

POLITICAL FREEDOM OF EXPRESSION WITHIN CONSTITUTIONAL GUARANTEES AND PROPORTIONATE LEGAL RESTRICTIONS

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ABSTRACT

Political freedom of expression is essential to democratic participation because it enables citizens to criticize public authorities, evaluate policies, and hold political power accountable. This article examines the legal construction of political expression and the application of criminal and digital communication rules that may restrict political criticism. The study employs doctrinal legal research by examining constitutional guarantees, the International Covenant on Civil and Political Rights, legislation governing public expression and electronic communications, the national Criminal Code, and relevant Constitutional Court decisions. The synthesis shows that restrictions on political expression must satisfy legality, legitimate purpose, necessity, and proportionality. Recent constitutional jurisprudence has narrowed several potentially restrictive provisions. Government institutions, corporations, professions, and public offices cannot be treated as individual victims under the electronic defamation provision, while electronic hate-speech liability requires a real risk of discrimination, hostility, or violence. Constitutional jurisprudence has also limited prosecution of offences concerning presidential honour to complaints by the President or Vice President. These safeguards strengthen the distinction between legitimate political criticism and punishable harmful expression.

Keywords: Political expression, freedom of opinion, freedom of expression, constitutional rights, criminal law, digital speech, proportionality.

INTRODUCTION

Freedom of opinion is a fundamental element in democratic political life because citizens require space to evaluate government actions, express approval or rejection, offer ideas, question policies, and participate in the formation of public will. This right holds particular significance when opinions are directed at power holders, as political communication enables society to oversee the exercise of authority and demand accountability (Marashini, 2022). Barendt (2005) outlines several primary justifications for freedom of speech, including the search for truth, individual self-fulfillment, democracy, and vigilance against government restrictions. Consequently, the protection

of political expression is directly linked to the distribution of power between the state and its citizens. If space for criticism can be restricted without strict legal metrics, the right to express opinions risks losing its oversight function. Conversely, recognizing absolute freedom without any boundaries could disregard the rights of other human beings and legitimate public interests.

Political freedom of opinion is not identical to protecting all forms of communication under all circumstances. Law faces the need to distinguish criticism, evaluation, satire, factual allegations, insults, threats, incitement, dissemination of hatred, and communication that poses specific dangers (Lamson et al., 2022). Alexander (2005) demonstrates that theories of freedom of expression consistently confront questions regarding which communicative acts ought to be protected and what interests can justify their restriction. This difficulty is magnified in political communication because statements concerning officials, parties, institutions, and policies frequently employ harsh language as part of the competition of ideas. Overly broad regulations may deter citizens from engaging in legitimate criticism out of fear of uncertain criminal boundaries. Conversely, overly narrow regulations may fail to protect individuals or groups from genuine threats and expressions that actively promote discrimination or violence.

The relationship between freedom and dignity provides a foundation for this assessment. Heyman (2008) proposes an approach that maintains robust protection for expression while recognizing the law's need to protect individuals from forms of speech that attack fundamental interests. The convergence of these two interests is especially relevant in the political sphere because public officials retain individual rights, whereas public offices and governmental actions are objects that should naturally remain open to public scrutiny. The distinction between criticizing public actions and attacking personal honor must be recognizable in both legal norms and law enforcement. If the boundary between the two depends entirely on the feelings of the party being criticized, space for political expression will easily narrow. If all statements regarding public officials are rendered immune from the law, the protection of personal rights could be undermined. Regulations must set forth elements that allow both interests to be assessed in an accountable manner (Purwanto et al., 2024).

The development of digital media alters the scale and speed at which political opinions spread. Statements previously delivered through meetings, pamphlets, newspapers, or demonstrations can now reach broad audiences in short frames of time through electronic systems (Singha et al., 2025). The change in medium enhances citizens' ability to participate in public discourse, but it also increases the potential for replication, manipulation, coordinated attacks, and the dissemination of speech to vastly larger audiences (Darmawan et al., 2022). The legal problem lies not in the technology itself, but rather in determining whether new media require different restrictions and how those restrictions should be structured so as not to create a lower standard of protection for digital political expression. The foundational principle of freedom continues to demand

clear laws and legitimate grounds for restriction. The distinct characteristics of the medium may be considered when regulating distribution methods or the risks posed, but they do not negate the position of political opinion as a primary component of democratic communication.

