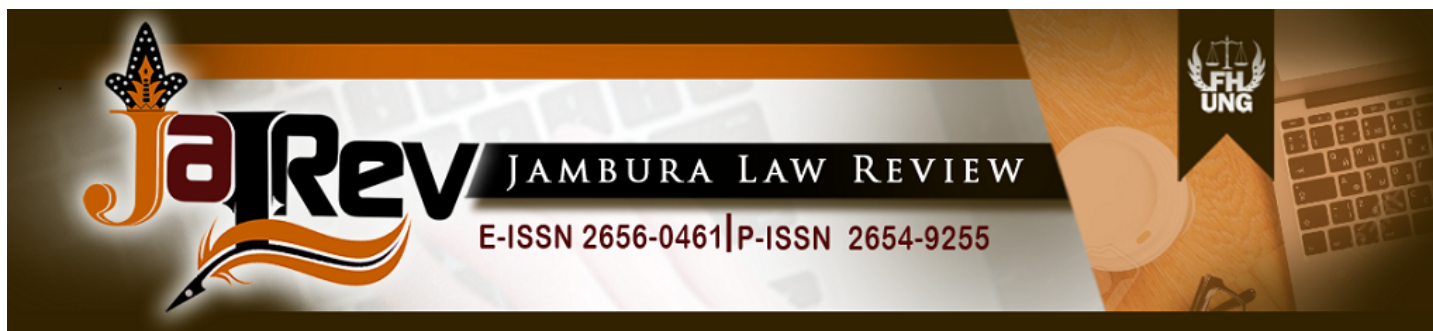


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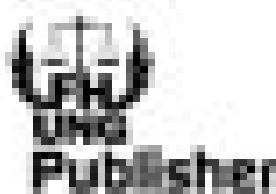


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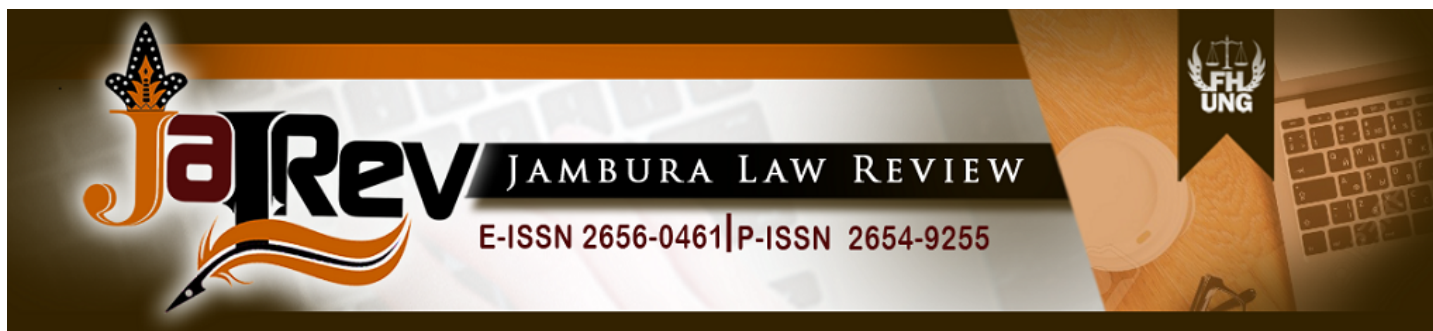
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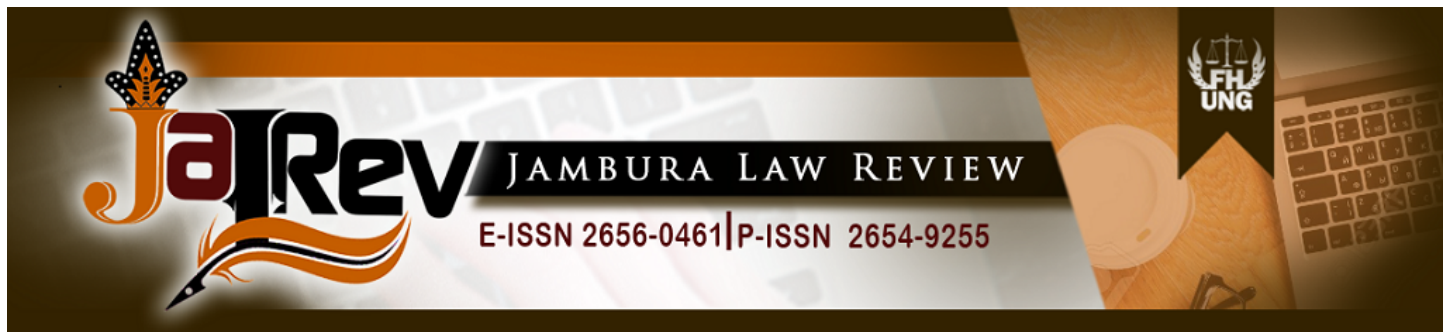
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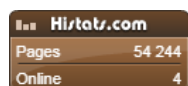
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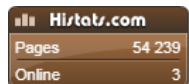
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Body Shaming Through Social Media As a Digital Crime In The Era of Disruption

