

The Objectiveness of The Alleged Victims as A Parameter for Law Enforcement in A Defamation Case

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ABSTRACT

Activities in the complaints form from victims who feel libel by others have increased and occurred at all levels of the police in Indonesia. Everyone can feel offended by different insults, so the law enforcement of criminal offenses based on Article 310 paragraph (3) of the Criminal Code requires objectivity to accusations of defamation. The research points to a detriment as the basis for defamation, it is the concrete form of this detrimental requires further study as a manifestation of the substitute for defamation in the public interest. This article aims to validate the objectivity of the victim's alleged insult and defamation allegations. Article uses normative research type and conceptual approach with qualitative analysis. The defamation case regarding the meaning of the public interest. Justice is a baseline with the realization in concrete situations. The interest form of the community through the property by demanding actions that are proportional, appropriate, balanced, and in harmony with the rights of everyone. An emphasis on values prevailing in society (morals and customs). There are direct interests that are primarily economic. Then, the basis for filing a victim's complaint requires concrete evidence of the consequences of the

alleged defamation, namely losses. Calculation of Losses. The specific requirement is that material or immaterial loss arise during the pre-contractual, contractual, and post-contractual periods. The complainant or victim must show the contract between the complainant and the offender.

Keywords: Public Interest; The Accusation of Defamation; The Objectivity of The Alleged

I. INTRODUCTION

Until now, Defamation has been a broad theme and has increased rapidly since the development of information and technology. Defamation has become research from UNI EROPA dan Balkan countries with compares and analyzes the different approaches, sanctions, and consequences of defamation.¹ Humiliation is not limited to personnel issues; budget and accounting procedures permit humiliation to be produced.² Law enforcers and the Indonesian people experience different interpretations of the element of defamation regarding the meaning of the public interest. Indonesia does not have specific standards or rules to determine cases categorized as the public interest.³ The complexity of defamation in Indonesia through its legal dimensions from a linguistic perspective based on the defendant turned out to be the target of victimization in producing court verdicts. The law should place all subjects equally before delivering such consequential decisions.⁴ One of the results of that study is the cognitive process underlying the effect that these two factors had on humiliation: hostility triggered humiliation via the appraisal of injustice, whereas high status triggered humiliation via the appraisal of internalizing a devaluation of the self.⁵

¹ Spaic, A., et al. "Decriminalization of defamation – The Balkans case a temporary remedy or a long term solution?" *International Journal of Law, Crime and Justice*, Vol. 47, 2016, pp. 21–30, <https://doi.org/10.1016/j.ijlcj.2016.05.002>.

² Czarniawska, B. "Humiliation: A standard organizational product?" *Critical Perspectives on Accounting*, Vol. 19, No. 7, 2018, pp. 1034–1053, <https://doi.org/10.1016/j.cpa.2007.01.004>.

³ Ezekiel, K. "Our Right to Share, Their Right to Know: An Analysis of Public Interest Defense to Defamation." *Lentera Hukum*, Vol. 8, No. 2, 2021, pp. 241, <https://doi.org/10.19184/ejrh.v8i2.23833>.

⁴ Zifana, M., et al. "The portrayal of defamation case defendant in court verdict." *Indonesian Journal of Applied Linguistics*, Vol. 11, No. 1, 2021, pp. 94–103, <https://doi.org/10.17509/ijal.v11i1.34672>.

⁵ Fernández, S., et al. "Understanding the role of the perpetrator in triggering humiliation: The effects of

The data shows that the phrase is always considered a threat by some community members in carrying out their daily activities, especially in this era of globalization, is "insult". Insults declared as a violation of the implementation of Article 28 G paragraph (1) of the Constitution of the Republic of Indonesia (UUD 1945) is "everyone has the right to personal protection of family, honor, dignity, and property brought by his authority. It has the right to feel security and protection from the threat of fear to do or not do something, which is a human right". The conclusion is that the public has the right to defend their human rights based on public interest, including the offender of the alleged insult. The offender's status was obtained after being a victim of the problems was facing.

