



## FREEDOM OF EXPRESSION IN THE DIGITAL AGE: CONSTITUTIONAL LIMITS ON HUMAN RIGHTS RESTRICTIONS UNDER THE 1945 CONSTITUTION OF THE REPUBLIC OF INDONESIA AND JUDICIAL DYNAMICS IN INDONESIA

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### Abstract

*The digital age has fundamentally transformed the way people express their opinions and views. Advances in information and communication technology—particularly the massive penetration of social media in Indonesia—have opened up a space for public participation that is broader, faster, and free from geographical boundaries. Citizens can now easily criticize government policies, report alleged abuses of power, and voice their political aspirations directly through various digital platforms. On the other hand, freedom of expression in the digital sphere often clashes with the interests of public order, national security, social stability, and the protection of the reputation of individuals and institutions. This article aims to conduct an in-depth analysis of the constitutional limits on restrictions of human rights regarding freedom of expression under the 1945 Constitution of the Republic of Indonesia, as well as the judicial dynamics occurring in Indonesia. Using a normative-dogmatic approach supported by an analysis of court rulings, this article finds that while Article 28E(3) and Article 28F of the 1945 Constitution of the Republic of Indonesia provide strong guarantees for freedom of expression, Article 28J(2) provides a valid constitutional basis for restricting that right. Restrictions are only permissible if established by law, aimed at respecting the human rights of others, and meeting fair demands based on moral considerations, religious values, security, and public order in a democratic society. Constitutional Court Decisions No. 105/PUU-XXII/2024 and No. 78/PUU-XXI/2023 have significantly reformed cyber law in Indonesia, including the abolition of the offense of spreading false news that causes public unrest and the restriction of the legal subjects of defamation offenses to only natural persons. This article recommends strengthening restorative justice mechanisms, establishing objective parameters for non-pecuniary damages in civil law, and issuing technical guidelines for law enforcement officials.*

**Keywords:** *Freedom of Expression, Constitutional Limits, Constitutional Court Decisions*

### INTRODUCTION

Freedom of opinion and expression are fundamental human rights in every democratic society. Without guarantees of these freedoms, the people would be unable to exercise social control over the conduct of government, and the potential for abuse of power by the political elite would thrive

in the absence of public scrutiny. The Indonesian Constitution provides a strong guarantee of this constitutional right through Article 28E, Paragraph 3 of the 1945 Constitution of the Republic of Indonesia, which affirms that every person has the right to freedom of association, assembly, and expression. This guarantee is reinforced by Article 28F of the 1945 Constitution of the Republic of Indonesia, which mandates the right of every person to communicate and obtain information to develop their personality and social environment, as well as the right to seek, obtain, possess, store, process, and convey information using all available channels, whether print, electronic, or digital media. (Review, 2024)

At the level of organic legislation, the interpretation of this constitutional mandate is accommodated through Article 23(2) of Law No. 39 of 1999 on Human Rights. This provision states that every person is free to hold, express, and disseminate their opinions in accordance with their conscience, whether orally or in writing through print or electronic media, while respecting religious values, morality, public order, the public interest, and the integrity of the state. This provision is further elaborated in Law No. 9 of 1998 on Freedom of Expression in Public. This legal framework aligns with the social contract theory introduced by Jean-Jacques Rousseau, wherein the state is established through a mutual agreement to protect individuals' natural rights; thus, the state is obligated to respect and protect freedom of expression as a prerequisite for the existence of popular sovereignty.