A scholarly problem arises when norms designed to protect honor, order, security, or specific communities are potentially applied to political statements that actually fall within the scope of legitimate criticism. This issue does not always stem from the intent of the lawmakers. Overly open formulations can lead to expansion at the stages of investigation, prosecution, and judicial examination. Even criminal proceedings that end without a conviction can impose a burden on freedom of opinion if citizens anticipate that criticism might draw them into legal processes. Under such conditions, certainty regarding the elements of an offense is directly linked to substantive freedom. The boundary between protected expression and criminalizable acts must be predictable through statutory formulations and judicial interpretation. Law enforcement needs to consider the standing of political expression before resorting to criminal instruments as a form of response. Furthermore, approaches in criminal law enforcement must account for the context and dynamics of an act so that legal responses are not oriented solely toward punishment (Lukmantara et al., 2022).

Debates surrounding freedom of opinion also relate to the distinction between the right to hold opinions and the freedom to express opinions. An individual must be able to form and hold political views without interference, whereas the expression of views may be subject to restrictions that satisfy specific criteria. This distinction yields a more structured legal standard compared to the assumption that all forms of freedom of opinion share identical boundaries. In democratic systems, restrictions on expression must have a legal basis, be directed toward a recognized legitimate aim, and demonstrate a sufficient nexus between the restrictive measure and the harm sought to be prevented. Assessments also require consideration of less restrictive alternatives. This logic places restriction as an action requiring justification, rather than as a general authority of the state to control political disagreement.

Discussions on political freedom often halt at the assertion that citizens have the right to criticize the government, whereas criminal law analysis may focus heavily on elements of defamation or hate speech without sufficiently elucidating the special standing of political expression. Amendments to the ITE Law, Constitutional Court interpretations of defamation and hate incitement in 2025, the entry into force of the national Criminal Code (KUHP) as of January 2, 2026, and recent constitutional rulings regarding offenses protecting the President and Vice President require an interconnected reading. This evolving legal structure needs to be evaluated through the principles of legality, legitimate purpose of restriction, necessity, proportionality, and the protection of speech concerning public affairs.

This study aims to explain the regulation of political freedom of opinion through two

research questions. First, how is the legal construction of political freedom of opinion and its limitations structured when reviewed against constitutional guarantees and civil and political rights standards? Second, how should criminal provisions and digital communication regulations be applied so that the protection of honor, public order, and community groups does not result in disproportionate restrictions on political criticism?

METHODS

This study utilizes doctrinal legal research to examine constitutional norms, international treaties, statutes, and court decisions that structure the protection of political freedom of opinion. Hutchinson and Duncan (2012) describe doctrinal research as the process of searching, organizing, reading, and synthesizing legal sources to formulate statements of law and inter-normative relationships. Materials were selected based on their relevance to guarantees of freedom of opinion, rights limitations, public expression of opinion, electronic communication, and criminal provisions that potentially intersect with political criticism. McConville and Chui (2007) are referenced to situate doctrinal reasoning within the processes of source identification, problem formulation, and legal argument evaluation. The study distinguishes between provisions establishing rights, norms restricting rights, and judicial decisions that modify or narrow statutory meanings through constitutional review.

Document analysis was conducted on legal materials retaining relevance to the governing legal framework at the time of writing. Bowen (2009) defines document analysis as a systematic procedure for reviewing and interpreting documents to gain understanding and derive empirical knowledge regarding the subject under study. Norms were compared across objects of protection, legal subjects, constituent elements of acts, legitimate aims of restriction, types of sanctions, and procedural safeguards. Decisions of the Constitutional Court were examined through their holdings (*amar*) and their normative effects on the challenged provisions. Academic literature serves to strengthen the interpretation of relationships among democracy, political expression, and legal boundaries, whereas legal materials provide the baseline for determining the normative state of the law. The ultimate output is a synthesis of the standards that should be applied to interpret and enforce restrictions on political freedom of opinion.

RESULTS AND DISCUSSION

Constitutional Guarantees of Political Freedom of Opinion and Parameters for Legitimate Restrictions

The constitutional guarantee of freedom of opinion is contained in Article 28E Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which grants everyone the right to freedom of association, assembly, and expression of opinion. Article 28F protects the

right to communicate and to obtain, possess, store, process, and convey information using any available channels. Both provisions provide a strong foundation for political communication, as opinions regarding the government, officials, parties, policies, and state governance represent a form of exercising rights in public life. At the same time, the 1945 Constitution contains Article 28J, which permits restrictions through statutes for specific purposes relating to the rights of others, morality, religious values, security, and public order in a democratic society. This structure demonstrates that freedom of opinion is protected as a constitutional right, while its restriction requires a justifiable basis and purpose.

