

Implementation of Cybercrime Settlement with Indonesia Law 19/ 2016 about Information and Electronic Transactions

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Abstract

Cybercrime is a new type of crime that was born because of the rapid development of information and communication technology. In Indonesia there are still many cases concerning about cybercrime which is. The purpose of this research is to know about the effort of settlement of cybercrime case reviewed from law number 19 year 2016 about information and electronic transaction, and to know the factors cause difficulty of settlement of cyber crime case. This research was used qualitative method, interviewed and direct observation to the internet, as well as from various literature. Then connected legal theory that affects the implementation of the law was the substance of law, subsystem, and culture.

Keywords

Cybercrime, information and communication technology, information and electronic transaction, legal theory

1. Introduction

Technological sophistication, the action both economic activities and administrative, was easily done anytime and anywhere. Cyber crime is a new type of crime that was born because of the rapid development of technology information and communication. In Indonesia there are still many cases concerning about cybercrime that is difficult solved. The most common case of cyber crime in Indonesia is hacker case. Cybercrime is a crime that occurs in the network of computer systems that are online, need an external harmonization. Cybercrime in the narrow sense is a crime to computer systems, while cybercrime in the broad sense included crimes to the system or computer networks and crime used computer facilities. All crimes concerning cybercrime are governed by Law Number 19 Year 2016 about Information and Electronic Transactions. Some of the actions categorized in computer-related crime or cybercrime are explained; The spread of computer viruses to computers and computer networks. (Raharjo, 2002)

In Article 33 of Law Number 19 Year 2016 about Information and Electronic Transactions, which stated that "Every person intentionally and without right or unlawfully take any action resulting in disruption of Electronic System and / or cause the Electronic System became not working properly. Misuse of computer software: software misuse is governed by Article 30 Paragraph 3 of Law Number 19 Year 2016 about Information and Electronic Transactions stated that "Every person intentionally and without right or unlawfully access computers and / or electronic systems in any way by infringing, break through, surpasses, or breaks down the security system "this included the actions that are being waged. (Andi Hamzah, Boedi D Marsita, 1987)Falsification of computer data (Fabrication) : Regarding computer data fraud, provided for in Article 35 of Law Number 19 Year 2016 about Information and Electronic Transactions, which stated that "Every person intentionally and without rights or against the law manipulates, creates, changes, disappears, destruction of Electronic Information and / or Electronic Document with the aim that Electronic Information and / or Electronic Documents are considered as authentic data. Computer fraud: the types of actions that are included in the act of fraud via computer that is; Phishing, Pagejacking / Mousetrapping, Typo squatting, Carding, Phreaking. Fraudulent acts through computer / computer network governed by Article 28 Paragraph 1 of the Information and Electronic Transactions Law which stated that "Every person intentionally and without right to disseminate false and misleading news resulting in consumer losses in electronic transactions". Pornography via the internet :In Law Number 19 Year 2016 about Information and Electronic Transactions also regulated the pornography actions used computer media, that is in Article 27 Paragraph 1 stated that "Every person

intentionally and without right distributes and / or transmits and / or made access to Electronic Information and Electronic Documents which had a content that violates decency ". (Partodihardjo, 2008) Piracy of Right to Wealth: Intellectual Law Number 19 Year 2016 about Information and Electronic Transactions is provided for in Article 32 Paragraph 2 which stated that "Every person intentionally and without rights or against the law in any way transfer or transfer Electronic Information and / or Electronic Documents to electronic systems others who are not eligible ". Internet theft: Internet theft, provided for under the Law of Information and Electronic Transactions. Goods referred to in the Law of Information and Electronic Transactions are goods in the form of electronic information and / or electronic documents to electronic systems. (Raharjo A. , 2002) Article 32 Paragraph 2 of the Law of Information and Electronic Transactions, states that "Every person intentionally and without rights or against the law in any way transfer or transfer electronic information and / or electronic documents to electronic systems of others who are not entitled". Conventional criminal offenses that use computers: Various kinds of measures included conventional criminal computer used; Corruption, Money Laundering, Terrorism, Gambling. Based on the description above, the issues were investigated and discussed were as follows: How the effort to solve the cybercrime case from the law number 19 year 2016 about information and electronic transaction? The causal factors the difficulty of settlement of cybercrime case.

