



LAW ENFORCEMENT OF HATE SPEECH CRIMINALS THROUGH SOCIAL MEDIA BASED ON INDONESIA'S POSITIVE LAW

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Abstract

Technological developments have provided convenience for people in various aspects of life. To prevent and deal with the negative impacts of technological developments, effective and efficient efforts are needed. This includes implementing appropriate laws and regulations to protect society from technological crime. Government and non-government organizations, as well as technology companies, also need to work together to strengthen cyber security, increase public awareness of the risks of digital crime, and educate users about safe practices in using technology.

The normative juridical research method that you mentioned is the right approach to study laws and legal theories related to criminal acts, especially hate speech through social media, based on Indonesian positive law. The statutory approach in normative juridical research focuses on an analysis of existing laws and regulations.

Referring to the Chief of Police Circular Letter Number SE/06/X/2015 concerning Handling Hate Speech, the police pay attention to and implement preventive measures in dealing with hate speech. The circular letter provides guidance for law enforcement officials in handling hate speech cases. The handling of hate speech in Indonesia is helped by the existence of the ITE Law which contains more detailed rules regarding crimes committed through electronic media, but also presents several obstacles, firstly the police factor, where complaints are still being made. Many perpetrators do not understand that their actions are defamation. They think what they are doing is just a demonstration of bullying or dissatisfaction with a party. Even if the act harms another person, it can be prosecuted.

Keywords: Crime, Law Enforcement, Hate Speech

INTRODUCTION

In the era of globalization marked by the rapid development of technology, we witness the great influence exerted by technology on human life. Technology has affected all aspects of our lives, from communication and transportation to the way we fulfill our daily needs. Technological developments indeed provide convenience and efficiency for humans. We can carry out various activities quickly and easily through electronic devices and internet access. Technology also allows us to interact with other people around the world through social media, instant messaging or video calls.

Crime is a social phenomenon that continues to develop in line with the development of society. Even though crime as a tradition or culture is not recognized, crime grows and develops in society. Crime cannot occur without interaction and the social environment in which the behavior develops. It is important to study and understand the various forms of crime that exist in society. By understanding the nature and causes of crime, we can take steps to prevent it and protect society from the harm it may cause.

Crime exists in society not only in developing environments, but also in developed societies with

more sophisticated technological advances. Crime has evolved and spread to cyber or virtual worlds widely. Crime in cyberspace has its own characteristics and is different from conventional crimes that occur in the real world. Advances in electronic technology, such as computers and the internet, have provided convenience in everyday life and supported various aspects of the human workforce. However, the use of electronic devices and computers also provides opportunities for criminals to commit crimes in new and different ways. For example, computer crimes such as hacking, data theft, online fraud, and software piracy are examples of crimes related to the use of electronic technology.

The impact of hate speech, especially that spread through social media, can have significant consequences. Hate speech can affect human behavior and create divisions in society. It is important to note that the use of social media and internet technology does not completely determine an individual's critical attitude and culture. However, unwise use or lack of critical understanding of the information received can contribute to the spread of hate speech or fake news. To overcome the negative impact of hate speech, it is important to increase media and information literacy, encourage criticism in consuming and sharing online content, and promote dialogue, understanding and tolerance in society.

Hate speech can have a serious impact on human rights (HAM) violations. At first it was just words spread through social media or leaflets, but the impact can be very detrimental and even trigger widespread social conflict, violence and even bloodshed. In handling hate speech cases, law enforcement officials, especially the police, have an important role in preventing, prosecuting and handling cases.

If not handled effectively, efficiently and in accordance with statutory provisions, hate speech has the potential to cause widespread social conflict and can trigger discriminatory actions, violence, even to the loss of life. Hate speech includes acts of communication that attack, incite, or humiliate individuals or groups based on characteristics such as race, skin color, gender, disability, sexual orientation, nationality, religion, and so on. The use of the internet and social media has provided wider access for individuals to spread hate speech. Therefore, it is important to regulate and monitor content that is destructive and has the potential to incite hatred, in accordance with the provisions of the applicable laws and regulations.

