

# Post-Truth Law Analysis of the Protection of Privacy Rights in Cases of Digital Defamation Dissemination in Indonesia

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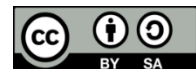
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## ABSTRACT

This paper analyzes the protection of privacy rights in Indonesia in the context of digital slander dissemination, framed within the post-truth era. Using a normative juridical analysis, this study evaluates the adequacy and limitations of Indonesia's legal framework, particularly focusing on the Law on Electronic Information and Transactions (ITE Law), in addressing digital defamation. The rise of the post-truth era, characterized by the spread of misinformation and subjective narratives, has exacerbated the challenges in safeguarding privacy rights online. The paper examines legal provisions, case law, and practical enforcement mechanisms to assess how well privacy rights are protected in digital slander cases. Findings highlight the gaps in the current legal framework, including unclear definitions and enforcement challenges. The study also explores the role of social media platforms and suggests potential legal reforms to strengthen privacy protections and hold digital platforms accountable for harmful content. Ultimately, this paper calls for more robust legal definitions, improved law enforcement, and stronger platform accountability to better protect privacy in the digital age.

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## 1. INTRODUCTION

The rise of digital platforms has transformed communication, enabled rapid global information dissemination but also increased online defamation risks. Digital slander involves false information aimed at harming reputations, amplified by social media's reach, which complicates legal recourse. Traditional defamation laws face challenges in online contexts, particularly in

identifying publishers and handling cross-border cases [1]. Technological advancements like deepfakes and bots further facilitate defamatory content [2]. Privacy concerns arise as blurred digital boundaries expose individuals to attacks with serious social and legal consequences [3]. Legal frameworks struggle to keep pace with digital media, necessitating international cooperation to balance free speech and reputation protection [4]. Additionally, court rulings sometimes fail

to fully uphold victim rights, as seen in cases misaligned with defamation laws [5].

The rapid expansion of internet access in Indonesia has led to a rise in digital slander cases, challenging the legal system in protecting privacy rights. The Indonesian legal framework, particularly the Law on Electronic Information and Transactions (ITE Law), regulates online conduct but faces complexities in application, especially in the post-truth era, where emotional appeals often overshadow facts. The ITE Law, central to regulating digital slander, is inconsistently applied, causing confusion and ineffective enforcement [6]. Similarly, the Personal Data Protection (PDP) Law, enacted in 2022, aims to protect personal data but struggles with vague definitions and limited enforcement mechanisms [7].

Cybersecurity risks and the digital literacy gap further complicate legal protection against digital slander [8]. The dominance of emotional narratives in the post-truth era makes it difficult for legal systems to counter false or misleading information effectively [9]. To improve enforcement, establishing a centralized data protection authority could bridge the gap between regulations and their implementation, while increasing public awareness and digital literacy is essential for safeguarding privacy rights [10].

This paper examines the protection of privacy rights in the context of digital slander dissemination in Indonesia, with a particular focus on the implications of the post-truth phenomenon. A normative juridical approach is used to critically analyze existing legal provisions, such as the ITE Law and related regulations, and how they address the protection of privacy in cases of online defamation. By analyzing case law, this study identifies the legal gaps and challenges that hinder effective protection of privacy rights and offers recommendations for enhancing legal frameworks in response to the evolving dynamics of the digital landscape.

## 2. LITERATURE REVIEW

### 2.1 *Privacy Rights and Legal Protections*

The right to privacy in Indonesia, as guaranteed by the 1945 Constitution (UUD 1945), faces significant challenges in the digital age, particularly with the implementation of the Electronic Information and Transactions (ITE) Law. While this law aims to protect privacy and regulate online conduct, its broad and ambiguous language complicates the balance between privacy and freedom of speech. Existing regulations, including the ITE Law, remain fragmented and sectoral, lacking comprehensive data privacy measures [11]. Enacted in 2008, the ITE Law includes privacy-related provisions but has been criticized for its vague wording, which can lead to arbitrary enforcement and conflicts with freedom of speech [12]. Its broad scope has resulted in legal actions against individuals for defamation or spreading false information, raising concerns about freedom of expression [13]. Comparisons with international standards, such as the GDPR in the EU, underscore the need for Indonesia to strengthen its legal framework to better protect personal data privacy [14]. The proposed Personal Data Protection Bill (RUU PDP) is considered a crucial step toward enhancing data privacy protection in Indonesia by aligning with global standards and fostering a secure digital ecosystem. This bill aims to provide clearer guidelines and protections for personal data, addressing gaps in the current ITE Law [15].

