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Sanctions Against Perpetrators of Defamation In Law Number 1 of 2023 Concerning Criminal Law Regulations

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Abstract: This study aims to determine the sanctions for perpetrators of criminal defamation in Law Number 1 of 2023 concerning Criminal Law Regulations. The Criminal Code (KUHP) regulates the protection of a person's honor and good name through provisions regarding the crime of defamation. These provisions aim to prevent and prosecute acts that attack an individual's reputation or dignity in society. Through existing criminal provisions, the KUHP provides legal guarantees for everyone to ensure that their honor and good name are protected. The research specification is descriptive analytical, with a normative juridical approach method, namely a legal research method that analyzes the principles, rules, and norms of laws and regulations, agreements, and legal doctrine. The type of data used is secondary data. The results of the study indicate that the crime of defamation is an act that attacks a person's honor or reputation by accusing something that can be known to the wider community, thus causing moral and social harm to the victim. In the Indonesian criminal law system, defamation was previously regulated in Articles 310-321 of the old Criminal Code and was later updated in the new Criminal Code through Law Number 1 of 2023. In the new Criminal Code, these provisions are regulated, among others, in Article 433 and other related articles, covering various forms of insult, slander, false accusations, and false accusations, which carry the threat of criminal sanctions in the form of imprisonment or fines. This regulation demonstrates that Indonesian criminal law continues to protect the honor and good name of individuals as part of personal rights that must be upheld in social life.

Keywords: Sanctions, Criminal Acts, Defamation, Good Name

INTRODUCTION

Protection of honor and property are two pillars that have long been the fundamental objectives of criminal law. Honor is viewed as an aspect of personal dignity, while property is an object of ownership that must be protected for the sake of economic order. In traditional contexts, offenses that attack these two domains, such as defamation, slander, fraud, and theft, are formulated in the Criminal Code to accommodate conventional methods of

assaulting honor and confiscating tangible property (Suci, Salsabila, and Alfiansyah Anwar, 2025:60).

The enactment of Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code) marks a new chapter in the reform of Indonesian criminal law, which is based on three main pillars: criminal acts, criminal responsibility, and punishment. This legal product is the result of a long process since 1963, reflecting the state's commitment to formulating criminal law that is just and in harmony with the socio-cultural values of Indonesian society. The new paradigm of the National Criminal Code shifts from a classical orientation emphasizing retribution (*lex talionis*) to a modern approach focusing on corrective, restorative, and rehabilitative justice. Nevertheless, the long journey of its formulation still leaves room for criticism and refinement, particularly in criminal provisions closely related to human rights principles (Bagaz Zubaba, 2025:83).

One of the acts regulated in the 2023 Criminal Code is the crime of defamation. In addition to being regulated in the Criminal Code, the crime of defamation has also developed in various other laws and regulations related to the use of information technology, particularly the Electronic Information and Transactions Law. The development of information and communications technology has changed the way people express opinions, information, and criticism through various digital platforms such as social media, online forums, and communication applications. This situation has increased the potential for defamation because information can spread very quickly and reach a wider audience. Therefore, the regulation of defamation in the National Criminal Code is relevant to provide legal certainty in facing the dynamics of modern communication.

On the other hand, the regulation of the crime of defamation often generates debate from a legal and human rights perspective. Some argue that this offense has the potential to limit freedom of expression, especially when used in the context of criticism of certain parties, including public officials. However, others emphasize that protecting an individual's honor and reputation is an essential part of human rights protection that cannot be ignored. Thus, criminal law faces the challenge of balancing two equally important interests: protecting a person's good name and guaranteeing freedom of expression in a democratic society.

Based on this, the regulation of the crime of defamation in the 2023 Criminal Code must be understood as the state's effort to strike a balance between protecting individual rights and the public interest. The formulation of norms contained in the National Criminal Code is expected to provide clear boundaries regarding acts that can be categorized as defamation, while simultaneously preventing the misuse of criminal law. Thus, these provisions serve not only as a means of law enforcement but also as an instrument for maintaining ethical communication, protecting individual dignity, and creating order in society.

