



THE EVIDENTIARY CRISIS IN CRIMINAL DEFAMATION IN THE DIGITAL SPACE: BETWEEN PUBLIC PERCEPTION AND LEGAL TRUTH

Friska Anggi Siregar*

Institut Agama Islam Negeri Langsa

Nur Sari Dewi. M**

Universitas Islam Negeri Sultanah Nahrasiyah Lhokseumawe

Muslem Ibnu***

Institut Agama Islam Negeri Langsa

Abstract

This study aims to analyse the evidentiary crisis in criminal defamation within the digital space and examine how the interaction between legal norms, electronic evidence, and public perception affects the determination of legal truth. Employing a normative legal research design enriched with a socio-legal perspective, this study analyses statutory provisions (the 2023 Criminal Code and amended ITE Law), Constitutional Court rulings, and empirical case studies of contemporary viral disputes, particularly the digital defamation conflict in East Aceh and the administrative takedown controversy involving state regulatory bodies. The results show that the digital evidentiary crisis is driven by four interrelated dimensions: the normative ambiguity of legal boundaries, the technical instability and AI-manipulation vulnerability of electronic evidence, the dominance of public perception generating “trial by social media”, and the pre-emption of judicial authority by administrative classifications and platform governance. This research develops the analytical concept of the “digital evidentiary crisis” to illuminate the structural tension between procedural “legal truth” and algorithmically amplified “social truth”. By integrating criminal evidentiary

* friskaanggi@iainlangsa.ac.id

** nursaridewi@iainlhokseumawe.ac.id

*** muslem.ibnu@iainlangsa.ac.id

doctrine, platform governance, and socio-legal communication dynamics, this study emphasizes the urgent need for robust electronic evidence authentication standards and adaptive digital co-regulation to preserve the presumption of innocence, due process of law, and freedom of expression in the digital age.

Keywords: electronic evidence; digital evidence; defamation; social legitimacy; digital criminal law; social media.

A. Introduction

Defamation cases in the digital space no longer only raise issues regarding the limits of freedom of expression, but also give rise to a digital evidentiary crisis in contemporary criminal law. In many cases, the truth-determination process is no longer entirely dependent on formal evidentiary mechanisms in court, but is influenced by the circulation of digital information, the virality of social media, and the formation of public perception. As a result, the evidentiary process in digital defamation cases is increasingly in tension between legal truth built through the due process of law and social truth formed through digital legitimacy. This transformation shows that the development of digital communication not only changes the pattern of information dissemination, but also affects the evidentiary structure, legal legitimacy, and truth-determination authority in the criminal justice system.¹

In Indonesia, this problem has become increasingly complex since the use of Articles 433-439 of the 2023 Criminal Code and Article 27A of the Electronic Information and Transaction Law (ITE Law) in

¹ Lisa Anggraini et al., "Membangun Kesadaran Hukum Ideal Di Tengah Arus Disinformasi Digital," *Jurnal Hukum Islam Dan Perundang-Undangan* 9, no. 2 (December 2025): 29-48, <https://doi.org/https://doi.org/10.21093/qj.v9i2.11922>; Leila Brännström et al., "Introduction: Tech and the Transformation of Legal Imagination," *Law and Critique* (Springer Science and Business Media B.V., November 2023), <https://doi.org/10.1007/s10978-023-09359-0>; Michael Heather, "Challenges for the Law from Cyberspace and Virtual Worlds," *Computer Law & Security Report* 10, no. 1 (January 1994): 17-21, [https://doi.org/10.1016/0267-3649\(94\)90078-7](https://doi.org/10.1016/0267-3649(94)90078-7).

handling digital expression.² Although both regulations are normatively intended to protect the honour and reputation of individuals, the broad and multi-interpretive formulation of norms creates uncertainty in distinguishing between criticism, opinion, and defamation.³ In practice, the law enforcement process often relies heavily on law enforcement officials' interpretation of the element of "attacking honour" or "damaging reputation" that does not yet have firm operational parameters. As a result, the line between reputation protection and criminalisation of digital expression is becoming increasingly blurred.

The use of Article 27A of the ITE Law in various contemporary digital disputes shows that social media-based defamation cases are increasingly dominating cyber law practices in Indonesia. In this context, the issue of digital defamation is not only related to the substance of criminal norms, but also concerns the crisis of evidentiary certainty in determining the validity, context, and meaning of a digital expression.

The crisis is increasingly visible in the practice of proving digital defamation cases. Unlike conventional evidence, digital cases rely heavily on electronic evidence such as screenshots, conversation recordings, social media uploads, and digital metadata. The characteristics of digital evidence that are easily modified, cut out of

² Pemerintah Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 19 Tahun 2016 tentang Perubahan atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik" (2016); Pemerintah Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 1 Tahun 2024 tentang Perubahan Kedua atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik" (2024).

³ Yogi Prasetyo, "Hati-Hati Ancaman Tindak Pidana Pencemaran Nama Baik Di Media Sosial Dalam Undang-Undang Informasi Dan Transaksi Elektronik," 2021; Agus Sugiarto, "Legal Review of Evidence in The Crime of Defamation on Social Media," *Journal of Social Research* 4, no. 5 (April 2025): 642–48, <https://doi.org/10.55324/josr.v4i5.2513>; Dan Jerker B. Svantesson and Symeon C. Symeonides, "Cross-Border Internet Defamation Conflicts and What to Do about Them: Two Proposals," *Journal of Private International Law* 19, no. 2 (2023): 137–85, <https://doi.org/10.1080/17441048.2023.2236419>.

context, reproduced, and disseminated massively pose serious problems related to authentication and evidentiary integrity. In Indonesian criminal justice practice, the validity of electronic evidence is still highly dependent on judges' interpretations and expert testimony because there is no uniform and operational digital authentication standard. A number of studies have shown that these conditions give rise to inconsistencies in the assessment of evidence and court rulings, particularly in determining whether a digital expression can qualify as criticism, opinion, or defamation.⁴

The evidentiary problem in the digital space is not only technical-procedural, but also epistemological, namely related to how truth is formed, recognized, and gained social legitimacy. In the conventional criminal law system, legal truth is built through formal evidentiary procedures based on the principle of due process of law. However, in the digital space, the construction of truth is often formed first through public interaction, social media circulation, and algorithmic amplification before the legal verification process takes place. This creates a tension between the "legal truth" built through judicial proof mechanisms and the *social truth* formed through public perception in the digital space.⁵ Thus, the evidentiary process in digital defamation cases no longer takes place in a legal space sterile from social influences, but is under the pressure of public legitimacy that is formed digitally.

This phenomenon can be seen in various digital disputes in Indonesia when digital narratives accompanied by electronic evidence, screenshots, or visual representations have established social legitimacy before the formal evidentiary process is carried out in court.

⁴ Petro S. Korniienko et al., "Contemporary Challenges and the Rule of Law in the Digital Age," *International Journal for the Semiotics of Law* 36, no. 2 (April 2023): 991–1006, <https://doi.org/10.1007/s11196-022-09963-w>; Cheza Kania Risky and Dewi Mutiah, "'Normative Convergence and Divergence: A Comparison of Digital Cyberbullying Evidence Laws between Indonesia and Singapore in the Digital Era,'" *KRTHA BHAYANGKARA* 19, no. 2 (August 2025): 621–36, <https://doi.org/10.31599/krtha.v19i2.3702>.

⁵ Anggraini et al., "Membangun Kesadaran Hukum Ideal Di Tengah Arus Disinformasi Digital."

In this context, digital evidence not only serves as a means of proof in legal proceedings, but also as an instrument for the formation of public opinion and social legitimacy. The situation suggests that public perception can affect the neutrality of the evidentiary process through media pressure, the formation of digital opinions, and social expectations of law enforcement. In a number of contemporary cases in Indonesia, the construction of truth has even begun to take shape through digital circulation and administrative responses before the existence of a court decision with permanent legal force.

In addition to being influenced by public perception, the establishment of the legitimacy of truth in the digital space is also increasingly influenced by administrative authorities and digital platform governance. In some national cases, digital content has been restricted or removed through platform moderation mechanisms and administrative policies that in practice serve as a form of digital content censorship.⁶ In principle, the act of restricting or removing content is part of the administrative authority in the governance of the digital space. However, the problem becomes more complex when a digital expression has been substantively constructed as “defamation” or reputational infringement before the final criminal evidentiary process is carried out in court.

