

The Role of Criminal Law in Overcoming Negative Content on Social Media : A Perspective on Information Law And Electronic Transactions

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ABSTRACT

The Electronic Information and Transaction Law (UU ITE) in Indonesia has become the legal basis for overcoming negative content on social media. The ITE Law aims to regulate and supervise electronic transactions and provide legal protection for users and electronic service providers. Regarding the problems studied in this study, the authors chose the following approach: 1) statutory approach, 2) analytical approach, 3) conceptual approach, and 4) case approach. In this way, we can conclude that Law Number 19 of 2016 concerning Information and Electronic Transactions has a role in being able to ensnare perpetrators of uploading negative content on social media as a criminal element for uploads in the form of decency.

Keywords: UU ITE, Social Media, Decency

I. INTRODUCTION

The Information and Electronic Transactions Law (UU ITE) in Indonesia has become the legal basis for dealing with negative content on social media. The ITE Law aims to regulate and supervise electronic transactions and provide legal protection for users and providers of electronic services.

According to Rulli Nasrullah (2014), internet crime, also known as cybercrime, is a new type of crime that is based on information technology and uses computer hardware and software. This is supported by data from the Indonesian Internet Service Providers Association, which shows that 196.71 million people in Indonesia used the internet in 2019–2020 (Q2) out

of a total of 266.91 million people. Social media is one of the most popular types of internet use because it allows people to communicate, search for information and make friends wherever they are.

According to data sent by the Directorate General of Information Applications, during 2020, 130,254 sites with negative content and 183,434 negative content on social media were handled, with several categories of negative content. 46,172 cases for pornographic data from a total of 130,254 sites were negatively charged, while content on social media was not specifically explained, only the fact that the most common uses of social media were Twitter, Facebook, Instagram, Whatsapp, File Sharing, Youtube, Telegram and Line.

In fact, the publication and dissemination of illegal content cases is the main source of violations of the ITE Law. In 2017, the Cyber Crime Division of the Indonesian National Police investigated 1,763 reports. Of the number of cases, fraud with 767 cases was the highest, followed by defamation with 528 cases and pornography with 100 cases. Otherwise, hacking is the lowest case that only happens once. The number of violations of the ITE Law during the 2018 election was dominated by illegal content, especially hate speech and fraud. This shows that violations of the ITE Law are still dominated by violations of illegal content.

The role of criminal law in dealing with negative content on social media is to provide legal sanctions against perpetrators of cybercrime and to prevent similar acts from occurring in the future. In this case, the ITE Law is a tool for the government to enforce the law and provide legal protection for the public in using social media. However, the use of the ITE Law in dealing with negative content on social media has also caused debate because several provisions in this law are considered too broad and could lead to repressive measures against freedom of expression. Therefore, the implementation of the ITE Law must be carried out wisely and proportionally to ensure that human rights and freedom of expression are maintained.

II. METHODS AND MATERIAL

The type of research carried out in this research is a normative legal / normative juridical research method (Neon Muhajir, 2022). Normative juridical research is research that refers to legal norms that exist in statutory regulations (Mukti Fajar and Yulianto Achmad, 2017). Regarding the problems studied in this research, the author chose an approach according to Peter Mahmud Marzuki (2020): 1) A legislative approach which uses legal materials in the form of statutory regulations as the basic element of research, 2) An analytical approach to law to find out the

meaning from the terms used in statutory regulations conceptually, as well as knowing their application in legal practices and decisions, 3) Conceptual Approach which provides an analytical perspective on solving problems in legal research seen from the aspect of the legal concepts behind them, or can even be seen from the values contained in the norming of a regulation relating to the concepts used, and 4) The case approach used by reviewing cases that have had court decisions and are related to problems at the *judex factie* level or decisions that have permanent legal force. Case studies are studies of cases related to problems with a review of various legal aspects.

III. RESULTS AND DISCUSSION

A. The Role of Criminal Law in Overcoming Negative Content on Social Media

A lot of negative content or words are commonly found on social media and even some social media users have made negative content a source of financial activity for them, such as negative content with pornographic elements. Very few social media users seek followers by inserting negative content such as porn into their social media accounts, that's because too many social media users are very worried when it comes to content like this, actions like this that cause customer seekers to repeatedly post negative content. Many people don't know that posting things that contain negative elements such as elements of politeness on social networks can be punished under Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions. the application of polite elements in the use of polite expressions must also be studied in the use of Law 44 of 2008 concerning Pornography in relation to the application of immoral elements.

The most common violations related to electronic media are violations of the values and norms that apply in the territory of Indonesia, for example regarding pornography and pornography. The laws

and regulations that apply to producers of popular pornography in society must be considered from at least two aspects, namely:

- a. Aspects of the time or period when the pornographic object was made;
- b. Aspects of the time or period of distribution of pornographic objects in society.

