

CRIMINAL LIABILITY PERPETRATOR BULLYING THROUGH SOCIAL MEDIA

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Abstract

The elements of the object of a criminal offense are acts carried out by distributing and/or transmitting and/or making accessible electronic information and/or electronic documents. The elements of criminal liability for perpetrators of criminal acts of cyber bullying must fulfill the elements regulated in Article 27 paragraph (3) of the ITE Law. Even though the highest criminal threat for cyber bullying is only four years in prison, the consequences of this act are very detrimental to the victim, both material and immaterial losses. The crime of cyber bullying can be seen as a result of relatively weak legal consequences or legal instruments. The problem faced is what kind of consequences are experienced by people who have become victims of cyber bullying. In Supreme Court Decision Number 120/Pid.Sus/2017/PN Lbo and Supreme Court Decision Number 95/Pid.Sus/2020/PT Gto, what is the criminal responsibility for those who carry out bullying behavior via social media? A normative legal research approach is used in this research. In conclusion, the impacts experienced by victims of cyber bullying include feeling hurt and afraid, often blaming themselves for the events they experienced, self-harm, experiencing sadness, and even thoughts and intentions to commit suicide. Criminal Responsibility of Perpetrators of Bullying Through Social Media in the Supreme Court Decision Number 120/Pid.Sus/2017/PN Lbo and Supreme Court Decision Number 95/Pid.Sus/2020/PT Gto the defendant of the crime of cyber bullying fulfills the element of responsibility as a subjective element, the defendant able to take responsibility for his actions, and the defendant does not have mental disorders or mental illness according to the Supreme Court decision.

Keywords: Accountability, bullying, social media

INTRODUCTION

In the ever-changing digital era, the lives of Indonesian people have been influenced by advances in information and communication technology. Information and communication technology (ICT) has become an important part of everyday life in Indonesia, which has many benefits, such as facilitating long-distance communication, providing easy access to information, and streamlining business processes. This technology has had a significant positive impact, especially in facilitating various activities, such as sharing information, which is now increasingly easy to access without location and time restrictions.

Cyberspace, including social networks, discussion forums, blogs and other virtual platforms, makes it easy for users to participate in various activities, such as sharing, contributing and producing content. Indonesian people often use leading online media sites such as Tumblr, Facebook, Instagram, YouTube, Twitter and others. In recent years, information and communication technology, especially social media, has become an important part of Indonesian people's lives. Indonesian people are increasingly dependent on social media as a means of socializing, communicating and accessing information. Individuals have the capacity to easily and quickly share information, experiences, and ideas with each other through the utilization of social media platforms (Winoto and Andi, 2019). Furthermore, social media platforms provide fast and cost-effective communication between people living in various geographical locations, including far away places.

Bullying, which is also known as the act of intimidating or harassing other people, is a common problem that is familiar in Indonesia and other countries. Bullying behavior is characterized by the act of intentionally hurting a person or group of people through various means such as verbal, physical, relational, or cyberbullying. Cyberbullying is a form of bullying that can occur on the internet (Wardhana, 2015). Cyberbullying often involves a person or group of people using electronic media to attack others in public. Cyberbullying is defined as persistent attacks on the victim, and its negative impact is much greater than that of physical or manual bullying (which does not involve the use of internet tools). As a result, the aggrieved person may experience melancholic emotions and may experience psychological distress. Cyberbullying is the act of using technology to harass, victimize, or intimidate individuals or organizations (Rahman, 2016).

Cyberbullying has always been a topic of intense debate and discussion. Due to the widespread shame surrounding cases of cyberbullying, there is a lack of awareness among people about the dangers and consequences associated with this kind of bullying. Due to the severe consequences of cyberbullying, it has the potential to cause death. To address existing issues, relating to the implementation of the Cyberbullying Act which require enforcement, it is essential to raise awareness among all relevant stakeholders. Individuals may participate in cyberbullying due to interpersonal conflict, leading to their involvement with the United Nations Cyberbullying Crimes Unit. It is regrettable that this cyber crime is often treated as a joke and is ultimately resolved through the legal process. Cyberbullying includes verbal bullying, which is the act of criticizing, insulting, and even threatening someone on social media platforms (Rumra, et.al., 2021).