Mohamad Rusdiyanto U. Puluhulawa, Riski Husain

Abstract

Digitalization has ushered in an era of disruption. The negative impact is body shaming. In the case of body shaming in Indonesia in 2018, "there were 966 cases of physical humiliation or body shaming handled by police from all over Indonesia throughout 2018. Most recently in 2019, public figures were also affected. No less surprising, this phenomenon does not only attack adults but also babies. The problem raised in this paper is what legal factors influence the rise of body shaming as a digital crime in the era of disruption. The approach method used is conceptual. In conclusion, the legal factors that influence the prevalence of body shaming are the substance of law and legal culture. In the aspect of legal substance, some areas have not been touched by current regulations, even though the legal realm is often used as a catalyst for digital body-shaming crimes. Meanwhile, in the aspect of legal culture, the problem of legal conflicts and low legal compliance are the main problems. To make matters worse, the attitude of the victim who prefers to ignore the treatment they receive without taking a fight justified by law makes the perpetrators of body shaming even wilder and more frontal, because law enforcers, as part of the legal structure, are unable to take action because this act falls under the complaint offense. Suggestions, improved regulations and the role of the press and the public to change the way they view body-shaming behavior

Keywords

Body Shaming; Social Media; Digital Crime; Era of Disruption

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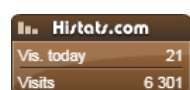
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BODY SHAMING THROUGH SOCIAL MEDIA AS A DIGITAL CRIME IN THE ERA OF DISRUPTION

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Abstract

Digitalization has ushered in an era of disruption. The negative impact is body shaming. In the case of body shaming in Indonesia in 2018, "there were 966 cases of physical humiliation or body shaming handled by police from all over Indonesia throughout 2018. Most recently in 2019, public figures were also affected. No less surprising, this phenomenon does not only attack adults but also babies. The problem raised in this paper is what legal factors influence the rise of body shaming as a digital crime in the era of disruption. The approach method used is conceptual. In conclusion, the legal factors that influence the prevalence of body shaming are the substance of law and legal culture. In the aspect of legal substance, some areas have not been touched by current regulations, even though the legal realm is often used as a catalyst for digital body-shaming crimes. Meanwhile, in the aspect of legal culture, the problem of legal conflicts and low legal compliance are the main problems. To make matters worse, the attitude of the victim who prefers to ignore the treatment they receive without taking a fight justified by law makes the perpetrators of body shaming even wilder and more frontal, because law enforcers, as part of the legal structure, are unable to take action because this act falls under the complaint offense. Suggestions, improved regulations and the role of the press and the public to change the way they view body-shaming behavior

1. Introduction

The sophistication of information technology supported by internet access today has brought the World in general and Indonesia in particular into a new era called the Era of Disruption. Marshall McLuhan views "the revolutionary growth of information technology overhauling the structure of people's lives sociologically."³ The world is so vast it is now so narrow and limitless as a result of the existence of information technology supported by the internet which in its concrete form in this case comes in the form of social media applications. The survey results of the Association of Indonesian Internet Service Providers, internet user penetration in Indonesia in 2018 reached 171,71 million people from the total population Indonesia is 264,16 million people where there was user growth of 27.91 million compared to 2017 as described below :⁴



