

LAW ENFORCEMENT AGAINST CRIMINAL ACTORS OF CHILD PORNOGRAPHY THROUGH SOCIAL MEDIA

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Abstract

This study discusses the crime of child pornography through social media. This research uses empirical and normative legal research where empirical legal research carried out by collecting data through observation, interviews. Sources of data used by researchers in this study are primary data sources compiled from observations, interviews and questionnaires in the field and secondary data sources collected from library research. This research analyzed using descriptive qualitative methods. In this research, the theory used is the Law Enforcement Theory according to Joseph Goldstein, namely: Total Enforcement, meaning the scope of criminal law enforcement as formulated by substantive criminal law. This research expected to give advice, recommendations and study material about cases of child pornography in the community

Keywords: pornography; Law, Children, Social Media

INTRODUCTION

Indonesia as one of the countries that follows the times or follows the flow of technology that develops as a result of globalization. This makes people live in a culture of modernism so that many people use social media as their need or lifestyle. Advances and developments in technology, especially telecommunications, multimedia and information technology (telematics) can ultimately change the organizational structure and social relations (Mansur, 2009). The most visible change is that society begins individualistic, people tend to work alone without interacting or needing help from others.

The number of smart devices today makes it easier for people to get access to the internet. Its presence has formed its own world known as cyberspace or pseudo world, which is a computer-based communication world that offers a new virtual reality (indirect and unreal) (Rahardjo, 2002). In Indonesia, the internet certainly helps people to improve their standard of

Jurnal Hukum Replik

Universitas Muhammadiyah Tangerang

P-ISSN: 2337-9251 E-ISSN: 2597-9094

Vol. 9 No. 1

Submit: 09/02/2021

Revised: 05/03/2021

Published: 30/03/2021

living, because the internet itself is a technology that can have a positive impact on the work environment, students or others. However, behind all that, there are also negative things that caused, one of the easy access to pornographic content.

The virtual world or the internet and the World Wide Web is now full of pornographic materials or related to sexual issues. According to an estimate 40% of various sites on the World Wide Web offer such materials (Arief, 2006). Of course we cannot avoid this, but in the development that occurs if this is not accompanied by the moral quality of society, morals always refer to the good and bad of humans as humans. It is not impossible that existence of technology will cause negative things or crime. Crime itself is a reality in life which requires special handling. This is because crime will cause unrest in people's lives in general. Therefore, there are various efforts made by the community in overcoming these crimes, even though it is very difficult to completely eradicate crime. Because basically crime will always develop in line with developments that occur in society (Prodjodikoro, 2002).

Legal development will always develop along with the develop society. Likewise, legal issues will develop along with the develop problems that occur in social life, this is agree. one of the dynamic characteristics of law. Children are part of the younger generation who have the potential a successor to the ideals of the nation's struggle and have a strategic role which requires guidance and protection to make sure complete, harmonious, harmonious and balanced physical, mental and social growth and development (Makarao, 2014).

This means that children are the most important part that must considered, this for creating a good life in a community structure. In a pluralistic life structure where many people mixed into one, it is not uncommon for problems to occur, one of which is child pornography. Pornography forms a hedonistic spirit, making everything possible (Kuncoro, 2013). This means that pornography is an act that is negative in nature, because it can damage the morale of each person, so that the person becomes far from the values in both religious norms or positive law that applies in society.

Jurnal Hukum Replik

Universitas Muhammadiyah Tangerang

P-ISSN: 2337-9251 E-ISSN: 2597-9094

Vol. 9 No. 1

Submit: 09/02/2021

Revised: 05/03/2021

Published: 30/03/2021

Lack of public knowledge about criminal law and wrong social patterns in social life can cause a person to become a victim or perpetrator of a crime. This is due to the innocence and innocence of a child who is often abused by others for the benefit of himself or a group of people. The exist child pornography crimes through social media makes children feel safe when they are active in the real world and in cyberspace, even the house used as a medium for crime for the perpetrators.

This child pornography crime is not only regulated in the Criminal Code, hereinafter abbreviated as the Criminal Code, regulated in Law of the Republic of Indonesia Number 35 of 2014 on Child Protection associate Law of the Republic of Indonesia Number 44 of 2008 about Pornography with Law of the Republic of Indonesia Number 19 of 2016 on amendments to Law of the Republic of Indonesia Number 11 of 2008 about Electronic Information and Transactions, hereinafter abbreviated as UU ITE.

In caring for children, it is necessary to make efforts for one of them is to protect children. Child protection itself can interpreted as any effort for preventing, rehabilitating and empowering children who have experienced acts of mistreatment, exploitation and neglect, to make sure their survival and growth and development fairly, physically, mentally and socially. Child protection is an effort to protect children so that they can exercise their rights and obligations (Gultom, 2014). This means that to protect children whose purpose is to make sure that children can exercise their rights and obligations as children, it is a shared responsibility agree the child's understanding.

