



Body shaming crimes on social media

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Abstract

Cyberbullying such as body shaming, which is aggressive and repetitive behavior carried out by individuals or groups using electronic technology as a medium to attack other people. *Cyberbullying* Body shaming cannot continue because cyberbullying can damage a person's mental health. Body shaming is also dangerous because it can be done anywhere and at any time. The main discussion in this research is What is the Legal Protection for Victims of *Body Shaming* Crimes on Social Media? And what is the urgency of legal protection for victims of *body shaming* crimes on social media? The research method used by the author is included in the type of normative juridical research, namely an approach that examines statutory regulations and legal theory in Indonesia. The data sources used include primary and secondary, primary data is a data source that is directly related to the object of research, namely laws - laws, especially the Witness and Victim Protection Law, secondary data, namely data sources that explain primary legal materials which are the results of the thoughts of legal experts, namely books, scientific works, literature and electronic data sources. Method of collecting data in this research using library research *techniques*. The data analysis used was qualitative descriptive. The results of this research are first, legal protection for victims of criminal acts of body shaming on social media. It can be seen that the regulations regarding procedures for providing witness and victim protection are contained in Law no. 13 of 2006 article 29. What is also contained in LPSK Regulation Number 6 of 2010 concerning procedures for providing witness and victim protection, and secondly, the urgency of legal protection for victims of the crime of body shaming on social media is that it needs to be taken into account because of the impacts, one of which is The psychological impact on the victims of body shaming themselves, apart from that there are many perpetrators who carry out body shaming themselves because there are still many who do not know the impact or consequences of body shaming. Also, based on a questionnaire conducted by 100 respondents, the author shows that legal protection for victims of criminal acts of *body shaming* is not enough to just focus on positive law, but there must also be restoration of the psychological condition of the victim himself, such as the perpetrator must apologize to the victim and even must the existence of social sanctions as a deterrent effect for perpetrators so that there are no victims of body shaming crimes.

Keywords: Body shaming, legal protection, social media

Introduction

The crime of *cyber bullying* is an immoral act carried out through electronic media. This crime causes victims to be ostracized, harassed, pitted against each other, intimidated, threatened, hurt/insult the self-esteem of others, thereby causing hostility between them through internet services and mobile technology such as web pages and discussion groups as well as cell phones and text messages (SMS). Therefore, effective crime prevention and resolution methods are needed that can reduce the crime rate. One method used to prevent *cyber bullying* in Indonesia is using P2R (*Pre-emptive, Preventive and Repressive*). *Pre-emptive* is a way to deal with *cyber bullying*, including providing coaching, conducting guidance and counseling programs for community leaders, religious leaders and youth leaders. Preventive is an action to anticipate harassment and oppression of other sects or religions. Repressiveness is a conceptual crime prevention effort that is taken after a crime occurs.

Cyberbullying are all forms of threats, slander, ridicule and mockery carried out online using digital technology. *Cyberbullying* is aggressive and repetitive behavior carried out by individuals or groups using electronic technology as a medium to attack other people. *Cyberbullying* cannot continue because cyberbullying can damage a person's mental health. Cyberbullying is also dangerous because it can be done anywhere and at any time.

So cyberbullying is difficult to prevent. This flaming is dangerous because it usually contains ridicule, provocation, insults that can offend other people. Second, harassment or disturbance. The disturbance carried out during cyberbullying is by sending messages in the form of incitement that continuously disturbs someone. Usually, this type of cyberbullying can make the victim feel anxious because they keep getting disturbing messages. Third, denigration or defamation.

There are many types of cyberbullying that you should know about. First, flaming or burning. Burned here means someone who sends a message containing frontal and angry words Defamation that is usually carried out is by exclaiming the badness or ugliness of other people so as to cause hatred and is usually done intentionally. Of course, this can damage someone's good name, especially if the news that is allowed to circulate does not match the facts. Fourth, cyberstalking. Some of the negative impacts that can be caused by cyberbullying include withdrawing from social media. Cyberbullying can make someone who was previously confident and able to get along with other people become less confident. Because there is a feeling of fear that if they hang out with other people it could cause them to be exposed to cyberbullying. Then, feel ostracized. Because victims of cyberbullying feel that no one wants to hang out with them. So this can cause them to feel isolated, without friends, and excessively lonely. So there is a need for legal

protection for this problem, based on the explanation above, the author is interested in formulating the problem in this research, namely: What is the Legal Protection for Victims of Body Shaming Crimes on Social Media?; What is the Urgency of Legal Protection for Victims of Body Shaming Crimes on Social Media?