RESEARCH METHOD

The research specification is descriptive analytical, using a normative juridical approach, namely a legal research method that analyzes the principles, rules, and norms of laws and regulations, agreements, and legal doctrine. The type of data used is secondary data. Secondary data was obtained through document studies. The data obtained was then analyzed qualitatively.

DISCUSSION

Regulation of the Criminal Act of Defamation in Law Number 1 of 2023 concerning Criminal Law Regulations

Defamation is the act of harming a person's reputation by making false statements to others and proving false statements made by the defendant. In common law countries, the term defamation is used when the statement, lie, or defamation is made directly. Conversely, written or illustrated errors, lies, and defamation are considered defamation. Defamation in countries that accept unfounded criticism. Criminal acts that include defamation. Slander, slander, or libel are other terms used to defame a reputation in some countries. Consequently, the disclosure of private information that is not known to the public and the dissemination of information that could harm others are three positive issues (Gilang Rizky Ramadhan, et al, 2025:53).

The criminal law currently in force in Indonesia still refers to the Criminal Code (KUHP), which is a translation of the WvSNI (Wetboek van Strafrecht voor Nederlandsch-Indië). The legal basis for its validity to date rests on Article II of the Transitional Provisions of the 1945 Constitution and was reinforced by Law Number 1 of 1946. However, on January 2, 2023, the President of the Republic of Indonesia enacted Law Number 1 of 2023 concerning the Criminal Code. This indicates that the colonial-era Criminal Code will gradually be replaced by a new national criminal law system. The enactment of this law represents an important step taken by the Indonesian government in establishing a codified national criminal law that is rooted in the values and legal needs of Indonesian society and no longer relies on the legal system inherited from colonial times.

The enactment of the 2023 Criminal Code was also influenced by the rapid and dynamic developments in society, which have given rise to various new social issues that demand a more comprehensive and complex criminal law response. If criminal law is based solely on old concepts, principles, and theories developed to address past social phenomena, it has the potential to lose relevance and fail to provide optimal benefits to society. In fact, criminal law can lag behind the dynamics of current social change which requires more adequate and responsive criminal law regulations.

The enactment of Law Number 1 of 2023 marks a significant milestone in the decolonization of criminal law and reflects Indonesia's national legal sovereignty. This codification of criminal law is based on the values of Pancasila and modern criminal law thinking, emphasizing the balance between legal certainty, justice, and expediency. Within this framework, the paradigm of punishment is no longer solely oriented toward retribution, but also directed toward crime prevention, perpetrator development, conflict resolution, social balance restoration, and community protection.

Thus, criminal law is viewed not merely as a repressive tool of the state but also as a means to maintain social order and harmony in community life. This law also strengthens the application of restorative justice, recognizes the existence of living law within society, and affirms the principle of *ultimum remedium* in criminal law enforcement. This reformulation makes national criminal law more adaptive to social developments and more suited to the needs of Indonesian society. The transition period until 2026 demonstrates that changes to the legal system require not only normative reforms but also the readiness of law enforcement officials and adequate public understanding. Therefore, the transition from the colonial Criminal Code to Law Number 1 of 2023 is not merely a change in regulatory text, but also reflects a philosophical and sociological transformation towards a national criminal law system that is sovereign, just, and in harmony with the character and values of the Indonesian nation.

Defamation in the old Criminal Code is regulated in Articles 310-321 of the Criminal Code. According to R. Susilo in his book entitled "Kitab Undang-Undang Hukum Pidana

(KUHP)" and its complete explanation in each article (p. 255) in Article 310, Susilo explains that insulting means "attacking someone's honor and good name. The impact on the victim is usually feeling embarrassed. The honor attacked here only concerns honor regarding good name, not honor in sexual form. 1 This defamation is regulated in Chapter 16 of the Criminal Code which is regulated in Articles 310 to 321, according to R. Soesilo's explanation there are six forms of defamation (R. Soesilo, 1985:342):

