

Law Enforcement in the Case of Racist Hate Speech by a Police Officer's Child: An Analysis of Multiple Articles in the ITE Law, the Criminal Code, the Criminal Procedure Code, and Human Rights Protection

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ABSTRACT

This study analyzes the legal case of racist competition content created by a female student with the initials L, the daughter of a National Police officer, which went viral in the period May–June 2026. Using a juridical-normative research method with a statutory, case, and conceptual approach, this study examines the application of Article 28 paragraph (2) of the ITE Law from a criminal law perspective and analyzes the potential for lawsuits for unlawful acts (Article 1365 of the Civil Code) and defamation (Article 1372 of the Civil Code) that can be filed by the victim. This study also analyzes the impact of Constitutional Court Decision Number 105/PUU-XXII/2024, the international legal basis (Rabat Plan of Action, ICCPR, ICERD, Siracusa Principles), as well as various moral, ethical, and legal impacts of this case. The results of the study indicate that: (1) L's content fulfills the elements of a criminal offense and elements of an unlawful act; (2) the decision not to detain formally in accordance with the Criminal Procedure Code, but causes controversy; (3) Constitutional Court Decision 105/2024 narrows the interpretation of the hate speech article; (4) L's case has a broad impact on national unity, is a test of Polri reform, and has serious moral and ethical consequences; (5) the victim has the potential for a strong civil lawsuit to obtain material and immaterial compensation. This study recommends: (1) harmonization of regulations; (2) strengthening the transparency of the legal process; (3) firm law enforcement; and (4) increasing digital literacy in the community.

Keywords: Hate Speech, ITE Law, Civil Law, Unlawful Acts, Racial Discrimination, Law Enforcement, Indonesian National Police, Constitutional Court Decision 105/2024, Rabat Plan of Action

INTRODUCTION

Background

The development of digital technology has fundamentally transformed society's communication landscape. Social media platforms like Instagram, Twitter, and TikTok have become new public spaces for expression, interaction, and the exchange of ideas. However, despite its benefits, digital spaces also pose serious challenges for law enforcement, particularly regarding hate speech based on ethnicity, religion, race, and intergroup relations (SARA).

The case of a racist competition carried out by a female student with the initials L, the daughter of a National Police officer, which went viral in the period May–June 2026, became an interesting legal phenomenon because it combined several sensitive issues at once: (1) cybercrime containing racism; (2) the perpetrator's status as the child of a law enforcement officer; (3) the controversy over legal decisions, especially the investigator's decision not to detain L based on Article 21 paragraph (4) of the Criminal Procedure Code because the criminal threat is under 5 years; and (4) the potential for a civil lawsuit that can be filed by the victim based on unlawful acts (*onrechtmatige daad*).

This case occurred at a crucial moment in the development of Indonesian law, where Constitutional Court Decision Number 105/PUU-XXII/2024, read out on April 29, 2025, has changed the interpretation of hate speech articles in the ITE Law, requiring stricter proof of "real risk" and "intention." This adds to the complexity of law enforcement in L's case, where investigators must meet a higher standard of proof to convict the perpetrator.

More than just an individual legal case, L's case has significant implications, including moral, ethical, and legal ramifications affecting society, the Indonesian National Police (Polri), and the Indonesian law enforcement system. This case has garnered public attention because it concerns issues of national unity, the normalization of digital racism, abuse of power, challenges to Polri reform, and the potential for civil lawsuits from the injured parties.

In particular, the L case highlights three interrelated legal dimensions:

1. **Dimensions of Criminal Law**, which includes the application of Article 28 paragraph (2) of the ITE Law in conjunction with Article 45A paragraph (2), as well as Articles 242 and 243 of the new Criminal Code regarding hate speech and insults against certain groups, which must be harmonized with the Constitutional Court Decision which requires proof of "real risk."
2. **Dimensions of Criminal Procedure Law (KUHAP)**, which includes the decision not to detain L based on Law No. 20 of 2025, Article 100, which states that a person can be detained if the criminal threat is 5 years or more, with exceptions for certain crimes that are specifically regulated.
3. **Dimensions of Civil Law and International Human Rights**, which includes the potential for civil lawsuits by the injured party based on Article 1365 of the Civil Code (unlawful acts), and Article 1372 concerning compensation for insults as well as the relevance of international instruments such as ICERD (International Convention on the Elimination of All Forms of Racial Discrimination) which has been ratified by Indonesia through Law Number 29 of 1999.