Research methods

So this research is classified as Normative Juridical legal research, because in this research the author studied the laws and regulations and legal theories that exist in Indonesia to research research. The statutory approach (*statute approach*) is used to examine all criminal legislation with certainty, explicitly regulating the issues being studied. Primary legal materials, namely materials that have juridical binding power. Such as statutory regulations, court decisions, agreements and so on, secondary legal materials, namely materials that do not have juridical binding force. In this research secondary data is defined as legal sources that are not binding but explain primary legal materials which are the result of processed expert opinions. or experts who study a particular field. The data obtained, both primary data and secondary data, were analyzed qualitatively and then presented descriptively by explaining, describing and illustrating the problems closely related to this research.

Research Results and Discussion

1. *Body Shaming Crimes on Social Media*

Indonesia itself is a legal country. This is stated in the 1945 Constitution Article 1 paragraph (3). This implies that all arrangements of state and national life must be based on applicable law. However, law in Indonesia often experiences dynamics that often lead to injustice. Thus, it can be said that the current law is not as effective as it should be. *Body Shaming* is divided into two words consisting of Body and Shaming. Body in Indonesian means "body" and Shaming means "to embarrass". At first, *Body Shaming* was just a trend and was only done as a joke, but as time goes on, people who are the object of *Body Shaming* will definitely feel uncomfortable with the treatment they receive. In this digital era, use Words of abuse are increasingly uncontrolled, especially when typing something that is clearly not good in the comments column on social media which will be used as an object of *Body Shaming* unwisely. If *body shaming* continues to occur, it will lower a person's self-esteem, making him vulnerable to stress, depression and reduced self-confidence.

In this day and age, law is colored and discussed on various topics, including discussions regarding legal protection. This discussion will indirectly link it closely with the law makers themselves. Talking about legal protection, this is one of the most important elements of a rule of law. It is considered important because in the formation of a country laws will also be formed that regulate each of its citizens. It is common knowledge that in a country there will be a reciprocal relationship between its own citizens. In this case, it will give rise to rights and obligations towards each other. Legal protection will be the right of every citizen. However, on the other hand, it can also be felt that legal protection is an obligation for the state itself, therefore the state is obliged to provide legal protection to its citizens.

The Criminal Code is the book that is used as the first link when they seek punishment for criminal acts. Rules of conduct classified as internal crimes under Indonesian law

are regulated in the Criminal Code and regulated in several special laws outside the Criminal Code such as the ITE Law. In the law The Information and Electronic Transactions Law regarding *Body Shaming* has been regulated in Article 27 paragraph (3) of Law No. 19 of 2016, namely: Article 27 paragraph (3) reads ; "Every person intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents which contain insulting and/or defamatory content." In Article 45 paragraph (1); " Every person who meets the elements as intended in article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4) 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) ". This article contains several elements, namely the element of error, the element of being against the law and the element of conduct. If it is related to the crime of *Body Shaming*, then this form of crime already fulfills the elements of a "complaint offense" in ensnaring the perpetrator. However, this article also continues to refer to Article 315 of the Criminal Code which is categorized as light insult because it is a complaint offense.

In its elements there is a content of insult or defamation. In interpreting the meaning of this element, it cannot be found what is meant by insult and defamation in the realm of the ITE Law. The definition of an act of insult is specifically regulated because it refers to the Criminal Code which means insult, namely having the nature of criticizing, while defamation has the nature of accusing or defaming another person's honor, whether the facts are clear or the facts are not clear. Therefore, it is very difficult to interpret *B ody S haming's actions* in the application of this element. Regarding the meaning of insult in this normative concept, there is no such thing. We can find the definition of insult in the large Indonesian dictionary which states that insult is insulting.

Calling other individuals "stupid, idiot, bastard" is different from insults or *body shaming*. Defaming is not a criminal act as defined in Article 30 and Article 311 of the Criminal Code which is a reference to Article 27 paragraph (3) of the ITE Law. Article 315 of the Criminal Code states that "Every intentional insult that is not in the nature of defamation or written defamation is committed against a person, either in public orally or in writing, or in front of the person himself in writing or in action, or in a letter sent or received." to him, threatened for a slight insult."

