



Criminal Law Policy Against Cyber Bullying Crimes in Indonesia

Larisma Yessy Jelita; Joko Setiyono

Faculty of Law, Diponegoro University, Jl. Imam Bardjo SH No.5, Pleburan, Kec. Semarang Sel., Semarang City,
Central Java 50241, Indonesia

E-mail: Larismayessy02@gmail.com

<http://dx.doi.org/10.47814/ijssrr.v7i5.2133>

Abstract

The occurrence of these crimes is due to the lack of contribution from law enforcement in carrying out supervision in the school environment, community, family and individuals in interacting both in online and offline media. Apart from that, there is a lack of understanding by the police in implementing the essence of the Hate Speech Circular of the Republic of Indonesia, the Criminal Code (KUHP). The objectives to be achieved in this article are criminal law policies against cyber-bullying crimes in Indonesia, and criminal law policies for the industrial revolution 4.0 era in resolving cyber-bullying crimes. This research uses normative juridical research which is qualitative in nature. The collection of legal materials is carried out by identifying and inventorying statutory regulations, researching library materials and other sources of legal materials. The legal issue analysis technique in this research uses mixed logic thinking. This means reasoning (law) which is a combination of inductive and deductive thinking patterns in concrete factual legal issues. The research results show that criminal law policies in resolving cyber-bullying crimes can be implemented by law enforcement officials in the form of the Criminal Code and Law no. 8 of 2018 concerning Electronic Information Technology by looking at the contents of the explanation article by article and the content of the crime committed by the perpetrator. Criminal law policies in the industrial revolution 4.0 era still refer to the rules that apply in Indonesia.

Keywords: *Criminal Law Policy; Cyber Bullying Crimes; Indonesia*

A. Introduction

The crime of cyber-bullying is an immoral act carried out through electronic media. This crime causes victims to be ostracized, harassed, pitted against each other, intimidated, threatened, hurt/insult other people's self-esteem, thereby causing hostility between them through internet services and mobile technology such as web pages and discussion groups as well as cell phones and text messages (SMS).

Data on cyber bullying cases in Indonesia is based on the results of the Liputan 6 report that victims of cyber bullying even committed suicide due to the pressure they received via the internet, the death of Yoga Cahyadi (36), who took a reckless action by crashing himself into a train in Yogyakarta on Saturday 26 May 2013 allegedly due to pressure and insults due to the failure of the Locstock Fest 2 music event, where he was the event organizer (EO). This can be seen from his last tweet, "Thank you for all the abuse @locstockfest2, this is a movement towards God, greetings." In the same vein, Radar Pekanbaru reported that Sonya Depari, a beautiful model student in Medan, North Sumatra, was heavily bullied on social media. Sonya Depari was bullied because she claimed to be the general's daughter and threatened a female police officer (Polwan) when she was about to be ticketed for carrying out a convoy after taking the national exam. The day after being bullied, Sonya Depari reportedly experienced depression and did not want to leave the house. Even Makmun Depari Sembiring's father suddenly fell ill and died immediately.

The results showed that around 42% of children experienced cyber bullying, 35% of children were threatened online, 58% of children admitted that they often experienced harassment and insults online, and 58% of children admitted that they report to their parents about the cyber bullying they experience.¹ In connection with this, cyber bullying is an action carried out by a person or group of people against someone through text, images/photos, or videos that tend to be degrading and harassing.¹ The crime factor of cyber bullying can easily occur due to feelings of envy, lack of achievement, pranks, and humiliation without being caught. Several factors cause the perpetrator's behavior in carrying out cyber-bullying, namely first, family factors, self and environmental factors which also have a strong and significant level of influence and second, the influence of digital protection, social protection and self-related factors also influence the victim's behavior.²

The occurrence of these crimes is due to the lack of contribution from law enforcement in carrying out supervision in the school environment, community, family and individuals in interacting both in online and offline media. Apart from that, there is a lack of understanding by the police in implementing the essence of the Hate Speech Circular of the Republic of Indonesia, the Criminal Code (KUHP) (Article 156, Article 157) to ensnare perpetrators of alleged hate speech, and Law No.11 of 2008 concerning Information and Electronic Transactions. In this way, criminal law policy can provide impact and resolution in solving the problem of cyber-bullying crimes in Indonesia.

