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A Critical Study Of Hate Speech Mitigation Regulations In Article 2 Of Section 45a Of Law No. 1 Of 2024 From The Perspective Of Maqasid Al-Syariah

Muhammad

Sekolah Tinggi Agama Islam Darud Dakwah Wal-Irsyad Maros

Muhammad72@gmail.com

Azzer Arifuddin

Universitas Islam Negeri Alauddin Makassar

azzerarifuddin2002@gmail.com

Farahdilla Mutiara Khansa

Universitas Islam Negeri Alauddin Makassar

farahdillakhanza13@gmail.com

Andi Muh. Taqiyuddin BN

Sekolah Tinggi Agama Islam Darud Dakwah Wal-Irsyad Maros

bayueltaqiyuddin@gmail.com

Samsidar Jamaluddin

Sekolah Tinggi Agama Islam Darud Dakwah Wal-Irsyad Maros

samsidarjamaluddin@staiddimaros.ac.id

Abstract

This study aims to explain the regulation of hate speech mitigation in Article 45A(2) of Law No. 1 of 2024 and to examine the criticism of Maqasid Al Syari'ah against the regulation of hate speech mitigation in Article 45A(2) of Law No. 1 of 2024. This study is a qualitative research. The research design is a literature review. The findings of this study indicate that: First, Article 45A(2) of Law No. 1 of 2024 is a legislative effort to address the spread of hate speech based on ethnicity, religion, and race through electronic media. By understanding and complying with these provisions, the public is expected to contribute to creating an inclusive and harmonious digital space. However, the success of implementing this regulation depends heavily on consistent law enforcement, strengthening digital literacy, and collaboration between the government, the public, and social media platforms. With a holistic approach, it is hoped that this regulation can become an effective instrument in creating a safe and inclusive digital space. Second, Maqasid al Syari'ah's criticism of the hate speech mitigation regulation in Article 2 of Section 45A of Law No. 1 of 2024, namely that the regulation is not yet

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Muhammad, Azzer Arifuddin, Farahdilla Mutiara Khansa, Andi Muh. Taqiyuddin BN, Samsidar Jamaluddin.

fully considered in line with the preservation of religion (hifz al-din), life (hifz al-nafs), intellect (hifz al-'aql), lineage (hifz al-nasl), and property (hifz al-mal).

Keywords: *Mitigation Regulations, Hate Speech, Maqasid al-Syari'ah*

A. INTRODUCTION

Hate speech is the act of spreading hatred and hostility based on ethnicity, religion, race, and intergroup differences.¹ In legal terms, hate speech is speech, behaviour, writing, or performance that is prohibited because it can incite violence and prejudice, whether from the perpetrator of the statement or the victim of the act.² Websites that use or promote hate speech are called hate sites. Most of these sites use Internet forums and news to reinforce a particular point of view.³ In today's modern era, rapid technological advances have significantly driven the development of communication and information, enabling people—including those in Indonesia—to express their opinions more freely. One manifestation of this development is social media, which provides more open and equal access for anyone to express their views. Information and communication technology is now being utilised across various social communication platforms and information dissemination channels in numerous sectors of life. However, the use of this technology also presents challenges, such as the potential for cybercrime in the form of hate speech, which has become a serious concern.⁴ Hate speech directed at a specific person or group of people has been getting a lot of attention lately. Through social media posts containing hate speech, the issue has become increasingly discussed. Many internet users (netizens) share posts (images, photos, videos, audio, and words) containing hate speech that incite insult, defamation, blasphemy, and other such acts. Hate speech is not only committed in the mass media or social media. Many incidents of hate speech occur outside these platforms. Hate

¹ Ahmad Faizal Azhar And Eko Sopyono, 'Kebijakan Hukum Pidana Dalam Pengaturan Dan Penanggulangan Ujaran Kebencian (Hate Speech) Di Media Sosial', *Jurnal Pembangunan Hukum Indonesia*, 2.2 (2020), 275–90 <<https://doi.org/10.14710/Jphi.V2i2.275-290>>.

