


A Criminological Study Of Cybercrime For The Crime Of Defamation

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Article Info	ABSTRACT
Keywords: Criminology, Cybercrime, Pollution, Good Name	This research aims to determine the criminological study of Cybercrime for criminal acts of defamation through a criminological study approach, namely through the perspective of the perpetrator of the crime. This research uses a normative approach to secondary data which is then analyzed descriptively-analytically. Based on the research, it was concluded that in a criminological study of cybercrime, the criminal act of defamation from the perspective of the perpetrator committed the criminal act of defamation because the perpetrator felt hurt by the actions that had been carried out by the victim so that the perpetrator took retaliation by defaming the victim through cyberspace. (social media).
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INTRODUCTION

Advances in information technology have changed almost all elements of life. On the one hand, computer technology provides many benefits in the form of opportunities to obtain information, work, participate in politics and democratic life and several other benefits. However, on the other hand, he will really gnaw at old loopholes, then hack all the sites that must be solved before he can go further into the paths and crevices of cyberspace. For those who utilize this information technology as a business activity, public service, and entertainment facility by building several sites that the public can visit.

METHODS

This research uses a juridical-normative type of research, this research approach uses a statutory approach, this research was carried out descriptively analytically, with data collection techniques using library research (Library Research) and field research (Field Research). Data analysis in this research was qualitative using deductive research methods.

RESULTS AND DISCUSSION

Defamation Cyber

Defamation of good names in cyberspace occurs so that the use of the Criminal Code (KUHP) as a solution to problems is considered to need to be supported or supported in its implementation, namely with the Information and Electronic Transactions Law (UU ITE). According to the Criminal Code (KUHP), the term "insult" (Article 310 of the Criminal Code) is generally defined as: "an act that harms a person's good name and honor. There are 2 types of defamation according to the Criminal Code, namely:

1. Verbal is defamation that is said or done to someone.
2. In writing is defamation carried out through writing (print). In his book, Oemar Seno Adji states that defamation is known as insult, this insult is divided into material insult and formal insult, the meaning is as follows:
 - a. Material insult: Insult which consists of a fact which includes an objective statement in verbal or written words, so the determining factor is the content of the statement whether used in writing or orally. There is still the possibility of proving that the accusation was carried out in the public interest.
 - b. Formal insult: In this case it is not stated what the content of the insult is, but rather how the statement in question was made. The form and method are the determining factors. In general, the way to express this is in rough and non-objective ways. The possibility of proving the truth of the allegations does not exist and it can be said that such possibility is closed.

Legal Regulations Regarding Defamation

According to the theory of law as a tool of social engineering put forward by Roscoe Pound, law as an engineering tool in society is expected to play a role in controlling social values. This theory also reveals that law and societal change are interrelated. Changes in society can influence the law, and vice versa, the law can also influence people's behavior. The law should also accelerate following developments in human life, so that it remains able to maintain the use of people's rights to freedom, always accompanied by maturity and does not violate other people's human rights. So it is natural that legal regulations that are in line with changes in society are needed as a form of legal response in accordance with the above theory.

The Information and Electronic Transactions Law (UU ITE) as a Response to Changes in Society One of the considerations for the birth of the ITE Law, as contained in its preamble, is that the rapid development and progress of Information Technology has caused changes in human life activities in various fields which have directly affected the birth of new forms of legal acts. Article 27 paragraph (3) of the ITE Law, like many other statutory provisions, limits a person's freedom so as not to violate the freedom of other parties in accordance with the Harm Principle. Article 27 of the ITE Law paragraph (3) states the following prohibitions relating to the dissemination of information:

Any Person intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents which contain insulting and/or defamatory content. The above provisions provide a norm that a person is prohibited from intentionally and without rights distributing and/or transmitting and/or making accessible "information" to the public (including those containing expressive content, art, personal documentation, restricted/confidential documents). which violates decency, gambling content, insulting and/or defamatory content, as well as extortion and/or threatening content.

Therefore, the defamation referred to in Article 27 Paragraph (3) of the ITE Law includes legal norms in Article 310 of the Criminal Code regarding the object of insult and/or defamation, namely individuals. Furthermore, the Constitutional Court's decision also

requires a complaint (klacht) against Article 27 Paragraph (3) of the ITE Law to be prosecuted before the Court. Article 27 Paragraph (3) of the ITE Law is included in the type of absolute complaint offense as in Article 310 where the object of insult and/or defamation here is an individual. This means that complaints regarding defamation under Article 27 Paragraph (3) of the ITE Law can only be accepted if a person who is a victim of defamation directly complains about the incident they experienced to the authorities as long as it is within the time period specified in Article 74 of the Criminal Code.