The position of political expression becomes even stronger when constitutional guarantees are read alongside international obligations accepted by the state. Law Number 12 of 2005 ratified the International Covenant on Civil and Political Rights (ICCPR) and has been in force since October 28, 2005. Article 19 of the ICCPR distinguishes the right to hold opinions without interference from the freedom to seek, receive, and impart information and ideas. The right to hold an opinion enjoys absolute protection, whereas expression may be subject to specific restrictions. The ICCPR limits the grounds for restriction to respect for the rights or reputations of others, as well as the protection of national security, public order, public health, or public morals. Restrictions must be provided by law and necessary for those purposes. This formulation offers an international standard to be applied alongside Article 28J of the 1945 Constitution when domestic law restricts political communication.

General Comment No. 34 of the Human Rights Committee elaborates on the meaning of Article 19 and emphasizes that freedom of opinion and expression are fundamental conditions for a free and democratic society. The Committee asserts that the right to hold opinions cannot be subject to restrictions, whereas restrictions on expression must satisfy all elements under Article 19 Paragraph (3). This explanation restricts the state's capacity to utilize reasons outside the exhaustive list of legitimate aims. The desire to avoid political inconvenience, maintain acceptance of a policy, or insulate officials from harsh criticism does not independently constitute a legitimate aim for restriction. If the state employs criminal instruments against expression, the claimed purpose must be linked to a recognized interest and a sufficiently clear threat. Such a structure prevents restrictions from degenerating into tools to safeguard the political position of power holders.

The element "provided by law" requires more than the mere existence of an article within a statute. Norms must be sufficiently clear so that individuals can foresee what conduct entails legal consequences. In political communication, the need for clarity carries great significance because criticism frequently employs evaluation, hyperbole, irony, or language that differs from ordinary factual statements. Formulations that allow terms such as insult, hatred, unrest, or hostility to be applied without objective parameters expand law enforcement discretion. General Comment No. 34 positions the quality of law as a vital safeguard against arbitrary enforcement. From this structure, it can be deduced

that political regulation must adequately differentiate between protected disagreement and acts that generate a legal interest to be restricted. Clarity of elements acts as a guarantee of freedom as well as a guarantee of legal certainty for law enforcement authorities.

The requirement of necessity demands a genuine connection between the restriction and the purpose sought to be achieved. It is insufficient for the state to show that an expression is offensive, harsh, or causes a negative reaction. Restrictions must be directed at legally protectable interests and chosen because they are necessary to address that risk. General Comment No. 34 requires restrictions to comply with the principles of necessity and proportionality. In the political sphere, this requirement means the legal system must consider whether responses through clarification, the right of reply, civil litigation, ethical mechanisms, or other means can remedy harm without resorting to criminal law. Alternative approaches within the criminal justice system, such as restorative justice, place dialogue between offenders, victims, and the community as a way to achieve a fair resolution without being solely oriented toward punishment (Wijaya et al., 2022). Criminal law possesses high coercive power and can influence the behavior of other speakers not directly involved. The greater the threat to political participation spaces, the stronger the justifications required to warrant the use of such coercive instruments.

Proportionality requires an assessment of the relationship between the severity of the restriction and the interest protected. A political statement may contain offensive elements, but not every verbal attack possesses a degree of danger that justifies criminal sanctions. Assessments must consider who the speaker is, who the target is, the medium, intent, reach, potential consequences, and the statement's connection to public affairs debates (Rowbottom, 2022). Expression calling for violence against specific groups possesses a different character from sharp criticism of budget policies or official conduct. The principle of proportionality prevents treating two forms of communication carrying different social risks as equivalent. The ICCPR framework positions restrictions as exceptions that must be strictly tailored to protective needs. This approach also reduces the likelihood of sanctions being deployed as a reaction to political dislike.

Freedom of expression of opinion in physical spaces receives specific regulation through Law Number 9 of 1998 on Freedom of Expressing Opinions in Public, which remains in force. This law took effect on October 26, 1998, and regulates forms of opinion delivery as well as execution procedures. This regulation demonstrates that the right to express opinions can operate alongside procedural obligations regarding public space usage (Sujito et al., 2023). Notifications, location arrangements, and participant responsibilities function to preserve order without transforming the right into a permit fully dependent on government approval. The separation between notification and licensing carries constitutional significance because citizens' political actions should not be placed as activities that become valid only after their opinion's substance is accepted by authorities.