From the perspective of criminal law, the determination of whether a statement meets the elements of defamation or defamation is basically the authority of the judicial institution through a formal evidentiary mechanism. When such substantive judgments emerge first through public officials' statements, administrative responses, or digital circulation, the initial construction of truth tends to take shape before the judicial process takes place in its entirety. This condition shows a shift in the formation of legitimacy from judicial proof mechanisms to administrative and social legitimacy in the digital space. From a theoretical perspective, this phenomenon has to do with the transformation of the “legal imagination” and the development of

⁶ T V Kompas, “Full Jawaban Amien Rais Usai Pernyataannya Soal Presiden Dan Seskab Teddy Dinilai Fitnah,” 2026; SINDOnews, “Pernyataan Amien Rais Soal Seskab Teddy Fitnah Dan Sensasional,” 2026.

the concept of governance platforms, where digital platforms no longer only function as communication intermediaries, but also as actors that influence the distribution of information, social legitimacy, and the boundaries of public expression.⁷

Although various studies have addressed digital defamation, electronic evidence, and the regulation of cyber law, most studies are still fragmented in separate approaches. Normative legal research generally focuses on the interpretation of articles and legal certainty without examining how public perception affects the evidentiary legitimacy. Meanwhile, the study of digital technology focuses more on authentication and forensic verification without linking it to the social dynamics of truth formation. On the other hand, socio-legal studies of digital communication still rarely integrate criminal evidentiary doctrine into debates about platform governance and the legitimacy of digital law.⁸ Thus, there are still theoretical, methodological, and interdisciplinary gaps in explaining the relationship between digital evidence, public perception, and the construction of legal truth in digital defamation cases.

Based on these gaps, this article argues that the evidentiary crisis in digital defamation cases is not solely caused by the technical weaknesses of electronic evidence, but by structural transformations in the formation of the legitimacy of truth in the digital space. The interplay between ambiguous legal norms, unstable digital evidence, platform-based information circulation, and digitally formed public legitimacy has shifted the construction of truth from formal judicial

⁷ Natalie Alkiviadou, "Platform Liability, Hate Speech and the Fundamental Right to Free Speech," *Information and Communications Technology Law* 34, no. 2 (2025): 207-17, <https://doi.org/10.1080/13600834.2024.2411799>; Brännström et al., "Introduction: Tech and the Transformation of Legal Imagination."

⁸ Alex Mills, "The Law Applicable to Cross-Border Defamation on Social Media: Whose Law Governs Free Speech in 'Facebookistan'?", *Journal of Media Law* 7, no. 1 (2015): 1-35, <https://doi.org/10.1080/17577632.2015.1055942>; Svantesson and Symeonides, "Cross-Border Internet Defamation Conflicts and What to Do about Them: Two Proposals."

verification to digital social legitimacy. As a result, the evidentiary process in contemporary defamation cases is increasingly in tension between legal truth and social truth.

Accordingly, this research offers a theoretical contribution through the development of the concept of “digital evidentiary crisis” as an analytical framework to explain the transformation of the legitimacy of evidence in a digital society. In contrast to previous research that tends to highlight only the normative or technical aspects of electronic evidence, this article integrates the perspectives of criminal law, digital communication, platform governance, and socio-legal to explain how the construction of legal truth is now influenced by digital dynamics and platform-based social legitimacy. This concept is different from previous studies that generally separate the issue of digital evidence from the dynamics of social legitimacy, public perception, and platform governance in the formation of legal truth in the digital space.

B. Research Methods

This study uses a normative legal research design enriched with a socio-legal approach. A normative approach is used to analyse legal provisions related to digital defamation in the 2023 Criminal Code and the ITE Law through legal interpretation, doctrinal synthesis, and conceptual reasoning. Meanwhile, a socio-legal approach is used to understand how these norms operate in digital communication practices, particularly in shaping public perceptions of legal disputes in the digital space. This approach is in line with the development of contemporary legal research that focuses not only on legal texts (*law in books*), but also on social practices (*law in action*) in a digital society.⁹

This research applies legislative, conceptual, and case approaches. The legislative approach is used to examine regulations

⁹ Reza Banakar, “Introduction to Theory and Method in Socio-Legal Research,” in *Theory and Method in Socio-Legal Research*, ed. Reza Banakar and Max Travers (Hart Publishing Ltd, 2005); Reza. Banakar and Max. Travers, *Theory and Method in Socio-Legal Research*, illustrate, vol. Volume 14 (Hart Pub., 2005).

related to defamation and electronic evidence. The conceptual approach is used to analyse the concepts of digital evidence, legal truth, and public perception, while the case approach is used in a limited way to examine a number of court decisions and judicial considerations related to digital defamation, particularly regarding the boundary between public criticism and attacks on honour. In addition, this study also considers the practice of digital disputes and the dynamics of public opinion on social media as part of socio-legal analysis. This approach allows researchers to more comprehensively identify gaps between legal norms and digital social practices.¹⁰

The primary legal materials analysed include statutory regulations—specifically Law No. 1/2023 (Indonesian Criminal Code) and the amended Information and Electronic Transactions (ITE) Law (Law No. 1/2024)—as well as Constitutional Court rulings (Decisions No. 50/PUU-VI/2008, No. 25/PUU-XXI/2023, and No. 105/PUU-XXII/2024).

To examine the empirical tension between legal truth and social/administrative truth, this study conducts a dual-case analysis of contemporary digital disputes: (1) a horizontal viral dispute in East Aceh involving public allegations against regional head Iskandar Usman Al-Farlaky by a social media user (MA) via TikTok, examined through qualitative discourse analysis of netizen comments, official clarification press conferences, and reciprocal police reports spanning local to national jurisdictions; and (2) a vertical dispute concerning political criticisms by Amien Rais regarding executive officials, focusing on the administrative categorization and digital takedown intervention by the Ministry of Communication and Digital (KOMDIGI) under Article 40(2a) of the ITE Law. Secondary legal materials, comprising scholarly legal literature and peer-reviewed journals, are utilized to support doctrinal synthesis and qualitative legal reasoning.

To maintain interpretive consistency, the analysis is carried out by comparing normative provisions, doctrinal opinions, and

¹⁰ Johnny Ibrahim, *Teori & Metodologi Penelitian Hukum Normatif* (Malang: Bayu Media, 2013); Peter Mahmud Marzuki, *Penelitian Hukum, Jurnal Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2019).

illustrations of relevant cases. The analysis is directed to identify the relationship between legal norms, digital evidence, and the formation of social legitimacy in digital defamation cases.¹¹

C. Findings

The results of the research were obtained through interpretive analysis of legal norms, court decisions, digital legal literature, and digital dispute practices that are developing in the social media space. The analysis process is carried out by identifying patterns of interconnectedness between the unclarity of legal norms, the characteristics of digital evidence, the dynamics of public communication, and changes in legitimacy mechanisms in the digital space. From the process of doctrinal and socio-legal synthesis, this study finds four main dimensions that are interconnected in shaping the digital evidence crisis, namely: (1) ambiguity of legal norms, (2) instability of digital evidence, (3) dominance of public perception, and (4) the shift of truth authority from judicial institutions to administrative legitimacy and digital platforms. The four dimensions do not stand separately, but form an analytical network that shows the transformation of the formation of legal truth and social truth in the case of digital defamation.

1. Ambiguity of Legal Norms

The first findings of this study show that the evidentiary crisis in digital defamation is rooted in normative ambiguity that results in interpretive uncertainty in the evidentiary process. This ambiguity arises not only from the formulation of abstract norms, but also from the inconsistency between reputation protection and control of digital expression within the framework of Indonesian criminal law. This condition causes the evidentiary process to depend heavily on the

¹¹ Mahmud Marzuki, *Penelitian Hukum*.

subjective interpretation of law enforcement officials and judges in assessing the context of digital communication.

Normative Ambiguity in Digital Defamation Cases

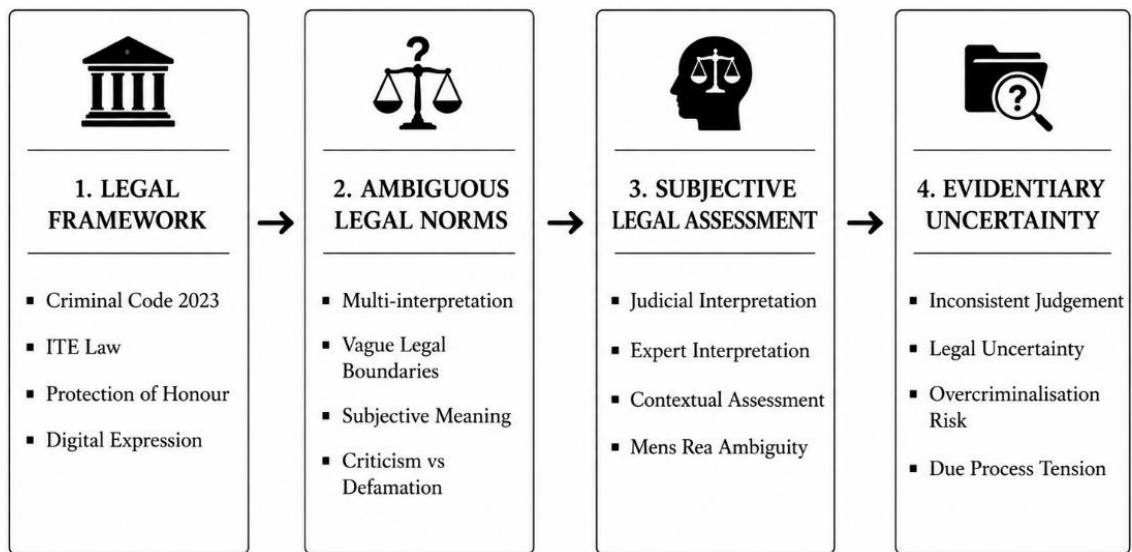


Figure 1. The Mechanism of Normative Ambiguity and Its Impact on Evidentiary Uncertainty in Digital Defamation Cases

