

Law in Enforcing Human Rights in the Digital Era

Ismawati Septiningsih¹

Law Study Program, Law Department, Faculty of Law, Universitas Sebelas Maret¹

Corresponding Author: Ismawati Septiningsih (ismawatiseptiningsih84@uns.ac.id)

Article Info

Received:

March 05, 2023

Revised:

March 25, 2023

Online available:

April 20, 2023

Keywords: *Law Enforcement, Human Rights, Digital Era*

Abstract

The digitalization era is marked by rapid advances in information and communication technology. This increasingly advanced technology really helps human work to be more effective and efficient. However, on the other hand, there is a danger from the use of technology which can threaten the human rights of citizens. This article discusses the role of law in upholding human rights amidst the vortex of digitalization. The research method used in writing this article is a normative legal research method with a conceptual approach. The results of this research are that the use of technology in the digitalization era needs to pay attention to human rights so that it does not have the potential to cause human rights violations.

Cite this as: Septiningsih, I. (2024). Law in Enforcing Human Rights in the Digital Era. TGO Journal of Education, Science and Technology, 2(1), 105–109

INTRODUCTION

The definition of human rights according to the Universal Declaration of Human Rights is the right to freedom and equality in degrees that are acquired from birth and cannot be taken away from a person. Meanwhile, Republic of Indonesia Law no. 39 of 1999 concerning Human Rights, defined as basic rights that are naturally inherent in a person. Human rights are universal and continuous, therefore there must be a body that protects them, and cannot be implemented anywhere (Hadi, 2022).

Society outwardly already has legal protection, which has at least 3 rights that cannot be contested, namely the right to life, the right to liberty and the right to be persecuted. This means that humans have full protection, which cannot be disturbed by anyone who violates human rights. The right to live in the world without any dangerous threats, the right to freedom to do what is considered normal, and the right to be persecuted because humans want a quiet and peaceful life without interference from anyone.

Everyone has their own rights. There are 2 criteria in human rights that must be understood by everyone who is still carrying out social activities, namely human dignity and equality. So there are no conditions or knowledge needed to be able to have human rights, because human rights are universal or general and apply to everyone (Murthada Murthada & Seri Mughni Sulubara, 2022).

Human rights challenges are increasingly growing over time, especially in the digital era. Many problems are increasingly complex, so the law exists to place restrictions on anyone who is deemed to be violating human rights in using them digital world. Technological progress has both positive and negative impacts. It depends on an activity carried out by each person who has their own goals. In the current digital era, there are many individuals who abuse the benefits of technology in general. In fact, these individuals were present from people who did not know them at all to those who were closest to them.

This protection is confirmed in Article 28 G paragraph (1) of the 1945 Constitution, which states, among other things, that every person has the right to protection of himself (privacy), family, honor, dignity and property (including personal data). Utilization of current technology can be felt in the fields of education, economics and increasing knowledge without having to bother looking for physical books to read. In this case, society can access various knowledge, science and technology which is developing rapidly over time. In terms of the economy in the increasingly advanced digital era, it is actually very influential in improving the economy for those who understand that it will be very profitable and really know the benefits of digital now. For example, traders who are confused about not having a place to sell, now it's easy to just sell through pages or applications that open up tons of sales in the form of clothes, food, make-up and other necessities.

In the digital era, social media should be a platform where someone can express themselves as best as possible. Because essentially every living person is under the auspices of the governing law. The existence of law is a benchmark for people living in a country, in which definite laws have been made that must be obeyed. There will be sanctions for anyone who violates this law. The relationship between digital technology and human rights reflects the way in which developments in digital technology influence the protection of individual rights. The relationship between the two is: freedom of speech and access to information, digital privacy, digital justice, algorithmic discrimination, online anonymity protection, cyber security, regulation and law, and international human rights protection (Anggen Suari & Sarjana, 2023).

As the world of technology advances, human thought patterns will become more advanced. The development of human thought patterns will greatly influence the development of information technology. This progress is proven by the increasing number of new and increasingly sophisticated innovations, which are developed through communication media used by the public. One technology that is developing very quickly is the smartphone. Smartphones are a medium that people use every day, always

Supporting sophistication by using the internet non-stop. However, as technology becomes more sophisticated, it not only provides many benefits for anyone who can be smart in processing it. Increasingly sophisticated technology will also have a negative impact by causing various problems that harm many people.

From the explanation above, a person should have the right to freedom of expression without receiving inappropriate treatment by victims of human rights violations by irresponsible individuals. In this case, the law is present as an implication for human rights in this digital era, which is the foundation for society to become aware of the importance of protecting one's good name and even safeguarding important data that one does not have the right to know, because this has become a personal or private right. Law supports and binds every element of society which will have a positive impact on life and will provide sanctions for anyone who violates it.

