

Criminal Sanctions against Threats of Violence Through social media

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Abstract

It is undeniable that technological advances are increasingly affecting human life to facilitate human activities. With the many facilities offered, it is easier for humans to do things that are not in accordance with what they should do, such as committing crimes of threats of violence through social media that are rife in today's society. With this, the Indonesian government has issued several rules for law enforcement against perpetrators of criminal acts of threats of violence through social media as regulated in Article 335 paragraph (1) 369 paragraph (1) of the Criminal Code and Article 45B of the ITE Law. In this study, the causes of perpetrators of criminal acts of threatening violence through social media are explored and examined more deeply, besides that, criminal sanctions are also carefully examined for perpetrators of criminal acts of threats of violence through social media. This research uses normative legal research type. The cause of the perpetrators of these crimes needs to be known so that the public remains vigilant. Then regarding the sanctions that will be imposed on the perpetrators in accordance with the Criminal Code and the ITE Law.

Keywords

sanctions; threats of violence; social media; criminal



I. Introduction

It is undeniable that technological advances are increasingly affecting human life to facilitate human activities. With the many facilities offered, it is easier for humans to do things that are not in accordance with what they should do, such as committing crimes of threats of violence through social media that are rife in today's society. Currently, there is no need to wait a long time, everyone can send good news via short messages or Short Message Service (SMS) or social networks because of technological advances called the internet which has renewed the pattern of public relations and has presented a dominant contribution to the community, company, partnership or state. The internet has contributed so much to the community because with the advent of the internet it has helped the effectiveness and efficiency of its contribution as a medium of communication, publication, and media to obtain various information/news that is needed for the whole community. Human Resources (HR) is the most important component in a company or organization to run the business it does. Organization must have a goal to be achieved by the organizational members (Niati et al., 2021). Development is a change towards improvement. Changes towards improvement require the mobilization of all human resources and reason to realize what is aspired (Shah et al, 2020). The development of human resources is a process of changing the human resources who belong to an organization, from one situation to another, which is better to prepare a future responsibility in achieving organizational goals (Werdhiastutie et al, 2020).

As stated in the 1945 Constitution of the Unitary State of the Republic of Indonesia, Indonesia is a State of Law. The law in question has a goal related to the welfare and balance of society. The law also controls human relations so that there is no noise. The purpose of carrying out a crime and its continuation in Indonesia is interpreted as one of the efforts to inhibit or overcome crime (Yahman, 2015: 96).

The changing times are increasingly felt and familiar to all groups of people from small, middle to upper classes taking advantage of advances in information technology. However, the consequences of these advances are not merely beneficial. The inability to control feelings and weak personal control will be dragged into negative things that can lead to losses. Both material and immaterial losses, and not only harm yourself but can also harm others. Like, sending a short message or Short Message Service (SMS) to someone where the message contains things that are not worthy to be sent. The incident can take place when it does not pocket a long mind.

Today's changes have a major impact on the continuation of integrity, as well as cultural changes in the general public. After the reformation period, the situation of this nation was increasingly mired in not only experiencing an economic emergency but also having an impact on moral criticism. One of them is the high poverty rate which causes a person to commit a crime.

pressure is the reason some people choose shortcuts by justifying all ways to meet their needs. The problems and the hardships of life have led to a higher crime rate, especially in densely populated areas. According to Anata, the denser the population, the lower the GDP per capita, so that the absorption of labor will shrink and cause many unemployed people who are likely to commit criminal acts (Anata, 2013: 5).

In the author's opinion, the increasing population causes many people who do not have a livelihood and become unemployed, causing criminal acts because of the psychological pressure felt by the unemployed. This pressure causes the unemployed to be unable to think straight to justify all means, including committing criminal acts to get money.

One of the crimes that are rampant in today's society is the threat of violence. These crimes are not only done conventionally but can also be committed using the support of developed technology such as through social media, short messages and other technologies.

Threats of violence are unlawful behavior that can take the form of speech, writing, illustrations, signs, or body movements with or without using electronic media or directly that can trigger feelings of anxiety towards people or society at large or limit a person's freedom and threaten to kill.