² Jean Wahl, 'Limitations On Freedom Of Expression', *World Futures*, 2.Sup1 (1963), 32–35 <<https://doi.org/10.1080/02604027.1963.9971472>>.

³ Indah Putri And Others, 'Analisis Hukum Pidana Terhadap Perbuatan Ujaran Kebencian', 5.4 (2023), 3172–81.

⁴ M Efendi, 'Analisis Konsep Tindak Pidana Hate Speech Pada Undangundang No 19 Tahun 2016 Tentang Ite Persepektif Maqashid Syariah', 19, 2021.

speech can also be committed when someone or a group speaks in public, during religious lectures, or even through written materials such as banners or posters. Some cases are motivated by hate speech. For example, the case of hate speech directed at the Indonesian National Police (Polri),⁵ Cases of hate speech against minority groups increased during the 2024 elections,⁶ The Jonru Ginting case,⁷ The case of Ade Armando,⁸ The Abu Janda case,⁹ Two perpetrators of hate speech against the Indonesian National Armed Forces and the Indonesian National Police have been arrested,¹⁰ The Rocky Gerung Hate Speech Case,¹¹ The Case of Edy Mulyadi's Hate Speech,¹² The case of hate speech by Haris Azhar and Fatia.¹³

Regulations concerning acts containing elements of hatred in Indonesian positive law are stipulated in various laws and regulations. Some of these include: Article 156 of the Criminal Code (KUHP); Article 20(2) of Law No. 12 of 2005 on the Ratification of the International Covenant on Civil and Political Rights; Article 16 in conjunction with Article 1(3) of Law No. 40 of 2008 on the Elimination of Racial and Ethnic Discrimination; and Article 28 in conjunction with Article 45(2) of Law No. 19

⁵ 'Kementerian Komunikasi Dan Digital' <<https://www.komdigi.go.id/berita/sorotan-media/detail/sebar-ujaran-kebencian-di-telegram-5-warga-sumsel-dipanggil-polisi>> [Accessed 2 June 2025].

⁶ 'Kasus Ujaran Kebencian Meningkat Terhadap Kelompok Minoritas Sepanjang Pemilu 2024 | Tempo.Co' <<https://www.tempo.co/hukum/kasus-ujaran-kebencian-meningkat-terhadap-kelompok-minoritas-sepanjang-pemilu-2024-87842>> [Accessed 2 June 2025].

⁷ 'Polisi Periksa Jonru Sebagai Tersangka Kasus Ujaran Kebencian - Antara News' <<https://www.antaraneews.com/berita/655409/polisi-periksa-jonru-sebagai-tersangka-kasus-ujaran-kebencian>> [Accessed 2 June 2025].

⁸ '2 Pelaku Pengeroyokan Ade Armando Ditangkap!' <<https://news.detik.com/berita/d-6029430/2-pelaku-pengeroyokan-ade-armando-ditangkap>> [Accessed 6 July 2024].

⁹ M Julnis Firmansyah, 'Polisi Mulai Penyelidikan Kasus Ujaran Kebencian Abu Janda', *Tempo.Co*, 2020 <<https://metro.tempo.co/read/1347084/polisi-mulai-penyelidikan-kasus-ujaran-kebencian-abu-janda>> [Accessed 9 June 2024].

¹⁰ '2 Pelaku Ujaran Kebencian Terhadap Tni-Polri Ditangkap' <<https://www.metrotvnews.com/play/kewcxww4-2-pelaku-ujaran-kebencian-terhadap-tni-polri-ditangkap>> [Accessed 2 June 2025].

¹¹ 'Kasus Dugaan Ujaran Kebencian Rocky Gerung Naik Menjadi Penyidikan Di Bareskrim Polri | Tempo.Co' <<https://www.tempo.co/politik/kasus-dugaan-ujaran-kebencian-rocky-gerung-naik-menjadi-penyidikan-di-bareskrim-polri--130019>> [Accessed 2 June 2025].