Even though crimes committed via cyberspace can be committed indirectly (virtually), these crimes are still considered actual violations of the law. Regarding cyberspace, it is not permissible to categorize types of criminal behavior and related

legal criteria in such a way as to make them objects of criminal activity. This is because this will cause many illegal acts to escape law enforcement (Ramli, 2004).

In essence, this principle can account for unlawful acts not only based on external evidence whose authenticity must be proven by the public prosecutor. The reason is that criminal liability is based on a fundamental premise. In the realm of criminal law, the words "outward acts" are used to describe both acts that are contrary to the principles of criminal law and people who commit acts that violate criminal norms. There is a correlation between this obligation and law enforcement. Implementation of established laws is a potential problem in the legal system in this particular case. Apart from elements relevant to law enforcement, there are also environmental factors, community problems, and factors related to facilities and infrastructure. Therefore, implementing a policy is necessary to regulate and deal with cyber bullying incidents. The factors that hinder law enforcement are the components mentioned above (Fitri, 2017).

RESEARCH METHODS

This research is included in normative juridical research. Normative juridical research methods (library law research) are methods or methods used in legal research which are carried out by examining existing library materials. This research refers to legal norms contained in statutory regulations and court decisions (Hartono, 1994).

In accordance with the method used, the type of research used is analytical descriptive research, namely the data obtained will be described in this research by providing an overview of legal problems, the legal system and reviewing or analyzing them according to the needs of the research, then analyzed based on existing theories. (*integrated criminal justice system*) to solve the problems in this writing. In this research, we discuss criminal liability perpetrator bullying through social media.

RESEARCH RESULT

Impact on Victims Act Criminal Bullying Through SocialMedia (*cyberbullying*)

Cyberbullying is an expansion of criminal acts of bullying that previously occurred conventionally or directly between individuals or groups. *Cyberbullying* often occurs due to rapid advances in technology. *Cyberbullying* is a form of bullying that traditionally occurs between individuals or groups. *Cyberbullying* is a term used to describe acts of verbal harassment against someone on social media sites. *Cyberbullying* is the deliberate and continuous use of electronic media by a person or group to carry out harsh actions against someone who is deemed unable to defend themselves effectively. This term comes from the book "*Think Before Text*". *Cyberbullying* can be considered as a form of verbal abuse that can be classified into several different categories.

Defamation refers to the act of conveying false or negative information about someone to others, which can be classified as a type of slander. Impersonation refers to the intentional act of sending or distributing intimidating content to another person, while using a false identity, with the intent to commit such an act. An act of deception or disclosure refers to the intentional disclosure of embarrassing or confidential personal information by someone, who then publishes it on the internet for public viewing. Ostracism is an intentional technique where an individual (the target of bullying) is deliberately invited to join an online community, only to then be isolated from the rest of the group.

Disguise is an important factor and main catalyst for cyberbullying. The creation of a fake persona, also known as anonymity, is a very simple procedure for those involved in cyberbullying. The anonymity feature of cyberbullying exacerbates its harmful effects, making it more dangerous than conventional bullying. Anonymous targets individuals without knowing their identity, while being aware of the target's identity. In contrast, the ease with which people change their identities to become anonymous means they cannot be identified and monitored. As a result, people can participate in bullying behavior without any restrictions in the vast online realm. The disinhibition effect, which is characterized by the inability to regulate behavior, thoughts, and emotions when using the internet, is a reason that contributes to the occurrence of anonymous bullying in the online realm. Research conducted by Mason (2008) and Willard (2005) shows that the 'disinhibition effect' plays a role in shaping the occurrence of bullying and cyberbullying.

Due to the absence of direct observation of the victim's immediate reactions, the individual responsible for cyberbullying may have a reduced capacity for empathy toward the victim. Willard (2005) argues that a lack of parental attention during childhood can lead to a lack of concern for others and a lack of empathy. This is because parents have the responsibility to guide appropriate responses to favorable and unfavorable situations and behaviors.

