

Law Enforcement Against Defamation Perpetrators Through Instagram Social Media

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Info Articles

Article History

Received : 2019-09-07

Revised: 2019-09-15

Published: 2019-09-30

Keywords:

Law Enforcement,
Defamation, Social
Media

Abstract

The rapid development of information and communication technology has significantly influenced social interaction and public communication through digital platforms, including social media such as Instagram. While technological advancement provides many benefits, it also creates opportunities for misuse, including defamation and insults committed through electronic media. Defamation on social media can harm a person's honor, reputation, and psychological well-being, making it an important legal issue in Indonesia. This study aims to analyze the implementation of criminal sanctions against perpetrators of defamation through Instagram, identify factors inhibiting law enforcement, and examine legal protection provided to victims. This research uses a normative juridical approach with qualitative methods through literature studies by analyzing legislation, legal materials, and court decisions related to defamation and electronic information. The results show that criminal sanctions for defamation through social media are regulated under Article 27 paragraph (3) of the Electronic Information and Transactions Law and several provisions of the Criminal Code concerning defamation and slander. However, the enforcement of these regulations remains constrained by weak law enforcement, limited facilities, inadequate public legal awareness, and challenges in cybercrime investigations. Victims of defamation are entitled to legal protection through complaint mechanisms, witness and victim protection institutions, and content removal procedures within electronic systems. Therefore, stronger law enforcement, improved digital literacy, enhanced cyber investigation capacity, and greater public awareness are necessary to reduce cases of online defamation and ensure legal protection for victims in Indonesia's digital environment.

I. INTRODUCTION

The use of communication technology is a necessity in the global era, which is characterized by the ease of access that can be utilized by the wider community to obtain useful information.

The development of information technology does not have a positive impact on human life, because the principle of freedom (liberalism) underlies the use of information technology. Therefore, even though users accept agreements (conditions) to access and use information technology (such as YouTube, Instagram, and Facebook), no application recognizes rude or offensive statements written

by users and takes precautions before they are shared. Statements that can easily spread and provoke someone, slander someone, or commit other reprehensible acts.

Crime victims exist because of a crime or act that arbitrarily violates the rights of others. The perpetrator commits the act to seek profit from the victim. The cause could be revenge, jealousy, etc. Things like this happen frequently lately, but sometimes the perpetrator does not know the limits of what is not allowed to do. For example, adding words, images, or content on social media, where the perpetrator is not face to face with the other party, so he is free to express

his desires without realizing that he has violated social norms. Victims who suffer from the perpetrator's actions and are tarnished because it occurs through social treatment can do nothing but deny it and ask for help from others/friends. However, sometimes, this does not stop the perpetrator of the crime or clear the victim's good name.

In general, defamation is an insult to a person's honor and reputation. Defamation is a form of character assassination that can be classified as a human rights violation. Human rights violations are a widespread problem in society and therefore fall under the Criminal Code.

II. METHODS

This study employed a qualitative research method, also known as a literature study, with a normative legal approach. To obtain data for this discussion, the researcher used binding legal materials, namely laws and court decisions. The data was analyzed using legal analysis, a method based on laws, court decisions, regulations, and legal books.

III. RESULT AND DISCUSSION

1. Implementation of Criminal Penalties for Defamation Offenders Through Instagram Social Media

Criminal penalties must be enforced against perpetrators to achieve justice. The crimes committed by perpetrators cause suffering to victims, both physical and mental.

Social networking programs like Instagram provide a powerful platform for any activity, expanding networks, and establishing close relationships. Social networking sites like Instagram can help everyone connect socially and academically, which ultimately improves performance results. The impact of Instagram on social life is enormous, in the social environment Instagram can be a platform where everyone can meet new people from various places and

regions in the world without having to meet and communicate face to face, communicate with old friends without meeting, find out all kinds of the latest information from friends who are members of Instagram friend groups, can also establish business relationships, because many individuals and companies are starting to promote their businesses, sending several people to receive messages from one person. Currently, even small children have their own Instagram accounts, although there is an age limit for registering a Facebook account, but they are supervised by their parents in their use.

