

Legal Protection for Child Victims of Cyber Bullying

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Abstract. The purpose of this paper is to find out how the legal protection for children who are victims of cyber bullying is. By using a normative juridical approach and literature study as data collection, accompanied by descriptive analysis, to then be presented in a comprehensive manner. The result is that the form of legal protection for child victims of cyberbullying has been regulated in Law Number 23 of 2002 concerning Child Protection which can be used as a legal tool capable of protecting criminal acts.

Keywords: Children, Cyber Bullying, Victims, Legal Protection.

1 Introduction

Tormenting is any type of mistreatment or brutality that is done deliberately by one individual or gathering who are more grounded than someone else to hurt the person in question and is completed ceaselessly. This action often leaves the victim helpless, so that he is physically and mentally injured. In the etymological aspect, bullying means to disturb, harass constantly, to be troublesome. One type of bullying that often occurs is Cyber Bullying. Cyberbullying is bullying that occurs using digital technology such as social media, short message media, games, and cell phones.

Anti-bullying donation agency, Ditch the Label named Instagram as the social media most frequently used to conduct online bullying or Cyber Bullying. Based on a survey conducted on 10,020 teenagers from the UK with an age range of 12 to 20 years, as many as 42 percent of them claimed to have been victims of Cyber Bullying on Instagram. Below that, Facebook and Snapchat followed with a percentage of 37 percent and 31 percent, respectively. Meanwhile, WhatsApp (12 percent), YouTube (10 percent), and Twitter (9 percent) became the three platforms with the lowest cyberbullying cases. As many as 60 percent of teens claimed to have experienced an act of bullying and another 87 percent had experienced online bullying. Especially in the current state of the Covid-19 pandemic, most activities have shifted online. [1]

The Internet provides freedom of insight and commentary that can have a positive or negative impact. These negative impacts can be in the form of statements, comments, opinions, or actions that hurt others. There are several types of Cyber Bullying including, flaming or online fighting, harassment or harassment, denigration or slander, impersonating or fake accounts, and trickery or deception. Some people may think that bullying is a trivial thing, especially if it is done by children, some parents consider it a normal behavior of children.[2] But in reality, bullying is behavior that can have a very large negative impact, especially on the

victim. Bullying will not only leave physical scars, but also mental stress, and psychological disorders.

The public authority needs to safeguard youngsters who are survivors of cyberbullying by passing regulations and guidelines pointed toward safeguarding the interests of kids as casualties of cyberbullying. This was then answered decidedly by the public authority, which in March 2008 sanctioned Law Number 11 of 2008 concerning Information and Electronic Transactions. Alongside the improvement of the utilization of virtual entertainment, that guarantees acknowledgment and regard for the privileges and opportunities of others and satisfies fair requests by contemplations of safety and public request in a vote based society, including safeguarding kids who are casualties of cyberbullying conduct and simultaneously obliging guidelines in regards to the internet and all matters connected with it, it is important to make changes to Law Number 11 of 2008 concerning Information and Electronic Transactions to acknowledge equity, public request, and legitimate sureness, then Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, hereinafter alluded to as the ITE Law.

The way of thinking in regards to the authorization of this regulation depends on the contemplations contained in the preface which states [3]: That the globalization of data has put Indonesia as area of the planet data society so it requires the foundation of guidelines with respect to the administration of Information and Electronic Transactions at the public level so the improvement of Information Technology can be done. ideally, uniformly and spread to all degrees of society to teach the country's life. In this article, we will examine further lawful security for youngsters who are casualties of cyberbullying.

2 Research Methods

The methodology technique that will be utilized in this examination is a regularizing juridical methodology, to be specific by auditing or breaking down auxiliary information as essential legitimate materials, by understanding the law as a bunch of guidelines or positive standards in the general set of laws that directs cyberbullying conduct in youngsters. Youngsters, simultaneously likewise utilize optional and tertiary lawful materials.[4] So the discussion in this study is understood as a literature review of secondary data.[5] Consequently, the juridical-regularizing approach in this study is utilized to investigate issues connected with cyberbullying conduct in kids, and at the useful level, this study will inspect the terrific plan of criminal regulation legislative issues in defeating cyberbullying conduct in youngsters.