Figure 1. Internet User Penetration

Now everyone can interact easily, the flow of information is so rapid even realized or not, slowly began to occur cultural mixing. Data in figure 1 shows that more than half of the population in Indonesia where exactly 64.8% are internet literate and of course this condition has an impact in the pattern of community behavior. In line with this, Harold Ferry Haryono explained that "internet and social media users have consciously or not experienced different communication patterns than before." The pattern of

³ Marshall McLuhan in Johanis Ohoitumur. (2018). "Disrupsi: Tantangan Bagi Perkembangan Ilmu Pengetahuan dan Peluang Bagi Lembaga Pendidikan Tinggi." *Respons* 23.2: 145.

⁴ Association of Indonesian Internet Service Providers and Indonesian Polls. (2019). "Penetrasi dan Profil Perilaku Pengguna Internet Indonesia Tahun 2018". Laporan Survey. Jakarta: Asosiasi Penyelenggara Jasa Internet Indonesia.

communication behavior of the community is seen in the survey results of the Association of Indonesian Internet Service Providers as follows:⁵



Figure 2. The Main Reasons to Use the Internet

The dominance of communication via the internet and the use of social media infrequently accessed services shows that people are beginning to experience a shift in patterns in interacting in their social lives. This situation implies that the internet is like a double-edged sword where one side has a positive impact and the other has a negative impact on its implementation.

Today's development is quite a lot of negative impacts caused by the internet, especially through social media intermediaries where one of the negative impacts is cyberbullying. Breguet explained that "cyberbullying is a form or type of intimidation by perpetrators with the aim of harassing or humiliating victims through technological devices."⁶

The current cyberbullying phenomenon is also very disingenuous, from the survey results of the Association of Indonesian Internet Service Providers, as many as 49% of respondents answered had been bullied/mockled/harassed on social media, and worse, 31.6% of the victims of cyberbullying just let the act alone without doing any action as seen in the following image:⁷

⁵ Association of Indonesian Internet Service Providers and Indonesian Polls. (2019). *Loc.Cit*

⁶ Breguet in Dela Geofani. (2019). "Pengaruh Cyberbullying Body Shaming Pada Media Sosial Instagram Terhadap Kepercayaan Diri Wanita Karir Di Pekanbaru." *JOM FISIP* 6 (2): 2.

⁷ Association of Indonesian Internet Service Providers and Indonesian Polls. (2019). *Loc.Cit*



Figure 3. Survey Cyberbullying

Cyberbullying is obviously very dangerous because it is realized or not, "can lead to a decline in psychological health that ultimately impacts on physical health"⁸ it can even lead to character assassination. One of the most common forms of cyberbullying is physical humiliation or also known as body shaming which is "the individual's assessment of his body which gives rise to the feeling that his body is embarrassing due to the assessment of himself and others towards the ideal body shape does not correspond to his body."⁹

Body shaming according to Chaplin is "a form of commenting on one's physical, appearance, or self-image," while Ni Gusti Agung Ayu Putu Rismajyanthi and I Made Dedy Priyanto also explain that "body shaming can be said to be one form of bullying actually, it has been happening since long time ago until now, where the media plays a big role in the perpetuation of its practices."¹⁰

Body shaming cases in Indonesia in 2018, "there were 966 cases of physical humiliation or body shaming handled by police from all over Indonesia throughout 2018."¹¹ Among teenagers also do not escape the crime of digital body shaming, which based on research

⁸ Jean M. Lamont. (2015). "Trait Body Shame Predicts Health Outcomes in College Women: A Longitudinal Investigation." *Journal Of Behavioral Medicine* 38 (6): 998. <https://pubmed.ncbi.nlm.nih.gov/26201456/> (accessed on May 15, 2020).

