

# Racial Offenses Against the Sundanese Ethnic Group Reviewed from the Perspective of the Electronic Information and Transactions Law

Musa Darwin Pane<sup>1</sup>, Khairunnisa Hanifati Zahra<sup>2</sup>, Marta Ayuni Lestari Suhandi<sup>3</sup>

<sup>1,2,3</sup> Department of Law, Faculty of Law, Universitas Komputer Indonesia, Bandung, Indonesia.

Email: [musa@email.unikom.ac.id](mailto:musa@email.unikom.ac.id)<sup>1</sup>, [khairunnisa.3162022@mahasiswa.unikom.ac.id](mailto:khairunnisa.3162022@mahasiswa.unikom.ac.id)<sup>2</sup>,

[marta.31622001@mahasiswa.unikom.ac.id](mailto:marta.31622001@mahasiswa.unikom.ac.id)<sup>3</sup>

## ARTICLE HISTORY

Received: March 12, 2026

Revised: April 29, 2026

Accepted: April 30, 2026

## DOI

<https://doi.org/10.52970/grdis.v6i2.2171>

## ABSTRACT

This study aims to analyze the legal construction and law enforcement of racial offenses targeting the Sundanese ethnic group in the digital space based on the Electronic Information and Transactions Law (UU ITE). Using a normative legal research method with statutory, conceptual, and case approaches, this research focuses on the implementation of Article 28 paragraph (2) of the UU ITE. The findings indicate that the concept of racial offenses against the Sundanese ethnic group has been explicitly regulated with criminal sanctions of up to six years of imprisonment, as reflected in the case involving content creator R. in late 2025. However, law enforcement still faces challenges due to the ambiguity of the phrases "inciting hatred" and "inter-group," which are open to multiple interpretations and potentially violate the principle of *lex certa*. This study recommends a more precise reformulation of legal norms and stronger collaboration among the government, digital platforms, and society to maintain ethnic harmony in the digital era.

**Keywords:** Racial Offense, Sundanese Ethnic Group, Electronic Information and Transactions Law (UU ITE).

## I. Introduction

Hate speech has been explicitly prohibited through applicable statutory regulations due to its potential to disrupt social cohesion, divide communities, and threaten public order. In legal and academic discourse, hate speech is understood as an expression that contains hostility, discrimination, or incitement directed at individuals or groups based on identity markers such as ethnicity, race, religion, gender, or nationality (Hidayat et al., 2024). Previous studies have demonstrated that hate speech is not merely a linguistic issue but also a socio-legal phenomenon that may trigger wider social conflict and undermine democratic values if not properly regulated (Brown, 2017; Waldron, 2012). In this context, hate speech is increasingly viewed as a multidimensional problem that intersects with issues of human rights, digital governance, and social justice, requiring a comprehensive regulatory approach that goes beyond traditional criminal law frameworks. The rapid development of globalization has significantly transformed patterns of communication through advances in information technology. Social media platforms enable the rapid dissemination of information without geographical limitations, creating an interconnected digital society.



However, these technological developments have also created new opportunities for harmful behavior, particularly the spread of hate speech in digital spaces. Recent studies indicate that digital platforms such as TikTok, Facebook, and YouTube have become primary channels for the circulation of identity-based hate speech, raising serious concerns about digital governance and legal accountability (Alfahad et al., 2026; Bleich, 2011). The algorithmic nature of these platforms, which prioritizes engagement and virality, often amplifies controversial or provocative content, thereby increasing the visibility and impact of hate speech in society. This phenomenon illustrates that technological advancement not only facilitates communication but also reshapes the dynamics of social conflict in the digital era.

Within the Indonesian legal framework, racial hostility toward certain ethnic groups can be prosecuted under Article 28 paragraph (2) in conjunction with Article 45A of the Electronic Information and Transactions Law (UU ITE). This provision aims to prevent the dissemination of information that incites hatred or hostility based on ethnicity, religion, race, and inter-group relations (SARA). However, several scholars argue that the formulation of this article remains problematic due to its vague and broad interpretation, particularly regarding the phrases "inciting hatred" and "inter-group," which may lead to inconsistent law enforcement practices (Windisen & Adhari, 2021; Hidayat et al., 2024). Such ambiguity creates a legal grey area that may undermine the principle of legal certainty, potentially resulting in selective enforcement or misuse of legal provisions. This issue is particularly critical in democratic societies, where protecting freedom of expression must be carefully balanced with the need to prevent harmful speech. Indonesia is a multicultural country characterized by rich ethnic, cultural, and linguistic diversity. While this diversity represents a national strength, it also poses challenges in maintaining social cohesion. The Sundanese ethnic group, as one of the largest ethnic groups in Indonesia, has increasingly become a target of racial speech in digital spaces. Empirical findings and media reports show that stereotypes, insults, and discriminatory narratives targeting the Sundanese community frequently appear on social media and are often normalized under the guise of humor or informal expression (Solihah & Dienaputra, 2018; Liputan6, 2025). This normalization of discriminatory discourse reflects a broader cultural issue, where harmful narratives are embedded within everyday communication and are often overlooked due to their informal nature. As a result, such expressions may gradually erode social values and contribute to the marginalization of certain ethnic groups.

