

## **Between Faith, Law, and Digital Media: Blasphemy Under the Criminal Code and the ITE Law**

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**Abstrak:** This study aims to determine how the qualifications of the crime of blasphemy in the perspective of the criminal code and the law on information and electronic transactions. This study uses the research method used is the normative method, namely a legal research method that is sourced from regulatory and secondary document data in the form of collection from library and tertiary materials which are documents containing concepts and information such as dictionaries. The results of this study indicate that there are several qualifying elements if someone is caught in a case of blasphemy in the criminal code and the law on information and electronic transactions. In this case, the perpetrators who are included in the act of blasphemy are in Article 300 to Article 305 of the Criminal Code and Article 28 paragraph 2 of the law on information and electronic transactions which discusses the act of blasphemy. This research recommendation states that there is a need for effectiveness in the criminal code and the law on information and electronic transactions in determining punishment for someone who commits the crime of blasphemy because there are many acts of blasphemy in the community but there is not much movement from the authorities in dealing with the crime of blasphemy, therefore religious scholars and law enforcers need to take firm action in anticipating acts of blasphemy.

**Keywords:** Blasphemy, Incitement, Hatred

### **A. INTRODUCTION**

Indonesia is a democratic country based on Pancasila and the 1945 Constitution. Therefore, the values of Pancasila must be applied in daily life, and refer to the provisions of the 1945 Constitution. Article 29 Paragraph (1) and (2) relating to the implementation of the first principle of Pancasila: Article 29 Paragraph (1): "The state is based on the One Almighty God" Article 29 Paragraph (2): "The state guarantees the freedom of every citizen to embrace their respective religion and to worship according to their religion and beliefs." The meaning of Article 29 Paragraph (1) is in accordance with the contents of the Preamble to the 1945 Constitution of the Republic of Indonesia, paragraph 3, which reads: "By the grace of Almighty God and driven by the noble desire to live a free national life, the Indonesian people hereby declare their independence." Based on the contents of Paragraph 3 of the Preamble to the 1945

Constitution of the Republic of Indonesia, Indonesia acknowledges that the independence achieved is a blessing from Almighty God, not merely the result of the struggle of the Indonesian people. Therefore, the Republic of Indonesia also recognizes the existence of various religions and beliefs. Currently, the Republic of Indonesia recognizes six official religions: Islam, Christianity, Catholicism, Buddhism, Hinduism, and Confucianism. Furthermore, the Republic of Indonesia now also recognizes the existence of various belief systems.[1]

The meaning of Article 29 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia can be concluded that the state has guaranteed the freedom of its citizens in religion and worship. This means that the Republic of Indonesia protects, fosters, and directs its citizens to live their lives according to the teachings of their beliefs. The role of the state is to maintain and create an atmosphere of harmony, peace, and tolerance for all religious communities. The state is obliged to make laws and regulations that prohibit anyone from insulting the teachings of other religions or beliefs. In addition, the government must guide and foster its citizens to respect one another, and enforce fair regulations without considering one religion superior to another.[2] Religion can live and develop in Indonesia because there is legal protection and religious adherents have the right to practice and develop their religion based on their beliefs, and because of this diversity that causes various problems to occur in Indonesia, one of which is blasphemy, when it touches on religious issues, Indonesian society is very sensitive about it. Activities carried out by a group or individual that are based on insulting a religious belief and are carried out in a way that deviates from the teachings of the religion in question, thus causing unrest in religious life, causing vulnerability in the life of society between religious communities.[3]

In Pancasila, especially in the First Principle, Indonesia guarantees all its citizens to embrace and/or practice their religion. In addition to Pancasila, freedom of religion is also guaranteed in the 1945 Constitution (UUD 1945) second amendment article 28E paragraph (1) and (2) which explains that every citizen has the freedom to embrace and/or practice the religion they believe in. Although freedom of religion has been guaranteed in Pancasila and the 1945 Constitution, in reality problems in society related to religion still occur, such as insults, demeaning the

beliefs of a group to problems related to places of worship of a religion. As an effort to prevent and overcome this, the government provides a legal umbrella for problems related to religion as stipulated in Article 156, Article 156a and Article 157 of the Criminal Code (KUHP) which has been updated in the Republic of Indonesia Law Number 1 of 2023 concerning the Criminal Code concerning the Criminal Act of Blasphemy.[4]