¹² '5 Fakta Edy Mulyadi Dijerat Jadi Tersangka Ujaran Kebencian Sara' <<https://news.detik.com/berita/d-5923206/5-fakta-edy-mulyadi-dijerat-jadi-tersangka-ujaran-kebencian-sara>> [Accessed 2 June 2025].

¹³ 'Putusan Kasus Haris-Fatia: Kritik Bukan Ancaman | Tempo.Co' <<https://www.tempo.co/politik/kasus-haris-fatia-kritik-bukan-ancaman-1237281>> [Accessed 2 June 2025].

of 2016 amending Law No. 11 of 2008 on Information and Electronic Transactions. Additionally, there are several other relevant regulations. Under Article 156 of the Criminal Code, acts containing hatred are understood as actions manifested through speech containing specific words or phrases.¹⁴

Hate speech that is based on ethnicity, religion, race, or intergroup differences has a dangerous impact when expressed through social media due to its wide reach and rapid spread. Hate speech is extremely dangerous at its most extreme, as it can lead to genocide. At its mildest, it can cause horizontal conflicts on a small scale.¹⁵ Hoaxes and hate speech are closely related because hoaxes can trigger hate speech. In the ITE Law, a hoax is defined as false news, which is when someone deliberately and without authorisation spreads false and misleading information.

The rapid advancement of information technology has also been accompanied by an increase in crime. To anticipate this development, the legislature has enacted provisions prohibiting the dissemination of hate speech or hoaxes.¹⁶ Law No. 19 of 2016 amending Law No. 11 of 2008 on Information and Electronic Transactions (ITE Law) in Article 28(2) prohibits any person from disseminating hate speech or hoaxes that may incite hatred and hostility towards specific individuals or groups of society based on ethnicity, religion, race, and intergroup relations (SARA), and Article 45(3) prohibits any person from intentionally and without authorisation distributing and/or transmitting and/or making accessible electronic information and/or electronic documents containing defamatory or libellous content.

With the percentage of the majority of Muslims in Indonesia, the aspect of Islamic law is considered as part of the Living Law which is very closely related to the percentage of Muslims who are the majority. So Maqasid al-Syari'ah was chosen as a perspective, because of the role of maqasid al-Syari'ah in applying Islamic law to the

¹⁴ Bimawan Domas Hidayat, Agus Surono, And Maslihati Nur Hidayati, 'Ujaran Kebencian Pada Media Sosial Pada Saat Pandemi Covid-19 Studi Kasus Putusan No.72/Pid.Sus/2020/Pt.Dps', *Jurnal Magister Ilmu Hukum*, 6.2 (2021), 23 <<https://doi.org/10.36722/Jmih.V6i2.836>>.

¹⁵ Sutan Remy Syahdeini And Others, 'Penegertian Ujaran'.

¹⁶ Fajar Rachmadhani, 'Tinjauan Maqâsid As-Syarī'ah Terhadap Penerapan Sanksi Pidana Penyebaran Hoax Menurut Undang-Undang Informasi Dan Transaksi Elektronik', *Al-Mashlahah: Jurnal Hukum Islam Dan Pranata Sosial Islam*, 9. Al-Mashlahah: Jurnal Hukum Islam Dan Pranata Sosial Islam Vol 9, No 01 2021 (2021), 142–56 <<https://doi.org/10.30868/Am.V9i01.1130>>.

appropriate legal object.¹⁷ Departing from this, the researcher considers it necessary to examine further in a study entitled ‘Maqasid al Shari'ah criticism of hate speech mitigation regulations in Paragraph 2 of Article 45 A of Law No. 1 of 2024’.