Thus, the L case is not only a test for law enforcement officials in applying criminal provisions, but also a leading case testing Indonesia's commitment to eradicating racial discrimination, upholding justice impartially, and maintaining public trust in the police institution in the digital age. This study aims to comprehensively analyze all of these legal dimensions and examine the moral, ethical, and social implications of this case for law enforcement in Indonesia.

Problem Formulation

Based on this background, the following research questions are formulated:

1. How is the legal construction of the racist competition case carried out by L from the perspective of Indonesian positive law?, including the chronology of legal facts, the application of Article 28 paragraph (2) of the ITE Law, and the suitability of the decision not to detain with the Criminal Procedure Code?
2. How is the analysis of case L based on international legal instruments?(Rabat Plan of Action, ICCPR, ICERD, and Siracusa Principles) and how relevant is the Constitutional Court Decision Number 105/PUU-XXII/2024 to the enforcement of hate speech law in Indonesia?
3. What are the legal and social implications of the L case?, including the potential for civil lawsuits (unlawful acts and defamation) by victims, as well as the impact on society, the Indonesian National Police institution, and the law enforcement system in Indonesia?

Research Objectives

1. Analyzing the legal construction of the L racist contest case in Indonesian positive law in an integrated manner, including the chronology of legal facts, the application of Article 28 paragraph (2) of the ITE Law, and the suitability of the decision not to detain with the Criminal Procedure Code.
2. Analyzing the L case from an international legal perspective and the relevance of Constitutional Court Decision Number 105/PUU-XXII/2024 to the enforcement of hate speech law in Indonesia.
3. Analyze the legal and social implications of the L case, including the potential for civil lawsuits by the victims and its impact on society, the Indonesian National Police institution, and the law enforcement system.

Research Methods

This research uses a juridical-normative method with a statute approach, a case approach, and a conceptual approach. The data sources used are primary legal materials (statutory regulations and court decisions), secondary legal materials (national media news, books and scientific journals), and international legal instruments. The analysis technique used is qualitative analysis with grammatical, systematic, and sociological interpretation methods.

THEORETICAL BASIS

Theory of Hate Speech Crimes

Waldron's Theory of Collective Harm

According to Jeremy Waldron in his main work *The Harm in Hate Speech* (2012), it provides a strong philosophical basis for understanding why L's actions are not just a "joke" or a "contest," but rather an act that destroys the social order.

The argument is that hate speech causes harm beyond individual humiliation. The primary harm is the damage to collective dignity and the loss of public assurance for minority or vulnerable groups.

Some of Waldron's relevant thoughts:

1. **Dignitary Harm:** Hate speech attacks a person's basic social status and reputation as an equal member of society (equal citizenship). Dignity is the "social standing" that gives everyone the assurance that they will be treated fairly in everyday life.
2. **Group Libel:** Waldron views hate speech as "group libel," which is more serious than individual libel because it targets entire classes of citizens who share certain characteristics (race, ethnicity, religion).
3. **Collective Loss:** Actions like L's "racist comment contest" create a "polluted social environment." The message being spread is that certain groups don't deserve equal respect.

Application to Case L

Waldron's theory explains why L's "racist comment contest" cannot be reduced to a mere ethical violation. By inviting the public to make racist comments for a cash prize, L actively created a public space that legitimized racial hostility. This action undermined the "public guarantee" for citizens from minority groups that they are safe from discriminatory treatment in public spaces.

Theory of Unlawful Acts (*Onrechtmatige Daad*)

According to civil law doctrine, unlawful acts are regulated in Article 1365 of the Civil Code, which states that every unlawful act that causes loss to another person requires the person whose fault caused the loss to compensate for the loss.

The Meaning of "Unlawful" in Jurisprudence

The PMH doctrine is not limited to violations of written laws. The Supreme Court, through established jurisprudence (for example, in decisions regarding PMH), has expanded the meaning of "unlawful" to include four criteria:

1. **Contrary to law** (written law).
2. **In conflict with the subjective rights of others.**
3. **Contrary to decency** (*goede zeden*).
4. **Contrary to the prevailing propriety in society** (*fatsoenlijkheid*).

