

Role of Law in Dealing with the Cyber Crime and Social Change

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ABSTRACT: *The objective of this research is to get a deep explanation between the role of law in the face of social change and the relation of cybercrime in the society. It's included in Act Number 11 of 2008 regarding The Electronic Transaction and information. This research use literary research with normative and judicial approach and the primary law material which is included the secondary data. The analysis technique of this data is using the combination of deductive and inductive. The result of this research show the existence of close relationship between law and social change associated with cyber crime. The Act Number 11 of 2008 regarding The Electronic Transaction and Information is the instrument of social control and social engineering in the society.*

Keywords: *Social change, Cyber crime.*

I. INTRODUCTION

The construction of which is currently being carried out in full swing, bringing change and significant progress in various aspects of life of Indonesian society. If we are talking about Indonesia, will never be separated from the social changes that occurred in the country. The changes are reflected in what is being and will be sought in this country. What is meant here is not only the changes in the economic, legal and social community that used to be the main focus of change, but it also concerns all areas of community life, because all areas of life in society in touch and relate with each other.

Social change in the history of the Indonesian nation, when the arrival of western nations that bring massive changes, both in terms of governance, which at that time was still in the form of empire-kingsdoms scattered throughout the archipelago, as well as in social life. After hundreds of years, came the Asian nations which occupied the territory of Indonesia, namely Japan, although in a relatively short period of time, but Japan has also brought some new things to enter Indonesia. Then came the more intensive process of decolonization, namely since the proclamation of Indonesian independence. The decolonization process could be seen as a process that is continuous with social change.¹

The focus of the writing here is about social change in the law relating to digitalization era of Indonesian society today. Era of digitizing the moment, it was inevitable after the globalization process in the life of the world community. That like the world without a partition screen. Freedom and ease of communication and mobilization to make the distance as if it is not an obstacle. One of the most interesting phenomena is the discovery of a wide range of communication tools that are increasingly sophisticated, one of which is the Internet.

Internet is a network that facilitates interaction between users. Where people easily communicate with each other. Either directly or indirectly, internet presence brings a change in the system of people's lives the world, not for the people of Indonesia. Society emerging, such as the Indonesian people, tend to accept all the new things without any filters or sorting between where the right to take and which ones are not. It raises many problems in the life of society with regard to the use of networking in cyberspace. Moreover, popping up new crime types using the internet. Ranging from theft, extortion, defamation, and even various immoral actions. Problems in this article is the role of law in the face of social change and cyber crime.

II. DISCUSSION AND ANALYSIS

Occurrence Definition and Social Change

Selosoemardjan² states that social change is a change in the social institutions in a society, which affects the social system, including the values, attitudes, and behavior patterns among groups in society. Satjipto Raharjo³ focuses on the paradigm that social change is a hallmark of a modern society with variables that can encourage social change are:

1. Physical variables, biology and demographics, associated with the increase in population and the factors that follow it;
2. Variables technology, more and more use of modern technology, also affecting the adjustment made public;

¹ Satjipto Raharjo, 2009, *Hukum dan Perubahan Sosial*, Yogyakarta : Genta Publishing, hal. 7.

² Satjipto Rahardjo, 2010, *Sosiologi Hukum*, Jakarta: Genta Publishing.

³ Satjipto Rahardjo, 2010, *Pemanfaatan Ilmu-Ilmu Sosial bagi Pengembangan Ilmu Hukum*, Jakarta: Genta Publishing.

3. Variable ideology, with regard to the public's view of new things.

In society, the social changes led to shifts and changes in social relations. Social changes in society has a close connection with the law, where the law society itself has a function alongside one another namely:

- 1) Law as a means to carry out social engineering;
- 2) As a means of social control.

Soerjono Soekanto⁴ mentions the factors that lead to social change in society. Which is as follows:

1. Internal factors that lead to social change in society is as follows:
 - a. population change
 - b. New discoveries
 - c. Rebellion (revolution) in the body of society
2. External factor
 - a. Natural factors, nature has a very important role for human life
 - b. War
 - c. Cultural influence other communities.