### 2.2 *Digital Slander and Its Impacts*

Digital slander, or online defamation, presents significant challenges in the digital age due to the rapid dissemination of information and the anonymity afforded by online platforms. The complexities of digital slander are exacerbated by difficulties in proving the falsity of information, establishing harm, and addressing jurisdictional issues in cross-border cases. Legal frameworks struggle to keep pace

with evolving digital threats, necessitating a more robust approach to regulation. Jurisdictional differences complicate defamation cases, as legal standards vary across countries [3]. Anonymity further hinders accountability, making it difficult to identify and prosecute perpetrators [1]. Existing defamation laws are often inadequate, highlighting the need for international collaboration to develop effective legal strategies [1]. Victims of digital slander suffer significant social and psychological harm, which is frequently overlooked in legal proceedings [16]. Additionally, reputational damage can result in economic losses, affecting professional opportunities and financial stability [17]. The proliferation of sophisticated technologies, such as deepfakes and malicious bots, further complicates digital slander cases, as they enable the creation of highly convincing false information that is difficult to refute [4]

### 2.3 *The Post-Truth Era and Its Influence on Legal Protections*

The post-truth era, where emotions and personal beliefs overshadow objective facts, significantly affects legal frameworks, particularly in privacy and defamation. Digital platforms amplify misinformation and create echo chambers, complicating efforts to balance privacy protection and free speech. Legal systems struggle to distinguish facts from fabricated opinions, impacting law enforcement and democratic integrity [18]. The tension between safeguarding individuals from false information and upholding free speech remains a major challenge [19]. The irrational nature of post-truth complicates legal truth, requiring philosophical and legal reconciliation [19].

The global spread of post-truth highlights the need for new theoretical approaches to its legal and societal impacts [20]. This crisis challenges

democratic structures, demanding diverse solutions, from ethnographic to archival studies, to address misinformation [21].

### 2.4 *Legal Frameworks for Addressing Digital Slander in Indonesia*

Indonesia's legal response to digital slander, particularly through the ITE Law, has been widely debated due to its broad and vague language, which has led to misuse in some cases. While the law aims to address defamation in the digital realm, it has often been used to target individuals expressing dissenting opinions or criticisms, raising concerns about freedom of speech [6]. The ITE Law, along with the Indonesian Penal Code, serves as the main regulation against digital slander and hate speech, but its broad definitions have resulted in selective prosecution, particularly against political dissent [7]. This dual nature of the ITE Law—as both a protector of digital rights and a potential threat to democratic values—has sparked opposition from the public and activists who view it as restrictive to free expression, despite increased legal compliance [1]. Case studies, such as Decision Number 108/Pid.B/2023/PN Mdl, demonstrate the challenges in upholding victims' rights under the ITE Law, with courts sometimes failing to fully consider the psychological and social impacts on victims, underscoring the need for more comprehensive legal decisions [22]. Scholars advocate for legal reforms, including clarifying definitions and ensuring proportional enforcement, to prevent misuse of the law. This involves revising specific articles within the ITE Law that are open to multiple interpretations, ensuring a balance between protecting privacy rights and maintaining freedom of expression [23]

## 3. RESEARCH METHODS

### 3.1 *Research Design*

A qualitative research design shall be applied to this research because it

tries to explore the relation of digital slander, privacy rights, and post-truth phenomenon in Indonesia's legal context. It will also focus on legal texts, statutes, regulations, and case laws, scholarly literature, and previous research related to the protection of privacy and digital defamation. Quantitative data collection and empirical fieldwork are not done in this research; rather, it is a critical analysis of the existing legal norms and their application in the cases of digital defamation, given the nature of the research, which is theoretical and normative.