However, the tension between the guarantee of freedom and the need for restrictions on rights has become particularly evident in the digital age. The Electronic Information and Transactions Law, first enacted in 2008 and amended several times, most recently through Law No. 1 of 2024, contains a number of provisions deemed open to multiple interpretations or often referred to as "rubber provisions." Article 27(3) of the 2016 EIT Law, which prohibits the distribution of electronic information containing defamation and/or slander, and Article 27A of the 2024 EIT Law, which addresses attacks on the honor or reputation of others, are examples of legal norms that foster high levels of subjectivity in law enforcement. The lack of clarity regarding the parameters of the elements of an attack on honor has led law enforcement officials to frequently process reports from citizens based solely on the subjective offense felt by the complainant, rather than on objective criteria regarding what actually constitutes constitutionally protected criticism. (Irfan Pratama et al., 2022)

This phenomenon creates a destructive sociological impact in the form of a chilling effect in the digital space. The public experiences a collective fear of voicing objective criticism of public policies, government agencies, or corporations due to concerns about being criminalized under these cyber laws. The National Human Rights Commission recorded 44 cases of violations of freedom of expression and opinion in the digital space during the period from 2020 to 2021, with 52 percent of these cases occurring on social media. These barriers to expression also have a significant impact on Civil Servants, whose freedom of opinion on social media is restricted in multiple layers by civil service disciplinary regulations. The history of cyberlaw enforcement in Indonesia is rife with controversial cases, such as the detention of political activist Eggi Sudjana in 2018, the arrest of environmental activist Daniel Frits Maurits Tangkilisan in Karimun Jawa, and the conviction of Isma Khaira in Aceh. This series of cases highlights the imbalance in the relationship between political and legal power in Indonesia, where the ITE Law is often converted into a legal instrument used by those with economic and political power to stifle civil society's social control.

The Constitutional Court has addressed this issue through several key rulings. Ruling No. 105/PUU-XXII/2024 interprets the phrase "other person" in Article 27A of the 2024 ITE Law restrictively to refer only to individual persons or "natuurlijk persoon," meaning that state agencies, corporations, institutions, professions, or offices do not have legal standing to file defamation reports in the realm of cybercrime. Decision No. 78/PUU-XXI/2023 invalidated Articles 14 and 15 of Law No. 1 of 1946 regarding the offense of spreading false news that causes public unrest, as they were deemed not to meet the requirements of *lex certa*. Although these progressive rulings have been issued, law enforcement practices on the ground still reveal serious inconsistencies.

Based on the background outlined above, this article will address the main research question: What are the constitutional limits on restrictions of the human right to freedom of expression in the digital age under the 1945 Constitution of the Republic of Indonesia, and how do these limits align with international legal standards as set forth in the International Covenant on Civil and Political Rights?

## RESULT AND DISCUSSION

Constitutional Limits on the Restriction of Freedom of Expression Under the 1945 Constitution of the Republic of Indonesia: Harmonization with International Standards Restrictions on freedom of expression in Indonesian constitutional law are not treated as loose exceptions or mere supplements. Rather, these restrictions are an integral part of a human rights protection system that balances individual freedoms with the public interest. Article 28J(2) of the 1945 Constitution of the Republic of Indonesia serves as a catch-all clause that the Constitutional Court often refers to as a “systemic lock,” meaning that this provision applies to all human rights provisions set forth from Article 28A through Article 28I. The full text of Article 28J(2) is as follows: in exercising their rights and freedoms, every person is obligated to submit to restrictions established by law with the sole purpose of ensuring the recognition and respect for the rights and freedoms of others and to meet just demands in accordance with moral considerations, religious values, security, and public order in a democratic society.

The placement of Article 28J paragraph 2 at the end of Chapter XA on Human Rights is not without significance. The framers of the Constitution, during the amendment of the 1945 Constitution, deliberately designed this provision as a safeguard to ensure that no human right is interpreted absolutely. The Constitutional Court, in various rulings, has held that in accordance with the drafting history or original intent, the provisions of Article 28I(1)—which govern rights that cannot be diminished under any circumstances or non-derogable rights, such as the right not to be tortured, the right to freedom of thought and conscience, and the right not to be prosecuted under retroactive laws— must be read in conjunction and in harmony with Article 28J(2). The unconditional absolutization of certain rights may undermine communal values, religious morality, and public order, which are also protected by the Constitution. Nevertheless, a contrary view among legal scholars holds that Article 28I(1), which contains the phrase “under any circumstances,” constitutes a supreme norm that cannot be negated by restrictions imposed merely at the level of ordinary legislation. According to this view, adjustments to non-derogable rights can only be made at the level of the Constitution itself.

