



Received: 16-08-2023
Accepted: 26-09-2023

International Journal of Advanced Multidisciplinary Research and Studies

ISSN: 2583-049X

Juridical Review of the Crime of Threats of Violence against People through Social Media

¹Aditya Firmansyah Wailegi, ²Darsono, ³Nunik Nurhayati, ⁴Andria Luhur Prakoso
^{1, 2, 3, 4}Faculty of Law, Muhammadiyah University of Surakarta, Indonesia

Corresponding Author: Aditya Firmansyah Wailegi

Abstract

Indonesia is a country that highly upholds moral values in social life, these moral values are stated in a formula called Pancasila. In fact, Pancasila is a guideline and ideology for this nation and therefore society is obliged to follow the values contained in Pancasila in order to create a society that is just, tolerant, solid, mutually respectful, responsible and deliberative. However, along with advances in internet technology and the development of democracy in Indonesia, many crimes occur, especially those committed on social media, which are currently disturbing in our society. For example: fraud, defamation, and terror threats that often occur recently via social media. In this article we will try to explain that terror threats via social media which are often experienced by the public can now be punished through Law

Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions and statutory regulations. other invitations. The research method used is normative legal research with a statutory approach. The results of the research found that law enforcement in the criminal act of threatening violence against other people via social media is included in the offense of complaints, which means that the victim of this action must report it to the authorities so that a deeper investigation can be carried out to prove that the criminal act of threatening violence through social media can be proven to be true and the perpetrator can be given criminal sanctions.

Keywords: Crime, Threats of Violence, Social Media

Introduction

In this modern era, so much technology has been created to support human life better. Thanks to this progress, it is very, very easy for us to be able to do anything, such as looking for information, looking for work, shopping transactions, opening a business, and there are many more things that we can do in this modern era, thanks to the existence of social media. However, what is happening is not welfare but the many crimes committed on social media. Humans themselves live inseparably from social interactions in society, giving rise to awareness of being guided by rules that must be obeyed. Criminal law is included in public law, meaning that criminal law regulates the relationship between citizens and the state and focuses on the public and public interests.¹ Apart from that, criminal law is a law that has special characteristics, namely the right to sanctions.²

Meanwhile, in this era of social media, it turns out that many crimes occur, one of which is threats carried out on social media through the first intermediary means, namely cell phones which contain various social media such as Whatsapp, Twiter, Facebook, Instagram, TikTok and several social media. Threats themselves have regulated sanctions in the criminal code. Regarding this technological progress, we are actually faced with the impact of 2 impacts, namely the positive impact and the negative impact. The positive impact experienced is that it makes it easier to do anything, such as doing business or looking for information, while the negative impact that arises from the rapid development of internet technology and social media is *cybercrime or cyberbullying*.

This crime cannot be considered normal because the impact of this crime is that it can cause detrimental crimes such as data theft, fraud, insults, terror and intimidation, sexual harassment and threats. Things like this can cause the victim of the crime to experience *psychological disorders* or worse, it can lead to the loss of the victim's life.

¹ Zuleha, Basics of Criminal Law, Deepublish Yogyakarta 2017 Page 1.

² IBID, Page 3.

Cyber crime is a crime related to computers or network devices, usually this crime is committed online. In fact, this cyber crime can target anyone which will result in a lot of losses. In Indonesia, law enforcement in cases of threats of violence via social media is starting to be enforced. In 2021, the police arrested the perpetrator in a case of threats via the social media TikTok³.

Research Problem

1. What factors can cause criminal acts of threatening people via social media?
2. How is enforcement carried out against perpetrators of criminal acts of threatening violence via social media in terms of the applicable laws and regulations?

