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ANALYSIS OF HATE SPEECH PERPETRATORS ON SOCIAL MEDIA THROUGH CRIMINOLOGICAL PERSPECTIVE

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Abstract: Social media not only has a positive impact but also provides an opportunity for someone to commit a crime, one of which is hate speech which can be detrimental to the perpetrators themselves, society, and the country itself. However, there are still people who are unfamiliar with regulations prohibiting hate speech on social media which can violate the rule of law and cause anxiety¹⁸ other members of society, so analysis is needed to identify the factors that caused this crime. The purpose of this study is to find out what factors cause someone to hate speech on social media. The research method used is library research, with a causal approach and a juridical approach—research materials consisting of primary, secondary, and tertiary materials. The processed data were analyzed descriptively and qualitatively, namely describing the data in a quality manner in the² form of sentences that are orderly, logical, and effective. The research results obtained are factors that cause a person to make hate speech on social media, consisting² of internal factors or factors from within the individual; and external factors. Among the many factors that cause someone to make hate speech on social media, it is the factor within the individual that is often the main cause of someone to make hate speech on social media.

Keywords: Hate Speech; Social Media; Criminology

INTRODUCTION

Nowadays, in this globalization era, the development of information technology is increasingly advanced, easy, and fast. Thus it has become a lifestyle for people around the world, including in Indonesia. The development of increasingly advanced technology certainly has a positive impact on its users, one of which is the emergence of various types of social media sites, such as Google or Mozilla Firefox, but the most popular among the public are Whatsapp, Instagram, Twitter, and Facebook, as well as many other social media accounts.

However, social media not only has a positive impact but also provides an opportunity for someone to commit a crime. Criminal acts on social media are so distressing because they are committed not only by adults but also by teenagers. Several crimes on social media that often occur, such as carding, fraud, terrorism, hacking, hate speech, hoaxes, and the spread of destructive information, have become part of the activities of perpetrators of criminal acts in cyberspace.¹ The breadth of facilities for communicating through the internet network makes social media an open forum and free to talk among its followers.² Social media has influenced the lifestyle of the community.³

The law exists within society to regulate the various interests that arise therein; it regulates in such a way that in any intersection, interests do not conflict with each other. Hans Kalsen, in Budi Suhariyanto's book, argues that there is no law for someone without legal obligations to other people. If this goes well in society, then justice will be created in society. Supposedly, society obeys the law not only because people recognize the legitimacy of the source of the law and also not because

¹ Siswanto Sunarso. 2009. *Hukum Informasi dan Transaksi Elektronik*. Jakarta: PT. Rineka Cipta. hlm. 40.

² Febry Ramadani. "Ujaran Kebencian Netizen Indonesia dalam Kolom Komentar Instagram Selebgram Indonesia: Sebuah Kajian Linguistik Forensik". *Aksara: Jurnal Bahasa dan Sastra* 22: 1. 2021.

³ Chandra Oktawan. "Yuridis Tindak Pidana Ujaran Kebencian dalam Media Sosial". *Al'Adl Jurnal Hukum*. Vol. 13. No. 1. 2021.

people believe in the rationality of the law. People usually obey the law because they are afraid of the sanctions imposed by the law.⁴

Even though the applicable legal regulations contain sanctions as a coercive force to ensure that individuals comply with the law, this does not guarantee that the law can be enforced properly. In this case, we can determine, based on a norm that exists and is in force, whether it works properly or not, in other words, whether it is obeyed or not.

Therefore, in essence, law enforcement is heavily influenced by factors both from the internal factors of the law, such as the regulation, its implementers, the means, and the legal awareness of the community, as well as from the external factors of the law itself.

One of the rights of Indonesian citizens is freedom and independence. This is in line with the contents of Article 28E paragraph (2) of the Constitution of the Republic of Indonesia, which states clearly that "everyone has the right to the freedom of belief, express thoughts and attitudes, in accordance with his/her conscience."⁵ Not only that, the government has also issued regulations regarding freedom of expression in public through Act Number 9 of 1998 concerning Freedom of Expressing Opinions in Public, where Article 1 states that:

"Freedom of expression is the right of every citizen to express thoughts verbally, in writing, and so on freely and responsibly in accordance with the provisions of the applicable laws and regulations."