The laws and regulations that form the legal basis that can be applied to pornography perpetrators include:

- a. Article 282 paragraph (1) of the Criminal Code;
- b. Article 282 paragraph (1) of the Criminal Code jo. Article 55 paragraph (1) 1st of the Criminal Code
- c. Article 27 paragraph (1) jo. Article 45 Law No.11 of 2008 concerning Information and Electronic Transactions;
- d. Article 4 paragraph (1) jo. Article 29 Law No.44 of 2008 concerning Pornography;
- e. Article 6 jo. Article 32 of Law No. 44 of 2008 concerning pornography;
- f. Article 8 jo. Article 34 of Law No. 44 of 2008 concerning Pornography;
- g. Article 9 jo. Article 35 of Law No. 44 of 2008 concerning Pornography;

From some of the pornographic acts above, there are overlapping meanings such as the concepts of production with production, multiplication with cloning, distribution with distribution and sales. This is also clarified in the interpretation of Article 13 paragraph (1), namely: 1) "acting" means creating, falsifying, copying or reproducing; and 2) "use" means listening, displaying, using, possessing or storing. This leads to the fact that in certain cases two or three violations can be applied simultaneously.

Some types of negative content, such as pornography, can be in the form of text, images or videos. If in written form it is a sentence that refers to a person's private parts or what could be called human private parts, then why can it be stated elegantly or referring to the body's contents? the porn video itself.

Negative forms of social media that contain explicit sexual or indecent elements refer to article 4 of 44 of 2008 concerning pornography, especially if someone

posts statuses or comments with the intention of cornering other people by using sentences that contain immoral elements, namely. the use of this word is insulting because it refers to harsh words such as referring to sex which means irregular sex, also referring to executioners or other people's cruelty, as well as referring to their articles which mention human organs referring to the genital organs of both women or even men. In the case of the research subject, the author is known to have used several negative expressions which are known to contain elements of politeness in posts uploaded to public media services. This refers to the provisions of Article 4, where some of the creator's posts result in the use of elements of verbal abuse or nudity.

Based on the provisions of Article 27 paragraph (1) of Law Number 19 of 2016, amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions regarding the fulfillment of the elements of every person as a legal subject refer to events in case with Decision Number 518/Pid.Sus /2016/PN JKT.SEL for uploading posts that are known to violate moral norms.

The act of intentionally refers to the facts of the case with decision number 518/Pid.Sus/2016/PN JKT.SEL, someone fabricated on the basis of information about the decision of the author intentionally the act of uploading a post containing obscene elements. This author uploads status in the form of articles and/or images which are based on the provisions of Law Number 44 of 2008 concerning Pornography including any content which includes and violates the rules of etiquette.

B. Criminal Legal Consequences That Arise from Uploading Negative Content

Criminal acts with negative content such as pornography via social networks are not specifically regulated in the Criminal Code. The Criminal Code does not recognize the term pornography. However, there are provisions of the Criminal Code that can be applied to actions related to this offense, namely

article 282 of the Criminal Code concerning ethical violations. “YP openly states that an article with known content, or an image or element that he knows violates his sense of decency, or creates, sends, directly submits, withdraws or makes available an article, image or item for dissemination, display or posting in a manner that can be seen by many people, or announcing or distributing letters, or requests to make public or show documents that can obtain writings, pictures or objects, are punishable by a maximum imprisonment of one year and four months or a maximum fine of up to IDR 4,000.

Advances in information and communication technology have had various impacts, both positive and negative, because on the one hand it contributes to improving human welfare, development and civilization, but on the other hand it has become an effective means of breaking the law. . Information and communication technology has also changed people's behavior and lifestyle globally, towards a borderless world and brought changes in various areas of life. The perpetrators often underestimate these various actions, because many people who commit illegal crimes, they also carry out these activities consciously and deliberately, even though it is very clear that 'there is a connection, a threat from these activities' caused by the perpetrator. , things like this are considered normal, the threat is not scary because perpetrators who have experienced or experienced acts like this do not get goosebumps. The development of information technology has had an impact on the revolution of traditional forms of crime to become more modern. The type of activity may be the same, but with different media, namely cyberspace, it will be more difficult for criminals to be investigated, handled and prosecuted.

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The crime of hacking arises because the human condition is unstable both in terms of religion, economics, morals and legal awareness. The actions taken by the perpetrator in disseminating decency phrase content on social media is a crime that is contrary to the applicable regulations in the Information and Electronic Transactions Law. In Law Number 19 of 2016, an amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions, there are several forms of crime that have been regulated and prohibited, both actions and/or actions that cause material loss and actions related to material loss. Based on the provisions of Article 45 paragraph (1) of Law Number 19 of 2016, amendments to Law Number 11 of 2008 concerning Electronic Transaction Information regarding the fulfillment of the elements of every person as a legal subject refer to the incident in case with Decision Number 518/Pid.Sus/ 2016/PN JKT.SEL for uploading posts that are known to violate moral norms.