Based on the search results, among the studies that highlight the regulation of hate speech mitigation, but with a different focus. Mahfud Efendi highlights the suitability/harmonisation of the concept of the criminal offence of Hate Speech in Law No. 19 of 2016 concerning ITE with Maqasid al-Syari'ah.¹⁸ Indah Putri Jayanti Basri, et al. highlighted the practice of hate speech in cyberspace from the concept of criminal offences in Article 28 paragraph (2) of the 2016 ITE Law.¹⁹ Meanwhile, Rohayanti focuses on examining the regulation of hate speech and fake news from the perspective of legal sociology with a focus on Law Number 1 Year 2024.²⁰ On the other hand, Rohmatullah and Syamsuri highlight the inconsistency of law enforcement and the potential for abuse of hate speech rules in Indonesian Law from a Human Rights Law perspective.²¹

The main difference between these four studies lies in their respective focuses: the suitability/harmonisation of the concept of the criminal offence of Hate Speech in Law No. 19 of 2016 on ITE with Maqasid al-Syari'ah (Mahfud), the practice of hate speech in cyberspace from the perspective of Article 28 paragraph (2) of the 2016 ITE Law (Indah), the regulation of hate speech and fake news in Law No. 1 of 2024 from the perspective of sociology of law (Rohayanti), the inconsistency of law enforcement and the potential for abuse of hate speech regulations in Indonesia from the perspective of Human Rights Law (Rohmatullah). Thus, the four form a complementary

¹⁷ Abd. Rauf Muhammad Amin, *Esai-Esai Maqasid Al-Syariah*, I (Depok: Pt Rajagrafindo Persada, 2022).

¹⁸ M Efendi, ‘Analisis Konsep Tindak Pidana Hate Speech Pada Undang-Undang No 19 Tahun 2016 Tentang Ite Persepektif Maqasid Al-Syariah’ (Universitas Islam Negeri Kiai Haji Achmad Siddiq Jember, 2021) <[Http://Digilib.Uinkhas.Ac.Id/8265/%0ahttp://Digilib.Uinkhas.Ac.Id/8265/1/MahfudEfendi_20174037.Pdf](http://Digilib.Uinkhas.Ac.Id/8265/%0ahttp://Digilib.Uinkhas.Ac.Id/8265/1/MahfudEfendi_20174037.Pdf)>.

¹⁹ Indah Putri Jayanti Basri, Muhammad Said Karim, And Amir Ilyas, ‘Analisis Hukum Pidana Terhadap Perbuatan Ujaran Kebencian’, *Unes Law Review*, 5.4 (2023), 3172–81.

²⁰ Rohayanti Rohayanti, ‘Ujaran Kebencian Dan Berita Bohong Berdasarkan Perspektif Sosiologi Hukum Ditinjau Dari Undang - Undang Informasi Dan Transaksi Elektronik’, *Jurnal Syntax Admiration*, 5.8 (2024), 2956–63 <<https://doi.org/10.46799/Jsa.V5i8.1377>>.

²¹ Rohmatullah And Syamsuri, ‘Undang-Undang Hate Speech Sebagai Instrumen Perlindungan Kebebasan Berekspresi Perspektif Hukum Ham’, *Hakam: Jurnal Kajian Hukum Islam Dan Hukum Ekonomi Islam*, 8.2 (2024).

framework regarding the review of hate speech regulations, from upstream (policy) to downstream (technical implementation).

The fundamental difference from the four previous studies is that this research specifically focuses on highlighting the Maqasid Al Shari'ah criticism of the regulation of hate speech mitigation in paragraph 2 of Article 45A of Law No.1 of 2024. So departing from the gap of novelty, the results of this study can contribute to the regulation of hate speech mitigation regulations in Indonesia based on benefit.

B. RESEARCH METHOD

This research is a type of qualitative research with a juridical and normative syar'i approach. This research design is library research. This research design was chosen because the object of study is a positive legal regulation that is analysed normatively and studied from the perspective of Maqasid al-Syari'ah. In this context, data is obtained from various legal literature, scientific journals, legislative documents, Islamic study sources, especially those related to Hate speech and Maqasid al-Syari'ah.

