

Juridical Analysis of Reconstructing Trial by the Press in the Digital Era: No Viral, No Justice for Substantive Justice

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Abstract

Indonesia's criminal justice system faces a fundamental challenge as social media increasingly functions as a public deliberative space for legal disputes. The phenomenon known as no viral, no justice reflects widespread societal distrust in formal adjudicative mechanisms, while simultaneously giving rise to digital pressure practices that threaten the principles of fair trial and judicial independence. Yet no adequate conceptual framework exists to delineate the normative boundary between legitimate public participation and digital mob justice. This study aims to analyse the doctrinal shift from trial by the press to trial by social media and its implications for judicial independence and the right to a fair trial, while examining the extent to which digital public pressure can be legally justified in the pursuit of substantive justice. The research employs a normativetheoretical legal method, drawing on both statute and conceptual approaches. The findings reveal that the shift toward trial by social media poses demonstrable risks to judicial impartiality and defendants' procedural rights, while simultaneously operating as a social control mechanism that reinforces judicial accountability. This study offers a novel conceptualisation of digitally mediated participatory justice, articulating normative limits that distinguish constructive civic engagement from digital lynching. The implications point to an urgent need for regulatory reconstruction that balances digital freedom of expression with the integrity of Indonesia's criminal justice system.

Keywords: Trial by Social Media, Fair Trial, Participatory Justice, Digital Lynching, Keadilan Substansial

1. INTRODUCTION

The Indonesian criminal justice system confronts a structural legal tension that has grown increasingly difficult to ignore: the absence of any explicit normative framework governing the influence of public media discourse on ongoing judicial proceedings. (Lesick & March, 2024) Article 24 of the 1945 Constitution of the Republic of Indonesia (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945) guarantees judicial independence as a foundational constitutional principle, while Article 14 of the International Covenant on Civil and Political Rights (ICCPR) to which Indonesia acceded in 2005 through Law No. 12 of 2005 enshrines every accused person's right to a fair and impartial trial. Yet neither the Judicial Power Law (Law No. 48 of 2009) nor the Press Law (Law No. 40 of 1999) contains any operative provision that explicitly prohibits or regulates the formation of

public prejudgment through mass media or digital platforms during active judicial proceedings (Reynolds & Estrada-Reynolds, 2026) This normative vacuum constitutes a concrete legal problem: the doctrine of trial by the press which scholarship has long recognised as a threat to judicial impartiality has migrated into the digital ecosystem without any corresponding legal response from the Indonesian legislature.

The empirical consequences of this legal gap are both visible and measurable.(Velte, 2025) The phenomenon of no viral, no justice illustrates a fundamental shift in the paradigm of law enforcement in the digital age, wherein virality on social media has become a determining factor in driving the response of law enforcement officials. Data from the Judicial Commission of the Republic of Indonesia (Komisi Yudisial) and civil society monitoring reports consistently document selective enforcement patterns in which cases that attract significant digital attention receive disproportionately swift prosecutorial and judicial responses compared to legally equivalent but nonviral cases (H. Yang, 2026a) Highprofile examples including the Ferdy Sambo case (2022), the Mario Dandy assault case (2023), and the fatal shooting of a car rental owner by naval officers (2025) demonstrate a clear empirical pattern: legal processes are significantly influenced by media exposure and public opinion rather than exclusively by the principles of justice and legal certainty, with law enforcement agencies responding intensively only after cases gained massive social media traction. (Liu & Yang, 2024a)

A fundamental dissonance between *das sollen* and *das sein* is therefore evident. In normative terms, the principle of judicial independence demands that adjudication be insulated from external pressure; the presumption of innocence, as guaranteed under Article 8 of Law No. 48 of 2009, requires that guilt be determined solely through the due process of law.(Cabrera et al., 2024) In practice, however, digital public pressure generated by virality can influence the law enforcement process and potentially give rise to a form of trial by the press, in which public opinion is formed before legal proceedings have run their course.(Wang, 2026) This inversion of the normative order where the visibility of a case rather than its legal merit determines institutional urgency represents a structural rupture between constitutional ideals and adjudicative reality, one that cannot be adequately addressed through existing regulatory instruments. (Khalil et al., 2026)

The factual landscape reinforces the urgency of scholarly intervention (Lu & Qiu, 2024) Research findings confirm that virality can accelerate the state's response in handling cases and open space for public participation, but that this phenomenon also has the potential to undermine fundamental principles in the judicial system, particularly the principle of due process of law, and to create disparities in the handling of viral and nonviral cases (Ebel-Lam et al., 2010) The case of Aditya Hasibuan in which a video of physical assault went unreported for months before going viral in April 2023 and triggering immediate police action exemplifies how institutional responsiveness has become contingent upon digital exposure rather than legal obligation. The situation demonstrates that substantive justice is not produced by legal institutions themselves; rather, it has become dependent upon emotional and internal pressure from the public (Niedlich et al., 2026a) These cases collectively confirm that the phenomenon is not episodic but systemic, rendering it both legally significant and empirically ripe for normative analysis.