Public complaints regarding insults have increased. The number of defamation cases indicates that until January 19, 2021, the police of the Republic of Indonesia took action on 118 cases of defamation, so there is an increase in the number of defamation cases by approximately 37 percent. Since the beginning of 2022, the National Police have taken action against 162 issues, including defamation, through electronic media. In 2021, as many as 23 Regional Police will take action on defamation cases. In 2022, there will be 27 Regional Police taking action.⁶

Defamation is regulated in Article 310 of Law number 1 Year 1946 concerning Indonesian criminal law regulations, the Criminal Code (KUHP).⁷ Article 310 paragraph (1) states that "whoever intentionally attacks the honor or someone by accusing something, the intention is transparent so that it is known to the public, is threatened with defamation, and also in Article 27 paragraph (1) of Law Number 11 Year 2008 concerning Electronic Information and Transactions (ITE) that "Everyone intentionally and without rights distributes and/or transmits and/or makes accessible electronic information and/or electronic documents that contain insults and/or defamation.

hostility and status." *Journal of Experimental Social Psychology*, Vol. 76, 2018, pp. 1–11, <https://doi.org/10.1016/j.jesp.2017.12.001>.

⁶ Pusiknas Bareskrim Polri. "Kasus Pencemaran Nama Baik Meningkat." *Pusiknas.polri.go.id*, https://pusiknas.polri.go.id/detail_artikel/kasus_pencemaran_nama_baik_meningkat, accessed on 13 November 2022.

⁷ Banjarani, Desia Rakhma, et al. "Insult in National Criminal Law and Islamic Criminal Law: Sanctions Perspective and Legal Developments Review." *Ius Ponale*, Vol. 4, No. 1, 2023, pp. 1-12, <https://doi.org/10.25041/ip.v4i1.2867>.

Article 310, paragraph (3) stated, "it is not an insult or written insult if the act is implemented in the public interest or because it is forced to defend oneself. The article contains a reason for eliminating particular crimes,⁸ namely the reasons for removing criminals, which only apply to certain offenses. The offender who fulfills the offense element is considered. Still, some exceptions are explicitly formulated in formulating the crime so there is no criminal prosecution against the perpetrator. Based on the construction of the article, there is a reason for the abolition of a particular crime if it is in the public interest or for self-defense, namely the element against the law of action as contained in Article 310 paragraph (1) and paragraph (2) is removed, so that the provision in paragraph (3) is a justification.

The offender of defamation can make a reason to act in the public interest so they are not threatened. This is the basis of justification in the law. Insults in the public interest. In the public interest, if it is indeed his job, the judge must check whether he is acting in the claim or because he is forced to defend himself.⁹

Amir Syamsuddin concluded that the basis for justification is in the public interest for this alleged insult to the press, so it cannot be translated that Article 310 is a press offense. Anyone can make accusations of insulting people. The press can be related to Article 310 because there is a written element. However, in writing, the media still gives protection against what is written even though all details are proven, such as intentionally defaming people and violating people's honor.¹⁰

It also fulfills almost the same characteristics as the case that befell Brother Haris Azhar. In an article.¹¹ Haris admitted to meeting the death row inmate Freddy Budiman at the Nusakambangan Prison in 2014, mentioning the alleged involvement of elements of the TNI, BNN, Polri, and Customs officers in drug trafficking. There are reports from the National Police, BNN and TNI regarding the writings of the NGO Coordinator of KontraS, Haris Azhar, which revealed information from the death row inmate Freddy

⁸ Hiariej., E. O. *Prinsip-Prinsip Hukum Pidana*. Yogyakarta, Universitas Atmajaya, 2016, p. 37.

⁹ Hamzah., A. *Delik-Delik Tertentu di Dalam KUHP*. Jakarta, Sinar Grafika, 2015, p. 81.

¹⁰ Syamsudin, Amir. *Tinjauan Yuridis Konsep 'Kepentingan Umum' Menurut Pasal 310 Ayat (3) Kitab Undang-Undang Hukum Pidana (KUHP) di Indonesia Sebagai Alasan Penghapusan Pidana (Straffuitsluitingsgrond)*. Dissertation Faculty of Law University of Indonesia Depok, 2018, p. 103.