2. Methodology

The method used in this research is Empirical sociological research, then investigated at the first is secondary data then proceed with research on primary data field or to society. This paper use literature data, such as books, and regulations.

3. Results And Discussion

The Efforts Cyber Crime Settlement

There are various opinions about the efforts to solve the cyber crime case that is now very rampant happened. Allan R. Coffey gave an opinion on coping strategies of crime, included computer crime. There are four commonly used approaches, that is;

- (a). Development of behavior modification program (Arief, 2005)
- (b). Improvement of institutional services for offenders
- (c). Creation of new services for both, the offender and the person potentially committing the offense.
- (d). Development of programs to counteract the influence that moves children, like adults, in order not to shift into lawlessness.

The efforts solved the cybercrime case in Indonesia had regulated in Law Number 19 Year 2016 about Information and Electronic Transactions, specifically Article 38 and Article 39. In Article 38, paragraph 1 stated that "Everyone filed a lawsuit against the party that implement the Electronic System and / or used the Information Technology that caused the loss". Furthermore, in Article 38 Paragraph 2 stated that, "The public filed a lawsuit in a representative manner against the party that implement the Electronic System and / or used Information Technology which adversely affects the public, in accordance with the provisions of the Laws and Regulations". Regarding solves crime problems through computer and / or network computer, in Article 39 Paragraphs 1 and 2 stipulated the settlement. Settlement of the dispute was done by filing a civil suit, but it was also done through arbitration or other alternative dispute settlement institutions. (Arief B. N., 2006)

Dispute resolution of computer crimes other than is used civil and arbitration or alternative dispute settlement, also in accordance with existing criminal law in Indonesia. By Law Number 19 Year 2016 about Information and Electronic Transactions, described in Article 45 until Article 52.

All efforts to settle cyber crime cases in the city of Surakarta had adjusted to the Criminal Law Code and Law Number 19 Year 2016 about Information and Electronic Transactions. In addition, a persuasive effort between parties was also used by the police. The persuasive effort was intended to bring peace to both parties. Some legal ineffectiveness was caused by the existing structure, substance and legal culture, and the settlement effort also needs look at these matters; (Muljono, 2001)

Structure

From the side of the structure, law enforcement officers in this case the police as the first law enforcers to process crime, improve exist legal structure, maximizing the working system of law enforcement apparatus. In addition, law enforcement officers not only take action against the crimes that occur but also take actions that prevent the occurrence of crime, in this case cyber crime, through the socialization of high school and junior high school, as one of the environment that most affect the character of a person / child. (Suparni, 2001)

Factors cause the difficulty of solve cybercrime cases .

The difficulty of solve cyber crime cases most often is due to lack of evidence and determine locus delicti or the determination of the crime was done. Determination of where it was done very difficult to determine because cyber crime is a cyber crime committed anywhere, even with the current technological sophistication it is possible that criminal used equipment difficult allows or even not tracked where the crime was committed. This also supports the difficulty of looking for evidence for cybercrime cases.

Another cause of the difficulty of cybercrime case resolution because of many cases that occur, whether reported or was not reported to the authorities. This is due to the easy access to study the crime, either directly from the internet, or learn from colleagues or others. Society also affects the number of cybercrime actions; there are still many people who did not really understand the rules or laws that concern cybercrime, so sometimes there are still people who rate cybercrime not a problem too serious to discuss. (Widyopramono, 1994)

4. Conclusion

The earliest cybercrime settlement used a persuasive way then proceeded, enhancing the quality of law enforcement in settlement the case, making the law the foundation of every action to create equality before the law and the supremacy of the law. Factors cause the difficulty of cybercrime settlement that is, the number of people who still did not understand the existence Law of Information and Electronic Transactions in Indonesia, felt the difficulty of this cybercrime settlement because it was difficult to determine locus delicti or where the crime was done, because of the technological sophistication that made it possible to not traceable internet access.

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