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Article Title

Evidentiary Legal Aspects of Oral Defamation Committed in Public: A Study of Amlapura District Court Decision Number Nomor 64/Pid.B/2020/PN Amp

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ABSTRACT

The striking disparity between the Defendant's resistance and the judge's mitigating considerations in an oral defamation case constitutes a juridical anomaly. This condition fundamentally undermines legal certainty and the victim's sense of justice. This research conducts a juridical review of Decision Number 64/Pid.B/2020/PN Amp. In said decision, the judge imposed a conditional sentence (probation) on a Defendant who, based on the evidence, was found to have refused to apologize to the victim. This research aims to analyze the evidentiary legal aspects in the fulfillment of the objective and subjective elements of the offense, as well as to test the validity of applying the conditional criminal sanction based on trial facts. The research method applied is normative legal research with a case approach and a statute approach to dissect the coherence between facts and norms. The results reveal a dualism in the quality of law enforcement. At the stage of proving guilt, the Panel of Judges successfully proved all elements of Article 310 section (1) of the Penal Code precisely based on valid evidence under Article 184 of the Criminal Procedure Code. However, at the sentencing stage, the application of Article 14a of the Penal Code involves a serious internal logical defect (an internal contradiction). The material requirement of "behavioral prognosis" was based on assumptions of imaginary remorse and is opposed to the trial facts demonstrating a high degree of defiance. In conclusion, this decision contains an inconsistency in proving the subjective requirement, implying a high risk of supervision execution failure as stipulated in Article 276 of the Criminal Procedure Code. The research recommends the necessity for objectivity in remorse indicators within sentencing guidelines to prevent veiled impunity and maintain judicial authority.

Keywords: *Conditional Sentence; Court Decision; Defamation; Evidentiary Legal Aspects.*

INTRODUCTION

The Protection of human dignity is a constitutional right guaranteed by the Indonesian rule of law state (Jaelani & Luthviati, 2021; Majid & Angraeni, 2025). One's honor is considered a protected legal interest (*rechtsgut*) that must be safeguarded against all forms of attack, both physical and verbal. Within the construction of material criminal law prevailing at the time of the offense (*tempus delicti*), Article 310 of the Penal Code positions the offense of insult, specifically defamation, as a conventional instrument of protection for individual moral integrity. Law enforcement in this offense regime demands a strict balance between proving the objective elements of the act and the subjective elements of the perpetrator. This is because such classic provisions were designed to address tangible social victimization.

The dynamics of contemporary criminal law studies tend to shift significantly toward crime phenomena in the digital realm (Mashdurohatun et al., 2025). The majority of academic literature and law enforcement discourse examine the complexities of defamation committed via social media or other electronic platforms (Ngiji et al., 2022; Anggraeni & Harjono, 2023). As elaborated by Khotimah et al. (2022), the primary focus of current law enforcement is frequently on the impact of information dissemination in cyberspace, which is regulated by a specific legal regime governing electronic information and transactions. This trend is reinforced by the findings of Zhafira et al. (2023), highlighting a paradigm shift in insult offenses

from oral to digital writing. Consequently, evaluative studies on the application of conventional offenses in the Penal Code are frequently neglected or deemed legal artifacts that are no longer urgent to research.

Although academic discourse is dominated by studies on defamation through digital media or on criticism of criminalization in the public sphere (Muhni et al., 2025; Valerie, 2025), in reality, cases of oral defamation committed in public remain prevalent and relevant within Indonesian society's legal culture. This urgency is evidenced by the case examined and decided in Amlapura District Court Decision Number 64/Pid.B/2020/PN Amp. This case originated from an interpersonal conflict in a family gathering that resulted in a verbal attack on the victim's honor. This phenomenon confirms that technological modernization does not necessarily eliminate potential conventional conflicts, the resolution of which must strictly refer to the provisions of Article 310 section (1) of the Penal Code as the binding positive law at that time.

The legal issues arising in Decision Number 64/Pid.B/2020/PN Amp are not merely regarding the fulfillment of offense elements, but rather contain a fundamental anomaly in the judge's consideration regarding the evidentiary aspect of the defendant's state of mind. Based on trial records under the applicable legal regime, a significant gap exists between the defendant's resistance and the judge's conclusion, which provides a basis for mitigating circumstances. Djatmika and Istiqomah (2025) note that sentencing trends in insult cases should be consistent with the degree of culpability and the perpetrator's attitude during the trial. In this Decision, the judge imposed a conditional sentence (probation) on a defendant who, based on the evidence, was found to have explicitly refused to apologize to the victim.

