

Criminological Review of Handling Hate Speech Issues (Case Study of West Jakarta Police Resort)

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Abstract

Hate speech is closely related to social media users who tend to want to get a sensation so that the posts they share become viral, although the posts are not necessarily true but many other social media users are spreading the news because they believe that the post is true. Hate speech itself is a crime against the honor of others because it is related to the good name of the person concerned or the organization or government whose reputation is tainted due to the posting of irresponsible people. The purpose of this study is to examine the legal provisions regarding hate speech, how the legal policy towards the perpetrators of hate speech crime, as well as how the efforts made by the police in tackling hate speech crime. The research conducted is empirical legal research supported by primary data by conducting interviews at the West Jakarta District Police and secondary data by processing data from primary legal materials, secondary legal materials and tertiary legal materials. Based on the results of the study it is understood that the provisions regarding hate speech have been regulated in Indonesia not only in the Criminal Law Act alone, hate speech has even been regulated in a specific Law namely Law Number 11 of 2008 concerning Information and electronic transactions, only there are still many parties who ignore the law, so the police must make efforts to overcome it, the prevention efforts by the police should be further increased so that the utterance of hatred completely disappears from this beloved country because so many parties are harmed due to the crime. With the increase in legal efforts and in compliance with existing legal policies, many parties will feel justice and legal certainty so that there is no longer any fear of violence that has spread on social media so far, and it should be in this rapid development of the times that there should be greater self-awareness between individuals or groups to always appreciate the achievements made by other individuals or groups so that there is mutual respect in order to avoid the hate speech crime that has troubled many people.

Keywords

West Jakarta Resort Police, Hate Speech, Social Media, Crimes, Criminal Law.

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Introduction

Background of the Study

The development of information and communication technology is currently increasing rapidly from year to year. The demands of the times have made the technology needs of the community increase. A variety of increasingly sophisticated technology products to meet the needs of the consumer that was created. This is a manifestation of the development of the age of information and communication technology that is ancient towards the age of information and technology more modern communication in order to adjust to the development of the era called globalization. The rapid development of information and communication technology can be seen in everyday life. In ancient times people used letters, telegrams, radio, newspapers, magazines, etc. as a tool that facilitated them to find information and communicate. Even communicating over long distances requires a relatively long time. With the development of information and communication technology, now the public does not need to be bothered with the difficulty of communicating and finding information even though there are differences in distance. The rapid development of information and communication technology can be seen in everyday life. In ancient times people used letters, telegrams, radio, newspapers, magazines, and so on as a tool that facilitates them to find information and communicate. Even communicating over long distances requires a relatively long time. With the development of information and communication technology, now the public does not need to be bothered with the difficulty of communicating and finding information even though there are differences in distance. In this globalization era, mass media have an important role in terms of communicating and sharing information. The mass media are official means and channels as a communication tool to spread news and messages to the wider community. The public can use mass media with the help of the internet as a tool to find information and communicate freely. Starting from finding and spreading news, knowledge, and even communicating on social media. Not infrequently social media users abuse social media as a means to vent their emotions, spread false news, bring down others, and even spread hatred to other people or groups. Hate speech sent to a person or group of people has been attracting much attention lately. Through posting on social media, hate speech is rife. Many internet users (netizens) disseminate a post (pictures, photos, videos, sounds and words) with expressions of hatred that cause insults, defamation, defamation of religion, and so forth. With the issuance of the Police Chief Circular, law enforcement officers, especially all members of the police force, have a reference in enforcing the law regarding hate speech. Law enforcers as an institution engaged in law have the obligation to carry out their duties with full responsibility. Law enforcement in Indonesia should be carried out in accordance with justice, expediency, and legal certainty. Seeing the development of law in Indonesia, the author is interested in examining how the law enforcement practices against criminal acts related to hate speech. Because of that the author raised a study entitled "CRIMINOLOGICAL REVIEW ON HANDLING OF CRIMINAL ACTIONS OF HATE LAWS" (Case Study in West Jakarta Metro Police).