Under the rule of law, people are at liberty to express their opinions, but regulations must also be made before these opinions are publicly disclosed in order to prevent lingering issues among communities. The policy of criminal law regarding the prevention of criminal acts involving the dissemination of hate speech in Indonesia has been regulated in the same manner as the law on information and electronic transactions.⁶ Criminal law policy cannot be detached from the concept of developing a national legal system based on Pancasila as the Indonesian people's aspirational life value.⁷

In light of the law that is being implemented in Indonesia, the prohibition of hatred is explicitly stated in the Criminal Code (KUHP). While utterances of hatred in the Criminal Code are classified under articles concerning *hatzaai artikelen*, including articles on hostility, pitting one against another, or enmity. The substance of Criminal Code Article 156 confirms that:⁸

"Whoever publicly expresses hostility, hatred, or contempt for one or more groups of people in Indonesia shall be penalized with a maximum imprisonment term of four (4) years or a maximum fine of Rp. 4,500 (four thousand five hundred rupiahs)."

Furthermore, Article 157 of the Criminal Code contains:

1. Whoever broadcasts, displays, or pastes in public writing or painting the contents of which contain expressions of feelings of hostility, hatred, or contempt among or against groups of the Indonesian people, with the intent to have the contents known or made known to the public, shall be penalized by a crime term of imprisonment for a maximum of 2 (two) years and 6 (six) months or a maximum fine of Rp. 4,500 (four thousand five hundred rupiah);

2. If the person is culpable of committing the said crime at the time of carrying out the search and it has not been five years since his/her sentence was fixed for such a crime, the person may be prohibited from carrying out the search."⁹

Further in Article 310 of the Criminal Code:¹⁰

⁴ Budi Suhariyanto. 2014. *Tindak Pidana Teknologi (CYBERCRIME)*. Jakarta: PT Raja Grafindo Persada. hlm. 26.

⁵ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Pasal 28E ayat (2).

⁶ Iqbal Kamalludin Barda Nawawi Arief. "'Kebijakan Formulasi Hukum Pidana Tentang Penanggulangan Tindak Pidana Penyebaran Ujaran Kebencian (Hate Speech) Di Dunia Maya". *Law Reform* 15, No. 1. 2019.

⁷ Ahmad Faizal Azhar, dan Eko Soponyono. "Kebijakan Hukum Pidana dalam Pengaturan dan Penanggulangan Ujaran Kebencian (Hate Speech) di Media Sosial". *Jurnal Pembangunan Hukum Indonesia*. Vol.2. No. 2. 2020.

⁸ Kitab Undang-Undang Hukum Pidana Pasal 156.

⁹ *Ibid.*, Pasal 157 ayat (1) dan ayat (2).

¹⁰ *Ibid.*, Pasal 310 ayat (1) dan ayat (2).

4. Whoever intentionally attacks the honor or good name of someone by accusing them of something, with the intention of making it known to the public, is threatened with criminal defamation with a maximum imprisonment of 9 (nine) months or a maximum fine of Rp. 4,500 (four thousand five hundred rupiah);

2. Suppose this is done in writing or in a picture that is broadcast, shown, or posted in public. In that case, the person who is accused of written defamation will be penalized with a maximum imprisonment of 1 (one) year and 4 (four) months or a maximum fine of Rp. 4,500,- (four thousand and five hundred rupiah);

The rationale is that nowadays, hate speech is not only done directly, but people also easily use social media as a weapon to propagate hatred in various forms, such as writing, pictures, videos, and audio recordings that can be accessed by a large number of people and can even reach overseas. It is conceivable that the impact of hate speech on social media is more severe than that of direct actions in public places, as stated in Articles 156 and 157 of the Criminal Code.