1. Defamation as regulated in Article 310 paragraph (1) of the Criminal Code.
2. Defamation by letter as regulated in Article 310 paragraph (2) of the Criminal Code.
3. Slander as regulated in Article 311 of the Criminal Code.
4. Minor insult as regulated in Article 315 of the Criminal Code.
5. False or defamatory complaints (Article 317 of the Criminal Code).
6. Slander (Article 318 of the Criminal Code)

In addition to being regulated in the Criminal Code, provisions regarding defamation are also contained in specific legislation, one of which is Article 27 paragraph (3) of the Electronic Information and Transactions (ITE) Law. This regulation is intended to accommodate developments in digital communications technology and the widespread dissemination of information through social media. This provision emphasizes that the crime of defamation is a complaint-based offense, meaning legal proceedings can only be initiated upon a report from the aggrieved party. The complaint-based approach demonstrates that defamation is not automatically processed by the state without the victim's consent.

Thus, protection of honor and reputation places greater emphasis on the personal rights of individuals who feel aggrieved. Furthermore, the existence of criminal provisions regarding defamation and defamation is also maintained on the grounds that without criminal regulations, it would be difficult to provide legal certainty, present strong evidence, and enforce firm legal action against acts that significantly damage a person's reputation in society, particularly in the digital era, which allows for the rapid spread of negative information without adequate verification (Adami Chazawi, 2002:65).

In the new Criminal Code, specifically Article 433 of Law Number 1 of 2023, the crime of defamation is expressly defined as an act that intentionally attacks a person's honor or reputation.

Article 433 of the Criminal Code states that:

- 1) Any person who verbally attacks the honor or good name of another person by making an accusation, with the intention of making the matter public, shall be punished for defamation, with a maximum imprisonment of 9 (nine) months or a maximum fine of category II.
- 2) If the act referred to in paragraph (1) is committed in writing or images that are broadcast, displayed, or posted in a public place, the perpetrator shall be punished for defamation, with a maximum imprisonment of 1 (one) year and 6 (six) months or a maximum fine of category III.
- 3) The acts referred to in paragraphs (1) and (2) shall not be punished if they are committed in the public interest or because of necessity in self-defense.

Article 433 of the Criminal Code is the legal basis governing the crime of defamation, which focuses on protecting individual honor as a fundamental human right. Honor and reputation, in this context, encompass social assessments of a person, including morals, integrity, and reputation within society. Therefore, this article serves as an instrument to maintain a balance between freedom of speech and the protection of human dignity.

The element "every person" in this article demonstrates the universal nature of the legal subject. There are no specific restrictions, so anyone can commit this crime, whether an

ordinary individual or someone with a certain status. This element also indicates that criminal law applies generally and is non-discriminatory in its application.

The element "verbally attacking the honor or good name of another person" emphasizes the form of action in the form of verbal communication. This attack must have an impact on the victim's honor, namely, it must damage their image or reputation in the eyes of the public. The assessment of this element usually takes into account the context, the content of the statement, and how the public perceives the statement.

Furthermore, the element "accusing something" implies that the statement must be factual or appear to be factual. These accusations typically involve misconduct, violations of the law, or things that could damage a person's reputation. If the statement is merely an opinion or criticism without citing specific facts, this element can be disputed in the evidence.

The element "with the intent to make it public" is a crucial subjective element. This means that the perpetrator must have the intention to have the accusation widely disseminated. In practice, this element can be proven through the method of delivery, location, and number of people who can access the information. The wider the reach of the distribution, the stronger the indication of the intent to make it public.

In paragraph (2), written defamation expands the scope of the act to include written or graphic media. In the modern era, this can include digital media such as social media, blogs, or other online platforms. The element "broadcast, displayed, or posted in a public place" emphasizes that the information is publicly accessible, thus increasing the potential for harm to the victim. The difference in criminal penalties between paragraphs (1) and (2) reflects the seriousness of the act. Written defamation is considered more dangerous because it is permanent and can be easily re-disseminated. This has a broader and more lasting impact on the victim's reputation than verbal defamation.

