LEGAL SOLUTIONS TO THE NEGATIVE IMPACT OF THE COVERT DECriminalization Policy ON DEFAMATION USING INFORMATION TECHNOLOGY AGAINST DECEASED PEOPLE IN INDONESIA

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Abstract: Constitutionally, everyone in Indonesia has the right to express opinions, but their contents are prohibited from slandering others. Defamation of living and deceased people using information technology is not permitted in Article 27, paragraph (3) of the Information and Electronic Transactions Act of 2008 and 2016. However, through the Second Amendment to these articles in 2024, the object of defamation becomes unclear. It is not clear whether the humans are alive or whether they are among the deceased people. The covert decriminalization policy must be found for a solution so that the dignity of the deceased and their heirs is respected. It is necessary to study (a) why the covert decriminalization policy in Article 27A needs to be removed and (b) the legal solution so that the covert decriminalization policy is removed to protect the rights of deceased people and their heirs. These two problems were researched using doctrinal legal research methods using a statutory regulation approach and a comparative legal approach. Researchers found that eliminating covert decriminalization follows Indonesia's version of divine and humanitarian values, does not violate everyone's constitutional rights to express opinions, makes law enforcement more straightforward, and follows criminal law in several countries, including Singapore and Thailand. The elimination of covert decriminalization is carried out by explaining Article 27A in the Third Amendment to the Information and Electronic Transactions Act.

Keywords: legal solutions, covert decriminalization policy, defamation, deceased people, information technology

1. Introduction

The dignity of every person in Indonesia is protected by the constitution, so that every person who defames another person, living or dead, is threatened with imprisonment (Article 310 and Article 320 of the Indonesian Criminal Code). In general, the law regarding defamation has changed (LaBarbera, 1990), so some countries threaten imprisonment and fines against perpetrators of criminal acts of defamation. Still, some things can be resolved through civil law, negotiation, and restoring relations between the offender and the victim. (Robinson, 2007)

Indonesia is carrying out criminal law reform by criminalizing acts of defamation using information technology in Article 27, paragraph (3) of Act No. 11 of 2008 concerning Information and Electronic Transactions. Many violators are sentenced to prison by the courts. However, the content of the legal norm in Article 27 paragraph (3) has multiple interpretations (Elan et al., 2022), and the criminal threat is too severe (Ali, 2002), has a negative impact (Sodiq, 2023), and hinders democratization (Agustian & Manik, 2021). In addition to these weaknesses, it is also unclear whether the perpetrator can be punished if someone dies of being insulted. If he can't, it will hurt the hearts of all his heirs (Erikson & Hidayat, 2022).

So that these legal norms are more transparent and fairer, through Law No. 19 of 2016 concerning the First Amendment to the Information and Electronic Transactions Act, this norm was changed by reducing criminal threats and making an authentic explanation that "the definition of defamation refers to the provisions of the Indonesian Criminal Code." Based on a systematic interpretation, it can be interpreted that this article can also be used as a basis for prosecuting perpetrators of insults using information technology against deceased people. However, on January 2, 2024, Article 27, paragraph (3) was amended by reducing the criminal threat and
eliminating the authentic explanation in Article 27A. Deleting the explanation of Article 27 paragraph (3) by Article 27A results in unclear legal norms, namely the unclear object of defamation, whether the object of pollution includes deceased people or only living people, as regulated in the Indonesian Criminal Code. The amendment to this article can be categorized as a covert decriminalization policy, namely a legislator's policy that makes an act whose qualifications and category as a crime are initially clear in a law changed to make it unclear whether it is a crime or not.

The unclear content of the legal norms in Article 27A prevents criminal law enforcement officials from prosecuting violators of criminal acts of defamation against deceased people, thereby violating the constitutional rights of the victim's heirs (Suryasantosa et al., 2021). There are many cases of defamation against deceased people using information technology. Not only ordinary people but even family members of the President and former President of the Republic of Indonesia were insulted. This case, among others, was published on Twitter, that the late former President Soeharto and Abdurahman Wahid had been insulted, (Sodiq, 2023) with the sentences “jangan mengubah bajingan jadi pahlawan #AntiSoeharto”, “antum ga fasiq kaya gusdur, (Erikson & Hidayat, 2022), gusdur...kan memang tokoh munafik.”(Anjani & Purwani, 2023) Insults to members of the President's family who are still in office, for example, on Facebook, there is an insult to the late Sujatmi Notomihardjo (mother of Indonesian President Joko Widodo). (Sodiq, 2023) There is a lot of defamation against the families of ordinary people through social media (Erikson & Hidayat, 2022); for example, people upload photos of "pocong" appearances on social media and create narratives that "the pocong" is the incarnation of a family member of someone who died. Audio-visuals in information technology-based content attract social media users to read, watch, and understand the context presented as if it were facts. However, not a single perpetrator of a criminal act of defamation using information technology against a deceased person in Indonesia will be prosecuted.