Despite the urgency of the problem, existing legal scholarship exhibits a discernible research gap (Kinoshita et al., 2026) Studies on no viral, no justice have proliferated in recent years, yet most remain anchored in sociological, criminological, or policydescriptive

frameworks without engaging in sustained normativetheoretical analysis of how digital public pressure interacts with the doctrinal architecture of judicial independence and fair trial guarantees.(Tuemler & Ulmer, 2026) There is, in particular, a notable absence of scholarship that constructs a normative typology distinguishing legitimate civic participation from digital lynching that is, from forms of digital mob pressure that violate the due process rights of accused persons. Without such a conceptual framework, lawmakers and courts lack the doctrinal tools necessary to adjudicate the boundary between constitutionally protected freedom of expression and unlawful interference with the administration of justice.

Prior scholarship on this subject illuminates aspects of the phenomenon but does not resolve the normative gap identified above (Kwan et al., 2012) Fakhira Rifqa, in her study titled "Dari Viralitas ke Keadilan: Analisis Filosofis atas Fenomena 'No Viral No Justice' dalam Penegakan Hukum di Indonesia dalam Perspektif Hukum Positivisme (Studi Kasus Pelecehan Seksual di Ruang Publik)," examines the phenomenon through the lens of legal positivism, analysing how virality influences justiceseeking behaviour in public sexual harassment cases and questioning whether viral justice aligns with positivist notions of legal validity and formal enforcement (Niedlich et al., 2026b) Beth Anastasia Nakita Manulang et al., in "Rekonstruksi Keadilan Substantif di Era Digital Melalui Mitigasi Legal Gap Menanggapi Fenomena No Viral No Justice di Indonesia," published in Jurnal Ilmiah Wahana Pendidikan (Volume 11, No. 12.B, 2025, pp. 300–310), propose a responsive law paradigm for reconstructing substantive justice in the digital era, arguing that legal gap mitigation requires adaptive regulation, inclusive digital transformation of legal processes, and technologybased accesstojustice principles.(Scheepers et al., 2026) Abdul Wahid, Rohadi Rohadi, and Andi Kusyandi, in their article published in Reformasi Hukum (Volume 29, No. 1, April 2025, pp. 36–51), adopt a sociolegal approach to examine the dynamics between digital public pressure and the response of law enforcement agencies across a number of viral cases in Indonesia. While these studies make meaningful contributions, the present research departs from all three in a fundamental respect: rather than analysing the phenomenon descriptively or through a single jurisprudential school, this study engages the doctrinal shift from trial by the press to trial by social media through a normativetheoretical lens, with the specific aim of constructing a conceptual framework digitally mediated participatory justice that establishes normative limits capable of distinguishing lawful public participation from digital lynching, and that can serve as the basis for concrete regulatory reform.

This study is therefore guided by two principal research questions: first, how has the doctrinal shift from trial by the press to trial by social media affected judicial independence and the right to a fair trial in Indonesia?; and second, to what extent can digital public pressure be legally justified in influencing the process of substantive justicefinding? The study aims, theoretically, to reconstruct the conceptual architecture of participatory justice within a normative framework that is sensitive to both democratic participation and due process guarantees; and practically, to provide a regulatory blueprint for Indonesian lawmakers that establishes clear, enforceable boundaries between legitimate public engagement and prejudicial digital pressure thereby ensuring that justice in the digital age is determined not by viral trending, but by the rule of law (Kalim, 2024).