Formulation of the Problem

Based on the background of the problem above, the following research problems were formulated:

1. What are the motives that cause the perpetrators to commit criminal acts of hate which are investigated at West Jakarta Metro Police?
2. What is the modus operandi carried out by hate criminals who are investigated by West Jakarta Metro Police?
3. How are the efforts made by West Jakarta Police investigators in tackling criminal acts of hate speech in the jurisdiction of West Jakarta Metro Police?

Objective of the Study

Purpose To find out what are the motives that cause perpetrators to commit hate speech crimes that are investigated at West Jakarta Metro Police, to find out how the modus operandi is carried out by hate criminals who are investigated at West Jakarta Metro Police Precincts, as well as to

find out the efforts made by investigators West Jakarta Metro Police in handling cases of hate speech in the jurisdiction of West Jakarta Metro Police.

Significance of the Study

The results of this study are expected to have benefits, including:

1. Provide information relating to the issues discussed in this study.
2. Providing insight and knowledge, especially for writers and law students regarding hate speech.
3. Can be used as additional literature for other writers for further research on the above problem.

Research Methods

Method is defined as a way or a way to achieve something. As about the way the research must be done, the research methods used by the author include:

1. The type of legal research used by the author in this study is the type of empirical research conducted by tracing criminal cases with interview techniques and data collection at the West Jakarta Metro Resort Police which is the research location.

2. Nature of Research

The nature of the research used in this research is Analytical Descriptive Research. This is intended to provide a systematic and comprehensive picture that can help strengthen theories.

3. Research location

The location of this research was conducted at the West Jakarta Police Resort with the Cyber Crime unit investigators.

4. Types and sources of data

Types and sources of data in this study consisted of:

- a. Primary data, namely research data obtained directly from the research target, where the authors use direct interviews with West Jakarta Police investigators who handle cases of alleged hate speech crime, and other official officials within the West Jakarta District Police.
- b. Secondary data, that is data obtained based on literature and literature review and other reading materials relevant to the problem of this study.
- c. Tertiary Legal Materials, namely materials that provide instructions and explanations for primary and secondary legal materials, such as dictionaries, legal encyclopedias and other supporting facilities.
- d. Law Number 11 Year 2008 Concerning Electronic Information Article 28 and Circular Letter of the National Police Chief SE / 06 / X / 2015.

5. Data Collection Techniques

In conducting this research, specifically to obtain answers to the formulation of research problems, the data collection techniques used by the author are interviews, namely question and answer with West Jakarta Police investigators who handle cases of alleged criminal acts of hate speech, and other official officials in West Jakarta Police neighborhood. between the writer with

6. Data Analysis Techniques

After the data collection process, the next step is data processing. Secondary data obtained from literature compiled systematically and in detail. While the primary data obtained through the results of field research in the form of interviews are then recorded systematically then quantitative analysis is carried out, then a descriptive presentation is carried out.

Discussion

The term crime is commonly used by the ministry of justice and is also used in statutory regulations. But Moeljatno in his book uses the term criminal act compared to the term criminal act. Both of these terms have the same understanding that there are only differences in the use of the terms. Criminal deeds are acts that are prohibited by a law which prohibits accompanied by threats (sanctions) in the form of certain crimes, for anyone who violates the prohibition. It can also be said that criminal acts are acts which are prohibited and threatened by criminal law, provided that in the meantime remember that prohibitions are directed towards acts (ie a situation or event

that is caused by people's behavior), whereas criminal threats are directed at people who cause that incident. In essence, every crime must have elements that can prove that an action can be said to be a criminal offense. The following are the elements of a crime:

- a. Behavior and consequences (deeds);
- b. The matter or circumstances that accompany the act;
- c. Additional circumstances which incriminate the criminal;
- d. Objective unlawful element; and
- e. Elements against the law are subjective.