In addition, the government has issued regulations prohibiting the public from expressing opinions that lead to hate speech on social media, specifically in Act No. 11 of 2008 regarding Information and Electronic Transactions in Article 27 paragraph (3), which states: *"Everyone who intentionally and without rights distributes and transmits, and/or makes accessible electronic information and/or electronic documents that contain insults and/or defamation."*¹¹

Moreover, Article 28 of the Electronic Information and Transactions (ITE) Law reads that:¹²

1. Anyone who intentionally and without rights spreads false and misleading news that causes consumer losses in electronic transactions;

2. Anyone who intentionally and without rights disseminates information aiming at instilling hatred or hostility toward certain individuals and/or community groups based on ethnicity, religion, race, and inter-group (SARA);

The criminal sanction for violating the two articles is a maximum prison sentence of 6 (six) years and fine of Rp. 1,000,000,000.- (one billion rupiah). This is stated in Article 45, paragraphs (1) and (2) of the ITE Law, which reads:

1. Anyone who fulfills the elements referred to 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 up to Rp. 1,000,000,000.- (one billion rupiah);

2. Anyone who fulfills the elements referred to in Article 28 paragraph (1) or paragraph (2) shall be punished with imprisonment for a maximum of 6 (six) years and/or a fine of up to Rp. 1,000,000,000.- (one billion rupiah);¹³

Nevertheless, despite the existence of many legal regulations that control the prohibition of hate speech, hate speech crimes continue to occur frequently. It is as if society is immune from the rule of law.

Criminal acts of hate speech through social media occur rather often; even on television and other print media, there is much information about reporting particular individuals due to cases of hate speech through social media. The most prominent and well-known instances are those of Ahmad Dani, Ade Armando, Abu Janda, and many other cases involving hate speech on social media. Additionally, the instance of hate speech that recently occurred in Makassar City, notably the defamation committed by a police wife with the initial E, wherein E committed hate speech or deliberate defamation on the social media platform TikTok by posting images of 3 (three) police officers with a narrative portraying them as the mastermind behind her brother's death (the late Kahar).¹⁴

¹¹ Undang- Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik Pasal 27 ayat (3).

¹² *Ibid.*, Pasal 28 ayat (1) dan ayat (2).

¹³ *Ibid.*, Pasal 45 ayat (1) dan ayat (2).

¹⁴ Rachamawati. "Duduk Perkara Istri Polisi di Makassar Jadi Tersangka Ujaran Kebencian, Berawal dari Kematian Sang Kakak". <https://makassar.kompas.com/read/2023/03/07/090300278/duduk-perkara-istri-polisi->

c. Tertiary Legal Materials

The tertiary legal materials used in this writing are the Great Dictionary of the Indonesian Language, literature and results of research and the mass media, opinions of scholars and legal experts, newspapers, websites, and scholarly works of scholars.

The technique for data collection that was ultimately utilized in this study was library research. The subsequent library research is conducted by reading, analyzing, taking notes, and reviewing the existing literature on hate speech on social media. The processed data were analyzed in a qualitatively descriptive manner, which consisted of describing the data in a quality manner in the form of regular, logical, and practical sentences to facilitate interpretation of the data and comprehension of the results of the analysis in order to provide solutions to existing problems.

RESULTS AND DISCUSSION

Everyone is generally free to communicate, and the process occurs in various physical, psychological, or social contexts since communication cannot occur in space. Hence, communication as a means of existence has multiple uses, including control, motivation, information, and emotional expression. The presence of such sophisticated information technology has added a new nuance to life by touching nearly every aspect of it.¹⁸ People use social media for various purposes, including shopping, conducting business, communicating, and much more. The existence of social media is regarded as making it easier for people to convey thoughts or feelings to others through meaningful symbols.¹⁹ It is now possible to use social media for any purpose, and it is not easy to control its usage.²⁰

With the shifting of roles and functions, social media users now have control over the creation and dissemination of news. Users can select the information they receive and base their decisions on any source of information. This means that there is enough freedom for internet users to generate and disseminate information that they believe is important for all audiences to know. However, this can lead to the emergence of false news, commonly known as fake news, which can be considered hate speech. Generally, hate speech is an expression of prejudice, or, in academic terms, prejudice based on ethnicity, religion, sexual orientation, or other identity bases.²¹ Hate speech is a modern-day crime committed against language decency.²²

