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Prosecution of Cyber Bullying Perpetrators According to Indonesian Regulations

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Abstract

Act Number 1 of 2024 amendments Act Number 19 of 2016 concerning Amendments of Legislation Number 11 0f 2008 on Electronic Information and Transactions regulates penalties in forms of imprisonment and/or fines against cyberbullying perpetrators, such as of one, the sanctions enacted on Article 27 paragraph (3) junto Article 45 paragraph (3) UU ITE 2016 which states that "any person who intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have the content of insult and/or defamation as referred to in Article 27 paragraph (3) shall be punished with a maximum imprisonment of 4 (four) years and/or a fine a maximum of 750,000,000.00 IDR (seven hundred and fifty million rupiah)". This punishment strikes a deterrent repercussion against those perpetrators, restores public order, and to reclaim justice upon victims in accordance with the objectives of the dignified theory of justice derived from Pancasila.

1. Introduction

The era of globalization encompassed within rapid technological development enables people from various communities to socialize through cyberspace/internet / social media. This privilege inevitably becomes a democratic misuse amongst certain users, which triggers the enactment of criminal offenses committed in cyberspace. Karo asserts that cybercrime is an unlawful act perpetrated by either a person or legal entity through the utility of technological instruments, be it the internet, to achieve desired satisfaction or benefit for the user, whose understanding acknowledges those deeds illicit and deemed reprehensible in society (Karo Karo, 2019). At present,

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people are given the convenience of communicating by using social media. Social media is a medium for socializing with each other and is done online which allows every human being to interact with each other without being limited by space and time. However, the fact is that there are irregularities in the use of social media. Social media is a means to attack the honor or good name of otherparties (Sugiyantiningtyas, Pastika, Simpen, & Sudipa, 2023).

Cyberbullying is one of many cybercrime violations continuously on rampant across the inter global world, including Indonesia, encapsulating all forms of offenses as mockery, insult, intimidation, and humiliation to which individuals assault others by the comforts the internet provides, it unfolds when:

1. The bully directly commits aggression verbally or psychologically against others on cyber media, the predatory subject of cyberbullying;
2. The victim is someone who becomes the target in undergoing the perpetrator's abuse.

The Indonesian Association of Internet Service Providers reported that 98.64% of cybercrime activity ranges from 13-18 years old in 2021 to 2022, regarded as the highest penetration rate in Indonesia; furthermore the Center for Digital Society (CFDS) conducted research entitled Teenager-Related Cyberbullying Case in August 2021 on 3,077 junior and senior high school students aged 13-18 across 34 provinces in Indonesia as participants; results found that 1,895 students (45.35%) claimed to have been victims while 1,182 students (38.41%) were perpetrators; these cyberbullying cases often arise from social media platforms, including WhatsApp, Instagram, and Facebook (Fahlevi, 2023); the workings of cyberbullying are polar to the usual bullying as this crime takes form verbally within cyberspace clearings; meanwhile, the usual bullying inflicted by a person or a group of people involves violent persecution, whether it be physically or mentally taxing, against others (Anwar, 2009).

In my opinion, some factors that cause *Cyberbullying* are factors due to the lack of moral knowledge families towards others, peer group factors that still like to demean each other, because of factors within oneself that have grudges, anger towards others, cyberbullying can cause psychological trauma such as fear, depression, anxiety, or stress to the victim. Based on research, victims of *cyberbullying* experience higher levels of depression than other acts of verbal abuse.
Cyberbullying has various forms, one of which is Flaming, someone sends negative connotations to comments to attack certain parties; Harassment, someone repeatedly and continuously sends threats that offend the victim; cyberstalking is also a form that indicates the desire of said predator to threaten or mortify their victim or intimidate a target party; denigration when someone spreads false rumors and accusations against a party concerned; masquerading to which concerns Identity Theft with the purpose to damage the reputation of a person or intended party; outing also comes as a form of cyberbullying, emphasizing on personal disclosure of an individual done by the perpetrator without consent, whether it is true or false; exclusion, which is shown by ignoring and excluding someone from a group in online gatherings, game chats, and others (Cowie, 2013).

