



Defamation through Social Media Based on Laws and Regulations

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Abstract

In this modern era, the progress of information technology, electronic media and globalization occur almost in all areas of life. One of the crimes committed by misusing the benefit of electronic and computer technology is the defamation case through social media. Freedom of opinion in Indonesia can be seen in the Constitution of Republic Indonesia Year 1945 on Article 28 (1). This article write about What are law provisions that can be applied to the criminal act of defamation through social media, and How is the criminal responsibility of the perpetrators of defamation through social media. The method used in this research is normative legal research. The results are something could be classified as defamation in social media if proven guilty according to the 4th element in ITE LAW.

Introduction

Indonesia is a state law based on what is in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The provisions of this Article are a constitutional basis that Indonesia is a country based on law. In a state law, the state is a symptom of human life throughout human history. The concept of a developing country starts from its simplest form to the most complex in today's times. As a form of collective life organization in society, the state has always been the center of attention and the object of joint study with the development of human knowledge. Many branches of science make state law, constitutional law, state administrative law and government administration science, all of which make the state the center of its attention. After Indonesia was free from Dutch colonialism, the Government issued Law Number 1 of 1946 which was based on Article II of the Transitional Rules of the Constitution, which: "All state agencies and existing regulations are still apply immediately as long as a new one has not been established according to this Constitution".

Furthermore, Law Number 1 of 1946 Article 1 states that the *Wetboek van Strafrecht voor Nederlands-Indie* which is translated into the Criminal Law Act. This is a concordance principle, namely to enforce the laws of the colony in the colonized country. Therefore, the concept of a state law was then applied by the 1945 Constitution of the Republic of Indonesia. One of them is the application of criminal law in Indonesia that applies in Indonesia today is criminal law that has been codified, that is, most of the rules have been compiled in one law book (wetboek, criminal law book, according to a system The provisions in chapter 1 to chapter VIII of book 1 (general rules) also apply to acts which by the rules in other laws are threatened with punishment, unless otherwise stipulated by the law. The term criminal act is an act that is prohibited by a prohibition law which is accompanied by a threat (sanction) in the form of a certain crime, for anyone who violates the prohibition.

It can also be said that a criminal act is an act which is prohibited by a legal rule and is punishable by punishment, provided that in that case it is remembered that the prohibition is

aimed at the act (i.e. a situation or event caused by the person's behavior), while the threat of punishment is aimed at the person causing that incident. According to O'Sullivan, (2005) the Criminal Code, it is regulated in detail and small things that are considered by the community to be trivialized as regulated in the law - this is not only a criminal act that is identical to someone who commits the crime of murder, fraud, robbery but someone who vilifies other people known to the general public who is usually called Defamation, the causes are various, such as harassing in writing, slandering, complaining in slanderous ways, accusing slanderous. O'Sullivan, J. R. (2005). The Federal Criminal Code Is a Disgrace: Obstruction Statutes as Case Study. *J. crim. L. & criminology*, 96, 643. Defamation is the rape of one's honor.

In this modern era, advances in information technology, electronic media and globalization occur in almost all areas of life. Technological advances marked by the emergence of the internet that can be operated using electronic media such as computers. Computers are one of the causes of social change in society, namely changing their behavior in interacting with other humans, which continues to spread to other parts of human life, resulting in new norms, new values, and so on. Through the internet, information exchange can be done quickly, precisely and at low cost. Therefore the internet can be a medium that makes it easier for a person to commit various types of criminal acts based on information technology (cybercrime) such as criminal defamation. Prior to technological advances that led to criminal defamation through social media, acts of defamation were known as acts of insult and slander to their victims.

In this modern era, defamation is rife on social media. As happened some time ago, Dr. Ira sent an email on a mailing list, vilifying her colleague Dr. Bambang. Based on the description above, it is interesting to examine further the qualifications of a person who can be said to have committed a criminal act of defamation. In terms of the enforceability of the rule of law for the criminal act, as well as the responsibility for the criminal act.

Methods

The research type used in this research was normative legal research, which is a type of legal research obtained from literature studies, by analyzing a legal problem through the Laws and Regulations, literatures and other reference materials related to the Crime of Defamation.

The statute approach is an approach that is carried out by answering the formulation of the proposed problem based on the provisions of existing laws and regulations, both in the form of legislation and regulations related to the criminal act of defamation. The conceptual approach is carried out by understanding legal concepts found by legal scholars through opinions and doctrines. In this undergraduate thesis, various concepts will be studied, especially those related to defamation.