And as for the book of Tafsir Ibn Kathir, the researcher formulated two main points of discussion regarding the formulation of the problem in this study. First, the scope of Ibn Kathir's interpretation is 1) blasphemy against Allah and Rasulullah, according to Ibn Kathir the perpetrator will receive a curse from Allah and a very humiliating punishment for them. 2) For blasphemy against the Verses of Allah, Ibn Kathir explained that the perpetrator of blasphemy will be put into Hell, which is the deepest and most painful hell. 3) For blasphemy against the Shari'a of Allah, Ibn Kathir did not explain in detail how the punishment will be received for them. 4) For blasphemy against believers, Ibn Kathir explained that when someone insults the Islamic religion by cursing and mentioning its shortcomings, the death penalty is determined for them.[5]

Blasphemy according to the Law on Information and Electronic Transactions, namely this article is included in the article on blasphemy against Ethnicity, Race, and Religion between Groups contained in Article 28 Paragraph (2) of Law No. 11 of 2008 concerning Information and Electronic Transactions. as referred to in Article 28 paragraph (2) the perpetrator will be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah). Harmonious religious life in society by emphasizing in Article 28 paragraph (2) regarding the prohibition of causing hatred and hostility between fellow human beings. However, at the sociological level, this regulation has not yet functioned according to its function, so it has not had a positive impact on the harmony of religious life in Indonesia. The ITE Law appears when after being violated, not at the level.[6]

This is because several legal phrases remain unclear and open to multiple interpretations. What then results is mutual reporting or revenge, using the ITE Law as a basis. Ultimately, religious harmony in Indonesia has not been achieved properly. Because, if you remain with them, you

will be like them in your disbelief and hypocrisy. Remember, Allah will gather all hypocrites and infidels in Hell, because their goal is the same.[7]

## **B. METHOD**

This research is a normative legal research, namely research that has as its object of study the rules or regulations of law using a statutory approach. This approach is linked to the articles contained in the legislation. Normative research is research that examines legal issues normatively. This approach is carried out by examining all laws and regulations related to the legal issue being discussed (researched). This approach serves to analyze the Republic of Indonesia Law Number 1 of 2023 concerning Criminal Law and the Republic of Indonesia Law of 2024 concerning Electronic Information and Transactions.[8] This approach is carried out by comparing the legal system, or laws of one country, with the laws of one or more other countries regarding the same matter, including court decisions. The main source of research, namely normative law, is legal material, not data or social facts, because in normative legal research, what is studied is legal material containing normative rules. Research data, namely, sources of normative legal research, consist of primary legal material, secondary legal material, and tertiary legal material. [9]

## **C. DISCUSSION**

### **1. Qualifications of Blasphemy from the Perspective of the Indonesian Criminal Code and According to the Electronic Information and Transactions Law.**

In Indonesia, cases of blasphemy are regulated by law. This regulation was originally a Presidential Decree (Penpres) issued by President Soekarno on January 27, 1965. The background to the issuance of this Penpres was the emergence of many spiritual sects and beliefs that were considered dangerous to the major religions in Indonesia. This Penpres later became a law, namely Law No. 1/PNPS/1965 concerning the Prevention and/or Blasphemy of Religion. Etymologically, the word "menista" comes from "nista," which is synonymous with "cela," both meaning contemptible, low, or stain. Meanwhile, the Great

Dictionary of the Indonesian Language (KBBI) defines "religion" as a system of belief in God or other sacred entities, including the teachings and obligations that accompany it.[10]

Although the Indonesian Criminal Code (KUHP) does not specify a definition of blasphemy, other sources define it as a verbal or written act that attacks the reputation or dignity of an individual or group, with the intention of making it public. Blasphemy is generally divided into two types: Verbal: Through derogatory remarks, such as ridicule, sarcasm, accusations, mockery, insults, or even inappropriate jokes. Non-Verbal: Through actions, attitudes, or expressions that do not use words, but still tarnish religious teachings. Examples include body language or insulting actions.[3] The debate surrounding blasphemy continues, particularly regarding the definition of actions and statements that fall into this category, as well as the penalties for perpetrators. Common examples of blasphemy include causing a disturbance in a place of worship or mocking or ridiculing a religion.[4]