Unfortunately, cyberbullying has substantial adverse impacts as victims may experience harassment regardless of their geographic location. Cyberbullies use anonymous identities to carry out acts of terror against their victims in everyday life. Perpetrators are unaware of the negative consequences that arise from their actions; however, these impacts will manifest in the real world and have psychological and social implications. Several factors can influence cyberbullying:

- 1) Internal factors, namely the characteristics of the perpetrator's mindset, include a tendency to dominate, lack of empathy for others, a history of violence, fear of taking risks, and a preference for sensation seeking. People with this personality type have a tendency to seek out others who have fragile, weak, and dependent personalities, and who have not yet developed the capacity to make independent decisions about their own autonomy.
- 2) Next, environmental factors, namely family environment, education and peers. Disharmonious homes, characterized by inattentive and domineering parents who use violence when disciplining children or dealing with challenges, have a tendency to force children to engage in a variety of behaviors, including bullying, in search of validation and acceptance. Children are more susceptible to participating in bullying when they are exposed to school environments that are less conducive to learning. Peers have a significant impact on the development and reinforcement of bullying behavior, antisocial attitudes and other types of deviant behavior among young people. Bullies may have indirect advantages in terms of support, power, popularity, and prestige when they have peers as bystanders. Every incident of bullying perpetrated by young individuals is driven by the need to be accepted and recognized by their environment. However, children engage in cyberbullying via social media and the internet because they are afraid of face-to-face confrontation.
- 3) Bullying behavior is driven by various motives, such as wanting revenge, feeling angry, and harboring hurt feelings. These motives may arise from a desire for revenge against others, a need to assert dominance by causing harm, boredom and unemployment, or simply a tendency to commit delinquency. Additionally,

perpetrators may choose indirect methods to target victims out of fear or worry.

4) The prevalence of cyberbullying is facilitated by advanced technology in the era of globalization, which allows individuals to express their opinions and use anonymous accounts, thus making cyberbullying highly possible. The speed with which information is generated, disseminated and consumed by humans in a matter of seconds is another aspect that has led to the rise of cyberbullying .

Cyberbullying, a form of online harassment, has a significant impact on the mental and social well-being of teenagers. Cyberbullying victims experience unpleasant events, such as receiving online warnings, which can cause a loss of self-confidence. Furthermore, targeted individuals may act as perpetrators of cyberbullying or continue to be targets of cyberbullying. Individuals who are targets of cyberbullying may experience emotional distress, including feelings of sadness, shame, and isolation. They may also have difficulty maintaining friendships at school, experience symptoms of depression, struggle with insomnia, and express thoughts of self-harm. Furthermore, the victim may express suicidal thoughts. Some victims may have concerns for their safety, and this can potentially cause disruption in their social relationships, ultimately resulting in a sudden severance of their relationships with others. When victims do not realize that they have been abused, their emotions of terror and anger will increase.

The impact of cyberbullying on victims is very worrying, with at least 18 impacts identified. Some examples of these impacts are outlined below:

- (1) mentally falling because of feeling humiliated;
- (2) experiencing prolonged stress and depression;
- (3) loss of self-confidence;
- (4) become paranoid;
- (5) has the potential to become a perpetrator of *cyberbullying*;
- (6) experiencing health problems;
- (7) performance drops;
- (8) committing criminal acts;
- (9) behave aggressively;
- (10) become a fragile person;
- (11) open secret/loss of privacy;
- (12) disappointed with oneself;
- (13) high-tempered;
- (14) loss of interest in life;
- (15) feeling isolated;
- (16) nervous;
- (17) sleep pattern disturbance; And
- (18) suicide

Cyber Bullying crimes are:

- 1. Emotional effect

Cyberbullying can cause a person to experience stress, pressure, humiliation, emotional harm, fear, isolation, and self-blame. The following are some examples of emotional impact:

- a. Feelings of shame or low self-esteem arise due to the influence of external factors, which cause the person to experience humiliation and decreased self-esteem. Cyberbullying can lead to feelings of shame and feelings of being overwhelmed by the emotions it evokes.
- b. When someone feels hurt or angry, they feel intense pressure because their

emotions are hurt. The most dominant feelings experienced by those exposed to cyberbullying are as follows.