¹¹ Lestari, Sri. "Polisi Diminta Cermat Tangani Kasus Haris Azhar." *BBC News Indonesia*, 4 Agustus 2016, http://www.bbc.com/indonesia/berita_indonesia/2016/08/160803_indonesia_narkoba, accessed on 13 November 2022.

Budiman about drug trafficking. Hariz Azhar's status as a competitor was based on the reason that there was slander or insult from what was conveyed.

Some people only know that the exception to this alleged insult is in the public interest. The public interest is based solely on the state's and society's interests, leading to the legal goal of achieving justice. Meanwhile, justice is only an abstract form that only exists in the imagination. In the end, the community illustrates that justice is only based on written legal norms plus the interpretation of law enforcement. Even though this requires a concrete manifestation of the community's interests, it reflects the state's interests.

The second problem is related to increased complaints from victims who feel tainted and threatened with defamation. Then the victim went to investigators throughout Indonesia, including the Resort Police (Polres), sector police (Polsek) and Regional Police (Polda), and even the Indonesian National Police (Polri).

Safenet noted that from 2008 to December 15, 2016, the number of verified case reports of the ITE Law reached 177 cases. Most complainants came from authorities, business people, and professionals, accounting for more than 60 percent of the complaints. Meanwhile, the number of ordinary citizens who reported cases of the ITE Law was only 18 percent.¹² Meanwhile, two variables who wrote insults online were later charged with the ITE Law. First, the reporter is aware of the law. Second, the reporter feels he has self-respect. The problem is in fortifying people who work in the public sector. For example, public officials are officials in ministries.¹³ Defamation is an important point when it comes to politics in a country's corruption.¹⁴

The victim only complains based on the sentence conveyed or written by the offender without having any basis or evidence that it damages their honor. It is important to be researched to assist in providing information to the public and law

¹² Wardani, Agustin Setyo. "Dianggap "Baper", Penguasa Jadi Pelapor Kasus UU ITE Terbanyak." *Liputan6*, 18 Desember 2016, <https://www.liputan6.com/teknoread/2690431/dianggap-baper-penguasa-jadi-pelapor-kasus-uu-ite-terbanyak>, accessed on 14 November 2022.

¹³ Amin, Al. "Pejabat Publik, Pelapor Terbanyak Pencemaran Nama Baik UU ITE." *Merdeka.Com*, 31 Agustus 2014, <https://www.merdeka.com/peristiwa/pejabat-publik-pelapor-terbanyak-pencemaran-nama-baik-uu-ite.html>, accessed on 15 November 2022.

¹⁴ Garoupa, N. "The economics of political dishonesty and defamation." *International Review of Law and Economics*, Vol. 19, No. 2, 1999, pp. 167–180. [https://doi.org/10.1016/S0144-8188\(99\)00003-4](https://doi.org/10.1016/S0144-8188(99)00003-4).

enforcers in selecting and sorting in following up on allegations of defamation reported by victims. The study aimed to validate the objectivity of the victim's accusations of alleged insult and concrete manifestation of the public interest.

One way to find a solution to the problem of determining the standard of insult is to find the root of the problem. First it is about the standard of public interest, and second, it is about the standard of victim complaint regarding defamation. In the last two studies, one of the causes of contempt is agency-affected humiliation, in particular, more than shame or anger.¹⁵ Evidence exists that most online reviews of physicians are positive, and having negative reviews is not wholly detrimental to a practice.¹⁶ The research points to a detriment as the basis for defamation. The concrete form of this detrimental requires further study as a manifestation of the substitute for defamation in the public interest.