L's racist actions in the competition clearly violate the morality and propriety of Indonesian society, which upholds the values of *Bhinneka Tunggal Ika* (Unity in Diversity). This demonstrates that racially hateful comments are completely inappropriate, especially in public spaces, and contradict the values of Pancasila, the supreme source of law.

Defamation Theory

Article 1372 of the Civil Code stipulates that anyone who defames the good name or honor of another person can be sued to compensate for the losses suffered by the party who was defamed. Defamation can occur through actions, writings, or speech that lower a person's dignity in the eyes of the public.

Legal Basis and Essence of Defamation

1. Provisions of Article 1372 of the Civil Code

Article 1372 of the Civil Code is the main foundation for civil lawsuits for defamation, which reads:

"Civil lawsuits regarding defamation are filed to obtain compensation for losses and the restoration of honor and good name. In assessing each other, judges must consider the severity of the insult, as well as the rank, position and abilities of both parties and the circumstances."

Essential Elements in a Defamation Lawsuit

Based on Article 1372 of the Civil Code, a claim must fulfill the following elements:

1. **There are acts of insult/defamation:** An act that attacks the honor or good name of a person or group. Insults can occur in writing, verbally, or through actions.
2. **There is an Intent to Insult**(oogmerk): This element is crucial. Article 1376 of the Civil Code stipulates that a civil suit for defamation cannot be granted if there is no proven intent to defame. The intent to defame is deemed absent if the perpetrator acted in the public interest or as an emergency defense. 1. Supreme Court of the Republic of Indonesia, Decision Number 342/PDT/2019/PT DKI
3. **There is a loss:** Material and immaterial losses suffered by victims due to the pollution.
4. **Causal Relationship:** There is a cause-and-effect relationship between the act of pollution and the losses incurred
5. **Actions Done in Public:** In order to fulfill the elements of defamation, the statement or accusation made must be known to the public (published).

Victim Protection Theory

Wisnu Aji Pangestu, Hamidah Abdurrachman, and Kus RizkiantoIn Protection of Victims of Hate Speech Crimes in the Indonesian Legal System (2024), it is explained that the protection of victims of hate speech in the Indonesian legal system still faces various challenges, including weak protection mechanisms and a lack of legal awareness in society. The protection currently provided is indirect, namely only through the imposition of criminal sanctions of imprisonment and/or fines on perpetrators, without a comprehensive recovery mechanism for victims.

Paradigm Shift: From Retributive to Restorative

Research by the Supreme Court's Policy Strategy Agency shows that the criminal justice system, as stipulated in the Criminal Procedure Code (KUHAP), has not optimally provided for victims' rights and status in a just and humane manner. Victims' rights, particularly the right to restitution, compensation, and rehabilitation, are not fully and comprehensively accommodated in judicial practice.

This fundamental problem encourages a paradigm shift towards restorative justice, which includes:

1. **Changing the concept of crime:** Crime is not only seen as a violation of public/state interests, but is also seen as a violation of the interests of the parties, namely the victim, the perpetrator, and society.
2. **Placing the victim as the subject:** Victims are not only objects of evidence but are given a central position in the settlement process'
3. **Recovery oriented:** It's not just about punishing the perpetrator but the main goal is to restore the situation.

Victim Protection Mechanism in the New Criminal Procedure Code

The new Criminal Procedure Code (Law No. 20 of 2025) has significantly introduced several breakthroughs that strengthen victim protection, including:

1. Restorative Justice Mechanism

The new Criminal Procedure Code has expressly accommodated the resolution of cases through the RJ mechanism for hate speech cases, with the following provisions:

- **Recovery Goals:** RJ aims to restore the original situation in the form of forgiveness from the victim/family, return of goods, reimbursement of medical and/or psychological treatment costs, compensation for other losses, and repair of damage that has been caused.
- **Implementation Without Coercion:** in its implementation, the RJ process is carried out without pressure, coercion, intimidation, deception, threats of violence, violence, torture, and actions that degrade humanity.

- **Time Limits and Court Orders:** The RJ agreement must be implemented within a maximum period of 7 days; if it is implemented within this period, the case must be stopped and a court decision must be requested.

