

Criminal Law Regulations Against Cyber Harassment Perpetrators Through Social Media

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Abstract: This study aims to determine the criminal law regulations for perpetrators of cyber harassment through social media. Basically, problems that occur in society occur because of the reciprocal relationship that occurs due to the process of social interaction. Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE) and Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, shows the state's commitment to providing legal protection to its citizens, especially those who are victims of sexual violence. One form of sexual crime that is given protection is electronic-based sexual violence as stated in the provisions of Article 4 letter i. The research method used in normative legal research is commonly referred to as doctrinal legal research or library research. The research approach uses qualitative analysis, legal materials in the form of primary, secondary and tertiary legal materials. The research results concluded that cyberharassment through social media is a problem that affects all levels of society. Social media users who become victims of Cyberharassment often suffer from serious psychological impacts such as Post-Traumatic Stress Disorder (PTSD). Victims can report through the Ministry of Communication and Information or law enforcement officers. Therefore, it is necessary to regulate the law for perpetrators of cyberharassment, so that there are no more victims of such actions.

Keywords: Cyberharassment; Settings; Social Media.

1. Introduction

The development of technology has given rise to new problems which have not yet been able to be addressed by legal institutions in our country. Current technological advances have given rise to a crime known as cyber crime or internet network crime (SIMANJUNTAK, 2023),(Putra, 2015). The crimes that occur are not limited to the scope of conventional crimes but once again crimes move in a different direction, namely through technology such as the internet. Crimes that have begun to emerge as a consequence of the growth of internet technology and social media are crimes against women, including sexual harassment, where most of the victims are women (Mustika et al., 2021),(Oksidelfa Yanto, 2021). Sexual harassment in cyberspace can happen anywhere and is not limited to a certain time. The ease of internet access is used as an effective means to commit various crimes on social media (Astuti et al., 2024),(Ulfah, 2020).

As with other immoral acts such as prostitution, rape, pornography, the problem of sexual harassment is classified as a form of violence against women, especially sexual violence (Pambayun, 2024),(National Commission, 2006). Harassment is a term derived from the root word "leceh", interpreted as an act of belittling or insulting. The

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term sexual harassment in English is called "sexual harassment". In English, the word "harass" has the meaning of "teasing, disturbing, disturbing actions, causing anger or anxiety in the victim (Setiadi, 2001).

The act of sexual violence actually comes from the following words, namely "violence and sexual", which in English is called "sexual hardness" (Ibipurwo et al., 2022),(Simatupang, 2023). The word hardness contains the meaning of violence, unpleasantness and not free (Shadily, 1997). Sexual violence is any attack on a person that contains sexual elements and is directed at women, this violence can be physical or non-physical and does not care about the presence or absence of a binding personal relationship between the perpetrator and the victim Cyber harassment, also known as online harassment or cyberbullying, refers to behavior directed at an individual or group with the aim of causing discomfort, fear, or emotional harm. aimed at women, this violence can be physical or non-physical and does not care about the presence or absence of a binding personal relationship between the perpetrator and the victim Cyber harassment, also known as online harassment or cyberbullying, refers to behavior directed at an individual or group with the aim of causing discomfort, fear, or emotional harm (Martha, 2003).

This is done through information and communication technology that allows people to interact and communicate online. With the advent of the internet and social media, they have provided many platforms for interaction and communication, but the freedom of the internet also allows bad people to exploit, intimidate or harass others online (Harahap & Adeni, 2020),(Agustina, 2018). The use of hate speech messages, insults, threats, the spread of sensitive personal information, the spread of false rumors, defamation, insults to a person's religion, race, or gender, and the use of photos or videos that degrade and humiliate the victim are some forms of cyber harassment (Sulianta, 2024).

Sexual harassment crimes (Cyber Harassment) through social media have occurred a lot in society, but the existing legal regulations, both the Criminal Code and the ITE Law, do not specifically regulate this crime in detail, even though this sexual harassment crime is the beginning of other crimes that arise, such as kidnapping, rape and this is a serious problem that is invisible to the eye and ignored by lawmakers. Victims of cyber harassment can be very detrimental. They may experience stress, depression, anxiety, decreased self-esteem, social isolation, and may even experience suicidal thoughts or actions in extreme situations (Wahyutiar et al., 2023).

