

Criminal Liability for Demonstration Documentation under the ITE Law: Distinguishing Recording, Dissemination, and Criminal Assistance in Decision No. 1027/Pid.Sus/2025/PN Bdg

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Abstrak

Artikel ini menganalisis pertanggungjawaban pidana terhadap pendokumentasi demonstrasi dengan membedakan secara tegas tiga dasar yang berbeda, yaitu perekaman peristiwa, penyebaran dokumentasi, dan pembantuan terhadap tindak pidana pokok. Putusan Pengadilan Negeri Bandung Nomor 1027/Pid.Sus/2025/PN Bdg digunakan sebagai studi kasus normatif. Penelitian menerapkan pendekatan perundang-undangan, kasus, dan konseptual terhadap Undang-Undang Nomor 1 Tahun 2024 tentang Informasi dan Transaksi Elektronik, Putusan Mahkamah Konstitusi Nomor 105/PUU-XXII/2024, serta ketentuan pembantuan dalam KUHP yang berlaku pada tempus delicti Agustus 2025. Hasil penelitian menunjukkan bahwa status bukan-jurnalis tidak dengan sendirinya menjadikan perekaman atau penyebaran dilakukan “tanpa hak”. Pembantuan juga mensyaratkan kontribusi fungsional dan kesengajaan untuk mempermudah delik pokok, sehingga perekaman setelah perbuatan selesai tidak otomatis merupakan pembantuan terhadap perbuatan tersebut. Setelah Putusan MK 105/PUU-XXII/2024, Pasal 28 ayat (2) jo. Pasal 45A ayat (2) harus dibaca sebagai larangan penyebaran kebencian berbasis identitas yang dilakukan sengaja dan di depan umum serta menimbulkan risiko nyata diskriminasi, permusuhan, atau kekerasan. Karena itu, komunikasi dalam grup WhatsApp tertutup harus dibedakan dari publikasi media sosial yang terbuka, dan permusuhan terhadap institusi kepolisian tidak dapat begitu saja disamakan dengan kebencian berbasis identitas yang dilindungi norma. Putusan tingkat pertama tersebut penting sebagai ilustrasi penalaran yudisial, tetapi bukan preseden yang mengikat.

Kata Kunci: pertanggungjawaban pidana; UU ITE; dokumentasi demonstrasi; pembantuan; ujaran kebencian.

Abstract

This article examines criminal liability for demonstration documentation by rigorously separating three distinct legal bases: recording an event, disseminating the resulting material, and intentionally assisting an underlying offence. Bandung District Court Decision No. 1027/Pid.Sus/2025/PN Bdg is used as a normative case study. The analysis combines statutory, case, and conceptual approaches to Law No. 1 of 2024 on Electronic Information and Transactions, Constitutional Court Decision No. 105/PUU-XXII/2024, and the former Criminal Code rules on criminal assistance applicable to the August 2025 tempus delicti. The study finds that the absence of professional-journalist status does not by itself make recording or dissemination “without right”. Criminal

assistance requires intentional and functionally relevant facilitation of the principal offence; recording conduct after a completed violent act therefore does not automatically assist that completed act. Following Constitutional Court Decision No. 105/PUU-XXII/2024, Article 28(2) in conjunction with Article 45A(2) must be confined to intentional and public identity-based hate content that creates a real risk of discrimination, hostility, or violence. A closed WhatsApp transmission must consequently be distinguished from broader public social-media publication, while hostility toward the police as a state institution cannot simply be equated with hatred based on the protected identity grounds. The district-court decision is treated as an illustration of first-instance judicial reasoning rather than binding precedent.