The Indonesian government has attempted to address this issue through various legal instruments, including Law Number 11 of 2008, as amended by Law Number 19 of 2016 concerning Electronic Information and Transactions, and Law Number 1 of 2023 concerning the new Criminal Code (KUHP). From a comparative perspective, international frameworks show diverse approaches to regulating hate speech, with European countries imposing stricter limitations, while the United States provides broader protection under freedom of expression principles (Bleich, 2011; Waldron, 2012). These differences demonstrate that the regulation of hate speech is deeply influenced by each country's legal culture, political system, and societal values. Consequently, Indonesia must develop a context-sensitive legal approach that accommodates its multicultural characteristics while ensuring the protection of fundamental rights. Despite these regulations, challenges remain in their implementation. The ambiguity of Article 28, paragraph (2), of the UU ITE raises concerns about its compliance with the principles of *lex certa* and *lex stricta*, which require clarity and precision in criminal law. This ambiguity may lead to two major consequences: (1) under-enforcement, where perpetrators avoid legal responsibility due to unclear norms, and (2) over-criminalization, where legitimate expressions are penalized excessively. These dual risks highlight the urgent need for legal reform that clarifies normative provisions and ensures proportional, consistent law enforcement practices.

This research offers novelty by specifically focusing on racial offenses against the Sundanese ethnic group in digital spaces, which has not been extensively discussed in previous studies that generally examine hate speech in a broader national or cross-ethnic context. By integrating statutory, conceptual, and case-based approaches, this study provides a more focused and context-specific legal analysis. In addition, this research contributes to legal scholarship by bridging the gap between normative legal analysis and contemporary digital realities, particularly in the context of ethnic-based discrimination in online environments. Therefore, this study aims to analyze (1) the legal construction of racial offenses under the UU

ITE, (2) the effectiveness of its enforcement against hate speech targeting the Sundanese ethnic group, and (3) its alignment with the principles of legal certainty, justice, and utility. These objectives are expected to provide a comprehensive understanding of both the normative and practical dimensions of hate speech regulation in Indonesia. The significance of this research lies in its contribution to improving legal norms, strengthening law enforcement practices, and promoting social harmony in Indonesia's multicultural society. Furthermore, the findings are expected to provide practical implications for policymakers, law enforcement authorities, and digital platform operators in regulating harmful content in cyberspace. By offering a more nuanced analysis, this study also aims to support the development of more effective and balanced policies that protect both ethnic dignity and freedom of expression. However, this study acknowledges certain limitations, particularly its reliance on normative legal research and selected case studies, which may not fully capture the empirical dynamics of hate speech in society. Future research is recommended to incorporate empirical approaches to enhance the comprehensiveness of the analysis. Such future studies may include quantitative analyses of online hate-speech patterns or qualitative investigations into the experiences of affected communities, thereby providing a more holistic understanding of the issue.

## II. Literature Review and Hypothesis Development

### 2.1. Literature Review

Hate speech is a form of expression containing insults, discrimination, or incitement directed at individuals or groups based on social identities such as ethnicity, religion, race, and intergroup relations. In the context of criminal law, hate speech is considered an act that may disrupt public order and, if not regulated by adequate legal instruments, trigger social conflict (Hidayat et al., 2024). Contemporary legal scholarship also emphasizes that hate speech must be understood not only as a violation of individual dignity but also as a structural threat to democratic values and social stability (Brown, 2017; Waldron, 2012). The rapid development of information technology has further expanded the space for the dissemination of hate speech, particularly through social media platforms that enable information to spread quickly and reach a wide audience without geographical limitations. Recent technological developments, including algorithm-driven content distribution and monetization features on platforms such as TikTok, YouTube, and Instagram, have significantly influenced the spread and normalization of hate speech in digital environments (Alfahad et al., 2026). These platforms often amplify controversial content, making hate-based expressions more visible and impactful, thereby complicating legal regulation and enforcement. Within the Indonesian legal system, regulations concerning identity-based hate speech have been established through various statutory provisions. One of the primary regulations governing this matter is the Electronic Information and Transactions Law (UU ITE), particularly Article 28 paragraph (2), which prohibits any person from intentionally and unlawfully disseminating information intended to incite hatred or hostility toward individuals or groups based on ethnicity, religion, race, or intergroup relations (Windisen & Adhari, 2021). This provision is further reinforced by Article 45A paragraph (2), which stipulates criminal sanctions of up to six years' imprisonment and/or a fine of up to one billion rupiah.

However, critical studies reveal that the effectiveness of the UU ITE remains contested. While the law provides a formal legal basis for addressing hate speech, its broad formulation has led to inconsistent interpretations and uneven enforcement practices, raising concerns about legal certainty and potential misuse (Malikab & Husen, 2025; Pratama & Sulaiman, 2026). In addition to the UU ITE, regulations concerning racial and ethnic discrimination are also stipulated in Law Number 40 of 2008 concerning the Elimination of Racial and Ethnic Discrimination. This law aims to provide legal protection against discriminatory acts and uphold the dignity of ethnic groups (UPNVJ, 2019). Nevertheless, empirical studies indicate that the implementation of this law has not been fully effective due to limited public awareness, weak enforcement mechanisms, and the persistence of discriminatory narratives in digital spaces (Hajeman et al., 2025). From an international perspective, hate speech regulation varies significantly across jurisdictions. European countries

generally adopt stricter approaches by criminalizing hate speech to protect social harmony, while the United States tends to prioritize freedom of expression under the First Amendment, allowing broader tolerance of controversial speech (Bleich, 2011; Waldron, 2012). These differences highlight the importance of contextualizing legal frameworks within their respective socio-political environments.

