakti, and Yunita Soleha, "Corruption Meme of Juliari Batubara's Covid-19 Social Assistance Fund in Cyber Media: Perspective of Meaning and Media," *Design Journal* 9, no. 3 (2022): p. 345, doi:<http://dx.doi.org/10.30998/jd.v9i3.11396>.

⁴⁰ Henny said Flora et al., *CRIMINAL LAW IN THE DIGITAL ERA*, ed. Paput Tri Cahyono Size:, 1st ed. (Batam: Reymediagrafika, 2024), p. 112.

⁴¹ Primadhany et al., *INTRODUCTION TO INDONESIAN CYBER LAW*, p. 95.



Implementation of Cyber Rescue Valves

The successful implementation of Article 45 paragraph (7) of Law No. 1 of 2024 as *an escape device* to protect digital expression is highly dependent on the legal paradigm embraced by law enforcement officials in the field. From the perspective of Progressive Law theory, law is not a rigid, static, and final institution, but a process that continues to flow (*law as a process, law in the making*) to serve the interests of man and humanity.⁴² Cyber criminal law enforcement should not be trapped in the shackles of analytical positivism that only sees the text of the law as a dead dogma without caring about the sociological impact of the enforcement of

the article. The criminalization of political meme makers using a legal-formalistic approach is a form of betrayal of the essence of the law that is actually present to realize substantive justice and protect the human rights of citizens from the arbitrariness of authority.⁴³

Through the lens of progressive law, the existence of internet memes produced by the younger generation and netizens must be repositioned not as a potential *cybersecurity threat*, but as a form of healthy and inclusive political participation in the digital democracy ecosystem.⁴⁴ Law enforcement officials, especially investigators of the National Police of the Republic of Indonesia, are obliged to use conscience and spiritual

⁴² M. Zulfa Aulia, "The Progressive Law of Satjipto Rahardjo: History, Urgency, and Relevance," *Invite: Legal Journal*, 2018, p. 164, doi:<https://doi.org/10.22437/ujh.1.1.159-185>.

⁴³ Rahma Agri Firdaus, "Legal Protection and Prevention of Cybercrime in the Digital Era in the Legal System in Indonesia" Rahma Agri Firdaus Introduction to Cyber Criminal Law is a branch of

criminal law that specifically regulates criminal acts committed by using," *CONSTITUTIONAL LAW* 4, no. 1 (2024): p. 99, doi:<https://doi.org/10.14421/cf582q68>.

⁴⁴ Chairullia Absari, "Freedom of Expression in the Meme Era: Cultural Dynamics, Creativity, and Digital Ethics," *Hudan Lin Naas* 6, no. 2 (2025): p. 142, doi:<https://doi.org/10.28944/hudanlinnaas.v6i2.2340>.



intelligence in interpreting the law in cases of digital expression disputes. The implementation of the principle of *restorative justice* should not simply be interpreted as an effort for transactional peace outside the court, but must be realized in the form of the courage to stop cyber cases from the beginning of interpretation if it is proven that the case originates from social criticism.⁴⁵ By carrying out this paradigmatic repositioning, law enforcement institutions can be transformed into protectors of democratic freedom, while ensuring that Indonesia's cyberspace post-2024 can grow into a clean, ethical, productive, and upholding the transcendental justice values of Pancasila.⁴⁶

F. Conclusion

Based on the results of the research and discussion that has been described earlier,

this normative legal research produces two fundamental conclusions as an answer to the legal issues raised. First, the juridical dynamics after the enactment of Law Number 1 of 2024 show a significant paradigm shift in the governance of digital expression in Indonesia. The reformulation of the former Article 27 paragraph (3) to Article 27A dogmatically succeeded in narrowing the space for multiple interpretations of defamation offenses by requiring specific elements of accusations. More than that, the introduction of Article 45 paragraph (7) as *an escape device* constitutionally provides a guarantee of protection for netizens who use the internet meme as a medium of social criticism for the public interest. However, at the empirical level, the synchronization of this norm still

⁴⁵ Wibowo, *Information Security Cyber Law*, p. 78.

⁴⁶ Nur Rahmawati et al., "Freedom of Opinion Against the Government through Social Media in the

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hits the wall of legal positivism of law enforcement and legal cultural feudalism. This is reflected in the case of the ITB student meme and the meme dispute of official Bahlil Lahadalia, where the authorities tend to ignore the nature of absolute complaints and process third-party reports that do not have *legal standing*, thus triggering the sustainability of the *chilling effect phenomenon*.

Second, in order to overcome the ambiguity of the visual interpretation of cyber, this research succeeded in formulating objective juridical parameters through a *three-pronged test* that must be applied by law enforcement officials. These parameters include: (1) Subject Parameters, which assert that public *officials* have a lower privacy threshold and must tolerate public criticism; (2) Object of Charge Parameters, which expressly distinguish between criticism of policies, performance, or integrity of

positions and personal attacks of a domestic nature or physical disability; and (3) the Parameter of Evil Intent (*Mens Rea*), which separates the inner motivation between the pure will to bring down dignity without a basis in facts (*animus injuriandi*) and the critical awareness of netizens to supervise power (*animus criticandi*). Through the implementation of these three objective parameters, the act of creating political satirical memes targeting government officials automatically aborts unlawful elements (*wederrechtelijkheid*), so that they cannot be qualified as cyber criminal offenses.

Departing from the above conclusion, some constructive suggestions that can be recommended in this article are as follows. First, the National Police of the Republic of Indonesia together with the Attorney General's Office and the Ministry of Communication and Information



Technology need to immediately formulate and issue Joint Interpretation Guidelines that specifically regulate procedures for handling cyber visual expression offenses after Law No. 1 of 2024. The guidelines should explicitly include the subject, object, and *mens rea* parameters formulated in this research, so that investigators at the lower levels have a single guideline that requires them to conduct *split-second screening* to stop the investigation of meme disputes that prove to be the product of political criticism satire.

Second, law enforcement officials in Indonesia are obliged to carry out a paradigmatic repositioning by abandoning a rigid legal-formalistic perspective and switching to adopting the principles of Progressive Law that prioritize substantive justice and humanity. Police institutions must be progressive and firm in immediately rejecting any report of alleged defamation of

public officials submitted by a third party or community organization without a special power of attorney from the official concerned in order to enforce the principle of legality of cyber criminal procedure law. This progressive step is crucial to save Indonesia's digital democracy ecosystem, so that the post-2024 cyberspace can develop into a critical, healthy, ethical, but still safe public space from criminalization.

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