Keywords: criminal liability; ITE Law; demonstration documentation; criminal assistance; hate speech

INTRODUCTION

Freedom of expression and peaceful assembly are constitutionally protected in Indonesia, including the right to express opinions in public. Digital devices have also transformed public demonstrations into events that are routinely recorded by professional journalists, participants, bystanders, and citizen documenters. Recording a public event can serve evidentiary, informational, or accountability functions; it can also become part of a criminal process when the recorder intentionally coordinates violence or disseminates content that independently satisfies a criminal offence. This article therefore begins from a basic distinction: documentation, dissemination, and assistance to an underlying offence are different forms of conduct and must not be collapsed into one basis of liability.¹

At the time of the alleged conduct on 29 August 2025, Article 28(2) and Article 45A(2) of Law No. 1 of 2024 criminalized, subject to their elements, the intentional and unauthorized distribution or transmission of electronic information that incited, invited, or influenced others so as to generate hatred or hostility against individuals or groups on specified identity grounds.² Several months before the demonstration, however, Constitutional Court Decision No. 105/PUU-XXII/2024 had already narrowed these provisions. The Court required the relevant electronic content to substantively involve identity-based hatred, to be communicated intentionally and publicly, and to create a real risk of discrimination, hostility, or violence.³ That binding constitutional interpretation is central to evaluating the case and prevents the statutory language from being treated as a general prohibition on any hostile or provocative digital expression.

Earlier scholarship has examined hate-speech liability under the ITE Law, the doctrine of participation and assistance, electronic evidence, and legal protection for journalists covering demonstrations.⁴ The participation literature is particularly

¹ Republic of Indonesia, Constitution of the Republic of Indonesia of 1945, art. 28E(3).

² Republic of Indonesia, Law No. 1 of 2024 on the Second Amendment to Law No. 11 of 2008 on Electronic Information and Transactions, arts. 28(2) and 45A(2).

³ Constitutional Court of the Republic of Indonesia, Decision No. 105/PUU-XXII/2024, April 29, 2025.

⁴ Dwi Jayanti Putri and Yasarman, "Rekonstruksi Mengenai Pengaturan dan Pertanggungjawaban Pidana Terhadap Tindak Pidana Ujaran Kebencian di Media Sosial," *Jurnal Kewarganegaraan* 6, no. 3 (2022): 6390–6398, <https://doi.org/10.31316/jk.v6i3.4145>.

relevant because it distinguishes principal participation from assistance and requires analysis of the aider's intentional contribution to the principal offence.⁵ Digital-evidence scholarship, meanwhile, emphasizes authenticity, integrity, and contextual evaluation rather than treating the mere existence of a file as sufficient proof of attribution.⁶ Studies on journalists demonstrate that press-freedom guarantees create institutional and procedural safeguards, but they do not amount to blanket immunity from generally applicable criminal law.⁷

The research gap lies at the intersection of these fields. A person may record the preparation of violence, send the recording to a limited group, later record a completed act, and then publish content on a broader social-media account. Each step raises a different legal question. The first may be neutral documentation or, depending on intent and function, assistance; the second raises the role of communication within a closed group; the third may lack any causal contribution to an already completed act; and the fourth can constitute a distinct act of public dissemination. Treating the entire sequence as one undifferentiated course of conduct risks weakening the legality principle and individualized culpability.

This article consequently asks, in one integrated inquiry, how criminal responsibility should be constructed when a citizen documents a demonstration and later transmits or publishes the material; whether the reasoning in Decision No. 1027/Pid.Sus/2025/PN Bdg satisfies the requirements of intentional assistance and the post-Decision 105/PUU-XXII/2024 interpretation of Article 28(2); and which criteria should distinguish citizen documentation from conduct that intentionally facilitates an offence. The article does not assume that citizen documentation is inherently privileged. Nor does it assume that lack of institutional affiliation makes documentation unlawful. The controlling questions are the specific prohibited conduct, the legal interest protected by the relevant offence, the required mental element, the functional relationship between the defendant's act and the principal crime, and the audience and content of any subsequent electronic transmission.

This distinction also matters for proportionality. Criminal law should respond firmly to intentional facilitation of violence and unlawful incitement, while avoiding a rule under which the act of holding a camera at a protest becomes a proxy for participation in the acts being recorded. A more precise framework protects both public order and the principle that punishment must correspond to the defendant's own culpable contribution.

