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Cyberbullying on Children in Victimology Perspective

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Abstract

Cyberbullying is intimidation carried out in cyberspace. Virtual space opens opportunities for cyberbullying to attack children. Children who are victims of cyberbullying tend not to report the bullying done on them. In this research, two issues will be discussed, namely the study of the victimology of cyberbullying on children and the responsibility of the State in protecting children from cyberbullying. This research is a normative juridical approach with criminal law and vicimology approach. The victimism study of cyberbullying on children shows the urgency of protecting children who are victims of cyberbullying. Cyberbullying has an impact on children's mental well-being. Those who become victims will be embarrassed, decide to quit school, feel negative feelings, even commit suicide. Judging from the possible impacts on victims, cyberbullying on children is more dangerous than bullying done in a real way, and is more dangerous than if it is done on adults. The responsibility of the State in protecting children from cyberbullying is by formulating, implementing, and forcing the rule of law on the offender. The State is also obliged to implement international commitments in preventing cyberbullying on children.

Keywords: Cyberbullying; Child; Victimology

I. INTRODUCTION

Every child¹ has the right to privacy to be protected. In Article 52 paragraph (1) of the Human Rights Law states "Every child has the right to protection by parents, family, society and the State." Article 58 paragraph (1) then states "Every child has the right to obtain legal protection from all forms of physical or mental violence, neglect, ill-treatment and sexual harassment while in the care of a parent or guardian, or any other party responsible for child care". Child protection is a human right. Cyberbullying is a violation of privacy against children. The cyberbullying is an act of intimidation that aims to judge, humiliate, and attack self-esteem carried out through cyberspace.

Cyberbullying on children, basically can be done by adults and children. Cyberbullying has an impact on destroying a child's psychology. Children must get protection from cyberbullying. Indeed, children need certain parties, like parents/family, community, government, and the State as regulators (regulator bodies), executors of fulfilling children's rights (executive body), and bearers of state obligations (Supeno, 2010). The role of government in every country is crucial in which governments around the world are struggling to face telematics problems, especially what is called "unwanted information" available to citizens on the internet (cyber space) (Endeshaw, 2007). Lyrisa Lidsky and Andrea Pinzon Garcia (Lidsky & Garcia, 2012) say that laws that criminalize cyber criminals fall into two categories: some of these laws modernize existing criminal laws, especially the law of harassment or stalking, to cover cyberbullying and other laws made a new criminal law regarding cyberbullying. Cyberbullying is carried out with various psychological attacks.

1. In Article 1 point 1 of the Child Protection Act (2014) stated "Child is a person who is not 18 (eighteen) years old, including a child who is still in the womb." This age limit is in accordance with the Convention on the Rights of the Child. In Article 1 the Convention on the Rights of the Child states that "For the purposes of the present Convention, a child means every human being below the age, majority is attained earlier."

In conducting scientific research on the relationship between cyberbullying with psychological and somatic health find that students reported being victims of cyberbullying are almost twice as likely to experience psychological and somatic symptoms compared to peers who do not become victims and the impact increases substantially when these actions occur repeatedly (Vieno, et al., 2014). Alessio Vieno mentions the psychological problems experienced are feeling low, easily to be angry, feeling nervous, difficult in sleeping, while the somatic problems that arise are headaches, abdominal and back pain. Psychic attacks on children can cause children to commit suicide like in some cases of cyberbullying.

In this research, two issues will be discussed, namely the study of the victimology of cyberbullying on children and the responsibility of the State in protecting children from cyberbullying. The discussion of cyberbullying on children in the perspective of victimology is a cyberbullying discourse with an approach in the perspective of the victim. The victims of cyberbullying referred to in this study are child victims. The child victims need to get attention in criminal law policies on cyberbullying, because children are vulnerable groups that need to be protected from the effects of cyberbullying. On the other hand, the State also has an obligation to protect children from the effects of cyberbullying. The victimology approach is carried out by analyzing the child as a victim in cyberbullying, the impact of cyberbullying on victims and the thoughts of the victimist on the rights of victims.

