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Legalization of Human Rights Violations

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Abstract

Social media is a product resulting from the development of technology that is used by the community to share content anywhere and everywhere. Uploading video or photo content about an event can be a trigger for the growing negative stigma of the community, especially if the content is related to the reporting of a controversial event. Without realizing it, with the growth of citizen journalism, it can also cause losses to the party who is the object of content where the party does not know that he has become viral on social media. This is stipulated in article 26 paragraph 1 of Law No. 19/2006.

Keywords

Social media, community, citizen journalism, viral, Law

1. Introduction

The recent development of technology can be seen in the development of computer sophistication, telecommunications systems and information from previous times. The use of this technology by the general public also increased rapidly so that various information could be known easily even if it was in a long distance. This condition is the beginning and development of cyberspace as one of the information centers. Along with the development of this technology, many people use this technology positively and negatively. The use of technology in the field of business can bring its own benefits as a form of marketing but this technology is also a means of carrying out illegal acts. This is because information and communication technology has also changed the behavior and lifestyle of people globally and caused borderless information. Technology that continues to experience development makes it easier for people to interact with each other without having to face to Ade (Suparni, 2009). The internet is mandatory for people who follow the development of these technologies. The internet opens and makes it easy to exchange information and data can be done in a long distance, accurately, quickly and at a cost that is not expensive but the existence of the internet is what facilitates the crime of using information technology or what we commonly call cybercrime such as criminal defamation, pornography, account breakdowns and others. Law No. 11 of 2008 concerning Electronic Information and Transactions was designed and endorsed as one of the ways the Indonesian government is to tackle cases cybercrime. The existence of information globalization has placed Indonesia as a part of the world information society so that the ITE Law is held with the aim of regulating and limiting the use of the internet itself so that the development of information technology can be carried out optimally, evenly, and spread on a national scale as a form of improving the nation's intelligence (Law Number 11 Year 2008). Social media is a social networking site such as web-based services that allow individuals to build public or semi-public profiles in a restricted system, list other users with whom they are connected, and view and explore a list of their connections made by others with a system (Hendry & Yusuf, 2007). On August 28, 2017, the world of Indonesian social media was viral with a video of a Blue Bird taxi driver who looked angry at a foreign national who used a car with the license plate of one of the embassies because of a collision incident between their vehicles. In the viral video, the taxi driver was seen cursing Caucasians with the Indonesian language which mixed with English and was in fact used as a joke or laughing matter by the public (Nadir, 2017). In addition to the video, on August 11, 2017, a viral video also showed the TNI hitting traffic police in Pekanbaru Riau. In the recording, it was seen that TNI personnel suspected of being named Sergeant Two Wira Sinaga came to a police officer. Seen without using a helmet when driving, members of the TNI then hit the head of the police unit. Not only that, the members of the TNI also kicked a motorcycle driven by the police officers. Kalporesta Pekanbaru Riau (Sadikin, 2017). The emergence of netizen journalism is very significant by recording images or videos uploaded very quickly and tend to be intimidating both on his personal account or sent and distributed by other public accounts. Many of these publications, the parties who become the object do not realize that they are being recorded or photographed for what they do. Along with the development of social media and the internet, more and more criminal acts can occur as happened recently in the community. As the crime of defamation in which social

media is used as a medium of one of its users to shed their emotions have been expressed (bad thoughts about something) that sometimes inadvertently result in harm to others.