Many threats of crime through short messages that often occur. Some people do it because of the demands to make ends meet and there are also those who use revenge and anger as the reason someone makes threats, especially threats of violence to the person who receives the short message.

Based on the explanation of the background of the problem above, the results of this study are expected to focus on the answers to the formulation of the problem: The causes of perpetrators of committing criminal acts of threats of violence through social media, besides that, criminal sanctions are also carefully studied against perpetrators of criminal acts of threats of violence through social media.

So, the purpose of this study is to find out the cause of the perpetrators of committing crimes of threats of violence through social media and to find out criminal sanctions against perpetrators of criminal acts of threats of violence through social media.

II. Research Method

In examining the problems that arise in this research, the author uses a normative legal research type (Sunaryati Hartono, 1994: 131-141) which is a scientific research mechanism to obtain truth based on scientific logic from a normative perspective.

The preparation of this research uses legal materials consisting of primary legal materials and secondary legal materials. Primary legal materials are the main legal materials that form the basis for reviewing the issues raised in this study. Primary legal materials are the main legal materials that form the basis for reviewing the problems in this research.

Secondary legal materials are supporting legal materials to support primary legal materials, the purpose of which is to provide understandings, explanations, and legal theories obtained through explanations from the literature, expert opinions and scholars who are used to examine the problems to be studied. studied in this study.

Tertiary Legal Materials are legal materials as additional guidance and interpretation of other legal materials.

technique that the author uses for collecting legal materials is a literature study technique, by collecting data or exploring related legal materials and then classifying, taking notes, citing, summarizing according to interests by using qualitative methods. Once the legal material is collected, it will be processed and reviewed with legal interpretation techniques based on the author's deductive and inductive logic.

III. Result and Discussion

3.1 Causes of the Perpetrators of Criminal Acts Threatening Violence Through social media

The crime is a paraphrase of the version of strafbaar feit which has the understanding that the taboo act regulated by the rule of law is threatened with criminal punishment and the perpetrator can be called the subject of a crime (Kanter EY and SR Sianturi, 2002: 208). Based on that understanding, an act can be called a criminal act if the action is prohibited and threatened with a criminal offense to the subject of the crime who committed it, and has fulfilled the elements that say an act can be said to be a criminal act, namely the presence of a subject, an element of error, an act which is against the law, an act that is prohibited and is punishable by a criminal offense against the person who violates it, as well as in a certain time, place and condition. All actions and actions taken must have causes and effects, as well as motives or reasons for doing so. It is the same as the threat of violence committed through social media.

Becker supports law enforcement that emphasizes deterrence efforts to change the "calculation" of company profits and losses by asserting that " Potential offenders respond to both the probability of detection and the severity of punishment " (Becker, Gary S. , 1968: 115) or potential violators will respond to the possibility of detection of violations and to damages if sentenced. Some of the causes of perpetrators committing criminal acts of threats of violence through social media, namely because of individual internal factors that play an important role in the occurrence of threats of violence. through social media, especially the psychological state of individuals, namely uncontrolled emotional power due to depressed situations in the family environment and also feelings of disappointment, sentiment and being encouraged along with weak faith. Economic factors are also one of the important matters in human activity, the pressing economic pressure and increasing

human needs that must be met so that demanding high expenditures are often the reason someone commits the crime .

There are also external factors that have a major influence, namely environmental factors. The environment can set an example and a bad example for some people in their habits of life and follow the environmental conditions in which they live. Furthermore, disputes in romantic relationships that occur between lovers can lead to threats of violence. The threat itself can be in the form of verbal violence where the perpetrator of this violence emits a threatening tone which can be the beginning of physical violence even. No less important, the factor of public ignorance about the use of social media properly and correctly is the cause of threats of violence through social media.