The criminal law policy regarding cyber bullying crimes is contained in the Criminal Code and Law Number 11 of 2008 concerning Information and Electronic Transactions, there are several articles relating to forms of cyber bullying related to prevention, action and prosecution of perpetrators and victims. For this reason, the reform of the Criminal Code and the ITE Law can be a guide for law enforcement officials in resolving cyber-bullying crimes in Indonesia.

Another opinion explains that criminal policies in dealing with cyber bullying should require improvements and changes³ as follows: First, in terms of legislative policy/formulation/legislation in Indonesia in the future, there should be connectivity between the main system of criminal law, namely the Criminal Code, and laws outside the Criminal Code, meaning that changes need to be made to the main system of the Indonesian Criminal Code. currently in force, to suit the current conditions of Indonesian society. For this reason, the Draft Criminal Code needs to be ratified as soon as possible. Apart from that, we must also pay attention to comparative studies of laws in various other foreign countries related to cyber bullying in order to maximize the response to cyber bullying.

¹A. Septi, "Cyber Bullying," *Science Notes*, 2014, p. 13.

²M. Pandie and ITJ Weismann, "The Influence of Cyberbullying on Social Media on reactive behavior as perpetrators and as victims of cyberbullying in Christian students at Makassar National Middle School," *J. Jaffray*, vol. 14, no. 1, pp. 43–62, 2016

³Frensh, S. Kalo, M. Mulyadi, and C. Bariah, "Criminal Policy for Combating Cyber Bullying against Children as Victims," *USU Law J.*, vol. 5, no. 2, 2017

Second, in terms of future non-penal policies in dealing with cyber bullying, improvements should be made to the non-penal policies that have been implemented previously. This improvement can be done in various aspects of approach and role, including: Moral/Educative Approach, Technological Approach (Techno Prevention), Role of Government, Role of the Media, and Role of the World of Journalism. These approaches are used starting from the family, government, mass media to participate in helping prevent cyber bullying crimes. After that, research (Sakban, Sahrul, Kasmawati, & Tahir, 2018) explains that to reduce and prevent cyberbullying crimes in Indonesia, the following steps can be taken: 1) outreach to educational institutions, agencies, campuses and the community on a regular basis, 2) maximizing ethical behavior on the internet, the role of parents must be more intensive in supervising their children in using social media, civil police officers routinely carry out "anti-bullying" (stop bullying) campaigns in schools, campuses/agencies and the community, and involve social organizations to monitor circulation. cyber bullying crime.

Thus, this article explains the criminal law policy against cyber-bullying crimes in Indonesia and the criminal law policy for the industrial era 4.0 in resolving cyber-bullying crimes in Indonesia. The goal to be achieved in this article is the criminal law policy against cyber-bullying crimes in Indonesia , and criminal law policies for the industrial revolution 4.0 era in resolving cyber-bullying crimes.

B. Formulation of the Problem

1. What is the criminal law policy towards cyber-bullying crimes in Indonesia?
2. What are the Criminal Law policies for the Era of Industrial Revolution 4.0 in Resolving Cyber-Bullying Crimes in Indonesia?

C. Research Methods

This research is categorized into a type of normative legal research, this is based on the issues and/or themes raised as research topics. The research approaches used are Conceptual, Legislative, Comparative, namely research that focuses on rational, critical analytical and philosophical views, and ends with conclusions which aim to produce new findings as answers to the main problems that have been determined.¹It will also be analyzed using a descriptive analytical method, namely by describing the applicable laws and regulations related to legal theory and positive law enforcement practices related to this problem.⁴

D. Results and Discussion

1. Criminal Law Policy Against Cyber-Bullying Crimes in Indonesia

The definition of bullying according to Sullivan in his book entitled "The Anti-Bullying Handbook on 2000", bullying is defined as an act of attack carried out consciously and deliberately and/or manipulated by one or more people against another person or many people. According to Ken Right, bullying is defined as follows: Bullying is a desire to hurt. This desire is put into action, causing a person to suffer. This action is carried out directly by a stronger person or group, is not responsible, is usually repeated, and is carried out with feelings of pleasure. Professor and Olweus in 1993 defined bullying as containing three basic elements of bullying behavior, namely:

⁴Peter Mahmud Marzuki, Legal Research, Kencana Prenada Media Group, Jakarta, 2011, p. 22

- a) Attacking (aggressive) and negative.
- b) Done repeatedly.
- c) There is an imbalance of power between the parties involved.