Indonesia is a country that guarantees the welfare of every citizen of its country, including the protect children's rights which are human rights. Every child has the right to live, grow and develop and has the right to protection from violence and discrimination as mandated by the 1945 Constitution of the Republic of Indonesia. Children as the buds, potentials and young generation who are the successors of the ideals of the nation's struggle have a strategic role , special characteristics and characteristics that must protected from all forms of inhuman treatment that result in violations of human rights.

Jurnal Hukum Replik

Universitas Muhammadiyah Tangerang

P-ISSN: 2337-9251 E-ISSN: 2597-9094

Vol. 9 No. 1

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Revised: 05/03/2021

Published: 30/03/2021

The crime of child pornography through social media is different from the criminal act of sexual immorality, because fornication is a crime that is contrary and violates the decency and decency of a person who is all if sexual lust, such as a man touches a woman's genitals (Marpaung, 1996). This means that the criminal act of child pornography through social media is a criminal act committed through the distribute photos, videos, images and other forms of messages through various forms of communication media, while sexual immorality itself carried out directly by the perpetrator against the victim.

Investigators and judges are legal instruments that authorize to enforce law. agree the law, the investigator himself oblige to collect evidence, which can show the perpetrator of a criminal act. Whereas in Article 1 point (8) of the Criminal Procedure Code, Judges are state court officials who authorized by law to receive, look at and adjudicate cases delegated to the court. In carrying out his duties, a judge must not take sides except with truth and justice, as well as human values (Arief, 1996).

Based on the case handled by Polda Metro Jaya of child pornography through online media, the defendant committed the crime of child pornography through social media such as WhatsApp, cross-country telegram and Skype. Where the defendant made and distributed photos and videos containing child pornography with the victim being the defendant's biological child and his own nephew. Due to this action, the judge at the South Jakarta District Court decided that the defendant was legally and convincingly proven to have committed the crime of child pornography through social media. This study aims to find out the reasons for the Polda Metro Jaya investigators not to use the article of child sexual abuse for the perpetrator of the crime of child pornography To find out the judge's consideration of cases of child pornography through social media, study decision number: 830 / Pid.Sus / 2017 / PN Jkt.Sel.

METHODOLOGY

This research uses empirical and normative legal research where empirical legal research carried out by collecting data through observation, interviews about the crime of

child pornography through social media. Meanwhile, normative legal research which discusses doctrines or principles in legal science and Laws and Regulations on the power of law against child pornography through social media. In this study, primary data sources collected from observations, interviews and questionnaires in the field and secondary data sources collected from library research. The data in this study analyzed using descriptive qualitative methods. Where this research will describe and analyze decision number 830 / Pid.Sus / 2017 / PN Jkt. Cell about child pornography through social media.

RESULT AND DISCUSSION

Crime can influence someone not to commit an act that is harmful to others or as a reference so that problems arising from a criminal act in society resolved, so that it does not cause prolonged problems. Furthermore, in law enforcement, three things considered, namely legal certainty, benefit and justice. Joseph Goldstein in his theory divides law enforcement into several things, one of which is Total Enforcement, which is the scope of criminal law enforcement as defined by substantive criminal law (Shant, 1998). Total enforcement of the criminal law is not possible, because law enforcers are strictly limited by the criminal procedure law which includes rules for arrest, detention, search, seizure and preliminary examination. Substantive criminal law provides its own limitations, such as for a complaint beforehand as a condition for prosecuting a complaint offense.

In Decision Number 830 / Pid.Sus / 2017 / PN Jkt.Sel which stipulates that Agus Iswanto Alias Denny Agus Bin Mujono can be subject to the crime of child pornography, where his actions fulfill the elements contained in Article 27 paragraph (1) of the Law Number 19 of 2016 on amendments to Law Number 11 of 2008 about Electronic Information and Transactions explains that everyone knowingly and without rights distributes and / or transmits and / or makes accessible electronic information and / or electronic documents that have contents that violate decency. Article 1 paragraph (1) of Law Number 44 of 2008 on Pornography explains that pornography is images, sketches, illustrations, photos, writings, sounds, sounds, moving pictures, animation, cartoons, conversations, gestures or other forms of messages through various forms of communication media and / or public

Jurnal Hukum Replik

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P-ISSN: 2337-9251 E-ISSN: 2597-9094

Vol. 9 No. 1

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Revised: 05/03/2021

Published: 30/03/2021

performances, which contain obscenity or sexual exploitation that violate the norms of decency in society. And of children themselves, it regulated in Article 1 paragraph (1) of Law Number 35 of 2014 on Child Protection, which explains that a child is someone who is not yet 18 years old, including children who are still in the womb.

Pornography classified into two types of offenses, namely complaint offense and general offense. A complaint offense is where the victim himself makes a report for an act that is harmful to him, since a general offense is a crime where the police can report it themselves based on findings in the field. Regarding law enforcement, the Jakarta Raya Metro Police conducts investigations, deepens the cases that have met the elements or not, who is the perpetrator, what is the motive of the perpetrator who committed the crime. Investigation carried out based on information or reports received or known directly by the investigator or investigator, police reports, examination reports at the scene of the case, minutes of examination of suspects and / or witnesses. Article 27 of the concept of the Criminal Code states that criminal responsibility is the forwarding of criticism to an action based on applicable law, subjectively to the author who meets the requirements of a Prevailing Law who is liable penalized for his actions (Prakoso, 1987).

