

The Effectiveness Of The Cyber Crime Team In Enforcement Of Defamage Law From A Human Rights Perspective (Study At The Special Criminal Directorate Of North Maluku)

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Abstrak

Penelitian ini bertujuan untuk menganalisis bentuk batasan dan kepastian hukum dalam perlindungan hak atas kebebasan berekspresi bagi pemilik akun media sosial dan upaya penanganan kejahatan cybercrime oleh Direktorat Reserse Kriminal Polda Maluku terhadap akun status Ternate di kasus pencemaran nama baik. Jenis penelitian yang digunakan dalam penelitian ini adalah metode penelitian empiris sebagai bahan awal bagi peneliti untuk melakukan pendekatan hukum, pendekatan konsep, dan pendekatan kasus. Oleh karena itu dalam penelitian ini melalui studi kepustakaan dan studi lapangan dengan melakukan wawancara. Ciri-ciri penelitian ini seluruhnya menggunakan data primer, terdiri dari bahan hukum primer; bahan hukum sekunder; serta bahan hukum tersier. Salah satu akun media sosial yang meresahkan masyarakat Maluku Utara mengenai akun "Status Ternate" yang seringkali dalam beberapa kasus, memposting kalimat atau diksi di akun Facebook dan Instagram yang dianggap tidak sesuai dengan kenyataan. Maka, sebagai konsekuensi logis Dengan berkembangnya kejahatan dunia maya, aparat penegak hukum khususnya Polri harus langsung membentuk satuan tugas baru yang khusus menangani kejahatan dunia maya (Cyber Crime), dengan mempersiapkan segala perlengkapannya, baik SDM (Sumber Daya Manusia).), infrastruktur, Anggaran Operasional, dan peralatan lainnya. Hal ini umumnya berlaku dari tingkat Mabes Polri hingga jajaran Kepolisian Daerah, dan Polres seluruh Indonesia. Struktur satgas yang menangani penanganan kejahatan siber (Cyber Crime) di tingkat Polda berada di Direktorat Reserse Kriminal Khusus Sub Direktorat V.

Kata Kunci: *Penegakan Hukum, Status Akun Ternate, Pencemaran Nama Baik.*

Abstract

This study aims to analyze the form of legal limitations and certainty in the protection of the right to freedom of expression for social media account owners and efforts to handle the cybercrime crime by the Directorate of Criminal Investigation at the Maluku Regional Police against the Ternate status account in the case of defamation. The type of research used in this study is an empirical research method as a starting material for researchers to approach the law, concept approach, and case approach. Therefore, in this research through literature study and field study by conducting interviews. The characteristics of this study are entirely using primary data, consisting of primary legal materials; secondary legal materials; as well as tertiary legal materials. One of the social media accounts, which is troubling the people of North Maluku regarding the "Status Ternate" account which often in several cases, posts sentences or dictions on Facebook and Instagram accounts that are considered not in accordance with the reality. Thus, as a logical consequence With the development of cyber crime, law enforcement agencies, especially the National Police, must directly form a new task force that specifically handles cyber crime (Cyber Crime), by preparing all the equipment, both human

resources (Human Resources), infrastructure, Operational Budget, and other equipment. This generally applies from the level of the National Police Headquarters to the ranks of the Regional Police, and Polres throughout Indonesia. The structure of the task force in charge of handling cyber crimes (Cyber Crime) at the Polda level is in the Special Criminal Directorate, Sub-Directorate V.

Keywords: *Law Enforcement, Ternate Account Status, Defamation.*

INTRODUCTION

Social media as an electronic instrument that facilitates its adherents to do interaction between users without the need Pay attention to the distance between users the. There are various kinds of social media features, so that people can choose and access social media according to what they want and use it for perform social interactions.

The more massive interaction through social media as well as marking the development of technology and information provide a forum for the community in communicate without thinking about distance from the interlocutor. Utilization of communication and information technology, indirectly the change has been impact on behavior change society and human life in socialize.

The democratic state which is now Indonesia's choice, namely freedom of speech, expression and freedom of the press, these rights must be guaranteed. Thus, freedom of expression is an absolute right of every Indonesian people. However, freedom of expression as a form of expressions of special feelings that are able to build values and attitudes both orally and in writing does not mean a freedom without limitations, but a freedom that can be accounted for and follow the applicable legal norms. .