Meanwhile, according to Astuti, the types of bullying behavior include:

- a) Physical violence (pushing, kicking, hitting, slapping).
- b) Verbally (for example calls that are mocking or insulting)
- c) Non-verbally (for example manipulating friends, looking threateningly, alienating and frightening)

The tendency for bullying behavior is a person's tendency to carry out acts of hurting other people repeatedly on purpose to injure, feel uncomfortable and afraid, physically, verbally and mentally with the aim of showing power so as to make other people feel weak. A form of bullying is also an attitude or action that is based on negative behavior in the form of insulting each other, ridiculing, defaming one's good name, leading to mental degradation and even physical violence. Another form of perpetrator who admits that bullying is often carried out is by physical means, namely (pushing and hitting), while the victim admits that the actions that often occur are in the form of (ostracized, threatened, invited to fight, invited to take things that are not his right to being locked in a room). closed).

Meanwhile, Cyberbullying according to Samer Hinduja and Justin W Patchin is a situation where the action carried out disturbs and harms another party by giving a tone of threat or insult, where the perpetrator is classified as a child or teenager, which is carried out consciously (intentionally) and the action is carried out continuously using a cellphone. computers or other electronic media (Paat, 2020). Cyberbullying can cause the victim to become depressed, become a person who is closed off from the outside world and does not rule out the possibility of death as a last resort.

Acts of violence, including "bullying" can be categorized as criminal acts. In the criminal law literature, the term criminal act is a term used as a translation of the Dutch term, namely strafbaarfeit. Strafbaarfeit is also translated as criminal incident, offense, criminal violation, punishable act, punishable act, and criminal act. Meanwhile, according to Moeljatno, the translation of the term strafbaar feit is a criminal act. In his opinion, the term criminal act is an act that is prohibited by a prohibitive legal regulation which is accompanied by the threat of sanctions in the form of a specific crime, for anyone who violates the prohibition. With the existence of the Criminal Code (KUHP), perpetrators can receive sanctions related to the crime of bullying.

1) Indonesian Criminal Code (KUHP)

The act of cyber-bullying when related to existing laws and regulations in Indonesia related to the Criminal Code can be seen in several articles in the Criminal Code relating to types of cyber bullying, which are as follows:

Article 310 paragraph 1: Any person who deliberately attacks someone's honor or good name by accusing them of something, with the clear intention of making it known to the public, is threatened with defamation with a maximum prison sentence of nine months. This article explains the act of cyber-bullying in the form of Harassment (the act of torturing by continuously attacking and criticizing)

Article 311 paragraph 1: If the person who commits a crime of defamation or written defamation is allowed to prove that what he is accused of is true, but does not prove it, and the accusation is made contrary to what is known, then he is threatened with defamation with a maximum prison sentence of four years. This article explains cyber bullying in the form of Denigration (a person commits slander by trying to spread false news).

Article 369 paragraph 1: Whoever, with the intention of unlawfully benefiting himself or another person, with the threat of defamation either verbally or in writing, or with the threat of disclosing a secret, forces someone to give him something which wholly or partly belongs to that person or another person, or in order to create a debt or write off a receivable, is punishable by a maximum imprisonment of four years. This article explains crimes in the form of Cyber Stalking.

Cyber Stalking is defined as "the act of threatening, harassing, or annoying someone through multiple e-mail messages, as through the internet, esp with the intent of placing the recipient in fear that an illegal act or an injury will be inflicted on the recipient or a member of the recipient's family or household." So what cyber stalking means is the act of threatening, harassing, or disturbing someone through several e-mail messages, such as via the internet with the intention of positioning the recipient to feel afraid through illegal actions by attacking family, institutions and other subjects.