### 3.2 Data Collection Methods

Data for this study are gathered from secondary sources through primary and secondary data. Primary sources: legislation such as the Indonesian Constitution (UUD 1945), the Law on Electronic Information and Transactions, and other relevant statutory provisions concerned with the right to privacy, defamation, and data protection-their effectiveness at handling digital cases of privacy invasion and slander; case law-an analysis of appropriate court decisions where the ITE Law is used has been done and, from a jurisprudential perspective. Secondary sources include academic journals, books, and reports by legal scholars, human rights organizations, and government agencies with theoretical insight into the identified lacuna within the legal framework. Online materials and newscasts of sensationalized digital slander cases also provide popular views and actual real-life consequences of digital defamation in Indonesia.

### 3.3 Data Analysis Techniques

Qualitative, normative, and doctrinal approaches will be used in this research to analyze the legal norms and principles of digital slander and privacy protection. Legal doctrinal analysis will interpret statutes, regulations, and case law to assess their effectiveness within Indonesian law. Comparative legal analysis against the EU, US, and

Southeast Asia identifies best practices and possible reforms. Critical legal analysis aims to explain the contribution of post-truth conditions, misinformation, and emotional appeal to the process of forming perception and decisions of justice. It uses a post-truth frame to review setbacks to the assurance of objectivity in legal standard application in polarized digital condition. Legal texts, case laws, and literatures are used as the synthesizing basis on which findings present comprehensive legal challenges and reforms related to improving private protection in Indonesia.

## 4. RESULTS AND DISCUSSION

### 4.1 Analysis of the Right to Privacy and Digital Slander Protection in Indonesia

Legal protection of privacy rights in Indonesia, in the context of digital slander, is provided by the Indonesian Constitution (UUD 1945), the Law on Electronic Information and Transactions, and various regulations addressing defamation, misinformation, and protection of privacy. While these laws do recognize the right to privacy, their application within the digital space has gone through numerous legal and practical challenges.

1. Constitutional and Statutory Protections for Privacy: In Indonesia, there is a foundational basis for the protection of privacy upon the general tenets of human rights, mainly in Article 28G, which guarantees the security and privacy rights of individuals. The Constitution itself does not cover certain provisions of modern digital technology and the sudden increase in slander on the Internet. In this area, the applicability of any rights to privacy is thus imprecise at best and totally at the whims of the discretion of the courts.
2. The 2008-birtherd Information and Electronic Transactions Law,

recently updated in 2016, criminalizes all acts of public communication that could result in damaging someone's body or psyche; hence, against online defamation of some sort, this can partly be a guarantee. Article 27 of this ITE Law strongly criminalizes making and spreading scandalous or smeared information online. However, the law is vaguely worded and imprecise, sometimes leading to misapplication and overreach in cases involving freedom of expression.

3. Problems with the ITE Law: Despite the passing of the ITE Law for addressing online defamation, its implementation has been quite challenging. The catch-all nature of the law makes expressions of opinion criminal acts, even when they do not meet the legal threshold for being defamatory. For instance, the law has been used in the prosecution of individuals for comments or criticisms on social media that were considered hurtful but did not meet the legal threshold for defamation. This has raised several concerns about the contemplated misuse of the law in order to silence voices of dissent and muzzle freedom of expression.

Besides criticisms that it does not balance the scale of protecting people from online harmful content and protecting freedom of speech, in practice, the ITE Law has often been used by the powerful against powerless individuals and institutions. This, critics said, proves that the law disproportionately favors the interests of the state or those in positions of power.

#### 4.2 *The Impact of the Post-Truth Era on Digital Slander Cases*

The post-truth era has drastically influenced how digital slander cases are perceived and judged. In a post-truth environment, emotions, beliefs, and subjective interpretations of events take precedence over objective facts. This trend has been further exacerbated by social media platforms, where misinformation, fake news, and emotionally charged narratives spread fast, influencing public opinion and perceptions of individuals.

- a) Misinformation and Public Perception: The post-truth phenomenon complicates the legal approach to online defamation even further because it has become easy to disseminate fake news, while public opinion easily follows emotive argumentation, with or without the support of facts. Persons accused of defamation stand at the risk of having their reputation prejudged before actual court hearing. The reason is that the damage brought about by digital slander is mostly irreparable; this is because whatever was posted has reached a wide audience in which most retraction or correction efforts prove to be insufficient.
- b) Difficulty in Proving Falsity: The quality of information in proving information to be false in a digital slander case is obviously challenging in the post-truth era. This proliferation of alternative facts and subjective narratives means that everyone can create persuasive stories that might not be based on fact but appeal to a portion of the population nonetheless. The courts are thus called upon to make the inevitable delicate balancing act: how to distinguish opinion from

fact, and ensure that slanderous content can be identified correctly and prosecuted accordingly.