In the context of Indonesia's diverse society, protecting ethnic groups is highly important. The Sundanese ethnic group, as one of the largest ethnic groups in Indonesia, is not immune to hate speech in digital spaces. Research conducted by Solihah and Dienaputra (2018) shows that stereotypes and discrimination against ethnic identity may emerge through various forms of representation, both in literature and public discourse. Recent developments indicate that such discriminatory narratives have shifted to digital platforms, where they are often reproduced and amplified through memes, videos, and viral content (Alfahad et al., 2026). In law enforcement practice, the implementation of Article 28, paragraph (2), of the UU ITE frequently raises debates over the boundary between freedom of expression and hate speech. Some scholars argue that the formulation of this article leaves broad interpretive space, particularly regarding the phrases "inciting hatred" and "intergroup," which lack clear definitions (Windisen & Adhari, 2021). This ambiguity has led to two major criticisms: first, the risk of selective enforcement; and second, the potential restriction of legitimate freedom of expression, which remains a fundamental right in democratic societies (Brown, 2017). Therefore, a critical evaluation of existing legal frameworks is necessary, not only to assess their normative adequacy but also to examine their practical effectiveness in addressing hate speech in digital environments. Examining racial offenses targeting ethnic groups such as the Sundanese is important to understand how legal norms are constructed and implemented in practice.

## 2.2. Hypothesis Development

Based on the literature review above, it can be understood that legal regulations concerning ethnic-based hate speech in Indonesia have been normatively established through various statutory provisions, particularly within the UU ITE. However, empirical findings and recent studies indicate that the effectiveness of these regulations is influenced by factors such as the clarity of legal norms, consistency of law enforcement, and the dynamics of digital media environments (Malikab & Husen, 2025; Alfahad et al., 2026). Therefore, this study proposes the following hypothesis: Article 28, paragraph (2) of the Electronic Information and Transactions Law provides a formal legal foundation for addressing ethnic-based hate speech in digital spaces; however, its effectiveness in practice is limited by normative ambiguity, interpretative flexibility, and technological factors that facilitate the rapid dissemination of hate content. The effectiveness of the law in this study will be assessed through: (1) the clarity of legal norms (*lex certa*); (2) consistency in judicial interpretation and law enforcement practices; and (3) its capacity to respond to the dynamics of digital communication platforms. This hypothesis is supported by the assumption that although the legal framework governing hate speech exists, its successful implementation depends not only on the existence of legal provisions but also on their clarity, enforceability, and adaptability to technological developments. Previous studies have demonstrated that unclear legal norms and weak enforcement mechanisms often reduce the effectiveness of hate speech regulation in digital contexts (Bleich, 2011; Hajeman et al., 2025). Accordingly, this research aims to provide a critical and comprehensive analysis of the legal construction of racial offenses under the UU ITE and to formulate recommendations to improve regulatory frameworks to enhance legal certainty, protect ethnic groups, and ensure balanced regulation between freedom of expression and social harmony in Indonesia.

## III. Research Method

This study employs a normative legal research method that examines legal norms contained in statutory regulations, legal doctrines, and court decisions relevant to the issues under study. Normative legal research aims to identify legal rules, principles, and doctrines to resolve legal issues through systematic

analysis. In this study, the analysis is guided by the IRAC method (Issue, Rule, Application, and Conclusion), where "Issue" refers to identifying the core legal problem, "Rule" refers to determining the applicable legal provisions, "Application" involves analyzing how the law is applied to specific cases, and "Conclusion" draws logical legal findings based on the analysis. This explanation is provided to assist readers who may be unfamiliar with this analytical framework (Ibrahim, 2017). To ensure the originality and academic integrity of this research, all legal analyses are based on independently reviewed legal materials, supported by proper citations, and cross-checked with authoritative sources to avoid duplication or misinterpretation of existing literature and legal norms. This approach was selected because the research focuses on analyzing the construction of legal norms governing ethnic-based hate speech offenses in the digital sphere, particularly those related to the implementation of Article 28, paragraph (2), of the Electronic Information and Transactions Law.

### 3.1. Statutory Approach

The statutory approach involves examining various laws and regulations related to the research problem. This approach is intended to understand the hierarchy and consistency of legal norms governing ethnic-based hate speech offenses, both within the Indonesian Criminal Code and the Electronic Information and Transactions Law (Ali, 2021).

### 3.2. Conceptual Approach

The conceptual approach is applied to examine legal concepts developed in academic literature. Through this approach, the researcher analyzes various legal concepts related to racial offenses and hate speech, as well as fundamental principles of criminal law, such as *lex certa* and *lex stricta*, which require clarity and precision in the formulation of criminal norms (Suteki & Taufani, 2020).

### 3.3. Case Approach

The case approach is employed to analyze court decisions or concrete cases related to hate speech on social media. This approach aims to understand how legal norms contained in statutory regulations are implemented in practice by law enforcement officials and judicial institutions (Fajar & Achmad, 2019). The selection of case law in this study is conducted using purposive sampling, focusing on cases that meet specific criteria, namely: (1) cases involving ethnic-based hate speech; (2) cases processed under Article 28 paragraph (2) of the UU ITE; and (3) cases that received significant public attention or legal relevance. This sampling approach ensures that the selected cases are representative and relevant to the research objectives. These three approaches are used in an integrated manner, where the statutory approach provides the normative legal framework, the conceptual approach offers theoretical interpretation, and the case approach provides empirical illustrations of law enforcement practices. This integration ensures a more comprehensive and coherent legal analysis.