If the violators are not punished, members of the public will consider the insulting content on social media as fact (Wirawan & Nurjanah, 2021) so that other members of the public will assume it is true (Novia & Wasehudin, 2020). On the other hand, if criminal law enforcement officials use Article 27A as the basis for prosecuting perpetrators of defamation of deceased people, then law enforcement officials have the potential to violate the human rights of content creators in cyberspace because they violate the principle of legality. The main principle of the Indonesian Criminal Code is the principle of legality, namely that an act does not constitute a criminal act if the act is not previously determined as a criminal act in the law (Agustian & Manik, 2021).

Based on this line of thinking, so that the legal norms in article 27A can protect the honor of people who have died and their heirs, it is necessary to study in depth the legal solution to the covert decriminalization policy in the context of respecting human dignity. There needs to be a legal solution so that the legal norms that are experiencing covert decriminalization policy in Article 27A can be used as a legal basis by law enforcement officials in enforcing the law without violating the principle of legality to fulfill the sense of justice for the deceased and their heirs. Legislators’ legal solutions must be based on the results of scientific studies through legal research. Based on these needs, researchers conducted research by examining 2 problems, namely: (a) what is the justification for eliminating the covert decriminalization policy in Article 27A, and (b) what is the legal solution so that there is no covert decriminalization policy in Article 27A. Legislators can use the results of this research to consider a legal solution to the existence of Article 27A so that the legal norms contain the value of legal certainty and justice for violators and victims of defamation (Rizaldi, 2015).

2. Literature Review

The definition of a criminal act of defamation is the same as a criminal act of insult, namely an act intentionally carried out by someone so that the good name or reputation of another person, which was initially good, becomes terrible (Simamora et al., 2020). Defamation is an act of humiliation committed by someone by accusing another party of something verbally, in writing, or in images using information technology so that the contents become known to the public. Something alleged does not have to be a criminal act. The perpetrator aims to attack another person's honor or good name so that it becomes public knowledge. Defamation can be carried out through symbolic expressions such as pictures, signs, statues, and films.
Even though all parties agree that there is no social benefit in insulting and cruel statements on social media (DeSimone, 2018), criminal acts of defamation in cyberspace continue to occur. Currently, courts in many countries interpret that if defamation is conveyed in unclear language (only implied), then the act is not considered a criminal act of libel (LaBarbera, 1990). Courts in the United States have adapted these traditional elements of defamation to assess defamatory statements posted on social media (Pelletier, 2016).

Normatively, the prohibition on defamation using information technology in Indonesia is currently contained in Article 27A of the Second Amendment to the 2024 Information and Electronic Transactions Act, with the general rule that everyone is prohibited from intentionally insulting someone by accusing them of something that is publicly known in forms of electronic information and/or electronic documents carried out through electronic systems. Article 45 paragraph (4) threatens perpetrators of defamation using Information Technology with a maximum imprisonment of 2 (two) years and/or a maximum fine of IDR 400,000,000.00 (four hundred million rupiah). The action is regulated in article 27A, who is insulted, whether it includes deceased people.

For criminal law to be optimally beneficial for law users without violating human rights, enforcement of cybercriminal law in Indonesia must be based on the principle of legality, namely that if an act subject to law can be categorized as a criminal act, it must be prohibited in writing in the criminal law regulations. Suppose a person is classified as committing a criminal act. In that case, the qualifications for the prohibited criminal act must be clear, and the elements are regulated in detail in an editorial article in the law before the person commits the act (Situngkir Danel Aditia, 2018). Thus, it is clear that in the context of criminal law, no one can be punished other than by the force of a law formulated before the prohibited act occurred. Consequently, a law cannot apply retroactively. (Widodo, 2020)