This is further exacerbated by the ease through which information can be relayed and amplified through digital platforms. Often, social media, blogs, and online forums become an echo of reinforcement of individual beliefs and biases rather than a means to critically examine information. Therefore, the legal frameworks must keep pace with the changing nature of information dissemination and ensure that victims of false or defamatory content seek their rights in the increasingly polarized digital environment.

#### **4.3 Efficiency of Legal Mechanisms in Dealing with Digital Slander**

While there exist a number of legal frameworks against online defamation, their effectiveness remains limited by vague legal definitions, challenges in enforcement, and jurisdictional problems. The ITE Law and other regulations in Indonesia lack a comprehensive definition of "defamation" in the digital space, leading to inconsistent judicial interpretations [6]. The absence of clear guidelines for assessing harm caused by digital slander further complicates the protection of privacy rights [24]. These ambiguities create legal uncertainty, making it difficult for courts to apply the law consistently in digital defamation cases. Challenges are also found in enforcement and accountability since most of the law enforcement agencies lack technical expertise and resources to pursue most of these anonymous perpetrators. Jurisdictional issues also become increasingly difficult because the digital platforms concerned often operate at the international level, making their liability for what is shared through them very complex [25]. The difficulty in enforcing penalties fosters a sense of impunity among perpetrators, as many platforms remain beyond the reach of Indonesian

jurisdiction [26]. Without effective mechanisms to ensure compliance and accountability, digital slander continues to proliferate with minimal legal consequences. The role of digital platforms in addressing online defamation remains a contentious issue, as existing laws struggle to ensure adequate accountability [4]. There is an absolute necessity for international coordination regarding legal strategies for the balancing of protection of individual reputations with free speech rights [4]. The increased cooperation of governments, technology companies, and legal institutions may establish better regulation that can mitigate the incidence of digital slander while preserving basic rights in the digital era.

#### **4.4 Recommendations for Legal Reform**

Based on the research findings, some reform recommendations are given toward the protection of privacy rights in Indonesia, which may develop in the case of digital slander, as follows:

1. The ITE Law should be revised to clearly define and delimit defamation in the digital space, including how to distinguish between harmful false information and protected forms of expression, and to outline a framework through which the effect of defamation is assessed on the individual's privacy and reputation. Legal standards are to be developed with a view to guiding consistent and just application of the law.
2. Legal reforms are needed to make digital platforms more responsible for the content they carry. This may include compelling platforms to adopt more rigorous practices for content moderation, including the detection and deletion of defamatory content, and giving victims clearer avenues to report and seek redress. Furthermore,

they should be compelled to cooperate with Indonesian law enforcement agencies to ensure that perpetrators of online defamation can be traced and prosecuted.

3. The public must be made more aware through educational programs regarding the assertion of rights and responsibilities of netizens within cyberspace. That includes education on how much damage could emanate from online defamation, possible legal effects brought about by publishing false information, and procedures or processes by which legal redress is found if there are claims of digital slandering.

## 5. CONCLUSION

The study concludes that Indonesia's legal framework, specifically the ITE Law,

protects citizens from digital slander to a certain extent, though far from being satisfactorily applied and enforced when it comes to the exercise of privacy rights. Moreover, in the post-truth era with its emphasis on misinformation and subjective narratives, addressing defamation in the digital space is a much harder challenge. Ambiguous legal definitions, uneven enforcement, and the difficulty of holding digital platforms accountable greatly weaken the effectiveness of existing laws. Reforms are necessary to better protect the rights to privacy against digital slander. The reforms should aim at clarity in the legal standards, enforcement mechanisms, and responsibility of digital platforms to monitor and remove harmful content. Equipped with such improvements, Indonesia might establish a better legal framework balancing the protection of privacy and the freedom of expression in the evolving digital landscape.

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