Furthermore, it is important to understand that the truth of an accusation does not always negate its criminal nature. In some cases, even if the accusation is true, if it is conveyed in an unlawful manner and without a legitimate interest, it can still be considered defamation. Therefore, the context and purpose of the statement are crucial factors in the assessment.

Article (3) provides both limitations and protections for freedom of expression. Public interest serves as a justification for disclosing information that might harm another person's reputation, as long as it serves the common good. An example is exposing cases of corruption or violations of the law by public officials. In addition to public interest, self-defense is also recognized as an exception. In certain situations, an individual may need to disclose facts or allegations to protect themselves from attacks or false accusations. In these cases, the law provides space for individuals to defend their rights and honor.

In law enforcement practice, proving the elements of Article 433 is often complex. Judges must carefully assess whether all elements are met, including the perpetrator's intent, the truth of the accusation, and the context in which the statement was made. This is crucial to prevent the misuse of the defamation article as a tool to silence criticism.

Overall, Article 433 of the Criminal Code demonstrates an effort to maintain a balance between two important interests: protecting individual honor and freedom of expression. Therefore, a proper understanding of each element of this article is crucial to ensure its application does not conflict with the principles of justice and human rights.

This provision also emphasizes that defamation is a complaint-based offense, so criminal law enforcement can only commence upon a complaint from the aggrieved party. The structure of the offense retains the basic components recognized in criminal law doctrine: the act, the element of intent, and the protected legal object. However, the affirmation of the nature of the complaint-based offense demonstrates that the protected legal interest is personal, so law enforcement must be carried out proportionally and without excessive force.

The new Criminal Code essentially maintains the classical normative framework for regulating defamation offenses, while simultaneously adapting to social developments and advances in modern communications technology. In this context, the approach to criminalization is no longer solely oriented toward retaliation, but rather emphasizes the principle of *ultimum remedium*, which makes criminal law a last resort after other mechanisms have been ineffective. Therefore, criminalization is positioned as an instrument to protect victims, prevent similar violations, and restore the social balance disturbed by such acts. The position of the crime of defamation in the national criminal law system remains as an offense related to the protection of individual honor or dignity (P.A.F Lamintang, 1994: 34). Thus, the object of law protected is not directly public order, but rather the moral integrity and personal reputation of an individual in social life. Through the provisions in Article 433, there is an effort to create a balance between protecting the individual's right to honor and guaranteeing freedom of expression. This approach also shows that the provisions on defamation in the new Criminal Code are designed to align with the principles of human rights protection within the framework of the national criminal law system.

Forms and Criminal Sanctions Against Perpetrators of Criminal Acts of Defamation in Law Number 1 of 2023 concerning Criminal Law Regulations

Anyone who spreads false news about someone's shame or information containing elements of personal insults, accuses someone, and denigrates someone simply because they dislike them is committing a crime and can be categorized as defamation, as regulated by the Criminal Code.

The crime of defamation can be defined in several ways, namely:

1. The accusations made can be made through illustrations or specific images deliberately created to create a negative perception of someone.

These illustrations do not have to be real events, but can be fabrications or depictions that appear to show someone committing a particular act. In this context, the focus is not solely on the truth of the event, but rather on how the image shapes public opinion that is detrimental to the victim's honor. Furthermore, the use of images or illustrations in defamation is powerful because they are visual and easily understood by the general public.

The images displayed can create a strong impression and stick in the public's memory, thus making the impact on the victim's reputation more serious. Even if the image does not explicitly state an accusation, if it implicitly depicts someone committing a reprehensible act, it can still be categorized as defamation. Thus, the element emphasized is the attempt to lead public perception to a negative conclusion about the victim. Furthermore, in practice, the illustrations used are often accompanied by a narrative or context that reinforces the accusations against the victim.

This shows that defamation is not always committed directly, but can also involve symbols, metaphors, or visual representations with specific meanings. Therefore, assessing this form of defamation must be comprehensive, taking into account the entire context, including the perpetrator's intent and the impact on society.

2. Through written media.

In this case, accusations against a person are made in written form, such as letters, articles, electronic messages, or other forms of written communication. These written statements typically contain statements that someone has committed a specific act that could harm their reputation. These accusations can be made in detail, specifying the elements of the act, or in general terms, still leading to a negative assessment of the victim. Written defamation has different characteristics than oral or illustrative forms. One difference is its more permanent and documentable nature.

