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Juridical Review of Defamation in the Context of Domestic Violence (KDRT) Evidence Videos Uploaded on Social Media

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Abstract: Social media currently plays a significant role in everyday life, facilitating the sharing of information, including sensitive issues such as Domestic Violence (DV). Uploading videos as evidence of DV is often used as an attempt to seek public support or demand justice. However, this practice poses legal risks, particularly related to defamation, especially if the identity of the affected party is revealed. In Indonesia, defamation is regulated under the Criminal Code (KUHP) and the Electronic Information and Transactions Law (ITE Law), particularly Article 27, paragraph (3), which is frequently applied in social media-related cases. The dilemma arises in balancing the victim's right to disclose their experience of violence with the perpetrator's right to protect their reputation. These cases highlight the challenges of law enforcement in the digital era, where victims often turn to social media due to a lack of trust in formal legal systems, while others may use the law to defend their reputation. Data from the Ministry of Communication and Information (Kominfo) and the National Commission on Violence Against Women (Komnas Perempuan) show an increase in such cases, indicating the need for legal revisions that are more just and responsive to technological advancements and social dynamics.

Keyword: Domestic Violence (DV), Defamation, Electronic Information and Transactions Law (ITE Law).

INTRODUCTION

Social media has become a highly influential platform in daily life. The ease of sharing information allows society to quickly upload and disseminate various content, including content related to personal issues such as Domestic Violence (DV). However, the speed of information dissemination often leads to unforeseen consequences, such as the spread of content that may be deemed harmful to certain parties. One phenomenon that has emerged in society is the uploading of video evidence of DV by victims or other involved parties, with the aim of garnering public support, advocating for justice, or simply providing information. Although the initial intent may be good, these actions can lead to other legal issues, including defamation, especially if the videos involve the identities of the perpetrators or other parties who feel aggrieved (Amrullah, 2023).

In the context of Indonesian law, defamation is regulated under the Criminal Code and the Electronic Information and Transactions Law (ITE Law). Article 27 paragraph (3) of the ITE Law states that anyone who deliberately distributes or transmits information that can defame someone can be penalized. Uploading videos as evidence of domestic violence on social media, if deemed to defame someone, could lead to legal action. On one hand, victims of domestic violence have the right to report the incidents they have experienced and seek justice, including using social media as a means to gain public attention. However, on the other hand, there is the right of the perpetrator or the accused party to be protected from allegations that may not yet be proven in court. This creates a legal dilemma between protecting victims of domestic violence and protecting the right to a person's good name.

Due to the complexity of this case, a thorough legal review is needed regarding how the law regulates defamation in cases of uploading evidence of domestic violence on social media. This review is important to balance the rights of domestic violence victims and the rights of parties who feel harmed by the upload of the video, as well as to provide a clearer understanding of the legal boundaries that apply in Indonesia.

“Study on cases of defamation on social media, especially those related to the uploading of video evidence of Domestic Violence (DV), can be seen in the context of the evolution of legislation, particularly concerning the development of laws and articles that regulate defamation. One very relevant regulation is the Electronic Information and Transactions Law (ITE Law), which continues to undergo updates, including a planned revision of the law in 2024. The ITE Law, specifically Article 27 paragraph (3), has long been a basis for addressing defamation in cyberspace. This article allows parties who feel harmed by posts on social media, such as video evidence of DV, to sue based on defamation claims.

However, this article is also frequently debated due to its often damaging use against victims seeking justice through social media. In the evolution of defamation articles, Article 19 of Law Number 19 of 2016 concerning amendments to the ITE Law (Law 2015) reinforces the criminal aspect of defamation in the digital realm. However, since its enactment, numerous criticisms have arisen regarding the potential for this article to be used unjustly, particularly against those who try to voice the truth or defend themselves from criminal acts such as DV. The changes expected in the ITE Law revision in 2024 aim to rectify these injustices and balance the protection of individual privacy with the rights of DV victims.