II. METHOD

This research is a normative juridical study that examines the State's responsibility for children who are victims of cyberbullying. The approach to the problem lies not only in criminal law, but also by using the victimology approach. Legal material comes from primary and secondary legal material. The legal material is collected through library studies. The problems in this study are analyzed qualitatively to obtain conclusions and recommendations.

III. RESULT AND DISCUSSION

The victimology of cyberbullying on children

Cyberbullying carried out on children is a crime in a juridical sense that needs special attention. Children are vulnerable groups as victims of violence. This vulnerability is caused by age, psychological and mental maturity that are considered different from adults and because of these factors children are often ignored in policy making (Muhtaj, 2013). As a person who is not yet emotionally established, children often take action without thinking about the impact of their actions. For example when a friend on social media invites a date, a child without thinking accepts the invitation. The child's actions can be used by the perpetrator to intimidate the victim, for example by threatening to tell what he has done in social media if the he does not want to follow the instructions of the perpetrator.

A crime can last a long time due to the omission of victims. Siswanto Sunarso states the omission of victims is carried out for several reasons, namely (Sunarso, 2012):

1. The inability of the community to react to the deviation that occurs.
2. There are fears of social control agencies or victims of deviations from the possibility of conflicting consequences.
3. This ignorance/omission is a social climate caused by the absence of a broad reaction to inappropriate behavior.

The omission of victims of cyberbullying is caused by the inability of victims to react to the dissemination of information containing bullying in cyberspace. Like characters in cyberspace, the dissemination of information is difficult to prevent. Cyberspace, basically, ignores territorial boundaries. The recent cessation of the great children's pornography internet series "Dreamboard", with members from five continents and covering more than ten countries, is a surprising illustration of the vast reach of cyber crime (Menon & Guan Siew, 2012). Pornography is often used by perpetrators to maintain the cyberbullying that has been successful, so that children who are victims do not report.

Children intimidate their friends as entertainment, even though the intimidation that victims receive becomes a memory that does not disappear until they grow up later. States that teens are reported to be involved in cyberbullying because they get satisfaction and pleasure from hurting their victims (Varjas,

Talley, Meyers, Parris, & Cutts , 2010). To eliminate the bad memory of this intimidation, a break in the chain of violence is needed. Triantoro Safaria, Fatwa Tentama and Hadi Suyono (Safaria, Tentama, & Suyono, 2016) state “The present study found a significant role of forgiveness in the prevalence of cyberbullying”.

Elias Aboujaoude, Matthew W. Savage, Vladan Starcevic, and Wael O. Salame (Aboujaoude E., Savage, Starcevic, & Salame, 2015) state preliminary data suggest that cyber “bully-victims,” individuals who have been both bullies and victims, are more troubled than perpetrators or victims, with more interpersonal and conduct problems and higher suicidality risk. Judging from the possible impacts on victims, cyberbullying on children is more dangerous than bullying that is done in a real way. This is due to the condition of the virtual space which shows the following characteristics:

1. Unbalance of power between perpetrators and victims. Cyberbullying against children shows an imbalance of power between the perpetrator and the victim, in which the offender wants to show that he has more power than the victim while the victim does not have the strength to resist, because the victim does not know where to defend. The information uploaded by the perpetrator can spread so quickly and can be read by netizens wherever they are, stored or forwarded back by netizens. In this case, the dissemination of information is difficult to inhibit, except through the State authority.
2. Anonymity. Cyberbullying on children is done by anonymity, blurring identity and even falsifying the identity and location of internet service providers. Actors can easily close accounts after bullying children. Victims may not know the culprit at all, in contrast to traditional bullying in which the victims face directly with the perpetrators. This condition will have implications for difficulties in accessing justice for children. Elias Aboujaoude, Matthew W. Savage, Vladan Starcevic, and Wael O. Salame say that online anonymity exacerbates the problem because it is easier to attack someone anonymously (Aboujaoude E. , Savage, Starcevic, & Salame, 2015). However, under certain conditions, there are also actors who show their identity openly and use the original account.
3. Provocation of the offender to attack the victim. Actors can also provoke other people to attack children. Elias Aboujaoude, Matthew W. Savage, Vladan Starcevic, and Wael O. Salame (Aboujaoude E. , Savage, Starcevic, & Salame, 2015) note that cyberbullying can be done by trolling or posting provocative statements to cause embarrassing reactions. Actors can provoke or invite other netizens to participate in intimidating victims in cyberspace. Victims in this case are not faced with one perpetrator, but also thousands of perpetrators. They can make victims as objects of flaming (debate) by commenting on victims and provoking other netizens to bully victims.
4. Performed repeatedly. The act of intimidation is not carried out only once as in the case of crimes in general, such as murder, rape and others. Kamil Kopecký declares cyberbullying is a form of aggression committed against individuals or groups that use information and communication technology (Kopecký, 2014). This action is carried out repeatedly. Intimidation is done repeatedly because the victim is unable to fight.