For him, the implementers should be subject to sanctions under Article 315 of the Criminal Code. Because Article 315 of the Criminal Code does not regulate the consideration of the Constitutional Court's verdict, perpetrators of insults to bodies via media applications cannot be charged under Article 27 paragraph (3) of the ITE Law but if tried online with digital facts in the form of screenshots, URLs, accounts, etc. can be used as electronic data in Article 5 and Article 6 of the ITE Law," if *body shaming* is attempted online and for bullying, it is subject to Article 29 of the UTE Law. Article 29 in the ITE Law states: "Every person intentionally and without authorization sends Electronic Information and/or Electronic Documents that contain threats of violence or intimidation aimed at personally."

There are so many events in our daily lives that become a bad routine. Because it has been done so many times over

and over again that the action has been embedded deep within oneself without realizing it. The legal norms that are supposed to be "protective" for victims of *body shaming* still have unclear or vague regulations that can give rise to different opinions in the system related to criminal acts of insulting the body's image, so it is not impossible that with the continuing development of the era with technology increasingly sophisticated, data and various social networks will cause this act of *Body Shaming* to continue to become widespread and continue to become commonplace. It is hoped that the legislation that regulates cases of body image insults can protect victims so that in the future cases of *Body Shaming* can be reduced, and is also expected to provide a deterrent impact on perpetrators of *Body Shaming insults* so that people can be more careful in their opinions about a. The characteristic of *Body Shaming*'s actions is that these actions are carried out by transmitting (sending) condemnatory sentences or words containing insulting content, which are directly transmitted in the social media comments column. belonging to the victim.

2. The Urgency of Legal Protection for Victims of Body Shaming Crimes on Social Media

Acts of insulting body image (Body Shaming) are not only done verbally directly to other people, they can also be done verbally or indirectly. For example, when on social media such as Facebook, Twitter or Instagram, someone sees a picture of someone else who thinks the other person/person's body is "strange" and then someone makes a bad criticism verbally in the social media opinion column. This kind of insulting body image (Body Shaming) is also categorized as a Cyber Crime crime.

There are so many victims of cyberbullying crimes which have an impact on the victim's psychology such as stress, anxiety, depression, lack of self-confidence and even death. Here the author describes several cases of victims of cyberbullying that occurred:

- a. In the case of a fifth grade elementary school boy in West Java, the victim experienced at least physical, sexual and psychological violence. This refers to a 50 second video spread on social media. In the video, the two perpetrators are seen holding the cat's paw. Then the child was stripped of his clothes and forced to have sex with the animal. So the child's genitals are visible in the video along with the hands of the perpetrators. Then there were sounds of laughter. It's just that their faces are not visible. The video was spread on WhatsApp of local villagers and then uploaded to social media. This causes the victim's behavior to change and they experience extraordinary psychological shock so they don't want to eat and their physical condition declines and they die. From the results of the medical examination, the victim had suspected typhoid depression, and encephalopathy or brain inflammation. Due to complications of typhus, there were also suspected episodes of depression or psychiatric encephalopathy disorders.
- b. Because a photo of her breasts was shared by an unknown person, Amanda Todd became acutely depressed and decided to end her life. It all started with Amanda Todd's introduction to a stranger on the internet when she was in grade 7. Via videocam, this stranger managed to persuade Amanda to show her breasts. It turned out that the person took the photo and

saved it, until a year later he returned and persuaded Amanda to show off live sex. He threatened that if he didn't comply, photos of her breasts would be distributed. Surprisingly, the freak knew Amanda's complete identity, starting from her family, school, friends, etc. Because she refused the stranger's request, Amanda's exciting photo really spread on the internet and became the topic of discussion for everyone at her school. Unable to face this, Amanda decided to commit suicide.

- c. A teenage girl was forced to shoot herself in the chest because her bully kept sending her abusive texts. In 2016, an 18 year old teenager from Texas, Brandy Vela, decided to shoot herself in the chest because she couldn't stand being bullied continuously via rude messages she received on her cellphone. Brandy's father said that this bully used an application that was difficult to track. Before committing suicide, Brandy told her family that she wanted to die. When the family came home, Brandy was still alive, but a gun was pointed at her chest. Her sister begged Brandy not to commit suicide. When her sister called her parents, she heard the sound of a gun coming from Brandy's room. Brandy was found dead.
- d. Became a victim of sexual harassment named Audrie Pott. Not only that, the three boys who harassed her even distributed photos of them raping Audrie. While under the influence of alcohol, Audrie Pott was harassed by her male friends. His face and body were scribbled on and used as photo objects. The next day, photos of Audrie without clothes spread widely on the internet. His school friends made him a joke. Unable to bear the shame, a week after the incident, Audrie committed suicide.
- e. The case of a high school student who almost committed suicide because she was afraid that her immoral video would be spread widely. This is included in the outing type of cyberbullying. Because the video is a secret that should not be shared widely. The impact that occurred was fatal. This student from North Lampung almost decided to end her life because she was afraid of threats made by her boyfriend.
- f. The case of body shaming of artist Fairuz A. Rafiq by her ex-husband Galih Ginanjar on social media regarding Fairuz's intimate organs, who said it was like the smell of salted fish on social media, made Fairuz embarrassed and stressed and didn't want to open social media because she received questions and statements from the public. cyberspace at that time.
- g. In 2020, a female vocational school student in Kampar Regency had an argument with another female student because of body shaming. The student fought back against her friend because she did not accept being teased by her friend. He responded by body shaming his friend and it ended in a physical altercation or fight which resulted in both of them having to be treated at the local health center.
- h. In 2017, a high school student in Kampar Regency committed suicide. The bullying by his friends caused him to experience mental pressure so that he experienced stress and ended his life by committing suicide. One of the bullying he received was physical bullying (body shaming). This is because his friends call him ugly and poor.