Regarding the uploading of video evidence of DV on social media, it is important to examine whether such actions constitute defamation or an effort to achieve justice. The relevance of ITE Law Article 27 paragraph (3) and Article 19 of Law 2015 in this case creates a legal dilemma. On one hand, DV victims need support and a platform to prove the violence experienced, while on the other hand, the party being posted about could file a defamation suit. Therefore, this background emphasizes the need for further revision and legal review to ensure that the law not only protects an individual's reputation but also provides justice for victims seeking to claim their rights.”

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The legal provisions regarding defamation in Indonesia are of a complaint-based nature, which means that the legal process can only proceed if there is a party who files a complaint or feels aggrieved by the action. In cases of defamation, individuals who feel their honor or reputation has been tarnished or insulted have the right to report it to law enforcement

authorities. This emphasizes that law enforcement officials do not have the authority to act on their own initiative in defamation cases without a complaint from the aggrieved party.

In order for a perpetrator to be subject to criminal sanctions, their actions must meet the elements established in the law. That means the action must be unlawful and not justified by valid reasons. An individual will only be held accountable if their actions do not conform to the applicable legal norms, and there is no legal justification that can negate the unlawful nature of their actions. In the context of defamation in cyberspace, the sanctions regulated by law aim to create a deterrent effect, so that the perpetrator does not repeat the act in the future.

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Based on reports from the Ministry of Communication and Information (Kominfo) and records from the Indonesian National Police, the number of defamation cases in cyberspace (including social media) has increased. Many of these cases are filed based on Article 27 paragraph (3) of the ITE Law. This data can include how many complaints were received, how many were processed, and how many cases ended in legal action or settlement. For example, in 2020, Kominfo reported more than 9,000 complaints related to defamation on social media. These reports cover various digital platforms such as Facebook, Instagram, and Twitter (Pramana and Subekti, 2020).

One of the cases that received a lot of attention was the uploading of a video by a domestic violence victim revealing the violence they experienced on social media. For example, several celebrities or public figures in Indonesia have uploaded videos as evidence of the violence they experienced, which then sparked public discussions about the limits of defamation and legal protection for victims. Based on data from the National Commission on Violence Against Women (Komnas Perempuan), the number of domestic violence cases in Indonesia continues to increase every year. For example, in 2020, there were more than 11,000 reported cases of domestic violence, and many victims felt they did not receive justice from the formal legal process, leading them to upload evidence on social media as an alternative (Rianto et.al., 2024).

One important case that can serve as a reference is the case of a public figure or celebrity in Indonesia who uploaded evidence of the violence they experienced on social media, but was then sued for defamation. These cases often create legal dilemmas and serve as real examples of the conflict between protecting victims and the rights of perpetrators who feel their names have been tarnished. Article 27 paragraph (3) of the ITE Law, which regulates defamation in

the virtual world, and data on the number of cases reported under this article can provide an overview of how often this article is used in cases related to social media. KUHP Articles 310 and 311, where these two articles regulate defamation in general within Indonesian criminal law, are often used together with the ITE Law in the context of defamation on social media.

Jessica Iskandar once published a video about the alleged domestic violence she experienced, which then triggered a legal reaction from another party on the grounds of defamation. This case can be analyzed as a real example where defamation laws intersect with the rights of domestic violence victims seeking justice through social media. The Ministry of Communication and Information routinely releases data on how much content related to defamation or other negative content has been deleted or blocked. This data can show how often the government has to intervene in legal disputes involving social media. Therefore, it is important to analyze it further to provide an appropriate legal review of defamation cases that occur due to the uploading of domestic violence evidence videos on social media. Research on this data can reveal legal and social trends related to similar cases, as well as open up opportunities for legal improvements that better protect victims without sacrificing the personal rights of those who feel aggrieved..

METHOD

This research is a normative legal study. The data sources for this research are derived from primary, secondary, and tertiary law. The data collection for this research was obtained from library studies. The data analysis of this research is deductive, meaning drawing conclusions from a general problem to a specific problem.

RESULTS AND DISCUSSION

Criteria Used to Determine Whether the Dissemination of Domestic Violence Evidence Videos in the Media is Considered Defamation According to the Law

Defamation is a criminal offense aimed at protecting a person's honor and reputation. However, Indonesian law does not provide an explicit definition of this term. In the Indonesian Penal Code (KUHP), defamation is categorized into two types: general defamation, regulated under Chapter XVI, and specific defamation, which is governed by various other regulations, such as the Electronic Information and Transactions Law (UU ITE). One form of specific defamation under UU ITE is stated in Article 27, Paragraph (3), which prohibits the unauthorized dissemination of electronic information containing elements of defamation or reputational harm.

