



Cyber Criminal Policy In The Perspective Of Decency

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ABSTRACT

Cyber crime is one of the forms or a new dimension of evil today gets wide attention in the international world. One of the problems that is very unsettling and got the attention of various circles is the issue of cyber crime in the field decency which later became known by the term cyber adultery. That cyber adultery is essentially no different with crime/violation of decency in general, such as adultery. Cyber adultery/cyber sex can be viewed as satisfaction/excitement maya (virtual gratification) that is associated with sexual expression, and a new form of intimacy (a new type of intimacy). An intimate relationship or intimacy (intimacy) it can also contain the meaning of sexual intercourse or adultery. This means that cyber sex is a form of new from adultery. To overcome this problem, it takes its criminal policies in an effort crime prevention, which in essence is an integral part of the effort the protection of society (social defence) and the efforts of the social welfare (social welfare).

INTRODUCTION

Seen from the criminal policy (policy crime prevention), criminal law is not a means of policy main/strategic. A fundamental policy/ strategic is to prevent and waive the factors that cause or condition the cause of crime. This discussion would not be talk about or discuss and looking for the factors that cause the crime of cyber crime, but an international agreement is still recognizing the need for legal policy criminal more effectively especially at the level of policy formulation and at this stage of the application. Like be aware that cyber crime is so the rapid spread to all over the world (maya), which has unwittingly a lot of the actual cause the "victim" as a result of cyber crime such.

However, cyber crime is one form or a new dimension of the crimes of the present that got the attention of the vast the international world. Like

what was said by Volodymyr Golubev refer to it as "the new form of anti-social behavior."

Some other nicknames that pretty cool given to the type a new evil is in the range of the writings of, among others, as a crime virtual world (cyber space), new dimensions of high tech crime, a new dimension of transnational crime, and dimensi new white-collar crime. Although cyber adultery that is the development of cyber crime of course also did not escape from the observation of the international world, because master cyber crime this is the one the dark side of technological progress that have a negative impact widely in the field of modern life today.

The concern is thus revealed in the international meeting in term paper Cyber Crime submitted by ITAC (Information Technology Association of Canada) on the International

Information Industry Congress (IIIC) 2000 Millenium Congres in Quebec on 19 September 2000 where it was stated that "cyber crime is a real and growing threat to pembangunan economic and social all over the world. A proclamation technology touches every aspect human life and so on may be electronically Enable crime". In connection with the concerns about ancient / danger a crime cyber is because thanks to the tightly with the implementation of islamic economic and recommended a crime (especially for the money haram).

- a. The life of today's modern world can not be explained and even very often depend on the technology advanced / advanced (high tech or advanced technology) division offer information and electronic through the international network (internet). In one the side of technological progress in advanced bring moist positive in a variety of life, as well as e-mail, the e- trade, e-learning, EFTS 2c. affect the view of the community about history and punishment through the mass media (affect the views of society about crime and penalties / mass media).

The application of the criminal law is a reduction efforts through the penal is an attempt crime prevention through this discussion focuses on the nature of the repressive (suppression) after the crime occurred. while prevention efforts through the path of non-penal is an attempt crime prevention through line non-penal more emphasis on the nature of the preventive (preventive) before the crime happens. It is said as the difference in the rough, because repressive measures in fact also can be seen as a preventive measu in a broad sense.

Remember prevention efforts crimes through the path of non-penal more are precautions for the occurrence of a crime, then the target the main handle of the factors-factors conducive to the cause of the occurrence of crime. Factors conducive it among the other centered on the issue any problems or conditions social directly or not can directly cause or that it fosters crime. With thus viewed from a political point criminal macro and global, then the efforts of non-penal position the key strategies in tackling the the causes and conditions that cause of crime.

