

Cyberbullying Through Social Media in The Perspective of Article 27 Law Number 19 of 2016 Concerning Information and Electronic Transactions

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Abstract. This study aims to discover and understand what cyberbullying means and how it is regulated from the perspective of Article 29 of Law Number 11 of 2008 on amendments to Law No. 19 of 2016 concerning Information and Electronic Transactions. This writing uses a normative legal research method that examines the ambiguity of norms. The results of this study indicate that strict law enforcement is needed against perpetrators of cyberbullying through social media. The rapid development of technology brings positive and negative sides to internet use in Indonesia and the world, one of which is the crime of cyberbullying through internet media intermediaries. Internet users increased rapidly during the Covid-19 Pandemic as well as the number of cyberbullying crimes. This increase raises the assumption that law enforcement of cyberbullying through social media needs strict law enforcement because the obstacle to cyberbullying is the easy elimination of evidence, fake accounts, witnesses, and obstacles from the community.

Keywords: Cyberbullying, Social Media, Law Enforcement

1 Introduction

The development of technology and information is currently very rapid and has a broad influence on society, as social creatures who are dependent on one person and another and need interaction with the environment through communication on social media/the internet. The exchange of information and communication occurs very quickly and easily. The exchange of information is also very fast and easy to do, which is more contemporary and more practical. Nowadays information sources are very easy to obtain, the internet seems able to provide all the information needed by the public and information is easier to disseminate without restrictions. Law is a set of rules that bind and enforce society. The implementation process must be enforced by imposing sanctions so that the objectives of the law can be achieved. The law aims to provide universal benefits, namely how to create peace and tranquility in the community environment which can be felt concretely by all levels of society.[1] Law is a tool used to regulate human behavior and life so that it is by applicable values and norms.

Cyberbullying behavior is a pattern of activities carried out by the perpetrator repeatedly which is shown to frighten, anger, embarrass, and intimidate those who are the target, for example, such as spreading lies about someone or posting/uploading on social media embarrassing photos, pictures or videos about someone. This bullying can be done physically and non-physically, this behavior can also be done directly or through social media. This can

harm people who are targets of bullying and can even cause the victim to commit suicide or death. The forms and methods of cyberbullying are very diverse, it can take the form of threatening messages via e-mail, uploading photos that embarrass the victim, accessing the web to spread slander, and making fun of the victim accessing other people's social networking accounts to threaten the victim and create problems.[2]

Rapid developments in internet technology can give rise to crimes due to misuse of social media. Cyber intimidation or cyberbullying, which we know as cyberbullying, is regulated in several provisions of laws and regulations in Indonesia. The articles of the Criminal Code that are relevant in regulating cyberbullying offenses are the elements of insults listed in Chapter XVI concerning Insults, especially Article 310 paragraph (1) and paragraph (2). However, the criminal provisions in the Criminal Code for cyberbullying are very few and do not correspond to continuous intimidation, harassment, or verbal abuse carried out in cyberspace. So the government established Law Number 19 of 2016 concerning Information and Electronic Transactions. This law specifically regulates electronic crime and legal protection for the use of information, media, and communication technology so that it can develop optimally.[3]

As a result of these developments, information technology is gradually changing the behavior of society and human civilization globally. The development of information technology has also caused the world to become borderless and caused significant social change.[4] It is hoped that this writing can provide enlightenment and answers to the problems that occur

2. Methods

This writing aims to examine the ambiguity of norms contained in these regulations so that the normative legal research method is used. Normative legal research is research that focuses on studies of legal materials with the aim of achieving coherent truth.[5] The approach in writing this article is a conceptual analysis approach (Analytical Conceptual Approach) and legislation (Statute Approach).[6] The sources of legal materials used in this writing are secondary, tertiary, and primary legal materials. The technique for collecting legal materials used in this writing was carried out using a literature study, namely collecting, reviewing, and reviewing legal materials related to the perspective of constitutional law and administrative law. After being reviewed and studied, the legal materials are then analyzed using legal materials analysis techniques, namely the qualitative descriptive analysis method.[7]

3. Results and Discussions

According to the Big Indonesian Dictionary (KBBI), the meaning of the word bully is bullying while bullying is harassment. However, according to bullying theory in psychology, a bully is defined as aggressive behavior, bullying, or someone who disturbs a weak person and is often associated with phenomena that involve bullying, bullying, hazing, bullying, exclusion, and intimidation. In general, bullying is considered a form of crime due to the elements contained in the bullying. In bullying, several elements are dominant in the negative direction so that it is considered as a crime.