RESEARCH METHOD

This study is normative legal research using statutory, case, and conceptual approaches. The case was selected because it places recording, closed-group transmission, public dissemination, and alleged assistance within a single factual

⁵ Siswantari Pratiwi, "Delik Penyertaan Dalam Kitab Undang-Undang Hukum Pidana (KUHP)," *Binamulia Hukum* 11, no. 1 (2022): 69–80, <https://doi.org/10.37893/jbh.v11i1.307>.

⁶ Marsilindo, Rizky Pratama Putra Karo-Karo, and Bambang Widarto, "Penggunaan Alat Bukti Digital dalam Pembuktian Tindak Pidana Siber di Pengadilan Indonesia," *Judge: Jurnal Hukum* 6, no. 8 (2026): 1527–1538, <https://doi.org/10.54209/judge.v6i08.2213>.

⁷ Joko Susanto et al., "Perlindungan Hukum bagi Jurnalis dalam Peliputan Demonstrasi," *Jurnal Kabar Masyarakat* 2, no. 4 (2024): 284–301, <https://doi.org/10.54066/jkb.v2i4.2691>.

sequence, making it particularly useful for testing the boundaries between those forms of conduct.⁸ Primary materials comprise Law No. 1 of 2024, Constitutional Court Decision No. 105/PUU-XXII/2024, the criminal-participation provisions applicable on 29 August 2025, and Bandung District Court Decision No. 1027/Pid.Sus/2025/PN Bdg.⁹ The constitutional decision is treated as part of the applicable legal framework because it was delivered on 29 April 2025, before the alleged conduct.¹⁰ Secondary materials were selected from peer-reviewed Indonesian legal journals published mainly between 2022 and 2026 and identified through Google Scholar, GARUDA, and publisher journal pages using combinations of the terms “UU ITE”, “Pasal 28 ayat (2)”, “hate speech”, “penyertaan”, “pembantuan”, “digital evidence”, and “journalist demonstration protection”. Sources were included when they directly addressed the statutory elements, participation doctrine, digital evidence, freedom of expression, or press protection, and were used to test—not merely confirm—the court's reasoning. The written judgment is analyzed as the court's account of testimony, expert opinion, and evidentiary material; those summaries are not treated as independently established facts. The review materials did not include the complete police/prosecution case file, original devices, forensic extraction reports, or an official certificate of finality, and the article therefore does not independently assert facts that depend on those materials.¹¹

RESULTS AND DISCUSSION

Case Position and the Need to Separate Three Bases of Liability

According to the factual narrative contained in the judgment, the case arose from a demonstration near the West Java Provincial DPRD building on 29 August 2025. The defendant was described as a twenty-year-old private employee who joined the event after receiving an invitation through a WhatsApp friendship group. The judgment records that other participants prepared Molotov cocktails and that the defendant did not personally assemble or throw them.¹²

The conduct attributed to the defendant instead consisted of photographing or recording parts of the preparation, sending documentation to the WhatsApp group, recording a throwing incident at another person's request, and later publishing material through WhatsApp Story and a second Instagram account.¹³ The prosecution charged the defendant under Article 45A(2) in conjunction with Article 28(2) of Law No. 1 of 2024 and Article 56 point 2 of the former Criminal Code. This structure requires the analysis to keep three possible bases distinct: the recording

⁸ Bandung District Court, Decision No. 1027/Pid.Sus/2025/PN Bdg, February 2, 2026.

⁹ Republic of Indonesia, Law No. 1 of 2024 on the Second Amendment to Law No. 11 of 2008 on Electronic Information and Transactions.

¹⁰ Constitutional Court of the Republic of Indonesia, Decision No. 105/PUU-XXII/2024, April 29, 2025.

¹¹ Bandung District Court, Decision No. 1027/Pid.Sus/2025/PN Bdg, February 2, 2026. The underlying investigative and prosecution files were not part of the review materials examined for this revision.

¹² Bandung District Court, Decision No. 1027/Pid.Sus/2025/PN Bdg, 41–42.