As illustrated in Figure 1, the interaction between the 2023 Criminal Code and the Electronic Information and Transaction Law (ITE Law) creates an overlapping interpretation of the boundaries between criticism, opinion, and defamation. In the Indonesian legal system, the regulations regarding defamation are specifically contained in Articles 433–439 of the 2023 Criminal Code and the ITE Law.¹² Both regulations are normatively intended to protect the honour and reputation of individuals, but the formulation of the norms used still leaves a wide room for interpretation, especially regarding

¹² Pemerintah Republik Indonesia, “Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana” (2023).

the boundaries between public criticism, personal opinion, and attacks on one's reputation. This creates interpretive uncertainty because the assessment of a digital expression often depends on the social context, the distribution of information, and the subjective interpretation of law enforcement officials.

Doctrinally, the main problem lies in the use of abstract terms such as “attacking honour” and “good name” that do not have strict interpretive parameters in the context of digital communication. The revision of Article 27A of the ITE Law does seek to clarify the element of defamation by providing exceptions to criticism and public interest. However, these changes have not completely resolved normative uncertainties because the interpretation of the context of digital communication remains highly dependent on the assessment of law enforcement officials and the courts. As a result, digital defamation cases are not only related to the validity of electronic evidence, but also to how law enforcement interprets the communication context, intentions, and social impact of a digital expression.

The Constitutional Court through Decision No. 50/PUU-VI/2008 basically emphasized that the defamation provisions in the ITE Law must be understood carefully so as not to conflict with the freedom of expression guaranteed by the constitution.¹³ In judicial practice, this ambiguity can be seen from the difference in interpretation of the boundary between public criticism and an attack on honour. In a number of rulings, criticism of public officials has been regarded as part of the public interest and the protection of freedom of expression. However, in other rulings, similar expressions have still been qualified as defamation because they were considered attacks on personal reputation. These differences in judicial reasoning indicate that Indonesian criminal law does not yet have a consistent interpretive standard for determining the boundaries between criticism, opinion, and insult in the digital space. This condition illustrates that constitutional protection of freedom of expression in Indonesia still

¹³ Mahkamah Konstitusi Republik Indonesia, “Putusan Mahkamah Konstitusi Republik Indonesia Nomor 50/PUU-VI/2008,” Pub. L. No. 50/PUU-VI/2008 (2008).

encounters operational uncertainty in the enforcement of digital defamation law.

Interpretive uncertainty also appears in Constitutional Court Decision No. 25/PUU-XXI/2023 concerning electronic information and documents containing insults or defamation.¹⁴ The Court highlighted the constitutional implications of accessing and distributing digital information that potentially contains defamatory content. This decision demonstrates that the legal problems of digital defamation are not only related to the substance of criminal norms, but also to the interpretation of access, distribution, and circulation of digital information in contemporary communication systems. In the digital environment, information can rapidly circulate and form public perceptions before judicial clarification is carried out, thereby increasing the complexity of the evidentiary process.

Furthermore, Constitutional Court Decision No. 105/PUU-XXII/2024 reinforced the existence of structural ambiguity in Article 27A of the ITE Law.¹⁵ In this ruling, the Court provided conditional constitutional interpretations of the phrases “other person” and “a matter” in order to limit the overly broad scope of criminalisation in digital expression cases. The Court also emphasized that electronic information containing hatred or hostility must be interpreted substantively and cannot be broadly applied without clear legal parameters. This decision shows that the ambiguity problem in digital defamation law is not merely technical, but reflects deeper structural weaknesses in the formulation of criminal norms governing digital communication.

This condition shows that normative ambiguity is not only caused by the weakness of the wording of the law, but also by the structural tension between reputation protection and freedom of

¹⁴ Mahkamah Konstitusi Republik Indonesia, Putusan Mahkamah Konstitusi Nomor 25/PUU-XXI/2023 tentang Pengujian Undang-Undang Informasi dan Transaksi Elektronik (2023).

¹⁵ Mahkamah Konstitusi Republik Indonesia, “Putusan Mahkamah Konstitusi Republik Indonesia Nomor 105/PUU-XXII/2024,” Pub. L. No. 105/PUU-XXII/2024 (n.d.).

expression in Indonesian criminal law. A number of studies show that digital defamation regulations in Indonesia still contain interpretive uncertainties that cause difficulties in distinguishing criticism, opinions, and insults in digital law enforcement practices. Sugiarto (2025) shows that the expansion of criminalisation of digital expression in the ITE Law often causes ambiguity in distinguishing between criticism and insult.¹⁶ Risky and Mutiah (2025) also emphasized that the use of electronic evidence in defamation cases still faces issues of authentication, context, and interpretation of the meaning of digital communication.¹⁷ These findings show that the main problem in digital evidence does not only lie in the existence of electronic evidence, but also in the unclear legal parameters in interpreting the meaning and context of digital communication.

These normative uncertainties are increasingly complex because the character of digital communication is different from conventional communication. In the digital space, a statement is not only understood based on text, but is also influenced by the context of the platform, information distribution patterns, other users' comments, and the algorithmic amplification of social media. As a result, the meaning of a digital statement can shift when it is widely spread in the digital public space. This condition causes the evidentiary process to no longer only determine the truth or falsehood of a statement, but also to assess how a narrative gains social legitimacy through digital circulation.

In the context of digital communication, narrative conflicts not only shape public opinion but also affect the initial legitimacy of a legal claim. This condition shows that legal proof in the digital space no longer takes place in a completely neutral judicial space, but in a digital communication environment that has formed a collective perception before the legal verification process is carried out. Thus, the validity of

¹⁶ Sugiarto, "Legal Review of Evidence in The Crime of Defamation on Social Media."

¹⁷ Risky and Mutiah, "'Normative Convergence and Divergence: A Comparison of Digital Cyberbullying Evidence Laws between Indonesia and Singapore in the Digital Era.'"

digital evidence is increasingly influenced by the circulation of public opinion, the virality of information, and the social legitimacy formed through digital media. The determination of legal truth no longer depends solely on formal evidentiary mechanisms, but also on the ability of a narrative to gain social legitimacy through digital distribution and the reproduction of public opinion.

This phenomenon can be seen in various digital disputes that go viral on social media. In some cases, allegations accompanied by screenshots, video clips, or certain digital narratives have established social legitimacy before the legal verification process is underway. These cases show that digital evidence no longer functions solely as a formal means of proof, but also as an instrument of public narrative formation. In such a situation, the evidentiary process becomes increasingly complex because the assessment of an accusation is often influenced by the pressure of public opinion and the dynamics of digital communication.

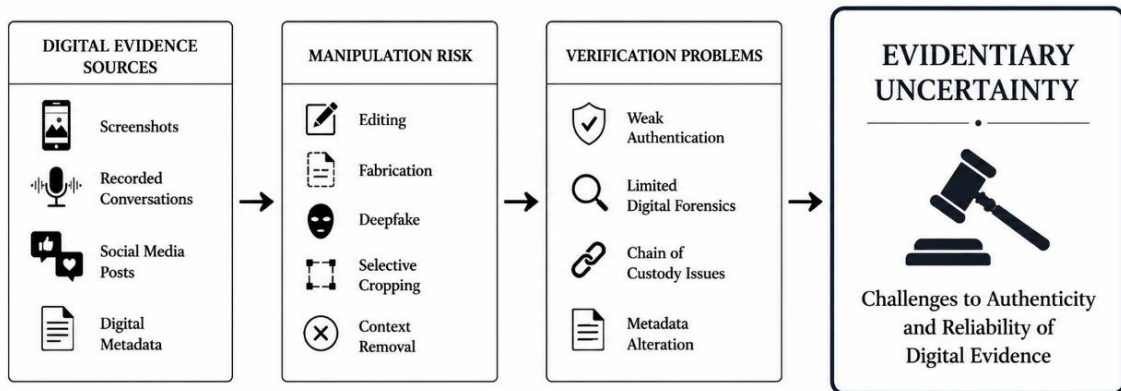
These findings show that the evidentiary crisis in digital defamation is not only related to the technical issues of electronic evidence, but also to the failure of legal norms to provide clear interpretive boundaries to digital expression. This ambiguity causes the evidentiary process to rely heavily on contextual interpretation, social perception, and digital communication dynamics. As a result, the determination of truth in defamation cases is no longer entirely determined through formal legal mechanisms, but also through the social legitimacy that is formed in the digital space.