Defamation cases in Indonesia often spark debate, especially when involving social media. Two crucial factors in such cases are the content and context of the disseminated information. Content refers to the substance of the information that is deemed damaging to a person's reputation, while context provides a broader understanding of the purpose and circumstances behind the dissemination. Indonesian law protects victims of defamation based on their subjective perception of the harm suffered, while also considering the broader purpose of the information's dissemination, such as public interest or self-defense.

In criminal law, defamation occurs when someone deliberately accuses another person of committing an act that damages their reputation. Article 310 of the KUHP regulates defamation both in spoken and written forms. However, exceptions exist for individuals who disseminate information in the public interest or for self-defense, as well as for those who can prove the truth of their accusations. Conversely, if the accusation is proven to be false, the act may be classified as slander, which carries more severe legal consequences.

The dissemination of information regarding domestic violence (KDRT) cases via social media serves as a relevant example in this context. According to the 2021 Joint Ministerial Decree (SKB), if the shared information is intended to report violence or seek justice, it is not considered defamation. However, if the purpose of dissemination is solely to damage someone's

reputation without a clear basis, it may be subject to legal sanctions. Therefore, it is crucial to consider the context and intent behind information dissemination to ensure fair law enforcement without harming those seeking justice.

Defamation cases related to the circulation of domestic violence (KDRT) videos on social media present complex legal issues. Domestic violence victims often feel compelled to upload videos to gain public support or as evidence in their pursuit of justice. Meanwhile, the alleged perpetrators may perceive such actions as defamation if they harm their reputation. In this regard, Law No. 19 of 2016 (an amendment to UU ITE) governs online defamation, where Article 27, Paragraph (3) states that the unauthorized dissemination of defamatory content can lead to criminal charges.

However, if the video serves as legitimate evidence of domestic violence, its dissemination may be considered a form of self-defense or crime reporting, thus offering legal protection to the victim. In such cases, the uploader can argue that their intent was not to defame but to seek justice. The distribution of domestic violence videos must be carefully evaluated, as UU ITE also regulates the dissemination of information that violates privacy or a person's honor. Law enforcement officials must exercise caution to prevent the criminalization of victims who are merely seeking justice.

From a legal perspective, sharing domestic violence videos carries the risk of defamation accusations if the video damages the perpetrator's reputation. Although the intention may be to expose the violence, the law considers whether the video is admissible as evidence. Additionally, uploading such videos may negatively impact the psychological well-being of both the victim and the perpetrator and could trigger social stigma against both parties. Therefore, it is essential to weigh the legal and social consequences before sharing such content and to prioritize formal legal channels for resolving domestic violence cases.

To determine whether the dissemination of domestic violence videos constitutes defamation, several criteria must be considered, including whether the video contains defamatory elements, the intent behind its dissemination, and whether it was made public. The truthfulness of the information in the video is also a key factor, as videos proven to be legitimate evidence of domestic violence may be justified in the context of crime reporting. However, if the video is shared without authorization or contains false information, it may be classified as defamation. The dissemination of videos aimed at reporting violence or criminal acts may be legally protected, though it is crucial to ensure the accuracy of the information and the manner in which it is shared.

Juridical Review of Domestic Violence (KDRT) Evidence Videos Uploaded on Social Media in the Context of Defamation Law

Evidence plays a crucial role in judicial proceedings, both in criminal and civil cases. The primary purpose of evidence is to convince the judge regarding the truth or falsehood of an allegation or disputed event. In this context, evidence not only serves to ascertain the truth but also acts as a safeguard for the accused, ensuring that no one is convicted without valid and substantial proof. In criminal law, evidence must meet the principle of "beyond reasonable doubt," whereas in civil law, the "preponderance of evidence" principle is more commonly applied, where the stronger evidence favors one party.