Saputra, (2015). The case approach, which is an approach by analyzing court decisions related to defamation, namely the Banten High Court Decision case Number: 151/PID/2012/PT.BTN as has been exposed slightly in the background, to find out concrete examples from the real thing of an act is categorized as defamation or not.

Results and Discussion

Defamation through Social Media according to Laws and Regulation

Defamation according to the Criminal Code

For the people of Indonesia, "honor for a good name" has included protection and guarantees in Pancasila, both in the the Almighty Godhead and in "just and civilized humanity", living in mutual honor. According to Erowati, (2019)Defamation is considered to violate the norm of decency. Defamation is closely related to a word of insult where insult itself means an act of

attacking someone's good name and honor (Erowati, 2019)

In the Criminal Code, the criminal act of defamation is described in Chapter XVI book II of the Criminal Code on the basis of the offenses in the Criminal Code, in relation to the printed media as the perpetrator of a criminal act. Defamation of a person in the Criminal Code is formulated in defamation, Verbal defamation (Article 310 (1) of the Criminal Code) Defamation with a letter (Article 310 (2) of the Criminal Code), Slander (Article 311 of the Criminal Code), Mild insult (Article 315 KUHP), Insult defamatory (Article 317 Criminal Code), Slandorous accusation (Article 318 KUHP), Insulting people who have died (Articles 320-321 Criminal Code)

Defamation According to Law number 40 of 1999 concerning the Press

Defamation in Law Number 40 of 1999 concerning the Press, the regulation is not specifically explained as in the Criminal Code. Law Number 40 of 1999 explains that the press has a function as a medium for information, education, entertainment and social control and can also function as an economic institution as described in Article 3 of Law Number 40 of 1999. However, implicitly, the criminal acts classified as defamation in Law Number 40 of 1999 concerning Press is in Article 5 paragraph (1) and Article 13 letter (a). Apart from that in Law number 40 of 1999 concerning the Press, there is no imprisonment sanction against the perpetrator, namely journalists and mass media (print and electronic) but there are only fines as described in Article 18 of Law Number 40 of 1999 (Tejo & Rohayati 2008)

Defamation according to Law number 32 of 2002 concerning Broadcasting

One form of press is electronic media (television broadcasts or radio broadcasts). Based on Broadcasting Law Number 32 of 2002 concerning broadcasting, it confirms that broadcasting in the form of television broadcasts or radio broadcasts is an activity that has a function as a medium of information, education, entertainment and social control. In carrying out the broadcasting function, legal rules are required to overcome various violations, one of which is the application of criminal sanctions in the broadcasting law (Crisell, 2002).

Article 36 paragraph (5) of Law Number 32 of 2002 which contains prohibitions in broadcast content, namely in letter a, broadcast contents are prohibited from being slanderous, inciting, misleading and/or lying.

Defamation According to Law Number 11 of 2008 jo. Law Number 19/2016 on Electronic Information and Transactions (ITE Law)

In Article 27 paragraph (3) of the ITE Law, a person can be said to have violated when he/she fulfill 4 elements, namely (1) the element of every person; (2) elements intentionally and without rights; (3) elements have an insulting and/or defamation content; (4) distribute and/or transmit and/or make accessible (Noam, 2019).

The element of "every person"

According to Article 1 point 21 of the Electronic Transaction Information Law (ITE) states that a person is an individual, whether Indonesian citizens, foreign citizens, or legal entities. So the element of every person according to Article 27 paragraph (3) is "every individual, every citizen, whether Indonesian citizen or foreign citizen or a legal entity that intentionally and without rights distributes and/or transmits making Electronic Information accessible and/or Electronic Documents that contain insult and/or defamation.

The elements "intentionally" and "without rights"

Article 27 paragraph (3) of the ITE Law constitutes a cumulative form which at the level of law enforcement must be proven by law enforcers in enforcing the Article. According to Banakar, (2016). The elements "intentionally" and "without rights" are meant that a person who commits the act knows and wills consciously that his/her action was carried out without rights. In other words, the perpetrator consciously wants and knows that the act of "distributing" and/or "transmitting" and/or making accessible electronic information media and/or electronic documents that contain insulting and/or defamation. Meanwhile, the element of "without rights" is an element against the law. Inclusion of elements without rights is intended to prevent people from carrying out the act of distributing and/or transmitting and/or making accessible electronic information and/or electronic documents that contain defamatory and/or defamatory content which is not their right to distribute the information. The elements "intentionally" and "without rights" must be proven cumulatively to determine whether a person can be convicted under Article 27 paragraph 3 of the ITE Law.