### 3.4. Legal Materials and Data Collection

The legal materials used in this research consist of primary legal materials and secondary legal materials. Primary legal materials include statutory regulations relevant to the research object, such as the Electronic Information and Transactions Law, the Indonesian Criminal Code, and court decisions related to cases of ethnic-based hate speech. Meanwhile, secondary legal materials include scholarly literature such as legal textbooks, academic journals, previous research findings, and academic articles discussing hate speech offenses and legal regulations in the digital sphere (Suteki & Taufani, 2020). The selection of legal materials is based on specific criteria, including relevance to the research topic, recency of publication (particularly within

the last 5–10 years), and academic credibility (indexed journals or authoritative legal sources). This ensures the rigor and validity of the research. The collection of legal materials for this research was conducted through library research, which involves systematically reviewing various sources of literature in both print and digital formats (Ibrahim, 2017).

### 3.5. Data Analysis Technique

After the legal materials were collected, the data were analyzed qualitatively using a systematic legal interpretation method. The analysis process involves: (1) classification of legal materials; (2) interpretation of legal norms; (3) comparison between legal provisions and case findings; and (4) drawing conclusions based on legal reasoning using the IRAC framework. This process ensures methodological transparency and allows the research to be replicated or evaluated by other scholars.

### 3.6. Research Limitations

Despite its strengths, this study acknowledges several limitations. Normative legal research relies heavily on secondary data and legal texts, which may not fully capture empirical realities in society. Additionally, the use of selected case studies may limit the generalizability of the findings. Therefore, future research is recommended to incorporate empirical approaches to complement the normative analysis and provide a more comprehensive understanding of hate speech in digital contexts.

## IV. Result and Discussion

### 4.1. Legal Construction of Racial Offenses in the Indonesian Legal System (Extended Version)

Racial offenses within the Indonesian legal system are primarily regulated through Article 28 paragraph (2) in conjunction with Article 45A paragraph (2) of the Electronic Information and Transactions Law (UU ITE). This provision explicitly prohibits any person from intentionally and unlawfully disseminating electronic information intended to incite hatred or hostility based on ethnicity, religion, race, and intergroup relations (SARA). The inclusion of SARA as a central legal concept reflects Indonesia's socio-cultural context as a pluralistic and multicultural nation, where identity-based conflicts have historically posed significant risks to social cohesion and national unity. In this regard, the regulation of hate speech in Indonesia cannot be separated from the broader constitutional mandate to maintain public order and protect citizens from discrimination. Article 28, paragraph (2) of the UU ITE functions not only as a criminal provision but also as a preventive legal instrument designed to mitigate potential social conflicts arising from identity-based hostility. This aligns with Waldron's (2012) argument that hate speech laws serve as mechanisms to preserve dignity and social inclusion in diverse societies. From a legal doctrinal perspective, Article 28 paragraph (2) can be categorized as a formal offense (*delik formil*). This means the offense is legally complete once the act of dissemination occurs, regardless of whether it produces actual harm or consequences. This preventive approach demonstrates the state's intention to intervene at an early stage before hate speech escalates into broader social conflict. By criminalizing the act itself rather than its consequences, the law aims to suppress the potential spread of harmful narratives in digital spaces. However, such a preventive approach also raises questions regarding proportionality and fairness in criminal law enforcement. The sanctions imposed under Article 45A paragraph (2), which include imprisonment of up to six years and substantial fines, may be considered relatively severe when compared to similar offenses in other legal frameworks. From the perspective of criminal law theory, punishment should be proportionate to the harm caused (principle of proportionality).

The absence of a requirement to prove actual harm in formal offenses creates a tension between preventive legal policy and the protection of individual rights. In contrast to the UU ITE, the new Criminal Code

(Law Number 1 of 2023) adopts a more proportional framework by providing lighter sanctions for similar offenses. Articles 256 and 257 of the KUHP regulate expressions of hostility and the dissemination of hate-based content, but with a maximum penalty of three years' imprisonment. This difference indicates a normative tension between deterrence-oriented and proportionality-oriented approaches within Indonesian criminal law. While the UU ITE emphasizes strong deterrence through heavier sanctions, the KUHP reflects a more balanced approach that considers the severity of the offense. The coexistence of these two regulatory frameworks suggests that Indonesia's legal system is still undergoing harmonization. This duality may lead to inconsistencies in law enforcement, as authorities may rely on different legal instruments depending on the circumstances of each case. From a legal certainty perspective, this situation highlights the need for clearer guidelines on the application of these provisions. One of the most critical issues identified in the legal construction of racial offenses is the ambiguity of key terms, particularly "inciting hatred" and "intergroup." These terms are not clearly defined within the statutory framework, leading to multiple interpretations. This condition is inconsistent with the principle of *lex certa*, which requires legal norms to be precise, clear, and unambiguous. Without clear definitions, law enforcement authorities may interpret these terms subjectively, resulting in inconsistent application. This ambiguity also raises concerns regarding the principle of *lex stricta*, which requires that criminal laws be interpreted strictly and not extended beyond their explicit meaning. The absence of clear boundaries allows broad interpretation, potentially expanding the scope of criminal liability beyond the legislator's original intent. Furthermore, the ambiguity of legal terminology creates significant challenges in distinguishing between hate speech and legitimate expression. In democratic societies, freedom of expression is a fundamental right that must be protected. However, when legal provisions are not clearly defined, there is a risk that individuals may be prosecuted for expressing opinions that do not necessarily constitute hate speech. This issue has been widely discussed in legal scholarship, where scholars emphasize the need to balance freedom of expression to prevent harmful speech (Bleich, 2011).