Here, the influence of the another society's culture is something that is inevitable. Their relationship interstate cooperation and other means of communication and information is increasingly sophisticated, such as television, radio, and the Internet facilitate cultural influence other people into the country. As a result, emerging changes in society which accept the influence of the culture.

The Role of Law in Social changes that occurred in Indonesia

Legal working provoked by the actions of a person or the relationship between people in the community. For the purposes of fishing, then the law lays out its work in a variety of functions, namely: (1) development of norms, both of which provide the allocation and determine the relationship among people; (2) settlement of disputes; (3) ensure the continuity of public life, which in the event of changes⁵.

In Indonesian society, we have met with their social differentiation and social stratification. Given these differences in society, it will trigger social changes that resulted from the existence of these differences. The differences that arise in the community will be one of the factors that affect social change in the community. With the social differences in society, attitudes and behavior will certainly change. While the changes are not only changes toward positive. But it also leads to negative changes.

Positive change of course, changes that bring benefits. What concerns us, is the changes that have a negative impact. These changes when we associate with the law of life of individuals in society, can we call those violations and crimes against the positive law in Indonesia. Therefore, what kinds of changes that conflict with the law must be resolved through legislation in force so that the role of law to social change could be implemented fairly and relevant. Therefore, the role of the law relating to social change in the community, among others, are as follows:

- 1) Law as social control

What is intended as a social control is a process conducted to influence people to behave in accordance with the expectations of society. As described above, then by law, social control is executed by moving the various activities, which involve the use of state power as an institution that is organized politically, through the establishment of institutions⁶.

Thus, the social control that could be done by the people themselves or by government officials by issuing policies to minimize the movement of social change has a negative impact.

- 2) Law as a means of social engineering

When we talk about law as a modern conception, then surely the use of law as a means to Social Engineering is a common practice. In fact, not too far away when people argue, the law in its use is now almost always a means for conducting Social Engineering (SE). SE is the use of law as the law of conscious effort to achieve an orderly or a state of society as aspired or to make changes as desired. Capabilities such as these is attached to the modern law as opposed to the traditional law.⁶

Indeed, for today, the traditional law or familiarly referred to as customary law have less strength compared to modern law or the law of the West is now more often used by the public to solve a legal problem. Although the existence of traditional law still recognized by the state, but in reality this traditional law became the law of the marginalized. Traditional law remains a positive law in Indonesia, but because traditional law is only used by the respective indigenous peoples are subject to the law have made the traditional law

⁴ Satjipto Raharjo, OP.Cit., hal. 33.

⁵ Satjipto Raharjo, OP.Cit., hal. 111.

⁶ *Ibid.*, hal. 112.

enforcement is not comprehensive for the people of Indonesia. Thus, the imposition of Western law became more powerful because it can thoroughly for all levels of society in Indonesia.

The Role of Law No. 11 of 2008 with regard to Social Change and Cyber Crime

Social change becomes a necessity in social life which is then coupled with changes in the existing law. This law changes the direction of their clash or conflict of attitudes, opinions, behavior, goals and needs are always at odds. Ralf Dahrendorf in Sunarto said that every society subject to the process of change and change is everywhere, censused and conflict are everywhere, every element of society contributes to the disintegration and change society, any change in society based on force some members to other members,⁷ It also happens on social change in terms of the beginning of the traditional society that tends towards a digital era. Conflicts over the use of the urgency of the gadget, the gadget needs, as well as the submission of the people to the shifting patterns of behavior to bring their gadgets to the new era of the digital era as a form of their social change. Law also follow this social change, for the purpose of the law on the benefit can be achieved.

Social change towards the digital age is inseparable from the phenomenon of advances in information technology and globalization that occurred from the beginning of the 20th century. Information technology has become a symbol agent of change all aspects of life, including social, political, bureaucratic and cultural. While globalization is not directly negate the boundaries between countries create a "global village". The global village belong together, open, and depend on each other. The open nature of this bridged by the presence of information technology that enables social life in terms of the order of organization and social relationships evolve and change rapidly. It can not be avoided, because the flexibility of telematics and capabilities as the hallmark of information technology and quickly permeated society sosiaol community environment. According Soerjono Soekanto,⁸ advances in technology will run along with the advent of changes in social matters.