Research Methods

This type of research method is juridical-normative which uses a statutory approach and an approach that is conceptualized as norms or rules that apply in society. Meanwhile, the analysis used is grammatical and systematic interpretation, grammatical interpretation attempts to understand a statutory text based on the language and words used, and systematic interpretation interprets legislation by connecting it with legal regulations and the entire regulatory system.⁴

Factors Causing Criminal Acts of Threatening People through Social Media

In everyday life, humans are often faced with relationships that urge the need for self-satisfaction or the urge to maintain one's status. Things like this can cause negative consequences that are not balanced with the norms of good social life.⁵ The negative consequence is that a crime can occur that is detrimental to society. In social life, there are binding legal rules so that a better order can be created in daily life. In the legal rules themselves there are provisions or norms where there are things that are prohibited from doing and there are consequences or sanctions for the perpetrators, these sanctions can be in the form of paying a fine, having their freedom taken away (because they are sentenced to imprisonment or imprisonment) and even having their life taken away if the death penalty is imposed. A criminal act itself is an act of committing something that is declared by statutory regulations to be a prohibited act and is punishable by a crime. In order for a prohibited act to be criminalized, the act must have a subject, an element of error and an element of being against the law or contrary to the norms of society.⁶

In this case, criminal acts of threats, terror or intimidation on social media have been regulated in a statutory regulation in Indonesia which is contained in the Criminal Code and Law number 19 of 2016 concerning electronic information and

transactions (amendment in Law No. 11 of 2008). The causes or factors for the occurrence of criminal acts of threatening violence are usually due to internal factors of the individual or perpetrator of the crime themselves, for example psychological conditions that are not controlled in terms of regulating emotions due to stressful situations in the economy, family environment, feelings of disappointment or having experienced bullying and feelings of revenge, as well as lack of faith in the individual or perpetrator of the crime. Apart from that, economic factors are a very important part of an individual's active life, pressing economic pressures and very high needs that must be met, resulting in large expenditures which can often lead to a person or individual committing these crimes.

There are external factors that can influence an individual to commit this crime, for example the social environment where they live which provides a bad example so that they follow the social interactions or way of life in that place. The causes of criminal acts of threatening violence or intimidation often occur in family relationships (husband, wife, children) or between lovers. The threats that often occur can be in the form of verbal violence, such as the perpetrator threatening using words that can lead to physical violence or even threatening using short messages (social media WA) can cause victims to feel afraid and intimidated and can cause psychological disturbances that can lead to loss of life. There is also the factor of people's ignorance regarding the correct and good use of social media. Cyber bullying and threats are serious problems that occur in the digital world of social media, the psychological impacts of which are felt by victims in the real world, and therefore need to be addressed wisely, intelligently and constructively.⁷

Unfortunately, many people in Indonesia still do not know that threats of violence via social media have been regulated in Law number 19 of 2016 concerning amendments to Law number 11 of 2008 concerning information and electronic transactions. And threats are also regulated in the Criminal Code. Threatening violence is a crime against other people's freedom and is also regulated in Law Number 39 of 1999 concerning Human Rights.

Law Enforcement against Perpetrators of Criminal Acts of Threatening Violence via Social Media in the Criminal Code and the ITE Law

In the preamble to the 1945 Constitution, the state's goal is to protect the entire Indonesian nation. This meaning can be interpreted as meaning that the State is obliged to protect the human rights of every citizen. State protection can be realized in the formation of laws and regulations that are firm and binding for all Indonesian people.⁸

The criminal act of threatening itself has been regulated and explained in the Criminal Code Article 368 (1) "Anyone who, with the intention of using himself or another person unlawfully, forces a person by force or threat of violence to give him something in full or part of it belongs to that person or another person; or in order to give a debt or write

³ <http://https://www.antaranews.com/berita/2377554/polda-metro-tangkap-pelaku-pengancaman-melalu-media-social#:~:text=Jakarta%20%28ANTARA%29%20-%20Polda%20Metro%20Jaya%20arrested%20a%20person,who%20was%20accompanied%20by%20threats%20of%20violence%20via%20electronic%20media.>

⁴ Muhaimin, Legal Research Methods, Mataram university press June 2020 Page 68.

⁵ Zuleha, Basics of criminal law, deepublish Yogyakarta 2017 Page 3.

⁶ Moeljatno, Criminal Code, Bumi Aksara.

⁷ R.dian dia-an muniroh, tracing the seeds of hatred on social media, deepublish 2022.