The disparity between the trial facts and the verdict raises serious questions about the validity of the proof presented to the panel of judges in applying the doctrine of material criminal law. The application of a conditional sentence based on the assumption of remorse that is not legitimately proven potentially undermines the principle of legal certainty and leaves a poor precedent in the history of national criminal justice practice. If proof of remorse is not based on valid evidence in accordance with the applicable law, the court's decision risks losing its moral legitimacy and failing to deter. This condition demands a thorough juridical review to rectify the judge's rationality in applying conventional evidentiary law before a future shift in criminal law policy direction occurs.

Based on the background above, this research formulates two research objectives. First, to analyze the evidentiary legal aspects in the fulfillment of objective and subjective elements of the criminal offense of oral defamation in Decision Number 64/Pid.B/2020/PN Amp. Second, to analyze the evidentiary legal aspects in the application of conditional criminal sanctions and their implications for the execution

of the decision. Theoretically, this research is expected to enrich the body of criminal law literature regarding the evidentiary strength in oral insult offenses. In practice, this research can serve as historical material for judges in formulating logical legal considerations based on trial facts.

METHOD

This research is designed using normative or doctrinal legal research, focusing on a critical review of positive legal norms and their application in judicial decisions (Qamar & Rezah, 2020). The selection of this research type is based on the urgency to evaluate the coherence between the judge's legal considerations and the legal facts revealed at trial. To dissect the complexity of the issues, this research applies a case approach and a statute approach. The case approach is utilized as the primary analytical tool to examine the judge's legal reasoning (*ratio decidendi*) in Decision Number 64/Pid.B/2020/PN Amp, particularly regarding the anomaly in proving the defendant's state of mind. Meanwhile, the statute approach is used to test the conformity of the application of articles in the Penal Code and the Criminal Procedure Code, which serve as the material and formal bases in deciding the case.

The legal materials used in this research are classified into primary and secondary sources, collected through documentary study and literature review (Sampara & Husen, 2016). Primary legal materials are authoritative and binding, comprising the official copy of Decision Number 64/Pid.B/2020/PN Amp, the Penal Code as the basis for material sentencing, and the Criminal Procedure Code as the legal basis for evidence and the execution of the decision. Secondary legal materials are sourced from legal literature, reputable scientific journals, and relevant criminal law doctrines to strengthen theoretical arguments regarding evidentiary and sentencing aspects. Both types of legal materials are strictly inventoried and selected to ensure their relevance and validity in answering the legal issues under investigation.

Furthermore, the Author conducted a careful, in-depth reading of the decision to identify the trial facts, witness testimonies, defendant statements, and the documentary evidence presented. This step aims to classify and map the judge's considerations deemed contradictory. This is considered crucial to separate valid legal facts from subjective assumptions that may influence the judge's objectivity. Subsequently, the collected legal materials are systematically processed by connecting the trial facts to the elements of the charged articles and the requirements for granting a conditional sentence (probation).

The analysis of legal materials is conducted using the method of deductive syllogism and prescriptive legal interpretation (Irwansyah, 2020). In the first stage,

the analysis focuses on addressing the research objective regarding the evidentiary aspect of the criminal offense elements. In this stage, the Author juxtaposes the major premise, consisting of the provisions of Article 184 of the Criminal Procedure Code and the elements of Article 310 section (1) of the Penal Code, against the minor premise, consisting of the legal facts found in Decision Number 64/Pid.B/2020/PN Amp. Grammatical and systematic interpretation techniques are used to assess whether the existing evidence has met the evidentiary standards for intent and unlawful acts. The goal is to test whether the judicial conviction was based on solid evidence or was merely unfounded.

In the second stage of analysis, the focus is on applying the conditional criminal sanction to address the research objective regarding the validity of the decision and its implementation implications. The Author applies legal reasoning techniques to test the logical consistency between mitigating considerations and the verdict. This analysis specifically highlights the application of Article 14a of the Penal Code regarding the requirement of the defendant's behavioral prognosis. By comparing the defendant's resistant attitude at trial with the judge's conclusion regarding remorse, this analysis aims to demonstrate a logical defect in granting probation. The entire analysis culminates in a conclusion that provides a prescription or legal assessment of the accuracy of the application of evidentiary law in Decision Number 64/Pid.B/2020/PN Amp.