Children are vulnerable groups that must be protected, especially if they become the victim of a crime. Therefore, the state must be responsible in protecting children who are victims of cyberbullying.

The Responsibility of the State in the Protection of Children from Cyberbullying

Each country has an obligation to carry out child protection as an international commitment contained in the Convention on the Rights of the Child. In Article 2 stated:

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Indonesia is one of the countries that ratified the Convention on Rights of the Child. Therefore, Indonesia has a responsibility to regulate child protection issues in its national law and take appropriate actions to ensure optimal protection of children.

In national law, the issue of child protection is regulated in the Child Protection Act (2002) and the Child Protection Act (2014). In Article 1 point 1 of the Child Protection Act (2014), it is stated "Child Protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and values, and obtain protection from violence and discrimination".

Every child has the right to get protection. Protection can be interpreted as all efforts aimed at preventing, rehabilitating and empowering children who experience acts of child abused, exploited and neglected, in order to ensure the survival and growth of children fairly, both physically, mentally and socially (Gosita, 2001). The child protection perspective is a perspective on all problems by placing the position of the child as first and foremost. The implementation of this perspective is when always placing the affairs of children as the most important thing (Djamil, 2013). Article 2 of the Child Protection Act (2002) states:

The implementation of child protection based on Pancasila and based on the 1945 Constitution of the Republic of Indonesia and the basic principles of the Convention on the Rights of the Child include:

1. non discrimination;
2. the best interests of the child;
3. the right to life, survival and development; and
4. respect for children's opinions.

In the Explanation of Article 2 it is stated that the principle of child protection here is in accordance with the basic principles contained in the Convention on the Rights of the Child. The best principle for children is that in all child-related actions carried out by the government, the community, the legislative body, and the judicial body, the best interests of the child must be a primary consideration. The principle of the right to life, survival and development are the most basic human rights for children protected by the state, government, society, family and parents. The principle of respect for children's opinions is respect for the rights of children to participate and express their opinions in decision making especially when it comes to matters that affect their lives.

Peter Newel presents several subjective reasons in terms of the existence of children so that children need protection, those are:

1. The cost of recovery due to failure to provide child protection is very high. It is much higher than the costs incurred if children get protection;
2. Children are very affected directly in the long run of actions or the absence/unaction of the government and other groups;
3. Children always experience separation or gaps in the provision of public services;
4. Children do not have voting rights, and do not have the power to lobby to influence the public policy agenda;
5. Children in many circumstances cannot access the protection and structuring of children's rights;
6. Children are more at risk of exploitation and abuse (Djamil, 2013).

Maidin Gultom (Gultom, 2014) states that there are three things that are the basis for implementing child protection, as follows:

1. Basic philosophy. The basic philosophy of child protection is Pancasila which is the basis in various fields of activity in the family, society and in the nation and State environment.
2. Ethical basis. The implementation of child protection is carried out based on professional ethics to prevent deviation in authority, power and in the implementation of child protection.
3. Juridical basis. Child protection is carried out based on the 1945 Constitution of the Republic of Indonesia and related laws and regulations.