Examples of cases that I read in articles and on the internet involve the suspect Ratna Sarumpaet. Ratna Sarumpaet is one example that involves spreading false information or hoaxes on social media. Initially, a photo of Ratna Sarumpaet's bruised face circulated, and this sparked speculation and negative comments from netizens. The first news that appeared about the persecution at Bandung's Husein Sastranegara Airport was later clarified by the airport that there was no CCTV evidence showing the robbery had taken place there. Later, Ratna Sarumpaet held a press conference and admitted that she had not experienced abuse, but had recently undergone cosmetic surgery. This led to controversy and an investigation by the police regarding the dissemination of false information. Polda Metro Jaya then found Ratna Sarumpaet on September 21, 2018. Cases like this show how the use of social media and the dissemination of false information can have a negative impact on one's reputation and can

trigger social conflict. Therefore, it is important to understand the power and responsibility of using social media and promoting ethical digital sustainability.

Seeing the case above, almost all countries around the world have laws that regulate Hate Speech, namely Singapore, Malaysia and Indonesia. In Indonesia, the articles governing actions regarding hate speech against a person, group or institution based on the Chief of Police Circular Letter No: SE/06/X/2015 are contained in Law No. 11 of 2008 concerning information & electronic transactions and Law No. 40 2008 concerning the elimination of racial and ethnic discrimination (Kapolri, SE/06/X/2015).

Insult and defamation are indeed terms that are often used in the context of hate speech or acts of communication that harm or attack a person's dignity or reputation. In some legal systems, defamation or defamation may be considered an offense or delict. Although there are differences of opinion in understanding the concept of honor and good name, many agree that one's honor and reputation are rights that must be respected. Protection of individual honor and reputation can be considered part of human rights, such as the right to privacy and protection against slander or personal attacks.

Based on the problems that have been stated above, several problems are formulated, namely (1) Law Enforcement Against Hate Speech Crimes Through Social Media Based on Indonesian Positive Criminal Law?, (2) Obstacles Faced in Efforts to Enforce Hate Speech Crime Laws?.

Law enforcement

Law enforcement is an important process in maintaining the enforceability of laws and regulations and realizing justice in a society. This involves various elements, including the community and law enforcement. (Machmud, 2012). The law enforcement process involves steps such as investigation, collection of evidence, detention, examination in court, and the imposition of penalties or sanctions according to the violations committed.

Criminal act

Crime is a basic concept in criminal law. Criminal acts refer to actions that are prohibited by criminal law because they violate the norms regulated in laws and regulations. In the context of criminal law, criminal acts can also be categorized based on their severity. Crimes can be classified as misdemeanors, moderate offences, or serious crimes, depending on the legal consequences and the degree of danger. Arrangements regarding criminal acts are contained in the laws and regulations that apply in a country, such as the Criminal Code (KUHP) in Indonesia. These laws and regulations define the elements and sanctions related to criminal acts, as well as the prosecution and trial processes that must be followed in law enforcement.

CyberCrime

Cybercrime or cyber crime is a form of crime related to the use of information technology and the internet. This crime involves the use of a computer, computer network, or other electronic device to engage in unlawful activities. The international community is very concerned about the problem of cybercrime because of its far-reaching and detrimental effects. To overcome cybercrime, cooperation between countries in terms of law enforcement and cybersecurity is important, as well as the development of adequate policies and regulations to protect society from the threat of cybercrime.

Illegal Access (Unauthorized Access)

Opening or logging into other people's accounts without permission and intentionally is an act of crime in cyberspace known as hacking or hacking. This involves unauthorized access to another person's system, device or account with the aim of stealing personal information, destroying data or doing some other harmful act.

Hate Speech

Hate speech refers to speech or utterances that aim to spread hatred, provoke or insult certain groups based on race, religion, belief, gender, ethnicity, disability, sexual orientation or other attributes. It is an act of communication that can include the use of social media, websites, forums or other online platforms (Syahdeini, 2009). At the legal level, hate speech is considered to violate the principles of justice, equality and human rights. Many countries have laws that prohibit and punish hate speech in various forms. The purpose of this law is to protect the public from hatred, discrimination and violence that may result from hate speech.