In practice, the Constitutional Court has recognized that restrictions based on religious values as communal values are constitutionally valid. This recognition is grounded in the sociological reality that religious traditions in Indonesia possess distinct characteristics that cannot be equated with Western secular perspectives. Indonesian society lives within a culture that deeply respects

religious values, modesty, and communal etiquette. Therefore, expressions that overtly attack the religious beliefs of others or violate the moral norms prevalent in society may be lawfully restricted. This assessment aligns with the philosophical view of Rudolf Stamler, who positions human rights norms in the constitution as a guiding star or *leitstern* for lawmakers, ensuring that the resulting laws always serve the common good rather than merely individual interests. (Darmawan et al., 2024)

In the realm of international law, the primary instrument serving as a reference for both the protection and restriction of the right to freedom of expression is Article 19 of the International Covenant on Civil and Political Rights (ICCPR). Indonesia has ratified this covenant through Law No. 12 of 2005. Article 19(1) of the ICCPR provides an absolute guarantee to hold opinions without interference from others. Article 19(2) guarantees the freedom to express opinions, including the freedom to seek, receive, and impart information, whether orally, in writing, in print, or through the artistic medium of one's choice. However, Article 19(3) explicitly states that such freedom may be subject to certain restrictions, provided that these restrictions meet a very strict three-part test. First, the restriction must be provided by law, meaning there must be a clear legal basis accessible to the public. Second, the restriction must have a legitimate aim, such as respecting the rights or reputation of others, protecting national security or public order, or safeguarding public health and morals. Third, the restriction must be truly necessary and proportional, meaning there must be no less restrictive means to achieve that aim.

In a national emergency threatening the life of the nation, Article 4 of the ICCPR addresses the possibility of derogation from rights. Professor Manfred Nowak, a leading expert in international human rights law, states that derogation constitutes an extraordinary measure that can only be justified if four cumulative conditions are met. The emergency threat must be real, not imaginary or fabricated. The threat must be immediate or imminent, not a distant future possibility. The threat must endanger the entire nation, not just a specific region or group. And most importantly, the state of emergency must be officially declared by state authorities, not merely based on the rulers' fears or subjective interests. The Siracusa Principles, developed by the United Nations, further strictly limit the application of derogations from rights. Derogations must not affect human rights classified as non-derogable. Derogations must also not be applied discriminatorily on the basis of race, skin color, gender, language, religion, or political opinion. Past instances of horizontal

conflicts and the imposition of military emergency status in various regions of Indonesia demonstrate that the lack of clarity regarding the parameters of a state of emergency often infringes upon fundamental human rights due to the failure to meet the necessity test and the proportionality test.

From the perspective of Islamic law and Eastern culture, which highly uphold communal values, freedom of expression serves a theological and sociological function closely tied to the doctrine of *amar makruf nahi mungkar*—encouraging good and preventing evil. Within this theological framework, every individual is viewed as having a moral obligation to uphold truth and prevent evil within society. For this moral obligation to be realized, every individual must possess the ability and assurance of freedom to express opinions, criticism, and thoughts freely. Freedom of expression in this context is viewed as both a right and a moral obligation inherent to human dignity as stewards on Earth tasked with fostering prosperity and maintaining the balance of the universe.

Thus, it can be concluded that the constitutional limits on restrictions of the human right to freedom of expression in Indonesia must meet four fundamental principles. The first principle is that restrictions must be established by law, not by regulations subordinate to the law, such as government regulations or ministerial decisions. The second principle is that restrictions must be aimed solely at protecting the human rights of others, public order, national security, public morals, or religious values that are alive in society. The third principle is that restrictions must pass the necessity test, meaning there must be no less restrictive alternative available to achieve the legitimate objective. The fourth principle is that restrictions must pass the proportionality test, meaning the level of restriction must not exceed what is strictly necessary and must be proportionate to the public benefit sought. Even in emergency situations, certain fundamental rights—such as the right not to be tortured, the right to freedom of thought and conscience, and the right to be recognized as a person before the law—must not be curtailed under any circumstances.