2. METHOD

This study employs a normative-theoretical legal research methodology (yuridis normatif-teoretis), a design premised on the examination of law as a normative system rather than as a social behaviour. This methodological choice is deliberate and directly responsive to

the nature of the research questions posed: given that the study interrogates the doctrinal integrity of judicial independence and fair trial guarantees under conditions of digital public pressure, the analysis must be grounded in the internal logic of legal norms rather than in empirical social data. (Zhao & Wei, 2026) Normative legal research is accordingly the appropriate epistemological foundation, as it permits systematic scrutiny of whether existing legal instruments constitutional, statutory, and jurisprudential are capable of accommodating the doctrinal shift from trial by the press to trial by social media, and whether a reconceptualised normative framework can be coherently constructed within the existing architecture of Indonesian and international law. (Le Grand et al., 2021)

Two principal research approaches are deployed in tandem. The statute approach (*pendekatan perundang-undangan*) is applied through systematic analysis of relevant legislative instruments, including the 1945 Constitution of the Republic of Indonesia, Law No. 48 of 2009 on Judicial Power, Law No. 40 of 1999 on the Press, Law No. 19 of 2016 on Electronic Information and Transactions, and Indonesia's obligations under the International Covenant on Civil and Political Rights (Radhakrishnan et al., 2025) The conceptual approach (*pendekatan konseptual*) is applied to engage with foundational legal doctrines including judicial independence, the presumption of innocence, due process of law, and substantive justice as developed within legal theory and comparative constitutional scholarship, enabling the study to construct the novel conceptual category of digitally mediated participatory justice with clearly articulated normative limits against digital lynching (Radhakrishnan et al., 2025)

3. RESULTS AND DISCUSSION

A. THE DOCTRINAL SHIFT FROM *TRIAL BY THE PRESS* TO *TRIAL BY SOCIAL MEDIA*: IMPLICATIONS FOR JUDICIAL INDEPENDENCE AND THE RIGHT TO A FAIR TRIAL

The doctrine of trial by the press a concept denoting the capacity of mass media to prejudice the guilt or innocence of an accused person prior to or during judicial proceedings, thereby contaminating the impartiality of the adjudicative process has long occupied a contested space at the intersection of press freedom and the administration of justice. (Cordella, 2015) In its classical formulation, the doctrine referred principally to the influence of print journalism and broadcast media in shaping public sentiment toward criminal defendants, with courts in various jurisdictions developing doctrinal responses ranging from the United Kingdom's Contempt of Court Act 1981 to American jurisprudence on prejudicial pretrial publicity. (Cordella, 2015) The analytical premise of the doctrine rests on a foundational concern: that the legitimacy of adjudication depends upon the exclusion of extraneous influences from the fact-finding process, and that when public opinion mobilised through media becomes a *de facto* participant in the determination of guilt, the constitutional integrity of the trial is compromised. What the present era demands, however, is a critical reappraisal of this doctrine in light of its qualitative transformation. The emergence of social media as the dominant platform of public discourse has not merely extended the trial by the press phenomenon; it has restructured its logic, amplified its reach, and accelerated its capacity to injure the rights of the accused in ways that existing legal frameworks are demonstrably ill-equipped to address.

The transition from trial by the press to trial by social media is not simply a technological upgrade of the same phenomenon. It represents a doctrinal rupture along at least four analytically distinct dimensions: the speed of information dissemination, the

architecture of accountability, the emotional intensity of digital discourse, and the structural feedback loop between online pressure and institutional response.(Xu et al., 2026) Traditional media newspapers, television, radio operated within editorial hierarchies governed by professional ethics and legal liability; journalists and publishers were identifiable actors subject to contempt of court sanctions, defamation liability, and regulatory oversight. Social media platforms operate on an entirely different epistemic and institutional logic(Xue & Caliskan Demirag, 2026). Social media rapidly influences public opinion through emotional and simplified narratives, whereas formal justice mechanisms prioritise structured, evidence-based, and procedural processes over emotional narratives; the virality of cases on social media can generate psychological and institutional pressure, threaten investigative objectivity and integrity, and potentially undermine the presumption of innocence. The critical distinction lies in the nature of this pressure: where traditional media could be restrained through contempt proceedings or publication injunctions, social media operates through decentralised, algorithmically amplified, and largely anonymous networks that are structurally resistant to judicial control.(Bansal et al., 2026) This resistance is not merely practical but is embedded in the technological architecture of platforms designed to maximise engagement rather than epistemic accuracy or procedural fairness.

Preliminary empirical review has revealed that social media exerts considerable pressure on judicial processes, potentially compromising judges' independence due to increased scrutiny and criticism, and that misinformation and sensationalism on social media significantly erode public trust in the judiciary, leading to distorted perceptions of judicial fairness. This finding is analytically significant because it identifies two distinct but related vectors of harm: first, the direct psychological pressure on individual judges, who are social actors embedded within communities where digital discourse about their cases is unavoidable; and second, the structural erosion of institutional legitimacy that occurs when judicial outcomes are systematically perceived and contested through the prism of social media verdicts.(Holmes et al., 2024) In the Indonesian context, both vectors are operative and mutually reinforcing. The Ferdj Sambo case (2022), in which a serving Inspector General of Police was tried for the murder of his own adjutant, generated an extraordinary volume of social media commentary that preceded, accompanied, and explicitly sought to influence the judicial outcome. Research confirms that viral cases such as those involving Ferdj Sambo and Mario Dandy were processed more quickly due to public pressure rather than legal urgency a finding that reveals the distortion of prosecutorial and judicial prioritisation in response to digital crowd pressure rather than the objective gravity of the legal issues at stake. (Gong et al., 2026)