METHOD

Soerjono Soekanto's opinion about legal research is correct. Legal research is a scientific activity that involves the use of certain methods, systems and ideas to study legal phenomena. The main objective of legal research is to understand, analyze and provide an in-depth understanding of specific legal phenomena. In legal research, researchers apply relevant research methods, such as normative juridical methods (analysis of laws and legal theory), empirical methods (collection of data through observation, interviews, or literature review), or comparative approaches (comparing legal regulations in various countries).

Legal research is a scientific activity based on certain methods, systematics and thoughts, which aims to study one or several legal phenomena by analyzing them (Ali, 2016)

1. Type of Research

Legal research with a normative juridical approach focuses on analyzing legal norms contained in laws and regulations, court decisions, and existing norms in society. This approach

aims to understand, interpret, and review applicable legal norms and apply new arguments, theories, or concepts in solving legal problems at hand.

The type of research used is normative legal research which examines written law from various aspects, namely aspects of theory, history, philosophy, comparison, structure and composition, scope and material, consistency, general explanation, and article by article (Abdulkadir 2004). This research will be studied normatively by studying and researching the scope and material of the provisions in Law Number 11 of 2008 concerning Electronic Transaction Information.

There are several approaches to legal research that will make it easier for researchers to obtain information from various aspects of the issue being studied. These approaches are as follows: (Marzuki, 2016)

- a. Statute approach
 - b. Case approach
 - c. Conceptual approach
 - d. Historical approach
 - e. Comparative approach
2. Sources of legal materials
- a. Primary Legal Materials, namely Primary Legal Materials, are legal materials that have binding legal force in the form of legislation consisting of:
 - Law Number 1 of 1946 concerning the Criminal Code (KUHP)
 - Law Number 11 of 2008 concerning Information and Electronic Transactions
 - Circular Letter of the Indonesian National Police Number SE/06/X/2015 concerning Handling Hate Speech
 - b. Secondary legal material, namely legal material that is explanatory to primary legal material, which consists of books, literature, news, journals and scientific papers related to this research and interviews with informants related to this research.
3. Analysis of Legal Materials

Analysis of legal materials in normative juridical research is generally carried out using qualitative analysis methods. This method aims to understand and analyze data in depth and descriptively without using mathematical formulas or numbers (Soekanto, 2014). In qualitative analysis, the researcher collects relevant legal materials such as laws, regulations, court decisions, legal documents, and other sources.

DISCUSSION AND RESEARCH RESULTS

1. Law Enforcement of Hate Speech Crimes Through Social Media Based on Indonesian Positive Criminal Law

Law enforcement that prioritizes legal certainty is indeed important in the legal system in Indonesia. The principle of legality emphasizes that acts of violation of the law must be based on clear and generally applicable legal provisions. The positive law that applies in Indonesia refers to the laws and regulations that have been stipulated by the legislature. In the context of law enforcement, the institution that has authority in the field of investigation and investigation of crimes is the police. Criminal law enforcement involves a series of processes which include investigation, investigation, prosecution and punishment.

Arrangements related to hate speech were originally regulated in the Criminal Code, then passed Law Number 11 of 2008 concerning Information and Electronic Transactions which regulates criminal acts of hate speech carried out through social media, one of the legal principles adopted by Indonesian positive law is *lex specialis derogate legi generali* where in this case the ITE Law has a more specific nature in regulating criminal acts of hate speech through electronic media, so that in the application of punishment law enforcement uses the ITE Law to handle cases of hate speech committed through electronic media.

In the process of law enforcement, not all criminal acts can be directly prosecuted in court. There are several criminal acts that require complaints from parties who feel aggrieved or have an interest so that the prosecution process can be carried out. This is commonly referred to as a complaint offense. Complaint delict is a crime whose prosecution requires an official complaint from the party who feels aggrieved. For example, in the ITE Law (Electronic Information and Transaction Law), there are articles that constitute complaint offenses, such as insult or defamation. Article 27 paragraph 3 of the ITE Law, after being amended, states that the criminal act of defamation or defamation is a complaint offense. That is, the party who feels aggrieved must submit a complaint so that law enforcement can carry out the prosecution process.