The number of internet users increases yearly, with not only adults but also youngsters using the internet. This means that the capacity for disseminating hate speech is even greater. The purpose of disseminating hate speech is to attract participants and alter one's mindset toward existing news or information. It is indisputable that there will always be an interaction between humans and the mass media. Even if someone chooses not to consume any media, they may still be exposed to the messages presented in the media's content.²³

The more sophisticated society becomes, the more evolved crime becomes as well. Where criminality also becomes a byproduct of the habit itself. This implies that the higher the level of habit and the more modern a country is, the more modern the crime is in its form, character, and realization method.²⁴ The technological advancements marked by the emergence of social media network

¹⁸ Andi Sepima, Gomgom T.P. Siregar, dan Syawal Amry Siregar. "Penegakan Hukum Ujaran Kebencian di Republik Indonesia". *Jurnal Retentum*. Vol. 2. No. 1. 2021.

¹⁹ Yunita Suryani, dkk. "Linguistik Forensik Ujaran Kebencian terhadap Artis Aurel Hermansya di Media Sosial Instagram". *Belajar Bahasa: Jurnal Ilmiah Program Studi Pendidikan & Sastra Indonesia*. Vol. 6. No. 1. 2021.

²⁰ Sri Marwati. "Fenomena Hate Speech Dampak Ujaran Kebencian". *Toleransi: Media Komunikasi Umat Beragama*. Vol. 10. No. 1. 2018.

²¹ Gazi Saloom. "Ujaran Kebencian: Perspektif Ilmu Psikologi". *Al Hikmah: Jurnal Dakwah dan Ilmu Komunikasi*. Vol. 8. No. 2. 2021.

²² Dian Junita. "Kajian Ujaran Kebencian di Media Sosial". *Jurnal Ilmiah Korpus* 2. No. 3. 2019.

²³ Hamid Arifin, dan Monika Sri Yulianti. "Literasi Media untuk Mencegah Ujaran Kebencian di Kalangan Remaja". *Jurnal Impresi*. Vol. 1. No. 2. 2021.

²⁴ Abdul Wahid dan Mohammad Labib. 2010. *Kejahatan Mayantara (Cyber Crime)*. Jakarta: Refika Aditama. hlm. 21.

facilities in this digital era provide an easier way for hate speech to spread since social media is an interactive public space.²⁵

The fundamental problem in dealing with criminal acts is related to the determination of the prohibited acts. Antiquated ideology clearly states that an act is a crime if it has been determined in advance through legislation, which is referred to as the legality principle, which is the principle of criminal law that we know widely.²⁶

Hate speech has a contagious effect that leads to excessive hate speech by its perpetrators, which can encourage collective hatred, discrimination, exclusion, violence, and even ethnic massacres. It has a demeaning effect on human dignity and humanity.²⁷ The ever-increasing prevalence of hate speech necessitates the government to pay more attention to problems that arise.²⁸

Indonesia is a country that frees its people to give opinions and practice their freedom of expression. However, the government does not fully protect this right by enacting laws and regulations to prevent criminal acts from occurring by provoking a person or group to commit a crime.

In a nation, there are sometimes issues that can cause significant conflicts, which often start from trivial matters or even taboo ones. With technological developments today, a phenomenon can rapidly spread and be known by the wider community. However, this information can sometimes lead to the emergence of problems within society, both among individuals and among community groups, as some of them perceive that social media writing implies hate speech.²⁹

Hate speech coexists with hoaxes or fake news, with the numerous phenomena of hate speech in Indonesia in the form of speech or writing that is widespread on social media, ensnaring many groups, both from the common people and religious leaders, as well as the political elite.