The negative impact of cyberbullying on adolescent social functioning increases loneliness in adolescents, which then causes them to have fewer intimate friends and feel that they do not belong to any group of friends; teenagers may have difficulties developing broader social relationships, set lower social experiences, and increasingly seek social connections on the internet, making them vulnerable to cyberbullying (Olenik-Shemesh et al., 2014). The impact of cyberbullying on teenagers towards their academics can include declining grades, school avoidance, being allowed a leave permit due to illness, and doubts about school as a safe place for them. This paper aims to analyze the punishment for *cyberbullying* according to Act Number 1 of 2024 amendments Act Number 19 of 2016 concerning Amendments to Legislation Number 11 of 2008 on Electronic Information and Transactions (ITE Law).

2. Materials and Methods

The method used is the normative juridical method that focuses on the secondary data as a base for this research, including but not limited to regulations and literature about the problem under study (Marzuki, 2019); this method in this research determines the relationship between law, society and the factors that influence the implementation of the decree in society as a primary source (AP et al., 2022).

The data encloses corresponding legal primary, secondary, and tertiary resources (Budianto, 2020); the primary source consists of the Constitution of the Republic of Indonesia of 1945, the Criminal Code, Act Number 19 of 2016 concerning Amendments to Legislation Number 11 of 2008 on Electronic Information and Transactions (Indonesian ITE Law); the secondary source consist of books, printed media articles or online media, and journals related to this topic.

3. Results and Discussions

Willard argues that there are 8 (eight) forms of cyberbullying, namely: *Flaming* is sending text messages whose contents are angry and frontal words; the term *flame* also refers to the words in the impassioned message; *flaming* interprets as insults or rude comments towards others; *Flaming* can also mean running away from the substance or focus of the discussion; more broadly*, flaming* is an act of provocation, ridicule, or insult that offends other users and provoke emotions so that conflicts arise in cyberspace; *Harassment* is messages that contain interference with overflowing e-mails, *SMS*, and text messages on social networks carried out continuously; the harasser will often write comments to the victim intended to cause anxiety and will continue to try to incite others to do the same; cyberstalking is using the internet or social media to harass individuals, communities, or organizations; *Cyberstalking* can compromise an identity information because *stalkers* will use that identification to falsely accuse, monitor someone, make threats, steal identities, and harass; *Denigration* is the process of spreading one's defamation on the internet to damage the reputation and good name of the person to the extreme measure on releasing scandal on social media through that disconcerts someone; *Impersonation*, pretending to be someone else and sending vile messages or status; outing, that is, spreading the secrets of others or private photographs of others so that the other person becomes ridiculed; *Trickery*, i.e., *cheating power*, the act of persuading a victim by deception to obtain the confidential information of the victim; Exclusion, i.e. intentionally and cruelly removing someone from an online group; this case often occurs among the general public in the form of peer groups or groups of friends (Willard, 2005).

The author contends that the majority of the time, cyberbullying behavior is followed by satire or mockery via altered photos or images, or memes. Memes are modified photos or images that are altered or changed to suit the user's preferences and then shared on social media. Teens are then encouraged to react to the meme by leaving comments or replies in the chat column. These responses typically take the form of disparaging remarks that are harassing or suggestive. The motive for bullying is to aim to satirize with negative sentences that are less ethical, ranging from subtle satire to crude satire such as comments containing elements of harassment and insults. This motive is caused by the perpetrators' spitefulness and hatred towards the victims, by expecting the victims to read their writings in the comments column, then there is an element of pleasure and satisfaction if the perpetrator has succeeded in insinuating someone's personal life.

Indicators of cyberbullying behavior tend not to be perceived as cyberbullying behavior, but rather as joking or even unaware that it includes cyberbullying behavior. It is because the perpetrator feels that the victim is not angry or shows negative emotions about the deed, causing problems because it is possible that the victim feels afraid to show emotion (Saripah & Pratita, 2018).