It should be stressed again that even though in the formulation of a criminal act there is no element of unlawfulness, an act can be said to be unlawful. So it does not need to be stated separately. The element of breaking the law is not only seen from an objective point of view, it needs to be seen from a subjective perspective as well. Hate Speech is an act of communication carried out by an individual or group in the form of provocation, provocation, or insults to other individuals or groups in terms of various aspects such as race, color, gender, disability, sexual orientation, citizenship, religion and etc. Circular is a letter that contains official notification within an institution, institution, organization, or is an official notification circulated in writing and is intended for various specific parties. Circular contains an explanation of a matter, for example a new policy from the leadership of an agency, containing a rule and others. On October 8, 2015, the National Police Chief General Badrodin Haiti issued a National Police Circular Letter Number: SE / 06 / X / 2015 Regarding Hate Speech (Hate Speech). With the issuance of the Police Circular Letter Number: SE / 06 / X / 2015, the National Police has guidelines in acting when handling hate speech cases. The National Police are no longer hesitant to act and can sort out what is called hate speech and what is not. The purpose of the Circular Letter (SE) for the Handling of Hate Speech is to address the increasingly widespread and less anticipated hate issues by the police, especially from the lowest levels. Hate Speech Circular is a technical guide for police officers from the lowest levels so that:

- a. Recognizing the danger of utterance of hatred, both against unity and integrity, and against the protection of minority groups.
- b. Able to detect the symptoms of hate speech that is rife in the midst of society.
- c. Able to take appropriate steps, both preventive and enforcement, to overcome the utterance of hatred, using the authority they have and the applicable criminal provisions.

Hate speech can be in the form of a criminal offense regulated in the Criminal Code (KUHP) and other criminal provisions outside the Criminal Code, in the form of:

- a. Insult;
- b. Defamation;
- c. Blasphemy;
- d. Unpleasant acts;
- e. Provoke;
- f. Incite;
- g. Spreading false news;

and all of the above actions have an objective or can have an impact on acts of discrimination, violence, loss of life, and / or social conflict. In a Circular Letter Number: SE / 06 / X / 2015 Regarding Hate Speech (hate speech) is not clearly spelled out the meaning of hate speech (hate speech), but it can be seen explicitly the elements of the Hate Speech. The following elements of hate speech:

- a. All actions and efforts, directly or indirectly;
- b. Which is based on hatred on the basis of ethnicity, religion, religious sects, beliefs / beliefs, race, between groups, color, ethnicity, gender, people with disabilities, and sexual orientation;
- c. Which is incitement of individuals or groups in order to occur discrimination, violence, loss of life and / or social conflict;
- d. Which is done through various means.

Etymologically criminology consists of two words namely 'Krimino' and 'logos'. Krimino means evil, while logos means science. Based on the two meanings of the word, criminology is the science of crime. Romli Atmasasmita defines criminology in two senses, namely narrow understanding and broad understanding. In a narrow sense criminology specifically studies crime. Whereas in the broadest sense criminology studies penology and methods related to crime and crime prevention problems with non-punitive measures. The object of criminology research is crime; the villain; misbehavior; perpetrators of irregularities; crime victim; social reactions to bad behavior and deviant behavior, both are formal reactions, namely the operation of the institutions of the criminal justice system, as well as non-formal reactions from members of the community to perpetrators of crimes and victims of crime in a crime. In the understanding explained by Sutherland, crime is defined as any act committed unconsciously or consciously that violates the rules of criminal law norms that have been listed in the law (Law). And no crime is said, when you do an action that is not prohibited by the rules of criminal law in a variety of statutory regulations. Clearly, according to R. Soesilo crime can be seen from two different points of view, namely:

Explanation of Crimes in Sociological Perspective

This point of view sees crime as a behavior or behavior that is detrimental to the victim and detrimental to society at large. Because this action will make the general public lose balance, peace and order. Explanation of Crimes From a Juridical Perspective According to a juridical point of view, crime is defined as an act whose behavior violates and contradicts various kinds of norms or rules which is stipulated in the law.