According to the data from the most recent directory of decisions of the Supreme Court of the Republic of Indonesia, there have been 4,930 (four thousand nine hundred thirty) cases of ITE, including hate speech.³⁰ Based on these data, it is clear that violations of the ITE Law are highly prevalent and should not be underestimated. The current prohibitions in the ITE Law are insufficient

to make it frightening for electronic transaction users.³¹

Hate speech can take the form of criminal acts regulated by the Criminal Code and other criminal provisions outside the Criminal Code, which are commonly found in both the natural world and on social media and consist of:³²

1. Insult;
2. Defamation;
3. Religious blasphemy;
4. Unpleasant acts;
5. Provocation;
6. Incitement;
7. Dissemination of fake news;

²⁵ Lulu Putu Ema Noviyanti, dkk. "Ujaran Kebencian pada Kolom Komentar Akun Tiktok Dhek'Meycha". *Linguistik: Jurnal Bahasa & Sastra*. Vol. 7. No. 2. 2022.

²⁶ M. Ali Zaidan. 2015. *Menuju Pembaharuan Hukum Pidana*. Jakarta: Sinar Grafika. hlm. 367.

²⁷ Lalu Azmil Muhtarom. "Penyidikan Tindak Pidana Ujaran Kebencian (*Hate Speech*) di Media Sosial (Studi Poldas Nusa Tenggara Barat)". *Jurnal Ilmiah Universitas Mataram*. 2019.

²⁸ Sasongko, dkk. "Ujaran Kebencian di Media Sosial dalam Perspektif Cyberlaw di Indonesia". *Proceeding of Conference on Law and Social Studies*. 2021.

²⁹ Budi Gunawan dan Barito Mulyo Ratmono. 2018. *Kebohongan di Dunia Maya*. Jakarta: PT.Gramedia. hlm. 9.

³⁰ Mahkamah Agung. "Direktori Putusan Mahkamah Agung Republik Indonesia". <https://putusan3.mahkamahagung.go.id/direktori/index/kategori/ite-1.html>, diakses pada tanggal 01 April 2023 pada pukul 16.31 Wita.

³¹ Herzoni Saragih, Alpi Sahari, dan T Erwin Syahbana. "Pertanggungjawaban Pidana Terhadap Ujaran Kebencian Melalui Transaksi Elektronik". *Legalitas: Jurnal Hukum*, 13 (12). 2021.

³² Surat Edaran Kapolri Nomor ; SE / 06/ X / 2015 tentang Penanganan Ujaran Kebencian (*Hate Speech*) Angka 2 huruf f.

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All of these actions have a purpose or can have an impact on acts of discrimination, violence, murder, or social conflict.

Hate speech, as described above, aims to be able to incite and provoke hatred against individuals and groups of individuals from various communities that are distinguished by the following aspects:³³ Ethnicity, religion, religious sect, beliefs, race, and inter-group relations; skin color, ethnicity, gender, people with disabilities, and sexual orientation.

Hate speech is usually carried out in various forms of media, which consists of:

1. In speeches on campaign activities;
2. Banners;
3. Social media networks;
4. Expressing opinions in public (demonstrations);
5. Religious lectures;
6. Printed or electronic mass media; and
7. Pamphlet.³⁴

Regarding regulations, the effectiveness of controlling hate speech crimes cannot be fully achieved due to the lack of a specific legal framework governing hate speech on social media platforms. Consequently, related articles, such as those on defamation, spreading fake news, and the Information and Electronic Transactions (ITE) Law, are used as the basis for legal enforcement. Meanwhile, from a practical point of view, the handling of hate speech can be deemed ineffective as there is no integrated crime control system among institutions. Thus, cooperation and collaboration between the government and society are crucial in controlling hate speech crimes.

The weak enforcement of hate speech laws has a significant impact on the increasing prevalence of hate speech in society, particularly in this digital era where access to information is so easy that it can be difficult to distinguish between true and false information. The reasons why someone commits hate speech crimes through social media can stem from within the individual or from external factors, as advancements in technology and information allow for rapid access through various online media.³⁵

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Hate speech is a form of communication that can be carried out by individuals or groups in the form of provocation, incitement, and insults aimed at individuals or other groups based on factors such as ethnicity, religion, gender, sexual orientation, and others. This phenomenon occurs due to several factors that contribute to the prevalence of hate speech on social media, including:

1. Internal Factors

The factor within the individual themselves, where the person has psychological factors that drive them to do something. As for the reason why someone engages in hate speech, it is usually because:³⁶