The element "has a content of insulting and/or defamation"

It refers to the provisions of Chapter 16 book II of the Criminal Code concerning insults, particularly in relation to the provisions of Articles 310 and 311 of the Criminal Code. The two articles provide a basis for understanding or essence regarding insult or defamation, namely the act of attacking the honor or good name of another with the intention of being known by the public. Honor and good name have different meanings, but they cannot be separated from one another, because attacking someone's honor will result in tarnished honor and good name, and vice versa, attacking someone's good name will tarnish one's good name and honor also. Therefore, attacking either honor or good name is sufficient reason to accuse someone of insulting someone.

The element of "distributing and/or transmitting and/or making accessible to it"

In the explanation regarding the elements of distributing the ITE Law does not explain the definition of distributing, therefore a standard definition must be taken through the Indonesian Dictionary which provides the following definition to distribute (share, send) to several people or to several places (such as markets, shops). The element of transmitting the ITE Law also does not explain the definition of transmitting, therefore a standard definition must be taken through the Indonesian Dictionary which provides the following definition of sending or forwarding messages from one person (object) to another (other object). Elements of making ITE Law accessible also did not explain the definition of making accessible other than only providing a definition of access, namely the activity of interacting with an Electronic System that stands alone or in a network.

Criminal Liability of Defamation Perpetrators Through Social Media

Criminal liability of Defamation Perpetrators According to the Criminal Code

In criminal law the concept of liability or "responsibility" is a central concept known as the teaching of error. In Latin this error teaching is also called *mens rea*. An act does not result in a person guilty unless he/she thinks that person is evil. The *mens rea* doctrine is based on *maxim actus non facit reum nisi mens sit rea*, which means "an action does not result in a person guilty if the person's mind is evil".

The Criminal Code does not explicitly state the criminal liability system adopted. Several articles of the Criminal Code often mention mistakes in the form of intentional or negligent. Unfortunately, the two terms are not further explained by the laws regarding their meaning. So, whether intentional or negligent there is no further information in the Criminal Code. These two words are often used in the formulation of offenses, as if they are certain, but do not know

what they mean. It is as if it does not cause any more doubts in its implementation.

Guilt, responsibility, and crime are phrases that are heard and used in everyday conversations, in morals, religion and law. The three elements are related to one another, and are rooted in a common state of violation of the system of rules. This system of rules can be broad and varied (civil law, criminal law, moral code and so on). What these three have in common is that they include a set of rules about behavior followed by a particular group. So the system that gives birth to the conception of error, responsibility and punishment is a normative system. Starting from the normative system that gave birth to the conception of error, liability and punishment, he/she tried to analyse criminal liability. Responsible for a criminal act means that the person concerned can legally be subject to punishment for the act.

Although it is not explicitly stated in the Criminal Code that there is a principle of non-punishment without error, this principle is recognized through Article 1 paragraph (1) of the Criminal Code above. An act is said to be against the law if the person violates the law established by law. Not all criminal acts are against the law because there are reasons to justify them, based on Article 50, Article 51 of the Criminal Code. The nature of breaking the law itself includes: (1) The formal nature is that the act is regulated by law, (2) The material nature is that the act does not always have to be regulated in law but also with a feeling of justice in society.

Based on the views mentioned above then, the definition of criminal liability can be formulated, namely as an assessment of the condition and ability of a person suspected of committing a criminal act whether he or she can be held accountable or not. Meanwhile, to assess how the situation about the occurrence of a crime must be known to the fault of the perpetrator, to assess the ability of the perpetrator, a mental health test of the perpetrator must be carried out whether he/she is classified as capable or not to be responsible.