The relationship between freedom of opinion and public order must be read carefully

when opinions are conveyed through demonstrations. Order is not a state devoid of disagreement. Demonstrations naturally generate traffic detours, noise, crowds, or temporary inconvenience (Karpiuk, 2024). Such disruptions must be distinguished from threats to safety or violence that offer a stronger foundation for intervention. Law Number 9 of 1998 itself links the exercise of freedom of expression to a balance between rights and obligations, legal certainty, and responsibility. Normatively, restrictions should be directed at conduct that creates danger, rather than at the political views expressed. Security measures must preserve the demonstration's capacity to deliver its message to the intended audience as long as safety and the rights of others can be maintained through proportional steps.

Political expression occupies a special position because democracy requires opportunities to question those possessing public authority. This protection does not mean public officials forfeit all rights to reputation. The primary distinction lies in the need to grant broader scope for evaluating the performance of public functions. General Comment No. 34 warns against using defamation laws to stifle freedom of expression and pays special attention to debates concerning public figures. Statements concerning private conduct bearing no relation to public affairs may invite different assessments from criticism regarding governmental decisions. The law must identify the target of the attack, the nature of the information, and its relevance to public interest before establishing whether a restriction can be justified.

Criticism must also be distinguished from incitement that poses a genuine risk to the rights of others. Protecting political expression does not require the state to remain passive toward communication intentionally encouraging discrimination, hostility, or violence against groups based on specific identities. International standards recognize the protection of individuals and groups from certain forms of speech, but its boundaries must be strictly drawn so as not to encompass discussions of ideology, religion, policy, or legitimate political identity. General Comment No. 34 emphasizes the connection between Article 19 and other ICCPR provisions regulating specific speech. The distinction between attacking ideas and inciting attacks against human beings must be maintained. Democracy requires space to debate thoughts vigorously, while the law can step in when expression transcends debate into a threat to rights and safety.

Evaluating freedom of opinion also requires attention to the enforcement process. Norms that textually contain exceptions for criticism may still restrict freedom if authorities employ overly broad initial interpretations. Arrest, detention, device seizure, or lengthy criminal proceedings can create burdens that are not fully remedied by an acquittal at the conclusion of a case. Constitutional guarantees therefore require screening at early stages (Heriansyah, 2025). Authorities must evaluate the elements of the offense, the public interest of the statement, the status of the complainant, and grounds negating criminal liability before employing coercive measures. The framework of Articles 28E, 28F, and 28J of the 1945 Constitution positions restriction as an action that must be testable against

statutory limits and objectives. Enforcement procedures form an integral component of the quality of rights protection.

Political freedom of opinion receives constitutional protection through Article 28E Paragraph (3) and Article 28F of the 1945 Constitution, strengthened by obligations under Article 19 of the ICCPR following its ratification via Law Number 12 of 2005. Restrictions may be imposed, but they must have a clear legal basis, pursue a legitimate aim, and be necessary and proportional. Opinions on public affairs and criticism directed at power holders require robust protection as they relate directly to democratic oversight. This protection may still be restricted when expression manifestly violates personal rights or generates legally justifiable risks to prevent. This structure supplies the standard for evaluating criminal regulations and digital communications that currently intersect directly with political expression (Yıldız & Nur, 2024).

Limits of Criminalization and Protection of Political Criticism in Digital Space

Digital communication regulations underwent changes through Law Number 1 of 2024 as the second amendment to the Electronic Information and Transactions Law (UU ITE). The statute inserted Article 27A regarding attacks on the honor or reputation of others through electronic information or documents. The JDIH of the Ministry of Communication and Digital still displays Article 27A as part of the provisions of the UU ITE, and the Constitutional Court in 2026 continues to receive applications for judicial review against the article. The existence of defamation offenses in electronic media bears a direct relationship to political freedom because government criticism is now widely conveyed through social media (da Cruz et al., 2024). The regulation needs to be read alongside constitutional boundaries so that safeguarding individual reputation does not turn into criminal protection of positions, institutions, or policies from public oversight.

The most decisive change to the scope of Article 27A came from Constitutional Court Decision Number 105/PUU-XXII/2024 pronounced on April 29, 2025. The Court declared the phrase "others" (orang lain) conditionally unconstitutional to the extent it is not interpreted as excluding government institutions, groups of specific identities, institutions, corporations, professions, or official positions. The Court also narrowed the phrase "a matter" (suatu hal) to mean an act that degrades a person's honor or reputation. The normative consequence is highly relevant to political opinion. Criticism directed at government institutions or official positions as institutions cannot be positioned as defamation under Article 27A through an expansion of the meaning of victim. Reputation protection remains available for humans as individuals according to the elements of the offense, but public institutions may not receive personal honor protection through that article.