The implications of this ambiguity are twofold. On one hand, it may result in under-enforcement, where perpetrators avoid legal consequences due to the lack of clear legal standards. On the other hand, it may lead to overcriminalization, in which individuals are penalized for expressions that fall within the scope of protected speech. This dual risk undermines the effectiveness of the legal framework and may reduce public trust in the justice system. In addition, the application of Article 28, paragraph (2), must also take into account the evolving nature of communication in the digital era. Unlike traditional forms of communication, digital platforms enable rapid, widespread dissemination of information. This characteristic increases the potential impact of hate speech but also complicates legal interpretation. For example, the meaning of a statement may depend on context, audience perception, and platform dynamics, making it more difficult to determine whether it constitutes hate speech. From a comparative perspective, many countries address this issue by providing clearer definitions of hate speech within their legal frameworks. For instance, European legal systems tend to define hate speech more explicitly, thereby reducing interpretative ambiguity. In contrast, Indonesia's broad formulation allows for flexibility but also creates uncertainty. This highlights the importance of refining legal provisions to ensure both effectiveness and fairness. Therefore, it can be argued that the current legal construction of racial offenses in Indonesia reflects a strong commitment to preventing hate speech but still requires significant improvement in terms of clarity and consistency. The effectiveness of legal regulation depends not only on the existence of sanctions but also on the precision of legal norms and the coherence of their application. In this context, the reformulation of Article 28, paragraph (2) becomes essential. Clearer definitions of key terms, combined with guidelines for interpretation, can help reduce ambiguity and improve law enforcement. Moreover, aligning the UU ITE with the new Criminal Code can enhance consistency within the legal system.

#### 4.2. Transformation of Racial Offenses in the Digital Era (Extended Version)

The emergence of digital technology has fundamentally transformed the nature, scope, and impact of racial offenses in contemporary society. In earlier periods, hate speech was primarily expressed through

direct communication, such as public speeches, printed publications, or interpersonal interactions. These forms of expression were relatively limited in scale and dissemination. However, in the digital era, hate speech has evolved into various forms of online content, including memes, videos, comments, hashtags, and live streaming broadcasts, which are easily produced and widely distributed across multiple platforms. One of the defining characteristics of digital hate speech is its rapid and expansive dissemination. Social media platforms enable content to spread almost instantaneously across geographical boundaries, reaching vast audiences quickly. This characteristic significantly amplifies the potential impact of hate speech, as a single piece of content can quickly go viral and influence public perception on a large scale. As a result, the consequences of hate speech are no longer confined to localized interactions but may extend to broader societal tensions and conflicts. In addition to speed, digital hate speech is characterized by persistence and replicability. Once content is uploaded to digital platforms, it can be stored, reproduced, and reshared indefinitely, making it difficult to remove completely. This persistence increases the long-term impact of harmful content, as it may continue to circulate even after legal action has been taken. From a legal perspective, this raises challenges regarding enforcement, particularly in ensuring the effective removal of content and preventing its re-emergence. Another critical aspect of digital transformation is the role of algorithms in shaping online discourse. Digital platforms rely on algorithmic systems to prioritize and recommend content based on user engagement metrics such as likes, shares, and comments. Content that generates high engagement—often controversial or emotionally charged material—is more likely to be promoted by these algorithms. Consequently, hate speech is not only tolerated but, in some cases, amplified by platform mechanisms. This phenomenon has been widely discussed in recent studies, which indicate that algorithmic systems may unintentionally promote harmful content by prioritizing engagement over ethical considerations (Alfahad et al., 2026).

Furthermore, the anonymity and pseudonymity offered by digital platforms contribute to the proliferation of hate speech. Users can express discriminatory or offensive views without revealing their real identities, reducing the perceived risk of accountability. This condition encourages more aggressive forms of expression and lowers social barriers that would otherwise limit such behavior in face-to-face interactions. In this sense, digital environments create a space where social norms are weakened, allowing harmful discourse to flourish. In the context of the Sundanese ethnic group, racial offenses often take subtle and indirect forms, such as stereotypes, humor, satire, and cultural mockery. Unlike explicit hate speech, which clearly expresses hostility, these forms are often embedded in everyday communication and are frequently normalized within social interactions. Research by Solihah and Dienaputra (2018) shows that such representations are deeply rooted in cultural narratives and may be perceived as harmless or even entertaining. However, from a legal perspective, these forms of expression may still constitute hate speech if they contain elements of discrimination, degradation, or incitement. This creates a significant challenge for law enforcement authorities, as it requires distinguishing between acceptable expression and harmful speech. The boundary between humor and hate speech is particularly difficult to define, as it depends on context, intention, and audience perception. Brown (2017) argues that modern hate speech is increasingly implicit and symbolic, making legal interpretation more complex. Rather than using overtly hostile language, individuals may rely on coded expressions, sarcasm, or indirect references to convey discriminatory messages. This shift complicates the process of identifying hate speech, as the harmful intent may not be immediately apparent. In addition, the digital environment introduces a participatory culture, where users not only consume content but also actively produce and share it. This participatory nature accelerates the spread of hate speech, as users may unknowingly contribute to its dissemination by sharing or engaging with it. This phenomenon highlights the collective nature of digital hate speech, in which responsibility is distributed among multiple actors.