If we look carefully, in the Criminal Code, especially book two, we can find the difference between intentional and negligent. The following is the formulation of the Criminal Code that can distinguish between the two things: a. intentional; b. due to negligence. It was not further explained what kind of intention and negligence. However, from the existing doctrines, it can be concluded that for criminal liability it is necessary to prove the element of error first. To find out the criminal liability for the criminal act of defamation, it is necessary to look at the article first. What mistakes to emphasize. Based on the provisions stipulated in the Criminal Code, the articles used to prosecute the criminal act of defamation are regulated in chapter XVI regarding insults contained in Article 310 to Article 321 of the Criminal Code. Article 310 can be used to ensnare the perpetrator of defamation who has a subjective element on purpose, while the objective element is to attack the honor or good name of a person by accusing something, with the intention of making it known to the public. In this Criminal Code, the emphasis on the act is on the intentional element committed by the perpetrator, so that in order to prove the guilt of the perpetrator, the emphasis is on intentionally for the act.

Honor criminal acts, including complaint offenses, are regulated by Chapter VIII, Article 72, Article 73, Article 74, and Article 75 of the Criminal Code. A complaint is a written statement from a person who has the right to complain that he wants to prosecute the perpetrator of a criminal offense. "the person who complains", if the person who suffers or the victim of a crime is an adult, it does not cause a problem because the victim has the right to complain, if the victim who wants to make a complaint is an immature child. This is regulated in Articles 72 and 73 of the Criminal Code. Based on the formulation of Article 72 of the Criminal Code, those who have the right to complain are legal representatives, guardians of supervisors/guardians of caretaker, blood relatives up to the third degree. If the crime victim

has passed away, the complaint is regulated by Article 73 of the Criminal Code, namely parents, children, wife/husband who is still alive.

Criminal Liability of Defamation Perpetrators in Law Number 40 of 1999 concerning the Press

The liability of the press after the enactment of Law Number 40 of 1999 concerning the press is explicitly that is stipulated in the elucidation of Article 12 and Article 18 paragraph (2), the article states, namely:

Article 12

Press companies are required to publicly announce the name, address and person in charge through the media concerned; specifically for press publications, plus the name and address of the printer. Based on the explanation of Article 12 of Law Number 40 of 1999 concerning the Press, it states that the person in charge is the person in charge of a press company which includes the business sector and the editorial sector, as long as it is related to criminal liability adhering to the provisions of the prevailing laws.

Article 18 paragraph (2)

Press companies that violate the provisions of Article 5 paragraph (1) and paragraph (2), as well as Article 13 will be convicted, with a maximum fine of IDR. 500,000,000.00 (five hundred million rupiah). Then based on the elucidation of Article 18 paragraph (2) of Law Number 40 of 1999 concerning the Press, it states that in the case of a criminal offense, the provisions of criminal fines can be imposed.

Based on Article 12 and Article 18 paragraph (2) it can be concluded that the press's liability, namely: (1) Based on Law Number 40 of 1999 concerning the Press, the liability of the press includes fictitious liability, because it still places the person in charge of a press company which includes the business sector and the editorial sector. So that the one who can be responsible for reporting if there is a violation of the law is the editor leader; (2) Based on the elucidation of Article 12 of Law Number 40 Year 1999 concerning the Press, regarding criminal liability adhering to the provisions of the applicable legislation. The prevailing meaning is meant as "individual responsibility" which concerns the actual and factual wrongdoer (the main actor).

The Regulations on the Liability System for the Crime of Defamation in Law Number 32 of 2002 concerning Broadcasting

Article 57 letter d, regulates criminal sanctions for violations of Article 36 paragraph (5) which contains prohibitions in broadcast content, namely in letter a, broadcast content is prohibited from being slanderous, inciting, misleading and/or lying. This means that if there is a violation, namely against broadcast content, one of which is through television broadcasts, there is slander which then defames, someone responsible for the broadcasting institution (television station) can be sentenced to crime.

Liability regulated in Law Number 32 of 2002 concerning Broadcasting, is based on Article 54, namely:

Article 54 : The leader of a broadcasting institution legal entity is generally responsible for broadcasting operations and is obliged to appoint a person in charge for each program implemented.

It can be interpreted that the leader of a legal entity in a broadcasting institution is generally responsible, but the main responsibility is assigned to the person in charge of each program. If

there is a violation of the law in a show or broadcast, the person in charge of the broadcast is the broadcast producer.