RESULTS AND DISCUSSION

A. Evidentiary Legal Aspects in the Fulfillment of Objective and Subjective Elements of the Criminal Offense of Defamation

The construction of evidence in criminal cases is the core of the judicial process aimed at seeking material truth. In the context of Decision Number 64/Pid.B/2020/PN Amp, the judge is strictly bound by the principle of negative evidence according to the law (*negatief wettelijk bewijsje*), as stipulated in Article 183 and Article 184 of the Criminal Procedure Code. This principle requires a minimum of two valid pieces of evidence accompanied by the judge's conviction. Based on a review of the trial facts, the panel of judges presented comprehensive evidence, including the testimony of the Victim Witness Ni Kade Eka Ardiani, Witness I Putu Suardika, and crucial documentary evidence that served as determinative in proving this case. [Josephine and Hutabarat \(2024\)](#) assert that the court's competence in examining evidence significantly determines the validity of the decision. In this case, the Amlapura District Court possesses both absolute and relative competence to adjudicate events occurring within its legal jurisdiction in accordance with the applicable law.

The analysis of the fulfillment of the first element in Article 310 section (1) of the Penal Code, namely the element of “any person”, encounters no significant juridical obstacles. This element refers to a legal subject bearing rights and obligations capable of being held responsible for their actions. At trial, the Public Prosecutor presented Defendant Made Darsih, whose identity matched the indictment without any refutation from any party. The fact that the Defendant was able to answer questions fluently, understood the charges, and showed no signs of mental disorder confirms that the Defendant possesses the capacity for responsibility (*toerekeningsvatbaarheid*). This aligns with the view of [Ramadhan et al. \(2024\)](#), stating that proving the legal subject element formally and materially is the initial stage to enter the proof of other material elements in a criminal offense.

Entering the analysis of the second element, namely the element of “intent” (*opzet*), there is an interesting evidentiary dynamic to dissect to ensure the quality of the perpetrator’s state of mind. In criminal law doctrine, intent is divided into several levels, ranging from intent as a purpose (*oogmerk*) to intent with awareness of the possibility. In the trial facts, a crucial fact was revealed that the Defendant was warned by Witness I Ketut Artawan to guard her speech to avoid legal problems. However, the Defendant consciously and firmly replied, “I already know the law.” This verbal response provides strong circumstantial evidence for the judge to assess the perpetrator’s *mens rea*. The Defendant’s state of mind was not negligence (*culpa*) or an uncontrollable momentary emotion, but was, in the judge’s view, an intent as a purpose (*opzet als oogmerk*) to persist in the attack despite knowing the legal consequences.

The third element, “attacking honor or reputation,” is proven fulfilled through the Defendant’s action of hurling accusations of infidelity in public with emotional nuances. As theoretically explained by [Rahman et al. \(2022\)](#), honor in criminal law concerns not only the subjective sense of self-worth (*gevoel van eer*) but also society’s objective view of one’s moral integrity in social interaction. The Defendant’s words specifically accusing the Victim Witness of having an illicit relationship (“cheating” and “checking in” at a hotel) with the Defendant’s husband were qualified by the Panel of Judges as an act attacking moral assessment and one’s self-esteem. [Pasaribu et al. \(2025\)](#) strictly distinguish between criticism and insult. Such a narrative cannot be categorized as criticism or performance assessment, but is purely an attack on personal integrity (*argumentum ad hominem*) aimed at defaming the social reputation of the Victim Witness without any urgent public interest.