Social change in the digital era also gave birth to many social problems are new. This could happen because of the condition of society itself is not ready to accept the change or it may be due to the values of society has changed in assessing the condition long as the conditions are no longer acceptable. It is very closely related to the forms of crime which also change with the emergence of social changes, including changes to the digital age. Changes in the form of this crime could be due to the old condition of the form of crime is no longer acceptable, so we need a new form. One new form of evil on this digital era is the rise of crime is often referred to as cyber crime. Regarding cyber crime and how the law plays a role in this deal will be discussed in the pound following points.

a. Cyber crime is a new crime of any form of social change

The term *cyber crime* is now pointing to a crime related to cyberspace (*cyberspace*) and the criminal who uses a computer.⁹ Forms of cyber crime is manifold. Among others :¹⁰

1. Unauthorized Access to Computer System and Service
Crimes committed by entering or breaking into a computer network system illegally, without permission or without the knowledge of the owner of the computer network system is entered.
2. Iilegal Contents
Is a crime to enter data or information to the internet on something improper, unethical, and may be unlawful or disturb public order Data ForgeryConstitute a crime by falsifying data on important documents stored as scripless document over the internet.
3. cyber Espionage
A crime that utilizing the Internet to conduct espionage against those judgments, by entering into the target computer network system.
4. Cyber Sabotage and Extortion
This crime is done by creating a disturbance, destruction or the destruction of the data, computer programs or computer network system connected to the Internet.
5. Offense Against Intellectual Property
These crimes directed against intellectual property rights owned by other parties on the internet. For example impersonation display on a web page of a site belonging to another person illegally, broadcasting the information on the Internet that turns out to be trade secrets of others, and so on.
6. Infringements of Privacy
These crimes directed against a person information which is very private and confidential.

b. Role of Law No. 11 Year 2008 on Information and Electronic Transactions in the face of cyber crime

⁷ Sabian Utsman, 2009, *Dasar-Dasar Sosiologi Hukum*, Yogyakarta: Pustaka Pelajar, hal. 187.

⁸ Soerjono Soekanto, 1980, *Pokok-Pokok Sosiologi Hukum*, Jakarta: Rajawali Pers. Hal 87-88.

⁹ Dikdik M. Arief Mansur dan Elisatris Gultom, 2009, *Cyber Law: Aspek Hukum Teknologi Informasi*, Bandung: PT Refika Aditama, hal. 7.

¹⁰ *Ibid.*, hal. 9-10

Law no. 11 Year 2008 on Information and Electronic Transactions born with regard to the role of law in social change that is as a means of social control and also as a means of social engineering. Therefore the law was born as an answer to social changes occurring in the digital era. Namely concretely answer the needs of the community crime crackdown cyber crime as new crime. This background can be seen in the general explanation of Law No. 11 Year 2008 on Information and Electronic Transactions. There is mentioned that the use of information technology, media, and communications have changed the behavior of both human society and civilization globally. The development of information and communication technology has also led to relationship become the world without borders (borderless) and changes the social, economic, cultural, and significantly progress is so fast. Information technology is currently a two-edged sword because while contributing to the welfare, progress, and human civilization, and effective means against the law. When this has been born a new legal regime known cyber law or telecommunications law. Legal regime in question is none other than the Law No. 11 Year 2008 on Information and Electronic Transactions.

Law no. 11 Year 2008 on Information and Electronic Transactions clearly have to mention the limits of what can be done by the subject of the law in relation to the world of technology and information. Regarding the actions that are allowed to do this Act has placed restrictions on the purpose of the acts as described in Article 3 and 4. Article 3 provides that the use of information technology and electronic transactions conducted under the principles of legal certainty, benefits, prudence, good faith, and freedom of choice technology or technology neutral. These principles form the basis of action as a man to do in the cyber world. Whereas in Article 4 explaining that the use of information technology and electronic transactions can be implemented insofar as it aims to:

1. educating the nation as part of the world information society;
2. developing trade and the national economy in order to improve the welfare of society;
3. improve the effectiveness and efficiency of public services;
4. opens a wide opportunity to everyone to promote thinking and capability in the use and utilization of information technology optimally and responsibly; and
5. providing security, justice, and legal certainty for users and providers of Information Technology.