The Liability of the Defamation Perpetrators according to Law Number 11 of 2008 jo. Law Number 19 of 2016 on Electronic Information and Transactions (ITE Laws)

According to Duvac, (2013). The ITE Law is a *Lex Specialis* of the Criminal Code because it is a specialty of insulting in the Criminal Code on the internet. It can be seen that the Law on Electronic Information and Transactions Article 27 paragraph (3) regulates defamation in social media. In the Article, there are two elements, namely the subjective element and the objective element. The subjective element of the Article is the element of error that is meant by the presence of words intentionally, while the objective element of the Article is the act of distributing and/or transmitting and/or making electronic information and/or electronic documents accessible with insulting content and/or defamation. In this Law on Electronic Information and Transactions, the criminal liability of the perpetrator is emphasized on the subjective element, namely mistakes with intentional intent committed by the perpetrator who has committed acts as contained in Article 27 to Article 36 of the ITE Law (Sujamawardi, 2018)..So to prove that an offender is defamation on social media, law enforcers must be able to prove that the perpetrator consciously wants and knows his/her actions.

So that what must be proven so that someone can be subject to defamation with the ITE Law is that the perpetrator intentionally acts to "distribute" and/or "transmit" and/or "make electronic information accessible and/or electronic information accessible" is that it has an offensive /defamation content.

In the examples of defamation cases that have been described in Chapter II, in order to be charged with the article of defamation in the ITE Law, it must first be seen whether the perpetrator can be reasonably responsible. If the perpetrator can be responsible reasonably, then to be proven guilty, the perpetrator must be proven to fulfill the element of error, namely on purpose, that the person knowingly and intentionally knows that what he/she is doing contains defamation.

For instance, the Prita Mulyasari's case was detained because of an email complaining about hospital services that she distributed via a mailing list, Farah's case was convicted of berating on Facebook, the case that happened to Farhat Abbas who wrote offensive tweets from Achmad Dhani through social media, Benhan's case, who was convicted of smearing Misbakhun's name in Twitter, as well as the case of writing BBM status attacks by Nurdin Halid which made him reported by the police. From several examples of cases of defamation on social media to be charged with the article of defamation in Law number 11 of 2008 concerning Electronic Information and Transaction is emphasizing the existence of a perpetrator's fault, believing there is a intentional element by the perpetrator for his/her actions, "distributing" and/or "transmitting" and/or "making electronic information accessible and/or electronic information" addressed to a certain person or party and contains elements of insult/defamation.

So if you look at the examples of cases that exist, then both in the Criminal Code, Articles 310 and 311, as well as in the Law on Electronic Information and Transactions Article 27, both for criminal liability look at the same from the element of the perpetrator's fault, which is an intentional mistake. The perpetrator's intention must be proven by law enforcers. This can be seen from the words "intentionally" in these Articles.

Analysis of Cases Examples regarding Criminal Liability in Criminal Cases of Defamation on Social Media according to the ITE Law with the Banten High Court Decision Number: 151/PID/2012/PT.BTN

Dr. Ira wrote an email accusing Dr. Bambang as a perpetrator of sexual harassment, even though the facts are not like that. The Tangerang High Court decision on the appeal submitted stated that Dr. Ira was guilty and charged under Article 27 of the ITE Law. That Dr. Ira was proven legally and convincingly guilty of committing a criminal act: "Intentionally and without right distributing and transmitting and making accessible electronic information which contains insulting and/or defamation".

The criminal liability which the author will discuss here in relation to defamation, is against Dr. Ira. Actions, Dr. Ira in sending emails to many people related to Dr. Bambang that was committed sexual harassment (which turned out to be just a twisted fact) causing her to be subject to Article 27 paragraph (3) of the ITE Law by the Banten High Court. Article 27 paragraph (3) of the ITE Law reads: Anyone who intentionally and without right distributes and/or transmits and/or causes to be accessible Electronic Information and/or Electronic Documents that have contents of insult and/or defamation. The first element of the Article: everyone. In the element of everyone, it is usually related to whomever. Namely who did. In this case, in relation to a legal subject who has committed a criminal act, in this case the accused is Dr. Ira.

The second element is intentionally and without rights. In that case, Dr. Ira intentionally sent email to these people. Here, a intentional element can be seen from the email she sent intended to be read by the intended parties. The third element is distributing and/or transmitting and/or making accessible to them. Dr. Ira has and/or transmitted and/or made accessible e-mails that were sent by her intentionally. The fourth and final element is the content of insult and/or defamation. The content of defamation here is clearly what DR. Ira, accusing to Dr. Bambang for the sexual harassment that he did not commit. With the fulfillment of the four elements in Article 27 paragraph (3) of the ITE Law, Dr. Ira has committed defamation against Dr. Bambang. The proof is intentionally from Dr. Ira, made her subjected for criminal liability for her actions.