- i. A teenage girl in Bogor who was often teased by her friends since middle and high school, resulting in a decrease in her self-confidence in public, making her more sensitive to her body and food in college.
- j. In Thailand, for example, a 17-year-old teenager decided to commit suicide because his friends often made fun of his fat physique, then Ariel Tatum, an Indonesian actress, also admitted that she had been depressed and attempted suicide because she could not accept body shaming from the people around her, and At the beginning of 2020, a 27 year old man had the heart to burn a woman who was his work friend because he often made fun of her physique.

We already know that protection according to the Witness and Victim Protection Law is all efforts to establish rights and provide assistance to provide a sense of security to victims which must be carried out by the LPSK or other institutions in accordance with the provisions. This protection is provided at all stages of the criminal justice process within the judicial environment. Legal protection for crime victims as part of protection for society can be realized in various forms, such as through the provision of restitution and compensation, medical services and legal aid. Forms of service to victims are:

1. Compensation

The term compensation is used in the Criminal Procedure Code in Article 99 paragraph (1) and paragraph (2) with emphasis on compensation for costs incurred by the injured party or victim. Judging from the interests of the victim, the concept of compensation contains two benefits, namely the first benefit is to cover material losses and all costs that have been incurred and the second benefit is the emotional satisfaction of the victim. Meanwhile, it is seen from the perspective of the interests of the criminal who is brought down and felt as something concrete and ongoing related to the mistakes made by the criminal. Gelaway formulated five objectives of the obligation to compensate losses, namely (Chaerudin and Syarif Fadillah, 2004: 65)

- a. Ease the suffering of victims.
- b. As an element that mitigates the sentence imposed.
- c. As a way to rehabilitate convicts.
- d. Facilitate the judicial process.
- e. Can reduce threats.

The aim of Gelaway's formulation is that compensation must be carried out in an integrated plan, meaning that not all victims deserve to be given compensation because there are also victims who are directly or indirectly involved in a crime. Those who need to be served and protected are victims from underprivileged groups of society, both financially and socially. The core objective of providing compensation is none other than to develop justice and welfare of victims as members of society, and the benchmark for its implementation is to provide opportunities for victims to develop their rights and obligations as human beings. On this basis, the program for providing compensation to victims should be a combination of efforts from various approaches, both approaches in the field of social welfare, humanitarian approaches and criminal justice system approaches.

2. Restitution

Restitution is more directed at the perpetrator's responsibility for the consequences caused by the crime so that the main target is to overcome all activities suffered by the victim. The benchmarks used to determine the amount of restitution given are not easy to formulate. This depends on the social status of the perpetrator and victim. In the case of a victim with a lower social status than the perpetrator, the form of compensation in material form will be prioritized, and conversely, if the victim's status is higher than the perpetrator, restoration of honor and dignity will be prioritized.

3. Compensation

Compensation is a form of compensation that can be seen from humanitarian and human rights aspects. The idea of realizing the social welfare of society based on the commitment of a social contract and social solidarity makes society and the state morally responsible and obliged to protect its citizens, especially those who experience disaster as victims of crime. Compensation is a form of compensation that is completely independent of how the judicial process goes and the decisions handed down, even the source of funds for this is obtained from the government or general funds. The concept of crime and who is the victim of crime is the starting point for explaining the legal position of the victim. There are two concepts of crime:

1. Crime is understood as a violation of the state or the interests of parties represented by the state's democratic instruments; And
2. Crime is understood as a violation of the interests of individual people and also violates the interests of society, the state and in essence also violates the interests of the perpetrator himself.