The guarantee for freedom of opinion, expression, and later freedom of the press is contained in Article 28 E paragraph (2) of the 1945 Constitution which states that "everyone has the right to freedom to believe in beliefs, to express thoughts and attitudes according to his conscience." Article 28 F of the 1945 Constitution expressly states that, "everyone has the right to communicate and obtain information in order to develop his personal and social environment and has the right to seek, obtain, possess, store, process, and convey information by using all available channels." However, Article 28 G paragraph (1) of the amendments to the 1945 Constitution also stipulates that:

"Everyone has the right to protection for himself, his family, honor, dignity, and property under his control, and has the right to a sense of security and protection from the threat of fear to do or not do something which is a human right."

The development of information technology on the one hand contributes to the development of the quality of human life. However, on the other hand, it becomes an opportunity or space for committing a crime which is often called cyber crime. Cyber crime (English: cyber crime) is a term that refers to activities scrimewithcomputerorcomputer network become a tool, target or place of crime. As already mentioned, this cyber crime act emerged along with the increasing intensity of digital, communication and information technology. One of them is a crime defamation and abuse of freedom of expression in the media social.

The outbreak of cases related to defamation ok, the spread of hoax news in particular through social media, be proof that our society is still not aware of limitations in carrying out activities in social media. People don't realize that certain deeds they do may cause harm to the parties certain, the loss can be in the form of material loss or loss of defamation.

The criminal act of defamation is an act that attacks the good name. Assault on reputation is conveying words (words or series of words/sentences) by accusing them of committing certain actions, and which are aimed at the honor and good name of people which can cause the person's sense of self-esteem or dignity to be desecrated, humiliated or humiliated.

One of the social media accounts, which is troubling the people of North Maluku regarding the "Status Ternate" account which often in several cases, posts sentences or dictions on Facebook and Instagram accounts that are considered not in accordance with the reality.

According to Alimuddin asPanit II Sub V Cyber Crimes of North Maluku Police "With the development of cyber crime, law enforcement agencies, especially the National Police, must directly form a new task force that specifically handles cyber crime (Cyber Crime), by preparing all the equipment, both human resources (Human Resources), infrastructure, Operational Budget, and other equipment. . This generally applies from the level of the National Police Headquarters to the ranks of the Regional Police, and Polres throughout Indonesia. The structure of the task force in charge of handling cyber crime (Cyber Crime) at the Polda level is in the Special Criminal Directorate, Sub-Directorate V."

The establishment of a task force within a legal institution aims to optimize the handling of criminal acts that occur in accordance with the specifications of the violation or criminal act committed. Where the Cyber Crime Directorate and the structures formed to the lower police units are a manifestation of the work of the State in enforcing the law. Supposedly the formation of a task force that is specifically in charge of Cyber Crime issues can contribute to the handling of Cyber Crime crimes.

All criminal acts that occur must be handled by the law thoroughly, where the Police institution, especially the Sub-Directorate V of the Criminal Investigation Directorate of the North Maluku Police in charge of Cyber Crime, can provide legal certainty to everyone who has committed a crime in the field of Cyber Crime in the jurisdiction of the North Maluku Police. From the description of the background above, it can be formulated that the problem is bwhat are the indicators of freedom of expression for social media account owners based on legal instruments in Indonesia and bWhat are the efforts to handle cybercrime by the Directorate of Crime and Crime of North Maluku Police in the case of defamation? Concept of Effectiveness.

METHODS

This research is an empirical study using a statute approach and a case approach. As for this research, the researcher uses a live case study approach as an approach to a legal event whose process is still ongoing. Thus, the authors conduct observations or research directly into the field in order to obtain accurate truth in the process of perfecting this writing, so the purpose and usefulness of this study is basically used to show the way to solve research problems.

RESULTS AND DISCUSSION

Efforts to Handle the Crime of Ciber Cryme by the Directorate of Crime and Crime of North Maluku Police in Defamation Cases

Crime is a portrait of the concrete reality of the development of people's lives that directly or indirectly cause crimevulnerabilities that have the potential to give birth to individuals with deviant behavior. Within society there is a struggle for interests that are not always fulfilled in the right way, meaning that there are ways that are not right and violate the law by a person or group of people to fulfill their interests. Cyber Crime can be referred to as a crime related to the interests of a person or group of people. There is someone who uses and is used to expand the reach of cyber crime. For example, business interests, politics, culture, religion, and so on can be the motives, reasons and arguments that make a person and a group of people involved in committing a cyber crime.

Article 28J paragraph (1) everyone must respect the human rights of others in orderly social life. (2) in running rights and freedoms, everyone is obliged to submit to restrictions established by law for

the sole purpose of ensuring the recognition and respect for the rights and freedoms of others and to meet just demands in accordance with moral considerations, religious values, security, and public order in a democratic society.