Analysis of the Criminal Case of Defamation in Social Media according to the ITE Law with the Masohi High Court Decision of the Number 45/Pid.B/2012/PN.MSH

The defendant LECO MABA namely LECO or in other words ECON on Friday, October 22, 2010 at around 13:15 WIT when he just arrived home after Friday prayer at the Hatui Village Mosque, when he was on motorcycle, he saw that Kadir Rumuar was pickinh out the charity box in front of the Attaqwa Mosque, to be precise at the entrance to the courtyard of the Attaqwa Mosque, Jawa Village. Leco saw that after picking it out, Kadir brought the charity box using Haji Amrin Mantuinai's motorcycle. Seeing this incident, Leco Maba accessed Facebook via his cellphone, then he wrote and updated the status on his Facebook account. "One (1) charity box belonging to the Attaqwa Mosque Construction Committee in Java Village which was at the mosque construction site was lost, and according to witnesses who stole it was a Kadir Rumuar's victim-witness".

In fact, in the real case, Kadir's Victim as the muezzin mosque was given the power to move the charity box alone due to the condition of the mosque which was being renovated. The Kadir's Victim felt that Leco had intentionally written this because of the problems that had existed between them both. The Kadir's Victim then demanded to the court that Leco be subject to "defamation/insult" as regulated in Article 27 Paragraph (3) Jo Article 45 Paragraph (1) of the ITE Law. The Masohi District Court later sentenced Leco with these charges.

The criminal liability which the author will discuss here related to defamation, is against the defendant Leco. Leco's action in updating his slanderous status against Kadir regarding him taking the charity box resulted in him being subject to Article 27 paragraph (3) of the ITE Law

by the Masohi District Court. As for Article 27 paragraph (3) of the ITE Law, it reads: Anyone who intentionally and without right distributes and/or transmits and/or causes to be accessible Electronic Information and/or Electronic Documents that have contents of insult and/or defamation.

The first element of the Article: everyone. In the element of everyone, it is usually related to whomever. Namely who did. In this case, in relation to a legal subject who has committed a criminal act, in this case the accused is Econ. The second element is intentionally and without rights. In this case, Leco intentionally sent a status that slandered Kadir, especially since he had a history of problems with Kadir. Here, the intentional element can be seen from him intentionally updating his status on Facebook so that it can be seen by many people, and he does not have the right to disseminate the information (allegations).

The third element is distributing and/or transmitting and/or making accessible to them. By updating his status on Facebook he intended to make his status public and accessible to many people. The fourth and final element is the content of insult and/or defamation. The content of defamation here is that he accused Kadir of taking the mosque's charity box. With the fulfillment of the four elements in Article 27 paragraph (3) of the ITE Law, Leco has committed an act of defamation against Kadir. Evidence of Leco's intention resulted in criminal liability for his actions.

The defamation through social media must be concluded based on the ITE Law. To say someone is doing defamation in social media, someone must be proven guilty by the fourth element in ITE Law. The elements are: everyone, intentionally and without rights, distributing and/or transmitting and/or making accessible to everyone, the last is there is content of insult and/or defamation

Conclusion

This article does not mean to prohibit everyone's right to freedom of opinion as explained in the Constitution of the Republic of Indonesia contained in Article 28 and also in Law of the Republic of Indonesia Number 9 of 1998 concerning Freedom of Expression in Public Articles 1 and 2 and does not also guarantee the right of each individual to honor or reputation, but there are limitations that have been regulated in the Criminal Code. Article 27 of the ITE Law has almost the same elements and the ITE Law is a *lex specialis* for the Defamation Crime which has been previously regulated in the Criminal Code more broadly. This article, is not prohibiting, only that it has the aim that everyone who wants to upload information, images on social media, distribute or transmit, he/she must first think about whether the things to be uploaded on social media can lead to the fulfillment of the elements of criminal defamation and the 4 elements of the ITE Law: (1) everyone's element; (2) intentionally and without rights Elements; (3) elements have an insulting and/or defamation content; (4) distribute and/or transmit and/or make accessible to them. To be able to carry out criminal liability in criminal acts of defamation on social media, a person must fulfill the elements of criminal liability in general. Namely, as a legal subject who is able to be responsible. Then, in order to be criminally responsible, the prosecutor must prove the intentional element of the perpetrator in the act.

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