The criminal law norms regarding defamation in Article 27A are multi-interpretive, so they can be detrimental to both the perpetrator and the victim because there is an opportunity for interpretation for law enforcers to unilaterally determine the qualifications of a criminal act and its punishment (Elan et al., 2022). Legal changes are needed to avoid misinterpretations based on all elements of legal change, including aspects of legal philosophy, legal theory, and societal needs. The tiered legal theory proposed by Han Kelsen and Hans Nawiasky explains that each norm has a different position according to its hierarchy. Amendments to a legal norm can only be carried out by the party who created the legal norm because each lawmaker has different authority. Even though Indonesia, as a rule-of-law country, has unique features compared to other concepts of the rule of law (Rokilah, 2019), to make legal changes, it is necessary to always pay attention to the principles of the rule of law, including as stated by Fuller, that the law must be applied generally, protecting affected parties; prospective and non-restorative; straightforward and easy to understand; does not contain contradictions; applicable, and can be implemented. The policy of covert decriminalization violates most of the rule of law principles (Luna, 2012).

3. Method

Normative studies of the contents of Article 27A can be carried out using doctrinal legal research, a statutory regulation approach, and a comparative legal approach. (Widodo, 2020b) The legal materials used to analyze the 2 problems in this article are the legal rules in Article 28 of the 1945 Constitution of the Republic of Indonesia, Article 23 of the 1998 People's Consultative Assembly Decree concerning Human Rights, Article 29 paragraph (1) of the Act on Human Rights 1999, Article 27 paragraph (3) concerning the First Amendment to the Act on Information and Electronic Transactions and its explanation, Article 27A concerning the Second Amendment to the Act on Information and Electronic Transactions, Article 441 paragraph (1) in conjunction with Article 439 of the Indonesian Criminal Code of 2023. Provisions The international law used as a source of law is Article 23 of the Universal Declaration of Human Rights and Article 29, paragraph (1) of the Covenant on Civil and Political Rights. Other legal materials are legal provisions in number 3 letter a Fatwa of the Indonesian Ulema Council Number 24 of 2017 concerning Laws and Guidelines for Congregating Through social media. The legal materials were analyzed using content analysis techniques, carried out by reading and assessing the content of legal norms in statutory regulations and texts in policy documents. (Widodo, 2020) Content analysis is carried out by reading and evaluating the content of each legal material and the texts of court decisions, as well as analyzing discourse in news in online mass media. Legal comparisons were made by comparing defamation laws in Indonesia, Malaysia, Singapore, Japan, and Thailand. The results of the study of legal norms are presented in the research results section and discussed using deductive and comparative thinking techniques (Soerjono & Mamuji, 2013) based on
the theory of legal change and tiered legal theory, the principles of criminal law.

4. Result and Discussion

4.1 Justification Reasons for the Urgency of Eliminating the Covert Decriminalization Policy in Article 27A of the Second Amendment to the Electronic Information and Transactions Act

The covert decriminalization policy in Article 27A, which applies between 2024 and 2025, which has the effect of needing to be legally eliminated so that perpetrators of defamation using information technology against dead people can still be punished under criminal law because this act is condemned by society, harms the family, it is even very detrimental to the heirs, and the range of content distribution is extensive. Apart from that, the reasons for the urgency of eliminating the covert decriminalization policy can be based on the following philosophical, juridical, theoretical, and empirical reasons.

4.1.1 Philosophical Reasons

Philosophically, the second principle of Pancasila, as the basis of the Indonesian state, is the principle of "just and civilized humanity," so it is implied that everyone should always act justly and civilized based on the value of the first principle of Pancasila, namely "Belief in the one and only God." It is not suitable for anyone to defame or slander other people. If people commit crimes of defamation, it is not only contrary to human values and civility but also contrary to divine values as taught by each religion in Indonesia.

There is a paradox between one person's right to freedom of expression and the right of others to be respected. Constitutionally, every person has the right to have their good name, dignity, or honor respected. However, everyone also has the right to express opinions using information technology. To ensure balance in the implementation of human rights in Indonesia, Article 28J paragraph (2) of the Indonesian Constitution regulates that the implementation of human rights in Indonesia can be limited by act. This constitutional basis can be used as justification that a person's freedom of expression in cyberspace can be restricted by acting solely for the sake of order and justice.