2. Literature Review

The definition of information technology according to the ITE Law is "a technique for collecting, preparing, storing, processing, announcing, analyzing, and/or disseminating information." While the technology information itself according to the ITE Law is defined as "one or a set of electronic data, including but not limited to writing, sound, images, maps, designs, photographs, electronic data interchange (EDI), letters, electronics (electronic mail), telegram, telex, telecopy or the like, letters, signs, numbers, Access Codes, symbols, or perforations that have been processed that have meaning or can be understood by people who are able to understand them." Social media according to Andreas Kaplan and Michael Haenlein is a group of Internet-based applications that build on the basis of ideology and web 2.0 technology. which allows the creation and exchange of user-generated content (Kaplan, 2010). Social media is a social networking site such as web-based services that allow individuals to build public or semi-public profiles in a restricted system, list other users with whom they are connected, and view and explore a list of their connections made by others with a system (Henderi & Yusuf, 2007). Social media is also defined as a means for consumers to share text, image, audio and video information with each other and with the company and vice versa (Kotler & Keller, 2012). Social media has 3 (three) main functions. First, social media is a medium designed to expand human social interaction using the internet and web technology. Second, social media has managed to transform the practice of communication in the direction of broadcast media from one media institution to many audiences ("one to many") into the practice of dialogical communication between many audiences ("many to many"). Third, social media supports the democratization of knowledge and information, transforming humans from users of the message content into the maker of the message itself (Wijayanto, 2015). Based on the example case above, there are currently many paparazzi appearances that are happening by recording secret images to upload, either on their personal account or sent to account citizen journalism to load. This action caused a reaction to images or videos that were uploaded very quickly and tended to be intimidating which made the related parties responsive to this. Often parties involved in the viral video do not realize that there are other parties who are taking pictures. Suddenly his face became famous on social media with negative ratings given by the community. Article 26 of Law No. 19/2006 concerning Amendment to the ITE Law regulates that the use of any information through electronic media concerning personal data must be carried out with the permission of that person. It was also explained that the protection of one's personal data is one part of personal rights or privacy rights. Loading personal data does not have to be written, it only has to be real. Most viral citizen journalism videos like the example above do not go through the editing process and are immediately uploaded so that the perpetrator's face is clearly visible. So it does not take a long time to find out other information related to the video through the comments that appear after the video is uploaded. This causes the uploader to often not feel guilty for assuming that the upload is only on his personal account without being able to be uploaded again by someone. Provisions regarding defamation are regulated in article 310 paragraph 1 of the Criminal Code which states that if a person intentionally commits a crime of defamation can be subject to a maximum of 9 months imprisonment or a maximum fine of IDR 300 (three hundred rupiahs). In article 26 paragraph 1 of Law No. 19/2006 regulates the offense of complaint that if there is someone who has been violated his rights, he can file a claim for the loss. There are 3 things that must be considered a content on social media is said to be an insult or defamation. First, there must be clarity on the identity of someone whose name is defiled referring to a particular person. Second, the identity is biased in the form of a photo, username, curriculum vitae or other information concerning a person. Third, that identity, although not an authentic identity, is known by the public, referring to the identity of the victim, not someone else (Sitompul, 2012). Social media is a medium that can connect one community to another so that social media is a public domain even if it's just a personal account. This can cause losses for certain parties involved in the video or image and cause illegal acts, namely defamation because the uploads attack the honor or good name of others. Some people assume that this is only a form of free speech which is human rights but other people actually see it as a form of provocation or defamation that can be subject to certain sanctions or penalties for the perpetrators or violators. Defamation on social media is regulated in Law No. 19/2006 concerning Amendments to the ITE Law.

3. Conclusion

In uploading a content on social media, everyone must really know which content is an insult or defamation. Some content that triggers the negative stigma of society can cause personal harm to the object of the content, including in the case of defamation which is one of the unlawful acts. Anyone who feels violated by their rights through content on social media can file a lawsuit for damages. This is regulated in Article 310 paragraph 1 of the Criminal Code, article 26 paragraph 1 of Law No. 19/2006 which is a complaint of complaint and article 27 paragraph 3 of the ITE Law.

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Biographies

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A Lecturer and Head of Quality Assurance in the Faculty of Law at Universitas Narotama, Surabaya, Indonesia. She earned her a Bachelor's Degree from Faculty of Law at Universitas Narotama, Surabaya, Indonesia, and then continued her studies and obtained a Master Degree and a Doctoral Degree in Law from Universitas Airlangga, Surabaya, Indonesia. She is Active in publishing books and writing academic papers. Her research interest is in Cyber Law, especially Cyber Law Regulation establishment in Indonesia since 2008.

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A professor of Production and Operations Management in the Faculty of Technology Management and Business at the Universiti Tun Hussein Onn Malaysia since 1999. He has a PhD in Computer Science, which he obtained from the Universite de La Rochelle, France in the year 2008. His doctoral thesis was on topic Process Quality Improvement on Beltline Moulding Manufacturing. He studied Business Administration in the Universiti Kebangsaan Malaysia for which he was awarded the MBA in the year 1998. He's bachelor degree and diploma in Mechanical Engineering which his obtained from the Universiti Teknologi Malaysia. He received his postgraduate certificate in Mechatronics and Robotics from Carlisle, United Kingdom in 1997. He had published more 150 International Proceedings and International Journals and 8 books. He is a member of MSORSM, IIF, IEOM, IIE, INFORMS, TAM and MIM.

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