The fourth element, “alleging a certain matter,” is a crucial point in testing the validity of the Defendant’s accusation through the evidentiary strength of documentary evidence. The Defendant specifically accused the Victim Witness

of committing infidelity (checking in) with the Defendant's husband at Hotel Subagan in May 2019. To refute this argument, the Public Prosecutor submitted documentary evidence in the form of a Reliving Letter dated November 26, 2019, issued by Soul Senses, Spa & Wellness, Dubai. The letter explained that, at the time of the accusation, the Victim Witness was working in Dubai, United Arab Emirates, and that the Defendant's accusation therefore lacked factual basis. The existence of such documentary evidence has significant evidentiary value in refuting the Defendant's defense. In evidentiary logic, the falsity of the Defendant's accusation, as revealed by documentary evidence, aggravates the legal blameworthiness of her action. The Defendant's action is proven not merely to attack honor, but to create a slanderous stigma for the Victim Witness. This condition simultaneously negates the existence of justification or excuse, since legitimate self-defense cannot be based on a proven false accusation.

The fifth element, "so that it becomes known to the public" (publicity element), is convincingly proven through the locus of the crime (*locus delicti*) and the situational context of the case. The incident of an attack on honor occurred at the house of Witness I Ketut Sudita during a large family meeting attended by approximately 30 members. [Paramartha et al. \(2024\)](#), in their analysis of Supreme Court jurisprudence, emphasize that the publicity element is fulfilled if the utterance is heard by people other than the victim and the perpetrator, potentially spreading the disgrace to a wider scope.

The fact that the Defendant uttered the accusation in an emotional tone on an open terrace, amidst a crowd of extended family members gathering, indicates the Defendant's will and the realization that the accusation would be heard by the public. This action effectively committed character assassination of the victim in her closest social environment. The sociological impact of this action is fatal for a victim living in a society that highly upholds moral norms. [Rochman and Akmal \(2021\)](#) highlight that in a religiously communal society, the negative stigma resulting from immoral accusations possesses a destructive social power that is long-lasting and difficult to reverse, compared to material loss.

In addition to proving the main elements above, the judge also considered witness testimonies that were consistent with one another (*concordant*). The testimonies of Witness Ni Nengah Arumini and Witness I Ketut Sudita, who were present at the scene, confirmed the commotion and the Defendant's words. The consistency of these witnesses' testimonies strengthens the judge's conviction that the criminal event occurred as alleged in the indictment. Even Witness I Putu Suardika (the Defendant's husband), who initially gave a different statement in the Investigation Report (BAP), could not deny the fact of the victim's presence in Dubai at trial and explicitly revoked his statement in the Investigation Report.

Based on the element-by-element analysis above, the Panel of Judges of the Amlapura District Court has correctly applied evidentiary law to declare the Defendant legally and convincingly proven guilty of committing the criminal offense as indicted. All elements of Article 310 section (1) of the Penal Code have been fulfilled cumulatively and perfectly, supported by the conformity between witness testimonies, documents, and the defendant's statement. No grounds for the elimination of punishment, either justification or excuse, were found to release the Defendant from criminal liability for said action.

However, the judge's success in proving the objective elements of the criminal offense and the Defendant's culpability leaves a serious juridical gap in the subsequent stage, namely the assessment of the Defendant's post-act state of mind. Although the Defendant's guilt (*schuld*) has been proven beyond a reasonable doubt, how the judge assesses the Defendant's response and attitude toward that guilt will determine the nature of the sentence imposed. The disparity between such solid proof of guilt and the judge's flexibility in considering sanctions creates a crucial analytical bridge toward the discussion regarding the validity of applying a conditional sentence in the next section.

B. Evidentiary Legal Aspects in the Application of Conditional Criminal Sanctions

The verdict of Decision Number 64/Pid.B/2020/PN Amp stipulated the imposition of imprisonment for 1 (one) month on Defendant Made Darsih. The provision provides that said imprisonment need not be served unless a judge later determines otherwise, provided the convict commits a criminal offense before the probation period of 1 (one) year ends. This sentencing model is juridically known as a conditional sentence (*voorwaardelijke veroordeling*), as specifically stipulated in Article 14a of the Penal Code. [Djarmika and Istiqomah \(2025\)](#), in their research on sentencing trends in Indonesia, note that judges frequently use the conditional sentence instrument as a middle-ground solution (win-win) in minor insult cases involving domestic conflicts. The objective is to avoid excessive stigmatization of imprisonment (prisonization). However, the utilization of this instrument is not automatic but must fulfill strict requirements stipulated by the law.