Changes to the articles of the ITE Law were made to ensure a balance between protecting individual rights against insults or defamation and freedom of expression. With a clear clause regarding complaint offenses, law enforcers cannot prosecute without a valid complaint from the party who feels aggrieved.

In the context of law enforcement related to criminal acts of hate speech, the police play an important role. Circular of the Chief of Police of the Republic of Indonesia (SE. Kapolri) Number: SE/6/X/2015 concerning Handling of Hate Speech is a guideline for the police in handling cases of hate speech. The circular letter provides instructions and directions to the police regarding approaches and actions to be taken in handling cases of hate speech. This Circular Letter contains steps to enforce the law, such as gathering evidence, the process of investigation, investigation and prosecution of perpetrators of hate speech.

The result of hate speech is that words appear that influence people's behavior or that these words can also affect society, especially public opinion. According to Herawat, the influence of social network users on the use of internet technology is not due to critical attitudes and culture

towards the problems they face. For example, fake news is a type of resource on social networks, the ratio is 10/90, which means that 10% of Internet users commit fraud and the remaining 90% spontaneously spread information through social networks.

Hate speech also has an impact on human rights violations ranging from mild to serious. At first it was just words, on social media or through leaflets, but the effect can encourage the masses to inflame conflict and bloodshed. Therefore, it is very important for law enforcement officials and law enforcement officials, especially the police, to take preventive and repressive actions in dealing with incidents of hate speech.

Hate speech, or what is often called in Indonesian, is an expression that is closely related to minorities and indigenous peoples. Hate speech is different from general speech, although the term includes anger, attacks, and outbursts. This difference lies in the purpose of an affirmation, which aims to influence in a certain direction, either directly or indirectly. If statements made with passion and enthusiasm suggest that they can publicly incite violence or harm another person or group, then incitement to hatred is also working. (M. Choirul Anam and Muhammad Hafiz, 2015).

Defamation

The definition of defamation in criminal law is insulting a person's good name or honor by means of an oral or written statement. An example is the Ahmad Dhani incident in 2018, which started when Ahmad Dhani made video content containing the word "Idots" which was considered to be slandering a protester outside the hotel where he was staying. As a result of his actions, Ahmad Dhani was charged with Article 27 (3) of the Electronic Information and Transaction Law which refers to Article 45 of the Criminal Code. The prosecutor filed a year-long defamation charge at the Surabaya District Court on Tuesday, April 23 2019. If you look at Ahmad Dhani's case, his actions were loaded with offensive content according to the article Deliberately Spreading Content. on. And free on December 20, 2019.

According to my analysis, in Ahmad Dhan's case, the video content containing the word "idiot" condemned him and was therefore deemed insulting to the reputation and existence of the participant. . the damned radicalized elements of the alliance. Defenders of the Republic of Indonesia in East Java and journalists including opponents of the #2019Change President declaration. In October 2018, Ahmad Dhani was officially named a suspect for defamation. Ahmad Dhani was found guilty of the Electronic Information and Transaction Law (UU ITE).) Article 45(3) and Article 27(3) allegedly contain insults and slander in the collection of statements on behalf of the President in the video content material.

One example is the blasphemy case involving the defendant Dwi Hndoko, 43 years old, who lives in Surabaya, where Firman Ismail told him about two social media posts on Facebook and Instagram. Firman saw the news when he started opening his social media. in the media and saw an

account named Cak Handoko Ludruk who posted pictures with words that insulted Allah. His actions were charged under several articles, namely article 45a paragraph 2 no./19/2016 concerning information and electronic transactions and article 156 of the Criminal Code concerning blasphemy.

Based on my analysis of Dwi's own case, he also uploaded the same post to social media four times. It is also acknowledged that the purpose of being tried before a jury is because Allah has both good and bad characteristics. The goal is to wake people up, make their own mistakes, and even regret what they did.