These articles regulate defamation, writing and/or images conveyed in public in the form of slander, committing slander, writing with an offensive motive or hurting other people.

2) Law no. 8 of 2008 concerning Information and Electronic Transactions

Based on the provisions of the articles in Chapter

Article 27 paragraph 3 with elements of a criminal offense: distributing and/or transmitting and/or making accessible Electronic information and/or Electronic Documents which contain insulting and/or defamatory content. Explains the criminal behavior of cyber bullying in the form of cyber harassment (the act of torturing by continuously attacking and criticizing).

Article 29 with elements of a criminal act: sending electronic information and/or electronic documents containing threats of violence or intimidation aimed at personally. This article explains the behavior and actions of cyber-bullying in the form of Cyber Stalking. Cyber stalking is an act of threatening, harassing or disturbing someone through e-mail messages, such as via the internet with the intention of placing the recipient in fear through illegal actions by attacking family, institutions and other subjects.

Article 30 paragraph 1 with elements of a criminal offense: accessing another person's computer and/or electronic system in any way. This article explains the behavior and actions of cyber-bullying in the form of Impersonation. (imitating someone else's personality in the form of an image, or animated image with a mocking and threatening feel to another person)

Article 32 paragraph 2 with elements of a criminal offense: moving or transferring Electronic Information and/or Electronic Documents to another person's electronic system without the right. This article explains the actions and actions of cyber-bullying in the form of Outing and Trickery. (spreading other people's secrets, or other people's private photos. While trickery is trickery, persuading someone by deception to get that person's secrets or private photos).

3) Republic of Indonesia Police Circular regarding Hate Speech

Based on the provisions of the Republic of Indonesia Police Circular in the criminal provisions regarding Hate Speech, several prohibited acts (elements of criminal acts) can be identified which are closely related to cyber bullying at each point as follows:

In f, that hate speech can take the form of criminal acts regulated in the Criminal Code (KUHP) and other criminal provisions outside the Criminal Code, which take the form of, among others:

- a) insult;
- b) defamation;
- c) blasphemy;
- d) unpleasant acts;
- e) provoke;
- f) instigate;
- g) spreading fake news;

And all of the actions above have a purpose or can have an impact on acts of discrimination, violence, loss of life, and/or social conflict. Furthermore, the hate speech as referred to above, aims to incite and ignite hatred against individuals and/or groups of people in various communities which are differentiated from various aspects.

Repressive Police Efforts are steps taken by the police to reduce and prevent cyberbullying crimes in Indonesia. These efforts include outreach to educational institutions, institutions, campuses and the community on a regular basis, internet ethics, the role of parents must be more intensive in monitoring children's development regarding the influence of internet media, police officers routinely carry out "anti-bullying" campaigns (stop bullying). This effort also includes technological approaches (techno prevention) and social organizations.

Police repressive efforts in handling cyber-bullying cases are very important to enforce the law and provide justice to victims. The police can take various steps to resolve cyber-bullying crimes, including:

1. Investigation: Police conduct an investigation to gather evidence and identify the perpetrator of cyber-bullying.
2. Arrest: If sufficient evidence is found, the police can arrest the perpetrator.
3. Confiscation of Evidence: Evidence related to cyber-bullying crimes, such as electronic devices used to commit cyber-bullying, may be confiscated by the police for investigative and judicial purposes.
4. Investigation: The police conducted a thorough investigation to uncover the motive and network of cyber-bullying perpetrators.
5. Outreach and Education: The police provide education to the public about the dangers of cyber-bullying and the importance of safe and responsible online behavior.
6. Legal Action: The police take legal action against cyber-bullying perpetrators in accordance with applicable legal provisions, such as the ITE Law or the Child Protection Law.
7. Collaboration with Related Parties: The police collaborate with related parties, such as child protection agencies, non-governmental organizations, and educational institutions, to provide protection and assistance to victims of cyber-bullying.
8. Prevention: The police also take preventative steps to prevent cyber-bullying crimes from occurring, such as increasing public awareness about the negative impacts of cyber-bullying and promoting anti-cyber-bullying campaigns.