Cases of defamation through social media in Indonesia have been regulated in Law No. 11 of 2008 concerning Electronic Information and Transactions, which stipulates in Article 27 paragraph (3) that it is punishable by a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp. 750,000,000.00 (seven hundred and fifty million rupiah). However, the authority to punish someone is the authority of the court which is regulated by various laws. One of them is the doctrine of judicial independence.

Matters relating to defamation and/or insults are stated in the norms of Article 27 paragraph (3) of Law No. 11 of 2008, including: "Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents which contain insults and/or defamation."

According to the considerations of the Constitutional Court Decision Number 2/PUU-VII/2009 page 89, it explains the following:

- Distributing means disseminating through electronic means/media aimed at certain desired people.
- Transmitting means entering information into an electronic media network that can be accessed publicly by anyone without being limited by place and time (anytime and

- anywhere).
- Access is the activity of interacting with an Electronic System that is standalone or in a network.
 - Electronic Information is one or a collection of electronic data, including but not limited to writing, sound, images, maps, designs, photographs, electronic data interchange (EDI), electronic mail, telegrams, telex, telecopy or similar, letters, signs, numbers, Access Codes, symbols, or perforations that have been processed which have meaning or can be understood by people who are able to understand them.
 - Electronic Documents are any Electronic Information that is created, forwarded, sent, received, or stored in analog, digital, electromagnetic, optical, or similar form, which can be seen, displayed, and/or heard via a Computer or Electronic System, including but not limited to writing, sound, images, maps, designs, photographs or similar, letters, signs, numbers, Access Codes, symbols or perforations that have meaning or significance or can be understood by people who are able to understand them.

On Instagram social media, defamation can be committed in the comments column of someone's post or through posts by the perpetrator who spreads false information (slander) to someone with the intention of destroying the victim's life.

In the amendment (Law No. 19 of 2016), it is stated that the meaning of Article 27 paragraph (3) uses the meaning contained in Article 310 of the Criminal Code. Defamation related to defamation of character through social media includes, among other things, that contained in:

- 1) Defamation (Article 310 paragraph (1) of the Criminal Code) "(1) Anyone who intentionally attacks the honor or good name of someone by alleging something with the clear intention of making it public knowledge, is threatened with defamation with a maximum prison sentence of 9 (nine) months or a maximum fine of Rp. 4,500 (four thousand five hundred rupiah)".
- 2) Defamation by letter (Article 310 paragraph (2) of the Criminal Code): "(2) If this is done by means of writing or images that are distributed, shown or posted in public, then the penalty for written defamation is imprisonment for a maximum of (1) one year and 4 (four) months or a maximum fine of Rp. 4,500 (four thousand five hundred rupiah).
- 3) Slander (Article 311 of the Criminal Code) "(1) If the person who commits the crime of defamation or written defamation is allowed to prove that what is alleged is true, does not prove it, and the accusation is made contrary to what is known, then he is threatened with committing slander with a maximum prison sentence of 4 (four) years";
- 4) The act of slander (Article 318 of the Criminal Code): "Whoever, by any act of deliberate action, gives rise to a false suspicion against someone that he has committed a criminal act, is threatened, for giving rise to a false suspicion, with a maximum imprisonment of 4 (four) years."

2. Inhibiting Factors in Criminal Enforcement Against Perpetrators

a) The legal factor itself

Even though many perpetrators of criminal acts through Instagram social media have been caught, this has not been able to deter other perpetrators. This shows that the punishment given to the perpetrators is quite light so that there are still many perpetrators of criminal acts of defamation through Instagram social media, and many of them even repeat their mistakes.

b) Law Enforcement Factors

Law enforcement plays a very important role in upholding justice for victims. In Indonesia, there are still very few law enforcement officers who carry out their duties properly. In fact, several times victims do not dare to report because there is no action taken by law enforcement officers, but that does not mean that all are like that.

c) Facilities and Amenities Factors

Due to limited facilities and infrastructure, law enforcement officers cannot perform their duties optimally and effectively. Without certain facilities, it is impossible to monitor the smooth implementation of the law. These facilities include educated and qualified personnel, good organization, adequate equipment, adequate financial resources, and so on. Without these facilities, it is impossible for law enforcement agencies to achieve their goals.