Although the old Criminal Code did not have a specific article on religious offenses, the new Criminal Code is expected to more clearly regulate the crime of blasphemy. This includes deliberate acts that express feelings of hostility, hatred, or contempt toward one or more groups of Indonesian people. Qualification of blasphemy from the perspective of the Electronic Information and Transactions Law. In the period from late 2021 to early 2022, the media in Indonesia was busy reporting and discussing various cases of hate speech related to religious harmony.[5] These cases involved several figures, such as M. Yahya Waloni, Bahar bin Smith, Eggi Sujana, and Ferdinand Hutahaean. After investigation, all of these cases were reported to the police and the perpetrators were charged under Article 28 paragraph (2) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law). The evidence used in these cases was in the form of video recordings or posts on social media. Cases of hate speech of this kind are not new in Indonesia. Previously, major cases such as Abu Janda also went viral due to issues of intolerance, blasphemy, racism, hate speech, and the spread of hoaxes.[6]

The government is attempting to prevent this through the ITE Law, specifically Law No. 11 of 2008, by strictly monitoring the use of cyberspace, particularly regarding issues of ethnicity, religion, race, and intergroup relations (SARA). This step is considered crucial for maintaining tolerance and preventing horizontal conflict. The provision in the ITE Law that supports this goal is found in Article 28 paragraph (2), which prohibits the dissemination of information aimed at inciting hatred or hostility based on SARA. This law is in line with the mandate of Article 29 of the 1945 Constitution, which states that Indonesia is a state based on the One Almighty God and guarantees religious freedom for all its citizens.[11]

Several researchers have examined the effectiveness and impact of the ITE Law, but with different focuses. Rini Retno Winarni (2016) discussed its effectiveness in cybercrime, while Radita Setiawan (2013) examined its effectiveness from a criminal law perspective. Suyanto Sidik (2013) examined the impact of the ITE Law on legal and social change, and Tegar Pan Dhadha (2022) analyzed the role of the ITE Law in protecting cyber activities in general, without specifically addressing religious harmony. This study aims to investigate how the ITE Law, specifically Article 28 paragraph (2), influences efforts to maintain religious harmony in Indonesia. Studies on the relationship between the ITE Law and religious harmony are still minimal. The ITE Law often comes under the spotlight when there are cases of intolerance and is used as the basis for reporting. Therefore, it is important to re-examine the contents of this law, considering the many cases of intolerance, especially hate speech or blasphemy, reported as violating Article 28 paragraph (2) of the ITE Law.[12]

A 2020 Wahid Institute survey showed an increase in intolerance, from 46% to 54% from the previous year. According to Yenny Wahid, one of the triggers of intolerance and inter-religious conflict is hate speech.[13] Furthermore, several phrases in the ITE Law are considered unclear and lack clear boundaries in their application. The purpose of this study is to uncover the implications of the ITE Law's implementation, particularly in the context

of religious harmony in Indonesia, in order to minimize violations and mutual reporting caused by the law's multiple interpretations.[14]

**Table of cases of blasphemy from the perspective of the Criminal Code and the ITE Law.**

<b>Those Entangled in the Case</b>	<b>Year</b>	<b>Case</b>	<b>Article of Law</b>
Basuki Tjahaja Purnama (Ahok)	September 27, 2016	Taming the Islamic religion during a working visit to the Thousand Islands.	Article 156 a of the Criminal Code
Lia Aminuddin (Lia Eden)	June 2006 and December 2008	Blasphemy of a heretical sect	Article 156a of the Criminal Code in conjunction with Article 55 paragraph 1 of the Criminal Code
Meiliana	on July 22, 2016	questioning the volume of the call to prayer at the Al-Makhsum mosque	Article 156 and Article 156a of the Criminal Code
Andrew handoko	January 27, 2018	deliberately defaming religion through internet media by taking a photo of himself posing on the Newspapers and distribute them online.	Article 45 paragraph (2) of Law Number 19 of 2016

Several blasphemy cases that have surfaced in Indonesia include those of Basuki Tjahaja Purnama (Ahok), Lia Aminuddin (Lia Eden), and Meiliana. Ahok was alternatively charged with blasphemy (Article 156a of the Criminal Code) or hostility/insult to a group (Article 156 of the Criminal Code). [15] This indictment emerged following her speech to residents of the Seribu Islands during a socialization of the Jakarta Government's work program. Meanwhile, the Public Prosecutor (JPU) demanded a five-year prison sentence for Lia Eden. The JPU stated that the actions of the leader of the Holy See of the Kingdom of Eden were proven legal and convincing, without any excuse or justification that would erase her guilt. Lia was charged under Article 156a of the Indonesian Criminal Code in conjunction with Article 55 paragraph 1 of the Indonesian Criminal Code.[16]