This type of research is normative juridical with an approach that refers to the applicable laws and regulations,¹⁷ which refers to written legal norms, both as outlined in the form of regulations and in the form of literature.¹⁸ Collecting data with literature study in the form of secondary data as the primary material to be researched by searching for rules and other kinds of literature related to the problems studied.¹⁹ It is a normative legal research using primary and secondary materials.²⁰ Legal research uses a statutory approach and the concept of criminal law. It is the current legislation from the Constitution, laws to regulations under the law. Primary legal materials are laws and regulations and legal concepts, such as the concept of victims, public interest, and loss. While secondary legal materials are data from complainants submitted to the East Java Regional Police. Data collection is done by literature study, namely by compiling

¹⁵ Fernández, S., et al. "The protective effect of agency on victims of humiliation." *Journal of Experimental Social Psychology*, Vol. 102, 2022, pp. 1-11, <https://doi.org/10.1016/j.jesp.2022.104375>

¹⁶ Moutos, C. P., et al. "Principles of Online Defamation for Physicians." *Fertility and Sterility*, Vol. 114, No. 3, 2020, p. e413, <https://doi.org/10.1016/j.fertnstert.2020.08.1204>

¹⁷ Sunggono, Bambang. *Metodologi Penelitian Hukum*. Jakarta, Raja Grafindo, 2003, p. 39.

¹⁸ Indriati, Ervina Dwi, et al. "Philosophy of Law and the Development of Law as a Normative Legal Science." *International Journal of Educational Research & Social Sciences*, Vol. 3, No. 1, 2022, pp. 314-321, <https://doi.org/10.51601/ijersc.v3i1.293>.

¹⁹ Soekanto, Soerjono and Sri Mamudji. *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: Raja Grafindo Persada, 2001, p. 2.

²⁰ Latifah, Emmy and Moch Najib Imanullah. "The Roles of International Law and Technology Advances." *Brawijaya Law Journal*, Vol. 5, No. 1, 2018, pp. 102-116, <https://doi.org/10.21776/ub.blj.2018.005.01.07>.

relevant laws and concepts (archival or qualitative documents)²¹ and then the data is analyzed descriptively and qualitatively.

II. DISCUSSION

Article 35 letter of The Law Number 16 Year 2004 concerning the Prosecutor's Office states that the Attorney General has the authority to set aside cases in the public interest. The explanation of Article 35 states that the public interest is the national interest, the state, and/or the wider community's interests, so in principle, the public interest is in the interest of state institutions or at least voices the interests of the wider community. Meanwhile, it is meant by "public interest" in the deponeran case, the guidelines for the implementation of the Criminal Procedure Code (referred to as the Criminal Procedure Code) provide the following explanation: "Thus, the public interest criteria in applying the principle of opportunity in our country is based on the state and society interests and not for the community interest".

Huijbers²² is the interest of society as a whole which has specific characteristics, among others, concerning all public facilities for the passage of civilized life. The public interest is stated in the sense of "its designation," namely the nation and the state interest, the common interests of the people, and the development interests. Presidential Instruction Number 9 Year 1973 concerning the Implementation of Revocation of Rights to Land and Objects on It that the interests of in general, it is defined as an activity involving four interests: the interest of the nation and the state, the wider community, the common interest, and the interest in development.

Presidential Decree of the Republic of Indonesia Number 55 Year 1993 concerning Land Procurement for the Implementation of Development in the Public Interest has provided clarification and A firm definition of the public interest, namely the entire community. The owner of the development activities implemented is the government and uses it for profit. Meanwhile, Presidential Regulation Number 36 Year

²¹ Dewi, I Gusti Ayu Agung Omika. "Understanding Data Collection Methods in Qualitative Research: The Perspective of Interpretive Accounting Research." *Journal of Tourism Economics and Policy*, Vol. 1, No. 1, 2021, pp. 23-34, <https://doi.org/10.38142/jtep.v1i1.102>.

²² Huijbers., T. *Filsafat Hukum Dalam Lintasan Sejarah*. Yogyakarta: Kanisius. 1982, p. 45.

2005 in conjunction with Presidential Regulation Number 65 Year 2006 concerning Amendments to Presidential Regulation Number 36 Year 2005 concerning Land Procurement for the Implementation of Development in the Public Interest, what is meant by public interest is the interest of most levels of society. The conclusion is that based on the public interest.