METHOD

This article was written using normative legal research methods with a conceptual approach. The legal materials used in this research are primary legal materials and secondary legal materials. The technique for collecting legal materials uses library research. The legal material analysis technique uses deductive-syllogism logic.

RESULTS AND DISCUSSION

As internet citizens, we often encounter problems on various social media platforms. One of the functions of law is social control, where people gain control so that they do not act arbitrarily which can cause harm or even death to other people. When someone lives in an

environment, there is law. There are definitely things that need to be paid attention to, because everyone has rights that must not be violated and someone will get protection from the law that will make them comfortable wherever they are.

When the law is applied a person has limits on behavior that should be carried out by someone living in society. As the expression "ubi societas ibi ius" or where there is society there is law, the existence of law is very necessary in regulating human life, to become the best human beings. Likewise, Muslims have a legal basis, namely the Koran and Hadith, which are the main foundation for Muslims in doing everything. In terms of worship, even entering the bathroom is regulated. So that legal implications for upholding human rights are very much needed, to uphold a safe and peaceful country (Pujianto, Mulyati, & Novaria, 2018).

Law is very necessary for the existence of a safe and peaceful social order, in this case every individual has boundaries that must not be violated when playing with smartphones in this digital era. Even when someone wants to refute, judge, or even have an opinion, they have limitations that will offend or even harm other people, in physical or non-physical form. There are no limits for anyone who wants to take advantage of this increasingly advanced digital world, the important thing is that it is still within the control of the law which must be obeyed. Not everything will have a positive impact on this increasingly rapid technological progress, but there are also human rights violations that often occur in the digital era, regardless of what impact it will have.

Ethics in using social media is very necessary, to maintain one's boundaries so that they become values for living in society. Ethics is to pay more attention to information that comes out and not to quickly consume information whose origins are unclear or what is usually called hoax news. As a good social media user, don't make careless comments and provide information on social media that is considered to have a negative impact such as bullying, comments that contain hate speech and providing sensitive content that has a bad impact. So the law is deemed necessary to provide limits for people who use social media. Indonesia, as a legal country, has an obligation to uphold and protect human rights or provide freedom of expression by providing good limits on social media use. As explained in Article 28I (4) of the 1945 Constitution which reads: "Protection, promotion, enforcement and fulfillment of human rights is the responsibility of the State, especially the government." With this, the role of law will greatly determine opinions, assessments and objections to heed digital users in this era. which is increasingly advanced

After the law as a limit for individual judgment, refutation and opinion, the law is also a guard for preventing cyber bullying, hoax news, disinformation, misinformation and defamation. The ITE Law (Electronic Information and Transactions) is a law that regulates how a person uses information and electronic technology. This law is to regulate information and electronic technology users to be safer and more effective (Rizky Pratama Putra Karo Karo, 2023),

Data misuse regulations are regulated in Law RINo27 of 2022 concerning the protection of personal data, which reads: "Everyone who deliberately creates false personal data or falsifies personal data with the intention of benefiting themselves or others which may result in harm to others will be sentenced to imprisonment at most 6 years and/or a maximum fine of Rp. 6 billion. "In this problem, personal data is very important to protect. Because personal data needs to be protected from all forms of violations and threats, for example: sexual harassment, online gender-based violence (KBGO), and online bullying. This is it's even easy to do in this era of technological disruption. Apart from that, personal data protection also needs to be done to prevent misuse by wrong means or even using data for personal gain.

As people who use social media actively, it would be better to always protect personal data, so that mistakes do not occur that result in losses that cannot be replaced. This crime

is regulated in the PDP law by penalties or sanctions for those who misuse data. There are several sanctions including: article 67 paragraph 1 of the PDP Law (imprisonment for a maximum of 5 years and/or a fine of a maximum of 5 billion), article 67 paragraph 2 of the PDP Law (imprisonment for a maximum of 4 years and/or a maximum fine of 4 billion), article 67 paragraph 3 U PDP (imprisonment for a maximum of 5 years and/or a fine of a maximum of 5 billion, article 68 of the PDP Law (imprisonment for a maximum of 6 years and/or a fine of a maximum of 6 billion. In this case, people must be more careful in protecting and providing personal data, so that undesirable things do not happen.

In the eyes of the law (Hate Speech) or hate speech is behavior, words, writing or performances that cannot be carried out or are prohibited, because they can influence and trigger acts of violence and prejudice on the part of the perpetrator of the statement or the victim of the action. Violations of this crime that use websites or implement hate speech are called Hate sites, most of these sites mostly emphasize certain thoughts and points of view (Kardiyasa, Dewi, & Karma, 2020).