Pancasila is the basis of every implementation of human life in various aspects. In the context of establishing legislation, Pancasila is a source of national law. Pancasila is also a source of the Child Protection Act (2014) as described in Article 2. The principles in Pancasila want the fair and civilized

protection for children. The government has a juridical basis in protecting children from cyberbullying. Article 21 of the Child Protection Act (2014) states as follows:

1. The State, Government, and Regional Government are obliged and responsible to respect the fulfillment of the Rights of the Child regardless of ethnicity, religion, race, class, gender, ethnicity, culture and language, legal status, birth order, and physical and/or mental condition.
2. To guarantee the fulfillment of the Rights of the Child as referred to in paragraph (1), the state is obliged to fulfill, protect and respect the Rights of the Child.
3. To guarantee the fulfillment of the Rights of the Child as referred to in paragraph (1), the Government is obliged and responsible in formulating and implementing policies in the field of the implementation of Child Protection.
4. To guarantee the fulfillment of the Rights of the Child and implement the policy as referred in paragraph (3), the Regional Government is obliged and responsible for implementing and supporting national policies in the implementation of Child Protection in the region.
5. Policies as referred in paragraph (4) can be realized through the efforts of regions to develop districts/cities that are suitable for Children.
6. Further provisions regarding the policies of a district/city eligible for Children as referred to in paragraph (5) are regulated in a Presidential Regulation”.

Protection of Indonesian children means protecting the potential of human resources and building up Indonesian people as a whole, towards a just and prosperous society, spiritual material based on the State's foundation, namely Pancasila and the constitution namely the 1945 Constitution (Nashriana, 2012). Associated with the concept of the welfare state, criminal law policies in combating cyberbullying on children are in line with the State's goals as outlined in the Preamble of the 1945 Constitution, namely protecting all Indonesian people and advancing public welfare, educating the nation's life, and carrying out world order which is based on independence, eternal peace and social justice. Child protection policy aims to protect children and prepare children to be intelligent people both cognitively and psychomotor.

Criminal law policy against cyberbullying is intended and carried out in order to provide protection for children. Child protection is needed to prevent mistreatment. Theoretically, wrong treatment can occur because of social learning (social learning theory). William G. Doerner, and Steven P. Lab say that the theory of social learning focuses on the absorption of experience and reinforcement. Child protection policies from cyberbullying do not only touch the aspects of punishment, but also aspects of human rights in the prevention (Doerner & Lab, 2012).

The government has the authority to carry out child protection from cyberbullying, both by and of children, through telematics and child protection policies. Talking about policies in the field of telematics, Dikdik M. Arief Mansur and Elisatris Gultom state that there are 3 (three) main targets of government policy in the field of telematics, namely:

1. Achieving economic growth and competitiveness;
2. Achievement of improving the quality of life of the community; and
3. Achieving national and defense stability (Gultom, 2005).

Government policy in the field of telematics related to the protection of children from cyberbullying is a policy in order to achieve an increase in the quality of life of society. Cyberbullying is illegal content that is used to attack children. In fact, personal protection is a human right that must be recognized, protected and fulfilled. In Article 12 Universal Declaration of Human Right states “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks”. Danrivanto Budhijanto states:

To create a democratic and fair Indonesia is carried out by strengthening stronger democratic institutionalization; strengthening the role of civil society so that a bottom-up participatory development process can work; fostering responsive community that will encourage spirit of voluntarism in line with the meaning of mutual cooperation; strengthening the quality of decentralization and regional

autonomy; guaranteeing the development and freedom of the media in communicating the interests of the community; reforming the legal structure and improving the legal culture and enforcing the law fairly, consequently, it is not discriminatory and siding with the small people (Budhijanto, 2010).

Freedom in the media must be balanced with regulations on aspects of child protection. The regulation includes supervision by legitimate authorities and by the media user community itself. Strengthening civil society is done by activating cyber communities to jointly supervise actions that are indicated as cyberbullying. Netizens can at least report to social media providers to close someone's account because of inappropriate actions. In this case, the State has the responsibility to foster the community and conduct socialization for using internet positively.

IV. CONCLUSION

The victimology study of cyberbullying on children shows the urgency of protecting children who are victims of cyberbullying. Cyberbullying has an impact on children's mental well-being. Children who become victims will be embarrassed, decide to quit school, feel negative feelings, even commit suicide. Judging from the possible impacts on victims, cyberbullying on children is more dangerous than bullying that is done in a real way, and is more dangerous than if it is done against adults. The responsibility of the State in protecting children from cyberbullying is by formulating, implementing, and forcing the rule of law on the offender. The state is also obliged to implement international commitments in preventing cyberbullying against children.

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