The concrete form of the interests of the wider community needs to be regulated, so it must be returned to the goals and ideals of law. According to Aristoteles, the legal purpose is to achieve a better life and not to discuss an order. Order is not a problem in social life, but whether or not the allocation of interests is fair in social life. Thomas Aquinas perfected that an adequate legal duty is written in the hearts and wills of the people because humans are rational creatures. Reason has the power to move the will. The purpose of law or legal ideals is none other than justice. The act of making the right choice of alternative reflects moral nobility. There are several noble morals: courage, self-restraint, justice and prudence, and human knowledge of natural and moral law.²³

Meaning of public interest There are five categories of public interest, namely individualistic standard: Bentham's aggregation of individual interests. Ideal communitarian standard: Rousseau's general will deliberate communitarian standard. public interest as constitutional politics, unitary conceptions: alignment of individual and public interest, and Rawlsian necessities in a Burkean perspective: objectifying the actual interest.²⁴ The resume of that concept is the public interest as only an abstract term; that only represents the aggregate of individual interests, based on the thought of someone who firmly believed the "interests of individuals to be the only real interests. The public interest would mean what is suitable for the whole people. In a democratic society, this would mean what is suitable for everyone. The drawbacks of conceptualizing the public interest as a general public interest are to be area specific (allowing for many public interests), particular to a given political community, and open to change. The individual interest is aligned with the public interest. Depending on the contingencies of actual necessities, be available to the objectifying assessment of those

²³ Marzuki, P. M. *Pengantar Ilmu Hukum*. Jakarta: Kencana Prenada Media Group, 2008, p. 41.

²⁴ Bezemek, Christoph and Tomas Dumbrovský. *The Concept of Public Interest, Graz Law Working Paper No 01*. Austria, Faculty of Law University of Graz, 2020, pp. 3-8.

possessing superior knowledge and judgment. The public interest would unfold as the interest to be considered a cherished and respected part of a valuable whole.

Justice must be realized in a concrete situation, namely in allocating the community's interests through appropriateness. Community interests can be seen in discussing the types and forms of interest.²⁵ First, there are direct interests that are primarily economic. Other interests tend to be indirect. Other interests are referred to as reform interests. A reformer devotes his energies to an issue with which he is not personally concerned.

Fairness can be equated with fairness. The term fairness sometimes parallels justice. The fairness indicator is based on the reasons for not acting arbitrarily or misbehaving.²⁶ The principles of justice and fairness require actions that are proportional, appropriate, balanced, and in harmony with the rights of every person. The principle of fairness emphasizes that every government activity pays attention to the values that apply in the community, whether related to morals or customs.²⁷ Defamation needs fairness to show the public interest.

Insults can be made verbally (Article 310 paragraph [1] of the Criminal Code) or in writing or pictures (Article 310 paragraph [2] of the Criminal Code). Suppose the implementation of insult is verbal, according to R. Soesilo.²⁸ In that case, punishment must be done via accusing someone of having committed a specific act with the intention that the accusation will be broadcast (known to many people), and there are no provisions. It states that documentary evidence is required to prove verbal insults, but what is essential in making the accusation in front of a large crowd. In abuses with writing, the media is used in writing (letters) or pictures.

According to Article 39 paragraph (1) KUHAP, evidence is the object of a suspect or defendant wholly or partly. It is suspected to have been obtained from a criminal act or as a criminal act result. Using things is direct to commit a crime or to prepare it,

²⁵ Friedman, L. M. *Sistem Hukum: Perspektif Ilmu Sosial*. Bandung, Nusa Media, 2011, p. 197.

²⁶ Marbun, SF and Mahfud MD. *Pokok-Pokok Hukum Administrasi Negara*. Yogyakarta, Liberty, 2009, p. 71.

²⁷ Hadjon, Philipus M. *Pengantar Hukum Administrasi Negara*. Yogyakarta, Gajah Mada University Press, 2008, p. 279.

²⁸ Soesilo, R. *Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal*. Bogor, Politeia, 2013, p. 67.

objects used to prevent - hinder the investigation of criminal acts, objects specifically made or intended to commit criminal acts, and other things that have a direct relationship with the crime committed. Valid evidence (Article 184 paragraph [1] KUHAP) is expert testimony; letter, instruction; or the defendant's statement. Evidence from victims of defamation can lead to witness evidence or leads. That rule becomes more difficult to apply in cases where a justification defense fails but the defendant seeks to lead evidence about conduct similar to the execute that established the foundation of a justification defense, i.e. proof that in part defends the defamatory claims but is not relevant to a defense.