- a. Uncontrollable emotional power;
- b. The presence of negative prejudice towards someone, which makes them turn a blind eye to facts or evidence and listen more to those around them who also hate the victim;
- c. Disappointment or hatred towards the victim's actions, which triggers the perpetrator to engage in hate speech about the victim by provoking those around the victim through social media;
- d. Feeling hurt or jealous of the victim;
- e. Grudges, and others;

2. External Factors

- a. The influence of the environment

³³ *Ibid* ., Angka 2 huruf g

³⁴ *Ibid* ., angka 2 huruf h

³⁵ Meri Febriyani. "Analisis Faktor Penyebab Pelaku Melakukan Ujaran Kebencian (Hate Speech) Dalam Media Sosial". *Poenale : Jurnal Bagian Hukum Pidana* 6. No. 3. 2018.

³⁶ Putri Priyono dan Dian Andriasari. "Tinjauan Kriminologis Terhadap Pelaku Ujaran Kebencian di Media Sosial Di Tinjau Dari Perspektif Teori Asosiasi Diferensial dan Penegakan Sanksi Hukum Pidana Di Indonesia". *Jurnal Prosiding Ilmu Hukum*, Fakultas Hukum Universitas Islam Bandung. hlm. 37.

The environment also plays a role as a factor that can cause someone to engage in hate speech on social media. The environment referred to in this case is the social environment. Friends can be a reflection of a person's behavior because if the surrounding environment spreads positive things, then other friends will also be in a positive state, and vice versa.

b. The Societal Ignorance Factors

The factor of societal ignorance about hate speech falls under the category of insulting behavior toward individuals or groups based on social norms and acceptability on social media. There is a lack of socialization or information for the public to be more aware of hate speech toward others. We can see this phenomenon in everyday life on some social media platforms that still normalize the idea that those who receive more attention are those who have a "beautiful" or "ugly" photo, with body shaming often occurring in viral social media comments.³⁷

c. Tools and Technological Advancement Factors

The factor of tools and technological advancement indirectly influences the growing electronic media, especially the internet, in the era of globalization, making it easier, faster, and more effective to obtain and spread information. As a result, people may be less careful in using social media or communication tools, and there are no limits on their use.

If these supporting facilities are not accompanied by regulation and supervision for social media users, it can result in users freely expressing their opinions on social media. For example, some influencers have decided to quit the entertainment industry, and some even committed suicide due to the hate speech they received on social media.³⁸

d. Lack of Social Control Factor

The factor of lack of social control is the lack of control from both family and external sources. In the family, it is often the case that family members do not care about the condition of their family members, and from external sources, society may not pay attention to the crimes happening around them. The loss of social control and the absence of social norms or conflicting social norms can also contribute to this factor.

e. The Factor of Community Importance

Crime is a human behavior that violates rules, causes harm and annoyance, and creates victims, and therefore cannot be tolerated.³⁹ Communities tend not to think about the consequences of their actions when committing hate speech on social media. Many people engage in hate speech for various reasons, including personal, political, religious, and the desire to go viral on social media. We can see this phenomenon in every election where the community is divided into several groups, each undermining the others.

Based on the factors mentioned above that cause individuals to engage in hate speech, it is important to understand that each individual has their own motives and goals. There are still many other factors that can cause individuals to engage in hate speech on social media.

Therefore, to address this issue, law enforcement agencies need to enforce the law to the best of their ability and provide socialization to the public about the negative effects of engaging in hate speech on social media. In implementing the enforcement of hate speech prevention, the government needs to work together with the community to prevent behaviors that can lead to hate speech.⁴⁰

Every member of the police force in handling hate speech should prioritize preventive actions as the first step. Repressive actions can be taken as a last resort while still adhering to the provisions of the laws and regulations and carried out carefully to avoid mistakes and considering the situation. The Indonesian National Police in carrying out its authority to handle various hate speech behaviors as

³⁷ Farra Lailatus Sa'idah, Dyan Evita Santi dan Suryanto. "Faktor Produksi Kebencian Melalui Media Sosial". *Jurnal Psikologi Perseptual*. Vol. 6. No. 1 Juli 2021. hlm. 7.

