

JURIDICAL ANALYSIS OF CHILD VICTIMS OF CYBERBULLYING THROUGH SOCIAL MEDIA REVIEWED FROM THE PERSPECTIVE OF CRIMINAL RESPONSIBILITY

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Abstract

Children as part of the young generation are one of the potential human resources and as a successor to the ideals of the nation's struggle in the future. potential human resources and as a successor to the ideals of the nation's struggle in the present and future. current and future. Children have a strategic role and have special characteristics and characteristics, so they need guidance and protection in order to ensure the growth and development of physical, mental in order to ensure balanced physical, mental, and social growth and development. in a balanced manner. According to Indonesian law, the State has provided protection to children through various laws and regulations. The child is one of the legal subjects in this country is also subject to and obedient to the applicable rules of law, especially in terms of legal arrangements regarding cyberbullying. applicable laws, especially in terms of legal arrangements regarding cyberbullying, which occurs with cyberbullying, which occurs a lot with the means of social media on the internet, where many children become. The formulation of the problem that will be the subject of discussion is; How is the juvenile criminal justice system in Indonesia in a normative legal review? How is the criminal aspect of cyberbullying behavior against children committed by means of social media on the internet? conducted by means of social media on the internet? criminal responsibility of children as victims of cyberbullying committed by means of social media on the internet? social media on the internet? The crime of corruption is one part of special criminal law in addition to having certain specifications that are different from general criminal law, such as the existence of procedural law deviations and when viewed from the material regulated, the crime of corruption is directly or indirectly intended to minimize leakage and irregularities in the state's finances and economy. This research uses descriptive research, with a qualitative research type, and uses normative juridical research. qualitative research, and uses normative juridical research type, and this research uses library research method.

Keywords: Children, Crime, Liability, and Cyberbullying.

INTRODUCTION

Children are part of the young generation is a potential group as the successor to the ideals of the struggle of the nation and state in the present and the future. Children have an important role and have special characteristics and characters, so that it requires guidance and protection in order to ensure mental, physical, and social growth and development in a balanced aspect. balanced aspects. According to Indonesian law, the State has provided protection to children through various laws and regulations including; Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Law No. 39 of 1999 concerning Human Rights and Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. In an effort to realize the enforcement of the rule of law in Indonesia, legal products are needed, in this case a law that functions as a regulator of all community behavior as well as a means of force. Children as true as one of the legal subjects are subject to and obedient to positive law. Child protection is a field of national development goals, protecting children is protecting human beings, and building human beings as a whole. The essence of National Development is not just the development of Indonesian human beings, but actually the development of the whole person who is virtuous. Ignoring the issue of child protection means that national development will not have a good goal. (Romli Atmasasmita, 2014) Anak membutuhkan perlindungan dan perawatan yang khusus termasuk

perlindungan hukum yang berbeda dari orang dewasa. Hal ini didasarkan pada alasan fisik dan mental anak-anak yang belum dewasa dan matang. Setiap anak kelak akan mengemban tanggungjawab tersebut, sehingga ia perlu mendapatkan kesempatan yang seluas-luasnya untuk tumbuh dan berkembang secara optimal baik fisik, mental, sosial, akhlak mulia perlu dilakukan perlindungan untuk mewujudkan kesejahteraan anak dengan memberikan jaminan terhadap pemenuhan hak-haknya. (M. Nasir Djamil, 2013)

Responsibility for the protection of children should be the responsibility of everyone, including parents, family, community, environment, government and the State. Article 20 of Law No. 23 of 2002 on Child Protection states that the State, government, community, family, and parents are obliged and responsible for the implementation of child protection. (Maidin Gultom, 2016). This creates concerns among parents, because children become very easy to become victims and even perpetrators of crimes committed on the internet. Whereas if preventive behavior is pluralized by teaching moral education and social media ethics from an early age, children's excessive behavior in using social media can be minimized. Without realizing it, information and communication technology has changed the nature of society and human life globally. In addition, the development of information and communication technology has made the world increasingly borderless, resulting in significant and rapid social change. In addition to contributing to the development of human life, information and communication technology has also become a place for crime. (Ahmad M Ramli, 2014). Social media is considered the right place for expression for some people. In this case, people have a broad view and are free to do anything in social media (cyberspace), including committing crimes. Cyber crime is a term related to crimes by utilizing internet media or called cyber space, including crimes in the form of general attacks or crimes that attack individuals or individuals. (Imas Kurnia, 2016)

After knowing the criminal elements of cyberbullying as stated in the ITE Law, it can then be examined more deeply regarding the aspects of cyberbullying criminal liability in the context of criminal law. To find out the answer, it must be reviewed from the applicable positive legal norms as stated in the law. The provisions governing juvenile criminal law are specifically stipulated in the SPPA Law. In Article 40 of the SPPA Law, it is emphasized that the applicable procedural law is also applied in the Procedural Law of the Juvenile Court, unless otherwise specified. Thus, the existence of a law on Juvenile Courts is one of the developments or reforms in the punishment system. (Dariyl Albert, 2016). This is as regulated in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (hereinafter referred to as the SPPA Law). The crime of maltreatment in the form of bullying is rampant on social media or referred to as cyberbullying.