For example, the case of Veronica Coma. This human rights activist was named a suspect in spreading fake news and provocation at the Papuan Student Housing (AMP) on Jalan Kalasan, Surabaya. Veronica is believed to have been there and brought two foreign journalists to the scene. However, Veronica is also suspected of actively carrying out provocations at home and abroad through her Twitter account. The police immediately questioned six witnesses, three witnesses and three experts, based on evidence and information, Article 160 of the Criminal Code, Law No. 1 of 1946 and Law No. 40 of 2008. Meanwhile Veronica was in Australia several times more and is now engaged but that hasn't changed until the police finally giving Veronica the position of data protection officer.

After I analyzed the Veronica Coma case, the facts themselves were not clear, because Veronica, who is still abroad, was invited several times and only appeared on social networks in messages with yes. He will not return to Indonesia until the end of his studies because if he does not complete his studies, he will have to pay an LPDP scholarship fine. Various comments flooded the media comment column, some even told him to go home because government education costs would also be handed over to the state.

Spreading Fake News

According to R. Soesilo, spreading fake news means sending messages or messages that pretend that the messages sent are fake news. Fake news not only tells empty news, but also tells an event that is not true.

An example of an incident that shocked residents was the Ratna Sarumpaet case, where activist Ratna Sarumpaet was arrested by Polda Metro Jaya at Soekarno Hatta International Airport on Thursday night, October 4 2018. Ratna was arrested before flying to Santiago, Chile. Jaya Kommari Raden Prabowo Argo Yuwono, Public Relations of Polda Metro, said Ratna was arrested because the police named her a suspect in spreading fraud.

According to my analysis, Ratna Sarumpaet completes the element of disseminating information, making false statements and deliberately disturbing the public so that the writer approves the judge's sentence of 2 (two) years in prison. . The fact that the defendant deliberately spread fake news or hoaxes for propaganda purposes, while involved in politics, was widely publicized on social media, making this case a hot topic. Through this fake news, the case went viral

and became a hot topic of conversation at all levels of society, as a result, the lie caused problems for everyone. A group of people from various backgrounds came to Polda Metro Jaya to protest and demand justice for the defendant Ratna Sarumpeat.

Seeing the case above, almost all countries around the world have laws that regulate Hate Speech, namely Singapore, Malaysia and Indonesia. In Indonesia, the articles governing actions regarding hate speech against a person, group or institution based on the Chief of Police Circular Letter No: SE/06/X/2015 are contained in Law No. 11 of 2008 concerning information & electronic transactions and Law No. 40 2008 concerning the elimination of racial and ethnic discrimination.

If it is not managed effectively, efficiently and in accordance with the law, it can lead to widespread social conflict and the possibility of discriminatory acts, treatment, violence and/or loss of life. Hate speech itself is communication by individuals or groups that incites or offends other individuals or groups in various ways, such as race, skin color, skin color, gender, disability, sexual orientation, national or religious origin. and others. The legal meaning of hate speech is that it is forbidden to say, do, write or make fun of because it can lead to violence and prejudice against the perpetrator or victim of that behavior. Websites that use or implement hate speech are called hate sites. Most of these sites use forums and online news to get their point across.

2. Obstacles Faced in Efforts to Enforce the Law on Hate Speech Crimes

Obstacles to law enforcement are not only seen in laws and regulations, but there are other obstacles that make the police always face obstacles in handling cases of hate speech.

Factors Influencing Law Enforcement

Law enforcement is an absolute requirement for efforts to create a peaceful and prosperous Indonesia. The following are several factors that influence law enforcement, namely.

Legal substance factor

Legal substance refers to the rules, norms and patterns of human behavior that exist in the legal system. Legal substance includes principles, values, and provisions governing actions and relationships between individuals, groups, and institutions in society. Legal substance also includes legal products such as court decisions, laws and regulations, and other regulations produced by law makers or institutions that have the authority to make legal rules. This legal product aims to regulate human actions, maintain order, uphold justice, and create legal certainty in society.

Law Enforcement Factors

Members of the Police are role models for society who are required to have special expertise in accordance with the wishes of the community. Law enforcement agencies must be able to communicate with the public, gain understanding and act in a role that is acceptable to them. Law enforcement must be able to utilize certain traditional design elements to encourage citizen

participation. Law enforcement agencies must also be able to choose the right time and environment to introduce new legal standards and lead by example.