Insults the verbal responses toward insults and the language,²⁹ or implemented features verbally. Witness statements have value as evidence meets the criteria for witness testimony in Article 1 Number 27 Year the Criminal Procedure Code, namely what the witness saw for himself; witnesses hear themselves; and natural witnesses themselves; and by stating the reasons for their knowledge. Two pieces of evidence stated in Article 183 KUHAP that a judge might not impose a sentence on a person unless, with at least two valid pieces of evidence, he obtains the belief that a criminal act has occurred and that the defendant is guilty of committing it.

The testimony witness has value as evidence that meets the criteria for witness testimony as contained in Article 1 Number 27 of the Criminal Procedure Code, namely insults by using the letter as evidence, namely using objects is direct to commit a crime or to prepare for it.

The above is only on a positivistic basis, and it is not to refute legal positivism.³⁰ It is mainly based on abstract rules, so it requires specific and concrete things as a basis for proof after the commitment of an alleged written, or verbal insult is for the perpetrator. Therefore, the victim must provide data or information showing an attack on honor, and the connection of losses proves it due to the insult, although the notion of

²⁹ Muflihatunnisa, M. "Verbal Responses toward Insults in the Celebrity Read Mean Tweets Segment." *Indonesian Journal of English Language Studies (IJELS)*, Vol. 9, No. 1, 2023, pp. 39–52, <https://doi.org/10.24071/ijels.v9i1.5914>.

³⁰ Raz, J. *The Argument from Justice, or How Not to Reply to Legal Positivism. Law, Rights and Discourse : The Legal Philosophy of Robert Alexy*. United Kingdom, Hart Publishing, 2017, pp. 17-36.

participating in a retraumatizing, expensive, time consuming, and hostile legal process is chilling and upsetting.³¹

These contempt offenses are a punishment if proof of prohibited consequences is not in court. The restricted results can be in the form of material losses or non-material losses, and both types of losses need assessment or measuring.³² Proving harm is a result of the act of defamation. Other aspects that need to be verified are "attacking" and "honor". These two elements become difficult to prove because the intended attack is not attacking with weapons but with words or writing.

Another indicator is the judge, who determines the insult's severity based on the perpetrator's rank, position, and ability.³³ The difficulty requires indicators that the defamation alleged names something objective. The difficulty requires indicators that the defamation alleged names something objective. The following categories of victims of alleged insults on the internet: complainants who are aware of the law and feel self-respect. Data on the three most complainants are from public officials, then individuals. The submission of evidence to a public official has been insulted to show the allegations have caused the victim to suffer losses in the demotion form or position or receive punishment from their agency.

Information from the complainant to the East Java Regional Police (November 2020) was about a narrative on a Google review³⁴ regarding satisfaction with apartment services in Surabaya. The complainant said that one of the users complained about the service, resulting in dissatisfaction with the apartment service.

³¹ Harsey, S. J., and J. J. Freyd. "Defamation and DARVO." *Journal of Trauma and Dissociation*, Vol. 23, No. 5, 2022, pp. 481–489, <https://doi.org/10.1080/15299732.2022.2111510>.

³² Sofian, A. "Tafsir Pasal Pencemaran Nama Baik." *Binus University Business Law*, April 2017, <https://business-law.binus.ac.id/2017/12/28/tafsir-pasal-pencemaran-nama-baik/v>, accessed on 14 November 2022.

³³ Petroneus. *Gugatan Ganti Rugi Perbuatan Melawan Hukum Atas Dasar Pencemaran Oleh Pers Di Indonesia (Studi Kasus Putusan Mahkamah Agung Atas Gugatan Soeharto Melawan Majalah Time, Tomy Winata Melawan Koran Tempo Dan Djokosoetono Melawan Majalah Selecta)*. Fakultas Hukum Universitas Brawijaya, Malang, 2013, p. 77.