Written defamation can be stored, copied, and re-distributed over a long period of time, making its impact on the victim more widespread and lasting. Therefore, the law pays special attention to this form due to the greater potential for harm. Furthermore, in legal assessment, these written acts must be viewed from both subjective and objective perspectives. Subjectively, there must be intent on the part of the perpetrator to attack the victim's honor or reputation. Objectively, the writing must have the potential to elicit negative assessments if it were to become public knowledge. If both of these criteria are met, the act can be categorized as defamation.

With the advancement of information technology, forms of written defamation have become increasingly widespread through the use of digital media. Social media, online forums, and instant messaging applications have become common tools for spreading accusations against individuals. This adds complexity to law enforcement, as information can spread rapidly and reach a very wide audience. Therefore, understanding the elements of written defamation is increasingly important in the modern context.

3. The perpetrator's intent to publish the accusation to the wider public.

This element is at the heart of the crime of defamation, because without the intent to make it public, a statement cannot be categorized as defamatory under criminal law. This intent indicates the perpetrator's deliberate dissemination of information detrimental to the victim. Interestingly, publication does not always have to occur in front of a large audience. Simply conveying the accusation to one person, but with the hope or intention that the information be passed on to others, can be considered fulfilled.

This demonstrates that the law considers not only the number of people receiving the information, but also the purpose and potential for dissemination of the statement. Furthermore, the intent to publish can be determined by various indicators, such as the method of delivery, the media used, and the situation in which the statement is delivered. For example, conveying an accusation in a public place, via social media, or in an open forum indicates an intention to reach a wide audience. Conversely, if the statement is delivered in a limited manner and without the intention of disseminating it widely, this element may not be fulfilled.

These three forms of criminal defamation through illustrations or images, through writing, and through intent to publish demonstrate that the law attempts to regulate the various methods that can be used to attack a person's honor. Each form has distinct characteristics and elements, but all aim to protect an individual's reputation from unlawful attacks. Therefore, a thorough understanding of each form is crucial for the proper and fair application of the law.

Based on the description above, the act of defamation as regulated in the Criminal Code can be subject to sanctions based on the following rules:

1. Article 433 of the New Criminal Code, Paragraph 1

"Any person who verbally attacks the honor or good name of another person by making an accusation, with the intention of making the matter public, shall be punished for defamation, with a maximum imprisonment of 9 (nine) months or a maximum fine of category II." Article 2: "If the act referred to in paragraph (1) is committed in writing or images that are broadcast, displayed, or posted in a public place, the perpetrator shall be punished for defamation, with a maximum imprisonment of 1 (one) year and 6 (six) months or a maximum fine of category III (Rp. 50,000,000)."

2. Article 434 of the New Criminal Code, Paragraph 1

"If any person as referred to in Article 433 is given the opportunity to prove the truth of the accusation but is unable to do so, and the accusation contradicts his knowledge, he shall be punished for defamation, with a maximum imprisonment of 3 (three) years or a maximum fine of category IV (Rp. 200,000,000)."

3. Article 336 of the New Criminal Code
"Insults that are not defamatory or defamatory committed against another person, whether in public, verbally or in writing, or in the presence of the person insulted, verbally or in action, or in writing sent or received, For minor defamation, a maximum imprisonment of 6 (six) months or a maximum fine of Category II (Rp. 10,000,000) shall be punished for minor defamation.
4. Article 437 of the New Criminal Code:
"Any person who submits a false written complaint or notification, or asks another person to write a false complaint or notification to an authorized official about another person, thereby attacking that person's honor or reputation, shall be punished for making a slanderous complaint, with a maximum imprisonment of 3 (three) years and 6 (six) months or a maximum fine of Category IV (Rp. 200,000,000)."
5. Article 438 of the New Criminal Code
"Any person who, by an act, creates a false suspicion against another person that that person has committed a crime, shall be punished for creating a false suspicion, with a maximum imprisonment of 3 (three) years and 6 (six) months or a maximum fine of Category IV (Rp. 200,000,000)."
6. Article 439 of the New Criminal Code, Paragraph 1
"Any person who commits defamation or written defamation against a deceased person shall be punished by imprisonment for a maximum of 6 months or a fine of up to category II.