Elements of Crime

This element of crime is important to know in order to know which things are said to be crime.

- a. The actions carried out have a detrimental effect on others.
- b. Already have bad intentions and intentions.
- c. The third element of evil must be a fusion between evil deeds and evil intentions.
- d. This element of crime has a loss that is regulated in the Criminal Code Act by act.

Types of Crimes

Crimes are of two types which are ordinary crimes or commonly known as Ordinary Crimes and extraordinary crimes:

- a. Ordinary Crime is also called ordinary crime, such as beating, torture and defamation etc.
- b. Extraordinary Crime

Extraordinary Crimes must be applied (enforcement) of Extraordinary Law, this sentence seems appropriate in Indonesia. Why is that? For further, we first discuss what is meant by extraordinary crimes, as we all know that regarding extraordinary crimes, not a few people recognize them as unlawful crimes or violate Human Rights (HAM) and some general description of examples of criminal acts / civil law classified therein such as terrorists, corruption, drugs, and so forth. Excerpted through academia.eu, which means an extraordinary crime is an act committed with the intent to eliminate the human rights of other human beings, international agreements have been agreed as gross human rights violations under the jurisdiction of the International Criminal Court and the Rome Statute, receiving the maximum severity including capital punishment for the perpetrators of these crimes. Included in the Extraordinary Crime are genocide crimes, crimes against humanity, war crimes, and crimes of aggression. If you observe that the examples of actions that are included in Extraordinary Crime according to their description for the Author are somewhat outdated, in the sense of forms These crimes, although they still exist today or may occur in the future, seem to require renewal, given the development of the age behind the change in new types of crime. Especially for Indonesia, corruption and drug crimes which are increasingly rampant in this country should be included in the category of Extraordinary Crimes and that is already the case. However, according to the Author behind the Extraordinary Crime there are still many questions including what is the background and who is behind the outbreak of Extraordinary Crime and what is the basis for evaluating a crime into the category of Extraordinary Crime. The motives of the perpetrators who committed the crime of hate speech were investigated by West Jakarta Metro Police. In the legal sense, the Hate Speech is a speech,

behavior, writing, or show that is prohibited because it can trigger acts of violence and prejudice either from the perpetrators of the statement or victims of the act. Websites that use or apply Hate Speech are called (Hate Site). Most of these sites use Internet Forums and News to reinforce a certain point of view. From the data obtained during conducting research in the field, the perpetrators who were suspected of committing criminal acts of hate speech (hate speech) handled by the West Jakarta Metro Police, are based on several motives that can be stated in the following table: Factors causing the occurrence of Hate Speech crime based on data in West Jakarta Police are: Factors causing the hate speech crime that often occurs in West Jakarta Police include:

Individual factors

Individual psychiatric factors themselves can cause crime such as emotional power, mental inferiority, hurt by the victim, revenge.

Community ignorance factors

The ignorance factor of the community is also the cause of the occurrence of hate speech crime (hate speech), especially insults committed in social media. Lack of socialization / counseling to the community is what causes this crime to occur in communities that are classified as not aware of the existence of rules regarding the integrity of hate speech, especially insults

Factors of facilities and facilities

Facilities and facilities factors also influence the era of globalization as it is today, and it also influences the rapid growth of electronic media, especially internet media, so that information dissemination is easier, faster and more effective to obtain. So someone is not wise to use internet media or communication facilities and there are no restrictions in the use of communication tools.

Environmental factors

The environment is the main place in supporting the occurrence of patterns of crime behavior committed by someone. These influencing factors include:

- a. An environment that provides an opportunity to commit crime;
- b. The social environment that provides an example and example;
- c. Economic environment, poverty and misery;
- b. The motives of the suspects who commit criminal acts of hate speech include:
 1. Making trouble among the people;
 2. Making animosity among individuals;
 3. Making people negative thinking to the government;
 4. To revenge one of the individuals or the government.