¹³ Bandung District Court, Decision No. 1027/Pid.Sus/2025/PN Bdg, 42–44.

itself, any intentional facilitation of the principal offence through transmission or information, and the defendant's own later act of dissemination.

The District Court inferred intent from the sequence of conduct described in the judgment, including joining the demonstration, recording activities, sending material to the group, and publishing content through social media.¹⁴ Such circumstantial reasoning may be relevant to intent, but it cannot substitute for identifying the mental element required for each separate offence. Intent to record is not necessarily intent to assist violence, and intent to upload is not necessarily intent to generate identity-based hatred.

The original manuscript treated the defendant's lack of formal journalist status as making the recording or dissemination "without right". That inference is legally insufficient. The Constitutional Court has explained that the phrase "without right" functions to preserve legitimate legal interests in certain distributions or transmissions, including journalistic, academic, and law-enforcement activities; the element concerns the unlawfulness of the particular distribution or transmission, not whether the defendant holds a particular occupation.¹⁵ A non-journalist can lawfully record a public event, while a professional journalist can still incur liability if all elements of a generally applicable offence are independently established.

Accordingly, the court's analysis should identify the concrete legal prohibition that made a specific act unauthorized. For the recording stage, the question is whether the defendant violated a particular criminal prohibition or intentionally facilitated another person's crime. For the dissemination stage, the question is whether the content, audience, purpose, and mental element satisfied the applicable ITE offence. Occupational status may be contextual evidence of purpose or institutional safeguards, but it cannot itself establish unlawfulness.

The temporal framework is important. The alleged conduct occurred on 29 August 2025, while the former Criminal Code remained in force; Law No. 1 of 2023 did not take effect until 2 January 2026.¹⁶ The participation analysis for the *tempus delicti* must therefore begin with Article 56 of the former Criminal Code, which recognized intentional assistance during the commission of a crime and intentional provision of opportunity, means, or information before its commission. The new Criminal Code may be discussed as a later comparative or transitional framework, subject to applicable *lex-mitior* rules, but it should not be retroactively used to reconstruct the factual elements required in August 2025.¹⁷

Assistance cannot be established merely because a recording occurred near criminal conduct. The aider's act must have functional relevance to the principal offence and must be accompanied by the intent required for assistance. Indonesian

¹⁴ Bandung District Court, Decision No. 1027/Pid.Sus/2025/PN Bdg, 41–44.

¹⁵ Constitutional Court of the Republic of Indonesia, Decision No. 105/PUU-XXII/2024, April 29, 2025; see also the Court's discussion of the "without right" element and legally protected interests.

¹⁶ Republic of Indonesia, Law No. 1 of 2023 on the Criminal Code, art. 624 (providing entry into force three years after promulgation on January 2, 2023).

¹⁷ Republic of Indonesia, Law No. 1 of 2026 on Criminal Penalty Adjustments, effective January 2, 2026.

participation doctrine distinguishes an aider from a co-perpetrator precisely because the aider facilitates rather than jointly executes the principal offence.¹⁸ Thus, if a recording or message informed other participants that materials were ready, reinforced coordination, or otherwise increased the capacity to carry out a planned offence, the court must identify that facilitative function from the evidence. A conclusory statement that documentation “supported” the group is not enough.

The same requirement creates a temporal limit. Recording a completed throwing incident cannot retroactively assist that already completed throwing. Such recording may be relevant to a later and separate dissemination offence, or it might conceivably encourage future conduct, but that requires an independently identified principal offence and proof of the defendant's intent to facilitate it. The duplicate reasoning in the earlier manuscript has therefore been removed and the two causal theories are treated separately.

The judgment, as summarized in the source manuscript, appears to characterize the recording of preparation and its transmission to the group as information connected with the group's planned conduct.¹⁹ That reasoning can be legally sustainable only if the evidentiary record shows that the communication objectively facilitated the principal actors and that the defendant intended such facilitation. By contrast, a recording made merely to preserve or share what was happening would not satisfy Article 56 solely because the recorded event itself was unlawful.