Regarding the acts prohibited under Article 27 to 37 of Law No. 11 Year 2008 on Information and Electronic Transactions. These chapters organize things below:

a. Article 27

- 1) Each person intentionally and without right to distribute and / or transmitting and / or make the inaccessibility of Electronic Information and / or Electronic Documents which have a charge of violation of decency.
- 2) Each person intentionally and without right to distribute and / or transmitting and / or make the inaccessibility of Electronic Information and / or Electronic Documents which have a gambling charge.
- 3) Each person intentionally and without right to distribute and / or transmitting and / or make the inaccessibility of Electronic Information and / or Electronic Documents which have a charge of insult and / or defamation.
- 4) Each person intentionally and without right to distribute and / or transmitting and / or make the inaccessibility of Electronic Information and / or Electronic Documents which have a charge of extortion and / or threatening.

b. Article 28

- 1) Each person intentionally and without right of spreading false news and misleading result
- 2) Each person intentionally and without the right to disseminate information intended to cause hatred or hostility individual and / or a particular group of people

c. Article 29

- 1) Each person intentionally and without authority sends Electronic Information and / or electronic documents that contain threats of violence or scare addressed personally.

d. Article 30

- 1) Each person knowingly and without authority or unlawfully accessing computer and / or Electronic Systems belonging to another person in any way.
- 2) Each person knowingly and without authority or unlawfully accessing computer and / or Electronic Systems in any way in order to acquire the Electronic Information and / or Electronic Records.
- 3) Each person knowingly and without authority or unlawfully accessing computer and / or Electronic Systems in any way to violate, break through, exceeded, or break through the security system.

e. Article 31

- 1) Each person knowingly and without authority or unlawfully intercepting or eavesdropping on Electronic Information and / or Electronic Documents in a computer and / or certain Electronic Systems belonging to other people.

- 2) Each person knowingly and without authority or unlawfully intercepting on the transmission of electronic information and / or electronic documents that are not public from, to, and within a computer and / or Electronic Systems of certain property of other people, both of which do not cause any changes nor cause any changes, omissions, and / or termination of the Electronic Information and / or Electronic Document being transmitted.
 - 3) Except interception referred to in paragraph (1) and (2), interception is carried out in the framework of law enforcement at the request of police, prosecutors, and / or other law enforcement institutions established by law.
 - 4) Further provisions concerning the procedures for interception referred to in paragraph (3) shall be regulated by Government Regulation.
- f. Article 32
- 1) Each person knowingly and without authority or unlawfully in any way modify, add, subtract, transmitting, damaging, removing, transferring, harboring an Electronic Information and / or electronic documents belonging to other people or public property.
 - 2) Each person knowingly and without authority or unlawfully in any way assign or transfer the Electronic Information and / or Electronic Systems Electronic Records to other people who are not eligible.
 - 3) Against acts as referred to in paragraph (1) which resulted in the opening of an Electronic Information and / or Electronic Document is confidential be accessible to the public in the integrity of the data that is not as it should be. As to the criminal provisions that can be threatened against cyber crime under Article 45 and 52 of Law No. 11 Year 2008 on Information and Electronic Transactions.

Factors Affecting the Occurrence of Social Change

When considered in more depth about the potential to cause a change in society, in general it can be said that the factors that may be consciously changed, or may not ~ is a factor that is considered no longer acceptable. As for why people are not satisfied anymore to a particular factor is probably because there is a new factor that is more satisfying, as a replacement for the old factor. It may also be that the change because they had held held by the adaptation to other factors that have undergone changes in advance.

In general it can be said that the causes of social changes can be sourced in communities themselves, and there are located outside of the community, namely the advent of the influence of other people, or of the natural surroundings. The causes that comes from the community itself is, among others, increase or decrease in population, new discoveries, the opposition and the revolution. A social change can also stem from causes that come from outside of the community eg the causes that originated from the natural environment, wars, cultural influences of other people, and so forth.