The first concept is based on thinking based on the concept of retributive *justice*.

1. Retributive justice and legal protection for victims of body shaming.

The Criminal Code does not formulate a type of criminal restitution (compensation) which is actually very beneficial for the victim and/or the victim's family. The formulation of articles in the Criminal Code tends to focus on the formulation of criminal acts. And the Criminal Code adheres to the neoclassical school which, among other things, accepts the application of mitigating circumstances for perpetrators of criminal acts involving the physical, environmental and mental. Likewise, it is possible to reduce criminal aspects for perpetrators of criminal acts with partial responsibility, in special cases, for example if they are mentally disabled (insane), underage and so on. Legal protection for victims should be explicitly regulated in the Criminal Code, for example, when imposing a crime on the perpetrator, the losses suffered by the victim or the victim's family are also taken into account. So the perpetrator could be given criminal compensation which might be more beneficial for the victim. The rights granted by the Criminal Procedure Code to victims are very limited.

2. A restorative justice perspective in legal protection for victims of body shaming.

The concept of crime according to the concept of restorative justice is given a more real meaning, that crime is a conflict

between individuals. Crime is understood as a violation, first and foremost violating individual rights and also violating community rights (public interests), state interests and also indirectly violating the interests of the violation itself. The basis of the restorative justice perspective is the concept of crime as an act that violates first and foremost the rights of individuals (i.e. victims of crime); besides harming society, the state and the interests of the violators themselves. So, every time a violation of criminal law occurs, there are actually four interests involved, namely the person who violates their rights (crime victim), society, the state and the violator himself. The person whose rights have been violated (victim of crime) is the first person concerned. Therefore, the criminal justice system must access these four interests by placing the interests of crime victims as the main interests.

The aim of administering criminal justice is to resolve conflicts (conflict resolution) that occur as a result of violations of criminal law, so that the role of the state in the system is reduced and instead empowering the role of crime victims and society on the one hand and violators on the other. The target of the criminal justice process according to the restorative justice perspective is to hold violators accountable for their actions and their consequences, namely how to restore the suffering of people whose rights have been violated (crime victims) to the position they were in before the violation was committed or the loss occurred, both in material and immaterial aspects. The restorative perspective views crime, even though the crime committed also violates criminal law, the more important aspect is not the act of violation but the process of causing harm (victimization) to crime victims, especially body shaming, society and actually also violates the interests of the offender himself. These parts which are considered important have largely been forgotten by the criminal justice system according to the restorative justice perspective.

The involvement of crime victims in the criminal justice process is important. Because the relationship between victims, society and offenders becomes the focus for mediation and reconciliation to resolve the conflicts they face. The part that is highlighted is empowering participants, promoting dialogue and mutual problem solving and providing satisfaction to all parties. Victim involvement in the restorative justice process includes material improvements, emotional improvements including hope, improvements in self-esteem and honor and most importantly full participation in case handling. It is felt that the concept of retributive justice currently in force in Indonesia does not provide adequate protection for victims.

This concept focuses more on the perpetrator of the crime so that the position of the victim is neglected. Restoration perpetrators through the criminal justice system thereby encouraging peace between victims and perpetrators. Peace is carried out through mediation, meetings, economic improvement programs and honesty education. In peace, this can be done, for example, by paying compensation for the suffering experienced by the victim. Compensation for victims can be in the form of restitution or compensation. Meanwhile, for perpetrators, the punishment given is not only limited to imprisonment but can take the form of social work punishment, so that it will be more beneficial for the perpetrator and society.

Conclusion

Legal protection for victims of criminal acts of body shaming on social media can be seen in the regulations regarding procedures for providing witness and victim protection contained in Law no. 13 of 2006 article 29. Which is also contained in LPSK Regulation Number 6 of 2010 concerning procedures for providing witness and victim protection, apart from that it is also contained in article 27 paragraph 3 of the ITE Law as a form of public protection from someone who commits a criminal act. Shaming itself is a form of the principle of legal certainty in dealing with the crime of body shaming. The urgency of legal protection for victims of criminal acts of body shaming on social media is that it needs to be taken into account because one of the impacts is the psychological impact on the victims of body shaming themselves, apart from that, there are many perpetrators who carry out body shaming themselves because there are still many who don't know about it. impact or consequences of body shaming, the government has provided legal protection for victims of body shaming crimes as part of legal protection for the community, which can be realized in various forms, such as compensation, restitution and compensation.

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