Southeast Asian Journal of Global Legal Horizon

Lifescifi Akademia Utama

Southeast Asian Journal of Global Legal Horizon

Volume: 1
Issue: 2
Year: 2024
Page: 47-54

Citation:
Amiroszati, F., & Fernanda, A. D. (2024). Legal Analysis of Defamation through Social Media from a Criminal Law Perspective. *Southeast Asian Journal of Global Legal Horizon*, *1*(2), 47-54.

Article History:
Received: May 19, 2024
Revised: November 19, 2024
Accepted: December 12, 2024
Online since: December 30, 2024

Legal Analysis of Defamation through Social Media from a Criminal Law Perspective

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Abstract:

The development of social media makes it easier for people to convey information and opinions, but it also increases the potential for defamation through digital spaces. This study aims to analyze the definition of cybercrime, determine the scale of defamation through social media, and analyze criminal liability for such acts based on applicable law in Indonesia. The study uses a normative juridical method with an approach to legislation and a review of cases related to defamation. The analysis is based on the 1945 Constitution of the Republic of Indonesia, the Criminal Code, Law Number 11 of 2008 concerning Information and Electronic Transactions along with amendments and related legal provisions. The results of the study indicate that defamation through social media can fulfill the elements of a criminal act if there is an act of attacking a person's honor or good name through the unlawful dissemination of electronic information. Law enforcement must still pay attention to legal certainty and freedom of expression.

Keywords:

Criminal Law; Criminal Liability; Cybercrime; Defamation; Social Media

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1. Introduction

Indonesia places law as the foundation for the administration of national life. Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that Indonesia is a state based on the rule of law. This principle demonstrates that the implementation of social and national life must be within a regulatory framework that limits the actions of each individual. In the context of criminal law, the existence of these regulations is necessary to safeguard the legal interests of society while simultaneously protecting individual rights. One of the interests that receives legal protection is a person's honor and reputation, including when these interests face threats through developments in information technology.

Advances in communication technology have transformed the way people interact and convey information. Social media allows individuals to share a statement with a large audience quickly, without the constraints of space and distance. This convenience offers benefits for freedom of communication, but at the same time, it opens up the possibility of digital media abuse. Information conveyed through social media can include opinions, criticisms, accusations, or statements about a person. If information containing accusations that attack a person's honor or reputation is disseminated to the public, it can give rise to criminal law issues. These developments demonstrate that digital technology has also created a new space for the emergence of criminal acts known as cybercrime (Muthia & Arifin, 2019).

Cybercrime essentially encompasses various forms of crime that utilize computers, internet networks, or digital technology as both a means and a target. The geographic nature of cyberspace allows information to spread rapidly and reach a large audience. This situation allows the impact of a statement that harms someone to be far broader than if it were delivered directly. In its development, defamation through social media has become one form of action often associated with cybercrime. The problem relates not only to the content of the information, but also to how it is created, disseminated, and received by the public (Muthia & Arifin, 2019).

Under criminal law, defamation refers to actions that attack a person's honor or reputation. The assessment of a person's reputation is fundamentally related to society's perception of a person. Therefore, a statement made on social media must be examined in its context, content, and consequences. Not every statement deemed offensive automatically constitutes defamation. Determining the existence of a criminal offense must be based on the fulfillment of the elements stipulated by law. This is crucial to prevent the protection of a person's honor from becoming an excessive restriction on freedom of expression.

The regulation of defamation in Indonesia is intertwined with general criminal law provisions and specific provisions governing activities in the digital space. The Criminal Code provides the basis for regulating insults and defamation, while technological developments have led to the emergence of regulations specifically related to electronic information and transactions. Law Number 11 of 2008 concerning Electronic Information and Transactions is one of the legal instruments used to address acts committed through electronic media. In its application, the provisions regarding defamation through electronic media must be understood in conjunction with the concept of defamation in criminal law to ensure that the elements of the crime are not determined separately (Asmadi, 2021).

The issue of defamation through social media is also closely related to criminal liability. The ease with which individuals can create and disseminate digital information makes the boundary between freedom of expression and actions that harm the honor of others increasingly important. The use of social media as a means of communication does not eliminate the obligation of everyone to be accountable for their actions if the information disseminated meets the elements of a criminal offense. However, law enforcement must still consider the principles of criminal law,

the elements of the act, the perpetrator's culpability, and specific provisions governing criminal acts in the digital space (Jayananda et al., 2021).

Several previous studies have discussed defamation and criminal acts committed through social media. Muthia and Arifin (2019) examined defamation as a cybercrime from the perspective of Indonesian criminal law. Asmadi (2021) discussed the formulation of the offense and the penalties for defamation through social media. Meanwhile, Jayananda et al. (2021) highlighted the issue of defamation and the abuse of freedom of expression on social media. These studies demonstrate that the development of social media requires the implementation of laws capable of protecting reputations without violating the public's right to express opinions. Therefore, an analysis is needed that clarifies the boundaries of defamation, its characteristics as a cybercrime, and the application of criminal law to such acts.