3 Results and Discussion

Harassing is a type of forceful way of behaving that is appeared by ill-bred treatment and the utilization of savagery or pressure to impact others, which is done over and over again or can possibly be rehashed and includes an unevenness of force or potentially power. This conduct can incorporate obnoxious attack, actual brutality, or compulsion, and can be coordinated more than once against a particular casualty, maybe founded on race, religion, orientation, sexuality, or capacity. One part of cybercrime that is becoming a problem today is violence through electronic media or bullying behavior through cyber media which is commonly called cyberbullying. Cyberbullying is another structure or aspect of the present wrongdoing that has gotten wide consideration in the worldwide local area. This insidious way of behaving started

from the fast advancement of data and correspondence innovation yet was not trailed by a comprehension of the utilization of good and right innovation. Moreover, this pernicious way of behaving is additionally brought about by an absence of moral mindfulness while utilizing data and correspondence innovation by its clients. The utilization of the word digital in the internet, cybercrime, and cyberlaw, as well as different terms that utilization the word digital advanced from the utilization of computerized phrasing by Nobert Wiener in 1984 in his book *Cybernetics or Control and Communication in the Animal and the Machine*. [6]

The meaning of cyberbullying above makes sense of that cyberbullying is the deliberate and rehashed utilization of mobile phones, PCs, and other electronic specialized gadgets to badger and undermine others. As a general rule, cyberbullying is a harsh treatment completed by an individual or gathering, utilizing the assistance of electronic gadgets that is done more than once and constantly on an objective who experiences issues shielding himself. Cyberbullying is an activity that involves data and correspondence innovation for deliberate purposes, completed persistently, to hurt others by scary, undermining, harming/offending the confidence of others, to causing antagonism by an individual or gathering utilizing correspondence innovation. in the utilization of internet providers and versatile advances, for example, site pages and conversation bunches as well as cell phone and message informing (SMS).

The definition of children can be seen in several statutory provisions, but often the understanding of children becomes different depending on the point of view of the formation of the law. Based on the provisions contained in Article 1 number 2 of Law no. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA), formulates that: "Children in conflict with the law are children who conflict with the law, children who are victims of criminal acts, and children who are witnesses to criminal acts." Children who conflict with the law can also be said to be children who are forced to come into contact with the criminal court system.

In its development, currently, there is legislation outside the Criminal Code relating to crimes in the field of information and communication technology, namely Law Number 11 of 2008 concerning Information and Electronic Transactions as amended by Law no. 19 of 2016, hereinafter referred to as UU ITE. This regulation expects to blend public legitimate administrative instruments with worldwide lawful instruments that direct data innovation remembering The United Nations Commissions for International Trade Law (UNCITRAL), World Trade Organization (WTO), European Union (EU), APEC, ASEAN, and the OECD. Every association issue guideline that completes one another.

And furthermore, this global legitimate instrument has been trailed by a few nations like Australia (The cybercrime act 2001), Malaysia (Computer Crime Act 1997), the United States (Federal regulation: update April 2002 UNITED STATE CODE), the eighth United Nations Congress in Havana, The XI Congress in Vienna, the XI congress 2005 in Bangkok, discussed The Prevention of Crime and the Treatment of Offender. In the X United Nations Congress, it was stated that member countries should try to harmonize provisions related to criminalization, evidence, and procedures (States should seek harmonization of relevant provisions on criminalization, evidence, and procedure) and European Union countries that have seriously integrate regulations related to the national positive law (existing law). [7]

In criminal law, the most fundamental principle is known, namely the principle of "No Crime Without Fault" known as "Keine strafe Ohne Schuld" or "geen straf zonder schuld" or "nulla poena sine culpa". From this principle, it can be understood that mistakes are one of the elements of criminal liability of a subject of criminal law. That is, someone who is recognized as a legal subject must have an error to be convicted. Mistakes are the basis for liability. Blunder is the psychological condition of the producer and the inward association between the creator and his activities.