2. Digital Evidentiary Instability

The second finding in this study shows that the instability of digital evidence is one of the main sources of the evidentiary crisis in defamation cases in the digital space. In contemporary legal practice, commonly used evidence includes screenshots, conversation recordings, social media uploads, and digital metadata. Normatively, electronic evidence has been recognized as valid evidence under the Electronic Information and Transaction Law and is integrated into Indonesia's criminal law evidentiary system. However, the inherent

characteristics of digital evidence raise serious issues regarding the authenticity, integrity, and contextual reliability of the evidence. This

Digital Evidence Instability in Defamation Cases



problem is not only related to the existence of electronic evidence but also to the standards of authentication and admissibility in the criminal evidence process. In digital legal practice, courts assess not only the content of electronic evidence, but also the integrity of the data, the origin of the evidence, and the procedure for its acquisition to ensure that the evidence has not changed since it was first created.

As illustrated in Figure 2, digital evidence is particularly vulnerable to manipulation, fragmentation of context, and weak verification mechanisms, which ultimately contribute to evidentiary uncertainty in contemporary defamation cases. This condition shows that the validity of digital evidence is not only determined by the technical existence of an electronic data, but also by the ability of the legal system to verify the authenticity and integrity of evidence in the context of dynamic digital communication.

The instability of digital evidence becomes increasingly complex as evidentiary systems begin to deal with artificial intelligence-based

evidence and algorithmic outputs that are difficult to transparently verify. Dewi and Muslem (2025) emphasized that the evidence generated by AI introduces the issue of authenticity, accountability, and reliability of digital verification mechanisms in the Indonesian evidentiary system. This shows that the development of digital technology is not only expanding the types of electronic evidence, but also magnifying the legal challenges in ensuring the integrity of evidence.

The study found that digital evidence has different characteristics from conventional evidence because it can be easily copied, edited, modified, and engineered without leaving a visible trace. From an evidentiary legal perspective, these conditions pose a serious risk to the evidentiary validity. Sugiarto (2025) shows that the challenges of digital evidence include the manipulation of electronic evidence, the involvement of digital platforms, and subjectivity in determining whether a statement constitutes defamation or criticism. This shows that the issue of digital evidence is not only technical, but also related to legal judgments that depend on contextual interpretation.¹⁸

The instability of digital evidence is also related to the need for verification through digital forensics. In practice, evidence such as screenshots or recordings of conversations is often presented without adequate forensic processes. In fact, methods such as hash value, metadata analysis, and chain of custody are important to ensure that evidence has not changed since it was first obtained. The principle of chain of custody is important because the integrity of digital evidence depends on documentation of the process of obtaining, storing, and transferring electronic data. When the chain of custody is not well documented, the courts will have a hard time ensuring that the evidence examined is identical to the original data. This condition shows that there is a gap between the normative recognition of digital evidence and the technical readiness of the legal system in verifying

¹⁸ Sugiarto, "Legal Review of Evidence in The Crime of Defamation on Social Media."

the integrity of electronic evidence. In some jurisdictions, electronic evidence admission standards require rigorous digital forensic verification and data integrity documentation before evidence is accepted in the adjudication process.

These findings are strengthened by empirical case analysis in East Aceh. In such cases, photos, personal narratives, and one-sided claims disseminated through social media have shaped public perceptions even though they have not been fully legally verified. In these conditions, the legitimacy of an accusation is formed faster through digital circulation than through the formal legal verification process. As a result, digital evidence no longer only functions as a judicial means of proof, but also as an instrument of establishing social legitimacy in the digital space.¹⁹

This instability is clearly evident in the dispute involving regional head Iskandar Usman Al-Farlaky in East Aceh. While circulating social media allegations relied on video statements and claims of digital interaction, the accused official publicly demonstrated during a formal press conference that the circulating visual materials involved manipulated images and AI-generated fabrications disingenuously juxtaposed with personal family photographs. As formally documented by the Public Relations Division of the Indonesian National Police (Humas Polri), the regional head initiated criminal reports against the accounts disseminating the materials.²⁰ This dynamic underscores a fundamental evidentiary vulnerability: in the absence of prompt forensic authentication, cryptographic hash verification, and strict chain of custody protocols, unverified and manipulated multimedia

¹⁹ Ali Awad Al-Jabra, Muneer Mohammed Shahada Al-Afaishat, and Sarah Mahmoud Al-Arasi, "Legal Protection of Private Electronic Life: Problems and Solutions," in *Studies in Computational Intelligence*, vol. 1010 (Springer Science and Business Media Deutschland GmbH, 2022), 717–26, https://doi.org/10.1007/978-3-031-05258-3_55.

²⁰ Divisi Humas Polri, "Bupati Aceh Timur Tegaskan Akan Gugat Secara Hukum," *Portal Berita Resmi Kepolisian Negara Republik Indonesia*, 2026, <https://humas.polri.go.id/news/detail/2371636-bupati-aceh-timur-tegaskan-akan-gugat-secara-hukum>.

rapidly establishes itself as *prima facie* proof in public perception, severely challenging procedural safeguards.

In addition to the issue of authentication, the instability of digital evidence is also related to the context of communication. Digital evidence is often cut or presented without a complete context, potentially causing misinterpretation. In digital communication, the meaning of a message is not only determined by the content of the text, but also by the context of communication, timing, relationships between parties, and the dynamics of digital interaction. When evidence is taken outside of its original context, the meaning it forms can change significantly and make it difficult for judges and law enforcement officials to assess the relationship between the content of the evidence and the context of the communication behind it.²¹

The uncertainty of authentication and the context of digital evidence ultimately affect not only the legal evidentiary process, but also the formation of social legitimacy for an accusation in the digital space. When digital evidence is disseminated without an adequate verification process, the public tends to accept the information as truth. Anggraini et al. (2025) show that digital disinformation can affect people's legal awareness and form a collective perception of a legal event.²² In this context, digital evidence serves not only as a formal means of proof, but also as an instrument for the formation of social reality.

In addition, digital platforms also strengthen the instability of electronic evidence. Social media allows for the rapid dissemination of information without adequate verification mechanisms. Platform algorithms even tend to amplify sensational content so that evidence that has not been legally verified still gains public legitimacy through virality and digital reproduction. This shows that the validity of digital

²¹ Mochammad Chamim et al., "The Role of Digital Evidence in Criminal Law Enforcement: Challenges of Authentication and Admissibility in Court," *Research Horizon* 5, no. 6 (December 2025): 2987-98, <https://doi.org/10.54518/rh.5.6.2025.950>; Al-Jabra, Al-Afaishat, and Al-Arasi, "Legal Protection of Private Electronic Life: Problems and Solutions."

²² Anggraini et al., "Membangun Kesadaran Hukum Ideal Di Tengah Arus Disinformasi Digital."

evidence is determined not only by the intrinsic quality of the evidence itself, but also by how it is circulated and consumed in the digital space.

Thus, the instability of digital evidence is one of the main factors that trigger the evidentiary crisis in the era of digital communication. Evidence that is easily manipulated, unverified, and presented out of context not only weakens the legal evidentiary process, but also has the potential to result in injustice in digital criminal law enforcement. This condition shows that the digital evidentiary crisis is not only caused by the technical weaknesses of electronic evidence, but also by the limitations of the legal system in building authentication and verification standards that are able to keep pace with the dynamics of contemporary digital communication.

These conditions show that the digital evidentiary crisis is not only related to the technical weaknesses of electronic evidence, but also to the limitations of the legal system in controlling the shift of legitimacy from judicial verification to social validation in the digital space.

3. The Dominance of Public Perception in Determining the Truth

The third finding that emerged from the results of this study is the dominance of public perception in determining the truth in the digital space. In the context of digital communication, the fast, open, and unfiltered flow of information causes public opinion to form much faster than formal legal processes. This phenomenon is known as trial by social media, which is a condition when individuals or groups have been “tried” by the public before a valid court decision. In the socio-legal framework of this research, this phenomenon shows that law is no longer the only institution that shapes the truth, but must deal with social constructions formed through digital interaction.

The process of how digital interaction and public perception shape social truth in the case of digital defamation is conceptually illustrated in Figure 3.