Valid evidence in Indonesia's criminal justice system is regulated under Article 184, Paragraph (1) of the Criminal Procedure Code (KUHAP), which includes witness testimony, expert testimony, documentary evidence, and circumstantial evidence. Witness testimony provides information from individuals who have observed or have knowledge of a particular event, while expert testimony is used to explain technical matters that may not be understood by laypersons. Documentary evidence includes written documents, whether authentic deeds or ordinary documents, that are relevant to the case. Circumstantial evidence is derived from an

assessment of the available proof and does not stand alone but must be supported by other forms of evidence.

Defamation is regulated under the Indonesian Penal Code (KUHP) and the Electronic Information and Transactions Law (UU ITE). Under Indonesian law, defamation can occur through spoken or written statements and may result in criminal sanctions. In defamation cases, the aggrieved party may file a report with the police, who will then conduct an investigation to collect evidence. Subsequently, the case proceeds to trial, where prosecutors and defense attorneys present their evidence and arguments before a verdict is rendered by the judge. Defamation committed through electronic media is also regulated under the UU ITE, with additional sanctions such as access restrictions or service termination.

Legal developments concerning defamation include significant changes affecting the application of Article 310, Paragraph (1) of the KUHP, as amended by Constitutional Court Decision No. 78/PUU-XXI/2023. This ruling declared that the article is conditionally unconstitutional, requiring a more restricted application that takes into account human rights and freedom of expression. This interpretation aims to balance the protection of individual reputations with the right to free speech. Additionally, regulations on defamation through electronic media have been updated in the latest revision of the UU ITE, addressing the dissemination of information that harms a person's reputation via electronic systems.

Article 27A of Law No. 1/2024 governs the dissemination of electronic information that may damage a person's honor or reputation. This provision emphasizes several key elements, including identifying the perpetrator, determining whether the dissemination was intentional, and assessing whether the information was meant to defame. Legal proceedings for such violations require proof that the information was deliberately spread to harm someone's reputation and was made accessible to the public via electronic systems. If these elements are met, the perpetrator may face criminal charges under the applicable provisions.

The UU ITE also underwent a significant amendment in 2016 through the revision of Article 45, which regulates insults and defamation via electronic media. Article 45, Paragraph (3) clarifies that defamation or insults conducted without authorization through electronic information can result in a maximum prison sentence of four years or a fine of up to IDR 750 million. However, following this revision, defamation is no longer considered a general offense but instead requires a formal complaint from the victim (*delik aduan*), meaning legal action can only be taken after the victim files an official report.

Furthermore, the 2016 amendment to the UU ITE aligns defamation regulations with the Indonesian Penal Code (KUHP), particularly concerning insult and slander. This ensures that defamation in the digital sphere adheres to conventional legal standards. Online insults and slander must have a clear basis and be legally accountable. Before the amendment, defamation was considered a general offense, but following the revision, it now requires a direct complaint from the victim for legal proceedings to commence.

The uploading of videos as evidence of domestic violence (KDRT) on social media presents a legal dilemma regarding the balance between the right to report crimes and the protection of individual reputations. Sharing such videos can serve as a means of exposing violence and drawing public or law enforcement attention. However, videos that reveal the identity of the alleged perpetrator or other individuals may lead to defamation lawsuits if they do not follow legal procedures or if the allegations cannot be substantiated. In this regard, the UU ITE provides exceptions if the act is carried out for public interest or self-defense, as outlined in Article 45, Paragraph (7) of Law No. 1/2024.

CONCLUSION

Based on the discussion above, the key criteria for determining whether the dissemination of a domestic violence (KDRT) evidence video on social media constitutes defamation include the truthfulness of the information, the purpose of dissemination, the

method of dissemination, and the impact on the identity of the victim or perpetrator. If the video is authentic evidence shared with the intent to report a criminal act or seek protection, its dissemination may be justified. However, if the primary purpose is to degrade or humiliate the parties involved, it may be considered defamation. A juridical review refers to the legal protection granted to victims under the Indonesian Penal Code (KUHP) and the Electronic Information and Transactions Law (UU ITE), where the dissemination of content that harms another party's reputation without a legitimate basis may be subject to legal sanctions, except when conducted in the public interest or as a form of self-defense.

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