Criminal justice as a the process, in fact, it is an enforcement policy with through several stages, namely :stage of formulation, namely the stage the formulation of the law "in abstracto" by the agency the makers of the act (the stage of policy legisiatif);the stage of application, namely the application of the criminal law by law enforcement officers, began to of the police, the prosecutor's

office and court (phase policy judiciary); dantahap execution, namely the stage the implementation of the criminal law in a concrete way by the apparatus executors of the crime (stage).

Dogmatically, it can be said that in criminal law there are the three main issues, namely :prohibited acts;people do prohibited acts it; danpidana are threatened against the violation of the prohibition it.Talk Cyber Adultery can not be separated from the discussion will it Cyber Sex or Cyber Porn in the virtual space. Any shape and how to clear cyber-cyber included in the clump of decency. Is invisible to the eye it is rather difficult penetrate the realm of the law because associated with the problem of jurisdiction, but the effort towards it still rolling and discussion of the problem of cyber crime remains a an important part of the development of law, technology, and information in the universe this.

Because cyber sex included in the crime decency, or crime sexual then don't take the discussion this core is the main problem also is related to a sexual crime or the crime of decency it self. A variety of offense against decency stated can happen in space maya (cyber space), especially with regard to the problem of pornography, pimps/brokers, and violation of morality/immorality/deeds not profanity/adultery. The rise of the violation of decency in this world,seen with the emergence of various a term such as cyber pornography, cyber sex, cyber sexer, cyber lover, cyber romance, cyber affair, cyber sex addict, on-line romance, sex on-line, cyber sex ofender and cyber adultery.

METHOD

The type of legal research method used in this study is a normative research method.In normative research secondary data as a source of information can be primary legal ma-terial, secondary legal materials, and tertiary legal materials. The specification of this research is specifically to analyze the implementation of legal principles, namely researchon written positive law or research on legal methods that live in society. The method willbe applied that approach to legislation (Statute Approach) and Case Approach. Case research in normative legal research aims to study legal norms or rules carried out in legal practice.

The technique of collecting data using literature studies (normative legal research) which focuses on secondary data, the authors researched the laws and government regulations relating to this research. Then conducted interviews with informants, especially the public relations department of the Financial Transaction Reports

and Analysis Center and the profession to obtain information to add to the lack of complete secondary data. Data collection tools in normative juridical research are derived from secondary data to obtain concepts, theories, and information and conceptual thinking from previous researchers in the form of legislation, scientific work, journals, and others.

Making procedures and data collection in this study conducted in two ways: by studying the literature and interviews with key informants such as lawyers, and prosecutors and service providers finance. Data analysis technique begins with an examination of the data done the collected data then conducts direct and directed interviews and then analyzes the data qualitatively, the data obtained is systematically compiled and then analyzed qualitatively in the form of rules. The process of legal analysis is linked to the theoretical framework to be able to answer the formulation of the problem under study.

RESULTS AND DISCUSSION

Policy or effort crime prevention in nature is an integral part of the efforts to protect the community (social defence) and efforts the welfare of the community (social welfare). Therefore it can be it is said, that the ultimate goal or the main purpose of the political criminal is "the protection of society for achieve the welfare of the community". Thus it can be said that the political criminal is essentially also is an integral part of social politics (i.e. policy or effort to achieve social welfare).

GP Hoefnagel said that the policy or effort to achieve social welfare that "Criminal policy as a science policy is part of a bigger policy: the policy of law enforcement The policy, legislative and law enforcement there in change the part of Social Policy". Based on the above description, G.P. Hofangels provide an overview about prevention efforts crime can be reached by :

- b. The application of the criminal law (application of Criminal Law);
- c. Prevention without prime (prevention without the punishment), and
- d. c. affect the view of the community about history and punishment through the mass media (affect the views of society about crime and penalties / mass media).