As a type of crime that endangers the lives of individuals, society and the state. This type of crime (cyber crime) is not appropriate to be called a "crime without victims", but can be categorized as a crime that can cause multiple victims, both privately and publicly. Private rights can be threatened, disturbed, even lost/damaged due to the actions of a handful of people or several people who take advantage of the advantages of their knowledge and technology with a modus operandi that is classified as cyber crime.

In relation to criminal acts of electronic transaction information, law enforcement cannot be separated from the role and commitment of law enforcers, namely: investigators. The legal function, mentality or personality of law enforcement officers play an important role. If the regulations are good, but the quality of the officers is not good, there is a problem. Therefore, one of the keys to success in law enforcement is the mentality or personality of law enforcement.

Thus, cyber crimes that do not yet have laws and regulations governing them can be categorized as criminal acts because these actions have caused a lot of harm to the community and cyber crimes can be criminalized so that there is a legal certainty for a criminal act.

Chronology of Defamation Cases by Ternate Status Account

Case of defamation allegedly committed by M Guntur Budiawan, the owner of social media Status Ternate against MRI alias Rusli continues to roll. Rusli is being questioned by investigators from the Criminal Investigation Unit (Reskrim), Polres Ternate, Saturday 8 January 2022 following up on his report to social media owners Status Ternate. This was on Wednesday, January 5, 2022. After he was questioned, Rusli said that he was summoned by investigators to be questioned in the Criminal Investigation Room for 5 hours.

M. Rusli as the victim when met at the Police Headquarters said, "I went to the Resort Police to report the owner of the Ternate Status account/admin for posting a photo through Instagram and Facebook social media accounts. Where is the content of the post, Ternate Status stated that the victim and one of the village heads had committed a disgraceful act. "A very inappropriate sentence or diction that harms my reputation as a reporter. Because the reported party has posted the photo without permission and then wrote it in a language that is defamatory."

Based on the brief chronological description above, according to the author, law enforcement in this case, the police are not only required to be professional and precise in applying the norms. But it is also required to prove the truth of criminal charges which are sometimes influenced by the stimulation of people's behavior to become law violators. Soerjono Soekanto as quoted by Eva said that the main point of law enforcement lies in the factors that influence it. These factors, are as follows.:

1. The legal factor itself, namely the laws and regulations that applies in Indonesia.
2. Law enforcement factors, namely the parties that form and apply the law.
3. Factors of facilities or facilities that support law enforcement.
4. Community factors, namely the environment in which the law applies or applied.
5. Cultural factors, namely as a result of work, creativity and taste based on human initiative in social life.

Of the five factors which are closely related to one another, with others that influence each other. These five factors can be said to be the essence of the law enforcement process, and can be used as a benchmark of the effectiveness of law enforcement in Indonesia. Characteristics of criminal acts of defamation in cyberspace different from other crimes. The form of this crime is different from one another, this is because the modus operandi used differently.

Thus, law enforcement in the context of criminal acts of defamation in cyberspace, stages are needed, including the investigation stage and the investigation requires special provisions. Specific provisions relating to criminal procedures contained in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions are as follows:

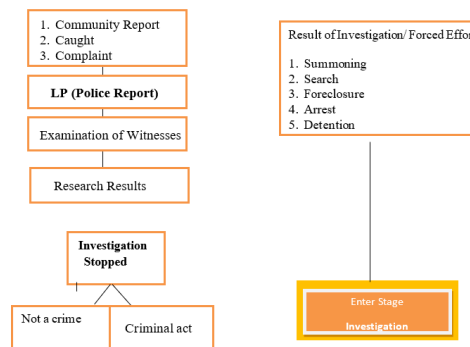
1. The recognition of electronic evidence in the form of electronic information and electronic documents as valid evidence in proving cybercrime.
2. There is a special authority given to the Employee Officer Certain Civil Affairs within the Government whose scope of duties and responsibilities in the field of Information Technology and Transactions Electronics as an investigator.
3. There is the authority of investigators, public prosecutors, and judges to request information from service providers and electronic system operators regarding data related to acts criminal offenses, while remaining bound by privacy, confidentiality, and smooth public services, data integrity and data integrity.
4. There is authority for investigators to carry out search, seizure of related electronic systems with the alleged crime must be carried out with the permission of the chairman local district court.

Investigation Process on Cyber Crime

In the process of investigation and investigation in Cyber Crime crime, in this case the author will explain accompanied by pictures that explain the process / stages of investigation and investigation of Cyber Crime crimes which are in accordance with the information and data provided by investigators in handling Cyber Crime crimes. The Directorate of Crime of North Maluku Police so that the discussion of the investigation and investigation process in Cyber Crime is easy for readers to understand.