C. DISCUSSION

1. Hate Speech Mitigation Regulation in Paragraph 2 of Article 45 A of Law No. 1 of 2024

Article 45A paragraph (2) of Law Number 1 Year 2024 contains criminal provisions related to the dissemination of electronic information that can trigger hatred or hostility based on ethnicity, religion, race, and intergroup (SARA) elements. This provision is part of the legal efforts to tackle hate speech in the digital realm. The article regulates criminal sanctions for individuals who deliberately disseminate information aimed at causing hatred or conflict based on SARA. In the midst of the rapid development of information technology, this regulation becomes increasingly important to counteract the negative impact of misuse of digital platforms, especially social media.²²

This regulation emerged as a response to the increasing cases of hate speech

²² Mahkamah Konstitusi, 'Ringkasan Permohonan Perkara', 1, 2009, 1–4.

in Indonesia, which not only harms certain individuals or groups but also has the potential to disrupt national stability. However, the effectiveness of this article is often questioned given the large number of unresolved cases. This research aims to explore the implementation and challenges in applying Article 45A paragraph (2) as an effort to mitigate hate speech.²³

Article 45A paragraph (2) states that:

'Every person who intentionally and without right distributes and/or transmits Electronic Information and/or Electronic Documents that are inciting, inviting, or causing hatred or hostility towards certain individuals and/or community groups based on race, nationality, ethnicity, colour, religion, belief, gender, mental disability, or physical disability as referred to in Article 28 paragraph (2) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp1,000,000,000.00 (one billion rupiah).'

From the wording of this article, it is clear that the main focus of the regulation is to prevent the misuse of information technology to spread hate speech. The heavy criminal penalties are expected to provide a deterrent effect for perpetrators and create protection for victims.

2. Maqasid al Shari'ah Criticism of Hate Speech Mitigation Regulation in Paragraph 2 of Article 45 A of Law No. 1 of 2024

In the dynamics of legal development in Indonesia, the urgency of regulation related to hate speech is increasingly prominent, especially along with the rapid growth in the use of social media and digital space as a vehicle for public interaction. Hate speech has the potential to cause serious impacts such as social divisions, horizontal conflicts, and acts of violence, thus encouraging the state to formulate legal policies that can prevent and overcome these dangers. One of the concrete efforts can be seen in Law Number 1 Year 2024, specifically Article 45A

²³ Siti. Amina, 'Ujaran Kebencian Melalui Media Sosial Dalam Undang-Undang Dan Hukum Islam', *Institut Agama Islam Negeri Palopo*, 2022.

Paragraph (2), which stipulates criminal threats for perpetrators of spreading hate speech based on ethnicity, religion, race and intergroup (SARA) issues. Article 45A paragraph (2) in conjunction with Article 28 paragraph (2) of Law Number 1 Year 2024 contains the element of ‘causing hatred or hostility’ which is similar to the element of ‘feelings of hostility, hatred or contempt’.²⁴

Even so, the implementation of this regulation has raised various criticisms, both in terms of positive law, human rights principles, as well as from the point of view of moral and religious values. One of the normative approaches that is relevant to examine this regulation in depth is *maqasid al-syar'iyah*,²⁵ is a concept in Islamic law that is oriented towards the protection of five essential aspects of human life religion (*hifz al-din*), soul (*hifz al-nafs*), intellect (*hifz al-'aql*), offspring and social honour (*hifz al-nasl*), and property (*hifz al-mal*).²⁶ Through the *maqasid al-syar'iyah* perspective, we can thoroughly evaluate whether the regulation on hate speech truly supports the principles of justice and public good as desired in Islamic law. This approach expands the study from mere normative-formal analysis to a more complete ethical and social consideration. The following explanation will outline the similarities and differences between the five *maqasid* objectives in responding to this policy. In general, all principles in *maqasid al-syar'iyah* have a common foundation, which is oriented towards the protection of common interests and benefits (*maslahah 'ammah*), which is the core of the implementation of Islamic law in social life. In the context of regulating hate speech, the five dimensions of *maqasid* *hifz al-din*, *hifz al-nafs*, *hifz al-'aql*, *hifz al-nasl*, and *hifz al-mal* collectively play a role in creating a safe, peaceful, and just society. The relevance of these principles is even more evident when hate speech not only targets individuals, but also poses a serious threat to social stability, which can trigger

²⁴ Daloma Elroy Maukar, Roy Ronny Lembong, And Harly Stanly Muaja, ‘Ketentuan Khusus Penyebar Kebencian Dalam Pasal 45a Ayat (2) Undang- Undang Ite Terhadap Delik Penyebar Kebencian Dalam Pasal 156 Dan Pasal 157 Kuhp’, *Lex Administratum*, Vol 14.No 02 (2024), 1–14.