Based on the description, this study formulates three research questions: RQ1: What is meant by cybercrime? RQ2: What are the criteria or criteria for an act to be categorized as defamation through social media? RQ3: How is the criminal law analysis of defamation through social media? These three questions form the basis of discussion to analyze the relationship between the development of cybercrime, the limitations of defamation, and the application of criminal law to acts committed through social media.

2. Methods

This research uses a normative juridical method by examining legal provisions related to the crime of defamation through social media. This method is used to understand legal regulations and connect them to the facts of cases that occur in practice. The research was conducted by examining applicable legal norms as well as criminal law theories and concepts relevant to acts of defamation in the digital space. The research approach was conducted through a review of laws and regulations governing insults, defamation, electronic information, and the use of social media. These legal provisions were analyzed to determine the legal basis, elements of the act, and the limits of an action that can be categorized as a criminal act of defamation. Furthermore, the research also considered the relationship between general criminal law provisions and specific provisions applicable to acts committed through electronic media.

The data used in this study is secondary data obtained through literature review. Data sources include laws and regulations, law textbooks, scientific journals, previous research, and various written sources discussing cybercrime and defamation through social media. Data on relevant cases is also used to examine the application of legal provisions to actions occurring in the digital space. All obtained materials were analyzed qualitatively by identifying, describing, and connecting legal provisions to the research problem. The analysis focused on the elements of the criminal act of defamation and the application of criminal law to the perpetrator. The results of the analysis were then used to answer research questions regarding the definition of cybercrime, the dimensions of defamation through social media, and the criminal law analysis of such acts. With this approach, the research is expected to provide a systematic understanding of the application of the law to defamation on social media.

3. Results and Discussion

3.1. Cybercrime in the Development of Digital Technology

Cybercrime is a form of crime that utilizes computers, internet networks, or information technology as a means or target of criminal acts. The development of digital technology has changed crime patterns because the scope of the act is no longer limited to the physical environment. Perpetrators can carry out an action

from a specific location and impact victims in different areas. This condition gives cybercrime characteristics that differ from conventional crimes, primarily because the dissemination of information can occur quickly, widely, and is difficult to limit. Muthia and Arifin (2019) explain that cybercrime develops along with the use of technology as a medium for committing various forms of crime, including acts that attack the interests or rights of individuals.

The characteristics of cyberspace also allow disseminated information to be continued by other users, so that its impact can grow beyond the control of the initial perpetrator. In this context, social media is one digital space that has the potential to be used for unlawful acts because each user can create, upload, share, and disseminate information to the public. Cybercrime is therefore not only related to technical actions such as hacking or system manipulation, but also includes the use of technology as an instrument to commit crimes that previously occurred in conventional spaces. One form of defamation is through social media. This shift in the criminal landscape presents unique challenges for law enforcement because the nature of digital information differs from conventional communication. Information conveyed electronically can be recorded, stored, copied, and redistributed with great ease.

Therefore, an act initially committed by a single person can gain a much wider reach once it enters the digital space. Febriansyah and Purwinarto (2020) also point out that social media can be a vehicle for acts that attack others through the distribution of specific content, so the use of social media needs to be placed within a framework of legal responsibility. From a criminal law perspective, these developments demonstrate the need to understand cybercrime not simply based on the medium used, but also on the nature of the act, the object of the attack, and the resulting consequences. Therefore, internet use does not eliminate the unlawful nature of an act if the act meets the established elements of a crime. Understanding the characteristics of cybercrime is an important basis for determining how defamation committed through social media can be analyzed under Indonesian criminal law.

3.2. The size of the act of defamation through social media

Defamation through social media must be distinguished from legitimate criticism, opinions, or the dissemination of information. The definition of an act cannot be based solely on the feelings of the offended party but must also be considered based on the legal elements inherent in the act. Defamation essentially involves actions that attack a person's honor or reputation, thus creating a negative assessment of that person. In the context of social media, this assessment must take into account the content of the statement, the form of delivery, the purpose or context of the statement, and how the information is disseminated.

Asmadi (2021) places the formulation of the offense as a crucial element in determining whether an act of defamation is criminally liable. This means that the mere existence of a statement deemed detrimental does not automatically indicate the existence of a criminal offense. There must be a correspondence between the facts of the act and the elements stipulated in the criminal provisions. In Indonesian criminal law, the provisions regarding insults and defamation in the Criminal Code serve as the basis for understanding the concept of attacks on honor or reputation, while acts committed through electronic media have specific provisions in the Electronic Information and Transactions Law. Actions via social media can become a criminal offense when someone conveys or disseminates information that constitutes insult to a particular party through an electronic system.

Kurniawati (2020) points out that the dissemination of information via social media can also raise legal issues when the information conveyed is false and causes harm to others. Therefore, the assessment of defamation must be carried out carefully to ensure that not all forms of digital communication are categorized as criminal acts. Freedom of expression remains a right that must be respected, but this freedom has limits when its implementation violates the legal rights and interests of others. Jayananda et al. (2021) emphasize the importance of distinguishing between freedom of expression and the abuse of that right in the use of social media. Thus, the measure of defamation is not only determined by the presence of content deemed derogatory but must also be considered in terms of the elements of the act, the target object, the nature of the information, the method of dissemination, and applicable legal provisions. This approach is necessary to strike a balance between protecting a person's honor and respecting freedom of expression in the digital space.