By taking these steps, it is hoped that the police can provide protection to victims of cyber-bullying and prevent this crime from occurring in the future.

2. Criminal Law Policy for the Era of Industrial Revolution 4.0 in Resolving Cyber-Bullying Crimes in Indonesia

Social media is a medium that is very easy to influence other people with various messages, sayings, images that have negative, harassing, intimidating, divisive content by accidentally saying but the sentences spoken are motivated by crime. Indonesia is one of the countries with very high social media users, reaching 88.1 million people, so it is prone to crime. Based on the results of studies, it shows that there are various crimes committed by Indonesian people through mass media, including: defamation, insults, hate speech, and cyber-bullying⁵. Apart from that, in the era of the industrial revolution 4.0, there has been a shift in public communication, which was originally to convey short messages, but now communication on social media has become a tool for conveying information with negative nuances, defaming good names, bullying good people regarding individuals, institutions, positions and agencies.

Related to this, criminal law policies regarding crimes in the era of the industrial revolution 4.0 in the form of cyber-bullying, defamation and crimes on social media can refer to the General Criminal Code (KUHP) and Law no. 11 of 2008. The General Criminal Code (KUHP) and this law regulate all prohibitions, actions, ethics in using communication tools, the use of telecommunications and explanations of criminal penalties and sanctions, but do not specifically regulate the crime of cyber-bullying. Including the 2015 Criminal Code in chapter 8 of Book Two. The fifth part, in paragraphs one to two, regulates actions that cause damage to electronic systems used by the government in objective defense, while the third chapter discussing child pornography via computer. These two chapters do not explain the crime of cyber-bullying. Thus, criminal law policies against cyber-bullying crimes are urgently needed to control crime in the era of the industrial revolution 4.0.

The criminal law policy plans for the industrial revolution 4.0 era in resolving cyber-bullying crimes in Indonesia are as follows:

- a. Revise the Criminal Code regarding cyber bullying crimes;
- b. Add articles that regulate and explain cyber-bullying crimes;
- c. Make regulations between law enforcement agencies such as regional police, the Republic of Indonesia's Ministry of Information and Technology, Telkom offices, educational institutions, campuses and agencies.

This can also be done in the form of measures to prevent computer crime by improving the computer security system, especially against hacker or virus attacks. In general, computer crime can be prevented through environmental factors⁶ that is:

- a. Computer education from an early age, starting from school, can increase knowledge and awareness of the wrong forms of behavior in using computer equipment.
- b. Supervision of internet cafes in the community, to prevent internet cafes from becoming a hotbed for the use of sites that violate the law.
- c. Parental supervision of children who use computers and the internet.
- d. Create a forum for children who have advantages in the field of internet networks.
- e. Filtering of sites that undermine young people's norms by the government.
- f. Strict sanctions for internet cafe owners if they do not reprimand their users who are using cyber gambling sites, cyberporn, etc.

⁵Sakban, S. Sahrul, A. Kasmawati, and H. Tahir, "The Role of Police to Reduce and Prevent Cyber-bullying Crimes in Indonesia," in 1st International Conference on Indonesian Legal Studies (ICILS 2018), 2018.

⁶Angkupi, "Crimes Through Electronic Social Media in Indonesia Based on Current Legislation," MIKROTIK J. Manaj. Inform., vol. 2, no. 1, 2017.

- g. The large number of black hat (black hacker) communities in Indonesia is one of the causes of the rise in crime in cyberspace, the weakness of computer systems, and the very small salaries of IT experts in Indonesia causing computer masters to commit crimes to meet their financial needs, so it is necessary to increase the level life for IT experts.

Apart from that, criminal law policy against cyber crime is very important, because updating criminal law policy in the context of law enforcement against cyber crime or cyber bullying can take into account international conventions and cyber crime law enforcement regulations in other countries.

For creating synchronization of law enforcement applications¹. Thus, criminal law policies in resolving cyber-bullying crimes in the industrial revolution 4.0 era still refer to the Criminal Code and Law no. 11 of 2008 as well as transnational crimes, international conventions can be used.