Cyber harassment This is a social phenomenon where this behavior is influenced or affects a person or group to another person or group. The emergence of social phenomena in society begins with social change. Basically, problems that occur in society occur because of the reciprocal relationship that occurs due to the process of social interaction.

In addressing this issue, governments, educational institutions, civil society organizations, and online platform providers have created better laws, policies, awareness campaigns, and reporting mechanisms. However, due to the anonymity and rapid development of technology, addressing cyber harassment remains a difficult challenge. It is important to continue raising awareness about the adverse

consequences of cyber harassment. In addition, it is important to commit to creating a safe, inclusive, and human rights-respecting online environment (Tenri Awaru, 2021).

In Indonesia, Cyber Harassment or online harassment is a common and increasing problem. Advances in information technology and the popularity of social media have provided a wide platform for individuals to interact, but have also increased the risk of cyber harassment. People who become victims of cyber harassment on social media will become withdrawn and many of them even experience insecurity or lack of confidence to post their activities on social media again. In fact, those who have become victims of cyber harassment also experience mental damage. For example, someone who suddenly gets a message containing the meaning of sexual harassment from someone they know or don't know will have an impact on their mental health. Victims who look fine on social media are not necessarily fine in real life. The victims even experience symptoms of mental damage such as; depression, stress, paranoia, insecurity or loss of confidence, and temperamental. This can also cause serious problems that result in victims deciding to end their lives.

Some forms of cyber harassment that often occur in Indonesia include Hate speech The spread of messages or content containing insults, harassment, or threats against individuals or groups based on race, religion, ethnicity, gender, or sexual orientation. Online sexual harassment Sending sexually explicit messages or images, spreading intimate photos or videos without permission, or spreading pornographic content with the aim of harassing or degrading the victim. Spreading sensitive personal information Sharing personal information such as addresses, telephone numbers, or other identity data with the aim of disturbing or harming the victim. Defamation The spread of false rumors, insults, or slander against an individual or group with the aim of damaging their reputation. Defamation of religion or belief: Insulting someone's religion or belief through derogatory comments, images, or content.

In the legal context, criminal law refers to the type of law that deals with violations or criminal acts and the sanctions imposed on perpetrators of crimes. Criminal law is a branch of law that regulates behavior that is considered to violate the norms and legal rules that apply in a country.

The main purpose of criminal law is to maintain social order, protect society, and respond to criminal acts by punishing the perpetrators. Criminal law aims to provide a deterrent effect on perpetrators of crimes and prevent others from committing similar acts. The criminal system generally involves a legal process involving investigation, prosecution, trial, and sentencing. The types of criminal penalties can vary, including imprisonment, fines, the death penalty (depending on the jurisdiction of the country), rehabilitation, or other punishments appropriate to the level of crime committed. Criminal law is also divided into two main categories, namely material and formal criminal law. Material criminal law relates to violations of substantial or material law, while formal criminal law relates to the legal procedures that must be followed in the prosecution and prosecution of criminals.

Criminal regulations are usually contained in the Criminal Code (KUHP) or the criminal code applicable in a country. Each country has different criminal regulations according to the legal system it adopts, for example the Anglo-Saxon legal system or

the continental legal system. Law Number 19 of 2016 Amendment to Law Number 11 of 2008 concerning ITE Article 27 paragraph (1) of the ITE Law, the formulation in the article provides an understanding that the object of the crime is in the form of Electronic Information/Documents, including in criminal acts in the field of Information and Electronic Transactions, has a legal interest that needs to be protected, namely in terms of maintaining moral values that exist in society (Chazawi, 2015).