In Indonesia, there are laws and regulations to crack down on cyberbullying. This cyberbullying crime is under Act Number 19 of 2016 concerning Amendments of Legislation Number 11 of 2008 on Electronic Information and Transactions. Before the existence of the Indonesia ITE Law, the regulations applied were Article 310 paragraphs (1) and (2) of the Criminal Code (KUHP) related to insult and defamation, which states that: (1) Whoever willfully attacks the honor or good name of any person by accusing a thing, which is intended to make it public, shall be punished with defamation, with imprisonment for not more than nine months or a fine of not more than 4,500.00 IDR (four thousand five hundred rupiahs). (2) If it is done with writings or images broadcast, performed or posted in public, it shall be punished with defamation with imprisonment for not more than one year and four months or a fine of not more than four thousand five hundred IDR.

However, according to the Constitutional Court Decision of the Republic of Indonesia Number 50 / PUU-VI / 2008, insults and defamation stipulated in Article 310 paragraphs (1) and (2) of the Criminal Code cannot be used for cyberbullying. So, in 2016, a new regulation related to ITE, namely Act Number 19 of 2016 concerning Amendments to Act Number 11 of 2008 on Electronic Information and Transactions. The Indonesian ITE Act does not regulate cyberbullying but instead, components which portray cyberbullying as an insult, ominous threats and outlashing hatred, are implemented as a legal basis for cyberbullying in Indonesia.

Indonesia itself has an Indonesia ITE Law that can provide a legal basis related to Cyberbullying crimes, where several articles regulate Cyberbullying issues that are applied to provide sanctions for perpetrators of Cyberbullying crimes, as mentioned in these articles that are as follows. 29: "Article 45 paragraph 1: Any person who intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have content that violates decency as referred to in Article 27 paragraph (1) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of 1,000,000,000.00 (one billion rupiah) IDR; Article 45 paragraph 3: Any person who intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have the content of insult and/or defamation as referred to in Article 27 paragraph (3) shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine of 750,000,000, 00 IDR (seven hundred and fifty million rupiah) ; Article 45A paragraph 4: Any person who intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have the content of extortion and/or threats as referred to in Article 27 paragraph (4) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of 1,000,000,000.00 IDR (one billion rupiah); Article 45 A paragraph 2: Any person who intentionally and without rights disseminates information aimed at causing hatred or hostility of individuals and/or specific groups of people based on ethnicity, religion, race, and intergroup (SARA) as referred to in Article 28 paragraph (2) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of 1.000,000.000,00 IDR (one billion rupiah); and Article 45 B: Any person who intentionally and without rights sends Electronic Information and Electronic Documents containing threats of violence or intimidation directed on a personal level as referred to in Article 29 shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine of 750,000,000.00 IDR (seven hundred fifty million rupiah)."

In Article 27 paragraph (3) of the Indonesia ITE Law, there are elements of cyberbullying, namely insult and defamation where both elements are included in the form of cyberbullying, namely "Denigration" and “Harassment". Denigration is the process of spreading the ugliness and disgrace of someone on the internet to damage the reputation and good name of the person. Harassment is an insult to someone done continuously through messages on the internet / social media.

In addition, Article 27A of the Indonesian ITE Act (2024) stipulates that Everyone deliberately attacks the honor or good name of others by accusing something, with the intention that it is publicly known in the form of Electronic Information and/or Electronic Documents carried out through Electronic Systems. If a person is proven, based on Article 45 paragraph (4) of the Indonesia ITE Law (2024) can be sentenced to imprisonment for a maximum of 2 (two) years and/or a maximum fine of 400,000,000.00 *IDR* (four hundred million rupiah). Cyberbullying offenses are absolute complaint offenses. The complaint requires the victim to complain to the police by attaching relevant evidence (Prasetyo, 2023)

In Article 29 of the Indonesian ITE Act, there is an element of *cyberbullying*, namely sending information/electronic documents that threaten or scare people. Threats and emotional distress come in the form of *cyberbullying,* namely "*Cyberstalking". Cyberstalking* is the activity of stalking a victim's identity information by someone commonly called a stalker, and the identity information taken to threaten, steal identity, involve blackmail, and harass. The three articles have criminal sanctions. For one, during the act of executing the elements of *cyberbullying (*insults, threats of violence or frightening, and causing hatred) regulated in the three articles, the perpetrators will be entangled in criminal sanctions.