³⁴ Douglas, B. M. "Suing Google, Facebook or Twitter for Defamation." *Communications Law Bulletin*, Vol. 40, No. 2, 2021, pp. 53-57, https://www.researchgate.net/publication/353036640_'Suing_Google_Facebook_or_Twitter_for_Defamation'_2021_402_Communications_Law_Bulletin_53.

The case analysis relates to the elements of the bestandle delict or the core of the offense in defamation. Criminal law contains elements of legality (Enlightenment doctrine that exalts the protection of people from abuse of power³⁵ and elements of *lex scripta, certa, and stricta*. *Lex scripta*, namely that legality relies on written law or written laws of authoritative origin. Everyone can only be criminally prosecuted for their actions if there is first a formulation of legislation that states such actions as a criminal offense in Article 310 of the Criminal Code. It is manageable. The concept of *lex certa* emphasizes the importance of certainty as an initial legal objective before discussing the values of justice and expediency. It is also not part of the discussion or closely to define criminal offences.³⁶

The last concept is *lex stricta*, which means that the written law must be interpreted rigidly, not to be expanded to the detriment of the perpetrator. The concept of *lex stricta* on defamation requires a complete discussion to digest that not all allegations of defamation deserve to be followed up by the police apparatus.

In previous research, the loss of the complainant or victim is to prove the loss of defamation from the perpetrator, for to prove the existence of criminal defamation, if you already have legal force that is still new to file a claim for compensation, based on article 1365 of the Civil Code.³⁷ Based on the nature of compensation (*dhaman*) from the perspective of sharia economic law and Indonesian civil law. Any compensation for losses, whether material or immaterial, is always summed up in money. The nature of compensation in sharia economic law does not mention what must be replaced. It could be money or service.³⁸ The specific requirement is that material or immaterial loss arise during the pre-contractual, contractual, and post-contractual periods.

³⁵ Chuasanga, A. and Ong Argo Victoria. "Legal Principles Under Criminal Law in Indonesia dan Thailand." *Jurnal Daulat Hukum*, Vol. 2, No. 1, 2019, pp. 131-138, <https://doi.org/10.30659/jdh.v2i1.4218>.

³⁶ Claes, E. and Michal Krolikowski. "The limits of legality in the criminal law." *Facing the Limits of the Law*, Vol. 35, No. 3, 2009, pp. 89–107, https://doi.org/10.1007/978-3-540-79856-9_6.

³⁷ Erowati, E. M. "Compensation of defamation in Indonesia." *3rd International Conference on Globalization of Law and Local Wisdom*, Vol. 358, 2019, pp. 335–338, <https://doi.org/10.2991/icglow-19.2019.82>.

³⁸ Firmanda, H. "Hakikat Ganti Rugi Dalam Perspektif Hukum Ekonomi Syariah dan Hukum Perdata Indonesia." *Jurnal Hukum Respublica*, Vol. 16, No. 2, 2017, pp. 236–251, <https://doi.org/10.31849/respublica.v16i2.1438>.

In this case, defamation is an act that may or may not be included in the contract, so the perpetrator and victim do not require a rigid clause in the contract. Losses due to defamation are very detailed and specific. The complainant or victim must show the contract between the complainant and the offender. If there is no previous contract, then the complainant must be able to prove the material and immaterial losses with other things.

III. CONCLUSION

The defamation case with the first parameter regarding the meaning of the public interest. Justice is a baseline with the realization in concrete situations. The interest form the community through the property by demanding actions that are proportional, appropriate, balanced, and in harmony with the rights of everyone. An emphasis on values prevailing in society (morals and customs). There are direct interests that are primarily economic. The second, the basis for filing a victim's complaint requires concrete evidence of the consequences of the alleged defamation, namely losses. Calculation of Losses. The specific requirement is that material or immaterial loss arise during the pre-contractual, contractual, and post-contractual periods. The complainant or victim must show the contract between the complainant and the offender. The meaning of the public interest. Justice is abstract and can only be perceived using morals and customs, and it depends on society itself. The indicator of material and immaterial loss due to defamation depends on the contract's substance as the basis for calculating the victim in supporting legal certainty.

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