²⁵ Prodi Hukum And Pidana Islam, ‘Unsur Pidana Dalam Penyebaran Berita Bohong (Hoax) Melalui Media Sosial Dari Perspektif Hukum Islam’, 2019.

²⁶ Usman Aziz, ‘Konsep Hifz Al - Lisān Dalam Kitab Tanb I`H Al Gh Ā Fil I`N Dan Hate Speech Dalam Pasal 28 Uu Ite 2024 Sebagai Upaya Mengatasi Ujaran Kebencian Di Media Sosial’, 2025.

horizontal conflicts, community divisions, to collective violence and extreme polarisation in society.²⁷ Each principle in maqasid al-syar'iyah highlights a specific dimension, which can present both justification and criticism of the existence of the regulation.

- a. Hifz al-din, is considered in line with hifz al-din because the regulation prevents a person from being involved or falling into the act of hate speech and committing hate speech is prohibited in religion so that we can conclude that the regulation mitigates hate speech.
- b. hifz al-nafs, is considered in line because the regulation is an effort to mitigate disputes in cyberspace and the real world that have the potential to lead to physical violent conflict.
- c. hifz al-mal (protection of property), is considered in line because the regulation is an effort to mitigate the bad possibilities of hate speech that lead to theft and destruction of assets.
- d. Hifz al-nasl (protection of offspring), is considered in line because the regulation is an effort to mitigate moral violations that lead to hate speech by and against the younger generation. This contributes to the continuous improvement of the quality of the younger generation.
- e. hifz al-'aql (protection of the intellect) is considered in line because the regulation is an effort to maintain the function of the intellect from the adverse impact or harm that results from hate speech. For example, information that contains or contains provocations motivated by hatred towards certain groups.

The maqasid al-syari'ah approach to the regulation of hate speech as stated in Article 45A Paragraph (2) of Law No. 1 Year 2024 shows that although the regulation can be justified in principle as an effort to maintain the common good, it is important to criticise the accuracy of its formulation and implementation. If the application of the regulation is unbalanced or undergoes excessive expansion of interpretation, it can actually contradict the maqasid values that are basically

²⁷ Farah Indana, 'Pemidanaan Penyebaran Informasi Bermuatan Rasis Perspektif Hukum Pidana Islam (Studi Putusan Pengadilan Negeri Semarang No: 295/Pid.B/2018/Pn.Smg)', 2022.

intended to be protected. Thus, regulations need to be placed in the frame of substantive justice so that they do not become repressive tools that undermine the purpose of sharia itself. However, there are still legal loopholes that are detected and have the potential to cause harm. For example, the phrase without rights is still vague or ambiguous. The vagueness of the phrase does not mention what rights and allows law enforcement officials to judge subjectively. So that it has the potential to limit the constitutional rights in public opinion. In addition, the definition of hatred and hostility is unclear. The objective criteria for these two points are not explicitly stated. So it looks biased and can target expression that is not directly malicious, including interfaith debates, beliefs, social criticism, and satire. So it can be used to silence activists, journalists, and religious figures who criticise in the realm of theology, certain doctrines in a harsh manner. Even though there is no intention to incite hatred or discrimination. This has the potential to violate Article 28E of the 1945 Constitution on freedom of speech. Article 45A Paragraph (2) of Law No. 1 Year 2024 does not require that the hate speech actually causes hatred and hostility in the community. This allows a person to be convicted only by the perception of law enforcement officials without any real implication of actions that are considered a form of hate speech. In addition, the regulation lists intentionally as a requirement in the criminal offence of hate speech. Without including a mechanism to prove the intention. This allows law enforcement officials to assume that all intentions are the same without considering the ideological context and intention to educate the public. There is also no mechanism to prove hatred and hostility. This allows law enforcement officials to make subjective judgements through perception. In addition, it allows the regulation as a tool to silence or bring down political opponents who criticise certain parties or groups. Even though the criticism is based on facts, data, and scientific opinions. In addition, the regulation also has the potential to violate the principle of freedom of speech in Article 28E of the 1945 Constitution and the International Covenant on Civil and Political Rights (ICCPR) Article 19. These legal loopholes have the potential to have implications for legal uncertainty and uncertainty. This is considered not in line with Hifz al-Din