³⁸ *Ibid.*,

³⁹ Nursariani, Natupang dan Faisal. 2017. *Kriminologi Suatu Pengantar*. Medan: Cv. Pustaka Prima. hlm. 43.

⁴⁰ Furqoha, Ananda Putri Anggraini, dan Nabila Dea Apipah. "Peningkatan Digital Literasi terhadap Ujaran Kebencian di Media Sosial melalui Program "Room of Law" Bagi Siswa Sekolah Menengah atas di Kota Serang". *Bantenese Jurnal Pengabdian Masyarakat*. Vol. 1. No. 1. 2019.

regulated in the Kapolri Circular Letter must also adhere to the general principles of good governance, such as being careful in enforcement, not abusing authority, and so on.⁴¹

Based on the Kapolri Circular Letter, procedures for handling hate speech have been regulated to prevent discrimination, violence, loss of life, and/or widespread social conflict.⁴² The preventive actions that must be taken include:

- a. Every police officer should have knowledge and understanding of the various forms of hate speech that arise in society;
- b. Through an understanding of the forms of hate speech and their consequences, police personnel are expected to be more responsive to potential hate speech crimes in society;
- c. Every police officer must conduct an analysis or study of the situation and conditions in their respective environment, especially those related to hate speech;
- d. Every police officer must report to their respective leaders on the situation and conditions in their environment, especially those related to hate speech;
- e. The Kasatwil must conduct the following activities:
 - Effectively utilize the intelligence function to determine the real conditions in conflict-prone areas, especially due to incitement or provocation, which will then be mapped as part of early warning and early detection;
 - Prioritize the functions of Binmas and Polmas to provide education or socialization to the community about hate speech and the negative impacts that will occur;
 - Prioritize the function of Binmas to establish constructive cooperation with religious leaders, community leaders, youth leaders, and academics to optimize repressive actions against hate speech;
 - If potential hate speech is detected, each member of the police force is required to take action:

- 1) Monitor and detect potential conflicts in society as early as possible;
- 2) Approach parties suspected of hate speech;
- 3) Bring together parties suspected of hate speech with victims of hate speech;
- 4) Seek peaceful solutions between warring parties; and
- 5) Provide an understanding of the impacts that may arise from hate speech in society.

If potential hate speech leads to hate speech crimes, each member of the police force must take various preventive measures. However, if preventive measures have been taken but have not resolved the problem, law enforcement can be carried out for suspected hate speech crimes. In principle, crime prevention should take precedence over law enforcement, with several considerations, as criminal punishment is the last resort. If law enforcement is prioritized over prevention, it is feared that enforcement will only exacerbate the problem and avoid unjust punishment. Therefore, law enforcement is the last resort. With the issuance of this circular, it is hoped that citizens, especially internet users, will be very cautious in expressing their opinions in public spaces, especially on social media.⁴³

The followings are the repressive measures or law enforcement for suspected hate speech crimes based on applicable laws and regulations:⁴⁴

- a. The Criminal Code

- 1) Article 156 of the Criminal Code, reads:

"Anyone in public expressing feelings of hostility, hatred or contempt towards one or more groups of the Indonesian people shall be punished with imprisonment for a maximum of 4 (four) years and a fine of up to Rp. 4,500 (four thousand five hundred rupiahs)."

⁴¹ Sigit Hariyawan, dan Bambang Joyo Supeno. "Penegakan Hukum Terhadap Tindak Pidana Ujaran Kebencian (Hate Speech)". *Jurnal Juristic*. Vol. 01. No. 01. 2020.

⁴² Surat Edara Kapolri., *Loc. Cit* Angka 3 huruf a.

⁴³ Roberto G.M. Pasaribu, Mulyadi, dan G. Ambar Wulan. "Pencegahan Kejahatan Ujaran Kebencian di Indonesia". *Jurnal Ilmu Kepolisian*. Vol. 14. No.3. 2020.