A small, closed WhatsApp group and a broadly accessible social-media account do not have the same legal character. The former involves a defined audience whose membership may be controlled; the latter may expose content to an indeterminate audience. This distinction became especially important after Constitutional Court Decision No. 105/PUU-XXII/2024 required the hate-speech conduct under Article 28(2) and Article 45A(2) to be carried out publicly.²⁰ A closed-group transmission therefore cannot automatically be equated with public dissemination; its size, openness, onward-sharing structure, and factual function require proof.

The distinction also affects participation doctrine. Sending a preparation recording to a closed operational group could, depending on purpose and effect, be analyzed as information that facilitates a principal offence. Publishing a later recording to an Instagram account or public-facing story is analytically different: it is the defendant's own dissemination conduct and must satisfy the electronic-content offence on its own terms. The earlier manuscript's reference to Article 27(1) in this context was incorrect and has been replaced with the provisions actually charged, Article 28(2) and Article 45A(2).

Electronic Evidence and Limits of Inference from the Published Judgment

Electronic files, account activity, chats, and social-media posts are capable of constituting electronic evidence, but evidentiary weight depends on authenticity, integrity, attribution, and context. Digital-evidence scholarship emphasizes the importance of preservation, extraction, and validation procedures when such

¹⁸ Siswantari Pratiwi, “Delik Penyertaan Dalam Kitab Undang-Undang Hukum Pidana (KUHP),” *Binamulia Hukum* 11, no. 1 (2022): 69–80, <https://doi.org/10.37893/jbh.v11i1.307>.

¹⁹ Bandung District Court, Decision No. 1027/Pid.Sus/2025/PN Bdg, 44–45.

²⁰ Constitutional Court of the Republic of Indonesia, Decision No. 105/PUU-XXII/2024, April 29, 2025.

matters are contested.²¹ In this case, the published reasoning cited by the manuscript discusses devices, accounts, communications, and witness or expert evidence, but the revision does not infer from the judgment's silence that investigators failed to use hash values, metadata, chain-of-custody procedures, or forensic extraction techniques.

That distinction addresses a methodological problem in the earlier draft. A judicial decision may summarize evidence without reproducing every technical step performed during investigation. The absence of detailed forensic methodology in the written reasoning is therefore a limitation on what an external researcher can evaluate, not affirmative proof of investigative deficiency.²² A narrower recommendation is appropriate: where authenticity or attribution is materially disputed, judgments should explain enough of the verification process to make the evidentiary reasoning reviewable.

The statutory text applicable in August 2025 enumerated protected grounds including race, nationality, ethnicity, skin colour, religion, belief, sex, mental disability, and physical disability.²³ The police as a state institution is not itself one of those identity categories. This does not mean that threats or incitement to violence against police are lawful; rather, it means that criminal liability must be based on a provision whose protected object and elements actually correspond to the conduct proved.

Constitutional Court Decision No. 105/PUU-XXII/2024 further required identity-based hate content, intentional public communication, and a real risk of discrimination, hostility, or violence.²⁴ The element-by-element analysis should therefore ask: what exact words, images, or caption were attributed to the defendant; were they directed against a protected identity; were they intentionally communicated in public; and did they create the constitutionally required real risk? A general conclusion that content was “provocative toward the police” cannot replace those inquiries.

The materials supplied for this revision do not reproduce a complete verbatim version of every caption or communication that the court relied upon. The judgment is cited by the original manuscript at pages 46–47 for the court's incitement reasoning.²⁵ Separate contemporaneous reporting records the defendant's own account that one caption read “menyalakan api untuk bakar jagung” (“lighting a fire to grill corn”).²⁶ Because that wording is reported as the defendant's public explanation rather than independently verified here as the complete court exhibit,

²¹ Marsilindo, Rizky Pratama Putra Karo-Karo, and Bambang Widarto, “Penggunaan Alat Bukti Digital dalam Pembuktian Tindak Pidana Siber di Pengadilan Indonesia,” *Judge: Jurnal Hukum* 6, no. 8 (2026): 1527–1538, <https://doi.org/10.54209/judge.v6i08.2213>.