Regarding the implementation of Article 27 Paragraph (3) of the ITE Law jo. Article 45 Paragraph (3) of the ITE Law in defamation cases has two measures for statements that accuse an act that are considered to attack someone's honor and/or good name, namely subjectively and objectively. Objectively, it is based on a general measure of assessing whether an act includes whether it attacks honor and/or good name or not. This also includes assessing content whether the content is insulting and/or defamatory of someone or is merely critical. In this case, law enforcement officers in implementing Article 27 Paragraph (3) of the ITE Law jo. Article 45 Paragraph (3) of the ITE Law in defamation cases requires testing regarding whether the conditions for the act or circumstances mentioned in this provision, namely the elements of the offense, have been fulfilled or not.

Meanwhile, subjectively, there are people who feel their honor and/or good name has been attacked due to the words of other people accusing them of an action. When someone can be said to have been attacked by their honor or good name is based on the subjectivity of the victim. Preventive and repressive law enforcement efforts can take the form of:

1. Non-Penal Non-penal efforts are a form of crime prevention, which is carried out before the crime occurs, so this effort is better known as preventive or preventative efforts. This should take priority over repressive efforts. It is held to prevent violations of the law by the public and this task is generally given to the executive body and the police.
2. Penalty is carried out if preventive efforts have been carried out but there is still a violation of the law. In this case, the efforts made were repressive by law enforcement officials who were given judicial duties. Repressive law enforcement at the operational level is supported by and through various institutions that are organizationally separate from one another, but remain within the framework of law enforcement.
3. The aspect of the criminal justice system consisting of law enforcement officers is very important in determining the legal norms that exist in society. The existence of these norms means that law can be enforced among society by providing justice to people who feel disadvantaged. In addition, understanding between one law enforcement officer and another is very necessary to resolve cases of criminal defamation because in prosecuting electronic media crimes this is caused by limited technical competence regarding information technology and equipment needed to carry out tracking. Law enforcement officers do not can stand alone.
4. Efforts to enforce law in Indonesia, especially regarding acts prohibited in the ITE Law, often experience obstacles. Lawrence M. Friedman stated that the effectiveness and success of law depends on three legal components, including legal structure,

legal substance and legal culture. Legal substance includes statutory instruments, legal structure relating to patterns that show how the law is implemented according to its formal provisions including the performance of law enforcement officers, as well as legal culture which concerns attitudes towards the law and the legal system.

In an effort to achieve this goal of certainty, the law must have credibility. The credibility of the law can only be had if the implementation of the law is carried out with consistent performance. Therefore, consistency in the administration and application of law has the potential to produce legal certainty. To determine whether a law is certain or uncertain can only be answered normatively by looking at the application of the law itself. This can be seen in the implementation of the law in accordance with the provisions of the law, its application is certain and does not cause confusion in practice. The principle of legality as formulated in Article 1 paragraph 1 of the Criminal Code is one of the fundamental principles that must be maintained as an effort to guarantee legal certainty.

Criminal Liability

Criminal liability lies with every person who is a legal subject, as intended in Article 1 point 21, namely that the legal subject in question is an individual, whether a foreign citizen or legal entity. So, immoral perpetrators who use electronic media must be able to take responsibility for their actions, because the actions were carried out intentionally and against the law. As we know, criminal liability is seen as non-existent, unless there is a reason for the abolition of the crime. In other words, criminal liability can be carried out as long as the maker does not have the intention to commit a criminal act.

In the field of Criminal Procedure Law, this means that a defendant is deemed responsible for the criminal act he committed, if he cannot prove that he had the intention or will when committing the criminal act. This concept forms a balance between the right to accuse and prosecute from the Public Prosecutor, and the right to deny and submitted a defense from the defendant.

The Public Prosecutor has the right to indict and prosecute someone for committing a criminal offense. For this reason, the Public Prosecutor is obliged to prove what is alleged and demanded, namely to prove the things contained in the formulation of the criminal act. Meanwhile, the defendant can submit a defense on the basis that there are reasons for the abolition of the crime. To avoid being imposed a crime, the defendant must be able to prove that he had reasons for the abolition of the crime when committing the crime.

To hold someone accountable in criminal law, it must be possible for the author to explain why he did what he did. If the legal system does not open up such opportunities, then it can be said that a fair process will not occur in holding perpetrators of criminal acts accountable. In turn, this will be in conflict with the principles of justice. Criminal liability must be connected to the preventive function of criminal law. In this concept, the possibility must be opened for the maker to be fully aware of the legal consequences of his actions as early as possible. Thus, the consequences of criminal acts are risks that are understood from the start by the creator. For society, it is a criticism that was understood from the start by the makers. For society, censure can only be carried out after the possibility of the author doing something else is completely closed, so that a criminal act occurs.

Holding someone accountable under criminal law does not only mean imposing a

crime on that person, but also that it can be fully believed that it is their place to hold them accountable for the criminal act they committed. Criminal liability is a condition that exists in the creator when committing a criminal act. Then criminal responsibility also means connecting the condition of the maker with the actions and sanctions that should be imposed. Thus, the assessment was carried out in two directions. Firstly, criminal responsibility is placed in the context of the factual conditions of punishment because it carries a preventive aspect.