From a regulatory perspective, the transformation of racial offenses in the digital era requires a re-evaluation of traditional legal approaches. Laws that were designed for conventional forms of communication may not be fully effective in addressing the complexities of digital environments. For instance, the concept of territorial jurisdiction becomes less relevant when content is accessible globally, raising questions about the applicability of national laws. Moreover, the dynamic and evolving nature of digital platforms poses

challenges for legal adaptation. New forms of communication, such as short-form videos and live streaming, continuously reshape the way information is produced and consumed. This requires legal frameworks to be flexible and responsive to technological changes. Another important issue is the difficulty in proving the element of intent (*mens rea*) in digital hate speech cases. In many instances, perpetrators may claim that their statements were intended as jokes or opinions rather than expressions of hatred. This ambiguity complicates legal proceedings and may weaken the effectiveness of enforcement. The transformation of racial offenses also has significant social implications. The widespread dissemination of hate speech can reinforce stereotypes, normalize discriminatory attitudes, and contribute to the marginalization of certain groups. Over time, this may erode social cohesion and increase the risk of conflict within society. From a theoretical perspective, these findings support Waldron's (2012) argument that hate speech undermines the dignity and social standing of targeted groups. In digital environments, this impact is amplified due to the scale and visibility of online interactions. At the same time, Bleich (2011) emphasizes the importance of balancing the regulation of hate speech with the protection of freedom of expression. This balance becomes more challenging in the digital era, where the boundaries between public and private communication are increasingly blurred. In conclusion, the transformation of racial offenses in the digital era reflects a complex interaction between technology, law, and society. The shift from traditional to digital forms of communication has expanded the scope of hate speech, making it more pervasive, persistent, and difficult to regulate. As a result, addressing this issue requires a comprehensive approach that integrates legal enforcement, technological regulation, and social awareness.

#### 4.3. Case Analysis: Empirical Illustration of Racial Offenses

The case involving content creator A.F. (R.) in 2025 provides an important empirical illustration of how racial offenses occur in digital spaces. The individual allegedly disseminated racist content targeting the Sundanese ethnic group through live streaming on TikTok and YouTube. The content included derogatory statements and insults directed at both the ethnic group and the Viking Persib community. This case demonstrates several important dynamics. First, the digital environment enables the rapid spread of hate speech, amplifying its impact. Second, public participation plays a crucial role in law enforcement, as community reports often trigger legal action. Third, the economic dimension of digital platforms introduces new incentives that lead to the use of controversial content to attract viewers and generate revenue (Tribunnews, 2025). In addition to this case, similar patterns can be observed in other ethnic contexts in Indonesia. Hate speech targeting Papuan communities and Chinese-Indonesians has been widely documented, particularly in political and social media discourse (Hajeman et al., 2025). These cases indicate that racial offenses are not isolated incidents but part of a broader structural issue. The comparison with other cases also reveals that the Sundanese case shares common characteristics with global patterns of hate speech. In many countries, digital platforms serve as primary channels for disseminating discriminatory content. This suggests that the challenges faced by Indonesia are part of a global phenomenon.

#### 4.4. Comparative Analysis of Legal Approaches

A comparative analysis with other countries provides valuable insights into the strengths and weaknesses of Indonesia's approach. As shown in Table 1, countries adopt different strategies to regulate hate speech.

**Table 1. Comparative Analysis of Hate Speech Regulation**

Aspect	Indonesia	Germany	United States	France
Approach	Criminal law	Platform-based	Free speech	Criminal law
Definition	Broad	Clear	Not explicit	Clear
Enforcement	State	Platform	Court	State

Aspect	Indonesia	Germany	United States	France
Sanctions	High	Platform fines	Minimal	Moderate

The comparison shows that Indonesia adopts a hybrid model. While it imposes strict criminal sanctions, it lacks the legal clarity found in several European systems. Germany's approach emphasizes platform responsibility, making enforcement more efficient. The United States prioritizes freedom of expression, while France provides clearer legal definitions and stronger state enforcement mechanisms. These differences highlight the importance of legal clarity. As argued by Waldron (2012), the effectiveness of hate speech regulation depends not only on the severity of sanctions but also on the clarity of legal norms and their consistent application.

#### 4.5. Effectiveness and Challenges of Law Enforcement

The effectiveness of law enforcement against racial offenses in Indonesia remains limited despite the existence of comprehensive legal frameworks. Several challenges can be identified. First, the ambiguity of legal norms creates inconsistency in enforcement. Different interpretations may lead to different outcomes in similar cases. This reduces legal certainty and undermines public trust. Second, digital literacy remains low. Many individuals are not aware of the legal implications of their online behavior. This contributes to the widespread dissemination of hate speech. Third, technological factors play a significant role. Algorithms amplify controversial content, making it more visible and influential. This creates an environment where hate speech can thrive. Fourth, the balance between freedom of expression and legal regulation remains unresolved. While legal restrictions are necessary, they must not undermine fundamental rights. These findings are consistent with previous research, which suggests that legal enforcement alone is insufficient. A comprehensive approach is required that integrates legal, social, and technological strategies.

#### 4.6. Policy Implications and Future Research (Extended Version)

The findings of this study provide significant implications for both legal policy development and future academic research on hate speech regulation in Indonesia, particularly in the context of racial offenses in digital spaces. These implications highlight the need for a comprehensive and integrated approach that addresses not only legal shortcomings but also technological and societal dimensions. First, there is an urgent need to reformulate existing legal provisions, particularly Article 28 paragraph (2) of the Electronic Information and Transactions Law (UU ITE), to ensure greater clarity and consistency. The ambiguity of key terms such as "inciting hatred" and "intergroup" has been identified as a major obstacle in effective law enforcement. Therefore, legal reform should focus on providing clearer definitions and interpretative guidelines to minimize subjectivity in enforcement. This reformulation should also align with fundamental criminal law principles, including *lex certa* and *lex stricta*, to ensure that legal norms are precise, predictable, and not open to excessive interpretation. Second, law enforcement institutions should adopt a more balanced and proportional approach in addressing racial offenses. While punitive measures remain necessary to deter, they should be complemented by restorative justice mechanisms. Restorative justice emphasizes dialogue, reconciliation, and the restoration of social relationships between perpetrators and victims. In cases where hate speech does not result in severe harm, restorative approaches may provide a more constructive solution by promoting awareness and preventing the recurrence of similar behavior. This approach is particularly relevant in the Indonesian socio-cultural context, where communal harmony is a core value.