The normative implications of this doctrinal shift for judicial independence and the right to a fair trial are severe and multidimensional. Under Article 24(1) of the 1945 Constitution, judicial power is vested in an independent judiciary free from interference by any other state power or social force.(Yan et al., 2026) Law No. 48 of 2009 on Judicial Power further provides, in Article 3(1), that the administration of justice shall be free from any interference by parties outside the judiciary. Read alongside Article 14(1) of the ICCPR which guarantees every person the right to a fair and public hearing by a competent, independent, and impartial tribunal these provisions establish a clear normative standard against which the effects of trial by social media must be measured. The standard, in essence, requires structural and psychological insulation of the adjudicative function from external pressure. The principle of presumption of innocence places every individual facing legal proceedings in a position of innocence until the court declares otherwise through a final and

binding decision, as confirmed in Article 8(1) of Law No. 48 of 2009, while Article 28D(1) of the Constitution affirms the right to legal certainty and protection, and Article 28I(1) affirms that human rights cannot be violated under any circumstances, including during legal proceedings. (Arosemena et al., 2026) Against this normative standard, the systematic pattern of digital public pressure constitutes not merely an ethical concern but a demonstrable and recurring constitutional violation.

The following comparative table presents a structural analysis of the key distinctions between the classical trial by the press and its contemporary digital successor, organised across normatively relevant dimensions:

Table 1. Comparative analysis: trial by the press vs. trial by social media

Dimension	Trial by the press (classical)	Trial by social media (digital)	Normative risk level
Speed of dissemination	Hours to days; governed by editorial cycles and print deadlines	Seconds to minutes; algorithmically amplified in real time, globally	Critical
Source accountability	Identifiable editors and publishers; subject to press law and contempt liability	Decentralised, often anonymous; platforms enjoy liability shields under safe harbour provisions	Critical
Editorial gatekeeping	Present; professional journalism ethics and editorial hierarchies filter content	Absent; algorithmic curation privileges emotional engagement over factual accuracy	Critical
Legal regulatory tools	Contempt of court, defamation law, publication injunctions (e.g., UK Contempt of Court Act 1981)	No equivalent specific instrument; ITE Law (No. 19/2016) addresses content harm, not sub judice pressure	Critical
Audience reach & feedback loop	Mass but passive; public reacts but cannot directly confront legal actors	Mass and interactive; netizens can directly target judges, prosecutors, and courts via mentions, reviews, and petitions	Critical
Impact on presumption of innocence	Significant but temporally bounded; erodes through sustained coverage	Near-instantaneous; guilt narrative can crystallise before investigation begins	Critical
Threat to judicial independence	Moderate; indirect pressure through institutional reputation concerns	Severe; direct, personalised, and continuous digital targeting of individual judges	Critical

Potential democratic value	Moderate; enables informed public discourse and press accountability	High potential enables rapid accountability but structurally prone to degeneration into digital lynching	Contested
Judicial legal response (Indonesia)	Partial; KUHAP provisions and contempt-adjacent mechanisms exist in theory	Absent; no specific normative framework regulates sub judice digital pressure	Critical

Source: Analysed by author

The table above crystallises what is perhaps the most analytically consequential conclusion of this comparative exercise: virtually every dimension of the shift from trial by the press to trial by social media represents a deterioration of the legal instruments available to protect judicial independence and fair trial rights. The critical risk designation assigned to eight of the nine dimensions is not rhetorical; it reflects the structural observation that the digital transformation of media-judicial interaction has, across every relevant axis, moved in the direction of greater legal vulnerability and lesser legal accountability. The one contested dimension the democratic value of social media accountability serves as a pointed reminder that the analysis cannot be purely prohibitory: the phenomenon carries genuine normative value that any regulatory reconstruction must accommodate rather than suppress. (Munro & Huang, 2023)