Another landmark decision is Constitutional Court Ruling No. 78/PUU-XXI/2023. This case was filed by two civil society activists named Fatia Maulidiyanty and Haris Azhar. The background of their petition was very concrete and personal. Both were charged with defaming a state minister after they discussed the findings of a civil society coalition's research regarding the involvement of certain military officials in illegal mining business exploitation practices in the Wabu Block,

Papua. The discussion was uploaded to a YouTube channel and went viral, leading the minister in question to feel his honor had been defamed and to report the two activists to the police. In its ruling, the Constitutional Court struck down Articles 14 and 15 of Law No. 1 of 1946 on Criminal Law Regulations. For decades, these two articles have been used to prosecute anyone who spreads false news capable of causing public unrest. The Court determined that the formulation of the offenses in these two articles is highly subjective, open to multiple interpretations, fails to meet the “lex certa” requirement—which mandates that criminal provisions be clear and unambiguous—and fails to meet the “lex stricta” requirement—which mandates strict interpretation of criminal provisions. In practice, these two articles have often been converted into highly effective repressive tools for those in power to silence opposition and sharp yet well-founded political criticism. Furthermore, the Constitutional Court also ruled that the defamation offense under Article 310(1) of the Criminal Code is declared conditionally unconstitutional, provided that it is not specifically interpreted to require that the defamatory act be committed orally and in public. This ruling strengthens the elements of the rule of law based on Friedrich Julius Stahl’s theory, as it guarantees the protection of citizens’ human rights from state arbitrariness, clarifies the boundaries of criminal law objectively, and enhances public oversight to ensure transparency and accountability in governance. (Suparman Marzuki, 2013)

Other significant rulings include Decision No. 50/PUU-VI/2008, which dismissed a challenge to Article 27(3) of the 2008 ITE Law. In this decision, the Constitutional Court maintained the view that the prohibition on cyber defamation does not conflict with freedom of expression. Although this decision solidified the legal standing of defamation complaints in cyberspace, in practice it has instead fueled continued criminalization due to the arbitrary interpretation by law enforcement officials. Decision No. 5/PUU-VIII/2010 regarding wiretapping or interception is another progressive ruling. The Court established that wiretapping of citizens’ communications is an unlawful act because it violates citizens’ fundamental right to privacy; therefore, its restrictions must not be delegated to the level of government regulations but must be strictly regulated through legislative instruments. Decisions No. 52/PUU-XI/2013 and No. 20/PUU-XIV/2016 further reinforced this principle by affirming that the acquisition of electronic evidence in law enforcement must follow strict judicial authorization procedures, meaning prior court approval is required. (Fedira et al., 2025)

However, the implementation of these progressive rulings at the operational level by law enforcement agencies, particularly the police and the prosecution, faces very serious and complex challenges.

The second problem is the weakness of external oversight mechanisms regarding police and prosecution compliance with Constitutional Court rulings. The National Police Commission (KOMPOLNAS), which is supposed to oversee police performance, lacks sufficient authority to compel the police to comply with constitutional rulings. The Ombudsman of the Republic of Indonesia also has limited authority over maladministration, not over non-compliance with court rulings. The Supreme Court, as the highest judicial body within the general court system, lacks a direct mechanism to oversee police compliance. Consequently, Constitutional Court rulings—which ideally bind all state institutions without exception—are often disregarded by field officers in practice without any meaningful legal consequences. The third problem is the absence of technical guidelines or circulars from the relevant authorities, such as the Supreme Court or the Indonesian National Police, that explicitly incorporate the spirit of Constitutional Court Decision No. 105/PUU-XXII/2024 into standard operating procedures for investigations. Without clear and binding written guidelines, investigators across Indonesia will continue to repeat the same mistakes, as they have no standard reference other than laws whose meanings have been altered by constitutional rulings.