Third, digital platforms play a crucial role in regulating hate speech in the digital era. As primary channels for content dissemination, platforms such as TikTok, YouTube, Facebook, and Instagram must strengthen their content moderation systems. This includes the use of artificial intelligence and machine learning technologies to detect and filter hate speech more effectively. However, technological solutions alone are not sufficient. There must be strong collaboration between platform providers and government

institutions to ensure that moderation policies are aligned with national legal standards. Transparent reporting mechanisms and user complaint systems should also be improved to enable faster responses to harmful content. Fourth, public education and digital literacy programs must be enhanced as part of preventive strategies. A lack of awareness of the ethical and legal boundaries of online expression often contributes to the widespread dissemination of hate speech. Educational initiatives should focus on promoting responsible digital behavior, critical thinking, and respect for diversity. These programs can be implemented through formal education systems, community-based initiatives, and public campaigns. Increasing digital literacy is essential not only for preventing hate speech but also for empowering individuals to engage in constructive online interactions. Fifth, it is important to recognize that hate speech is not solely a legal issue but also a social and cultural phenomenon. Therefore, policy responses should involve multiple stakeholders, including government agencies, law enforcement authorities, educational institutions, civil society organizations, and digital platform providers. A multi-stakeholder approach can create a more holistic strategy that addresses both the causes and consequences of hate speech.

In addition to policy implications, this study also identifies several directions for future research. The current study employs a normative legal approach, which focuses on analyzing legal texts and doctrines. While this approach is useful for understanding the legal framework, it has limitations in capturing the empirical realities of hate speech in society. Therefore, future research should incorporate empirical methods, such as surveys, interviews, and content analysis, to provide a more comprehensive understanding of how hate speech is produced, distributed, and perceived in digital environments. Furthermore, comparative studies involving multiple countries can provide valuable insights into best practices in regulating hate speech. By examining how different legal systems address similar challenges, researchers can identify strategies that may be adapted to the Indonesian context. In particular, further research is needed to explore the role of digital platforms in shaping online discourse and the effectiveness of algorithmic moderation systems. Future studies may also focus on specific vulnerable groups, including ethnic minorities, religious communities, and marginalized populations, to understand the impact of hate speech on their social and psychological well-being. Such research can contribute to the development of more targeted and inclusive policies. Finally, interdisciplinary approaches that combine legal studies with fields such as communication studies, sociology, and information technology are essential to address the complexity of hate speech in the digital era. By integrating multiple perspectives, future research can provide more comprehensive solutions that are both theoretically sound and practically applicable. In conclusion, this study's findings emphasize that addressing racial offenses in digital spaces requires a comprehensive approach that integrates legal reform, technological innovation, and social awareness. Through coordinated efforts among various stakeholders, it is possible to create a digital environment that is not only free from harmful speech but also supportive of diversity, inclusion, and social harmony.

## V. Conclusion

Based on the findings of this study, it can be concluded that the regulation of ethnic-based hate speech in Indonesia has been normatively established through Article 28 paragraph (2) of the Electronic Information and Transactions Law (UU ITE), which prohibits the dissemination of information intended to incite hatred or hostility based on ethnicity, religion, race, and intergroup relations. This provision is reinforced by criminal sanctions under Article 45A paragraph (2) and complemented by other legal instruments, such as Law Number 40 of 2008 concerning the Elimination of Racial and Ethnic Discrimination and the new Indonesian Criminal Code. These findings confirm that Indonesia already possesses a relatively comprehensive legal framework for addressing hate speech, thereby supporting existing theories that emphasize the importance of legal regulation in maintaining social order and protecting minority groups (Waldron, 2012). However, the study also reveals that, in practice, law enforcement's effectiveness remains limited. The ambiguity of key legal terms, such as "inciting hatred" and "intergroup," invites multiple interpretations, leading to legal uncertainty and inconsistent application. This finding aligns with previous

studies indicating that unclear legal formulations weaken the enforceability of hate speech regulations and may result in both under-enforcement and over-criminalization (Bleich, 2011; Malikab & Husen, 2025). In addition, the rapid development of information technology and the widespread use of social media have significantly increased the complexity of regulating hate speech in digital environments. The results of this research contribute to the academic discourse by providing a more specific and contextual analysis of racial offenses targeting the Sundanese ethnic group, thereby filling a gap in previous studies that generally focus on broader or national-level hate speech issues. Furthermore, the findings highlight that legal regulation alone is insufficient and must be complemented by preventive, educational, and technological measures.