The separation between human beings and official positions provides a clearer basis for assessing criticism against officials. An official may possess a protected personal reputation, but the application of Article 27A requires identifying whether a statement

attacks an individual through allegations of specific acts or actually evaluates institutions, official positions, and the execution of public functions. Decision Number 105/PUU-XXII/2024 reduces the room for complaints that treat criticism of institutions as defamation against "others." This interpretation aligns with the need to safeguard the space for political debate. Law enforcement officers must read the complete message, the purpose of communication, the target, and the connection of the allegations to public affairs. Cutting out a single phrase without reading the substance of the statement can produce an erroneous classification and disregard the position of criticism as part of constitutional freedom.

The same decision also altered the interpretation of Article 28 Paragraph (2) of the UU ITE concerning hatred or hostility. The Court ruled that the norm only applies to electronic information that substantively contains the dissemination of hatred based on specific identities, carried out intentionally and in public, and generating a real risk of discrimination, hostility, or violence. The real risk requirement strengthens the nexus between expression and the harm sought to be prevented. Political criticism that triggers sharp debate does not inherently satisfy those elements. Enforcement requires protected identity, intent, public nature, and a real risk. This structure provides stronger protection for legitimate expression while maintaining legal instruments against speech that seriously threatens specific groups.

Such restrictions accord with the idea that freedom of opinion cannot be assessed solely based on content categories. Oster (2017) shows that debates over the limits of freedom of expression demand an evaluation of the purpose of restrictions and the standing of expression in a democracy. Protection for political debate must generally be robust because it enables society to formulate choices and evaluate power. The risk-based approach formulated by the Court on Article 28 Paragraph (2) helps distinguish controversial statements from speech that threatens safety or group equality. That distinction should be maintained at the investigation stage. Political content rejecting ideology, criticizing organizations, or debating policy cannot be equated with calls to attack individuals based on protected identities.

In addition to the UU ITE, the political sphere now faces the national Criminal Code (KUHP) through Law Number 1 of 2023, which took effect on January 2, 2026, alongside criminal adjustments under Law Number 1 of 2026. The Criminal Adjustment Law was enacted to align criminal provisions outside the KUHP and adjust several KUHP norms before the new system came into force. The KUHP contains provisions regarding attacks on the honor or dignity of the President or Vice President in Article 218. This setting places criminal law directly opposite political communication because the President and Vice President are figures who very frequently become targets of public criticism. The distinction between prohibited insults and criticism of policies must be strictly read so that the provision does not convert public office into a realm shielded from disagreement. The Elucidation of Article 218 provides the understanding that acts committed in the

public interest encompass democratic expressions such as demonstrations, criticism, or dissenting opinions against the policies of the President or Vice President. Official information from Constitutional Court hearings in 2026 also records the understanding that criticism regarding the acts, policies, or actions of the President and Vice President falls outside the criminal offense in question. This exception serves a primary function in political protection. Authorities need to evaluate the public interest at an early stage and not automatically treat harsh words as insults. Criticism can be emotional and sharp, especially when society responds to policies affecting public life. The legal standard must reside in the substance and purpose of communication, not merely in linguistic politeness.

On August 12, 2026, the Constitutional Court provided the latest development through Decision Number 275/PUU-XXIII/2025. The Court granted the petition in part and declared Article 220 Paragraph (1) of the KUHP conditionally unconstitutional to the extent it is not interpreted to mean that criminal offenses in Article 218 and Article 219 can only be prosecuted upon a complaint by the President and/or Vice President. This decision narrows the possibility of third parties initiating criminal processes on behalf of the head of state's honor. The personal complaint requirement functions to prevent the expansion of reporting by parties who feel politically interested but do not hold direct legal standing. Normatively, this restriction strengthens certainty regarding who holds the authority to activate the criminal process, although evaluations of the substance of criticism must still employ the public interest exception.

The legal system also contains provisions regarding insults against the government or specific state institutions in the KUHP. The existence of such offenses gives rise to issues distinct from individual defamation because the object of protection relates to public institutions. The Government in Constitutional Court hearings in March 2026 stated that the provisions of Article 240 and Article 241 are directed toward maintaining institutional legitimacy without being intended to shut down policy criticism. Claims of such aims must still be evaluated through constitutional guarantees. Institutional authority must not be understood as a right to be free from negative evaluations by citizens. Enforcement must separate criticism, allegations concerning the performance of functions, and expressions that genuinely fulfill the elements of insult as defined by statute. The interests of public institutions carry a different weight from the personal honor of human beings.