It cannot be denied that, on the other hand, concerns about the spread of disinformation targeting vital state institutions are also legitimate and cannot simply be ignored.

Opponents of Constitutional Court Decision No. 105/PUU-XXII/2024 argue that the removal of criminal penalties for those who attack the reputation of institutions could be exploited by irresponsible actors or even by foreign entities hostile to Indonesia. They fear that information warfare and systematic disinformation campaigns could occur, aimed at undermining the legitimacy of national security institutions such as the Indonesian National Army and the Indonesian National Police. They are also concerned about the reputation of strategic state-owned enterprises in the energy, food, and financial sectors; if their reputations are damaged by mass defamation on social media, this could impact monetary stability and foreign investor confidence. (Tahyudin et al., 2024)

However, these counterarguments have been firmly refuted by legal experts who support the Constitutional Court's ruling. They state that the removal of criminal penalties does not in any way

imply the loss of all forms of legal protection for institutional reputations. Institutions that feel harmed by defamation, slander, or disinformation may still pursue civil legal action by filing a tort claim under Article 1365 of the Civil Code. In such civil lawsuits, institutions may seek compensation for both material and immaterial damages genuinely suffered as a result of the tort committed by the defamer. Although civil legal proceedings are slower and more expensive than criminal proceedings, they have a higher standard of proof and better safeguard the rights of the defendant. However, it must be honestly acknowledged that Indonesia's current civil procedure law is not yet fully prepared to handle digital defamation disputes effectively and fairly. Unlike cyber criminal law, which is supported by police investigative tools that have the authority to track anonymous perpetrators online via IP addresses and collaborate with platform providers, civil law places the entire burden of proof entirely on the plaintiff. Corporations or institutions that feel their reputation has been materially damaged will face immense difficulty in identifying the true identity of the perpetrators of digital defamation if those perpetrators use anonymous accounts or access the internet from public internet cafes.

Beyond these technical evidentiary challenges, the absence of objective parameters for non-pecuniary damages in tort claims also risks creating new legal uncertainty. There are no established standards regarding the appropriate amount of damages for a defamatory social media post. Consequently, judges have very broad discretion, which can result in stark disparities in rulings between one court and another.

Amid all these complexities and challenges, strengthening restorative justice mechanisms emerges as the most promising alternative solution.

Mediation, public clarification, and digital apologies can serve as conflict resolution tools that are far more proportionate, faster, cheaper, and more educational compared to resolution through traumatic criminal litigation or costly and protracted civil litigation. In restorative justice mechanisms, the conflicting parties are brought together before an independent and trained mediator. The person who made the criticism can explain their good intentions. The offended party can express their feelings. If there is a misunderstanding, clarification can be provided. If the criticism is indeed factually inaccurate, the critic can offer a sincere apology. If the criticism turns out to be accurate and justified, the offended party can instead learn to be more self-reflective and improve their performance. The government, together with law enforcement agencies—

particularly the police and the prosecutor's office—must immediately formulate strict, clear, and measurable operational guidelines for restorative justice to reconcile the parties while prioritizing the restoration of the victim's reputation without infringing upon the constitutionally protected right to freedom of expression. These guidelines must include objective criteria for determining when a case is suitable for resolution through restorative justice, the procedures to be followed, and oversight mechanisms to ensure the restorative justice process is not abused to protect the powerful and harm the vulnerable.