2. State Responsibility for Compensation

Another important breakthrough is that the state can cover the victim's losses if the perpetrator is unable to pay. This provision represents a new substance agreed upon by the House of Representatives (DPR) and the government as a form of support for victims and proof of the state's presence in enforcing just law.

INTERNATIONAL LEGAL BASIS

Rebate Plan of Action (2012)

The Rabat Plan of Action is a document adopted by the UN in 2012 as a guide for countries in implementing Article 20 paragraph (2) of the ICCPR which requires countries to prohibit forms of hate speech. The six indicators of the Rabat Plan of Action were all met in the case of L.

The Rabat Plan of Action (RPA) provides a comprehensive international legal framework for analyzing the case of L's "racist pageant". The RPA is a key document adopted by UN experts on 4-5 October 2012 in Rabat, Morocco, as a guide for states in implementing Article 20 paragraph (2) of the International Covenant on Civil and Political Rights (ICCPR) which also requires states to prohibit all forms of hate speech.

A. Background and Objectives of the Rabat Plan of Action

Born out of a series of expert workshops organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Geneva, Vienna, Nairobi, Bangkok, and Santiago de Chile, the RPA document has three main objectives:

1. **Better Understanding:** Understand legislative patterns, judicial practices and policies regarding the concept of incitement to national, racial or religious hatred, and ensure full respect for freedom of expression as stipulated in Articles 19 and 20 of the ICCPR.
2. **Comprehensive Assessment:** The RPA has conducted a comprehensive assessment of the status of implementation of the prohibition on incitement in accordance with international human rights law.
3. **Action Identification:** Identify possible actions at all levels.

High threshold (high threshold) has been set by the RPA to limit freedom of expression, considering the two extremes that occur in various countries: on the one hand, real cases of incitement are not prosecuted, while on the other hand, peaceful critics are persecuted as "preachers of hate".

B. Six-Part Threshold Test

The RPA has a six-part threshold test that serves as a guideline for determining whether a statement has exceeded the threshold and can be categorized as criminal incitement. The six indicators are:

Indicator	Explanation
1. Social and Political Context	An analysis of the social and political context in which statements are made and disseminated. Context is crucial because it can influence assessments of intent and causality.
2. Speaker Status	The speaker's position or status in society, especially his or her influence on the intended audience.
3. Intent	The RPA requires intent to incite. Negligence and recklessness are not sufficient to satisfy Article 20 of the ICCPR because this article addresses "advocacy" and "incitement," which require the activation of a triangular relationship between subject, object, and audience.
4. Content and Form of Speech	Content analysis includes the degree of provocativeness and directness of statements, as well as the form, style, and balance of arguments used.

Indicator	Explanation
5. Scope of Distribution	Includes the reach of the statement, its public nature, audience size, and method of dissemination (e.g., single leaflet vs. mass media broadcast or internet).
6. Likelihood and Proximity of Loss Occurrence	Incitement is an inchoate crime. The incited act does not have to occur for the statement to be punishable. However, there must be a reasonable probability that the speech will incite actual action against the target group, with a direct causal relationship.

ICCPR, ICERD, and Siracusa Principles

Indonesia has ratified the ICCPR through Law No. 12 of 2005 and ICERD through Law no. 29 of 1999. L's content violates Article 20 paragraph (2) of the ICCPR and Article 1 of the ICERD on the prohibition of racial discrimination. L's restriction of freedom of expression is also lawful according to the Siracusa Principles (1984)

A. Law Number 12 of 2005 on the Ratification of the International Covenant on Civil and Political Rights. This ratification makes the ICCPR not merely a moral guideline, but a constitutionally binding international legal obligation in Indonesia.

1. Provisions of Article 20 Paragraph (2) of the ICCPR

This article is the main basis for the prohibition of hate speech in international law, which reads:

"Any advocacy that promotes hatred on the basis of nationality, race or religion that constitutes incitement to discrimination, hostility or violence must be prohibited by law."