One form of cyber harassment on social media that often occurs in society is FP, who explained that she often received rude messages from people she didn't know after uploading a photo of herself not wearing a hijab on Instagram stories. Then, she often received messages on Instagram with rude words which are usually called verbal harassment. Where she will be used as a lust gratifier by people she doesn't know. Direct message or Instagram text message FP Harassment sentence experienced by FP: "How much is the open BO fee last night?" (Oratio Directa Journal Vol. 3 No. 1 November, 2021)

A student of the Faculty of Social and Political Sciences of Airlangga University with the initials MYI also received sexist terror via social media. MYI explained that she was no longer comfortable with the actions of the perpetrator who continued to provide terror through all of MYI's social media accounts, both via direct message Instagram, spam in the comments column, chat and telephone, MYI also explained that the perpetrator could send messages 5-7 times a day and even create 14 different accounts every time MYI found out about the message from the perpetrator, MYI immediately blocked it. MYI had made every effort to stop the perpetrator's actions, but all of MYI's efforts had no effect on the perpetrator, which ultimately led MYI to make a police report with a criminal offense in accordance with Article 27 paragraph (1) of the ITE Law (lighthouse, 2024).

The Indonesian government has issued laws that regulate cyber harassment issues, such as the Electronic Information and Transactions Law (UU ITE) and the Child Protection Law. However, the implementation of these laws remains a challenge, and there are concerns that they could be used to restrict freedom of speech. In addition, civil society organizations and educational institutions also play an important role in raising awareness about cyber harassment, educating the public about the risks and how to deal with it, and providing support to victims. It is important for individuals to report cases of cyber harassment to the authorities, use the reporting features provided by social media platforms, and take steps to protect their privacy and online security.

The phenomenon of cyber harassment in Indonesia has been regulated in Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE). However, the law is still ignored by everyone. Where, there are still many victims who are the targets of cyber harassment. Cyber harassment is usually carried out by people aged 20 to 25 years. Where their development is filled with technology. No wonder, crime is now not only in the real world but has also plunged into cyberspace. This generation is instant and practical. They can get anything through social media. No wonder, they also share their daily activities on social media. Everyone can use social media, but not everyone can understand etiquette on social media.

Therefore, the problem in this research that will be discussed is how are criminal law regulations for perpetrators of cyber harassment via social media?

2. Materials and Methods

This study uses normative legal research techniques commonly referred to as doctrinal legal research or library research. It is called doctrinal legal research because this research is only aimed at written regulations so that this research is very closely related to the library because it will require secondary data in the library. Based on the data used in this study using quantitative analysis of systematic scientific research on parts and phenomena and the causality of their relationships. The purpose of quantitative research is to develop and use mathematical models, theories and/or hypotheses related to a phenomenon. The measurement process is a central part of quantitative research because it provides a fundamental relationship between empirical observers and mathematical expressions of quantitative relationships. The types of data used in this study include, Primary data is data obtained directly from the first source, namely interviews with both informants and respondents. Secondary data is data obtained from official documents, legal books and existing legal regulations.

3. Results and Discussion

3.1. *Cyber Harassment in Criminal Law Perspective*

Cyber Harassment is any behavior that has sexual connotations or is intentionally sexual, carried out unilaterally and not requested by the target, resulting in negative reactions such as shame, anger, hatred, offense and trauma experienced by the victim (Venny Febriyanti Puspita Ningrum, 2023). while according to another perspective, Cyber Harassment involves bullying on social media or through personal digital communication channels, usually carried out by someone older than the victim, using abusive messages and commonly referred to as cyber stalking (Imam Suchahyo, 2023).

According to the law, cyber harassment is an act of intimidation, harassment, or bullying carried out through digital channels such as social media, email, text messages, or other online platforms. This action can include threats, insults, the spread of personal or false information, and other forms of behavior designed to scare, embarrass, or harm the victim (Monika, 2023). Cyber harassment can be considered a violation of privacy laws, defamation laws, and anti-bullying laws. Many jurisdictions have specific laws that regulate and sanction this behavior, including fines, imprisonment, or court orders prohibiting the perpetrator from approaching or contacting the victim.

Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, shows the state's commitment to providing legal protection to its citizens, especially those who are victims of sexual violence. One form of sexual crime that is given protection is electronic-based sexual violence as stated in the provisions of Article 4 letter i. However, the law does not explain in detail the definition of electronic-based violence.