Trial by Social Media and the Formation of Social Truth

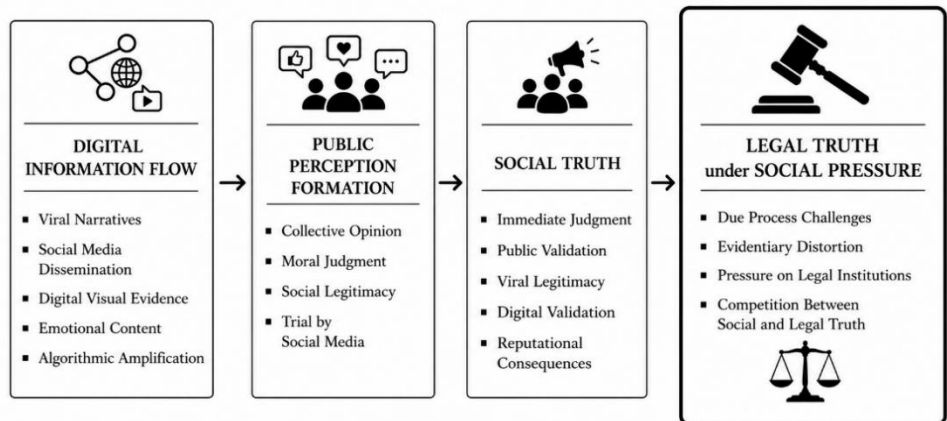


Figure 3 Courts Through Social Media and the Formation of Social Truth in Digital Defamation Cases.

and algorithmic amplification accelerate the formation of collective judgment and social legitimacy, so that legal truth is often under social pressure before the formal evidentiary process is undertaken. In the context of digital media governance, the formation of social legitimacy is also influenced by algorithmic distribution mechanisms that determine the visibility of information in the digital public space. Digital platforms no longer only function as a medium of communication, but also as actors that influence the formation of collective perceptions through the distribution and amplification of information.

Public reactions surrounding the East Aceh dispute clearly illustrate how digital virality accelerates social conviction before formal legal adjudication. When video claims emerged via TikTok, the digital audience rapidly formulated collective moral judgments that bypassed the presumption of innocence. Qualitative analysis of user comments documented during the dispute reveals distinct evidentiary shortcuts:

- Immediate presumption of guilt based purely on viral presence: *"Kalo tdk ada angin tak mungkin pohon bergoyang"* (If there is no wind, the tree will not sway) and *"Mana ada maling yg ngaku"* (No thief ever confesses).
- Frustration with formal state justice, prompting demands for religious/customary oaths: *"Aceh Keun daerah Islam... tinggal meusumpah lam mesjid ngeun Alqur an selesai masalah"* (Aceh is an Islamic region... just take an oath in the mosque upon the Quran and the issue is resolved) and demands for a mubahalah oath on the assumption that formal legal processes can be compromised.
- Netizen awareness of digital fragility, demanding forensic intervention: *"Uji forensik saja semua bukti... transkripsi pembicaraan"* (Submit all evidence to forensic testing... including call transcriptions).²³

Furthermore, the controversy escalated into reciprocal legal actions. Following defamation reports under the ITE Law, the accuser (MA), represented by legal counsel from Yayasan Advokasi Rakyat Aceh (YARA), formally lodged a criminal adultery report under Article 411 of the 2023 Criminal Code to the Criminal Investigation Agency of the Indonesian National Police (Bareskrim Polri, Report No. STTL/269/VI/2026/BARESKRIM) alongside proceedings at the Aceh Regional Police (Polda Aceh).²⁴ This reciprocal mobilization of criminal law demonstrates how viral digital narratives force legal institutions

²³ Bupati Rakyat, "FULL Klarifikasi Bupati Alfarlaky Soal Isu Fitnah Selingkuh Di Aceh Timur," 2026, http://www.youtube.com/watch?v=sAdDtgC_kX8.

²⁴ Fadly P.B, "Dugaan Perselingkuhan Bupati Aceh Timur Dengan MS Bergulir Ke Polda Aceh Dan Mabes Polri," *Tribun Pase*, 2026, <https://tribunpase.id/dugaan-perselingkuhan-bupati-aceh-timur-dengan-ms-bergulir-ke-polda-aceh-dan-mabes-polri/>; *Tribun Pase*, "Dugaan Perselingkuhan Bupati Aceh Timur Dengan MS Bergulir Ke Polda Aceh Dan Mabes Polri," *TikTok Video*, 2026, <https://vt.tiktok.com/ZSqv3MYj/>.

into a protracted conflict between unverified digital social truth and formal penal verification.

The dominance of public perception is greatly influenced by the characteristics of social media that allow the massive and instant dissemination of information. Information that is sensational, emotional, or controversial tends to gain public attention faster and form collective opinion in a short period of time. In various viral digital disputes, the massive distribution of information tends to form social judgments before the legal verification process is formally carried out. This condition shows a shift from formal proof mechanisms to social legitimacy built through digital public opinion.

In the context of the East Aceh case analysed in this study, this phenomenon is seen in real terms. The spread of digital narratives, personal accusations, and visual evidence through social media has shaped public perception widely before the legal evidentiary process is carried out. Cases that were initially personal quickly turned into public issues involving moral and social judgments of the parties involved. This condition shows that the distribution of digital information can accelerate the transformation of private conflicts into public social legitimacy.

Furthermore, the existence of visual evidence such as photographs, recordings, or digital narratives also strengthens the formation of public perception. In the digital space, evidence no longer only functions as a tool of legal proof, but also as a tool of social legitimacy. In many cases, information that is massively spread in the digital space is often treated as the initial truth before going through a formal legal verification process. This condition shows that the virality of information often determines the formation of social legitimacy more than the formal evidentiary process.

Similar findings were also identified by Siregar et al. (2025), which showed that the circulation of digital recordings in Acehese society produces reputational consequences that last longer than formal legal processes. In a digital environment, visual distribution not

only informs the public, but also builds a collective moral judgment and social legitimacy that often precedes legal judgment.²⁵

From a socio-legal perspective, this condition reflects the dualism between legal truth and social truth. Legal truth in this study refers to the truth that is formed through formal proof mechanisms, judicial procedures, and legal verification standards in the criminal justice system. In contrast, social truth refers to the construction of truth formed through digital circulation, public legitimacy, narrative reproduction, and social media interaction. In the context of digital disputes, the two forms of truth do not always run in parallel. Legal truth relies on a formal evidentiary process that requires verification of evidence and legal procedures, while social truth can be formed faster through information virality and digital distribution before the adjudication process is completed.

This study found that in many cases, social truth often precedes and even influences legal truth. Social pressure formed through digital public opinion can affect the perception of law enforcement officials, the media, and even the way a case is understood in the public space. Thus, the digital evidentiary crisis is not only related to the technical issue of evidence, but also to the shift of truth-forming authority from judicial institutions to social legitimacy in the digital space.²⁶

In addition, the imbalance in the distribution of information is also an important factor in shaping public perception. In the case of East Aceh, the narrative that circulated was dominated by one party actively distributing claims through social media, while the other party

²⁵ Friska Anggi Siregar, Sari Yulis, and Masyitah Masyitah, "Legal Certainty on the Dissemination of Defamatory Content on Social Media: A Case Analysis of a Flogging Procession Recording in Aceh," *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 17, no. 1 (March 2025): 239–53, <https://doi.org/10.32505/jurisprudensi.v17i1.10132>.

²⁶ Nur Sari Dewi. M and Muslem, "The Validity of Artificial Intelligence Evidence in the Judicial System: A Juridical Analysis," *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 17, no. 2 (October 2025): 320–34, <https://doi.org/10.32505/jurisprudensi.v17i2.11022>; Korniienko et al., "Contemporary Challenges and the Rule of Law in the Digital Age"; Sugiarto, "Legal Review of Evidence in The Crime of Defamation on Social Media."

responded through formal legal mechanisms. This condition creates inequality in the formation of public opinion, where one narrative becomes more dominant and is accepted as the initial truth.

Thus, the dominance of public perception in determining the truth shows that legal proof in the digital era no longer takes place in a sterile space of social influence. Legal truth must deal with social truths formed through digital interaction, information virality, and the distribution of public opinion. This condition poses serious challenges for the legal system because the evidentiary process that should be based on verification and facts can be distorted due to the pressure of social legitimacy in the digital space.

This phenomenon shows that the authority for truth-formation in the digital age is no longer completely monopolized by legal institutions, but is also influenced by the dynamics of digital communication and the distribution of social legitimacy in the networked public space.

4. The Shift of Truth Authority from the State to Digital Platforms

The fourth finding of this study relates to the shift of truth-setting authority from formal judicial institutions to digital spaces influenced by platforms and administrative mechanisms. In the classical legal paradigm, the truth is determined through a formal evidentiary procedure in a judicial institution based on the principle of due process of law. However, in the digital context, this study shows that the establishment of legitimacy for information no longer takes place exclusively through state legal institutions. Social media platforms are increasingly influential in determining the visibility of information through algorithmic mechanisms, content moderation, and digital distribution that shape public perception of a legal event.

The transformation from court-based legal determination to the construction of digital and administrative legitimacy is conceptually illustrated in Figure 4.