The juridical analysis of the application of this sanction must commence by dissecting the fulfillment of material requirements in Article 14a of the Penal Code. Section (1) of said Article grants authority to the judge to impose a conditional sentence if the sentence imposed is imprisonment of at most one year or confinement. In Decision Number 64/Pid.B/2020/PN Amp, this objective requirement was fulfilled because the judge imposed a verdict of 1-month imprisonment. However, the primary essence of this article lies in the judge's

subjective assessment or “judicial conviction” that the general requirement will be fulfilled, namely that the convict will not commit another criminal offense. This conviction in criminal law doctrine is known as “behavioral prognosis.” The judge is obliged to conduct a risk assessment of the defendant’s character to predict whether the defendant is trustworthy enough to return to society without serving corporal punishment.

The formation of such a judicial conviction or behavioral prognosis must not be based on subjective assumptions or mere compassion, but must be grounded in valid trial facts. In their considerations, the Panel of Judges explicitly based this conviction on the Defendant’s admission of guilt, regret for her actions, and her determination to be more careful in the future. [Emaliawati \(2024\)](#), in her theoretical study of modern sentencing objectives, asserts that offender rehabilitation can succeed only if the offender accepts guilt. Without moral awareness that their actions were wrong, granting conditional freedom potentially could be interpreted as a justification for the offender’s actions, which is counterproductive to legal education goals.

The crucial point of the problem in this decision arises when we juxtapose the judge’s considerations with the trial facts. In the section considering mitigating circumstances, the panel of judges explicitly stated that one reason for granting leniency was “the Defendant admitted and regretted her actions.” This consideration served as the primary basis for the judge’s conclusion that the Defendant had a good behavioral prognosis. [Nahor et al. \(2025\)](#) remind us that judicial consideration (*ratio decidendi*) must be logical, coherent, and grounded in the legal facts revealed in court (the finding of facts). If legal consideration diametrically contradicts the facts recorded by the judge themselves, then the decision contains an internal logical defect (internal contradiction).

A juridical review of the Minutes of Trial contained in the decision reveals a starkly contrasting reality. Defendant Made Darsih, instead of showing humility, was found to display a high level of defiance. Before the panel of judges and under oath, the Defendant explicitly confirmed witness testimonies stating that she said, “It is better to be imprisoned than to apologize to the victim.” This confirmation by the Defendant was made with full awareness in court, in response to witness testimony, and was not merely a momentary outburst of emotion but a manifestation of a self-righteous state of mind and disrespect for the victim’s integrity and the court’s authority.

Such a challenging attitude, in terms of evidentiary legal aspects, should invalidate the subjective requirement in Article 14a section (4) of the Penal Code. How can the judge be convinced that the Defendant will not repeat her actions

(insulting the victim again) if the Defendant herself closes the door to reconciliation and refuses to restore relations with the victim? By granting probation to a Defendant who had been proven to state “better to be imprisoned,” the judge seemingly ignored the Defendant’s challenge. Putri et al. (2024), although in the context of restorative justice studies, make a relevant assertion that a peaceful or lenient resolution cannot be unilaterally imposed by law enforcement if the perpetrator does not actively participate in restoring the victim’s loss. In Decision Number 64/Pid.B/2020/PN Amp, the Defendant was the party rejecting such a restoration option.

Besides the problematic remorse factor, the judge also considered humanitarian grounds, namely the Defendant’s status as a mother with small children. Sociologically, this consideration is valid and humane to mitigate the duration of the sentence (e.g., from the maximum threat of 9 months in the law to 1 month), but it does not automatically justify the type of conditional sentence if the subjective requirement of remorse is not fulfilled. Ideally, the judge could still impose a short effective imprisonment (*korte vrijheidsstraf*) as shock therapy for the Defendant’s arrogance, rather than granting probation which seemingly justifies the Defendant’s stubborn attitude.

The juridical implications of this decision will be felt significantly at the implementation or execution stage. Article 276 of the Criminal Procedure Code mandates that the execution of a conditional sentence must be conducted with “serious supervision and observation.” The consequence of this article is that the Public Prosecutor as the executor must ensure the Defendant complies with the general requirement (not committing a criminal offense) during the 1-year probation period. Considering the Defendant’s character, which is legally proven to be impulsive, verbally aggressive, and resistant (not feeling guilty) in the presence of witnesses, this supervision burden is very heavy and high-risk.