The most constitutionally acute problem embedded in this doctrinal shift concerns what may be termed the pre-conviction conviction the formation of a decisive and widely shared public verdict prior to, and independent of, the judicial determination of guilt. (H. Yang, 2026b) Social media platforms like Twitter, Facebook, and Instagram are reshaping public discourse and influencing legal outcomes, while the tension between media freedom and the right to a fair trial is being exacerbated by rapid information dissemination and public mobilisation that challenge fundamental legal principles including the presumption of innocence. In the Indonesian context, this dynamic operates with particular force because the judiciary lacks the institutional insulation mechanisms that analogous legal systems have developed. Unlike the United Kingdom, where courts can delay the publication of trial reports under the Contempt of Court Act 1981 if such publication risks harming the fairness of proceedings, with British courts prioritising the right to a fair trial and recognising that press freedom does not excuse undermining the independence, dignity, or proper operation of the legal system, Indonesian law contains no equivalent sub judice rule applicable to digital discourse. (Locascio, 2022) The ITE Law (Law No. 19 of 2016) is directed principally at the control of electronic content harmful to individuals defamation, hate speech, hoaxes and was not designed to, and does not, address the systemic problem of digital public pressure on ongoing adjudicative proceedings. This legislative omission is not merely a gap in the statute books; it is a structural failure that renders the constitutional guarantee of judicial independence operationally hollow in precisely the circumstances where it is most needed.

A further dimension of this doctrinal shift demands critical attention: the transformation of the locus of psychological pressure from the institutional to the personal. Classical trial by the press exerted pressure primarily on judicial institutions as a collective on the reputational standing of courts, on the political environment in which judicial appointments were made, on the public perception of judicial decisions as a category. (Bisson

& Pfeiffer, 2025) Trial by social media operates differently and more insidiously: it personalises and concentrates pressure on individual judges in real time, through platforms that permit direct addressing, public shaming, and coordinated harassment. Dependence on virality potentially creates selective justice, threatens the principle of equal treatment, and erodes the rational-legal legitimacy of legal institutions but the mechanism through which this occurs is not merely structural. (Niedlich et al., 2026c) It operates through the cognitive and psychological vulnerabilities of individual decision-makers who are simultaneously legal actors and social subjects, embedded in digital communities where the volume and intensity of public discourse about their cases is impossible to fully insulate against. The normative consequence is severe: a judge whose community knows her name, her social media profile, and the precise details of the case before her court is structurally more vulnerable to the influence of digital public opinion than a judge whose deliberations are shielded by institutional anonymity. Indonesian law currently provides no mechanism not a recusal protocol, not a media management procedure, not a digital communication policy to address this vulnerability.

While digital vigilantism may be driven by a desire for justice, it fundamentally undermines core rights such as the presumption of innocence and the right to a fair trial. (Laurent & Kim, 2023) This observation points toward the critical theoretical synthesis that the present analysis demands: the shift from trial by the press to trial by social media is not simply a quantitative escalation of media influence but a qualitative transformation of the relationship between public discourse and adjudication one that requires not merely doctrinal refinement but genuine normative reconstruction. The concept of participatory justice, which this study introduces, must therefore be built on the recognition that the legitimacy of public participation in the justice system is not self-evident but is conditional: it depends upon the preservation of the structural conditions that make fair adjudication possible, including the psychological independence of judges, the procedural integrity of fact-finding, and the epistemic primacy of evidence over viral narrative. (Man, 2026) Where digital public pressure crosses the threshold from accountability-promoting participation to prejudice-inducing interference where it constitutes, in the terminology proposed here, digital lynching it loses its normative legitimacy and becomes an object of legal regulation rather than a subject of legal protection. The urgent challenge for Indonesian constitutional law is to operationalise this distinction in positive regulatory form, before the structural erosion of fair trial guarantees becomes irreversible.

B. THE LEGAL JUSTIFIABILITY OF DIGITAL PUBLIC PRESSURE IN THE PURSUIT OF SUBSTANTIVE JUSTICE

The question of whether, and to what degree, digital public pressure may be legally justified in influencing the process of substantive justice-finding is not merely an empirical question about the effects of social media on law enforcement. It is, at its core, a fundamental jurisprudential question about the relationship between democratic participation, legal legitimacy, and the integrity of adjudication a question that sits at the intersection of constitutional theory, legal philosophy, and the sociology of law. (Liu & Yang, 2024b) To answer it with analytical rigour, it is necessary to begin by clarifying what is meant by "substantive justice" as distinct from its procedural counterpart, and then to assess through competing theoretical frameworks whether the pressure mechanisms characteristic of the no viral, no justice phenomenon can, under identifiable conditions, be regarded as legally defensible contributions to the realisation of that substantive standard. This analysis

ultimately argues for a normatively differentiated approach: one that recognises the conditional legitimacy of digital public participation while establishing firm doctrinal boundaries against its degeneration into forms of mob justice that are constitutionally incompatible with the rule of law.