The case of blasphemy against Meiliana in Medan also attracted public attention. She was sentenced to 1.5 years in prison by the Medan District Court (PN) in 2016. Meiliana was considered to have committed blasphemy because she questioned the volume of the call to prayer at the Al-Makhsum mosque on July 22, 2016. The old Criminal Code had regulated the prohibition of blasphemy through Article 156a. This article prohibits acts that intentionally insult religion in public spaces, whether verbally, in writing, or acts that are hostile or blasphemous, against religions practiced in Indonesia or with the intention of preventing people from practicing any religion. Violations of Article 156a can be punished with a maximum of five years in prison. The example of Sebastian Joe's case shows that his actions, which intentionally and unlawfully blasphemed religion through Facebook, can be prosecuted under two provisions of the criminal code: Article 45 paragraph (2) in conjunction with ... Article 28 paragraph (2) of Law Number 19 of 2016 (as *lex specialis*, or more specific law) and Article 156 of the Criminal Code (as *lex generalis*, or more general law).[17] Referring to the applicable legal principles, *lex specialis* will be applied in cases like this. Agung Handoko's case is also relevant, where he was guilty of spreading information that incited hatred or hostility towards individuals and/or community groups based on ethnicity, race, religion, and intergroup relations (SARA), as well as expressing feelings or committing acts that were essentially hostile, abusive, or blasphemous towards religions practiced in Indonesia. His actions are regulated in Article 45 paragraph (2) of



Law Number 19 of 2016. Agung Handoko deliberately blasphemed religion through internet media by making a photo of himself posing as he steps on the Quran and spreading it online.[18]

The Internet can be defined as a vast and global computer network, meaning that the perpetrator's actions can be accessed and viewed by everyone around the world. These actions were clearly carried out with the intention of defaming Islam. The Internet connects computer users from one country to another throughout the world, containing various information resources ranging from static to dynamic and interactive. Generally, there are many benefits to be gained from having internet access. However, in cases like Joe Handoko's, his actions fall under two criminal law provisions, namely Article 45 paragraph (2) in conjunction with Article 28 paragraph (2) of the ITE Law (which is *lex specialis*) and Article 156 of the Criminal Code (which is *lex generalis*). Therefore, in accordance with applicable legal principles, the *lex specialis* provisions will be applied.

## **2. Differences or Similarities Between Blasphemy According to the Criminal Code and the Electronic Information and Transactions Law**

Blasphemy is defined as a deliberate act that denounces or insults another person's religion, which is categorized as an act that damages religious beliefs, culture, and norms. While freedom of religion and worship is a personal right (*forum internum*), maintaining order and peace in living together is an interpersonal aspect (*forum externum*). According to Article 1 of Law Number 1/PNPS/1965 concerning the Prevention of Abuse and/or Blasphemy of Religion, blasphemy is a deliberate act by someone who openly tells, advocates, or seeks public support for interpreting a religion practiced in Indonesia or carries out religious activities that resemble the practice of that religion, but this interpretation or activity deviates from the basic teachings of that religion.

Furthermore, Presidential Decree No. 1 of 1965 added Article 156a to the Criminal Code (KUHP). This article carries a maximum prison sentence of five years for anyone who intentionally, in public, expresses feelings or commits an act that:

- a. In essence, it is hostile, abusive or blasphemous towards a religion practiced in Indonesia.
- b. The aim is to prevent other people from adhering to any religion based on belief in the Almighty God.

Based on the general explanation of this Presidential Decree, its primary objective is to protect the peace of religious communities from blasphemy or insults to religion or religious teachings. The first objective element of the crime of blasphemy is that it must be committed "in public," as stipulated in Article 156a of the Criminal Code. The phrase "in public" does not only mean in a public place, but also if the perpetrator's feelings or actions can be heard or seen by the public. This can be a statement or action carried out in a public place that is accessible and witnessed by many people.

