

Juridical Review of Social Media Defamation

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ABSTRACT

In the Civil Code, the existence of the issue of provisions on Defamation is grouped in the Third Book of Perikatan Chapter II Perikatan which was born for the benefit of the Law. In general, insults in the Civil Code are classified as a genus of Unlawful Acts as regulated in Article 1365 of the Civil Code, where the provisions of contempt are specifically regulated in Articles 1372 to 1380 of the Civil Code. Where in this study is a defamation problem to find out the juridical review of damages on social media based on civil law. The claim for damages aims to regain the honor of defamation. The fundamental difference between the prohibition of defamation in criminal law and civil law lies in the purpose and purpose of the sanction. In criminal law, it lies in the institution of criminal sanctions that are believed to have inhibition power, while in civil law it means the fulfillment of compensation due to defamation.

Keywords : *Judicial Review, Defamation, Civil Law*

INTRODUCTION

In this day and age in the era of globalization that we are going through now as a syndication of technological development itself. The existence of the development of Information technology . Where changes in all points of view of people's lives, especially in developing countries, including Indonesia. The changes that occur with themselves let alone changes in the law since the needs of society will change quantitatively and qualitatively. The innovative development of data and communication is constantly evolving in accordance with the times. Along with the emergence of the internet and social media in human life in this latest era, there have also been various new violations that were never known to the public before, and also some problems that before the absence of social media, began to appear some time later so as to allow communication between computer users that caused crimes.

In the age of Democracy at this time freedom of expression also has restrictions so as not to meet the element of defamation. Where a legal Subject who feels aggrieved or defamed may file a suit for damages in the District Court. In general, Contempt in the Civil Code is considered to be grouped in the genus of Unlawful Acts regulated in Article 1365 of the Civil Code, while the provisions of Contempt are specifically regulated in Articles 1372 to 1380 of the Civil Code. Defamation is an act that violates the provisions of the law and brings harm to the intended person. A civil suit regarding defamation was filed with the aim of obtaining damages as well as recovery of goodwill . The suit can be filed by husbands or wives, parents, grandparents, children and grandchildren, for insults committed against their wives or husbands, children, grandchildren, parents and grandparents, if the victim has passed away . Not included in the Contempt provided for in Article 1376 if it turns out that it can be proved the act was done in the public interest or for compulsive self-defense.

Likewise, the civil suit cannot be granted, if the person who was insulted by a judgment of the Magistrate who had obtained the force of law for sure, had been blamed for committing

the act alleged to him. However, if a person constantly performs contempt of another person, with the sole intention of insulting, also after the truth of the allegations turns out and a judgment that acquires definite legal force or and an authentic deed, then he is obliged to give to the insulted person the reimbursement for the losses suffered by him.

The right to claim compensation as mentioned in article 1372, does not disappear with the death of the insulting person or the person who is insulted. The charges in the contempt case are dismissed with the lapse of one year, commencing from the day the intended act was committed by the defendant and known to the plaintiff. Where in entering the era of society 5.0 and free trade so as to create countries- countries are increasingly developed and developed, where in the form of technological advances this can be observed by the rampant trade transactions using online media via the internet. But advances in news technology can also create a development of crime in the use of internet media, therefore in anticipation of it a country is obliged to create regulations to overcome crime and form certainty of rules in it.

One of the negative effects based on the use of Information Technology is the rampant criminal acts of defamation, be it defamation committed against individuals as well as defamation committed against the President or Vice President, Legal Entities, and State Agencies such as the National Police of the Republic of Indonesia. The criminal act of defamation is a crime that needs to be considered. There are many defamation problems that have recently developed widely along with the existence of media, both print media and electronic media. Defamation spread in writing is known to be a libel, while the spoken one is claimed to be a slander. Crimes in the field of reporting technology or can be claimed cybercrime or computer-related crime are increasingly rampant in Indonesia. Cybercrime is a global activity of people (virtual) that results in personal computers becoming targets of crime (for example illegal access, destruction of sites, illegal interception), and the activities of people who use personal computers become targets of crime (for example credit card forgery, pornography via the internet). The provisions of the criminal code governing crimes in the field of reporting technology are often claimed to be cybercrime law. This cyber rule regime is a relatively new study on Indonesia as a result of which it needs to be socialized continuously, both to citizen members and to rule enforcers.

Many people have used digital devices to facilitate their activities and are also used for entertainment alone. The digital media industry association of Florida (Digital Media Alliance Florida) defines digital media as the creative convergence of digital arts, science, technology and efforts for self-actualization of people, communication, social relations and education. Digital media is also very easy to use, it doesn't seem antique, for example analog senses that still use manual systems. In this digital device, we can do something quickly or the term is instant without poly using human energy. But the sophistication & convenience of the few people still used it as a criminal act, one of the criminal acts was defamation.

LITERATURE REVIEW

Definition of Juridical Review

According to the large dictionaries of Indonesian, reviews are the result of reviews, views, opinions (after investigating, studying, and so on) . While the juridical definition based on the legal dictionary is according to the law or legally . Defamation is a special form of unlawful acts. Some of the terms used for this form of unlawful acts say defamation, but some say it is an insult.

Actually, the measure of an act that can be categorized as defamation of others is still unclear because there are many factors that must be reviewed.

Definition of Social Media

The definition of social media is a web-based social networking site that allows each individual to build a public or semi-public profile in a limited system, list other users with whom they are connected, and see and browse their list of connections made by others with a system.