3.3. Criminal Law Analysis of Defamation via Social Media

From a criminal law perspective, defamation through social media must be analyzed based on the relationship between general criminal provisions and specific provisions governing the use of information technology. The Criminal Code provides the conceptual basis for insults and defamation, while Law Number 11 of 2008 concerning Electronic Information and Transactions regulates acts committed through electronic media. These provisions were subsequently amended through subsequent legislation, so their application must take into account the law in force at the time the act was committed. The use of criminal law provisions in defamation cases cannot be separated from fulfilling the elements of the crime. This means that law enforcement officials must prove the perpetrator's actions, their unlawful nature, the object of the target, and the elements of wrongdoing required by criminal provisions.

In the context of social media, the existence of posts, comments, writings, images, or other forms of electronic information does not in itself prove a crime has occurred. Such content must be examined based on its context and substance and linked to the applicable elements of the offense. Provisions regarding defamation in criminal law must also be applied with due regard to the principle of legal certainty to prevent the criminalization of opinions that are actually forms of criticism or expression protected by law. Ma'nunah (2017) points out that defamation concerns the protection of a person's honor, so its assessment must consider the substance of the action. In the development of digital law, this issue is increasingly complex because a statement can spread quickly and reach a large audience.

Therefore, proving an act through social media must consider the existence of electronic information and the relationship between that information and the perpetrator's actions. Djanggih and Hipan (2018) emphasize the importance of judges' considerations in cases of defamation through social media, particularly in assessing the elements and context of the alleged act. This demonstrates that the application of criminal law is not sufficient to simply look at the existence of content, but requires a comprehensive legal assessment of the entire event. Criminal liability for perpetrators of defamation through social media ultimately depends on the fulfillment of the elements of the crime and the perpetrator's guilt. Law enforcement must be carried out proportionally because, on the one hand, the law protects a person's honor and reputation, while on the other hand, it also protects the right to express opinions and obtain information.

This balance is crucial because social media is a digital public space used by the public to communicate, criticize, and express views. If every statement that causes

discomfort is immediately considered a crime, the application of the law has the potential to excessively restrict freedom of expression. Conversely, if the dissemination of information that truly attacks a person's honor is not subject to legal consequences, protection for victims is weakened. Jayananda et al. (2021) show that the issue of defamation on social media is closely related to the abuse of freedom of expression. Therefore, criminal law analysis must consider the boundary between the legitimate exercise of rights and actions that exceed legal limits. In cases involving electronic information, evidence and the context in which the information is disseminated are also crucial in the proving process.

Furthermore, the nature of criminal acts related to defamation must be considered because the enforcement process has specific provisions regarding complaints from aggrieved parties. Asmadi (2021) emphasized that the formulation of the offense plays a crucial role in determining the basis for criminal penalties for perpetrators of defamation on social media. Meanwhile, Sepima et al. (2020) demonstrated that law enforcement in the social media space faces challenges because digital content can spread rapidly and has a wide reach. Based on this, the application of criminal law to defamation through social media must be carried out through a careful examination of the elements of the offense, the form of information disseminated, the context of the statement, the targeted parties, and the perpetrator's culpability. This approach is necessary so that criminal law can carry out its function of protecting good reputations without neglecting the principles of justice, legal certainty, and freedom of expression guaranteed in the Indonesian legal system.

4. Conclusion

The development of information technology has created a new space for criminal acts known as cybercrime. Cybercrime differs from conventional crime in that it uses computers, internet networks, and digital technology as both the means and targets of its actions. One emerging form is defamation through social media. The ease of creating and disseminating information allows a statement to reach a wide audience quickly and impact a person's honor and reputation. Defamation through social media cannot be determined solely based on the feelings of the aggrieved party. An act must be assessed based on the content of the statement, the context in which it was conveyed, the target audience, the method of dissemination, and whether the elements of a criminal offense are met as stipulated in the law.

Therefore, legitimate criticism or opinions cannot automatically be equated with defamation. An act must be assessed objectively and based on applicable legal provisions. From a criminal law perspective, defamation through social media must be analyzed by considering the relationship between general criminal provisions and specific regulations regarding electronic information. Law enforcement must ensure the fulfillment of the elements of the crime and the perpetrator's culpability, while considering the evidence and the context of the act. Law enforcement must also maintain a balance between protecting a person's honor and freedom of expression. Therefore, law enforcement against defamation through social media must be carried out proportionally, based on legal certainty, and still guarantee the protection of the rights of all parties.

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Acknowledgment
We gratefully acknowledge the contributions of individuals who supported the completion of this article.

Funding Information
This research did not receive any funding.

Conflict of Interest Statement
The authors declare that there is no conflict of interest.

Ethical Approval and Originality Statement
Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

Data Disclosure Statement
The data that support the findings of this study are available from the corresponding author upon reasonable request.