Criminal liability is a legal consequence of the existence of these factual conditions, so it is part of the repressive aspect of criminal law. So criminal liability is basically related to the conditions that are conditions for punishment and the legal consequences of this. The concept of criminal responsibility relates to the mechanism that determines whether the creator can be punished, so this has an influence on the judge. The judge must consider all these aspects, whether formulated positively or negatively. The judge must consider this, even if the Public Prosecutor does not prove it. On the other hand, when the defendant submits a defense based on reasons that eliminate guilt, the judge is obliged to go deeper into the problem.

The judge is obliged to investigate further what the defendant puts forward as the special circumstances of the incident which he submits as reasons for eliminating his guilt. Furthermore, even if the defendant does not submit a defense based on the excuse of eliminating guilt, it is still necessary to pay attention that this does not exist in the defendant. When committing a crime. The judge is still obliged to pay attention that the defendant has no reason to erase the error, even if he does not defend himself on that basis. This will bring fundamental changes to the process of examining cases in court.

Criminological Study of Cybercrime for the Crime of Defamation

Criminology is rooted in the terms *crimen* and *logos* which mean the science of crime. The term criminology first appeared after a French anthropologist in 1879 named P. Topinard. Criminology is also described in line with its name, namely the science that studies crime. The crime in question is an action carried out by people and institutions that is prohibited by law. The understanding above certainly cannot be blamed for viewing criminology as an element of science that studies crime. Criminology is classified into 3 main branches of science, namely:

1. Sociology of law is the study of crime is an action that is prohibited by law and is threatened with sanctions. So what determines whether an action is criminal is the rule of law.
2. Criminal Etiology is a branch of criminology that seeks to carry out scientific analysis of the origins of crime.
3. Penology is essentially the science of punishment, namely including rights relating to crime control efforts, both repressive / preventive.

Criminology with criminal law, based on many considerations, is an instrument and at the same time a medium of power for the state to carry out its duties and authority, which has a positive correlation. There are many considerations, including that criminal law and criminology rest on similar premises:

1. The state is the source of power and all media equipment of the state becomes

the implementation of state power.

2. Criminal law and criminology have similarities regarding the perception that the wider community is an element of the object of regulation by state power, not a subject (of law) who has a similar position to a state.
3. Criminal law and criminology still position the state's contribution as more dominant than the individual's role in providing order and security and being a destroyer of that order and security.

Distinguish between criminology in a narrow and broad sense. Criminology in the narrow sense of studying crime. Criminology in a broad sense, studies penology and several methods relating to crime and the problems of crime prevention with non-penal actions. Because studying crime is studying human behavior, the paradigm used is descriptive, causality and normative. Criminology studies the growth of behavior that leads to the well-being/behavior growth of those who have committed crimes. Criminology also studies criminal activity in individual/organized forms including various methods used by criminals. How some criminals behave towards law enforcement officers, namely when they are arrested, tried/punished.

In line with the explanation Previously it could be understood that previous research regarding the origins of crime was always in the context between law and social organization. This is proven by the fact that during the classical era, attention was always focused on social rules which could explain the existence of law and its impact on every member of society. The growth of criminology since the 1970s was the birth of a new criminology which has spurred attention to the structure of criminological thought which is based on approaches: what is the nature of dichotomies, trichotomies, / 4 classifications.

Regulations related to handling cybercrime anticipation with criminal law are included in the penal policy sector which is an element of criminal policy (crime prevention policy). Observed from the perspective of criminal policy, crime prevention efforts (including handling cybercrime prevention) cannot be implemented only partially with criminal law (penal means), but must also be carried out using an integral/systemic paradigm. Cybercrime is a problem in cyberspace today that must be addressed seriously. As a crime, overcoming cybercrime can be analogous to the real world, where laws must regulate it.

Cybercrime interpreted as an act of violating the law that utilizes computer technology based on the advanced development of internet technology. The types and violations of cybercrime are very varied as a result of the application of technology. Cybercrime can take the form of interception and misuse of information/data in electronic form/transferred electronically, stealing electronic data, pornography, misuse as an object against the law, fraud via the internet, online gambling, destruction of websites, damage to computer/cellphone systems via and others.

Cyber-crime is a criminal act carried out using internet technology (cyber space), whether by attacking public or private facilities. Technically, it can be classified into offline crime, semi-online crime, and cyber-crime. One of the actions of offline crime that turns into online crime is defamation of someone on the basis of wanting to bring down that person or because there are no facts regarding the defamation.

CONCLUSION

Cybercrime is a crime that utilizes technology as an intermediary medium for the crime. One form of cybercrime is defamation via the internet. The criminal act of defamation via the internet is regulated in Article 27 Paragraph (3) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions. In criminological studies, based on the perspective, the perpetrator commits the criminal act of defamation because of a sense of retribution for what the victim has done to the perpetrator. So the perpetrator channeled his revenge by defaming the victim. Therefore, it can be concluded that the perpetrator's actions were not necessarily purely due to the perpetrator's wishes, but rather there was a motive for retaliation for what the victim did to the perpetrator.

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