In March, the Indonesian Internet Service Providers Association (APJII) Survey noted that internet penetration in Indonesia had reached 78.19 percent in 2023 or reached 215,626,156 people out of a total population of 275,773,901 people. The survey was intended to determine how much percentage of internet users experience cyber harassment. The survey results released by the Indonesian Internet Service Providers Association (APJII) showed that 49% of internet users had been bullied in the form of being teased or harassed on social media. Meanwhile, internet users who had never been bullied were 47.2%.

Internet users' responses to harassment varied. As many as 31.6% of the bullied parties ignored the act. Meanwhile, 7.9% of internet users responded by replying. There were also 5.2% of users who deleted the taunts. Meanwhile, only 3.6% of internet users reported the act to the authorities.

From the survey results above, we get the fact that online bullying is rampant and occurs massively. Realizing the dangers of online bullying, the government anticipates it by regulating electronic information and transactions. These regulations are contained in Law Number 11 of 2008 concerning Electronic Information and Transactions, and then amended by Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. These regulations are reflected in Article 45 paragraph 3 of the ITE Law which reads: Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain insults and/or defamation as referred to in Article 27 paragraph (3) shall be punished with imprisonment for a maximum of 4 (four) years and/or a maximum fine of Rp750,000,000.00 (seven hundred and fifty million rupiah).

Meanwhile, if the act of bullying using social media is carried out together, then the perpetrators are punished for the act of "participating". Participating in this context means jointly committing between the main perpetrator and the person who participated in the criminal event. The provisions regarding the main perpetrator and the perpetrator who participated in the crime are regulated in the Criminal Code (KUHP) in article 55, it is explained that a person is punished as a person who committed a criminal event if:

1. The person who does, orders to do, or participates in doing the act.
2. A person who, by means of gifts, agreements, misuse of power or influence, violence, threats or deceit or by providing an opportunity, effort or information, intentionally persuades someone to do something.

Meanwhile, being punished as a person who helps commit a crime in Article 56 of the Criminal Code is explained as follows:

1. Whoever intentionally helps to commit the crime
2. Anyone who intentionally provides the opportunity, means or information to commit the crime.

In the context of defamation or damage to a person's good name, it can only be assessed by the victim themselves. In other words, it is the victim who subjectively assesses whether the content concerning him/herself that is spread by others is detrimental to him/her or not. Thus, it must also be understood that defamation is very dependent on the relationship between the two parties, namely the victim and the perpetrator. A harmonious relationship can of course make the content in question very common or not contain insults. However, on the other hand, a relationship that is not mutually known or a relationship that is not harmonious can cause the content that is spread to be very crucial and has the potential to damage a good name. So when a feeling of displeasure arises, there will also be complaints about the content that is spread.

In the Criminal Code, it has been regulated that insult is a complaint offense, which means that the case can be processed if there is a complaint from a person who is harmed by an action.

This is also strengthened by the Constitutional Court Decision Number 50/PUU-VI/2008 concerning the constitutionality of Article 27 paragraph (3) of the ITE Law which is a complaint offense. Because this article is stated as a complaint offense, of course, a qualified facility is needed to be used as a place to channel complaints. The government through the Ministry of Communication and Information provides complaint services as in the following link. In addition, legally, someone who feels aggrieved by the tarnishing of their name due to bullying can file a complaint through law enforcement officers as

regulated in Article 108 paragraph (1) and paragraph (6) of Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP) as quoted as follows: Paragraph (1) "Anyone who experiences, sees, witnesses and/or becomes a victim of an event that constitutes a criminal act has the right to submit a report or complaint to the investigator and/or investigator, either verbally or in writing."

Here are some cases that illustrate how online harassment perpetrators act. The first case example is Case with case number 2627/Pid.Sus/2017/PN Mdn handled by the Medan District Court, related to violations of Article 27 Paragraph (1) of Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE). This article regulates the prohibition of distributing or transmitting electronic information containing material that violates morality. This crime is relevant in the context of the development of digital technology that allows information to spread quickly and easily, including indecent material or material that risks damaging social norms.