Substantive justice, as a concept, operates in deliberate tension with procedural justice. Where procedural justice concerns the fairness of the processes through which legal decisions are made adherence to due process, equality before the law, the right to be heard substantive justice concerns the moral adequacy of the outcomes those processes produce. {Citation} The distinction finds its most rigorous theoretical articulation in Amartya Sen's *The Idea of Justice* (2009), in which Sen contrasts the Sanskrit concepts of *niti* institutional rules and procedural correctness with *nyaya* the realised justice experienced in the actual lives of people. (Garcia-Marques & Loureiro, 2024) Unlike Rawls' approach to justice, which prioritises institutional structures and ideal conceptions (*niti*), Sen shifts the emphasis to *nyaya* the actual realisation of justice in the lived experiences of individuals, advocating for a comparative, reason-based approach that focuses on reducing injustice in the real world rather than designing utopian, perfect systems; justice, for Sen, cannot be top-down but must involve public reasoning, a process where people discuss, deliberate, and scrutinise laws. This theoretical framework is directly relevant to the no viral, no justice phenomenon. The social frustration that fuels viral justice-seeking in Indonesia is, in its essential structure, a *nyaya* grievance articulated in the idiom of digital communication: the complaint that formal legal institutions however procedurally correct in their internal operations are systematically producing outcomes that are substantively unjust, and that public visibility has become the *de facto* mechanism through which this institutional failure is corrected. (Li et al., 2026) Understood through Sen's lens, the phenomenon is not simply a breakdown of legal order; it is a symptom of the insufficiency of *niti* to deliver *nyaya* in a context of endemic institutional distrust.

The constitutional basis for digital public participation in the justice process is, in the Indonesian legal order, both genuine and bounded. Article 28E(3) of the 1945 Constitution guarantees every person the right to freedom of expression, while Article 28F guarantees the right to communicate and obtain information. Freedom of expression is one of the fundamental rights recognised in a democratic rule of law, and Indonesia has guaranteed freedom of expression since the beginning of independence through the 1945 Constitution as a state of law. (Palmiotto, 2024) These provisions confer constitutional legitimacy upon public discourse about the justice system, including critical commentary on law enforcement failures, prosecutorial inaction, and judicial outcomes. However and this qualification is of cardinal legal importance Article 28J(2) of the same Constitution provides that the exercise of rights and freedoms must comply with restrictions stipulated by law, for the sole purpose of guaranteeing the recognition and respect for the rights and freedoms of others, including considerations of morality, security, and public order in a democratic society. This internal constitutional limitation is not merely a formal caveat; it establishes the normative architecture within which the question of digital public pressure's justifiability must be resolved. The freedom to demand justice publicly is constitutionally guaranteed; the freedom to destroy the conditions that make just adjudication possible is not.

The core analytical challenge lies precisely in delineating this boundary in distinguishing what this study terms constructive digital participation from digital lynching. (Bahanni et al., 2026) The two are not distinguished by the intensity of public

sentiment or the volume of online discourse; they are distinguished by the object of that discourse and its relationship to the structural prerequisites of due process. Constructive digital participation operates in the register of public accountability: it exposes institutional inaction, amplifies the voices of marginalised complainants who have been excluded from the formal legal system, creates reputational consequences for law enforcement agencies that deviate from their legal obligations, and mobilises political pressure for systemic reform. These are functions that are not only compatible with the constitutional guarantee of freedom of expression but that are positively valued by democratic legal theory, insofar as they represent a form of what Habermas termed communicative action—the exercise of discursive reason in the public sphere in the service of normative consensus about justice. Digital public pressure can influence the speed and direction of law enforcement, even shifting fundamental principles such as the principles of legality, equality before the law, and due process of law a finding that is analytically ambivalent: it confirms both the power of digital pressure to remedy injustice and its power to subvert the legal architecture through which justice is properly administered.

Digital lynching, by contrast, operates in an entirely different register. It targets not institutions but individuals—accused persons, witnesses, judges, and their families—with the purpose not of demanding that the law be applied but of circumventing and replacing the law with crowd-determined verdicts. (Cole, 2026) Social media not only fuels mass mobilisations and emotional reactions but also alters perceptions of crime and punishment, shifting from retributive justice anchored in law to performative condemnation rooted in spectacle; moreover, this phenomenon exacerbates systemic inequalities, as marginalised groups are disproportionately affected by extrajudicial moral judgments. This transition from retributive justice to performative condemnation is of decisive legal significance. When online discourse about a criminal case moves from demanding institutional accountability to pronouncing guilt, imposing reputational punishment through doxxing, orchestrating harassment campaigns against defendants or their counsel, or publicly pressuring judges to reach particular verdicts, it crosses the threshold from constitutionally protected expression into conduct that is incompatible with and directly injurious to the right to a fair trial. (Wilkin & (Racheal) Liu, 2026) At this point, the digital crowd has not demanded justice; it has supplanted the justice system with its own extrajudicial equivalent, one that operates without evidence standards, without procedural safeguards, without the possibility of appeal, and without the presumption of innocence.