The author with the initials YP is a teacher at a university in Indonesia because the provisions for fulfilling the elements of legal subjects in Law No. 19 of 2016 amending Law No. 11 of 2008, electronic

information and transactions are declared appropriate and listed as a problem in the Indonesian criminal law system . Apart from that, the second point deliberately refers to an event where there is a decision number with 518/Pid.Sus/2016/PN JKT.SEL someone is the creator based on information about the original maker's decision. regarding uploading posts uploading indecent elements. This author uploads statuses in the form of articles and/or images based on the provisions of Law Number 44 of 2008 concerning Pornography, including any content that includes and violates the provisions of decency.

This action was carried out deliberately because in this incident the author had been uploading it to his social network for a long time. In this case, the perpetrator is expected to carry out the act repeatedly. It can be concluded that because they carried out their actions with full awareness, it can be said that they committed the crime intentionally without fulfilling the element of intent. It is also known that the author does not have the right to download content that contains elements of modesty.

This can be seen when someone registers for the social networking account service. In the privacy and policies listed when a person registers for a social media account service, he or she must comply with all aspects listed in the privacy and policies of the social media service specifically.

So it can be concluded that the actions taken by the perpetrator are contrary to policy and privacy, which is an action that is outside the perpetrator's rights to access social media. Then regarding the third element in Article 45 paragraph (1) of Law Number 19 of 2016, amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions, it is stated that a person who distributes and/or transmits and/or makes accessible the actions taken carried out by the perpetrator referring to the case with Decision Number 518/Pid.Sus/2016/PN JKT.SEL, it is known that this was due to the perpetrator's actions in deliberately uploading content containing decency, in this case several posts containing the phrase decency

on his social media account and aimed generally at public, thereby causing the content to be viewed and/or accessed by other social media users.

For this action it is clear that the implementation of the elements of these three subjects has fulfilled the elements of article 45 paragraph (1) of Law no. 19 of 2016 amending law no. 11 of 2008 concerning electronic information and transactions. The actions carried out by the creator are activities that can give rise to legal consequences for themselves. The act of deliberately and/or unlawfully spreading sexually explicit content and displaying it to the public so that other social media users become consumers.

The actions of the perpetrators also clearly conflict with the values of the legal rules that apply in Indonesia. Indonesia itself is a country with a shameless or friendly culture that is world famous for encouraging obedience, but not everyone understands how to behave well with other people, also because the right to free use of social networks often leads to fights between other users, there is no other people, it is not because there is one party that causes controversy, so arguments often occur on social networks, even though the social networks themselves are not intended in that direction. The next element that fulfills the elements of Article 45(1) of the Information and Electronic Transactions Law Number 19 of 2016 is the subject matter covered in that article, electronic documents.

In this case, if the author pays attention to certain things in the act of posting content that contains elements of polite sentences, this case is classified as respecting polite elements, then it is clear that the form of the cam author's link posted on their social media service is an electronic document.

This shows that shipments which are electronic documents can be entangled in the use of Article 45 paragraph (1) of Law no. 19 of 2016. Thus it can be concluded that in this fourth element the author's actions have fulfilled the request. article. The final element of Article 45 paragraph (1) of Law Number 19 of 2016 concerning Information and Electronic

Transactions is the existence of elements that are contrary to good manners.

If we consider the case where fraudulent authors upload content to their social media services, we know that the author in this case, as discussed in the previous section, is the content. The content uploaded by the author is based on the view of law number 44 of 2008 concerning pornography which can be classified as content that meets the elements of pornography. This means that obscene content is also included as content that contains items that violate the rules.

It is proven based on what is contained in decision Number 518/Pid.sus/2016/PN.Jkt.Sel. Based on Law Number 19 of 2016 concerning Information and Electronic Transactions. regulated in Article 45 paragraph (1) of the ITE Law regarding prohibited acts, namely: Then YP Imposing criminal sanctions for the distribution of pornographic content regarding sentences containing elements of the phrase decency. When anyone intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Material containing unethical content. Violation of Article 45(1) of the Information and Electronic Transactions Law is punishable by a maximum imprisonment of six years and/or a maximum fine of IDR 1,000,000,000 (Article 45 paragraph (1) of the Traffic Law). Information). In Article 53 of the Information and Electronic Transactions Law, it is stated that all applicable laws and regulations are declared valid, as long as they do not conflict with the Information and Electronic Transactions Law. Meanwhile, the law that strictly regulates pornography is law number 44 of 2008 concerning pornography. The definition of pornography in Article 1 point 1 of the Pornography Law is: images, sketches, illustrations, photos, writing, sound, moving images, animations, cartoons, dialogue, body movements or other forms of messages through various forms of communication and/or public performances, obscene content or sexual exploitation that violates standards.

IV. CONCLUSION

Law Number 19 of 2016 concerning Information and Electronic Transactions has a role in being able to ensnare perpetrators of uploading negative content on social media as a criminal element for uploads that are in the form of decency, namely content or sentences uploaded to social media services that contain elements of decency and distributed widely or without rights or for public consumption by users of other social media services. The law arising from the use of content with indecent content on social networks based on the criminal law in force in Indonesia is a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (One Billion). Rupiah) based on Article 45 of the Information and Electronic Transactions Law No. 19 of 2016.

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