### **The Relationship Between the Government and the People from the Perspective of Administrative Law**

The rights of Indonesian citizens are regulated in the 1945 Constitution of the Republic of Indonesia (UUD 1945). In this regard, what is written in the constitution must be upheld by the state through those in power. As we know, we adhere to a separation of powers, where the executive, legislative, and judicial branches are not strictly separated, unlike Montesquieu's *Tria Politica*. This lack of strict separation of powers—hence the term “separation of powers”—is evident in the legislative process. Laws are enacted by the President in collaboration with the People's Representative Council. While the Constitution explicitly guarantees the people's right to work and a decent standard of living, the current reality is that the people face severe hardships. According to the Indonesian Central Statistics Agency (BPS), the Open Unemployment Rate (OUR) in Indonesia in February 2024 was 4.82% (Central Statistics Agency, 2024). The cost of living continues to rise. Fuel prices have increased multiple times. The same goes for electricity. Meanwhile, wages or incomes have not increased. This has caused discontent among the people, leading to tension between the people and their government. Not to mention rampant corruption; recently, there was a corruption case involving 271 trillion rupiah in the tin mining sector. According to Hugo Grotius and Samuel Pufendorf, the state is not the result of human creation or a contract, but arises naturally in accordance with the principles of natural law that are universal and unchanging. This natural law governs the relationships between individuals and society, and the state is formed to uphold these laws. This theory emphasizes the importance of justice and morality in the formation of the state.

The state not only possesses power but also has the obligation to uphold natural law and protect individual rights. This has implications for the concepts of the rule of law and human rights,

wherein the law must be just and grounded in morality, and individual rights must be respected and protected. (Dewi et al., 2024)

The Constitutional Court, as the guardian of the constitution, is expected to serve as a role model in providing legal certainty to all citizens. The state must ensure the consistency of procedural law instruments so that they do not change arbitrarily. The procedural law instruments of the Constitutional Court must be grounded in the overarching legal framework of legislation and not constitute a subdelegation of legislation—as has been the case where its procedural law has been regulated by Constitutional Court Regulations. This situation leaves the system vulnerable to abuse by various parties with vested interests. “Rubber-band” clauses interpreted as granting the Constitutional Court the authority to regulate its own procedural law are detrimental to those seeking justice because the Court’s decisions are final and binding—meaning no legal recourse is available if errors occur—yet simultaneously grant the Court overly broad authority through its unilateral interpretation. (Choiriyah, 2019)

Respect for, protection of, and guarantees of human rights are hallmarks of a rule-of-law state. This is evident from the preamble of the 1945 Constitution of the Republic of Indonesia, the content of the 1945 Constitution of the Republic of Indonesia, particularly following the amendments. The enforcement of Human Rights in terms of protecting Human Rights Activists while carrying out their roles, as viewed through the norms in Law No. 39 of 1999 on Human Rights, Law No. 26 of 2000 on the Human Rights Court, and Law No. 31 of 2014 amending Law No. 13 of 2006 on the Protection of Witnesses and Victims, has not yet been evident. Meanwhile, when viewed through regulations issued by the National Human Rights Commission, namely National Human Rights Commission Regulation No. 5 of 2015 on procedures for the protection of human rights defenders and National Human Rights Commission Regulation No. 4 of 2021 on the Ratification of Norms and Standard Regulations on Human Rights Defenders, which contains Norms and Standard Regulations No. 6 on Human Rights Defenders, legal protections for Human Rights Defenders have been established.

Since legal protections for Human Rights Defenders are only found in National Human Rights Commission Regulations, rather than in a Law or at least a Government Regulation, in the author’s view, these protections remain inadequate. Therefore, it has not yet been able to fulfill the rights and protect Human Rights Activists as mandated in Article 27 paragraph (1), Article 28 paragraph

(1), Article 28I paragraph (1), Article 28J paragraph (1), and Article 28J paragraph (4) of the 1945 Constitution of the Republic of Indonesia.

Even from an international perspective, this has been addressed in the Declaration on Human Rights Defenders. In fact, in Indonesia, there are still many cases of torture against Human Rights Activists. (Sulistiyowati et al., 2023)

The right to file a lawsuit regarding environmental issues must have clear limitations regarding who is entitled to file a lawsuit, so as not to conflict with existing regulations. Conversely, this must be further clarified by establishing more concrete limitations, at least regarding geographical boundaries. Parties entitled to file a lawsuit, in addition to meeting the requirements as stipulated in Article 92 of the Environmental Law, must also have an institution domiciled in the district or city where the subject of the dispute is being litigated in the Administrative Court. To achieve this, strategic steps are needed, such as revising the law to strengthen regulations regarding this issue. (Sulistiyowati et al., 2024)