The environmental research institute Walhi (Walhi) stated that several provisions in the Criminal Code (KUHP) have the potential to expand the criminalization of the public, including human rights and environmental activists, due to the formulation of norms deemed vulnerable to abuse to ensnare critics of public policy. In the same context, a legal review indicates that the nature of defamation as a complaint-based offense may encourage increased demand for criminal enforcement, as anyone who feels defamed can file a report with law enforcement (Muhammad Din Al Fajar, 2026: 7).

This contrasts with legal approaches in some other countries, where reputational issues are primarily addressed through civil sanctions. In a comparative study of defamation, the 2023 Criminal Code retains the complaint-based offense as regulated by law, but still provides concrete criminal consequences for the dissemination of false information that harms an individual's reputation (Malau, P, 2023: 837). Thus, in addition to the potential for increased administrative reporting of criminal defamation cases, there is also a tendency for the judicial system to experience additional burdens. This has an impact on the effectiveness of law enforcement as well as broader social implications when public spaces become high-risk facilities for people's free expression.

The author's opinion regarding the phenomenon of defamation, as described above, emphasizes that spreading false news, exposing someone's shame, or making baseless accusations based on dislike constitutes a form of abuse of freedom of expression. In the context of criminal law, these actions not only violate social ethical norms but also fulfill the elements of an unlawful act because they deliberately attack another person's honor and reputation. Therefore, the existence of provisions in the Criminal Code is crucial as an instrument for protecting individual dignity amidst increasingly open communication.

Furthermore, the author believes that the regulation of various forms of defamation whether verbal, written, or through actions that create negative perceptions demonstrates that the law strives to accommodate the complexity of ways in which reputations are attacked in modern society. Furthermore, with the development of digital media, information can spread quickly and widely, thus increasing the potential for harm to victims. In this regard, the

element of intent to disseminate accusations is key in determining criminal liability, as it demonstrates an intentional attempt to damage someone's reputation.

However, the author also believes that the application of defamation laws must be carried out carefully to avoid overcriminalization. As noted by various groups, including civil society organizations, this provision has the potential to be misused to silence criticism, especially against those in power. Therefore, a balance is needed between protecting individual dignity and guaranteeing freedom of expression. Law enforcement should consider the context, public interest, and the good faith of the perpetrator, so that the law functions not merely as a repressive tool but also as a means of safeguarding justice and democracy.

CONCLUSION

The crime of defamation is an act that attacks a person's honor or reputation by making an accusation that is publicly known. In the Indonesian criminal law system, the regulation of defamation has evolved from the old Criminal Code, which was regulated under Articles 310–321, to a more systematic regulation in the new Criminal Code through Law Number 1 of 2023. In the new Criminal Code, provisions regarding defamation are regulated, among others, in Article 433 and other related articles, covering forms of insult, slander, false accusations, and false allegations. These regulations also establish various types of criminal sanctions, including imprisonment and fines, within specific categories. Thus, the existence of these regulations demonstrates that Indonesian criminal law continues to protect the honor and reputation of individuals as part of personal rights that must be upheld in social life.

Although the regulation of the crime of defamation is retained in the 2023 Criminal Code, its existence continues to generate debate, particularly regarding the potential for restrictions on freedom of expression and the potential for abuse of legal norms. Its nature as a complaint-based offense does emphasize that law enforcement can only be initiated upon a complaint from the aggrieved party, thus protecting the victim's personal interests. However, this regulation could also lead to an increase in criminal reports, potentially increasing the burden on the justice system. Therefore, the application of defamation provisions must be carried out proportionally, while still adhering to the principles of human rights protection, the balance between protecting an individual's reputation and freedom of expression, and the purpose of criminal law as a means of maintaining order and justice in society.

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