Usually people who commit this crime do not understand the limits of being a social member of society, or do not understand the impact they will have if they commit a crime in the form of Hate Speech. The forms of hate speech crimes are: blasphemy, insults, defamation, detrimental or unpleasant actions, inciting other social media users, provoking certain parties and spreading fake news. Hate speech can encourage collective hatred, exclusion, discrimination, violence, and even at the most horrific levels such as ethnic massacres or genocide against groups that are targets of hate speech. (Kapolri, 2015) With the issuance of this circular, hopefully it will alert the public, especially social media users, to be more careful in conveying opinions or judgments to the general public. In formulation, it can be stated that defamation can be prosecuted under Article 310 paragraph (1) of the Criminal Code, if the act must be carried out in such a way, so that in the act there is an accusation, as if the person being defamed (insulted) has committed a certain act, with the intention is to accuse it was spread (known by many people). This article provides strictness for anyone who accuses someone without evidence, so they will be punished in accordance with the applicable legal provisions.

Defamation often occurs in Indonesia, many people are caught in this crime. When someone makes a comment or judges someone with a statement that is not in accordance with what happened or even makes up a negative incident that someone experienced. This crime is committed in written or written form. thereby causing losses in the form of defamation. This can be reported and there will be sanctions for anyone who commits this violation.

Cyberbullying is one of the negative impacts of the rapid development of technology and social media. Cyberbullying is the behavior of uploading or sending text or images that are rude and harmful using digital media or the internet (Novianti, 2019). This form of crime is the easiest crime to commit, by providing images or text that did not happen or editing something that does not match what happened. The consequences of cyberbullying are very detrimental for anyone who becomes a victim. Because when someone becomes a victim there are several possibilities that will happen. One of them is the psychological or mental state of the victim who can make possible actions without thinking about long-term results, such as hurting themselves or even committing suicide

CONCLUSION

With increasingly complex problems in the digital era. Everyone has the right to freedom of expression without receiving inappropriate treatment from victims of human rights violations or irresponsible individuals. The law is here to answer the challenges of an increasingly complex era, so that people are increasingly aware of the importance of

maintaining a good name and safeguarding important private or public data. Along with increasingly developing technology. Collaboration is urgently needed in maintaining a digital environment that protects individual freedom, empowers users, and encourages a harmonious balance in creating innovation and utilizing technology. For itilaw exists as an individual's limitation to judge, refute, and have opinions that are good and correct. Also, the law is to prevent cyber bullying, hoax news, disinformation, misinformation and defamation.

REFERENCES

- Anggen Suari, K. R., & Sarjana, I. M. (2023). Menjaga Privasi di Era Digital: Perlindungan Data Pribadi di Indonesia. *Jurnal Analisis Hukum*, 6(1). <https://doi.org/10.38043/jah.v6i1.4484>
- Hadi, F. (2022). NEGARA HUKUM DAN HAK ASASI MANUSIA DI INDONESIA. *Wijaya Putra Law Review*, 1(2). <https://doi.org/10.38156/wplr.v1i2.79>
- Kardiyasa, I. M., Dewi, A. A. S. L., & Karma, N. M. S. (2020). Sanksi Pidana Terhadap Ujaran Kebencian (Hate Speech). *Jurnal Analogi Hukum*, 2(1). <https://doi.org/10.22225/ah.2.1.1627.78-82>
- Murthada Murthada, & Seri Mughni Sulubara. (2022). Implementasi Hak Asasi Manusia di Indonesia berdasarkan Undang-Undang Dasar 1945. *Dewantara : Jurnal Pendidikan Sosial Humaniora*, 1(4). <https://doi.org/10.30640/dewantara.v1i4.426>
- Novianti. (2019). Perlindungan Hukum Terhadap Anak Korban Bullying. *Pusat Penelitian Badan Keahlian DPR RI*, XI(8).
- Pujianto, A., Mulyati, A., & Novaria, R. (2018). PEMANFAATAN BIG DATA DAN PERLINDUNGAN PRIVASI KONSUMEN DI ERA EKONOMI DIGITAL. *Majalah Ilmiah Bijak*, 15(2). <https://doi.org/10.31334/bijak.v15i2.201>
- Rizky Pratama Putra Karo Karo. (2023). Hate Speech: Penyimpangan terhadap UU ITE, Kebebasan Berpendapat dan Nilai-Nilai Keadilan Bermartabat. *Jurnal Lemhannas RI*, 10(4). <https://doi.org/10.55960/jlri.v10i4.370>