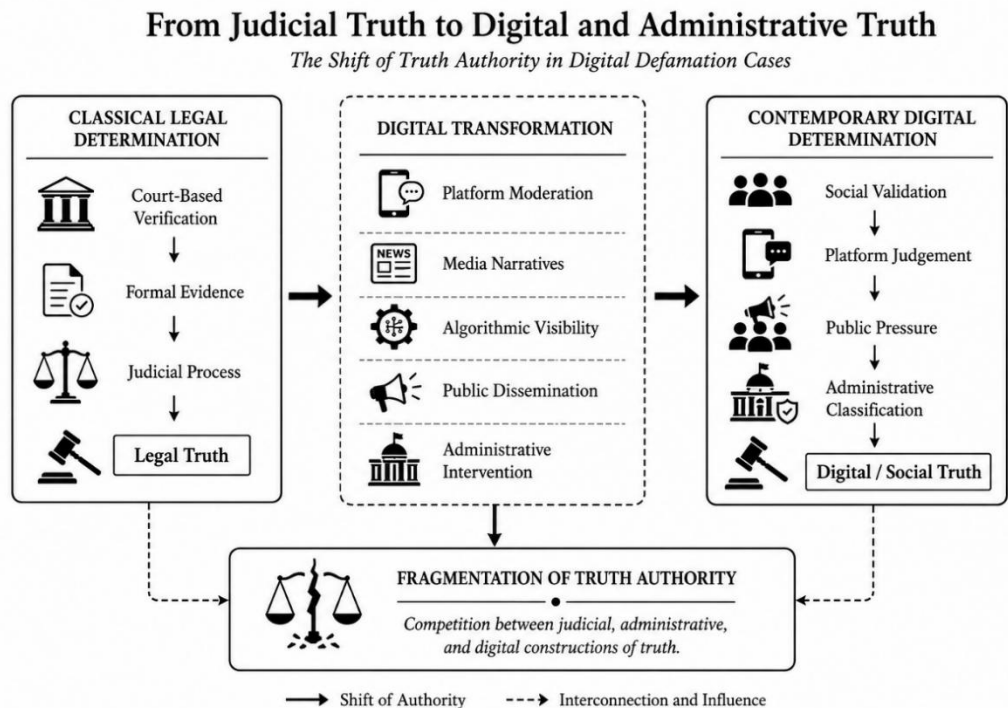


Figure 4. From Judicial Truth to Digital and Administrative Truth in Digital Defamation Cases

This transformation creates a tension between legal truth and social truth, so that the formal evidentiary process is often under the pressure of social legitimacy that forms faster in the digital space. Nevertheless, digital platforms basically do not have the legal authority to determine a person's criminal offense. Content moderation and platform administrative policies are more related to the management of information distribution and digital communication governance, while the determination of defamation or defamation remains within the authority of the judiciary. Nonetheless, in the practice of digital communication, the moderation of platforms and algorithmic distribution often affect the formation of social legitimacy before the legal evidentiary process is completed.

From a socio-legal perspective, this phenomenon shows a transformation of power relations in the digital legal system. Digital technology not only changes the object of law, but also affects the way the law is understood and run. Technological developments are driving a change in legal orientation from a normative approach to a data, risk, and algorithm-based approach. In this context, the formation of social legitimacy no longer depends only on legal arguments in court, but also on the distribution and visibility of information in the digital space.²⁷

In the context of digital media governance, platforms function as private regulators that have a great influence in regulating the distribution of public communications. Alkiviadou (2025) shows that platforms have the administrative authority to restrict or remove content through moderation policies to reduce legal risks and maintain the governance of digital platforms.²⁸ This is in line with the Court of Justice of the European Union's (CJEU) ruling that allows platforms to remove content deemed defamatory, including similar content on a global scale.²⁹ This condition shows that digital platforms are not only intermediaries of information, but also actors that affect the distribution and visibility of information in digital public spaces.

This institutional shift is concretely captured in the controversy surrounding the digital video of senior politician Amien Rais regarding Cabinet Secretary Teddy Indra Wijaya. In an official press statement, the Minister of Communication and Digital (Menkomdigi), Meutya Hafid, explicitly declared: *"Komdigi asserts that the content of the video constitutes hoaxes, defamation, and hate speech. The constructed narrative is an attempt to degrade the dignity of the Highest State Leader, lacks factual basis, and serves as provocation to incite public unrest"*. Following this executive assessment, administrative takedown procedures were initiated under Article 40(2a) of the ITE Law,

²⁷ Brännström et al., "Introduction: Tech and the Transformation of Legal Imagination."

²⁸ Alkiviadou, "Platform Liability, Hate Speech and the Fundamental Right to Free Speech."

²⁹ Daphne Keller, "Facebook Filters, Fundamental Rights, and the CJEU's Glawischnig-Piesczek Ruling," *GRUR International* (Oxford University Press, June 2020), <https://doi.org/10.1093/grurint/ikaa047>.

Government Regulation No. 71/2019, and Ministerial Regulation No. 5/2020.³⁰³¹

As illustrated in Figure 4, this intervention exemplifies administrative pre-emption over judicial authority. Doctrinally, determining whether speech substantively fulfils criminal defamation elements belong exclusively to the judiciary through adversarial proceedings and formal evidentiary standards. However, current digital governance frameworks permit executive agencies to classify communicative content as unlawful and execute digital suppression prior to any judicial verdict, turning regulatory bodies and digital platforms into *de facto* arbiters of legal truth.

Furthermore, the algorithmic mechanism of the platform plays a crucial role in determining the visibility of an information. Content with high levels of engagement tends to gain greater exposure, thus reinforcing the social legitimacy of a particular narrative. In these conditions, social legitimacy is often formed not solely based on the legal validity of evidence, but also through the virality and reproduction of digital information. Mills (2015) describes this phenomenon as the emergence of a form of “non-state law”, which is when social rules and legitimacy are formed through digital mechanisms outside the formal legal structure of the state.³²

In the case of East Aceh analysed in this study, the shift in legitimacy formation authority can be seen from how digital narratives develop on social media before there is final legal determination. Information disseminated through digital platforms, while not legally verified, has shaped public perception at large. As found in the research data, the existence of digital visual evidence forms a “social punishment” that precedes the formal evidentiary process. This

³⁰ Detikcom, “Pernyataan Resmi Menkomdigi Meutya Hafid Terkait Video Kontroversial Amien Rais,” 2026, <https://www.tiktok.com/@detikcom/video/7635172754127392007>.

³¹ KOMPASTV JEMBER, “Komdigi Klarifikasi Soal ‘Takedown’ Video Amien Rais, Sebut Kebebasan Berpendapat Tak Absolut,” 2026, <http://www.youtube.com/watch?v=LaAScyJa-PQ>.

³² Mills, “The Law Applicable to Cross-Border Defamation on Social Media: Whose Law Governs Free Speech in ‘Facebookistan’?”

condition shows that the digital space allows the formation of social legitimacy to develop faster than the legal verification process through the judiciary.³³

A similar phenomenon has also been seen in some contemporary cases when public officials' statements and moderation actions against digital content influence the formation of public perception prior to the formal adjudication process. In this context, administrative actions and digital distribution can establish the initial legitimacy of an allegation before the evidentiary processes completed. This condition suggests that in contemporary digital practice, the process of legitimacy formation no longer takes place entirely through judicial mechanisms, but is also influenced by administrative actions, algorithmic distribution, and digital public opinion.

From the perspective of due process of law, this condition poses serious challenges to the criminal evidentiary system. The evidentiary process no longer takes place in a completely neutral judicial space, but is under the pressure of social legitimacy that has been formed through digital distribution and public perception. As a result, the assessment of the validity of an allegation is often influenced by the construction of public opinion that develops before the legal verification process is formally carried out. In this context, evidentiary processes in the digital era not only faces the technical problems of electronic evidence, but also faces a shift in legitimacy formation authority from judicial institutions to digital and administrative spaces.

Thus, the shift of truth authority from the state to the digital space shows that legal proof in the digital era has undergone a fundamental transformation. The process of forming legal truth is now taking place in a complex relationship between state institutions, digital platforms, algorithms, and public perception. This phenomenon shows that the authority to establish legitimacy in the digital age is no longer completely monopolized by legal institutions, but is also influenced by the dynamics of digital communication and platform

³³ Anggraini et al., "Membangun Kesadaran Hukum Ideal Di Tengah Arus Disinformasi Digital."

governance. Therefore, a multidisciplinary approach that integrates law, technology, and communication is essential to maintain a balance between justice, legal certainty, and freedom of expression in the digital age.