The potential for recidivism (reoffending) or violation of probation requirements is high. If the Defendant commits further insults or other unlawful acts within 1 year because she feels “above the law” or victorious, the mechanism for revoking the conditional sentence must be invoked, which will actually complicate the legal process in the future. Chariansyah (2025), in his analysis of freedom of expression, warns that human rights protection must not be abused to repeatedly violate others’ rights. A weak decision against an uncooperative perpetrator may send the wrong message to the public that the law lacks authority over a perpetrator who dares to challenge it.

The failure to apply the proof requirements of Article 14a of the Penal Code ultimately harms the victim’s sense of justice. The victim, having been humiliated

in public, received no moral restoration whatsoever because the Defendant ultimately did not serve effective corporal punishment and was also proven never to have apologized directly to the victim. This decision sets a bad precedent for legal certainty, where the “remorse” parameter becomes obscure and can be interpreted very loosely by judges, even when the trial facts indicate otherwise.

As a conclusion of this analysis, Decision Number 64/Pid.B/2020/PN Amp administratively fulfilled the formal requirements of Article 14a section (1) of the Penal Code. However, on material and evidentiary grounds, this decision contains a serious logical defect in applying the subjective requirement (section 4) due to the failure to prove the existence of a valid basis for conviction (behavioral prognosis). The judge is advised to prioritize subjective compassion over objective proof of the Defendant’s state of mind, leading to an ambivalent decision: declaring the Defendant guilty but allowing her freedom without tangible conditions.

CONCLUSIONS AND SUGGESTIONS

Based on the results of the juridical review regarding the construction of evidence and the judge’s considerations in Decision Number 64/Pid.B/2020/PN Amp, it can be concluded that a disparity exists in the quality of law enforcement between the stage of proving guilt and the stage of imposing sanctions. At the stage of proving the elements of the criminal offense, the panel of judges successfully applied the evidentiary principles outlined in Article 184 of the Criminal Procedure Code. All objective and subjective elements in Article 310 section (1) of the Penal Code were proven legally and convincingly fulfilled. The judge correctly utilized the evidentiary weight of documentary evidence to refute the Defendant’s false alibi regarding the accusation of infidelity, as well as witness testimony and the Defendant’s statement to establish intent as a purpose (*oogmerk*) within the Defendant. Thus, there is no shred of doubt that the Defendant is the perpetrator of the criminal offense of defamation, possessing the capacity for responsibility.

However, the legal precision built at the guilt-proving stage suffered significant logical flaws when applied to the conditional criminal sanction. The judge was trapped in a juridical anomaly when applying Article 14a of the Penal Code. The material requirement for granting probation, namely the existence of a judicial conviction regarding the Defendant’s good behavioral prognosis, was based on considerations of “remorse” that were imaginary and contradictory to trial facts. Legal facts recording the Defendant’s attitude of blatantly refusing to apologize and choosing imprisonment constitute authentic evidence of resistance, which should have invalidated the subjective requirement for granting a conditional sentence. Therefore, this decision contains an internal logical defect (internal contradiction) wherein the judge granted

the “gift” of freedom to a perpetrator who conversely demonstrated an attitude of hostility toward the law and the victim.

The legal implications of this ambivalent decision may create a bad precedent for legal certainty and the sense of justice. Granting a conditional sentence based solely on humanitarian grounds of having a small child, without being balanced by requirements of repentance, reduces the function of sentencing to a mere formality that loses its educative and preventive power. This condition exposes the execution of the decision to a high risk of failure, as stipulated in Article 276 of the Criminal Procedure Code. Given the Defendant’s impulsive character and lack of remorse, supervision during the one-year probation period is highly vulnerable to violation, which could ultimately burden the criminal justice system by increasing the risk of recidivism.

As a follow-up to these conclusions, it is recommended that the Supreme Court of the Republic of Indonesia tighten sentencing guidelines, particularly in the application of conditional sentences. Judges at the fact-finding court level (*judex facti*) must be mandated to elaborate on objective indicators of remorse supported by trial facts, such as an apology in court or a peace agreement, rather than mere subjective judicial assumptions. Humanitarian grounds alone must not be the sole basis for granting probation if the Defendant is found to be uncooperative. A reform in this perspective is necessary to restore the authority of court decisions so they are not perceived as compromising with perpetrators who degrade the dignity of others.