⁹ Damanik, T.M. (2018). "*Dinamika Psikologis Perempuan Mengalami Body shaming*". Skripsi. Yogyakarta: Universitas Sanata Dharma. p. 14

¹⁰ Ni Gusti Agung Ayu Putu Rismajyanthi dan I Made Dedy Priyanto. (2019). "*Tinjauan Yuridis Terhadap Tindak Pidana Penghinaan Citra Tubuh (Body Shaming) Menurut Hukum Pidana Indonesia*." *Kertha Wicara* 9 (1): 5.

¹¹ Audrey Santoso, *Polisi Tangani 966 Kasus Body Shaming Selama 2018*. 2018. <https://news.detik.com/berita/d-4321990/polisi-tangani-966-kasus-body-shaming-selama-2018>. Accessed on May 15, 2020.

conducted by Brigitta Anggraeni Stevany Putri and the team, "the results of field surveys produce astounding facts where several 96% of public and private high school students have been victims and perpetrators of body shaming in the scope of their association."¹² Most recently in 2019, Youtuber Rahmawati Kekeyi who went viral for her video on how to wear makeup using this water-filled balloon did not escape the attack of body shaming. No less surprising, this phenomenon not only affects adults but also babies, as reported by Tempo.Co, "the child of two-month-old Tasya Kamila also does not escape body shaming."¹³

The provisions on body shaming itself in the legal order in Indonesia, are specifically based on Article 27 Paragraph 3 jo Article 45 Paragraph 3 of Law No. 11 of 2008 on Information and Electronic Transactions as amended in Law No. 19 of 2016 with a maximum criminal threat of 4 years and a maximum fine of 750 million. The Penal Code also regulates this body shaming in general in Article 310 paragraph (1) WvS reads "Whoever intentionally attacks the honor or the good name of a person by accusing something, which means light so that it is known to the public, is threatened with pollution with a maximum imprisonment of nine months or a fine of maximum four thousand five hundred rupiahs." Then reaffirmed in Article 310 Paragraph (2) which contains "if it is done with writings or images that are broadcast, performed or pasted in public, then threatened with written pollution with a maximum imprisonment of one year and four months or a fine of maximum four thousand five hundred rupiahs."

2. Problems Statement

International scope, referring to Article 17 of the International Covenant on Civil and Political Rights affirming "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation" translated by the Constitutional Court in the Decision of the Constitutional Court No. 50/PUU-VI/2008 on the Case of Testing Law No. 11 of 2008 on Information and Electronic Transactions, has the meaning of "No one should be arbitrarily or unlawfully mixed with his personal, family, home or correspondence, or unlawfully attacked by honor and his good name."¹⁴ However, until now, body shaming is endless, still exists in the hustle and bustle of social media existence in this era of disruption.

¹² Brigitta Anggraeni Stevany Putri, Aristarchus Pranayama dan Ryan P. Sutanto. (2018). "Perancangan Kampanye "Sizter's Project" sebagai Upaya Pencegahan Body Shaming." *Jurnal DKV Adiwarna* 1 (12): 9.

¹³ Tempo.Co. (2019). *Tasya Kamila Bicara Soal Body Shaming Netizen terhadap Bayinya*. <https://seleb.tempo.co/read/1230907/tasya-kamila-bicara-soal-body-shaming-netizen-terhadap-bayinya>. Accessed on may 16, 2020.

¹⁴ Fenty U. Puluhulawa, Jufryanto Puluhulawa, M. Gufran Katili. (2020). "Legal Weak Protection of Personal Data in the 4.0 Industrial Revolution Era". *Jambura Law Review*, 2(2), 182-200

Based on the legal issue, the author was then interested in raising the title of body shaming as a digital crime in the era of disruption with the focus of the problem which is what legal factors influence the rise of body shaming as a digital crime in the era of disruption.

3. Method

This research method is a normative research method with the approach used in research is "conceptual approach method where researchers are required to build a concept to be a reference for research that moves from the view/doctrine of experts who develop in the science of law."¹⁵

In this research, data collection techniques were carried out with a review of libraries aimed at providing clues and ideas in formulating and solving problems. To analyze the data of this research, researchers used a descriptive-analytical method that is a method to provide a complete explanation or picture of body shaming as a digital crime in the era of disruption.