The regulations that are followed in people's lives are mostly living laws , which are real, have a much wider scope, than the norms made and applied by government institutions (Ehrlich in Lili Rasjidi; 2003:122). The community will not be separated from the rule of law that applies in Indonesia even though threats of violence are carried out through social media. The regulation regarding criminal acts of threats of violence through social media is a crime against people's independence. In Indonesia, crimes against the independence of people are regulated in the 1945 Constitution of the Republic of Indonesia, the Criminal Code, Law no. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions, and Law no. 39 of 1999 concerning Human Rights.

3.2 Criminal Sanctions Against Perpetrators of Crime Threats of Violence Through Social Media

Law enforcement is a process for the ideas of the legislature that are formulated in the rule of law to become truths that want to participate in deciding how law enforcement is pursued (Satjipto Raharjo, 2009: 25). Law enforcement has a function as a defense of human interests so that it is protected where the law must be implemented. The application of the law can take place normally and safely, but there can also be violations of the law. Therefore, in this case the law that has been violated must be enforced.

The need for an ideal role in enforcing the law does not only start from oneself but also comes from other parties such as law enforcement officers. The scope of law enforcement includes those who directly and indirectly pursue aspects of law enforcement such as the judiciary, prosecutors, police, lawyers, and correctional facilities (Soerjono Soekanto, 2018: 19).

Law enforcement carried out in following up on criminal acts of threats of violence through social media can be pursued using 2 (two) ways, namely repressive enforcement and preventive enforcement. Repressive enforcement is through the application of criminal law which is emphasized on the nature of eradication after the crime has taken place by conducting an investigation and then taking action against the perpetrator as well as conducting an investigation and making a report on the results of the case file. Preventive enforcement can be done by providing socialization/counseling to the public regarding the impact of the misuse of social media. According to Keith Hawkins, law enforcement consists of two systems or two strategies, namely compliance with conciliatory style as its characteristic and sanctioning with penal style as its characteristic. A compliance strategy is a system that prioritizes compliance as a basic characteristic that must be met (Keith Hawkins ; 1984:3).

In positive legal provisions in Indonesia, of the various types of sanctions that exist, the sanctions that are most often used are criminal sanctions, in deciding a decision against someone who is said to be guilty of committing a criminal act or unlawful act (I Putu

Suryadinatha, I Nyoman Gede Sugiarta, and Ni Made Sukaryati Karma, 2021: 454). Criminal sanctions are a causal punishment, where the cause is a case and the result is of course subject to sanctions, either imprisonment or different sanctions from the authorities. Criminal sanctions are threatened or imposed on perpetrators of criminal acts that have a negative impact on legal interests. It is common for criminal sanctions to be used as a binding tool so that someone obeys the applicable norms. Many people assume that someone who is subject to criminal sanctions will feel tired because the sanctions in criminal law are far more cruel than other legal sanctions. So in this case, in accordance with the explanation above, that criminal sanctions have a retributive purpose or can be mentioned as a preventive measure against behaviors that violate legal norms. However, there are also some experts who have a different view, that criminal law does not form a new norm but emphasizes sanctions solely as a criminal threat (Marlina, 2011: 15). Sanctions are a consequence that arises as a result of the denial of a legal provision where this violation can be made by anyone. Regarding the imposition of criminal sanctions for perpetrators of threats of violence through social media, it can be seen from several regulations that regulate them. Specifically, online threats are contained in Article 29 of Law no. 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE). In that article it is stated that every person intentionally and without rights sends Electronic Information and/or Electronic Documents that contain threats of violence or intimidation aimed at personally. For this reason, based on the provisions of this article, everyone is prohibited from sending messages in digital form that contain threats of violence or intimidation that are intended personally.