The use of criminal law as a response to political communication requires the principle of subsidiarity. Criminal threats are most appropriately used when other instruments are inadequate to protect legal interests facing serious risks (Coensel, 2020). Disputes over facts or policy criticism can in many circumstances be responded to through clarification, the right of reply, public proof, ethical mechanisms, or proportional civil steps. Criminal law can be retained for categories bearing higher danger, but its process needs to satisfy standards of legality and necessity (Ambarwati et al., 2024). Oster (2017) demonstrates that the legitimacy of restrictions on political freedom relates to the democratic weight of expression and the interest sought to be protected. The closer a statement is to evaluating

the exercise of power, the more cautiously the state must employ instruments capable of inducing chilling effects.

The interpretation of court decisions needs to enter investigation and prosecution practices consistently. Decision Number 105/PUU-XXII/2024 has altered the normative meaning of Article 27A and Article 28 Paragraph (2) of the UU ITE, while Decision Number 275/PUU-XXIII/2025 has narrowed the complaint mechanism for offenses involving the President and Vice President. Constitutional Court decisions possess binding force since being pronounced in an open plenary session. Consequently, law enforcement cannot use statutory text without paying attention to the established constitutional interpretation. Internal enforcement guidelines, officer training, report examination formats, and prosecutorial supervision need to follow those changes. Legal certainty depends on the ability of all procedural stages to apply the same norms following constitutional review.

The protection of political freedom also requires mechanisms for correcting excessive enforcement actions. Pre-trial hearings (praperadilan), judicial review of statutes, legal remedies in criminal cases, internal supervision, legal aid, and public monitoring serve distinct functions in correcting enforcement (Huda et al., 2023). The quality of protection will be stronger if screening is conducted before coercive measures cause substantial harm. In digital communication cases, electronic evidence is often available without the need for measures identical to crimes involving immediate physical threats (Babikov, 2024). Considerations regarding detention, device seizure, and restrictions on liberty must weigh the nature of the case and the actual risk. A proportional process supports law enforcement without creating the message that criticizing power holders automatically carries criminal consequences (Saputra et al., 2021).

Criminal law and digital regulations can restrict political expression only through clear elements, legitimate objects of protection, and enforcement that accounts for the public interest and real risks. Decision Number 105/PUU-XXII/2024 affirmed that government bodies, institutions, corporations, professions, and official positions are not "others" that can become victims of electronic defamation under Article 27A, and tightened hate speech offenses with a real risk requirement. Decision Number 275/PUU-XXIII/2025 subsequently established that prosecutions under Article 218 and Article 219 can only be initiated based on a complaint from the President or Vice President themselves. This framework directs enforcement toward a strict distinction between political criticism, individual reputation violations, and expressions that create genuine danger.

CONCLUSION

The regulation of political freedom of opinion is formed through the relationship between constitutional protection and the authority of the state to establish limited restrictions. Article 28E Paragraph (3) and Article 28F of the 1945 Constitution, as well as Article 19 of the ICCPR, provide a strong foundation for political expression, whereas restrictions

must possess a legal basis, legitimate aim, necessity, and proportionality. Criticism regarding public affairs receives robust protection as it directly relates to democratic oversight. The application of criminal provisions and the UU ITE must align with the latest constitutional interpretations. Institutions and official positions cannot utilize the individual defamation construction under Article 27A, hate speech offenses require a real risk, and offenses concerning the honor of the President or Vice President can only be prosecuted upon a complaint from the protected party. This entire structure demands measured restrictions and enforcement that is sensitive to the democratic function of criticism.

Theoretically, this discussion demonstrates that political freedom of opinion cannot be separated from the principles of legality and proportionality in criminal law. The closer an expression is to evaluating public power, the stronger the need to distinguish it from acts that attack individual legal interests or create a real risk to groups. Academically, the development of Constitutional Court decisions illustrates the function of judicial review in narrowing norms that potentially reach legitimate expression. Practical implications reside in the obligation of law enforcement authorities to apply statutory texts alongside court holdings that have modified their meaning. Investigators and prosecutors need to evaluate the target of criticism, public interest, element of intent, nature of the allegations, complainant status, and potential risks before employing criminal law. Such an approach safeguards reputation and security without diminishing the space for citizen oversight regarding the exercise of power.

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