The role of law enforcement is required in the implementation of certain laws and regulations, where law enforcers act as executors of law enforcement. When law enforcement is effective, then the ideals contained in the law can be achieved.

Facility and Infrastructure Factors

Law enforcement requires the support of adequate vehicles and facilities. This includes skilled, well-organized human resources, adequate equipment, and adequate finances. Without this support, law enforcement will face many obstacles and it will be difficult to achieve its goals. Highly educated workforce in the context of law enforcement refers to law enforcement officials who have the expertise and skills needed to serve and protect the community according to their duties and areas of responsibility. Acceptance of law enforcement officers should be based on relevant qualifications and competencies. However, in some cases, the practice of bribery or nepotism can affect the admissions process, so that the quality and integrity of law enforcement officers is questionable.

Community Factors

The principle of justice emphasizes that it is assumed that everyone knows the law, that is, every member of society is bound by existing positive laws, everyone must know their respective rights and obligations, and must prioritize public interests over personal interests. Public awareness of law enforcement has a major impact on the policing process: when people obey the law, it is easier to achieve legal goals. But even though the rules have been enforced, in fact there are still people who commit violations. Author's opinion on public defamation: Currently, especially in social networks, many perpetrators do not understand that their actions are defamation, for example the criminal act of defamation committed by Prita Mulyasari with case number 225 - PK/PID.SUS/2011, which he told at the beginning. via email about the unpleasant incident he experienced at the hospital, but as a result of his actions he was prosecuted and sentenced by the hospital concerned because he fulfilled the requirements of Article 27 UU ITE paragraph 3.

Factors of Legal Culture (legal culture)

Legal culture essentially includes values according to applicable law, namely abstract concepts of right and wrong. This factor is very influential on law enforcement in society. If the law is considered responsive and ambitious, and heads of state have also shown examples of following and respecting the law and providing a channel of justice that satisfies the people, then society will

automatically respect the law more. Positive law is only effective if it is in line with the laws or cultural patterns that exist in society (Wijoyo, 2015). Finally, from the perspective of legal culture, its influence remains very dominant on law enforcement in Indonesia, both among police officers and in community culture (Rizki, 2016). Law is a means of changing people's behavior according to a given purpose.

In several cases of hate speech, we often cannot identify with certainty who the perpetrators are, because these perpetrators always use fake accounts to spread hate speech on social media. There are witnesses who know firsthand. Then members of the Indonesian National Police (Polri) as a police institution can carry out repressive law enforcement by referring to several existing laws and regulations to see how the Indonesian police institution still faces many challenges with its own apparatus.

Based on the information above, the authors conclude that the criminal act of defamation through social media has two aspects, namely: There are groups in the community who think that expressing opinions or criticizing a figure or group on social media is not a crime, but only an open statement. . . , but there are also parties (especially those who are criticized) who consider that this is an act that is detrimental to them. If they feel criticized and don't accept it, they will file a defamation complaint with the police. The role of law enforcement officials is to assess and verify whether the criticism is limited to expressing opinions or is classified as defamation.

CONCLUSION

1. Referring to the Chief of Police Circular Letter Number SE/06/X/2015 concerning Handling Hate Speech, the police pay attention to and implement preventive measures in dealing with hate speech. The circular letter provides guidance for law enforcement officials in handling hate speech cases. In addition, in Indonesia's positive law, there are provisions regarding criminal acts of hate speech in the Criminal Code and Law no. 11 of 2008 jo. UU no. 19 of 2016 concerning Amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions. This provision is the legal basis for law enforcement against hate speech cases, including the defamation case that you mentioned regarding the video content that contained the word "idiot" committed by Ahmad Dhani.
2. The handling of hate speech in Indonesia is assisted by the existence of the ITE Law which contains more detailed rules regarding crimes committed through electronic media, but also presents several obstacles, firstly the police factor, where complaints are still being made. From the people who feel that the police are not serious about the defamation reports they submit, the second is social factors, with the defamation being carried out by the public today, especially on social media. Many perpetrators do not understand that their actions are defamation. They think what they are doing is just a demonstration of bullying or dissatisfaction with a party. Even if the act harms another person, it can be prosecuted.

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