Bullying can be translated as bullying, where the word bullying is in line with the definition of bullying used by child parenting expert and consultant Barbara Coloroso.[8] There are three basic forms of oppression, namely; physical, verbal, and relational. However, in the legal realm, which is different from physical and verbal, relational bullying is difficult to prove in court because of its nature in the form of social exclusion. Therefore, in bullying and cyberbullying, two forms of physical and verbal bullying are more appropriate to use than

relational ones. This is because evidence of physical oppression can be seen from physical injuries, while verbal violence can be seen from trauma and fear. Meanwhile, relational ones are difficult to prove.[9]

The Making of a Bully :[8]

- a. *A working definition;*
- b. *What bullying is not-playful teasing, sibling rivalry, fighting that involves equals with competing claims;*
- c. *Bullying behaviors-physical aggression, shunning, verbal aggression, intimidation, and coercion;*
- d. *Where, how often, and who does it involve.*

Willard in his book Novan Ardy Wiyani entitled *Save Our Children From School Bullying*, mentions the various types of cyberbullying as follows:

1. *Flaming* (burning): namely sending a text message containing angry and frontal words. The term "flame" also refers to the words in the message that are fiery.
2. *Harassment* (harassment): messages containing harassment in emails, SMS, or text messages on social networks are carried out continuously.
3. *Denigration* (defamation): namely the process of spreading bad things about someone on the internet to damage that person's reputation and good name.
4. *Impersonation* (impersonation): pretending to be someone else and sending bad messages or statuses.
5. *Outing*: spreading other people's secrets, or other people's private photos.
6. *Trickery* (deception): to persuade someone by deception to obtain that person's secrets or private photos.
7. *Exclusion* (expulsion): intentionally and violently expelling someone from an online group.
8. *Cyberstalking*: to disturb and defame someone intensely to cause great fear in that person.[10]

Digital bullying in Indonesian law is regulated by the Information and Electronic Transactions Law (referred to as the ITE Law). As for Article 27 paragraphs (1), (3), and (4) of the ITE Law in full it reads:

Article 27 paragraph (1) of the ITE Law:

"Every person intentionally and without right disseminates information and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents which have content that violates decency."

Article 27 paragraph (3) of the ITE Law:

"Every person intentionally, and without right, distributes and/or transmits and/or creates and/or makes accessible Electronic Information and/or Electronic Documents which contain insulting and/or defamatory content."

Article 27 paragraph (4) of the ITE Law:

"Every person intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents which contain extortion and/or threats."

To implement regulations regarding social media and all matters related to it, Law Number 11 of 2008 Jo. Law Number 19 of 2016 concerning Information and Electronic Transactions. The ITE Law regulates various legal protections for all activities that use the

internet as a medium, both transactions and the use of information. However, cyberbullying is not clearly regulated regarding its elements, the regulations in the ITE Law only regulate the elements of insults, defamation, threats, and extortion.

The penalties that can be received for those who violate the provisions of Article 27 paragraphs (1), (3), and paragraph (4) are contained in the provisions of Article 45 paragraphs (1), (3), (4), and paragraph (5) of the Law -Law Number 11 of 2008 Jo. Law Number 19 of 2016 concerning Information and Electronic Transactions. Legal regulations regarding cyberbullying in Indonesia can be said to have been implemented well, but there are still many people who do not know about the laws and regulations governing cyberbullying. This results in bad impacts and/or negative impacts on victims of cyberbullying who feel cornered, depressed, and suicidal.

Following the principle of *lex specialis derogate legi generali*, the principle of legal interpretation which states that law is specific, overrides general law. So that the Criminal Code is no longer used. Efforts that can be made to overcome criminal acts of bullying through social media can be made through non-penal measures (preventive and pre-emptive) and penal measures (repressive), namely:

1. Pre-emptive efforts include improving human resource skills in the fields of technology and information and improving facilities.
2. Preventive efforts include holding outreach by schools and the community to wisely use social media such as Facebook, Twitter, and Instagram.
3. Penal measures include the application of criminal law. In this criminal act of cyberbullying, the police against the perpetrator of the criminal act of cyberbullying begin with an investigation, followed by cooperation with related parties, and finally, action is taken and the application of the law, namely Article 27 paragraphs (1), (3), and (4). Article 28 paragraph (2) and Article 29 of the ITE Law.[11]

4. Conclusion

Law enforcement against perpetrators of cyberbullying in Indonesia can be carried out with several legal measures and by using Law Number 11 of 2008 Jo. Law Number 19 of 2016 concerning Information and Electronic Transactions in Article 27 paragraphs (1), (3), and paragraph (4), Article 28, and Article 29 of this Law. With the rapid development of social networks, there are still several elements of cyberbullying such as Flaming, Harassment, Impersonation, Trikey, Exclusion, and Cyberstalking which are not contained in the provisions regulated in Article 27, Article 28, and Article 29 of the ITE Law. The ITE Law only contains a few elements such as insults and threats. There are so many victims of cyberbullying in Indonesia, so more complete and firmer regulations are needed for this criminal act of cyberbullying.

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