4. Discussion

4.1 Legal Factors that Influence the Rise of Body Shaming as a Digital Crime in the Era of Disruption.

The development of digitalization of information and communication technology in the form of social media confronts the public in a new reality that is a mortal world that is visible from the screen device/gadget but synchronized with the life of the real world. Digitalization ushers people into a new era of disruption. Francis Fukuyama viewed the disruption as "a disruption to the social order of life characterized by weakening of social bonds and the fading of the values of togetherness in the life of society." Francis Fukuyama's view correlates with current conditions. Where the rate of digital crime is increasing very significantly especially body shaming as part of cyberbullying.

But on the other hand, this era of disruption doesn't always have to be viewed skeptically, as Clayton Christensen describes his thinking as "disruption as a profitable innovation to produce better commodities and economic value."¹⁶ So that the development of digitalization of information and communication technology in the form of social media should be seen as a good innovation for the advancement of human civilization, as the goal of "national development that requires the transformation of society from a certain condition to a better condition,"¹⁷ and when the development of this information technology has a negative impact as described by Fukuyama as well as the reality is reflected through the rise of body shaming cases on social media, it is

¹⁵ Peter Mahmud Marzuki. (2014). *"Penelitian Hukum : Edisi Revisi"*. Jakarta: Prenadamedia Group. p. 178

¹⁶ *Ibid.* p. 147

¹⁷ Abdul Gani Abdullah. (1994). *"Pengantar Kompilasi Hukum Islam dalam Tata Hukum Indonesia"*. Jakarta: Gema Insani Press. p. 12

natural to explore the factors that are the root of the problem, in this case, legal factors so that later can be formulated representative and humanist legal policies in the prevention and handling of body shaming cases in this era of disruption.

Body shaming is "a form of emotional verbal abuse that is often not noticed by the perpetrator because it is generally considered reasonable." Whereas if it is associated in a legal perspective, the author views body-shaming as mala in se which means the act is seen as a bad deed because it is in fact contrary to the values of fairness, morals, and general principles embraced by civilized society.

According to Erika Vargas, generally, the characteristics of body shaming behavior are "criticizing one's own appearance, criticizing the appearance of others in front of them and criticizing the appearance of others without their knowledge."¹⁸ In line with that, based on research conducted by Eva Nur Rachmah and Fahyuni Baharuddin, body shaming behavior forming factors on social media are "feelings of envy with other individuals, just venting ignorance and eliminating boredom, and having anonymous accounts on social media so that they feel more free to comment on others because their identities are disguised."¹⁹ Moreover, if looking at roslina verauli's statement the cultural climate is very influential on the rise of digital body-shaming crimes.

If it draws a common thread from some research results related to the factors that cause body shaming in the perspective of psychological science then if it is based on a legal perspective based on the theory of Lawrence Friedman as quoted by Achmad Ali, the legal system consists of legal structure, a legal substance, and legal culture.²⁰

From the point of view of this theory, the author views that based on existing reality, the main spotlight is directed at substance / legal substance, and legal culture as legal factors of the rise of digital body-shaming crimes in the era of disruption.

Weak substance or legal substance can be seen from the lack of legal regulation related to body shaming. Law enforcement officials so far have only based on Article 27 Paragraph 3 of Law Number 11 of 2008 concerning Information and Electronic Transactions jo Article 45 Paragraph 3 of Law Number 19 of 2016 (ITE Law).²¹ The main

¹⁸ Erika Vargas, *Body Shaming: What Is It & Why Do We Do It?* 2015. <<https://www.waldeneatingdisorders.com/blog/body-shaming-what-is-it-why-do-we-do-it/>> . Accessed on May 17, 2020.