In the provisions of the 1945 Constitution to the provisions of Article 28E paragraph 3 states that '*everyone has the right to join the association in their own accord, gather and express opinion*'. Logically, it is fair to conclude that the 1945 Constitution directly and expressly provides for freedom of association, freedom of assembly and freedom of expression that apply not only to every citizen of Indonesia but also to citizens of foreign countries residing in Indonesia.

The theory of dignified justice comes from Pancasila as the source of legal statutes in Indonesia. Scope of meaning in the process of thinking that is endless in the Theory of Dignified Justice as a new theory, the manifestation of the law reform effort exerts greater weight on the enactment of the law and the operation of the legal system of the Republic of Indonesia based on the philosophy of the nation or mind Indonesian law (Indonesia *Volksgeist*) namely Pancasila.

Even so, it does not mean that the Theory of Dignified Justice must feel misplaced the opportunity to operate as a reflective tool or utilize within the system of the distortion prepare, at that point legitimization, and lawful thinking as a framework of people's life human creatures with all-inclusive values in Pancasila (Prasetyo, 2018). So, when connected with criminal arrangements contained within the EIT Act 2016 and Choice Legal Survey Sacred Court specified over, at that point, the utilize of standards of the criminal ought to pay consideration to a few viewpoints, whether words or expressions of legitimate subjects in social media damage the standards and devout values, respectability, arrange, open intrigued and the keenness of the state or not? At that moment, they have an obligation to offer assistance from witnesses of language specialists and devout pioneers in their estimation. Third, it is fundamental to have a complaint from the influenced subjects to conduct the examination prepared into the domain of correctional law.

Concerning the concept of discipline against the activities of cyberbullying in social media, the future approach requires a necessary and all-encompassing approach and consideration that the suit has taken a toll and advantage rule and accomplished the therapeutic equity between culprits of cyberbullying and its casualties, not to cause over ballasting (Gumbira et al., 2017).

The theory of dignified justice views that punishment is not for revenge but instead is a step to restore justice and order or as a form of criminal law reform. Criminal law reform is characterized by being able to adapt itself to universal tendencies that grow in the association of civilized society. In association with the acknowledgement that the criminal equity framework, criminal legislative issues and law requirement legislative issues are a portion of legislative issues, the change of criminal law too should keep in mind the exceptionally unforgiving nature of the criminal equity framework and

one of the preventive criminal goals, at that point criminal law change must take after thinking of preventive perspectives. It is a characteristic change in criminal law (Prasetyo & Handayani, 2018).

According to the author's analysis, it is based on dignified justice that the purpose of cyberbullying perpetrators is given punishment to provide a deterrent effect, provide a sense of repentance, and restore the victim's psychology. Protection for victims is provided by all parties, the school if the victim is a school student, provided by the supervisor if the victim is an employee. Protection is provided by the Government if the victim is poor and cannot afford to pay a psychologist for therapy.

4. Conclusion

Cyberbullying is all forms of violence, for instance, mocking, insulting, intimidating, and humiliating users committed through cyberspace or the internet. The punishment of cyberbullying perpetrators charged with the Indonesian ITE Law, one of the articles is cyberbullying criminal sanctions regarding Article 27 paragraph (3) Indonesia ITE Law "junto Article 45 paragraph (3) which reads: "Any person who intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have the content of insult and/or defamation as referred to in Article 27 paragraph (3) shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine of 750,000,000.00 IDR (seven hundred and fifty million rupiah)."

With the enactment and issuance of Act Number 19 of 2016 concerning Amendments of Legislation Number 11 of 2008 on Electronic Information and Transactions, it upholds justice, restore the dignity of cyberbullying perpetrators and victims, and hopes that the Indonesia ITE Law can educate the nation's life as part of the information of the world community, develop trade and the national economy to improve public welfare, Improve the effectiveness and efficiency of public services, provide endless opportunities for everyone to advance thinking and abilities in the field of using information technology as optimally as possible and responsibly, and provide a sense of security, justice, and legal certainty for users and operators of information technology.

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