Important elements in Article 20 paragraph (2) ICCPR:

Element	Explanation
Advocacy	Requires an element of intent to promote public hatred against a target group, as opposed to an unintentional or momentary emotional expression of hatred.
Hatred	Refers to intense and irrational emotions of contempt, hostility, and dislike towards a target group.
Incitement	Statements about national, racial, or religious groups that create a significant risk of discrimination, hostility, or violence.
Discrimination, Hostility, or Violence	The consequences that the statement must instigate in order to fulfill the elements of the article

As a country that has ratified the ICCPR, Indonesia is obliged to:

- Respect, protect and fulfill the civil and political rights of citizens;
- Aligning national laws (including the Criminal Procedure Code and the Criminal Code) with ICCPR standards;
- Guarantees freedom of expression in accordance with Article 19 ICCPR, but also prohibits incitement to hatred in accordance with Article 20 paragraph (2) ICCPR

B. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

Indonesia ratified the ICERD through Law Number 29 of 1999. This convention serves as an important reference in addressing issues of intolerance, hate speech, and protecting minority groups.

1. Definition of Racial Discrimination in Article 1 ICERD

Article 1 of ICERD defines racial discrimination as:

"Any form of distinction, exclusion, restriction or preference based on race, skin color, descent, or nationality or ethnicity, which has the purpose or effect of nullifying or impairing the recognition, achievement or exercise, on an equal basis, of human rights and fundamental freedoms in the political, economic, social, cultural or other fields of public life."

Five bases of discrimination according to ICERD:

1. Race
2. Skin color (color)
3. Descent
4. Nationality (national origin)
5. Ethnic origin

2. *Obligations of States Parties to ICERD*

ICERD requires state parties to:

- Eliminate all forms of racial discrimination through legal policies, education, and affirmative action;
- Prohibiting propaganda based on racial hatred, including publications that disseminate hate speech based on race, ethnicity, skin color, and national origin;
- Ensuring that non-discrimination rules are reflected in the content of laws and the implementation of law enforcement;
- Re-identify and revise laws and regulations that are still discriminatory against ethnic groups or groups in Indonesia.

C. Siracusa Principles (1984)

The Siracusa Principles are an international legal instrument that regulates the limitations and derogations of human rights under the ICCPR. They were developed following a colloquium in Siracusa, Italy, in 1984 by 31 legal experts who examined the limitations and derogation provisions under the ICCPR.

1. *Basic Principles of Human Rights Restrictions*

The Siracusa Principles stipulate that human rights may be limited for greater interests, with the following provisions:

Principle	Explanation
Determined by Law	Restrictions must be governed by national law of general application, consistent with the ICCPR, clear and accessible to everyone.
Legitimate Purpose	Restrictions must respond to public pressure or social needs, achieve a legitimate aim, and be proportionate to that aim.
Necessary in a Democratic Society	States must demonstrate that restrictions do not undermine the functioning of democracy.
Proportionality	States may not use more restrictive measures than are necessary to achieve the objectives.
Not Arbitrary	Restrictions should not be applied arbitrarily, and each implementation should be subject to criticism and improvement.
Burden of Justification on the State	The burden to justify restrictions on rights rests with the state.

With the integration of the ICCPR, ICERD, and the Siracusa Principles, the analysis of the L case becomes comprehensive by referring to international human rights law standards that are constitutionally binding on Indonesia.

LATEST LEGAL DEVELOPMENTS

Constitutional Court Decision Number 105/PUU-XXII/2024

On April 29, 2025, the Constitutional Court partially granted the request for a judicial review of Article 28 paragraph (2) and Article 45A paragraph (2) of the ITE Law. The Court stated that the norm is contrary to the 1945 Constitution as long as it is not interpreted as:

"only Electronic Information and/or Electronic Documents that substantively contain acts/dissemination of hatred based on a particular identity that are carried out intentionally and in public, which give rise to a real risk of discrimination, hostility or violence."

2. Article 28 Paragraph (2) of the ITE Law: Tightened Hate Speech

The Constitutional Court stated that the phrase "distributing and/or transmitting electronic information and/or electronic documents which are inciting, inviting or influencing other people so as to give rise to feelings of hatred or hostility towards certain individuals and/or community groups" in Article 28 paragraph (2) and Article 45A paragraph (2) of the ITE Law is contrary to the 1945 Constitution and does not have conditional binding legal force, as long as it is not interpreted as:

"Only Electronic Information and/or Electronic Documents that substantively contain acts/dissemination of hatred based on a particular identity that are carried out intentionally and in public, which give rise to a real risk of discrimination, hostility or violence".