⁸ Nunik Nurhayati. Quo Vadis Protection of Human Rights in Resolving Serious Human Rights Violations Period Then via non-judicial channels. Journal of Jurisprudence Vol. 6 No. September 2, 2016.

off a receivable, he is threatened, for extortion, with a maximum imprisonment of nine years." ⁹In the KBBI itself, threats are the process, method or act of threatening. ¹⁰ From the definition above, we can conclude that threats are actions that forcefully terrorize the well-being of an individual so that it can cause psychological disorders or even loss of life.

Threats themselves are a complaint offense, which means that this criminal act can be prosecuted if the victim reports it. **R. Soesilo** in his book *The Criminal Code (KUHP) and its Complete Comments Article by Article* calls the act in Article 368 paragraph (1) of the Criminal Code as extortion with violence in which the blackmailer:

1. Forcing others;
2. To give goods which wholly or partly belong to the person himself or to another person, or create a debt or write off a receivable;
3. With the intention of benefiting oneself or others by violating rights;
4. Coerce him by using violence or **threats of violence**.¹¹

If these threats contain the elements of Article 368 paragraph (1) of the Criminal Code, the perpetrator of the crime can be punished. Meanwhile, the threat article in the Criminal Code which has been promulgated is regulated in article 483 of Law Number 1 of 2023 concerning the Criminal Code which reads: shall be sentenced to a maximum imprisonment of 4 years or a maximum fine of category IV (Rp. 200 million), any person who, with the intention of unlawfully benefiting himself or another person, with a written threat of defamation or defamation or with a threat to reveal a secret, forcing people to:

1. Giving an item which partly or wholly belongs to that person or to another person; or
2. Giving debt, making an acknowledgment of debt, or writing off a receivable.¹²

It turns out that threats of violence on social media have also been regulated in Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, namely in article 45 (B) Jo 29 of the ITE Law which reads as follows:

Article 29 of the ITE Law: "Every person intentionally and without authorization sends electronic information and/or electronic documents containing threats of violence or intimidation aimed at individuals"

Article 45 B of Law 19/2016: "Any person who intentionally and without authority sends electronic information containing threats of violence or intimidation aimed at a person as intended in article 29 shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp. 750,000,000.00 (seven hundred and fifty million rupiah)"

From the explanation of article 45 B of Law 19/2016, this provision also includes bullying on social media (cyber

bullying) which contains elements of threats of violence or intimidation and results in physical or psychological violence or material loss.

Law exists in society with the task of maintaining order and providing justice. Conceptually, the meaning of law enforcement lies in the activity of harmonizing the relationship between values described in stable rules as a series of final stages of elaboration to create, maintain and maintain peace in society.¹³ And therefore law enforcement is society's defense in protecting itself from crimes that occur where the law is implemented. Law enforcement as a process is essentially the exercise of discretion which involves making decisions that are not strictly regulated by legal rules, but have an element of personal judgment.¹⁴

Law enforcement regarding criminal acts of threatening violence through social media can be carried out by reporting to the authorized parties as stated in Article 1 point 24 of the Criminal Procedure Code which has undergone changes which read: "A report is a notification submitted to an authorized official regarding a criminal incident that has occurred or is being or is suspected to have occurred".¹⁵ From this explanation, the incident reported is not necessarily a criminal act, so there must be an investigation by an authorized official first in order to determine whether the report is a criminal act or not. In this case, threatening violence is a complaint offense, which means that if the victim feels that he has been harmed, he can report it to the authorized official who will carry out an investigation according to applicable procedures. The way to enforce the law on criminal acts of threatening violence on social media is through outreach to the public about the negative impacts of misuse of social media. The ITE Law itself also regulates what things are prohibited.

Meanwhile, in Indonesia itself, the most frequently used sanctions are criminal sanctions. In deciding a decision against someone who is said to be guilty of committing an act or act against the law. Criminal sanctions are an unlawful act that has been carried out intentionally by someone who can be held accountable for his actions and which is declared by law to be an unlawful act. ¹⁶The many criminal sanctions used in Indonesia make someone affected by a criminal act feel regret because the punishment they receive is greater than the sanctions for other punishments. So, in this case the aim of criminal sanctions is also getting better, namely to prevent behavior that could violate legal norms or norms in society.