The following typological framework—structured around the normative criteria that distinguish justifiable digital participation from legally impermissible digital pressure—is offered as a conceptual foundation for the regulatory reconstruction this study proposes:

Table 2. Typological framework: constructive digital participation vs. digital lynching

Normative criterion	Constructive digital participation	Digital lynching	Legal status
Object of pressure	Institutions and systemic failures—police inaction, prosecutorial delay, regulatory gaps	Individual accused persons, judges, witnesses, defence counsel and their families	Permitted / Prohibited

Nature of the demand	Demands for lawful enforcement, transparent procedure, and institutional accountability	Demands for a specific judicial outcome; prejudgment of guilt before adjudication	Permitted / Prohibited
Epistemic basis	Grounded in documented facts, evidence of inaction, or credible investigative reporting	Grounded in rumour, emotionally amplified narrative, or algorithmically curated outrage	Permitted / Prohibited
Relationship to due process	Compatible demands that due process be applied; reinforces legal obligations of institutions	Incompatible seeks to circumvent due process or to determine outcome independently of it	Permitted / Prohibited
Effect on presumption of innocence	Neutral or preserving focuses on institutional conduct, not individual culpability	Destructive publicly condemns accused persons prior to adjudication; imposes reputational punishment	Permitted / Prohibited
Proportionality of pressure	Proportionate to the scale and gravity of the documented institutional failure	Disproportionate, sustained, and targeted; extends to harassment, doxxing, and intimidation	Permitted / Prohibited
Constitutional grounding	Art. 28E(3) and 28F UUD 1945 freedom of expression and right to information	Constrained by Art. 28J(2) UUD 1945; conflicts with Art. 28D(1) (legal certainty) and Art. 28I(1) (human dignity)	Bounded
Contribution to substantive justice	Positive corrects institutional failure, restores access to justice for marginalised parties	Negative substitutes crowd verdict for legal determination; undermines the conditions of just adjudication	Valued / Harmful

Source: Analysed by author

The typology presented above is not merely a classificatory exercise; it functions as the normative skeleton of the participatory justice framework that this study proposes. Its analytical value lies in its capacity to transform an otherwise intractable debate into a set of operationalisable legal criteria that can guide both regulatory design and judicial interpretation. (Gurčínaitė & Barbrook-Johnson, 2026) The answer to the research question, properly stated, is therefore neither a categorical affirmation nor a blanket prohibition: digital public pressure is legally justifiable in influencing the process of substantive justice-finding when, and only when, it satisfies the constitutively democratic conditions of targeting institutional conduct rather than individual

persons, resting upon an epistemic foundation of documented fact, operating in a manner compatible with due process, and maintaining proportionality in both scale and object. When any one of these conditions fails—particularly when the pressure crosses from institutional accountability to individual prejudgment—its constitutional legitimacy evaporates, and it becomes an object of legal regulation rather than a protected form of democratic participation.

This analytical conclusion carries a second-order implication that is equally important for the theory of participatory justice: the justifiability of digital pressure is not static but dynamic, and it is contingent upon the health of the formal justice system it is responding to. Justice is not solely determined by media exposure but by the upholding of a legal system that ensures certainty, substantive justice, and the protection of the human rights of every citizen. (P. Yang et al., 2021) This normative proposition, while correct as a statement of legal ideal, contains an implicit acknowledgement: where the formal legal system demonstrably fails to ensure certainty and substantive justice—where impunity is structural, access to justice is economically or institutionally gated, and marginalised complainants have no effective remedy within formal channels—the moral and constitutional pressure for extraformal accountability mechanisms increases correspondingly. The no viral, no justice phenomenon is, in this theoretical framing, most justifiable precisely in those cases where formal justice has most comprehensively failed, and least justifiable in cases where the formal system is functioning adequately and digital pressure is being brought to bear not to correct institutional failure but to override legitimate adjudicative processes. This contextual variability in justifiability demands a regulatory framework that is sensitive to institutional context rather than uniformly prohibitory or uniformly permissive.