The second objective element, contained in Article 156a letter a of the Indonesian Criminal Code, is that the act must be hostile, abusive, or blasphemous toward a religion practiced in Indonesia. These religions include Islam, Catholicism, Protestantism, Buddhism, Hinduism, Confucianism, and other religious beliefs. The law does not provide a specific definition of what feelings or actions constitute hostile, abusive, or blasphemous behavior, but instead leaves the interpretation to the judge.

Article 156 of the Criminal Code criminalizes the actions of anyone who publicly expresses hostility, hatred, or insults against certain population groups in Indonesia. The perpetrator can be sentenced to a maximum of four years in prison or a fine of up to Rp 4,500. "Group" in this article refers to a section of the Indonesian population distinguished by race, religion, origin, descent, nationality, or the laws of their country. Article 156a of the Criminal Code, which was added through Presidential Decree Law (PNPS) Number 1 of 1965 Article 4, regulates a maximum prison sentence of five years for anyone who deliberately publicly expresses feelings or commits acts that are essentially hostile, abusive, or blasphemous towards religions practiced in Indonesia. The aim is to prevent people from practicing any religion based on the One Almighty God.

Thus, religious offenses in Indonesian criminal law focus on analyzing the causes of criminal acts covered by Articles 156 and 156a of the Criminal Code, as well as the potential for creating religious offenses within them. These articles aim to protect and guarantee equality as a principle of human rights and prevent discrimination. According to Seno Adji, initially this article, as part of the disliked "haatzai-artikelen" (hate-spreading articles), aimed to eradicate the spirit of nationalism before independence. Although initially rejected in the Netherlands, in the context of independent Indonesia and the Pancasila State which recognizes the One Almighty God, PNPS Number 1 of 1965 concerning Abuse and Blasphemy of Religion was finally implemented and received a good response from various religious groups. The elements of Article 156 of the Criminal Code include: Committing in public, Expressing feelings of hostility, hatred, or insult, Against a group (whose definition is the same as above). The placement of Article 156 in Chapter V of the Criminal Code on Crimes Against Public Order, separate from the chapter on insults, indicates that its focus is not on insults per se, but rather on expressions of hostility, hatred, or contempt. This means that this article has a broader scope than simple insults.

Regarding Article 156a of PNPS No. 1/1965, the explanation states that criminal acts can be committed verbally, in writing, or through other means. Paragraph (a) emphasizes that acts punishable are those solely aimed at causing hostility or insult. Therefore, objective, factual, and scientific descriptions of a religion, carried out without words of hostility or insult, are not considered criminal acts under this article. Paragraph (b) adds that the perpetrator of this act, in addition to disturbing religious peace, also betrays the first principle of Pancasila.

According to Purwakarta District Court Decision Number 19/Pid/Tol/1979, the elements of Article 156a are: a. Intentionally (opzet). b. In public (in het openbaar). c. Blasphemy against religion. However, both Articles 156 and 156a of the Criminal Code have several weaknesses. Article 156 of the Criminal Code does not clearly formulate religious offenses and creates ambiguity as to whether what is protected is "people" or "religion". Article 156 of the Criminal Code requires further clarification, especially because in Islamic teachings,

insults do not always require that they be carried out in public or disturb public order. Article 156a of the Criminal Code contained in PNPS No. 1 of 1965, although aimed at protecting legitimate religions in Indonesia, still has "public" consequences like Article 156, which makes public interests more dominant than religious interests.

The New Criminal Code (Law No. 1 of 2023), which was enacted on January 2, 2023 and will come into effect on January 2, 2026, regulates offenses against religion in Chapter VII (Articles 300-305). This chapter is divided into two parts: (1) Crimes against Religion and Belief, and (2) Crimes against Religious Life/Belief and Facilities of Worship. Article 300 of the New Criminal Code threatens a maximum prison sentence of 3 years or a Category IV fine (up to IDR 200 million) for anyone who publicly: Commits an act of hostility; Expresses hatred or hostility; or Instigates hostility, violence, or discrimination against religion/belief, groups, or groups based on religion/belief in Indonesia. This article is similar to Article 156a of the old Criminal Code because both prohibit expressions of hatred or hostility against religion.