Finally, for the Public Prosecutor as the executor, such a decision demands extra strict supervision during the probation period. The Prosecutor must not be passive, but rather proactive in monitoring the convict’s behavior in society. If any indication of a violation of the general requirement is found, however slight, the mechanism for revoking the conditional sentence must be immediately pursued to maintain the integrity of law enforcement. Synergy between the judge’s firmness in deciding and the prosecutor’s strictness in supervising is the key to ensuring that justice for victims of defamation is not eroded by unmeasured discretion.

REFERENCES

- Anggraeni, I. Z., & Harjono, H. (2023). Analisis Pertimbangan Hakim dalam Memutus Perkara Pencemaran Nama Baik Melalui Facebook. *Verstek*, 11(3), 498-507. <https://doi.org/10.20961/jv.v11i3.73336>
- Chariansyah, H. (2025). Juridical Implications of Constitutional Court Decision Number 105/PUU-XXII/2024 Regarding Freedom of Expression in the Digital Space. *SIGn Jurnal Hukum*, 7(1), 562-579. <https://doi.org/10.37276/sjh.v7i1.498>

- Decision of the District Court of Amlapura Number 64/Pid.B/2020/PN Amp on Defendant: I Made Darsih. <https://putusan3.mahkamahagung.go.id/direktori/putusan/zaeb2fad6646e742b025313330353335.html>
- Djatkika, P., & Istiqomah, M. (2025). The Sentencing of Insult and/or Defamation Cases in Indonesia. *Arena Hukum*, 18(2), 313-339. <https://doi.org/10.21776/ub.arenahukum2025.01802.7>
- Emaliawati, E. (2024). Defamation in the Digital Age: An Analysis of the Application of Restorative Justice under Indonesian Criminal Law. *Intellectual Law Review*, 2(1), 32-45. <https://doi.org/10.59108/ilre.v2i1.62>
- Irwansyah. (2020). *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*. Mirra Buana Media.
- Jaelani, A. K., & Luthviati, R. D. (2021). The Crime of Damage after the Constitutional Court's Decision Number 76/PUU-XV/2017. *Journal of Human Rights, Culture and Legal System*, 1(1), 31-42. <https://doi.org/10.53955/jhcls.v1i1.5>
- Josephine, E. J., & Hutabarat, R. R. (2024). Determining Relative Competence in Resolving Criminal Defamation Cases Under Indonesian Positive Law. *Jurnal Ilmu Hukum Kyadiren*, 6(2), 53-71. <https://doi.org/10.46924/jihk.v6i2.235>
- Khotimah, A. K., Budyatmojo, W., & Lukitasari, D. (2022). Penerapan Tindak Pidana Pencemaran Nama Baik Melalui Media Sosial. *Recidive: Jurnal Hukum Pidana dan Penanggulangan Kejahatan*, 11(3), 285-295. <https://doi.org/10.20961/recidive.v11i3.67461>
- Law of the Republic of Indonesia Number 1 of 1946 on the Penal Code Regulations. <https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/814>
- Law of the Republic of Indonesia Number 8 of 1981 on the Criminal Procedure Code (State Gazette of the Republic of Indonesia of 1981 Number 76, Supplement to the State Gazette of the Republic of Indonesia Number 3209). <https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/755>
- Majid, P. S., & Angraeni, B. S. (2025). Constitutional Implications of Constitutional Court Decision No. 105/PUU-XXII/2024 on Freedom of Expression and Defamation in Indonesia. *Constitutional Law Review*, 4(2), 117-131. <https://doi.org/10.30863/clr.v4i2.5951>
- Mashdurohatun, A., Sugihartono, B., Masrifah, N., Adhi, A. I. K., & Glaser, H. (2025). Combating Digital Defamation: Regulations, Challenges and Protecting Reputation. *Journal of Sustainable Development and Regulatory Issues*, 3(3), 486-514. <https://doi.org/10.53955/jsderi.v3i3.147>
- Muhni, A., Basri, M., Rivanie, S. S., Iskandar, I., Muin, A. M., & Mirzana, H. A. (2025). Integration of Anti-SLAPP in the Reform of the Indonesian Criminal Procedure Code in an Effort to Protect Human Rights. *SIGn Jurnal Hukum*, 7(1), 437-453. <https://doi.org/10.37276/sjh.v7i1.485>