From juridical, sociological and evidence and witness testimony, the authors conclude that the Defendant AGUS ISWANTO, aka DENNY AGUS Bin MUJONO, has been legally and convincingly proven guilty of committing a criminal act of "producing, making, reproducing, duplicating, disseminating, broadcasting, importing, exporting. , offers, trades, rents or provides pornography that explicitly includes sexual intercourse, including deviant intercourse, sexual violence, masturbation or masturbation, nudity or displays that suggest genital nudity or child pornography "as referred to in Article 29 Jo Article 4 paragraph (1) letter F RI Law No. 44 of 2008 on Pornography. "And knowingly and without rights distribute and / or send and / or make electronic information and / or documents accessible.

Electronics that have contents that violate decency "as referred to in Article 27 paragraph (1) with Article 52 paragraph (1) of Law of the Republic of Indonesia No. 19 of 2016

Jurnal Hukum Replik

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on Amendments to Law of the Republic of Indonesia No. 11 of 2008 about ITE in the first and second cumulative indictments, but judges should also be able to impose layered articles or junto the Crime of Fornication by Article 294 paragraph (1) of the Criminal Code because the Judge decides what Andi Hamzah said. in the proof system, namely Conviction In time (proof based on the judge's conviction), it means proof in which the processes of determining whether the Defendant is guilty is solely determined by the judge's conviction. A judge is not bound by the various kinds of evidence available, the judge can use the evidence to gain conviction on the defendant's guilt, or ignore the evidence by only using the conviction inferred from the witness's testimony and the defendant's confession.

CONCLUSION

In Decision Number 830 / Pid.Sus / 2017 / PN Jkt.Sel which stipulates Agus Iswanto Alias Denny Agus Bin Mujono as the Defendant based on the investigation by the Polda Metro Jaya has fulfilled the elements of the criminal act of child pornography but according to the author it should have been junto with the act criminal obscenity due to the group of child obscenity **agree**. Article 294 paragraph (1) of the Criminal Code fulfilled in the act committed by the Defendant Agus Iswanto Alias Denny Agus Bin Mujono.

From juridical, sociological considerations as well as evidence and witness testimony, the writer draws the conclusion that the Defendant has been legally and convincingly proven guilty of committing a crime of "producing, making, reproducing, duplicating, distributing, broadcasting, importing, exporting, offering, trading Renting or making available pornography that explicitly has sexual intercourse, including deviant sexual intercourse, sexual violence, masturbation or masturbation, nudity or displays that suggest genital nudity or child pornography "as referred to in Article 29 Jo. Article 4 paragraph (1) letter F RI Law No. 44 of 2008 about Pornography. "And intentionally and without rights distribute and / or send and / or make accessible Electronic Information and / or Electronic Documents that have contents that violate decency" as referred to in Article 27 paragraph (1) with Article 52 paragraph (1) of

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Published: 30/03/2021

the Republic of Indonesia Law. No. 19 of 2016 about Amendments to Law of the Republic of Indonesia No. 11 of 2008 on ITE in the first and second cumulative indictment, however, judges should also be able to use layered articles or in junction with the crime of obscenity **agree**. Article 294 paragraph (1) of the Criminal Code because the judge decides what to say. Andi Hamzah in the proof system, namely Conviction In time (proof based on the judge's conviction) means proof in which the processes of determining whether the Defendant is guilty is solely determined by the judge's conviction. A judge is not bound by the various kinds of evidence available, the judge can use the evidence to gain conviction on the defendant's guilt, or ignore the evidence by only using the conviction inferred from the witness's testimony and the defendant's confession.

This research hoped that in law enforcement, both the Police and the Judiciary must more courageous because the rampant pornography on social media is very harmful to society, especially children. The government must make special rules in the use of technology, where there are age restrictions, efforts to control and take action for children and parents who are negligent or abuse technology, especially social media. The public must more careful in using social media so that they do not become victims or perpetrators of pornographic acts because as we know that social media is one of the places that can easily access pornographic content. Parents must have a role in educating and protecting children, so that children do not use or access and misuse technology, especially social media which can cause harm to their own children and other people.

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Jurnal Hukum Replik

Universitas Muhammadiyah Tangerang

P-ISSN: 2337-9251 E-ISSN: 2597-9094

Vol. 9 No. 1

Submit: 09/02/2021

Revised: 05/03/2021

Published: 30/03/2021

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Universitas Muhammadiyah Tangerang

P-ISSN: 2337-9251 E-ISSN: 2597-9094

Vol. 9 No. 1

Submit: 09/02/2021

Revised: 05/03/2021

Published: 30/03/2021

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