Article 27 Paragraph (1) of the ITE Law states that anyone who intentionally and without the right distributes, transmits, or creates electronic information or electronic documents containing immoral content can be punished. The content referred to here refers to material that is considered contrary to the moral norms of society, such as pornography or content containing elements of violence or exploitation. In this context, the material distributed or transmitted can be in the form of images, videos, or text that is inappropriate or does not comply with the moral values prevailing in society.

In this case, the defendant was charged with intentionally and without permission to distribute material containing immoral content. This distribution was carried out using electronic media such as social media or instant messaging applications, which allow information to spread quickly among the public. Therefore, this article aims to provide protection for individuals and society from the negative impacts that may arise from the distribution of content that damages morality, such as pornography.

In addition, in order to be subject to criminal sanctions under this article, there must be an element of intent in the perpetrator's actions. This means that the perpetrator is aware that the information being disseminated contains material that violates moral norms and he intentionally carries out the act. In addition, the act must be carried out without permission, meaning that the perpetrator does not have permission or authorization from the authorized party to disseminate or transmit the material.

Violations of Article 27 Paragraph (1) of the ITE Law can be subject to quite severe criminal penalties. The penalty can be a maximum of six years' imprisonment and/or a maximum fine of one billion rupiah. This sanction is given to provide a deterrent effect and as a form of protection for the community, considering that the impact caused by the dissemination of information containing immoral material can be very broad. In addition to damaging morality, this can also cause trauma for victims or even affect the younger generation who may be exposed to the content.

In this case, the court will examine evidence and testimony to ensure whether the defendant actually committed a violation as regulated in Article 27 Paragraph (1) of the ITE Law. If it is proven that the perpetrator intentionally and without the right distributed or transmitted electronic information containing immoral content, then the perpetrator can be punished according to the applicable provisions.

This case also illustrates the importance of strict supervision and enforcement of the law in cyberspace, especially in maintaining social order and public morality. With the development of information technology, more and more channels can be used to disseminate information, so it is important to ensure that the information disseminated does not damage the values that exist in society. Therefore, the law must continue to adapt to overcome the various problems that arise due to technological advances, so that society can still be protected from the spread of dangerous or detrimental material.

The next case is online harassment against a student at Airlangga University named Angel, not her real name. Angel reported a student at Airlangga University's Faculty of Social and Political Sciences with the initials MYI under Article 27 paragraph 1 of the ITE Law. Because Angel felt uncomfortable and uneasy because she continued to receive sexist terror via social media/online. Angel explained that "she was no longer comfortable. Several methods were tried but they didn't work. I've reported it to her family but there were no results.(lighthouse, 2024). This incident began in April 2024 but in May 2024 MYI became more aggressive in terrorizing all of Angel's social media accounts, both through Instagram direct messages, comment column spam, chat and telephone. Angel explained "he could get 5-7 messages a day. He also made 14 Instagram accounts because I always blocked him. Not only on my Instagram, my sales account, my sister's and her husband's Instagram, Shopee account, email, WhatsApp, telephone with many numbers too". This case also attracted attention from the mass media, the Dean of Unair University and the family published this incident and quoted a statement from the Help Center, namely Prof. Myrtati Dyah Artaria who was assisted by Prof. Myrta said that the Dean had taken steps to resolve the problem(lighthouse, 2024). The dean's office has brought the perpetrator together with the victim, the head of the department has also held a meeting so we are just waiting for the dean's decision on what the next action will be.

The impact experienced by Angel was: a. Psychological

Sexual violence, as a serious problem that affects various levels of society, has complex long-term impacts, especially in terms of psychology for victims. The victimology approach is an essential foundation for understanding holistically how sexual violence shapes the experiences of victims, by placing them as the subject of research and recognizing the uniqueness of each recovery journey. One of the psychological impacts that often accompanies victims of sexual violence is Post-Traumatic Stress Disorder (PTSD). Symptoms such as flashbacks, nightmares, and excessive anxiety can weave threads of anxiety that are difficult to unravel. This experience creates long-lasting psychological wounds, affecting the mental health and quality of daily life of victims. Depression is also a common impact that can arise from sexual violence. Feelings of hopelessness, loss of control, and unforgettable emotional burdens can trigger significant mood swings. Depression not only affects psychological well-being, but can also hinder victims' ability to function socially and at work. A deeper understanding of these psychological impacts opens the door to more effective intervention planning and the provision of appropriate support. Through victimology, we can identify common patterns in victims' responses, enabling service providers and mental health professionals to design a personalized and holistic treatment approach.