New elements that must be fulfilled according to the Constitutional Court's constitutional interpretation:

1. **Substantive:** The speech must clearly contain actions/spread of hatred.
2. **Certain identities:** Hate must be based on an identity attached to a person or group of people (race, nationality, ethnicity, skin color, gender, disability, etc.).
3. **On purpose:** There is an element of intent (*dolus*), not negligence.
4. **In public:** Distribution is carried out in public spaces that are accessible to the general public.
5. **Real risk:** Gives rise to a concrete risk of discrimination, hostility or violence.

New Criminal Code (Law No. 1 of 2023)

The New Criminal Code, which came into effect in 2026, regulates hate speech in Articles 242 and 243. The New Criminal Code firmly adheres to the principle of *ultimum remedium*, which means that criminal law is the last resort after other efforts have failed.

In the New Criminal Procedure Code Law No. 20 of 2025 Article 100

2026 marks the year the new Criminal Procedure Code (Law Number 1 of 2023 concerning the Criminal Procedure Code) comes into effect. Article 100 of the new Criminal Code also stipulates that a person may be detained if the penalty is 5 years or more, with exceptions for certain specifically regulated crimes.

Detention can only be carried out on someone suspected of committing a crime with a prison sentence of 5 (five) years or more. This is a primary objective requirement. If the penalty is less than five years, detention cannot be carried out in principle unless it meets the exceptions specifically stipulated in the law. Article 100 of the new Criminal Procedure Code (Law No. 20 of 2025) is the provision that fundamentally regulates the conditions and grounds for detention. The main changes in this article are an effort to make the detention process more objective and measurable, and no longer dependent on subjective interpretations by law enforcement officials as in the old Criminal Procedure Code.

However, the decision not to detain L remains at the investigator's discretion, based on the presumption of innocence and the protection of the suspect's human rights. The Criminal Procedure Code (KUHAP) is the legal basis for criminal justice, governing the criminal justice process, from investigation, prosecution, to trial.

DISCUSSION

Chronology and Facts of the Case

L uploaded a short video on his personal Instagram social media account @redblood in mid-May 2026. In the video, L is seen dancing while attaching the text inviting: "the most racist comment, I'll transfer 100 thousand." The suspect's main motive was "to seek humor and increase followers."

L also claims immunity from the law because his parents are middle-ranking police officers:

"Bastards, everything gets prosecuted, everything gets prosecuted. I'll be the one who wins, I'll be the one who wins. My parents are both police officers and not low-ranking ones. At most, my parents' crooks (are the ones who handle it). Immune to the law, bastards.."

Both of L's parents are active members of the Indonesian National Police with the rank of Police Commissioner (Kompol).^[14] L was named a suspect in early June 2026, but was not detained because the criminal threat of 4 years is below the minimum limit of mandatory detention (5 years) based on Article 21 of the Criminal Procedure Code.

Analysis of the Elements of Criminal Offenses in Case L

Elements of a Crime	Application to Case L
Intentional (Opzet als oogmerk)	L knowingly wrote the "most racist comment" and promised a reward — demanding a racist comment in response
Real Risk	The content sparked racist comments from netizens (including insulting Papuan people) and caused public unrest.
Without Rights	L has no legal justification (official duties, legitimate freedom of expression, educational/research interests)

CIVIL LAW ANALYSIS

Relevant Civil Legal Basis

Legal basis	Contents	Relevance
Article 1365 of the Civil Code	Every unlawful act that causes loss to another person requires the person whose fault caused the loss to compensate for that loss.	Unlawful Acts (PMH) — L can be sued by the victim because his actions have caused losses
Article 1372 of the Civil Code	Any person who defames the good name or honor of another person can be sued to compensate for the losses suffered by the party who was defamed.	Defamation — L can be sued because the content of the competition and the statement "immune from the law" have defamed the victim and the Indonesian National Police institution.
Article 1366 of the Civil Code	Every person is responsible not only for the damage caused by his actions, but also for the damage caused by his negligence or carelessness.	Negligence — L can be considered negligent because he did not think about the impact of the competition he created.