Suppose it is related to cases of defamation using information technology against dead people, especially against the former President of Indonesia who has died. In that case, this act must be prohibited in the name of the content of the principles of morality of Indonesian society. The aim is to protect the deceased person's good name and ensure his heirs are not embarrassed, thereby creating social order. According to the teachings of general morality, a person's actions that are carried out intentionally and cause embarrassment to others are a moral violation. Based on the contents of this doctrine, defamation of a deceased person is categorized as an act that violates morality. The creators of Article 320 of the Indonesian Criminal Code and Article 27 paragraph (3) of the Information and Electronic Transactions Law have implemented appropriate legal policies, namely categorizing acts of defamation of deceased people as crimes because these acts do not follow the Indonesian concept of morality, which is always based on the religious values that exist in Indonesia. The morality of the Indonesian nation consists of the content of moral teachings according to Islam, Christianity, Catholicism, Judaism, Buddhism, and Confucianism. (Luthan, 2012)

Apart from that, Islamic criminal law prohibits defamation of deceased people, so adultery is categorized as haram. Violators will be sentenced to "h'zir," a penalty the judge determines (Erikson & Hidayat, 2022). Confirmation that good denigration (which can fall into the category of backbiting ("ghibah") or even slander) using social media is haram. The Indonesian Ulema Council (MUI) prohibits this act as regulated in the Fatwa of the Indonesian Ulema Council Number 24 of 2017 concerning Laws and Guidelines for Congregating Through social media. This prohibition is contained in the legal provisions in number 3 letter a, that every Muslim who communicates through social media is prohibited from a. Committing backbiting, slander, "namimah," and spreading hostility.

Based on this thinking, it can be understood that the confirmation of the legal norm that defamation of dead people is prohibited in Article 27A follows the core moral teachings of the Indonesian nation. Prohibition of these actions will make legal norms meet philosophical requirements because legal norms rely on the doctrine of
morality, which contains universal values (Luthan, 2012), even if this prohibition follows the fundamental values of the 2nd principle of Pancasila (Widodo, 2020), namely just and civilized humanity. Apart from that, the ban of this act follows the teachings of legal philosophy, that law should be integrated with morals, not vice versa, that law is a separate rule from morals. (Soekanto, 1982) History proves that law and morals are two things that are not separate but are integrated, as in the concepts of Jewish law, Canon law, and Islamic law. (Luthan, 2012)

4.1.2 Juridical reasons

If the covert decriminalization policy is removed, then automatically, in Article 27A, there is a legal norm that defamation using information technology against a deceased person is categorized as a crime. Legal considerations regarding the regulations for the prohibition of defamation using information technology as contained in Article 27A of the Second Amendment to the Information and Electronic Transaction Act in Indonesia can also be linked to Article 12 of the Universal Declaration of Human Rights and Article 17 point (1) of the Covenant on Human Rights, Civil, and Political Rights. In Indonesian law, the constitutional basis is clear, namely Article 28G of the Indonesian Constitution, Article 23 of the 1998 People's Consultative Assembly Decree, and Article 62 paragraph (2) of the 1999 Act on Human Rights.

International law continuously regulates the basics of respecting human dignity and freedom of opinion (Widodo, 2020); for example, the General Declaration of Human Rights guarantees the right to freedom of opinion for every person, but each person is also obliged to respect the dignity of other people. Protecting human dignity is contained in Article 12 of the declaration, which states that no one may have their honor and good name attacked. Furthermore, Article 17, point 1 of the International Covenant on Civil and Political Rights emphasizes that everyone should not have their honor and good name attacked. Suppose this general principle is linked to the prohibition of defamation using information technology against dead people in Indonesia in Article 27A of the Second Amendment to the Law on Information and Electronic Transactions. In that case, it is clear that the defamation law in Indonesia does not conflict with international law and makes it legal internationally as an orientation framework.

In the context of Indonesian national law, this prohibition of action also does not conflict with everyone's constitutional right to express opinions as regulated in Article 28 of the Indonesian Constitution. The constitutional basis for creating legal norms to prohibit defamation using information technology against dead people is Article 28G of the 1945 Constitution, which states that every person has the right to have their dignity and worth respected. In connection with the interpretation of this article, the Constitutional Court of the Republic of Indonesia emphasized that a person's honor is one of the legal interests protected by criminal law because it is part of constitutional rights (M. Ali, 2010). The following legal basis that justifies the prohibition of this act is the Decree of the People's Consultative Assembly Number. Another legal basis that is hierarchically at the same level as Article 27A is Article 62, paragraph (2) of the 1999 Act on Human Rights, which stipulates that every person has a primary obligation and responsibility to respect other people's human rights reciprocally. It is also expressly regulated in Article 29, paragraph (1) of the act that every person has the right to protect himself, his family, honor, dignity, and property rights.