d) Community Factors

Community conditions significantly influence the law enforcement process. If the community is less cooperative with the police, the enforcement process will be slightly hampered. Another crucial factor in determining law enforcement is public legal awareness. The higher the level of public legal awareness, the more likely it is that effective law enforcement will occur. Conversely, the lower the level of public legal awareness, the more difficult it will be to implement effective law enforcement. Legal awareness includes:

- Knowledge of law
- Understanding the function of law
- Compliance with the law

3. Protection for Victims of Defamation Through Social Media

The state provides protection to victims, namely the injured party and also those who are also harmed by the defamation. If it is clear that the victim feels the need for immediate

protection and is in a situation that is no longer possible to delay, then the victim can request protection from the Witness and Victim Protection Office. The requirements for witness protection according to the provisions of Article 28 paragraph 1 of Law Number 31 of 2014 concerning the protection of witnesses and victims, LPSK can provide protection based on four things, namely:

- a. The importance of witness and/or victim statements;
- b. Threat Level that endangers witnesses and/or victims;
- c. The results of the medical or psychological team's analysis of witnesses and/or victims; and
- d. Track record of criminal acts committed by witnesses and/or victims.

If defamation is committed via social media such as Instagram, the electronic system can delete the content, either at the request of the victim or due to its own authority. Based on Article 26 paragraph (3), paragraph (4) of the ITE Law No. 19 of 2016.

If proven to have committed defamation or insult, the perpetrator will be subject to criminal sanctions and fines, but as is known, the crime of defamation is regulated in Article 310 of the Criminal Code and Article 27 of the ITE Law is a complaint offense, so the victim must file a complaint to be prosecuted. The offense filed in the complaint can be withdrawn based on Article 75 of the Criminal Code, which is required within 3 months of filing the complaint. The legal consequence is that this defamation cannot be prosecuted in court. However, a peace agreement cannot be made to avoid prosecution for this action.

There are several forms of protection provided to victims of defamation/insults via social media, including:

1. The state has created policies aimed at protecting the interests of individuals and

society. This includes regulations outlining prohibited acts and imposing strict sanctions for violators, including imprisonment and fines.

2. The state provides technical protection, namely through witness and victim protection agencies;
3. The state has provided officers who will provide special protection, namely special cyber investigators;
4. The state states that in cases of criminal defamation/insults, these are cases related to immaterial losses, which cannot be valued in money. The perpetrator must also undergo criminal sanctions in prison and be fined, if determined by a court decision.
5. The electronic network system can close the account and/or ask for permission from the account owner if the content is insulting/defamatory.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

From the description above, the following conclusions can be drawn:

Law enforcement against perpetrators is regulated in the Criminal Code Chapter XVI concerning insults and also in Article 27 paragraph (3) ITE Law. That in law enforcement against perpetrators of defamation on social media Instagram there are several factors that hinder the enforcement of the law such as the legal factors themselves, the apparatus, the community etc. On Instagram because of the many things that can be shared and seen by everyone, many do not use it wisely such as spreading slander that harms the victim. In the case of defamation on social media, the victim also gets protection from the state and to enforce punishment against the perpetrator, the victim must first report to the authorities because defamation is a complaint offense that must be reported before being followed up by the police to give criminal punishment to the perpetrator.

B. Suggestions

Based on the discussion, stronger law enforcement is needed against perpetrators of defamation through social media to create a deterrent effect and provide justice for victims. The government should improve supervision and optimize the implementation of regulations related to electronic information and defamation, particularly under the ITE Law. In addition, law enforcement agencies need to strengthen the capacity of cyber investigators and improve supporting facilities and infrastructure to handle cybercrime more effectively. Public legal awareness regarding responsible social media use should also be increased through education and digital literacy programs to prevent misuse of online platforms. Furthermore, protection mechanisms for victims of defamation should be strengthened to ensure victims receive legal certainty, psychological support, and effective recovery measures. Collaboration between the government, law enforcement agencies, digital platform providers, and society is essential to create a safer and more ethical digital environment.

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