The mechanism for investigating criminal acts of cyber crime in defamation cases has several stages where the stages in this investigation are the earliest stages starting from the entry of a case or the reporting of a crime/crime to the investigator. Then up to the stage of the investigation process and or the results of the investigation, to make it easier to understand the author explains in the form of pictures/graphics according to the stages in the investigation process. The description of the investigation process on cyber crime in the Cyber Crime Unit of the Crime Investigation Unit of the North Maluku Police is as follows:

Investigation Process at the Cyber Crime Unit of the Ditreskrimsus Polda Malut



(Source: DITRESKRIMSUS Cyber Crime Unit POLDA MALUT)

Based on the picture above regarding the investigation process on cyber crime, the stages start from:

- Receive a report or complaint from someone regarding the existence of a criminal act in the field of Information Technology and Electronic Transactions;
- Summon any Person or other party to be heard and examined as a suspect or witness in connection with an alleged criminal act in the field of Information Technology and Electronic Transactions;
- Conduct an examination of the correctness of reports or information relating to criminal acts in the field of Information Technology and Electronic Transactions;
- Conduct examinations on Persons and/or Business Entities who are reasonably suspected of committing criminal acts in the field of Information Technology and Electronic Transactions;
- Conduct inspections of tools and/or facilities related to Information Technology activities suspected of being used to commit criminal acts in the field of Information Technology and Electronic Transactions;
- Conduct searches of certain places suspected of being used as places to commit criminal acts in the field of Information Technology and Electronic Transactions;
- The arrest and detention of perpetrators of criminal acts in the field of Information Technology and Electronic Transactions is carried out in accordance with the provisions of the criminal procedure law, and
- Enter the investigation stage.

At the investigation stage, it is actually only up to the stage of the results of the investigation which is an investigation into a case, it is proven that the case is a criminal act or not, but in this case the author makes summons, searches, confiscations, arrests, and detentions. This is if in a cyber crime case an OTT (hand arrest operation) action is carried out by an investigator and or in the case of coercion, then at the investigation stage, summons, searches, confiscations, arrests and detentions have been made, and others. So in this case it is adjusted to the conditions in the handling or prosecution of a cyber crime case, even though we actually know that the investigation is part of a series in the investigation process.

The actions of the account holder are subject to Article 28 paragraphs (1) and (2) with the following threats:

- Everyone intentionally and without rights spreads false and misleading news that results in consumer losses in Electronic Transactions.
- Everyone intentionally and without rights disseminates information aimed at causing hatred or hostility to certain individuals and/or community groups based on ethnicity, religion, race, and inter-group (SARA).

Article 45A paragraph (2):

"Every person who knowingly and without rights disseminates information aimed at causing feelings of hatred or hostility towards certain individuals and/or groups of people based on ethnicity, religion, race and inter-group (SARA) as referred to in Article 28 paragraph (2) shall be punished with imprisonment for a maximum of 6 (six) years and/or a fine of a maximum of Rp. 1,000,000,000.00 (one billion rupiah)."

CONCLUSION

Efforts to deal with cybercrime crimes by the Directorate of Crime and Crime of North Maluku Police against ternate status accounts in defamation cases, it can be seen that the ITE Law now it can be used to criminalize criminals 79 Cybercrime. In other words, the implementation of Article 45 paragraph (1) Juncto Article 27 paragraph (3) of Law Number 19 of 2016 concerning Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions can be applied to cases Cybercrime that occurred in Ternate City. With the law The ITE Law which is currently the legal umbrella for crime Cybercrime in Indonesia has been able to provide a sense of security for community, especially the City of Ternate. As well as being a threat to the perpetrators of cybercrime crimes in Indonesia.

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Lihat Ketentuan Pasal 45A ayat (2) Undang Undang No 19 Tahun 2016 Atas Perubahan Undang Undang Nomor 11 Tahun 2008 (Informasi dan Transaksi Elektronik).

CONSTITUTION

Lihat ketentuan Pasal 28 J ayat (1) dan (2) dalam UUD NRI Tahun 1945

WEBSITES

Wawancara dengan Alimuddin selaku Panit II Sub V Siber Krimsus Polda Malut. Wawancara berlangsung di Polda Maluku Utara pada 20 Juni 2022

Wawancara dengan Muhammad Rusli selaku pelapor kasus ITE, Wawancara berlangsung di Gedung Polres Maluku pada 16 Juni 2022