Based on several basic national and international laws above, it can be understood that if defamation is linked to the right of every person to express an opinion, then the prohibition on defamation of people who have died using information technology is in law in Indonesia (namely in Article 27A ) then legally this rule is legal and does not violate the principle of protecting everyone's right to express opinions, because in international law it is determined that each country can limit the human right to express opinions based on state law. Likewise, based on Indonesian national law, restrictions on the content of the views using information technology are limited by the legal norm Article 27A prohibitions. This legal norm aligns with Article 28J paragraph (2) of the 1945 Constitution, which states that implementing human rights can be limited by law (Widodo, 2020). This constitutional rule clearly illustrates that everyone must fulfill human obligations, namely expressing opinions following basic human feelings. (Singer & La Fond, 2007)

4.1.3 Theoretical Reasons

Theoretically, suppose the prohibition on defamation of deceased people is not regulated in Indonesian criminal
law. In that case, people are not afraid of committing defamation of deceased people, and it will damage the order in society. The popularity of social media has given rise to new legal problems, including defamation cases (LaBarbera, 1990). In the United States, it has been proven that defamation through social media has negative impacts, so many states categorize this act as a criminal act. Apart from the escalation in the extensive spread of defamatory content, the most severe losses are received by marginalized groups of society (Pelletier, 2016). Defamation using Information Technology is very detrimental to a person's reputation because of the potential reach of disseminating insulting content, which is very wide. (DeSimone, 2018) Suppose it is not prohibited, and efforts are not made to improve legal norms. In that case, all social media content considered a source of knowledge is always considered to follow facts and be credible (Novia & Wasehudin, 2020).

Regulations prohibiting defamation of deceased people do not conflict with everyone's right to opinion and expression (Ali, 2010). To prevent abuse of legal rules, including repressive actions from law enforcement officials, it is not enough for law enforcement officials to only base their enforcement on complaints from victims; they must pay attention to the assessment of the public, including the legal profession and linguists, regarding the content distributed or transmitted Using information technology (Ali, 2010). Apart from that, enforcement of these legal norms must be prosecuted if there is a complaint from the deceased person's family as regulated in the criminal laws of Singapore, Thailand, Taiwan, China, Chile, Finland, Germany, Portugal, and Sweden. These family members include, for example, father, mother, husband, wife, children, grandchildren, great-grandchildren, parents, grandparents, siblings and other heirs.

4.1.4 Empirical Reasons

Efforts to maintain the regulations regarding the prohibition of defamation using Information Technology against deceased people can be carried out by legislators by explaining Article 27A. The editorial states, "Defamation in this article refers to the provisions of Articles 310 and 320 of the Indonesian Criminal Code of 1946". If legislators take this step, Indonesia will still maintain legal regulations that categorize defamation as a crime. This step is reasonable because, based on identification, 80% of countries in the world prohibit defamation in their respective criminal laws. On the Asia-Pacific continent, 38 out of 44 consider defamation a crime.

Several countries have regulated their respective criminal laws regarding defamation against people who have died, including Singapore (Article 499 points 1 and 5 of the Singapore Criminal Code), Thailand (Article 328 of the Thai Criminal Code), and Taiwan (Article 312 of the Criminal Code Taiwan, ), China (Article 994 of the Chinese Criminal Code), Chile (Article 424 of the Chilean Criminal Code), Finland (Chapter 24 Article 10 of the Finnish Criminal Code), Germany (Article 189 of the German Criminal Code), Portugal (Article 185 Portugal), and Sweden (Chapter 5, Articles 1 and 2 of the Swedish Criminal Code).

All perpetrators of defamation of deceased people are threatened with imprisonment or a fine. The criminal threat in Thailand's Criminal Code is the most severe compared to other countries because it carries a cumulative penalty in the form of a maximum prison sentence of 2 years and a maximum fine of two hundred thousand Baht. The methods and media used to insult people who have died in Thailand also vary significantly, and there are no restrictions on what media are used to commit criminal acts because Article 328 of the Criminal Code uses the term "any means." The formulation of clear legal rules regarding the prohibition of acts in criminal law proves that these crimes need to be eradicated as long as there is evidence that convinces the judge (DeSimone, 2018).

