

## **The Rationale Behind Criticism Against the President as Hate Speech Crime**

By:

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### **ABSTRACT**

The issuance of the EIT Law in combating hate speech against the president has created an issue in criticizing the president in terms of matters that concerns would directly affect the citizens. There exists a vagueness in differentiating what is deemed as hate speech and what is merely criticism towards a state representative. The author uses the normative method in order to criticize and analyze the on-going issue pertaining to hate speech against the president of Indonesia on the basis of Article 28 paragraph 2 of the EIT Law, and whether or in applying the law, there exists protection towards the right of freedom of speech. The results of this analysis take into account the urgency of the ambiguity of the threshold of hate speech against the president as well as consideration of the right towards freedom of speech. This legal research concludes that there exists an issue of setting a threshold to differentiate hate speech and criticism towards the president as well as the lack of protection and consideration of the right of freedom of speech within cases of hate speech.

**Keywords:** hate speech; EIT law; hate speech against the president; the right of freedom of speech.

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## **Alasan Kritik Terhadap Presiden Dapat Dianggap Sebagai Bentuk Kejahatan Ujaran Kebencian**

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### ***INTISARI***

*Penerbitan UU ITE dalam pemberantasan ujaran kebencian terhadap presiden menimbulkan isu kritik terhadap presiden dalam hal-hal yang dikhawatirkan akan berdampak langsung pada warga. Ada ketidakjelasan dalam membedakan mana yang dianggap sebagai ujaran kebencian dan mana yang sekadar kritik terhadap seorang presiden. Dalam penelitian hukum ini penulis menggunakan metode penelitian normatif untuk mengkritisi dan menganalisis ujaran kebencian terhadap presiden Indonesia berdasarkan Pasal 28 ayat 2 UU ITE dan apakah dalam penerapan undang-undang tersebut terdapat perlindungan terhadap hak kebebasan berpendapat. Hasil analisis ini mempertimbangkan urgensi ambiguitas ambang batas ujaran kebencian terhadap presiden serta pertimbangan hak atas kebebasan berpendapat. Dalam penelitian hukum ini disimpulkan bahwa terdapat persoalan penetapan ambang batas untuk membedakan mana yang dianggap sebagai ujaran kebencian dan kritik terhadap presiden, serta kurangnya perlindungan dan pertimbangan terhadap hak kebebasan berpendapat dalam kasus ujaran kebencian.*

**Kata kunci: ujaran kebencian; undang-undang ITE; ujaran kebencian terhadap presiden; hak kebebasan berpendapat.**

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