The modus operandi that usually occurs in criminal acts in West Jakarta Police:

1. Making videos that can lead to negative public opinion to the government;
2. Posting hate speech through their social media;
3. Disseminating hate speech.

Based on the results of an interview with West Jakarta Police investigators, some of the efforts made in order to tackle and prevent the Hate Speech crime are:

1. Improve the social and economic situation of the community.
2. Increasing legal awareness and community discipline.
3. Improve moral education.
4. Provide literacy to the community.
5. Creating a facebook account that is giving an appeal, or socializing Law Number 11 of 2008 concerning Information and Electronic Transactions.
6. Strive to prevent by providing education on how to use good communication tools where first

starting from the family to the wider community, the police put forward the technical functions of the Criminal Investigation Unit which specifically handles cases of hate speech in the form of insults committed through social media, namely by carrying out activities arrangements, safeguards, and special patrols in locations that are suspected to be frequent cases, even West Jakarta Police have also done the technique of Cyber Patrol where the patrol is very useful for the police to find out who social media users often commit hate speech crimes in social media.

7. Dissemination of Law Number 11 Year 2008 concerning Information and Electronic Transactions. The explanation must be done by the police, because the public's lack of understanding of the contents of Law No. 11/2008 on Information and Electronic Transactions makes it important for the government to campaign about this regulation. The aim of the prevention efforts carried out by the West Jakarta Police is that the public if receive news that is not necessarily correct not to be shared because the perpetrators who distribute the shipment from other people may also be subject to a criminal offense, in determining a criminal offense the hate speech Labuhan Batu Police Station does not directly assign a person to be a suspect but is given a warning first through a cyber patrol , but if the warnings that have been given remain ignored then an investigation will be carried out accompanied by an investigation of the account concerned to provide certainty whether the account is a real account or a fake account, but even so Polr es West Jakarta will still find out who the real culprit is even though the account used is fake.
8. Firm law enforcement of the perpetrators.

Conclusion

Based on the explanation of the thesis made by the author and in accordance with the rules of writing scientific papers above, the writer will give a conclusion as follows:

1. Motives of the perpetrators suspected of committing criminal acts of hate speech investigated by the West Jakarta Police Station are: Making trouble among the people, making hostility among individuals, Making people negative thinking to the government, and to take revenge on one individual or the government.
2. The modus operandi of perpetrators of suspected criminal acts of hatred investigated at the West Jakarta Police Station is: Posting hate speech through their social media, making videos that can lead public opinion to be negative to the government, and spreading hate speech.
3. Efforts made by West Jakarta Police Investigators in the context of overcoming criminal acts of hate speech within the jurisdiction of West Jakarta Metro Police are; Improve social and economic conditions of the community, increase legal awareness and community discipline, improve moral education, and provide literacy to the public regarding Law No. 11/2008 concerning Information and Electronic Transactions.

The suggestions to be put forward by the author in writing this scientific work are as follows:

1. The need for more synergistic collaboration between the police, the community, customary stakeholders in conducting surveillance, overcoming and preventing each area that is considered to be prone to conflict and still do not understand what Hate Speech is and what the impact will be if the hate speech crime. (Hate Speech) was not handled and responded to early.
2. Need to conduct socialization or counseling from the Police to schools, universities, villages, and also to the public about the understanding and forms of crime of Hate Speech (Hate Speech) as well as presenting sanctions or penalties under the Act which has been set by the government regarding sanctions if someone commits a crime of Hate Speech, it can be done with information through banners or banners, both by the government, police, and the community.
3. West Jakarta Police Investigators need to conduct cyber patrols on social media such as Instagram, Facebook, Twitter, which are often used as media to commit hate speech crimes.

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