In addition to the factors that become the cause of social changes mentioned above, it is necessary also mentioned the factors that influence the course of the process of social change, namely the factors that encourage and which hampers. Among the factors that drive it can be mentioned contacts with other cultures, education systems developed tolerance to the patterns that deviate perikelakuan, social stratification system that is open, residents heterogin, and dissatisfaction with certain areas of life. The driving force can be reduced because the factors that inhibit, such as the lack of relations with other societies, the development of science is too late, the attitude of society traditionalistic, their interests have been firmly planted once, the fear of the shakiness in integration culture, prejudice against things that are new or unfamiliar, barriers ideological, and possibly customs

Relationship Between Social Changes In Law

Society consists essentially of a variety of social institutions that interplay, and the arrangement of social institutions was based on a certain pattern. A social change usually starts at a certain social institutions and the change will spread to other social institutions.

SF Kechekyan (1956) describes a fairly complete picture of the legal function in Soviet Russia, on the one hand he recognizes that the laws established by the state in which the law is an expression of the desires of political and economic elite. It is therefore legally bound by the conditions of the prevailing economic system in society, so that changes in the law much depends on developments in production and the relations between the classes in society, but on the other hand he also admitted some of the legal role of creative but of course not all businesses use social engineering law to end up with the desired results. With regard to the above Arnold M. Rose assumes that the effectiveness of using the law as a tool to transform society is still limited.

Cultural Influence Function Law against Law

Through penormaan human behavior is legal browse almost all areas of human life. Legal intervention expanding into the field of public life led to the effective application of the legal issues are becoming

increasingly important to be taken into account. That means, the law should be a institution that works effectively in society.

For a society that is building the law has always been associated with efforts to improve people's lives for the better. The function of law is not enough just as social control, but more than that. Expected legal function today is to attempt to drive people to behave in accordance with new ways to achieve a goal aspired. Legal awareness that society, by Lawrence M Friedman, closely linked with the problem of legal culture. Intended to legal culture here is such a category of values, views and attitudes-sikap yang affect the working of the law.

Thus, all government policies can be formulated clearly and openly through an institution's legal name. Here, the law into a stand for all parties, especially the agencies involved in the development process or the execution of the decisions of development. What was decided by law can not be implemented properly in society, because it is inconsistent with the values, attitudes and perspectives that have been internalized by members of the public. Modern law and legal culture turned out to be the development of Indonesian social structures are not or less in accordance with modern laws developed by the ruling elite. In other words, the social structure of the nation Indonesia has not fully absorbed by the modern law as its social base.

However, no matter how well-made law, but are ultimately determined by the legal culture of the peoples concerned. Talking about how the attitudes, views and values held by society. All components of the legal culture that highly determines the success of the wisdom that has been molded in the form of the law. Channels of communication that is not well organized and tidy will have an impact on the error information about the contents of the rule of law to be conveyed to the public.

The legal culture broken down into "the values of procedural law" and "the values of substantive law". The values of procedural law questioned about the ways a community setting and conflict management. Meanwhile, the substantive component of the legal culture that consists of the fundamental assumptions about the distribution and use of resources in the community, especially about what is fair and not according to the community, and so on. Legal culture is an important element to understand the differences that exist between the legal systems with each other.

In a broader understanding of Lawrence M. Friedman incorporate cultural component of the law as an integral part of a legal system. Friedman distinguishing element of the system into three (3) types, namely: (1) the structure; (2) the substance; and (3) culture. Component "structure" is the institution created by the legal system with a wide range of functions in support of the workings of the legal system. Components of "substance" is the outcome of the legal system, including norms that include intangible legislation

III. CONCLUSION

There are several conclusions that can be drawn from the discussions above. Which is as follows:

1. Social change is a change in the social institutions in a community and affect the social system, while social changes can occur due to internal factors and external factors;
2. The role of law in social change is as a means of social control and social engineering; and
3. Law No. 11 Year 2008 on Information and Electronic Transactions born as an answer to social changes occurring in the digital era primarily in terms of dealing with crime cyber crime.

As for suggestions to the authors propose to repair various circles, which is as follows:

1. Social change is a necessity in social life so that members of the public should be ready and able to act intelligently in the deal;
2. The law in any form should be able to play a role in social change, so that policy makers should be held a proper acceleration and quick in answering the needs of the law on social change; and
3. Law No. 11 Year 2008 on Information and Electronic Transactions has had a substantive or formal conditions are good, so hopefully all component provide support for the implementation of this Act thorough.

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