The Government of the Republic of Indonesia through the Minister of Communication and Information Technology, the Attorney General, and the Head of the State Police of the Republic of Indonesia have issued a Joint Decree of the Minister of Communication and Information Technology of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, and the Head of the State Police of the Republic of Indonesia Number 229 of 2021, in conjunction with Number 154 of 2021, in conjunction with Number KB/2/VI/2021 concerning Guidelines for the Implementation of certain Articles in Law Number 11 of 2008 concerning Information and Electronic Transactions as Amended by Law Number 19 of 2016 concerning Amendments to Law Number 11 Year 2008 concerning Information and Electronic Transactions (SKB UU ITE). In the Decree on the ITE Law, it is stated that Article 29 of the ITE Law emphasizes the act of sending information containing threats of violence or intimidation through electronic means intended for private use. Therefore, the action that must be done is to send a message something, the message must contain threats of violence or intimidation, and the message must be addressed to a private person. Threats can be in the form of messages, electronic mail, pictures, sounds, videos, writings, and/or other forms of Electronic Information and/or Electronic Documents.

As described above, the object or tool to scare or threaten violence is in the form of messages sent electronically, these messages can be in the form of electronic mail, pictures, sounds, videos, writings, and/or other forms of Electronic Information and/or Electronic Documents. So, it doesn't have to be a written message, it could be a video containing threats of violence or a voice recorder containing swearing and threats to hit, etc. The form of Electronic Information and/or Electronic Documents sent in the form of threats of violence, namely stating or showing an intention to harm the victim by committing physical or psychological violence. So as explained above, messages containing Electronic Information and/or Electronic Documents sent must contain threats

of violence. The threat could be a threat to be hit, or to be killed, etc. which threatens not only the victim physically, but also psychologically, which makes the victim become afraid of the threat.

The threat has the potential to be realized, even though it is only sent 1 (one) time. The threat must be real and have the potential to be realized. It can't be an unreasonable threat, for example a student threatens to blow up his friend with an atomic bomb like in the movie Power Rangers which is sent via facebook messenger to his teacher, the threat is not real and does not need to go to legal proceedings, it is enough for the teacher to give understanding to the child. As stated in Article 335 paragraph (1), if the elements of coercion and threats are fulfilled, they can be threatened with a maximum imprisonment of one year or a maximum fine of four thousand five hundred rupiah and can be punished for violating the right to coerce others with threats of violence with the aim of benefiting oneself by a maximum prison sentence of four years according to Article 369 paragraph (1) of the Criminal Code.

In the case of threats through social media, the perpetrators can also be sanctioned based on Article 45B of Law no. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions, due to his act of knowingly sending information containing threats of violence aimed at intimidating someone personally, he may be subject to a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp. 750,000,000.00 (seven hundred and fifty million rupiah). Therefore, a threat can be made even though it is done online and without any direct threats. And because of that, everyone can be punished if they make threats even though they are not carried out directly or using digital media. For that, we need to be careful in using social media or other online media, because we can be punished if we are not careful in using words, considering the offense in Article 29 of the ITE Law is a general offense which means that everyone can report it. Do not let us think that the language is just a joke but is interpreted differently by other people who may not even be our interlocutor and is interpreted as a threat, we can be reported by the other person. Be wise in using Social Media.

IV. Conclusion

Based on the explanation above, it can be concluded that:

1. There are several factors that cause perpetrators to carry out criminal acts of threatening violence through social media, including internal factors from the individual itself, especially regarding the psychological state of the perpetrator where there are emotions and anger that cannot be controlled so that a sense of wanting to threaten using violence arises. Then, no less important, economic factors can also be one reason because of the pressure to meet the needs of life which currently require high expenditures. External factors of the surrounding environment can provide examples and examples that are not good for some people in their habits of life because they follow the environmental conditions in which they live. As well as the factor of love affairs where because of a dispute between lovers to issue threatening words.
2. The Indonesian government in various statutory provisions has regulated criminal acts of threat of violence through social media contained in the Criminal Code, which regulates threats of violence with criminal sanctions imposed on perpetrators. Likewise in Law no. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions, and Law no. 39 of 1999 concerning Human Rights. Sanctions for criminal acts of threats of violence through social media are

carried out with repressive enforcement and preventive enforcement. The imposition of criminal sanctions for those who commit criminal acts of threats of violence through social media can be imposed sanctions based on legal provisions and regulations, both sanctions in Article 335 paragraph (1) and Article 369 paragraph (1) of the Criminal Code as well as sanctions in the provisions of Article 45B of the Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions.

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