Conclusion

The crime of cyber-bullying is an immoral act carried out through electronic media. This crime causes victims to be ostracized, harassed, pitted against each other, intimidated, threatened, hurt/insult the self-esteem of others, thus causing hostility between them through internet services and mobile technology such as web pages and discussion groups as well as cell phones and text messages (SMS). Criminal law policies in resolving cyber-bullying crimes can be implemented by law enforcement officials in the form of the Criminal Code and Law no. 8 of 2018 concerning Electronic Technology Information by looking at the content of the explanation article by article and the content of the crime committed by the perpetrator. Criminal law policies in the industrial revolution 4.0 era still refer to the rules that apply in Indonesia. Apart from that, criminal law policy against cyber crime is very important, because updating criminal law policy in the context of law enforcement against cyber crime or cyber bullying can take into account international conventions and cyber crime law enforcement regulations in other countries. For creating synchronization of law enforcement applications.

Bibliography

- A. Septi, "Cyber Bullying," *Science Notes*, 2014.
- Angkupi, "Crimes Through Electronic Social Media in Indonesia Based on Current Legislation," *MIKROTIK J. Manaj. Inform.*, vol. 2, no. 1, 2017.
- Azizurrahman, "Renewing Criminal Law Enforcement Policies in the Mass 'Cyber' Era." *Huk.*, vol. 41, no. 2, pp. 298–305, 2012.
- C. SAT, E. Soponyono, and AMES Astuti, "Criminal Law Policy in Efforts to Overcome Cyberbullying in Efforts to Reform Criminal Law," *Diponegoro Law J.*, vol. 5, no. 3, pp. 1–21, 2016.
- Daryono and B. Sugiantoro, "Development of a Cyber Crime Reporting Framework," *JISKA (Jurnal Inform. Sunan Kalijaga)*, vol. 1, no. 3, pp. 133–147, 2017.
- Frensh, S. Kalo, M. Mulyadi, and C. Bariah, "Criminal Policy for Combating Cyber Bullying against Children as Victims," *USU Law J.*, vol. 5, no. 2, 2017.
- IMP Diantha and MS SH, *Normative legal research methodology in legal theory justification*. Prenada Media, 2016.
- Liputan6, "6 Victims of Cyberbullying Who Ended in Suicide," *Www.Liputan6.Com*. 2013.
- M. Hidajat, AR Adam, M. Danaparamita, and S. Suhendrik, "The Impact of Social Media on Cyber Bullying," *ComTech Comput. Math. Eng. Appl.*, vol. 6, no. 1, pp. 72–81, 2015
- Mahmud Marzuki, "Legal Research," Jakarta: Kencana Prenada Media, 2015.
- Mersky and J. Price, "The Dictionary and the Man: The Eighth Edition of Black's Law Dictionary, Edited by Bryan Garner," *Wash. Lee Law Rev.*, vol. 63, no. 2, p. 719, 2006.

- Marzuki, *Legal Research: Revised Edition*. Prenada Media, 2017
- Natsir, "Violent Actions in North Cakra, Mataram, West Nusa Tenggara Indonesia," *J. Leg. Ethical Regulations. Issues*, vol. 20, no. 1, pp. 1–7, 2017.
- Pandie and ITJ Weismann, "The Influence of Cyberbullying on Social Media on reactive behavior as perpetrators and as victims of cyberbullying in Christian students at Makassar National Middle School," *J. Jaffray*, vol. 14, no. 1, pp. 43–62, 2016.
- Priyatno, "The Alternative Model of Corporate Criminal Sanction Management in Indonesia," *J. Leg. Ethical Regulations. Issues*, 2017.
- Radar Pekalongan, "6 Bullying Cases Lead to Death." *Radar Pekalongan Daily News*. (Online), 2016.
- Sakban, S. Sahrul, A. Kasmawati, and H. Tahir, "The Role of Police to Reduce and Prevent Cyberbullying Crimes in Indonesia," in *1st International Conference on Indonesian Legal Studies (ICILS 2018)*, 2018

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).