Application of Unlawful Acts in Case L

PMH elements	Application to Case L	Proof
The existence of an act	L posted a contest for "most racist comment" on Instagram	Content "the most racist comment I transfer 100 thousand"
Against the Law	This action is contrary to: (1) Article 28 paragraph (2) of the ITE Law; (2) Law No. 40 of 2008 concerning the Elimination of Racial and Ethnic Discrimination; (3) the principles of propriety and morality	Content that encourages racist comments that demean the dignity of certain ethnic groups
Error	L acted intentionally (opzet) and without right; he was aware that his invitation would trigger racist comments.	L's admitted motive: "looking for humor and increasing followers"
Loss	The victims (the targeted ethnic groups) experienced: (1) material losses (psychological rehabilitation costs); (2) immaterial losses (trauma, loss of dignity, social stigma)	There were racist comments insulting the Papuan people in response to the L competition.
Causal Relationship	There is a causal relationship between the contest created by L and the emergence of racist comments and the losses suffered by the victim.	Viral content that triggers public unrest

Application of Defamation in Case L

Aspects of Defamation	Application to Case L
Contest Content	Implicitly directing netizens to make comments that demean the dignity of a particular ethnic group — this is a form of defamation against that group.
The Statement of "Immunity of Law"	This is a form of defamation against the Indonesian National Police institution, because it implies that the institution is not independent and can be influenced by family interests.

6.4 Potential Losses That May Be Claimed

Types of Losses	Explanation	Example
Material Loss	Costs of psychological rehabilitation; potential loss of employment or economic opportunities due to stigma; legal and attorney fees	Psychological consultation fees, medical

Types of Losses	Explanation	Example
		expenses, loss of income
Intangible Losses	Psychological trauma; loss of dignity and honor; social stigma; insecurity; mental suffering	<i>Shame, humiliation, trauma, depression</i>

Civil Lawsuit Procedure

Stage	Explanation
1. Evidence Collection	Screenshots of content, racist comments, and other evidence that shows harm
2. Legal Consultation	The victim consulted with a lawyer to prepare a PMH lawsuit.
3. Drafting of Lawsuit	Prepared in writing and registered with the District Court
4. Mediation Process	Before the trial, there was a mediation effort between the victim and the perpetrator to reach peace.
5. Trial	If mediation fails, the trial process continues to prove the elements of PMH.

Benefits of Civil Path

Profit	Explanation
Focus on Victim Recovery	Unlike criminal law which focuses on punishing the perpetrator, civil law focuses on restoring the victim through compensation.
Lighter Burden of Proof	In civil cases, the burden of proof is based on the balance of probabilities (more likely to be true than not), not as complex as criminal cases where you have to prove "beyond reasonable doubt".
Victims Receive Compensation	If the lawsuit is granted, the victim has the right to material and immaterial compensation which can be used for recovery.
Avoiding Lengthy Criminal Proceedings	Civil proceedings tend to be more flexible and can be resolved through mediation.

CASE IMPACT ANALYSIS L

Moral Impact

Moral Impact Aspect	Explanation
Normalizing Digital Racism	Holding a contest with prizes for racist comments is a form of normalizing racism; it creates a bad precedent where racism is considered "normal" on social media.
Neglect of Human Values	L's actions are morally wrong because they use the issue of racism as entertainment and a tool to gain popularity, ignoring the psychological impact on the victims.
Threat to National Unity	Members of the House of Representatives stated that L's actions had the potential to exacerbate horizontal conflict and damage social harmony.

Ethical Impact

Ethical Impact Aspects	Explanation
Status Abuse	L used his parental status as a "shield" by declaring himself "immune from the law" — an abuse of public trust in the Indonesian National Police.
Arrogance	L actually challenged the party who would report him, showing an arrogant and unethical attitude.
Digital Ethics Violation	L uploaded provocative and demeaning content for the sake of popularity, violating digital ethics.
Implications for the Indonesian Police Code of Ethics	L's parents are potentially subject to ethical code sanctions based on Police Regulation No. 14 of 2011 if they are proven to have intervened.