D. Discussion

This research shows that the evidentiary crisis in the criminal act of defamation in the digital space is not only caused by technical problems of electronic evidence, but also by the transformation of the mechanism of truth formation in the digital era. The findings of the study show that the ambiguity of legal norms, the instability of digital evidence, the dominance of social legitimacy, and the increasing influence of digital platforms have transformed the criminal proving process from a mechanism that is entirely based on judicial verification to one that is influenced by the dynamics of digital communication and the distribution of public information. In this context, the law no longer operates in a stable and territorial environment, but is in a fluid, transnational, and technology-mediated digital space.³⁴

From a normative perspective, the findings on legal ambiguity show that there is a doctrinal tension between reputation protection and freedom of expression in the Indonesian legal system. The Criminal Code maintains an approach to honour protection based on conventional criminal law, while the ITE Law extends the application of the offense to digital communication spaces that have different distribution and interpretation characteristics. This condition causes the boundaries between criticism, opinion, and defamation to become increasingly blurred. These findings strengthen the view of Prasetyo (2021) and Sugiarto (2025) that the formulation of norms in the ITE Law is still broad and multi-interpretive, thus causing uncertainty in digital law enforcement practices.³⁵

³⁴ Heather, "Challenges for the Law from Cyberspace and Virtual Worlds"; Brännström et al., "Introduction: Tech and the Transformation of Legal Imagination."

³⁵ Prasetyo, "Hati-Hati Ancaman Tindak Pidana Pencemaran Nama Baik Di Media Sosial Dalam Undang-Undang Informasi Dan Transaksi Elektronik";

This study also shows that the digital evidentiary crisis is closely related to the issue of authentication and validity of electronic evidence. In contrast to conventional evidence, digital evidence can be easily modified, reproduced, and disseminated without an intact context. In the context of evidentiary law, this condition raises serious problems related to the authenticity, admissibility, and integrity of electronic evidence. These findings are in line with Risky and Mutiah (2025), which show that Indonesia does not yet have a fully structured digital evidentiary standard, especially related to electronic evidence authentication and digital forensic verification mechanisms. In contrast to Singapore which has developed a more systematic electronic evidence validation procedure, the evidentiary system in Indonesia still relies heavily on judges' interpretations and expert testimony in determining the validity of digital evidence.³⁶

In addition, the development of artificial intelligence and deepfakes shows that conventional evidentiary doctrines face new and increasingly complex challenges. AI-based evidence not only complicates the process of verifying the authenticity of information, but also raises issues with fairness and due process in proving digital crimes. Borovick (2024) explains that deepfake technology allows for highly realistic audio and visual manipulation that makes it difficult to distinguish from authentic evidence.³⁷ Meanwhile, Hildebrandt (2020) emphasized that the "black box" character in algorithmic systems leads to low transparency and accountability in the digital verification process.³⁸ In the Indonesian context, Dewi and Muslem (2025) show that the criminal justice system does not yet have a clear legal

Sugiarto, "Legal Review of Evidence in The Crime of Defamation on Social Media."

³⁶ Risky and Mutiah, "'Normative Convergence and Divergence: A Comparison of Digital Cyberbullying Evidence Laws between Indonesia and Singapore in the Digital Era.'"

³⁷ Harry Borovick, *AI and the Law: A Practical Guide to Using Artificial Intelligence Safely*, *AI and the Law: A Practical Guide to Using Artificial Intelligence Safely* (Apress Media LLC, 2024), <https://doi.org/10.1007/979-8-8688-0400-7>.

³⁸ Mireille Hildebrandt, "Law for Computer Scientists and Other Folk" (United States of America, 2020).

framework regarding the recognition and validation of AI-generated evidence. This condition shows that the challenge of digital evidence is no longer only normative, but also related to the ability of the legal system to respond to contemporary technological developments.³⁹

From a socio-legal perspective, this study shows the evidentiary process in the digital age is no longer fully determined through formal verification mechanisms in court. The rapid and massive distribution of digital information allows for the formation of social legitimacy before the adjudication process is completed. In this context, the study found that there is a dualism between legal truth and social truth. Legal truth refers to the truth that is formed through formal evidentiary mechanisms and legal procedures, while social truth is formed through digital circulation, information virality, and public legitimacy on social media. These findings extend previous studies that generally only focused digital evidence on the technical aspects of evidence, by showing that the evidentiary crisis is also related to shifting mechanisms for legitimacy formation in the digital space. These findings also strengthen the views of Anggraini et al. (2025) regarding the influence of digital disinformation on public legal awareness.⁴⁰

This research also shows that digital platforms have a great influence in shaping the distribution of social legitimacy in digital public spaces. Nevertheless, the platform basically has no legal authority to determine a person's criminal offense. Content moderation and the platform's administrative policies are more related to the management of information distribution than the determination of legal liability. In this context, the platform serves as a private regulator that influences the visibility of information through algorithms and content moderation policies.⁴¹ This condition shows that the process of establishing legitimacy in the digital era is no longer

³⁹ Dewi. M and Muslem, "The Validity of Artificial Intelligence Evidence in the Judicial System: A Juridical Analysis."

⁴⁰ Anggraini et al., "Membangun Kesadaran Hukum Ideal Di Tengah Arus Disinformasi Digital."

⁴¹ Alkiviadou, "Platform Liability, Hate Speech and the Fundamental Right to Free Speech."

carried out exclusively through state legal institutions, but is also influenced by digital distribution mechanisms and platform governance.

Theoretically, this study offers a conceptual model of the “digital proof crisis” consisting of four main dimensions, namely the ambiguity of legal norms, the instability of digital evidence, the dominance of social legitimacy, and the increasing influence of digital platforms in shaping public perception. These four dimensions interact with each other and form a condition in which the criminal proving process no longer takes place in a completely neutral judicial space, but is under the pressure of digital communication, information distribution, and social validation. Thus, this study expands evidentiary studies from an approach that previously focused on the validity of evidence to an approach that also considers the dynamics of digital communication and the distribution of social legitimacy in digital public spaces.

In practical terms, the findings of this study show the need for legal reform that focuses not only on the revision of criminal norms, but also on strengthening the technical capacity for digital evidence verification, including the development of digital forensics and electronic evidence authentication standards. In addition, policies are needed that are able to maintain a balance between reputation protection, freedom of expression, and due process of law principles in the contemporary digital communication environment.

This study has limitations because it uses secondary data and case analysis that is limited to specific contexts. Therefore, further research is recommended using a broader empirical approach, such as interviews with law enforcement officials or a comprehensive analysis of court decisions to deepen understanding of digital evidentiary practices in Indonesia.

Thus, this study confirms that the evidentiary crisis in the crime of digital defamation is the result of a complex interaction between law, technology, digital communication, and social legitimacy. This phenomenon shows that legal proof in the digital era is no longer only related to the validity of evidence, but also to the transformation of the

mechanism for the formation of truth and legitimacy in the digital public space.

E. Conclusion

This study concludes that the evidentiary crisis in digital defamation cases is a condition when the criminal evidentiary process is no longer fully determined by formal legal verification mechanisms, but is also influenced by the ambiguity of legal norms, the instability of digital evidence, social legitimacy, and the distribution of information in the digital space. The ambiguity of norms in the 2023 Criminal Code and the Electronic Information and Transaction Law opens up a wide scope of interpretation in distinguishing criticism, opinions, and defamation, while the characteristics of digital evidence that are easily modified and disseminated create uncertainty in the evidence authentication and verification process. At the same time, public perception formed through social media often develops faster than formal adjudication processes, affecting the legitimacy of an allegation before the legal process is completed. This condition shows that the evidentiary process in the digital era no longer takes place in a completely neutral judicial space, but is in a complex interaction between law, technology, digital communication, and social construction.

This research makes a conceptual contribution by developing the framework of the “digital evidentiary crisis” as an analytical approach in the study of digital criminal law. In contrast to previous research that generally focused on the normative aspects of defamation or the technical validity of electronic evidence, this study shows that the digital evidentiary crisis is also related to the transformation of the mechanism of legitimacy and truth formation in the digital space. In this context, the research introduces the concept of dualism between legal truth and social truth to explain how legal truths formed through formal evidentiary procedures can be in tension with social truths formed through information virality, digital distribution, and public legitimacy. Thus, this study expands the study of digital law from an approach that previously focused on evidence to a socio-legal

approach that also considers the dynamics of digital communication and platform governance.

In addition to these conceptual contributions, this research also provides socio-legal analytical contributions through case analysis and digital communication dynamics that show how the distribution of digital information can affect the criminal evidentiary process in Indonesia. The findings of the study show that the formation of social legitimacy in the digital space often takes place faster than the formal legal verification process, thus raising new challenges to the principle of due process of law in the digital criminal justice system.

The practical implications of this study show the need to develop a more structured electronic evidence authentication standard in the Indonesian criminal justice system. The Supreme Court and law enforcement officials need to develop technical guidelines regarding metadata verification, chain of custody, and the use of digital forensics in the assessment of electronic evidence. In addition, digital platform regulations need to be designed through a co-regulation approach that is able to maintain a balance between reputation protection, freedom of expression, and the integrity of the evidentiary process in the digital space. In this context, increasing legal literacy and digital literacy of the community is also important to reduce the risk of forming social legitimacy based on unverified information.