- c. In contrast, fear is an affective response to the recognition of potential danger or threat. Cyberbullying victims often face emotions such as uncertainty, danger, and even helplessness.
- d. When you experience loneliness, you feel isolated or alone. Patients who have experienced cyberbullying often express feeling alone and separated from their environment.

2. Mental effects

Sufferers may experience emotions of hopelessness and meaninglessness, and they may also show reduced enthusiasm for hobbies or interests they once enjoyed.

Additionally, the individual may have a sensation of isolation and engage in solitary activities. Here are some examples of mental effects:

- a. Feelings of inadequacy and the perception that others are superior to oneself are two components that form low self-confidence. Most cases of cyberbullying are caused by the perpetrator focusing on the victim's shortcomings, which results in the victim experiencing a significant decrease in their level of self-confidence.
- b. Depression and anxiety are two conditions. The disorder known as depression is defined by long-lasting feelings of melancholy and a lack of interest in previously enjoyed activities or objects. Cyberbullying victims often experience feelings of depression and anxiety.
- c. Becoming so preoccupied with the idea of harming oneself that a person harbors suicidal thoughts. The act of hurting yourself to relieve stress or feel better is known as self-harm. Individuals who commit acts of self-harm, including but not limited to hair pulling, banging their heads against walls, squeezing, biting, scratching, hitting, and even slashing (chopping) body parts, most often at the wrists. A self-destructive activity that has the potential to end a person's life is suicide. Due to severe depression, cyberbullying victims want to harm themselves and even have the urge to commit suicide.

Although there are no indicators that can identify victims, cyberbullying remains a challenging problem due to its elusive nature in cyberspace. Often, victims prefer to deal with the problem themselves rather than reveal it to other people around them. While cyberbullying may be invisible to the naked eye, that doesn't mean victims aren't vulnerable to potentially detrimental impacts. Cyberbullying is a type of harassment that specifically targets a person's mental well-being. If left untreated or handled incorrectly, it can potentially result in the person having a significant tendency toward self-harm or suicide.

Criminal Accountability of Perpetrators of Bullying Through Social Media in Supreme Court Decision Number 120/Pid.Sus/2017/PN Lbo and Supreme Court Decision Number 95/Pid.Sus/2020/PT Gto

Illegal responsibility refers to the state of being held responsible for illegal behavior. The notion of criminal culpability simultaneously includes objective and subjective culpability. From an objective point of view, the perpetrator is responsible for the crime he committed. According to the law, perpetrators can be held responsible for their actions based on the concept of fault or mistake. As a result, the perpetrator will face punishment (Nawawi, 2006).

Supreme Court Decision Number 120/Pid.Sus/2017/PN Lbo and Supreme Court Decision Number 95/Pid.Sus/2020/PT Gto have fulfilled the requirements stated in Article 197 Paragraph (1) so that they are valid and can be implemented. According to the author, simply stating that someone has committed a legal act is not enough to be used as a basis for accusing him of committing a criminal act. However, it is necessary to prove the actions he committed. A person is said to have committed a criminal act, but the act is not complete if the person commits an unlawful act and fulfills the basic elements of a criminal act. However, it is necessary to ensure that the person meets the subjective requirements, namely in this case the person is capable of taking responsibility for his actions. The elements of criminal responsibility for a person who commits a criminal act include the existence of an unlawful act, the ability to take responsibility for his actions, and the absence of reasons to forgive. This criminal case involving cyberbullying perpetrators was decided based on Law of the Republic of Indonesia Number 19 of 2016 which amended Law Number 11 of 2008 concerning Information and Electronic Transactions. The Supreme Court has issued two decisions regarding this case, namely Decision Number 120/Pid.Sus/2017/PN Lbo and Decision Number 95/Pid.Sus/2020/PT Gto. These two decisions are also related to elements of criminal responsibility, as explained by the author.