4.2 Making an Explanation in Article 27A in the Third Amendment to the Information and Electronic Transactions Act as a Legal Solution so that Perpetrators of Defamation using Information Technology against Deceased People Can be Punished

Based on the discussion in the sub-chapter above, it is clear that there is a reason that defamation of deceased people using information technology is a disgraceful act by Indonesian society. In the majority of countries in the world, it is considered a crime. Indonesian society still needs the law not to die because it is lost in the reality of its culture. Based on the theory of legal change, elements of community needs, community beliefs, the community's sense of justice, and the legal politics of a government are determining factors in legal change. In this conclusion, the legal norm of Article 27A needs to be explained so that its scope is clear, namely, not only defamation using information technology against living people but also dead people. In essence, the dignity protected by criminal
law in cases of defamation of a deceased person is that of the deceased person's family so that their family's honor is maintained.

The editorial in the explanation of Article 27A is "defamation in this article refers to the provisions of Articles 310 and 320 of the Indonesian Criminal Code of 1946". This explanation can be used as a legal basis referring to the contents of Articles 310 and 320 of the Criminal Code so that automatically, perpetrators of defamation using information technology against living people (as regulated in Article 310) and dead people (as regulated in Article 320) can be punished with criminal threats as stated in regulated in Article 27A (i.e., a maximum prison sentence of 2 years or a maximum fine of 400 million rupiah).

The explanation in Article 27A fulfills the clarity of legal norms because the targets of criminal acts of defamation are clear, namely, living people and dead people, as regulated in the 1946 Indonesian Criminal Code. The content of material criminal law norms must prioritize the principles of lex certa (i.e. clear, detailed, definite, and not subject to multiple interpretations), lex scripta (written form), and lex stricta (legal norms are strictly limited), so that their implementation does not violate human rights which have the status as perpetrators and victims of crime.(Hardinanto Aris, 2016) Criminal law must also adhere to the principle of legality (i.e., no criminal act unless regulated in law) and guilt (i.e., there is no crime without the perpetrator's fault). Criminal law must guarantee legal certainty and contain early warnings so that people do not commit acts prohibited by law accompanied by criminal threats against anyone who violates them (Alfons, 2006). Unclear and ambiguous legal norms cannot be maintained.(Termorshuizen, 2006)

An authentic explanation of Article 27A must be provided by the House of Representatives and the President through the third amendment to the Information and Electronic Transactions Law. This step is based on the provisions on the authority of the People's Representative Council and the President as regulated in Article 20 paragraph (1) of the Indonesian constitution. The explanatory arrangements for Article 27A must be in a legal product in the form of a law, and it cannot be explained in a government regulation, let alone a joint ministerial decree. This opinion is based on multilevel legal theory (Stufen theory), which states that each level of legal norms has different powers, and only legal products that are hierarchically at the same level (namely laws) can change legal norms in a law. Referring to this theory, the law, which explains Article 27A, is the third amendment to the Law on Information and Electronic Transactions. The process and results of changing norms, as stated in Article 27A, are based on the needs of the Indonesian people and fulfill the principles of the rule of law as stated by Fuller, namely facilitating interested parties, being prospective, not retroactive, the formulation is precise, and not contradictory. (Luna, 2012), if immoral acts such as defamation are not prohibited by law, then politically, the DPR and the President could be considered violating the constitution because they harm people's constitutional rights.(Junaidi & Reininda, 2020)

The benefit of this explanation is that law enforcers can use Article 27A as a basis for prosecuting perpetrators and as an "early warning" for everyone not to commit such acts. The crime in Article 27A is a high-tech crime, so law enforcement, as a source of law enforcement power, needs to understand criminal law in the IT sector to apply it more professionally.(Irianto et al., 2017)

5. Conclusion

The elimination of covert decriminalization philosophically follows divine and human values and aligns with natural law teachings in legal philosophy. Juridically, this policy does not violate everyone's constitutional right to express opinions. Theoretically, eliminating covert decriminalization will make enforcing criminal law easier for law enforcement officials. Empirically, it is the same as what is done in several countries, including Thailand and Singapore. It was eliminating the covert decriminalization policy by changing the law by making an authentic explanation of Article 27A following the theory of legal change and in line with the legislator's legal politics, namely wanting to maintain the prohibition on defamation through information technology against deceased people as in the 2023 Indonesian Criminal Code.
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