The persistent treatment of the Ombudsman's recommendations as non-binding moral appeals reflects deeper structural issues, including bureaucratic resistance and limited institutional capacity. These obstacles undermine the Ombudsman's effectiveness as a mechanism for administrative accountability. Further findings indicate that strengthening the Ombudsman requires not only procedural adjustments but also a recalibration of its legal status, institutional capacity, and strategic role within Indonesia's oversight system. Improving the enforcement of the Ombudsman's recommendations, coupled with greater institutional autonomy, adequate resources, and proactive engagement with the public, is essential to transforming the Ombudsman from a merely non-binding institution. (Irfan et al., 2025)

## **CONCLUSION**

Freedom of expression in the digital age is a constitutional right strongly guaranteed by Article 28E, paragraph 3, and Article 28F of the 1945 Constitution of the Republic of Indonesia. However, this very fundamental right is not absolute and unlimited, as it is explicitly limited by Article 28J paragraph 2, which serves as a closing clause in Indonesia's human rights protection system. The constitutional limits on the restriction of the human right to freedom of expression in Indonesia must meet four cumulative principles. First, the restriction must be established by law in the formal sense, not by regulations under the law. Second, the restriction must be solely aimed at protecting

the human rights of others, public order, national security, public morals, and religious values that are alive in society. Third, the restriction must meet the necessity test, meaning there must be no less restrictive alternative to achieve the legitimate objective. Fourth, the restriction must meet the proportionality test, meaning the level of restriction must not exceed what is strictly necessary. These principles are fully consistent with international standards under Article 19 of the International Covenant on Civil and Political Rights, which Indonesia has ratified, with the Siracusa Principles, and with the values of constitutional politics that place the public interest as the highest objective of every legal policy.

The judicial dynamics of the Constitutional Court through Decision No. 105/PUU-XXII/2024 and Decision No. 78/PUU-XXI/2023, as well as other related decisions, have fundamentally and progressively reformed cyber law in Indonesia. The Constitutional Court has explicitly limited the criminal offense of defamation in the realm of cybercrime to natural persons only, meaning that state institutions, corporations, organizations, professions, and official positions do not have legal standing to be victims of defamation in the criminal sphere. The Constitutional Court has also abolished the offense of spreading false news that causes public unrest, as it was deemed too subjective, open to multiple interpretations, and frequently abused to silence public criticism.

Based on the dialectical analysis conducted throughout this article, several concrete, measurable, and urgent legal reform steps are recommended for immediate implementation. The Supreme Court, together with the Indonesian National Police and the Attorney General's Office, must immediately issue a joint circular or technical guidelines that explicitly incorporate the spirit of Constitutional Court Decision No. 105/PUU-XXII/2024 into standard operating procedures for investigations. These guidelines must contain clear and firm instructions that institutions, offices, corporations, professions, and agencies are not considered "other persons" in the context of cyber defamation offenses; therefore, reports from such entities must not be accepted, or if already accepted, must be terminated as a matter of law.

Second, law enforcement officials at the police and prosecutor's office levels must restructure cyber law enforcement mechanisms by prioritizing the resolution of expression disputes through measurable, objective, and transparent restorative justice channels. Mediation, public clarification, and digital apologies must be the first steps before an individual can be brought into the criminal justice system. Fourth, the government, together with academic institutions and civil society, needs

to collaboratively formulate objective parameters for non-material damages within civil law regarding digital defamation. These parameters are crucial to prevent stark disparities in rulings and to prevent the misuse of civil lawsuits for the purpose of intimidation. Fifth, efforts to strengthen the public's digital literacy must be vigorously and continuously promoted on a massive scale, so that freedom of expression can be exercised responsibly, while respecting the rights of others, prioritizing objective truth, and not disregarding the ethical, religious, and decency norms that are deeply rooted in Indonesia's diverse society..

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DISPARITY IN AUTHORITY AND EFFECTIVENESS OF OMBUDSMAN'S  
RECOMMENDATIONS IN PREVENTING MALADMINISTRATION