- Nahor, T. B., Selan, Y. M., & Hartanto, H. (2025). Analisis Pertimbangan Hakim Mengenai Pencemaran Nama Baik yang Dilakukan oleh Tokoh Publik dengan Putusan Bebas: Studi Putus Nomor 202/Pid.Sus/2023/PN.Jak.Tim. *Krisna Law: Jurnal Mahasiswa Fakultas Hukum Universitas Krisnadwipayana*, 7(2), 1-9. <https://doi.org/10.37893/krisnalaw.v7i2.1068>
- Ngiji, R. P. A. D., Suseno, S., & Atmaja, B. A. (2022). Penerapan Pasal 27 Ayat (3) UU ITE dalam Perkara Pencemaran Nama Baik melalui Media Sosial terhadap Kelompok Orang. *Jurnal Fundamental Justice*, 3(1), 19-34. <https://doi.org/10.30812/fundamental.v3i1.1796>
- Paramartha, I. G. R. C., Hartono, M. S., & Setianto, M. J. (2024). Analisis Yuridis Putusan Mahkamah Agung Terhadap Kasus Tindak Pidana Pencemaran Nama Baik (Studi Putusan Mahkamah Agung Nomor 1845/K/Pid/2009). *Jurnal Ilmu Hukum Sui Generis*, 4(3), 1-9. <https://doi.org/10.23887/jih.v4i3.5032>
- Pasaribu, A. S., Saputra, M. R. K., Prayogo, I. R., & Taun, T. (2025). Analisis Yuridis Perbedaan Kritik dengan Pencemaran Nama Baik dalam KUHP dan Undang-Undang Nomor 1 Tahun 2024 tentang Informasi dan Transaksi Elektronik (ITE). *Jurnal Riset Rumpun Ilmu Sosial, Politik dan Humaniora*, 4(2), 220-232. <https://doi.org/10.55606/jurrish.v3i2.4748>
- Putri, R. A. S., Akbar, M. G. G., & Abas, M. (2024). Restorative Justice as a Means to Achieve Justice and Legal Certainty in Defamation Cases. *UNRAM Law Review*, 8(2), 212-223. <https://doi.org/10.29303/ulrev.v8i2.374>
- Qamar, N., & Rezah, F. S. (2020). *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal*. CV. Social Politic Genius (SIGn). <https://books.google.co.id/books?id=TAQHEAAAQBAJ>
- Rahman, M. Z., Hafrida, H., & Rafiq, M. (2022). Perbandingan Proses Penyelesaian Tindak Pidana Pencemaran Nama Baik di Indonesia dan Australia. *Pampas: Journal of Criminal Law*, 3(1), 1-14. <https://doi.org/10.22437/pampas.v3i1.17673>
- Ramadhan, G. R., Diaz, Y., & Hosnah, A. U. (2024). Penanganan Tindak Pidana Pencemaran Nama Baik yang Dihubungkan dengan KUHP. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 2(1), 51-64. <https://doi.org/10.61104/alz.v2i1.208>
- Rochman, S., & Akmal, H. (2021). Pencemaran Nama Baik Melalui Media Sosial: Perbandingan Hukum Pidana Positif dan Pidana Islam. *Diktum: Jurnal Syariah dan Hukum*, 19(1), 32-42. <https://doi.org/10.35905/diktum.v19i1.2080>
- Sampara, S., & Husen, L. O. (2016). *Metode Penelitian Hukum*. Kretakupa Print.
- Valerie, O. (2025). Judicial Paradigm Clash: Comparative Analysis of the Application of the Anti-SLAPP Doctrine in the Protection of Environmental Activists. *SIGn Jurnal Hukum*, 7(2), 785-802. <https://doi.org/10.37276/sjh.v7i2.526>

Zhafira, I., Ismansyah, I., & Yoserwan, Y. (2023). Tinjauan Yuridis Tindak Pidana Pencemaran Nama Baik dalam Kitab Undang-Undang Hukum Pidana Dikaitkan dengan Pasal 27 Ayat (3) Undang-Undang Informasi dan Transaksi Elektronik: Studi Putusan Nomor 1909 K/Pid.Sus/2021. *Unes Journal of Swara Justisia*, 7(3), 901-912. <https://doi.org/10.31933/ujsj.v7i3.408>