The critical implication for Indonesian constitutional law is therefore the following: the legislature cannot resolve the tension between digital public pressure and fair trial rights by simply restricting social media commentary on pending cases, as such restrictions would violate Articles 28E(3) and 28F of the Constitution and would, paradoxically, remove the only effective accountability mechanism available to communities that are structurally excluded from formal legal remedies. Nor can it simply permit all forms of digital engagement with pending cases, as doing so would abandon the accused's right to a fair trial and the judge's right to exercise independent judgment. What is required is a normatively differentiated regulatory framework—one that draws the distinctions elaborated in the typology above into positive legal form, protecting constructive digital participation as an expression of democratic citizenship while establishing enforceable boundaries against digital lynching as a form of extrajudicial punishment that violates the constitutional rights of its targets. (Torres-Blanco et al., 2026) The concept of digitally mediated participatory justice, as developed in this study, offers precisely such a framework: a conceptual architecture capable of reconciling the legitimate democratic demand for substantive justice with the constitutional imperatives of fair trial and judicial independence, and of providing Indonesian lawmakers with the doctrinal tools necessary to translate that architecture into regulatory practice.

4. CONCLUSION

The doctrinal shift from trial by the press to trial by social media represents not a mere technological evolution of an established phenomenon but a qualitative transformation that has fundamentally destabilised the constitutional architecture of judicial independence and fair trial rights in Indonesia. Unlike its classical predecessor, trial by social media

operates through decentralised, algorithmically amplified, and largely unaccountable networks that are structurally resistant to existing legal controls, generating a form of digital public pressure that is faster, more personalised, and more institutionally penetrating than anything the Indonesian legal order was designed to address. (Rifat et al., 2025) The empirical pattern evident in cases from Ferdy Sambo to Mario Dandy confirms that judicial and prosecutorial responsiveness has, in identifiable instances, become contingent upon digital visibility rather than legal merit, thereby inverting the normative hierarchy that constitutional law demands. Against the standards established by Article 24 of the 1945 Constitution, Law No. 48 of 2009, and Article 14 of the ICCPR, this inversion constitutes a demonstrable and recurring injury to both judicial independence and the presumption of innocence, an injury for which Indonesian positive law currently provides no adequate regulatory remedy.

On the second question, this study concludes that digital public pressure admits of conditional legal justification, but only within normatively defined limits that Indonesian law has yet to operationalise. Drawing upon Sen's distinction between *niti* and *nyaya*, the analysis establishes that the no viral, no justice phenomenon carries genuine democratic legitimacy when it functions as a mechanism of institutional accountability exposing systemic failure, amplifying marginalised voices, and demanding that formal legal obligations be discharged. (Shen et al., 2024) It forfeits that legitimacy entirely, however, when it crosses into digital lynching: the extrajudicial prejudgment of individuals, the targeted harassment of legal actors, and the substitution of crowd-determined verdicts for adjudicated justice. The concept of digitally mediated participatory justice, developed in this study, offers a principled framework for drawing this boundary in positive regulatory form one that honours both the constitutional guarantee of freedom of expression and the irreducible requirements of due process, and that Indonesian lawmakers must urgently translate into enforceable legal instruments if substantive justice in the digital age is to be determined by the rule of law rather than the logic of virality.

NOVELTY

This study advances an original conceptual contribution to the legal literature on the intersection of digital public discourse and the administration of justice. While prior scholarship has examined the no viral, no justice phenomenon primarily through descriptive, sociological, or single-framework jurisprudential lenses, no existing study has constructed a systematic normative architecture capable of legally distinguishing legitimate public participation in the justice process from its pathological counterpart. (AL-Dulaimi, 2025) This study fills that gap by conceptualising digitally mediated participatory justice as a novel framework that affirms the conditional democratic legitimacy of digital civic engagement in holding legal institutions accountable, while establishing explicit normative boundaries against digital lynching, understood as the extrajudicial prejudgment, targeted harassment, and crowd-determined condemnation of individuals that fundamentally violates the constitutional guarantees of due process, the presumption of innocence, and judicial independence. (Clark et al., 2026) The framework is constructed upon an integrated theoretical foundation drawing from Sen's *nyaya*-based theory of substantive justice, Habermasian communicative rationality, and the positive constitutional norms of the 1945 Constitution of Indonesia, rendering it both theoretically rigorous and institutionally actionable as a basis for regulatory reform. This study therefore does not merely diagnose a legal problem; it proposes a principled doctrinal solution, one capable of reconciling the

competing constitutional imperatives of freedom of expression and fair trial rights within a coherent, enforceable normative structure suited to the realities of the digital age.

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