The psychological impacts of sexual violence can be very complex and disturbing for victims. Some common impacts include:

1. **Psychological Trauma** Victims of sexual violence often experience profound psychological trauma. In some cases, this can develop into post-traumatic stress disorder (PTSD), affecting long-term mental health.
2. **Depression and Anxiety** Psychological conditions such as depression and anxiety commonly arise as a result of the experience of sexual violence. Victims may experience feelings of hopelessness, loss of self-confidence, and social isolation.
3. **Identity and Personality Disorders** Sexual violence can damage a victim's self-image and identity. Some victims may experience changes in their personality or have difficulty forming interpersonal relationships. (Saefudin, 2024)

Angel also experienced psychological impacts such as trauma, anxiety, and fear. She even often felt threatened by the act. The victim has reported the perpetrator to the police under Article 27 paragraph 1 of the ITE Law which reads "any person who intentionally and without the right broadcasts, displays, distributes, transmits, and/or makes accessible Electronic Information and/or Electronic Documents that have content that violates morality for public knowledge".

The uncontrolled nature of social media as a whole allows anyone to freely upload their personal opinions. In addition, social media that is increasingly easy to connect with other communication media can make the spread of cyber harassment cases even wider. So what is needed in responding to this is a strong individual awareness. Moral values, ethics, and norms must be maintained in addition to the role of the government and police in overseeing this problem.

Legally, the Law has regulated sexual harassment through social media and violations of personal data protection as prohibited acts because they have binding legal consequences. The perpetrators can be punished based on the Law, namely the ITE Law, the Pornography Law, and the Criminal Code.

The results of this study also revealed that cyber harassment will affect a person's psychology, marked by a mindset towards self-esteem. Maslow in Feist & Feist said that every individual has two levels of need for appreciation, namely self-esteem, reputation or appreciation from others. Minchinton in Anggraeni & Christia explained three aspects of self-esteem, namely: feelings about oneself, feelings about life, feelings about relationships with others. Feelings about relationships with others may be felt by followers or congregations of Ustaz Abdul Somad who feel that their self-esteem has been tarnished by the uploads of the perpetrators of cyber harassment. Individuals or groups who feel that their self-esteem has been tarnished can also be said to be victims. These victims will feel uncomfortable and then think about fighting the perpetrators because of the pressure felt due to the verbal violence. This triggers a social conflict that is very worrying and dangerous to the stability of state security.

4. Conclusions

Cyber harassment from a criminal law perspective is a form of intimidation, harassment, or oppression carried out through digital channels such as social media, email, or text messages. These actions include threats, insults, the spread of personal or false information, and behavior that is detrimental to the victim. In criminal law, cyber harassment is considered a violation of privacy protection laws, defamation, and anti-bullying laws.

In Indonesia, the ITE Law regulates the punishment for perpetrators of insults or defamation, while perpetrators of cyber harassment can be sentenced to prison or fines.

Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence includes electronic-based violence, although the definition is not yet detailed. Cyber harassment cases, such as in case 2627/Pid.Sus/2017/PN Mdn, the defendant was charged with violating Article 27 paragraph (1) of the ITE Law because he intentionally and without the right to distribute or transmit electronic information containing immoral content, such as pornographic content. His actions were considered to violate applicable moral norms. The panel of judges found the defendant guilty and was sentenced according to the provisions in the ITE Law. The same thing happened to Angel (a student at Airlangga University), showing the serious impacts that can be caused, including trauma and anxiety. Victims can report to the Ministry of Communication and Information or law enforcement officers. Law enforcement through various regulations, including the ITE Law and the Criminal Code, is very important to prevent and handle cases of cyber harassment, as well as increase individual awareness and ethics in using social media.

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