1. The defendant in this case has fulfilled the requirements for responsibility, as determined in the author's analysis. These findings were obtained from Supreme Court Decision Number 120/Pid.Sus/2017/PN Lbo, which was based on the defendant's explicit admission of his guilt in committing an unlawful act. The defendant admitted that his actions which were published in written form were inappropriate, regretted his actions, and vowed not to do them again in the future. Based on the defendant's confession at trial, the author concludes that the defendant is able to take responsibility for his actions and is aware of the unlawful actions he has committed.
2. The defendant deliberately carried out cyber bullying or bullying on social media, showed awareness of his actions, and deliberately chose the location to carry out these actions. Based on the perpetrator's deliberate use of an electronic device or media, namely a cell phone, to change the status on his social media account, the following verdict can be handed down.
3. To establish that a person has engaged in unlawful or criminal behavior, it is important to evaluate the absence of legitimate justification, which is a prerequisite that must be met. The defendant in this case engaged in cyberbullying, which does not include any justifiable reason to absolve him of guilt. Furthermore, no evidence of the defendant's innocence was found during the investigation.

Based on the factors mentioned above, the author concludes that the defendant's actions which fall into the category of subjective responsibility are actions that can be legally accounted for. The defendant is able to take responsibility for his actions and does not suffer from mental disorders or illnesses. The defendant committed this act intentionally and there was no valid reason that could excuse or justify this act. In this way, the defendant fulfilled all the objective elements, namely the fulfillment of the formulation of the criminal act, the act was against the law, and there was no reason that could excuse or justify the act. Thus, the defendant can be punished and held accountable for his actions in accordance with the provisions of Law Number 19 of 1999 concerning Electronic Information. What is meant by "cyberspace" is electronic information or documents that can be accessed by other people or the general public, as

stated in Article 27 paragraph (3) of the ITE Law. Article 27 paragraph (3) of the ITE Law provides protection against acts carried out intentionally without rights and is adapted to technological developments. This protection aims to perfect existing textual laws by overcoming their vulnerabilities, so that they can adapt to changes in society and advances in information technology. This step is being implemented to ensure that those involved in cyberbullying or other related activities that occur online can be prosecuted according to relevant laws and regulations. Cyberbullying perpetrators meet all the criteria specified in the law. This is related to the enforcement of Article 27 paragraph 3 of the ITE Law, which stipulates that anyone involved in cyber bullying can face legal action regardless of their location. The ITE Law offers distinct advantages over the Criminal Code by effectively protecting the rights of its users. This is done by increasing transparency about internet user privileges and expanding the scope of legal authority. In addition, the ITE Law explicitly defines acts of bullying or insults that occur indirectly on the internet.

CONCLUSION

Cyberbullying victims have various negative impacts, such as emotional stress, self-blame, self-harm, despair, and even suicidal thoughts and desires. Cyberbullying perpetrators apart from having a detrimental impact on the victim, also hinder the development of the victim's social skills. If proven guilty, the perpetrator can be subject to a maximum prison sentence of four years or a fine of IDR 750 million as a result of his actions. Supreme Court Decision Number 120/Pid.Sus/2017/PN Lbo and Supreme Court Decision Number 95/Pid.Sus/2020/PT both stipulate that those who carry out bullying via social media applications can be held criminally responsible.

The cyber bullying behavior carried out by the defendant fulfills the element of subjective responsibility, because the defendant is capable of taking responsibility and does not suffer from any mental disorders or illnesses. The defendant committed a mistake intentionally, and there is no valid reason that can excuse or justify his criminal actions. Therefore, the defendant has fulfilled all the objective elements, namely the fulfillment of the criminal act formulation, an unlawful act has been committed, and there is no excuse or justification. Thus, the defendant can be punished and held accountable for his actions in accordance with the provisions of Law of the Republic of Indonesia Number 19 of 2016 which amends Law Number 11 of 2008.

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