However, there is a significant difference: Article 156a of the old Criminal Code requires "the intention that people do not adhere to any religion based on the belief in the One Almighty God," while Article 300 of the New Criminal Code does not limit this reason, making it broader. Article 300 of the New Criminal Code also includes incitement to violence or discrimination, expanding the scope of prohibited acts. Both Article 156a of the old Criminal Code and Article 300 of the New Criminal Code exclude scientific or objective descriptions that avoid hostile or insulting words. Sanctions and Expansion of Forms of Action Sanctions: Article 156a of the old Criminal Code only threatened a maximum of 5 years' imprisonment. Meanwhile, Article 300 of the New Criminal Code provides an alternative maximum of 3 years' imprisonment (lower) or a Category IV fine (up to IDR 200 million). Expansion of Actions: Article 300 of the New Criminal Code expands the forms of prohibited acts, not only limited to statements of hatred or hostility.

Article 301 of the New Criminal Code: Dissemination of Blasphemous Content Article 301 of the New Criminal Code regulates the dissemination of content (writing, images, recordings, including through information technology) that contains criminal acts under

Article 300. Perpetrators are subject to a maximum prison sentence of 5 years or a Category V fine (up to IDR 500 million). This article is intended for deliberate acts in disseminating blasphemous content and carries a heavier criminal threat, including increased penalties for repeat offenders.

Article 302 of the New Criminal Code contains two types of acts: Inciting in public to prevent someone from having a religion or belief in Indonesia, is punishable by a maximum of 2 years' imprisonment or a Category III fine. Forcing someone to abandon their religion/belief or change their religion/belief by violence or threat of violence, is punishable by a maximum of 4 years' imprisonment or a Category IV fine. This article is a formal offense. It is important to remember that the prohibited incitement is that which has a negative or reprehensible meaning. Someone who changes their religion voluntarily after hearing a sermon or studying another religion, without coercion or negative incitement, is not a criminal offense under this article. Law enforcement officials need to be careful in its application to avoid misunderstandings.

**Table 1 Elements of Blasphemy in the Criminal Code and Electronic Information and Transactions**

<b>Criminal Code (KUHP)</b>	<b>Electronic Information and Transactions Law (ITE Law)</b>
<p>- Article 300</p> <ol style="list-style-type: none"><li>1. hostile actions</li><li>2. express hatred or hostility</li><li>3. inciting hostility and violence against religion</li></ol> <p>Article 301</p> <ol style="list-style-type: none"><li>1. Broadcasting, displaying, or posting writing or images</li></ol> <p>- Article 302</p>	<p>- Article 28</p> <ol style="list-style-type: none"><li>1. A person who intentionally transmits electronic information and electronic documents containing false or misleading information</li><li>2. A person intentionally transmits electronic information and electronic documents that are inciting, inviting, or influencing</li></ol>

<b>Criminal Code (KUHP)</b>	<b>Electronic Information and Transactions Law (ITE Law)</b>
<p>1. Inciting someone not to have a religion or belief practiced in Indonesia</p> <p>2. Threatening to force someone to not have a religion</p> <p>- Article 303</p> <p>1. Making a disturbance in a place of worship during worship</p> <p>2. A person loudly disrupts, obstructs, or disperses a religious gathering</p> <p>- Article 304</p> <p>1. Insulting someone who is practicing worship or a belief</p> <p>- Article 305</p> <p>1. A person who desecrates a building or religious ceremony or objects used for worship</p> <p>2. Destroying or burning a building or religious belief or objects used for worship</p>	<p>others, thereby inciting hatred based on race, religion, race, ethnicity, religion, race, or physical disability.</p> <p>3. A person intentionally transmits electronic information and electronic documents knowingly containing false information.</p>

#### **D. CONCLUSION**

Qualification of blasphemy from the perspective of the Criminal Code and the ITE Law. Basically, the Criminal Code has 12 elements that qualify for acts of blasphemy. While the ITE Law has 6 elements that qualify for acts of blasphemy, in the elements of the Criminal Code and the ITE Law there are 1 elements of the same qualifications in the Criminal Code and the ITE Law, namely:, inciting to cause hatred, and hostility the contents of this article are in the Criminal Code and the ITE Law. The differences and similarities of blasphemy in the Criminal

Code and the ITE Law. The difference is that the Criminal Code has 12 elements and the ITE Law has 6 elements where the discussion of blasphemy in the Criminal Code discusses more about violations categorized as blasphemy, the similarity between the Criminal Code and the ITE Law lies in one of the elements in the Criminal Code and the ITE Law where the element is: "inciting to cause hatred and hostility" then the similarity of the Criminal Code and the ITE Law is in one of the elements in the Criminal Code and the ITE Law.