Based on these findings, several recommendations can be proposed. First, the government should reformulate Article 28, paragraph (2), of the UU ITE by providing clearer, more precise definitions of key terms such as "hatred" and "intergroup" to ensure legal certainty and avoid multiple interpretations. Second, law enforcement authorities are encouraged to apply the law in a proportional and balanced manner by combining repressive and restorative approaches, particularly in cases that allow for social reconciliation. Third, digital platform providers such as TikTok, YouTube, and other social media platforms should strengthen their content moderation systems by utilizing advanced technologies, including artificial intelligence, to detect and filter hate-based content more effectively. This approach is consistent with global practices in digital governance, where platform accountability plays a crucial role in mitigating harmful online content. Additionally, these efforts should be supported by efficient reporting mechanisms to ensure timely responses to violations. Fourth, society, as an active user of digital platforms, must enhance digital literacy and legal awareness of the limits of freedom of expression. Educational programs and public campaigns are essential to foster responsible digital behavior and prevent the spread of hate speech. This study also offers practical implications for policymakers, law enforcement institutions, and digital platform operators by emphasizing the need for an integrated, collaborative approach to addressing hate speech in the digital era. Nevertheless, this research has certain limitations, particularly its reliance on normative legal analysis and selected case studies, which may not fully capture empirical realities in society. Therefore, future research is recommended to adopt empirical or mixed-method approaches to examine the social impact of hate speech and evaluate the effectiveness of legal enforcement more comprehensively. Through the synergy of legal reform, effective law enforcement, technological innovation, and public awareness, it is expected that a more balanced digital ecosystem can be achieved, where the protection of ethnic dignity, including that of the Sundanese community, can coexist with the preservation of responsible freedom of expression in Indonesia's multicultural society.

## References

- Alfahad, M. F., Supriyana, A., & Aryuni, W. (2026). Analysis of language-based crimes and legal consequences on TikTok social media. *Diglosia: Journal of Education, Linguistics, and Indonesian Literature*, 10(1), 1–9.
- Ali, Z. (2021). *Legal research methods*. Sinar Grafika.
- Analysis of the hate speech case of Mizan Qudsiyah insulting the sacred Lombok tomb. (2022). *Tafaqquh*, 7(2), 16–29. <https://doi.org/10.70032/rv3ady64>
- Fajar, M., & Achmad, Y. (2019). *The dualism of normative and empirical legal research*. Pustaka Pelajar.
- Hajeman, H., Marzuki, M., & Purba, A. R. (2025). Legal analysis of the spread of hate speech through social media in regional head elections. *Jurnal Meta Hukum*, 3(1), 14–29. <https://doi.org/10.47652/jmh.v3i1.709>
- Hidayat, D., Firmanda, H., & Wafi, M. (2024). Analysis of hate speech from the perspective of changes to the Electronic Information and Transactions Law. *Fiat Justisia: Journal of Legal Studies*, 18(1), 31–48. <https://doi.org/10.25041/fiatjustisia.v18no1.3146>
- Ibrahim, J. (2017). *Theory and methodology of normative legal research*. Bayumedia Publishing.
- Kitab Undang-Undang Hukum Pidana (Wetboek van Strafrecht).
- Law Number 1 of 2023 concerning the Indonesian Criminal Code.
- Law Number 11 of 2008 concerning Electronic Information and Transactions.

- Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions.
- Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions.
- Law Number 40 of 2008 concerning the Elimination of Racial and Ethnic Discrimination.
- Liputan6. (2025). Facts of the hate speech case of R. insulting the Sundanese ethnic group, leading to his arrest by the police. <https://www.liputan6.com/news/read/6237263/fakta-fakta-kasus-ujaran-kebencian-resbob-hina-suku-sunda-hingga-ditangkap-polisi>
- Malikab, A. K., & Husen, L. O. (2025). Legal analysis of electronic signatures under Indonesia's Law on Electronic Information and Transactions. *Golden Ratio of Law and Social Policy Review*, 4(2), 45–60. <https://doi.org/10.52970/grlspr.v4i2.1879>
- Mase Risky. (2021). Legal sanctions for hate speech based on ethnicity, religion, race, and intergroup relations, according to Article 28 paragraph (2) of the Electronic Information and Transactions Law Number 19 of 2016. *Lex Crimen*, 10(9).
- Pratama, N. L., & Sulaiman, R. A. (2026). Reconstructing criminal liability models for the dissemination of false information in the Indonesian criminal justice system. *Golden Ratio of Law and Social Policy Review*, 5(2), 101–115. <https://doi.org/10.52970/grlspr.v5i2.2135>
- Putra, A. H. P. K., & colleagues. (2023). Digital governance and legal challenges in information technology regulation. *Golden Ratio of Law and Social Policy Review*, 3(1), 1–10. <https://doi.org/10.52970/grlspr.v3i1.xxx>
- Solihah, N., & Dienaputra, R. D. (2018). Racial discrimination in the novel Sunda Sripanggung by Tjaraka: Derrida's deconstruction analysis. *Patanjala*, 10(3). <https://doi.org/10.30959/patanjala.v10i3.397>
- Suteki, & Taufani, G. (2020). Legal research methodology (Philosophy, theory, and practice). *Rajawali Pers*. The 1945 Constitution of the Republic of Indonesia.
- Tribunnews. (2025). Not six years, R. could face up to 10 years in prison due to economic motives behind insulting the Sundanese ethnic group. <https://www.tribunnews.com/nasional/7768573/bukan-6-tahun-resbob-justru-terancam-10-tahun-bui-buntut-ada-motif-ekonomi-saat-hina-suku-sunda>
- UPNVJ. (2019). Criminal offenses of racial discrimination. <https://www.upnvj.ac.id/id/berita/2019/08/pidana-delik-diskriminasi-rasial.html>
- Windisen, W., & Adhari, A. (2021). The implementation of Article 28 paragraph (2) of Law Number 19 of 2016 on Electronic Information and Transactions in tackling hate speech offenses on the internet. *Legal Standing: Journal of Legal Studies*, 6(1), 29–39. <https://doi.org/10.24269/lj.v6i1.4292>