¹⁹ Eva Nur Rachmah dan Fahyuni Baharuddin. (2019). "*Faktor Pembentuk Perilaku Body Shaming di Media Sosial*." Prosiding Seminar Nasional & Call Paper Psikologi Sosial 2019 : Psikologi Sosial di Era Revolusi Industri 4.0. Malang : Fakultas Pendidikan Psikologi Universitas Negeri Malang, 66-73

²⁰ Achmad Ali. (2005). "*Keterpurukan Hukum di Indonesia Penyebab dan Solusinya*". Bogor: Ghalia Indonesia. p. 1

²¹ "*Any Person who knowingly and without the right to distribute and/or transmit and/or make accessible electronic information and/or electronic documents that have a charge of contempt and/or defamation as referred to in Article 27 paragraph (3) shall be penalized with imprisonment of maximum 4 (four) years and/or a maximum fine of Rp750,000,000.00 (seven hundred and fifty million rupiah).*"

focus of this regulation is individuals who commit unlawful acts in the form of minor insults in cyberspace, where the identity can be known with certainty, but there are areas that have not been touched by the rule of law here where the law does not reach out to anonymous account settings. In fact, this is the main source of the problem of body shaming in the world of digital information in this case social media as presented by Eva Nur Rachmah and Fahyuni Baharuddin in her writing on body shaming behavior forming factors on social media.

Anonymous accounts come as a form of defense for body-shaming perpetrators because they are free to carry out attacks on targets without fear of their identities being uncovered by the general public. They freely give the perception that eventually forms the view that anonymous accounts are like magical accounts because the individual behind the scenes is untouched by the law. So in addition to the concrete rules regarding the criminalization of body shaming actors, the arrangement of anonymous accounts should be of concern to the Government of the Republic of Indonesia in order to safeguard the digital sovereignty of citizens because with the development of the world today, the legal loophole must be resolved immediately to minimize the negative effects in the future, because "in the complex Gesellschaft society when social control is weakened, the need for law increases."²²

This anonymous account control can refer to the prepaid card registration policy that has been carried out by the government several years ago to minimize the potential misuse of mobile cards while facilitating law enforcement efforts as stipulated in Regulation of the Minister of Communication and Informatics No. 14 of 2017 concerning Amendments to Regulation of the Minister of Communication and Information No. 12 of 2016 concerning Telecommunication Service Customer Registration.

The formulation of anonymous account control policies which are then actualized with the realization of good regulation according to the situation and conditions is in line with the thinking expressed by Marc Ancel, "the rational organization of the control of crime by society".²³

An important note in the formulation of legal policy on controlling digital body-shaming crimes, namely learning from the substance of Law No. 11 of 2008 and Law No. 19 of 2016 on Information and Electronic Transactions, which according to Ramdhan Kasim,²⁴ "The ITE Law is formulated very loosely, multi-interpretation and unclear so as to create a condition where it is so easy for every opinion and expression to be reported to the

²² Frank E. Hagan. (2013). *"Pengantar Kriminologi : Teori, Metode dan Perilaku Kriminal"*. Jakarta: Kencana Prenamedia Group, p. 11

²³ Marwan Effendy. (2014). *"Teori Hukum Dari Perspektif Kebijakan, Perbandingan dan Harmonisasi Hukum Pidana"*. Jakarta: Referensi Gaung Persada Group. p. 226

²⁴ Ramdhan Kasim. (2020). *"Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (overspanning van het strafrecht)." Jambura Law Review: 15.*

police as a result of being considered insulting, defamatory, tarnishing religion, or other Sara expressions." So hopefully the resulting legal policy will not cause noise at the operational level as the message from Gustav Radbruch namely "Das strafrecht reformieren heizt nicht das strafrecht verbessern, sondern es ersetzen durch etwas besseres. The reform of criminal law is not just to improve the criminal law but to better outline it."²⁵

The next factor influencing the rise of body shaming in this era of disruption is Friedman's theory of legal structure and legal culture. The issue of legal conflict and low legal compliance are the main issues. Further exacerbated by the attitude of the victim who prefers to silence the treatment he received without committing a justified resistance by the law, namely by making a complaint to the authorities as a legal device that is a sub-part of the legal structure so that the sovereignty of his self-respect can be protected by law as guaranteed in the Constitution of the Republic of Indonesia. As a result, law enforcement as part of the legal structure can not carry out the crackdown considering the act of body shaming falls into the category of deliberation complaints. Exacerbated by the silent attitude of the victim is what then makes the perpetrators of body shaming increasingly wild and frontal in committing acts against the law as the results of research Yenny and Sri Wahyuning Astuti,²⁶ that "many victims of body shaming do not respond to bad comments directed at them, as a result, the behavior of body shaming perpetrators is becoming more and more so."