## **E. REFERENCE**

- [1] T. Yuridis, T. Pelaku, T. Pidana, A. Melalui, and M. Sosial, "Juridical Review on Social Media Criminal Act of Blasphemy," vol. 20, no. 2, pp. 195–205, 2022, doi: 10.56326/clavia.v20i2.1652.
- [2] Z. Arman, "PERTANGGUNGJAWABAN PIDANA PELAKU PENISTAAN AGAMA MELALUI MEDIA SOSIAL DITINJAU DARI UNDANG-UNDANG INFORMASI DAN TRANSAKSI ELEKTRONIK," 2011.
- [3] D. A. N. P. Kepolisian, "PENODAAN AGAMA DI INDONESIA : PROBLEMATIKA REGULASI," vol. 05, no. 02, pp. 112–123, 2025.
- [4] D. Hilman, "Tindak Pidana Agama Menurut Perspektif Hukum Islam , Hukum Positif dan Hak Asasi Manusia," vol. 3, no. 2, 2020.
- [5] I. G. W. Suarda, A. Azizah, and A. Fahrudin, "Kebijakan Penerapan Tindak Pidana Penistaan Agama Di Indonesia," vol. 2, no. 2, 2023.
- [6] G. Agung, "Westra, Pariata. Ensklopedia Administrasi . Gunung Agung. Jakarta. 1982. hlm.26," pp. 18–38.
- [7] B. A. B. Ii, "TEORI HIERARKI NORMA Hierarki Norma Hukum," pp. 13–44.
- [8] M. Syarif, D. S. Busthami, M. K. Hidjaz, and A. Aswari, "Metode Penelitian Hukum ( Legal Research Methods )," no. 1, 2017.
- [9] M. Penelitian, H. Normatif, and I. G. K. Ariawan, "Kertha Widya," vol. 1, no. 1, pp. 21–30, 2013.
- [10] G. Sandiasa, "Reformasi Administrasi dan Birokrasi Pemerintahan Daerah Dalam

- Meningkatkan Kualitas Layanan Publik di Daerah Public Inspiration : Jurnal Administrasi Publik,” vol. 3, no. 1, pp. 106–107, 2018.
- [11] J. I. Pemerintahan, K. I. Pemerintahan, and P. Daerah, “Jurnal Ilmu Pemerintahan : Kajian Ilmu Pemerintahan dan Politik Daerah p-ISSN : 2503-4685 e-ISSN : 2528-0724,” vol. 1, no. 6, 2016.
- [12] R. S. Canaldhy, “Kinerja organisasi pelayanan publik di pemerintahan,” vol. 2, no. 1, pp. 28–31, 2016.
- [13] A. Syahid, D. Sudana, and A. D. Bachari, “PENISTAAN AGAMA DI MEDIA SOSIAL YANG BERDAMPAK HUKUM : KAJIAN LINGUISTIK FORENSIK,” vol. 11, no. 1, pp. 17–32, 2022, doi: 10.22460/semantik.v11i1.p17-32.
- [14] S. Mayasari, “Konstruksi Media Terhadap Berita Kasus Penistaan Agama Oleh Basuki Tjahaja Purnama ( Ahok ): Analisis Framing Pada Surat Kabar Kompas dan Republik,” vol. VIII, no. September, pp. 8–18, 2017.
- [15] L. Amiliya, U. Islam, N. Sunan, and K. Yogyakarta, “AGAMA DAN MEDIA MASSA ( ANALISIS FRAMING KASUS PENISTAAN AGAMA SULE PADA KOMPAS . COM ),” vol. 6, no. 2, pp. 59–75, 2022.
- [16] A. Aziz, “PANDANGAN ISLAM TERHADAP PASAL PENISTAAN AGAMA,” no. 39, 1999.
- [17] I. Madura, “Frame Berita Kasus Dugaan Penistaan Agama Ahok di Website FPI,” vol. 14, no. 1, pp. 1–22, 2021.
- [18] T. B. Aprilia, R. Mardinova, and R. Wahyuni, “Penistaan Agama Oleh Pesantren Al-Zaytun : Kajian Hukum Pidana Dan Pengaturan Hukum Di Indonesia,” pp. 1–15, 2025, doi: 10.11111/nusantara.xxxxxxx.