As to condition of the spirit of somebody who does an activity, it is normally alluded to as the capacity to be mindful, while the inward association between the creator and his activities is purposeful, carelessness, and reasons for absolution. 11 Thus, to decide the presence of a mistake, in criminal regulation, the subject should meet a few components, including 1) There is the capacity to be answerable for the culprit, 2) the demonstration is as purposeful (dolus) or carelessness (culpa), 3) There are no justifiable reasons for oversight or nonappearance of reasons. These three components are a unit that can't be isolated from each other, where one component relies upon different components.

Looking at the formulation of criminal provisions in the ITE Law is regulated in Articles 45 to 52, it can be identified that the perpetrators of criminal acts or who can be held criminally responsible under the ITE Law include individuals/individuals and corporations. This is evident from the provisions of these articles which begin with the words "Everyone" and "corporate". The issue of criminal liability is closely related to the perpetrators of criminal acts. Perpetrators who can be convicted are individuals and corporations, which are described in Article 1 sub 21 and the criminal provisions of the ITE Law. The ITE Law regulates further and in detail the provisions of criminal liability against corporations, because the ITE Law distinguishes criminal liability against individuals and corporations, as stated in Article 52 of the ITE Law.

Insurance of kids is the establishment for youngsters to become grown-ups to answer future difficulties. Kids as the need might arise to cooperate with the general climate, how they conform to individuals, whether they are at school, at home, or in other instructive spots. To have the option to foster kids do different ways of grasping the world, through instruction. Assurance of youngsters' lives and occupations is as yet the obligation of different gatherings, in particular their folks, their families, the local area, and furthermore the state. This assurance can be through clothing, food, and sanctuary.

That, however the assurance given to a youngster can likewise be as security against the mental or state of mind of the kid, particularly his psychological turn of events. This implies that the youngster can create and live regularly, truly as well as intellectually or mentally. Moreover, the assurance of the type of insurance is legitimate security for survivors of criminal demonstrations, which can be deciphered as security to acquire lawful certifications for the anguish or misfortunes of gatherings who have become casualties of criminal demonstrations.

The presence of Law Number 23 of 2002 concerning Child Protection as corrected by Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, hereinafter alluded to as the Child Protection Law is a legitimate instrument equipped for safeguarding youngsters in different demonstrations including shielding kids from cyberbullying conduct. This regulation orders that cyberbullying against youngsters is a wrongdoing so culprits can be carried to the police with the help of related parties. Specifically, the insurance of kids as casualties of cyberbullying has been managed in the Child Protection Act, as planned in Article 76 C related to Article 80 (1) of the Child Protection Act.[9]

After the law enforcement process related to cyberbullying is carried out by minors, the parents of the children involved (both perpetrators and victims) should supervise and provide direction in using technology and provide limits on its use. In addition, children as victims of cyberbullying must be given special protection by the government, local governments, and related institutions, it is following what has stated in Article 59 paragraphs (1) and (2) of Law Number 35 of 2014 concerning Amendment to Law Number 23 of 2002 concerning Child Protection, where children as victims of physical and/or psychological violence must be given special protection.

4 Conclusion

In cyberbullying, it is not only in the form of insults and abuses, many others such as threatening, disturbing and harassing, and other similar things. In Indonesia, cyberbullying is regulated in several regulations and policies such as in the Criminal Code which is stated in Article 310 paragraph (1) in the form of harassment or cyber harassment. In addition, cyberbullying is also regulated in Law number 8 of 2008 concerning Information and Electronic Transactions, which are regulated in articles 27 to 29. Both children who are victims and perpetrators of cyberbullying must be given special protection as mandated by law. Children as perpetrators of cyberbullying, must be treated specifically in handling cases, such as having to be accompanied by psychologists and law enforcers who understand more about children because this is regulated in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System. And children as victims must be specially protected by the government and related institutions as regulated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

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