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cyber romance, cyber affair, cyber sex addict, on-line romance, sex on-line, cyber sex offender and cyber adultery.

understanding concerning cyber sex to give you an idea of his true cyber sex it was also embodied in the crime decency, namely:

- a. "Cybersex" or "computer sex" is "meeting sex in virtual/virtual between two people or more connected through the internet by sending messages of a sexual describe a sexual experience".
- b. Cyber sex/computer sex is a form of game-role (role-playing) in between the participants who pretend or consider himself sexual intercourse for real, with describe something to encourage feelings/sexual fantasy them.

Cybersex this dispute also with the term "cybering", according to Greenfield and Orzack : Greenfield dan Orzack :

- a. Cybering is "direct use by two people who share the same fantasy while one or both masturbate"
- b. Cybering is inserted in the classification of cybersex form Online Sexual Activity (OSA) because with cybering it, one of one or two people mutually fantasize it can do a masturbation (masturbation)

According To Kenneth Allen "An important and major element of cybersexual activity is masturbation". Michael G. Conner: "Cybering", or sex on the Internet, is defined as the consensual sexual discussion on-line for the purpose of achieving arousal or an orgasm (puncak syahwat)". Cybersex is broadly defined as "a social interaction between at least two persons who are exchanging real-time digital messages in order to become sexually aroused and satisfied.

According To Peter David Goldberg, cyber sex is the use of the internet for the purposes of sexual (the use of the Internet for the sexual purpose). Similarly, Davis Greenfield suggests that cyber sex is using a computer to any form of expression or satisfaction sexual (using the computer for any form of sexual expression on gratification. It was also mentioned by him, that cyber sex can be viewed as satisfaction/excitement (virtual gratification), and a form of new from intimacy (a new type of intimacy). It is worth noting that an intimate relationship or intimacy that can also contain the meaning of sexual intercourse or adultery. This means that cyber sex is a form of new from perzinahan.

The case of cyber porn and cyber adultery shows that in bibliography cyber crime among experts have argued that the cybersex and

cyberporn on essentially no different with crime/violation of decency in general. The difference is only the forms, way, and the result/impact is extensive. There are even expressly declares, that the:

- a. His activity (cybersex) constitutes a form of adultery;
- b. Pornography in cyberspace is pornography in society – just broader, deeper, worse, and more of it.
- c. Cyber-sex is the equivalent of committing adultery;

Law of Japan to recognize the 6 types of sexual crimes, crimes this is as follows: 1). Public indecency (the action is not worth a pocket public) (Article 174), which refers to the behavior that show genitals in front of the public and events that transgress the limits of public morality. Currently, the article is often used against the cinema-cinema porn by the authorities considered often try to test boundaries politeness. In addition, this article also used for behavior-behavior like flashing and peek; 2). Impropriety (Article 175) is action or the material of erotic-sexual the preparation, distribution, and sales can lead to 'the loss or collapse of common sense' people; 3). Sexual Assault (Article 176) is defined as a threat or coercion for the event sexual level below rape; 4). Rape (Article 177) is penetrasi, but at least, the woman's genitals by tool gender female. There is no article which explains about the rape of men; 5) Constructive Compulsory Indecency and Rape (Article 178) is about violations of the law where a individually considered doing rape by the decision of the law (statutory offense) because of the victim, as a result of the limitations of mental or physical, is considered not to be give consent that deservedly. In a case like this, victims can be male or female; 6). Experiments attacks sexual or rape are not successfully carried out. Victim rape applies only to women, while the victims experiment sexual assault can applies to men or women.

Most of the people from among the the handle of the rapist argues that rape is actually a activity sexual problems-the problem of non- sexual, such as a defeat or a sense of frustration experienced in work can be a driving force for do rape. Others see that rape is expression of power.

While Mardjono Reksodiputro with quote the opinion of Eric J. Sinrod and William P. Reilly saw the formulation of the policy cyber crime can be done in two approach. First, take it as a crime of ordinary (ordinary crime) made with the use of high technology (high-tech) and the criminal code can be used to cope with the addition of certain articles in

the the concept of the BILL of the criminal code. Second, think of it as a crime (new category of crime) a very need a legal framework (new legal framework) and comprehensive to address the nature of the a special technology that is being evolve and new challenges that did not exist in ordinary crimes (for example the issue of jurisdiction) and because it need to be set separately outside of the criminal code.