METHOD

This research uses descriptive research. Descriptive research is intended to provide data that is as accurate as possible about humans, conditions or other symptoms where it aims to obtain data about the relationship between a symptom and another symptom. (Soerjono Soekanto, 2016) Each stage in the research activities mentioned above must be based on certain methods, systematics and thoughts that aim to study one or several specific legal symptoms with analytical procedures. (Mukti Fajar, 2016)

This research uses normative juridical research. The focus of attention of normative legal science as a practical science is to change the situation and offer solutions to concrete and potential societal problems. As a normological practical science, normative legal science is directly related to legal practice which concerns two main aspects, namely the formation of law and the realization of law. (Johnny Ibrahim, 2015). Normative juridical (Legal Research) means studying the rules or norms in positive law. This type of normative juridical research (Legal Research) is carried out by examining various formal legal rules such as Laws, Regulations and literature containing theoretical concepts which are then related to the issues to be discussed in this thesis proposal, with the title "Aspects of the Constitutionality of Changing the Presidential Term of Office to 3 (Three) Periods in the Perspective of Indonesian Constitutional Law".

This research uses the library data collection method (library research). The library method is used to find answers to problem formulations in reading sources (references), such as book literature, magazines, journals, e-journals, and other sources. The library data collection method (library research) looks for library material to show the way to solve research problems. Techniques are carried out by studying books or other reading materials related or related to the title of this research in order to obtain instructions that support research. In normative legal research, the type of data used as a research data source is secondary data as the main data source, in contrast to sociological legal research whose main data source is primary data. Secondary data is data that is generally ready made. The data sources in the form of secondary data commonly used in normative legal research are divided into 2 (two), namely primary legal materials and secondary legal materials. Data analysis in this study was carried out after all data obtained, both primary data and secondary data, then data analysis can be carried out by qualitative analysis, namely analyzing data according to its designation systematically and logically, so as to obtain clarity in answering problems to obtain scientific conclusions. (Sugiyono, 2012).

RESULTS AND DISCUSSION

Contents Results and Discussion

A. Overview of the Indonesian Juvenile Justice System

1. Children from a Legal Perspective

Indeed, a child is the flesh and blood of parents to continue their family dynasty. The provisions in Law Number 35 of 2014 concerning Child Protection, explain that children born have the right to live and develop, a child must also be given protection from violence both verbally and physically, this is in accordance with the most fundamental State regulation, namely the 1945 Constitution of the Republic of Indonesia. Children are seeds that must be cared for until adulthood, because they have the potential as the next generation who inherit the nation's goals. A child also has a contribution with a special character to maintain the balance of the country in the future. Every child who lives in principle is entitled to the widest and equal opportunities to grow ideally and well in terms of academics and non-academics so that in the future they are ready to carry out the tasks inherited by the founders of the nation. One way for this to be done is by realizing prosperity in the environment of developing children who must eliminate things that smell of discrimination. (Lilik Mulyadi, 2014)

Positive law views children as very important individuals. That is why the subject of criminal law is divided into children and adults. In the perspective of criminal responsibility, criminal settlements where the perpetrators and victims are children are not the same as criminal settlements where adults act as perpetrators, or adults who are victims. Children becoming perpetrators and children becoming victims give birth to legal consequences in the form of rights and obligations. The rights of children as perpetrators stand in line with the obligations of children as perpetrators of criminal acts. Even more so if the child has a position as a victim of a criminal offense. (Ahmad Sofian, 2012)

2. Crimes and Elements of Crimes

The term criminal offense is a translation of *strafbaar feit*, but in Indonesian legislation no definition is found, as well as the Criminal Code which does not explain in detail the meaning of the *strafbaar feit*. *Strafbaar feit* comes from the Dutch language which is divided into two words, namely *strafbaar* which means punishable and *feit* which means part of a fact, so that the literal meaning of the word *strafbaar feit* is part of a punishable fact. (P.A.F Lamintang, 2014). According to Moeljatno, criminal acts only refer to the nature of behavior, namely the prohibited nature with the threat of punishment if violated." According to Moeljatno, the element of the perpetrator and matters relating to him such as guilt and being able to be responsible, should not be included in the definition of criminal acts, but is part of another element, namely the element of

criminal responsibility. There are two kinds of concepts about the structure of criminal acts, namely:

- 1) Behavior, both in the sense of doing and not doing. Examples of objective elements in the form of behavior, namely actions that are prohibited and threatened by law.
- 2) Effect, which is an absolute requirement in material crimes. Examples of objective elements in the form of an effect are the consequences that are prohibited and threatened by law and are at the same time an absolute requirement in criminal acts. (Frans Maramis, 2012)

B. Criminal Aspects of Cyberbullying Committed against Children by Means of Social Media on the Internet

1. Cyberbullying as Violent Behavior Against Children

Cases of bullying on social media or social media often shock the world not only in the real world but also in cyberspace. Bullying is not only physical violence but also verbal violence. It is very sad to know that bullying cases are not only cases or news that are very concerning for children and future generations. The impact is also very heartbreaking because it can even trigger suicide, killing out of revenge, severe psychological and others. So before bullying, it is better to immediately realize the ignorance of the crime in committing such acts by netizens or bullying perpetrators. The fulfillment of children's rights focuses on prevention efforts, which include the fulfillment of children's civil rights, love for their parents, family environment and care, basic health and welfare as well as efforts to fulfill education, utilization of leisure time and cultural activities for children because in the era of autonomy, child protection is built in the form of child-friendly districts with the ultimate target of achieving a child-friendly Indonesia in 2030. It is appropriate to implement a system, the ultimate goal of which is to fulfill children's rights and keep them from becoming victims, because in fact, children who are cyber bullying perpetrators are also victims, either because of their parents' inability to care for them or poverty.

2. Factors Driving The Occurrence Of Cyberbullying Against Children

Cyberbullying as one of the new impacts to find out the environment where an abuse of authority / power is carried out by one person or a group of children where this bullying incident or treatment often occurs by means of social media, where this bullying treatment is embedded because there are no restrictions on behavior in cyberspace. The borderless era gave birth to the practice of bullying behavior by means of social media among children. This is an example of excessive child delinquency. There are several aspects that encourage and motivate children's personalities so that they launch an excessive naughty behavior or can be said to be bullying a child on social media which will later cause a reaction from other children for the delinquency they do. Encouragement or motivation, also known as impulse, is a factor that drives children to commit acts of bullying against other children. Impulse is a driving factor, while behavior is usually motivated by triggering factors. Romli Atmasasmita said there are two kinds of impulses/motivation, namely Intrinsic and Extrinsic. (Winna A. A. Senandi, 2018). From the explanation above, it can be concluded that intrinsic motivation where intelligence factors also have a crucial factor where a child's low education and lack of understanding in carrying out a behavior can lead to a behavior that causes the impact of children who are litigated with the law, other factors also affect cyberbullying behavior such as age factors where the age of children who are still very teenagers and unstable causes children not to be able to think rationally about what is done as well as the consequences of the behavior they do.

CLOSING

Conclusion

The juvenile criminal justice system according to positive law has a special perspective in handling juvenile criminal cases compared to adults, because it is also regulated in separate regulations that are special in nature (*lex specialist*). Knowledge of the procedures for handling children's cases, of course, there are still some groups of people who do not understand or understand it, so that sometimes it gives rise to various assessments, it is even fatal if there is a misjudgment that the handling of children, especially children in conflict with the law, gets special treatment and there are also those who think that children cannot be punished even though this is not the case, it's just that the handling procedures are specifically regulated and are indeed different from criminal cases involving adults. The criminal aspect of cyberbullying behavior among children with the suggestion of social media on the internet, can be seen from the criminal elements, namely the actions and consequences arising from their behavior, the circumstances or circumstances accompanying their behavior, additional circumstances that aggravate the punishment, objective unlawful elements, subjective unlawful elements. Thus, the perpetrator of cyberbullying to be convicted is because there is an error that fulfills the elements of the crime, where the error is divided into intentionality called *dolus* or negligence also known as *culpa*. Both can be subject to criminal sanctions.

It is suggested to the legal apparatus in Indonesia who are authorized to carry out law enforcement functions, then to provide a comprehensive understanding of the juvenile criminal justice system in order to make socialization related to the juvenile criminal justice system. Thus it is hoped that there will be no information gap regarding how a child in conflict with the law must be resolved fairly, either as a perpetrator, witness, or victim. Without neglecting the rights of children as the next generation of the nation's future. In terms of aspects and elements of criminal acts, cyberbullying has met the requirements to be called an unlawful act so that the perpetrators can be subject to criminal sanctions. So to reduce the high number of cyberbullying acts, it is recommended that the Government take concrete and firm action, including the community and law enforcement to play an active role in conducting supervision with a preventive approach by directly monitoring social media on the internet, so that if there are actions that lead to cyberbullying against children, they can be immediately followed up by removing related content or providing early warnings about the impact, danger and legal consequences that will be caused. Furthermore, as a concrete preventive measure, an active role is also needed from educational institutions to carry out socialization to children through schools, families, and other social environments about the negative impacts that can be caused by cyberbullying.

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