²² Bandung District Court, Decision No. 1027/Pid.Sus/2025/PN Bdg, 35–47.

²³ Republic of Indonesia, Law No. 1 of 2024 on the Second Amendment to Law No. 11 of 2008 on Electronic Information and Transactions, arts. 28(2) and 45A(2).

²⁴ Constitutional Court of the Republic of Indonesia, Decision No. 105/PUU-XXII/2024, April 29, 2025.

²⁵ Bandung District Court, Decision No. 1027/Pid.Sus/2025/PN Bdg, 46–47.

²⁶ Detik Sumsel, “Terdakwa Kasus Demo Agustus 2025 Dituntut 1 Tahun Penjara, Rifa Rahnabila Angkat Suara,” January 2026, <https://www.detiksumsel.com/nasional/97416602560/terdakwa-kasus-demo-agustus-2025-dituntut-1-tahun-penjara-rifa-rahnabila-angkat-suara>.

this article does not treat the media quotation as a substitute for the evidentiary record. The gap itself limits how confidently an external researcher can test the content element.

Older hate-speech scholarship is useful for showing why Article 28(2) has generated legality and freedom-of-expression concerns, but it cannot substitute for a defined case sample or the binding constitutional interpretation now in force.²⁷ The earlier draft's reference to a "general pattern" of district-court cases has therefore been removed. The narrower conclusion is that, on the statutory text and Decision No. 105/PUU-XXII/2024, criticism or hostility toward a government institution is not automatically identity-based hate speech, even though other offences may apply to genuine threats, violence, or unlawful incitement.²⁸

Professional journalists do not possess general criminal immunity. Law No. 40 of 1999 protects press freedom and structures institutional responsibility for journalistic activity, but ordinary criminal liability is not displaced whenever a person is a journalist.²⁹ The relevant comparison is therefore functional rather than status-based: purpose of the recording, editorial or institutional control, public-interest function, intention, distribution context, fact-checking and verification practices, accountability mechanisms, and the existence of professional safeguards.³⁰

Citizen documentation may perform a comparable public-information function without institutional affiliation. That does not automatically entitle a citizen recorder to all Press Law procedures, but neither does it render the citizen's conduct "without right". Freedom-of-expression scholarship supports a proportional approach to restrictions on digital participation, particularly where the activity contributes to public oversight.³¹ The decisive issue remains whether the prosecution proves the elements of the specific offence rather than relying on a binary distinction between "journalist" and "non-journalist".

The District Court imposed a six-month prison sentence after considering aggravating and mitigating circumstances described in the judgment, including the court's view of the content's provocative character and the defendant's admission, young age, and lack of prior conviction.³² The sentence may indicate that the court differentiated the defendant's culpability from that of persons who physically assembled or threw incendiary devices, but that inference should not be overstated. Any restorative or non-custodial response proposed in this article is *de lege ferenda*:

²⁷ Rizky Pratama Putra Karo Karo, "Hate Speech: Penyimpangan terhadap UU ITE, Kebebasan Berpendapat dan Nilai-Nilai Keadilan Bermartabat," *Jurnal Lemhannas RI* 10, no. 4 (2022): 52–65, <https://doi.org/10.55960/jlri.v10i4.370>.

²⁸ Lisda Ariany and Sandi P. Perdana, "Batasan Kebebasan Berpendapat di Indonesia Perspektif Hak Asasi Manusia," *Jurnal Hukum Lex Generalis* 5, no. 12 (2025), <https://doi.org/10.56370/jhlg.v5i12.988>.

²⁹ Republic of Indonesia, Law No. 40 of 1999 on the Press.

³⁰ Joko Susanto et al., "Perlindungan Hukum bagi Jurnalis dalam Peliputan Demonstrasi," *Jurnal Kabar Masyarakat* 2, no. 4 (2024): 284–301, <https://doi.org/10.54066/jkb.v2i4.2691>.