In short it can be said that the offense of decency is offense associated with (a problem) decency. However it is not easy set boundaries or space the scope of the offense against decency because the definition and boundaries of sex it is quite spacious and can be different according to the views and values valid on in the community. First because the law itself is on the all values decency at least, so basically any offense or act criminal is an offense against decency.

Juridically, the offense against decency according to the PENAL code applicable at this time consists of two groups of criminal acts that is the crime of decency (set in Chapter XIV of Book II) and the violation of decency (set out in Chapter VI of the Book III). Deeds belongs to the group of "evil decency" (Article 284 – 303 of the criminal code) includes:

- a. Violation of decency in the face of the public (Article 281);
- b. Broadcast, perform, create, offers and so forth writings, images, objects violation of decency/nature porn (Article 282-283)
- c. Do adultery, rape and other things associated with do or connect/easy display obscene acts and sexual intercourse (Article 284-296);
- d. Trafficking in women and children male minors (Article 297);
- e. Associated with treatment for abort the pregnancy (Article 299);
- f. Associated with intoxicating drink (Article 300);
- g. Handing the child to pengemisan and so on (Article 301);
- h. Mistreatment of animals (Article 302);
- i. Gambling (Article 303 and 303bus).

As for including "a violation of decency," according to The criminal code (Article 532-547) include deeds:

- a. Reveal something that is porn (Article 532-535);
- b. Associated with drunk and liquor (Article 536-539);
- c. Associated with treatment is not susila terhadap animals (Article 540, 541 and 544);
- d. Fortune-telling/dream (Article 545);

- e. Sell and so on amulets, objects a magnitude unseen or give science lessons supernatural powers (Article 546);
- f. Wear the talisman as a witness at the hearing (Article 547).

According To R Roeslan Saleh, the sense of decency should not limited to the sense of decency in the sexual sphere, but also include the things that are included in the norms compliance act practice in the association community. By therefore, he suggested that criminal acts in the form of leave people who need to be helped, humiliation and unlock the secrets are also included in the criminal acts of decency.

The provisions of the criminal law positive associated with a criminal offense in the field of decency including cyber adultery, among others, are contained in : (a) Of the criminal code; (b) LAW No. 36 Year 1999 About Telecommunication; (c) the LAW of the Press (ACT No. 40/1999); (d) the Broadcasting LAW (LAW No. 32/2002); and (e) of the ACT Cinema (ACT No. 8/1992). From different LAW the provisions of the criminal law can be associated or related with the problem decency. Although adultery, sex, porn is made in natural (cyber space), the LAW that is mentioned in the top can be used to reach out behavior cybersex the;

1. KUHP;
2. LAW No. 36 of 1999 On Telecommunications
3. The Press LAW (LAW No. 40/1999)
4. The Broadcasting ACT (ACT No. 32/2002)
5. The LAW of Cinema (No. 8/1992).

CONCLUSION

Cyber Adultery can equated with adultery. It this refers to several reasons that was stated in some of the the views/opinions are expressed that cyber sex in the level of build the concept of science can equated with adultery, remember :

1. Chapter 284 not give limitation of juridical about adultery and not to mention the elements- elements of zina explicitly.
2. The presence of the element of "relationship sexual intercourse/copulation in physical" is only the general opinion, the theory of/ doctrine, and jurisprudence based on paradigm/ concept deeds material/physical.
3. Currently there is a development the concept acts in functional and science.
4. Understanding of the law with the paradigm of functional and paradigm science already used in practice the making of the LAW and under a.l. Arrest electric (HR 23 May 1921) and the case burglary funds BNI 1946 New

York Agency through computer (the Verdict The Supreme court 1988).

5. In the source article at the internet declared, that cyber sex is "adultery" (adultery).

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