This study has limitations because it uses a normative and socio-legal approach based on secondary data and case analysis that is limited to specific contexts. Therefore, further research is recommended to develop an empirical approach through interviews with judges, law enforcement officials, and digital forensic practitioners to gain a more comprehensive understanding of digital evidentiary practices in Indonesia. In addition, comparative studies between countries are also important to identify regulatory models and digital evidentiary standards that are more adaptive to contemporary technological developments.

Bibliography

- Al-Jabra, Ali Awad, Muneer Mohammed Shahada Al-Afaishat, and Sarah Mahmoud Al-Arasi. "Legal Protection of Private Electronic Life: Problems and Solutions." In *Studies in Computational Intelligence*, 1010:717–26. Springer Science and Business Media Deutschland GmbH, 2022. https://doi.org/10.1007/978-3-031-05258-3_55.
- Alkiviadou, Natalie. "Platform Liability, Hate Speech and the Fundamental Right to Free Speech." *Information and Communications Technology Law* 34, no. 2 (2025): 207–17. <https://doi.org/10.1080/13600834.2024.2411799>.
- Anggraini, Lisa, Universitas Muhammadiyah, Kalimantan Timur, Simalango Juita Octaviani, Universitas Muhammadiyah, Kalimantan Timur, Panggalih Husodo, et al. "Membangun Kesadaran Hukum Ideal Di Tengah Arus Disinformasi Digital." *Jurnal Hukum Islam Dan Perundang-Undangan* 9, no. 2 (December 2025): 29–48. <https://doi.org/https://doi.org/10.21093/qj.v9i2.11922>.
- Banakar, Reza., and Max. Travers. *Theory and Method in Socio-Legal Research*. Illustrate. Vol. Volume 14. Hart Pub., 2005.
- Banakar, Reza. "Introduction to Theory and Method in Socio-Legal Research." In *Theory and Method in Socio-Legal Research*, edited by Reza Banakar and Max Travers. Hart Publishing Ltd, 2005.
- Borovick, Harry. *AI and the Law: A Practical Guide to Using Artificial Intelligence Safely*. *AI and the Law: A Practical Guide to Using Artificial Intelligence Safely*. Apress Media LLC, 2024. <https://doi.org/10.1007/979-8-8688-0400-7>.
- Brännström, Leila, Gregor Noll, Amin Parsa, and Markus Gunneflo. "Introduction: Tech and the Transformation of Legal Imagination." *Law and Critique*. Springer Science and Business Media B.V., November 2023. <https://doi.org/10.1007/s10978-023-09359-0>.
- Chamim, Mochammad, Kusno Widodo, Sugeng Riyadi, and Padri Achyarsyah. "The Role of Digital Evidence in Criminal Law Enforcement: Challenges of Authentication and Admissibility in Court." *Research Horizon* 5, no. 6 (December 2025): 2987–98. <https://doi.org/10.54518/rh.5.6.2025.950>.
- Detikcom. "Pernyataan Resmi Menkomdigi Meutya Hafid Terkait Video Kontroversial Amien Rais," 2026. <https://www.tiktok.com/@detikcom/video/763517275412739>

2007.

- Dewi, M, Nur Sari, and Muslem. "The Validity of Artificial Intelligence Evidence in the Judicial System: A Juridical Analysis." *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 17, no. 2 (October 2025): 320–34. <https://doi.org/10.32505/jurisprudensi.v17i2.11022>.
- Heather, Michael. "Challenges for the Law from Cyberspace and Virtual Worlds." *Computer Law & Security Report* 10, no. 1 (January 1994): 17–21. [https://doi.org/10.1016/0267-3649\(94\)90078-7](https://doi.org/10.1016/0267-3649(94)90078-7).
- Hildebrandt, Mireille. "Law for Computer Scientists and Other Folk." United States of America, 2020.
- Ibrahim, Johnny. *Teori & Metologi Penelitian Hukum Normatif*. Malang: Bayu Media, 2013.
- Indonesia, Mahkamah Konstitusi Republik. Putusan Mahkamah Konstitusi Nomor 25/PUU-XXI/2023 tentang Pengujian Undang-Undang Informasi dan Transaksi Elektronik (2023).
- . Putusan Mahkamah Konstitusi Republik Indonesia Nomor 105/PUU-XXII/2024, Pub. L. No. 105/PUU-XXII/2024 (n.d.).
- . Putusan Mahkamah konstitusi Republik Indonesia Nomor 50/PUU-VI/2008, Pub. L. No. 50/PUU-VI/2008 (2008).
- Indonesia, Pemerintah Republik. Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana (2023).
- . Undang-Undang Republik Indonesia Nomor 1 Tahun 2024 tentang Perubahan Kedua atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (2024).
- . Undang-Undang Republik Indonesia Nomor 19 Tahun 2016 tentang Perubahan atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (2016).
- JEMBER, KOMPASTV. "Komdigi Klarifikasi Soal 'Takedown' Video Amien Rais, Sebut Kebebasan Berpendapat Tak Absolut," 2026. <http://www.youtube.com/watch?v=LaAScyJa-PQ>.
- Keller, Daphne. "Facebook Filters, Fundamental Rights, and the CJEU's Glawischneg-Piesczek Ruling." *GRUR International*. Oxford University Press, June 2020. <https://doi.org/10.1093/grurint/ikaa047>.
- Kompas, T V. "Full Jawaban Amien Rais Usai Pernyataannya Soal Presiden Dan Seskab Teddy Dinilai Fitnah." 2026.
- Korniienko, Petro S., Oleh V. Plakhotnik, Hanna O. Blinova, Zhanna O. Dzeiko, and Gennadii O. Dubov. "Contemporary Challenges and

- the Rule of Law in the Digital Age." *International Journal for the Semiotics of Law* 36, no. 2 (April 2023): 991–1006. <https://doi.org/10.1007/s11196-022-09963-w>.
- Mahmud Marzuki, Peter. *Penelitian Hukum. Jurnal Penelitian Hukum*. Jakarta: Kencana Prenada Media Group, 2019.
- Mills, Alex. "The Law Applicable to Cross-Border Defamation on Social Media: Whose Law Governs Free Speech in 'Facebookistan'?" *Journal of Media Law* 7, no. 1 (2015): 1–35. <https://doi.org/10.1080/17577632.2015.1055942>.
- P.B, Fadly. "Dugaan Perselingkuhan Bupati Aceh Timur Dengan MS Bergulir Ke Polda Aceh Dan Mabes Polri." *Tribun Pase*, 2026. <https://tribunpase.id/dugaan-perselingkuhan-bupati-aceh-timur-dengan-ms-bergulir-ke-polda-aceh-dan-mabes-polri/>.
- Pase, Tribun. "Dugaan Perselingkuhan Bupati Aceh Timur Dengan MS Bergulir Ke Polda Aceh Dan Mabes Polri." *TikTok Video*, 2026. <https://vt.tiktok.com/ZSqev3MYj/>.
- Polri, Divisi Humas. "Bupati Aceh Timur Tegaskan Akan Gugat Secara Hukum." *Portal Berita Resmi Kepolisian Negara Republik Indonesia*, 2026. <https://humas.polri.go.id/news/detail/2371636-bupati-aceh-timur-tegaskan-akan-gugat-secara-hukum>.
- Prasetyo, Yogi. "Hati-Hati Ancaman Tindak Pidana Pencemaran Nama Baik Di Media Sosial Dalam Undang-Undang Informasi Dan Transaksi Elektronik," 2021.
- Rakyat, Bupati. "FULL Klarifikasi Bupati Alfarlaky Soal Isu Fitnah Selingkuh Di Aceh Timur," 2026. http://www.youtube.com/watch?v=sAdDtgc_kX8.
- Risky, Cheza Kania, and Dewi Mutiah. "Normative Convergence and Divergence: A Comparison of Digital Cyberbullying Evidence Laws between Indonesia and Singapore in the Digital Era." *KRTHA BHAYANGKARA* 19, no. 2 (August 2025): 621–36. <https://doi.org/10.31599/krtha.v19i2.3702>.
- SINDOnews. "Pernyataan Amien Rais Soal Seskab Teddy Fitnah Dan Sensasional." 2026.
- Siregar, Friska Anggi, Sari Yulis, and Masyitah Masyitah. "Legal Certainty on the Dissemination of Defamatory Content on Social Media: A Case Analysis of a Flogging Procession Recording in Aceh." *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 17, no. 1 (March 2025): 239–53. <https://doi.org/10.32505/jurisprudensi.v17i1.10132>.

- Sugiarto, Agus. "Legal Review of Evidence in The Crime of Defamation on Social Media." *Journal of Social Research* 4, no. 5 (April 2025): 642–48. <https://doi.org/10.55324/josr.v4i5.2513>.
- Svantesson, Dan Jerker B., and Symeon C. Symeonides. "Cross-Border Internet Defamation Conflicts and What to Do about Them: Two Proposals." *Journal of Private International Law* 19, no. 2 (2023): 137–85. <https://doi.org/10.1080/17441048.2023.2236419>.