³¹ Rizki Wahyuni and Yati Sharfina Desiandri, "Hak Asasi Manusia (HAM) Pada Kebebasan Berpendapat/Berekspresi dalam Negara Demokrasi di Indonesia," *Jurnal Sains dan Teknologi* 5, no. 3 (2024): 961–966, <https://doi.org/10.55338/saintek.v5i3.2422>.

³² Bandung District Court, Decision No. 1027/Pid.Sus/2025/PN Bdg, 50–51.

the study does not establish that the case met the formal eligibility requirements of an existing restorative-justice mechanism.

As a first-instance district-court decision, Decision No. 1027/Pid.Sus/2025/PN Bdg does not create binding precedent in the common-law sense. It nevertheless illustrates a form of judicial reasoning that may be cited, debated, or repeated in later cases. Because restrictions on online expression can produce chilling effects, doctrinal clarity about identity-based hate, public communication, and individualized participation is important for lawful digital participation.³³ The judgment's broader value therefore lies in the questions it exposes, not in any claim that it conclusively settled the law for all citizen documenters.

Platform features form part of the factual environment but should not distract from individual criminal elements. Messaging services facilitate closed communications while social-media functions can broaden audience reach; platform governance scholarship likewise recognizes that content systems can influence dissemination without automatically making providers criminally liable for every user post.³⁴ For the defendant, the legally material questions are still personal intent, the audience reached, the content communicated, and any functional contribution to a principal offence. For future policy, courts and investigators should record these distinctions explicitly so that public documentation is not equated with criminal assistance by default.³⁵

CONCLUSION

Criminal liability for demonstration documentation must be constructed conduct by conduct. Recording a public event is not unlawful merely because the recorder is not a professional journalist. Liability for criminal assistance under Article 56 of the former Criminal Code, applicable to the August 2025 *tempus delicti*, requires intentional and functionally relevant facilitation of a principal offence; a recording made after a completed violent act cannot retroactively assist that completed act. Closed-group transmission may be relevant to assistance if it actually facilitated the principal actors, but it must be distinguished from later public dissemination as an independent act.

The ITE-law analysis must likewise reflect Constitutional Court Decision No. 105/PUU-XXII/2024, which was already binding before the demonstration. Article 28(2) and Article 45A(2), as applicable to the 2025 conduct, required identity-based hate content that was intentionally communicated in public and created a real risk of discrimination, hostility, or violence. Because the police as an institution is not itself one of the enumerated identity categories, a conviction based on hostility

³³ Zainal Arifin, Zico Junius Fernando, and Emi Puasa Handayani, "Implikasi Hukum Perubahan Kedua Undang-Undang Informasi dan Transaksi Elektronik: Menyeimbangkan Kebebasan Berpendapat dan Partisipasi Publik dalam Demokrasi Digital," *LITIGASI* 26, no. 1 (2025): 192–227, <https://doi.org/10.23969/litigasi.v26i1.21555>.

³⁴ Rabith Madah Khulaili Harsya, "Tinjauan Yuridis terhadap Tanggung Jawab Platform Digital atas Konten Ilegal Menurut Hukum Indonesia," *Sanskara Hukum dan HAM* 4, no. 1 (2025): 276–286, <https://doi.org/10.58812/shh.v4i01.609>.

³⁵ M. Taufik Rachman and Bahri Yamin, "Implikasi Yuridis Putusan Mahkamah Konstitusi Nomor 105/PUU-XXII/2024 Terhadap Penegakan Hukum Tentang Informasi dan Transaksi Elektronik," *Unizar Law Review* 8, no. 1 (2025): 67–76, <https://doi.org/10.36679/ulr.v8i1.95>.

toward the police requires a clear explanation of how the protected-ground element was satisfied; otherwise, different and more precise offences must be considered where their elements are met. The comparison with professional journalists should be framed through purpose, public-interest function, institutional safeguards, intent, and distribution context rather than through an immunity/no-immunity dichotomy. Future judicial guidance should also separate closed communication from public dissemination, articulate the evidentiary basis for digital attribution when contested, and avoid treating a first-instance judgment as binding precedent.

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