because it has the potential to slander and oppress certain parties who do not intend to commit hate speech. For example, religious figures who are involved in theological debates and are potentially considered to have committed hate speech, even though they did not intend to do so. In addition, the regulation is considered not in line with *hifz al-nafs* because the regulation has the potential to subjectively convict a person or a certain party due to the unclear mechanism for proving malicious intent, the mechanism for proving hatred and hostility, the unclear definition of hatred and hostility, and the unclear evidence of the consequences of actions that are considered hate speech based on the perception of law enforcement officials. The implication of convicting someone haphazardly will even potentially lead to provocation and divide and conquer that leads to hatred and hostility. The accused/slandered party and the accuser/slanderer have the potential to argue with each other and even physically. This can endanger life safety. In addition, these rules also have the potential to violate *hifz al-'aql*, because anyone can use these rules as a tool in slandering/accusing certain parties. This can provoke the public which has the potential to damage the function of common sense. The rule also has the potential to violate *Hifz al-Nasl*, because the results of provocations that depart from gratuitous accusations through subjective perceptions. It has the potential to damage the honour/status of the family which has implications for the abuse of generations or offspring. This bad potential is likely to interfere with and even endanger the generation/offspring of the slandered or accused party. In addition, it has the potential to disturb or endanger the mental health of the victim of provocation/accused and their offspring. So that the quality of the generation / offspring is likely to decrease. In addition, the regulation is potentially not in line with *hifz al-mal*. Because it is possible to harm the victim of provocation or the accused materially. With a maximum fine of IDR 1,000,000,000.00 (one billion rupiah) and the potential for attacks, such as destruction of assets and residences.

D. CONCLUSION

Hate Speech Mitigation Regulation in Paragraph 2 of Article 45A of Law No.

1 of 2024, namely Article 45A paragraph (2) of Law No. 1 of 2024 is a legislative effort to tackle the spread of SARA-based hate speech, including through electronic media.

Maqasid al Syari'ah's criticism of the Hate Speech Mitigation Regulation in Paragraph 2 of Article 45 A of Law No. 1 of 2024, namely that the regulation has not been fully considered in line with the maintenance of religion (*hifz al-din*), soul (*hifz al-nafs*), reason (*hifz al-'aql*), offspring (*hifz al-nasl*), and property (*hifz al-mal*).

To strengthen the effectiveness and fairness of Article 45A paragraph (2) of Law No. 1 of 2024 on Hate Speech Mitigation, it is recommended that lawmakers refine the regulation so it better aligns with the objectives of *Maqasid al-Syari'ah*. This can be achieved by:

1. Clarifying legal definitions and boundaries of hate speech to avoid ambiguity and prevent misuse against legitimate freedom of expression, thereby safeguarding *hifz al-'aql* (protection of reason).
2. Incorporating proportional sanctions that distinguish between levels of offense (e.g., intentional incitement versus unintentional expression), thus upholding *hifz al-nafs* (protection of life) and *hifz al-mal* (protection of property) by preventing excessive penalties.
3. Ensuring religious harmony safeguards are applied equally across all faiths and communities to uphold *hifz al-din* (protection of religion) while avoiding bias.
4. Embedding restorative justice mechanisms such as mediation and education, particularly for first-time offenders, which supports *hifz al-nasl* (protection of future generations) through character building rather than punitive measures alone.
5. Establishing independent oversight and community involvement in the enforcement process to guarantee accountability and strengthen public trust.

By integrating these improvements, the regulation can more effectively mitigate SARA-based hate speech while fully reflecting the balance of justice envisioned in *Maqasid al-Syari'ah*.

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