⁴⁴ Surat Edara Kapolri., *Loc. Cit*, angka 3 huruf b



2) Article 157 of the Criminal Code reads:

(1) Anyone who broadcasts, shows, or displays writing or pictures in public, which contain statements of feelings of hostility, hatred, or humiliation among or against groups of the Indonesian people, with the aim of making their contents known to the public, shall be punished with imprisonment for a maximum of 2 (two) years and 6 (six) months or a fine of up to Rp. 4,500 (four thousand five hundred rupiahs);

(2) If the offender commits such a crime while carrying out their profession, and it has been less than 5 (five) years since their previous conviction for a similar crime became final, they may be prohibited from carrying out that profession.

3) Article 310 of the Criminal Code says:

(1) Anyone who intentionally attacks the honor or good name of a person by accusing them of something, with the clear intention that it be known to the public, shall be punished for defamation with a maximum of 9 (nine) months imprisonment or a fine of up to Rp. 4,500 (four thousand five hundred rupiahs);

(2) If the act is done with writing or a picture that is broadcast, shown, or attached in public, then it shall be punished for written defamation with a maximum of 1 (one) year and 4 (four) months imprisonment or a fine of up to Rp. 4,500 (four thousand five hundred rupiahs);

(3) It is not defamation or written defamation if the act is clearly done for the public interest or in self-defense.

4) Article 311 of the Criminal Code, reads:

(1) If the perpetrator of defamation or written defamation is allowed to prove that the accusation is true, and they fail to prove it, and the accusation is contrary to what is known, then they shall be punished for slander with a maximum of 4 (four) years imprisonment;

(2) Revocation of rights under Article 35 No. 1-3 may be imposed.

b. Act Number 11 of 2008 concerning Information and Electronic Transactions

1) Article 28 :

(1) Anyone who intentionally and without right disseminates false and misleading news that causes consumer losses in electronic transactions;

(2) Anyone who intentionally and without right disseminates information aimed at causing feelings of hatred or hostility towards individuals and/or certain groups of the community based on ethnicity, religion, race, and inter-group relations (SARA).

2) Article 45 paragraph (2) :

“Anyone who meets the elements as referred to in Article 28 paragraph (1) and/or paragraph (2) shall be punished with imprisonment for a maximum of 6 (six) years and/or a fine of up to Rp. 1,000,000,000 (one billion rupiah).”

6) Act Number 40 of 2008 concerning the Elimination of Racial and Ethnic Discrimination

Article 16 :

“Anyone who intentionally shows hatred or resentment towards others based on racial and ethnic discrimination as referred to in Article 4 letter b number 1, number 2, or number 3, shall be punished with imprisonment for a maximum of 5 (five) years and/or a fine of up to Rp. 500,000,000 (five hundred million rupiahs).”

Hate speech must be dealt with effectively as it can damage the principles of our nation, the Republic of Indonesia, which values unity in diversity and protects the diversity of groups within our nation. Understanding and knowledge of forms of hate speech are essential for every member of the police force, who are responsible for maintaining public safety and order, enforcing the law, and providing protection, care, and service to the community. This will allow for preventative action to be taken quickly before any criminal acts resulting from hate speech occur.

CONCLUSION

According to the result and discussion explained by the author above, it can be concluded that the factors that lead someone to commit hate speech on social media are as follows:

a. Internal factors or factors within the individual, namely:

- Uncontrollable emotional power;
- Prejudice against someone, which makes them close their eyes and ears to facts or evidence, and listen more to people around them who share the same hatred towards the victim;
- Disappointment or hatred towards the victim's actions that trigger the perpetrator to provoke people around the victim through social media;
- Feeling hurt or jealous of the victim;
- Resentment and others.
- b. External factors, namely :
 - Environmental factors;
 - Societal ignorance factors;
 - Facilities and technological advancement factors;
 - Lack of social control factors;
 - Community interests.

Among the many factors that cause someone to commit hate speech on social media, the internal factors within the individual are often the main cause, where someone has a high emotional power supported by the advancement of technology that makes it easier for social media users to access unlimited information.

To prevent hate speech crimes, the first action taken by the police is preventive measures. However, when preventive measures are unable to prevent hate speech crimes, law enforcement action can be taken based on applicable laws and regulations.

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