Sanctions are the result of unlawful actions that have been regulated in law. In this case, the criminal sanctions that can be imposed on perpetrators of threats of violence via social media can be seen in article 335 (1) of the Criminal Code which reads: whoever unlawfully forces another person to do, not do or allow something by using violence, an act other or unpleasant treatment or using threats of violence, any other act or unpleasant treatment either towards the person himself or another person is punishable by imprisonment for one year or a maximum fine of three hundred rupiah. Or you can use Article 368 paragraph 1 of

⁹ Moeljatno, Criminal Code, Bumi Aksara translator

¹⁰ KBBI Online what is a threat.

¹¹ R. Soesilo in his book *The Criminal Code (KUHP) and its complete comments, article by article*, Bogor Politea, 2013.

¹² Law of the Republic of Indonesia Number 1 of 2023 concerning the criminal code (pages 169-170).

¹³ Nur Solikin, Community law and law enforcement, Qiara media 2019 Pasuruan page 82.

¹⁴ IBID p 84.

¹⁵ Law online.com

¹⁶ Fitri Wahani. Basics of criminal law in Indonesia, PT Nusantara Persada Utama 2017 p. 37.

the Criminal Code to threaten violence with the aim of benefiting yourself.

In this case, the perpetrator can also be sentenced or sanctioned using article 45(B) of Law number 19 of 2016 concerning amendments to Law number 11 of 2008 concerning electronic information and transactions, JO article 29 of the ITE Law. This application can be decided in court by following the evidence or applicable rules. One of the challenges in prosecuting criminal acts of threats via social media is collecting digital evidence that is strong enough to support the case. This evidence can be in the form of screenshots of messages or posts that contain threats or harassment.

Conclusion

Based on the results of this analysis, it can be concluded that acts against the law are acts that can be prosecuted criminally, in this case the criminal act of threatening violence via social media. The factors behind the perpetrator are internal factors such as the economy, family environment, feelings of disappointment or bullying that occurs. There are external factors that can influence the perpetrator or individual, such as the environment where he lives which provides examples of bad behavior or arguments that can also give rise to criminal acts like this. Of all these factors, the economic factor is the problem in criminal acts because there are many needs that must be met and the expenditure is so large.

Law enforcement in this criminal act is included in the offense of complaints, which means that the victim of this act must report it to the authorities so that a deeper investigation can be carried out to prove that the crime of threatening violence via social media can be proven to be true. The collection of digital evidence must be strong enough to support legal enforcement of the case. This evidence can be in the form of screenshots of messages or posts that contain threats or harassment.

References

1. Zuleha. Basics of criminal law. Yogyakarta: Deepublish, 2017.
2. Muhaimin. Legal Research Methods. Mataram: Mataram University Press, 2020.
3. Nur Solikin. Community law and law enforcement. Pasuruan: Qiara media, 2019.
4. Soesilo R. The Criminal Code (KUHP) and its complete comments, article by article. Bogor: Bogor Politea, 2013.
5. Fitri Wahani. Basics of criminal law in Indonesia. PT Nusantara Persada Utama, 2017.
6. Nunik Nurhayati. Quo Vadis Protection of Human Rights in Resolving Serious Human Rights Violations Period Then via non-judicial channels. Journal of Jurisprudence. 2016; 6(2). Doi: <https://doi.org/10.23917/jurisprudence.v6i2.3012>
7. Law of the Republic of Indonesia Number 1 of 2023 concerning the criminal code, pages 169-170.
8. Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions.
9. Criminal Code (KUHP).
10. <https://www.Hukumonline.com/klinik>
11. [http://https://www.antaraneews.com/berita/2377554/polda-metro-tangkap-pelaku-pengancaman-melalu-media-](http://https://www.antaraneews.com/berita/2377554/polda-metro-tangkap-pelaku-pengancaman-melalu-media-social#:~:text=Jakarta%20%28ANTARA%29%20-%20Polda%20Metro%20Jaya%20arrested%20a%20person,who%20was%20accompanied%20by%20threats%20of%20violence%20via%20electronic%20media)

social#:~:text=Jakarta%20%28ANTARA%29%20-%20Polda%20Metro%20Jaya%20arrested%20a person,who%20was%20accompanied%20by%20threats%20of%20violence%20via%20electronic%20media