Legal Impact

Impact Dimension	Specific Impacts
Material Criminal Law	L was named a suspect with a criminal threat of 4 years in prison based on Article 28 paragraph (2) in conjunction with Article 45A paragraph (2) of the ITE Law; potential additional articles from Law 40/2008 and the Criminal Code.
Criminal Procedure Law	No detention was carried out due to the threat of a criminal sentence of less than 5 years (Article 21 of the Criminal Procedure Code); the investigation process continues
Civil law	The victim has the potential for a civil lawsuit (PMH and defamation) to obtain material and immaterial compensation.
Law enforcement	The case is a test of police reform and the impartiality of law enforcement.

Impact Dimension	Specific Impacts
Legal Precedent	The case strengthens the prohibition of digital racism and provides a deterrent effect for potential perpetrators.

RELATIONSHIP BETWEEN CRIMINAL LAW AND CIVIL LAW

Aspect	Criminal law	Civil law
Objective	Punishing the perpetrator (deterrent effect)	Recovering victims (compensation)
Initiator	State (Public Prosecutor)	Victim (Plaintiff)
Burden of Proof	<i>Beyond reasonable doubt</i>	<i>Balance of probabilities</i>
Sanctions	Imprisonment, criminal fines	Compensation (money)
Focus	The perpetrator's fault	Victim's losses
Alternative	Restorative justice	Mediation/peace

CLOSING

Conclusion

1. L's case fulfills the elements of the crime under Article 28 paragraph (2) of the ITE Law, with clear intent (opzet als oogmerk) and a real risk (as evidenced by the virality of the content and racist comments that emerged). This is reinforced by L's own admitted motive, namely to "seek humor and increase followers".
2. Based on international legal grounds, L's content meets all six indicators of the Rabat Plan of Action, violates Article 20 paragraph (2) of the ICCPR concerning the prohibition of hate speech, and is contrary to the provisions of the ICERD which prohibit racial discrimination.
3. The decision not to formally detain L in accordance with Article 21 of the Criminal Procedure Code (criminal threat of under 5 years), but sociologically caused controversy due to L's status as the son of a police officer and his statement claiming "immunity from the law".
4. Constitutional Court Decision Number 105/PUU-XXII/2024 provides greater legal certainty by narrowing the interpretation of the hate speech article and requiring proof of "real risk" and "intention."
5. **L's case has strong civil suit potential.** Based on Article 1365 of the Civil Code concerning Unlawful Acts and Article 1372 of the Civil Code concerning Defamation, the victim (the targeted ethnic group) can file a lawsuit for material and immaterial damages against L.
6. The L case has had a wide impact on national unity, has become a real test for police reform, has strengthened the discourse on the limits of freedom of expression, and has highlighted systemic weaknesses in the enforcement of hate speech laws in Indonesia.
7. The L case has serious moral impacts (normalization of digital racism, disregard for human values) and significant ethical impacts (abuse of status, violation of digital ethics, potential violation of the Indonesian National Police code of ethics).

Suggestions

For the Constitutional Court

1. Publication and dissemination of Constitutional Court decisions so that they can be easily accessed and understood by the public.
2. Clarifying the definition of “real risk” in future decisions.
3. Adopting the Rabat Plan of Action as a guideline for interpreting hate speech in Indonesia.

For the DPR and the Government

1. Conducting limited revisions to the ITE Law to create legal certainty.
2. Strengthen the Witness and Victim Protection Act to include victims of hate speech.
3. Implement international standards (Rabat Plan of Action, ICERD) more effectively.
4. Strengthening character education and digital literacy to prevent the normalization of digital racism.
5. Clarifying the relationship between criminal law and civil law in hate speech cases so that victims have a clear legal path to compensation.

For the Indonesian National Police

1. Increase transparency of legal processes through publication of legal considerations.
2. Proving the commitment to police reform by handling this case professionally and without discrimination.
3. Prevent the normalization of digital racism with firm law enforcement.
4. Establish a special mechanism to handle cases involving members or families of members of the Indonesian National Police.
5. Imposing strict sanctions based on Police Regulation No. 14 of 2011 if there is evidence of intervention by members of the Indonesian National Police.

For the Community and Victims

1. Improving digital literacy about the limits of freedom of expression.
2. Do not create provocative content that is detrimental to yourself and others.
3. Don't normalize digital racism and report racist content.
4. Victims can consider civil legal channels (PMH and defamation lawsuits) to obtain material and immaterial compensation.
5. Monitor legal processes critically and report any indications of preferential treatment.

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