METHODS

The type of legal research used in analyzing, developing and answering problems in this journal is a normative legal research method (normative juridical). Normative legal research methods or literature law research methods are methods or methods used in the research of existing library materials, namely methods that can be used in a study that emphasizes legal science as a system of abstract regulations so that attention will be focused on law as a truly autonomous institution, namely by testing and juridically studying the problems studied by literature materials, especially applicable legislation and legal literature, in order to get a clear picture of the problems studied in this journal. So that in this normative legal research includes several things, namely:

1. Research on legal principles;
2. Research into legal systematics;
3. Research on the degree of legal synchronization;
4. Legal history research.

RESULTS AND DISCUSSION

The regulation of defamation laws through social media in Indonesia is also contained in the Civil Code (KUHPer), especially in Articles 1372-1380, as an unlawful act as stated in Article 1365. Fair detention for offensive or defamatory points to compensate for the misfortune arising from such activities and the rebuilding of honor and good titles, as provided for in Article 1372. That in Article 1373 of the Penal Code, the person allegedly defamed may ask the judge to choose that the activity is an unlawful act.

In the development of Article 1376 of the Civil Code, there must be a contemptuous explanation but according to the law the intent to offend is considered non-existent in the event that the derogatory explanation was planned in the public interest or in self-defense. Whereas in order to win a defamation suit under Article 1372 of the Civil Code, it must be proved that there is an insulting intent. Thus, the person giving an explanation whose substance is aimed at insulting others can free himself from the lawsuit if the news is intended to remind the opening of an event that impedes society or warns the individual about such openness.

Indonesia's legal framework does not simply endanger defamation or violations of criminal law as it is, but also civilly. Contempt is specifically addressed in the provisions of Articles 1372 of the Penal Code to 1380 of the Penal Code. The fundamental difference between the prohibition of defamation in criminal law and civil law lies in the purpose and purpose of the imposition of sanctions. In criminal law, it lies in the institution of criminal sanctions that are believed to have an impact on inhibition, while in civil law the meaning is the fulfillment of

compensation as a result arising from defamation actions. In addition, it is also useful to re-establish the honor of the victims. This is as directed in the regulation of Article 1372 of the Criminal Code.

An unlawful act is a form of entanglement born out of an Act as a result of human actions that violate the law. It is regulated in Articles 1365-1380 of the Criminal Code Book III . Based on the provisions of Article 1365 of the Criminal Code, what is meant by PMH is "An unlawful act committed by a person who through his fault has caused harm to others. Whereas in a narrow sense, PMH means "A person who violates the rights of others or has committed contrary to a legal obligation" . Acts of violation of the rights of others, the rights violated are rights recognized by law, including but not limited to the following rights, namely personal rights of property rights, the right to freedom, and the right to honor and good name.

Although pmh used to be narrowly interpreted only against written law, since 1919 the Dutch Supreme Court in the case of Arrest Cohen-Lindenbaum (H.R. 31 January 1919) in its ruling expanded the definition of against the law which was only limited to written law, it was also expanded to include unwritten law, including:

1. Violating written law
2. Violating the subjective rights of others, namely the rights of a person guaranteed by the state including but not limited to personal rights, freedoms, material rights, honor, goodwill or other individual rights
3. Contrary to the legal obligations of the perpetrator (both written and unwritten legal obligations)
4. Contrary to the norms of decency that apply as the living law and/or positive law.

Based on the aforementioned description, it seems clear that in essence defamation is very appropriate if it is purely a violation of civil law. This is because in defamation the perpetrator's actions are acts that violate the rights recognized by law, namely the right to honor and good name. It will become even more apparent when not only the good name is harmed, but it comes to causing material losses so that it participates in violating property rights. Not only material losses can be claimed for damages, but also losses that are immaterial in nature. Immaterial harm includes the onset of fear, disappointment, regret, causing pain that in practice will be assessed in material or monetary form.

As long as both types of losses can be proved there is a direct causality relationship between the deed and the resulting loss. The existing civil law provisions are considered to be able to accommodate existing legal needs without the need to redesign the existing regulations, namely Articles 1372-1380 of the Criminal Code which are included in the PMH genus. The abolition/ decriminalization of criminal sanctions in defamation cases in the Criminal Code and/or the ITE Law is considered more appropriate, this is as applied by the UK in handling defamation cases. Decriminalizing defamation is also a solution to the problem of prison overcapacity which is increasingly concerning.

Meanwhile, Herman Mannheim said that criminal law is one of the most trusted mirrors of a nation's civilization. This means that criminal law is a reflection of the basic values of a society. A reflection of human rights, justice, and the implementation of the formulation of legal norms. In addition, it is also in order to restore the existence of ultimum remedium, which in essence criminal law is a last resort after other legal remedies are considered unable to overcome

existing problems.

CONCLUSION

Defamation through social media in Indonesia not only enters the realm of criminal law, but also enters the civil law as regulated in Article 1365 of the Civil Code, Articles 1372-1380 of the Civil Code. The compensation lawsuit aims to regain the honor of the consequences of the defamation. The fundamental difference between the prohibition of defamation in criminal law and civil law lies in the purpose and purpose of the imposition of sanctions. In criminal law, it lies in the institution of criminal sanctions that are believed to have an impact on inhibition, while in civil law the meaning is the fulfillment of compensation as a result arising from defamation actions.

The hope of the Law to make civil sanctions against perpetrators of defamation through social media is that the public will no longer dare to commit these acts. In reality, there are still those who commit defamation through social media in Indonesia.

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