The assumption that body-shaming is a natural thing if reviewed from the aspects of semiology, especially related to the theory of the cause of crime, several theories are quite relevant to this phenomenon. It begins with Gabriel Tarde's theory that "people become perpetrators of crimes because they learn from others through imitation."²⁷

When most social media users do body shaming continuously both realized and unconscious then within a certain period of time other social media users become affected and then participate in doing the same, exacerbated by the low legal awareness of the digital community then the more massive this behavior and because it is done repeatedly by the public in a digital community then this is then considered natural. In keeping with what Goebbels reveals, "The lie that is campaigned constantly and systematically will turn into reality while the lie is perfect, is the truth twisted a little bit."²⁸ It is understood that mistakes made repeatedly by most people will be seen as a truth that does not harm to do. It is also still related to the differential association theory echoed by Edwin Sutherland where bad behavior is the result of social learning where if

²⁵ Marwan Effendy. *Op.Cit.* p. 238

²⁶ Yenny dan Sri Wahyuning Astuti. (2019). "*Body Shaming* di Dunia Maya: Studi Netnografi pada Akun Youtube Rahmawati Kekeyi Putri Cantika." *Promedia* 5 (1): 166-188

²⁷ Juhaya S. Praja. (2014). "*Teori Hukum dan Aplikasinya*. Bandung: Pustaka Setia. p. 103

²⁸ AR. *Teori Goebbels dalam Propaganda Jokowi*. 2016. <https://medium.com/@bintangmerah/teori-goebbels-dalam-propaganda-jokowi-8439b83226b8>. Accessed on May 14, 2020.

it is associated with the theory of cognitive psychology that "what a person thinks, feels and does is the *resultante* of various information received and that takes place over and over again."²⁹

The convergence of all these realities then cornered the position of the legal culture as one component of the legal system, which ultimately placed it as one of the factors of the rise of body shaming behavior as a digital crime in this era of disruption. Because no matter how good the systematization of the legal structure to implement the rule of law that has been established and as good as any capacity of a legal substance produced, without the support of legal culture by parties involved in the system and society then law enforcement will not run effectively so that this destructive behavior will continue to exist and disrupt a series of sustainable national development efforts and cover the entire life of the community, nation, and country as outlined in the Preamble of the Constitution of the Republic of Indonesia year 1945.

4. Conclusion

The legal factors that influence the rise of body shaming based on identification based on Lawrence Friedman's theory are the substance of the law and the culture of the law. In the aspect of legal substance, there is an untouched domain by the current regulation even though the legal domain is often used as a catalyst for digital body-shaming crimes. While in terms of legal structure and legal culture, the problem of legal conflict and low legal compliance is the main problem. Exacerbated by the attitude of the victim who prefers to silence the treatment he received without doing a justified resistance by the law makes the perpetrators of body shaming increasingly wild and frontal and certainly makes it difficult for law enforcement to carry out acts of body shaming fall into the category of deliberation complaints. So it is necessary to make improvements as well as strengthen regulations that have a connection with Cyberbullying especially body shaming. The role of the press and society is also of course very significant and needed to change the point of view regarding this deviant behavior so that with a better legal culture, the crime of digital body shaming in this era of disruption can be minimized even eradicated its existence.

²⁹ Kompasiana. (2015). "*Bagaimana Kesalahan Akan Tampak Sebagai Sebuah Kebenaran Dan Kebenaran Akan Terlihat Sebagai Sebuah Kesalahan?*". <https://www.kompasiana.com/musarofah/55293f916ea834882a8b459e/bagaimana-kesalahan-akan-tampak-sebagai-sebuah-kebenaran-dan-kebenaran-akan-terlihat-sebagai-sebuah-kesalahan>. Accessed on May 19, 2020.

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