

# New Paradigm In The Treatment Of Cyberbullying Crimes Through An Integrated Cyberbullying Prevention: A Non-Penal Policy In Indonesia

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## Abstract

Technological developments have given rise to new digital crimes. One of them is the crime of cyberbullying, which has become a crucial problem that requires serious attention. Considering the effects of crimes that do not only affect the physical and psychological disorders of their victims, overcoming cyberbullying is not enough just through prosecution or repressive efforts. In addition, there are still weaknesses in the legal provisions in Indonesia. Alternative efforts are needed to prevent and minimize cyberbullying crimes. The purpose of this research is to find out how the form of weaknesses in the regulation of cyberbullying crimes in Indonesian legislation and how efforts to prevent cyberbullying crimes through integrated cyber prevention. this research is a type of juridical-normative research. The results show that the crime of cyberbullying has been accommodated with several provisions of laws and regulations in Indonesia, but there are no provisions of articles whose formulations specifically and limitatively regulate the elements of the crime. integrated cyber prevention by combining technological approaches and prevention based on educational approaches. This includes the provision of parental control functions to prevent the spread of negative content that leads to cyberbullying on smartphones and PC applications. In addition, the government's prevention efforts are also carried out through counseling, education, campaigns, and community support, as well as the establishment of a cybercrime division by the National Police Headquarters to prevent and prosecute cyberbullying crimes.

## 1. Introduction

The rapid development of technology today has had an impact on the speed of accessibility in living life, although on the other hand, technological development also has an effect on the emergence of negative impacts for its users. One form of technological development is the proliferation of social media that can be reached by all levels of society throughout the world, especially in Indonesia. The use of social media makes it easier for users to communicate in a short time and relative, but the media can also be a medium for committing crimes in cyberspace. One of the negative impacts is the rise of cyberbullying. This problem can occur because the use of social media is not balanced with the obligation to carry out the norms and ethics of accessing cyberspace and the ease with which people act behind the anonymity of social media user accounts.<sup>1</sup>

Cyber bullying crimes include criminal acts committed by someone through short messages using internet media and information and electronic technology to insult, degrade and harass other people in the form of writing, pictures, symbols and other animations. Bullying can usually be in the form of short messages or writings posted on twitter, facebook, instagram, line, and other social media accounts carried out by close people or peers and even the public. The existence of writings containing bullying can cause someone to be offended, angry, embarrassed, even to the extent of depression to suicide.<sup>2</sup>

Cyberbullying is a crime that uses cyberspace media (through social networking media or other digital media) in the form of acts of humiliation and public attacks on honor that have certain characteristics, including repeated actions, causing harm and suffering both physically and psychologically, usually because there is an element of revenge or to humiliate the victim. Cyberbullying has the potential to become more common than traditional bullying. While conventional bullying mostly takes place in school or at home, cyberbullying victims can be targeted anywhere, at any time, and the number of victims is huge with little supervision. Teachers or parents are seen as the enforcers in traditional bullying whereas in cyberbullying there is no clear authority as child victims of bullying are hesitant to tell adults for fear of losing online access.<sup>3</sup> Although the relationship between conventional bullying and cyberbullying is not fully known, it is clear that victims of cyberbullying crimes have a high prevalence of intense Internet use.<sup>4</sup>

In Indonesia, cyberbullying is classified as a crime that is difficult to identify because victims prefer not to reveal or tell others by remaining silent and feeling

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<sup>1</sup> Mega Fitri Hertini dan Sri Ismawati, "Techno Prevention Sebagai Kebijakan Non Penal Dalam Upaya Penanggulangan Kejahatan Cyberbullying," *Jurnal Komunikasi Hukum (JKH)* 9, no. 1 (Januari 2023): 863-70, <https://doi.org/10.23887/jkh.v9i1.58037>.

<sup>2</sup> Abdul Sakban dkk., "The Role of Police to Reduce and Prevent Cyber-Bullying Crimes in Indonesia," dalam *Proceedings of the 1st International Conference on Indonesian Legal Studies (ICILS 2018)* (1st International Conference on Indonesian Legal Studies (ICILS 2018), Semarang, Indonesia: Atlantis Press, 2018), <https://doi.org/10.2991/icils-18.2018.7>.

<sup>3</sup> Wanda Cassidy, Margaret Jackson, dan Karen N. Brown, "Sticks and Stones Can Break My Bones, But How Can Pixels Hurt Me?: Students' Experiences with Cyber-Bullying," *School Psychology International* 30, no. 4 (Agustus 2009): 383-402, <https://doi.org/10.1177/0143034309106948>.

<sup>4</sup> Jaana Juvonen dan Elisheva F. Gross, "Extending the School Grounds?-Bullying Experiences in Cyberspace," *Journal of School Health* 78, no. 9 (September 2008): 496-505, <https://doi.org/10.1111/j.1746-1561.2008.00335.x>.

afraid, so they are reluctant to tell or report these actions.<sup>5</sup> From the results of research by the Center for Digital Society (CfDS) UGM as of August 2021 entitled Teenager-Related Cyberbullying Case in Indonesia with 3,077 junior and senior high school student respondents and in the age range of 13-18 years with a distribution of respondents from 34 provinces, surprising findings were produced where there were 1,895 students (45.35%) who admitted to having experienced bullying, while 1,182 students (38.41%) were the perpetrators.<sup>6</sup>

Seeing the large number of cyberbullying victims above, a criminal law policy through non penal policy means is needed to prevent more victims. This is important to do by looking at the many weaknesses in the regulation of cyberbullying crimes in several related laws and regulations. There are article formulations that contain norm ambiguity or unclear rules that trigger debate and differences in interpretation that are detrimental to justice seekers. Not to mention the development of information technology and the many types of social networking media that result in the widespread of writings or content containing insults in cyberspace.<sup>7</sup>

Seeing that there are still weaknesses in law enforcement through the penal route in taking action against cyberbullying perpetrators, it is necessary to formulate a non-penal policy in overcoming cyberbullying through an integrated prevention model to create friendly and ethical use of cyber media so that the use of technology does not lead to legal problems due to malicious behavior arising from actions that lead to insults in cyberspace.<sup>8</sup>

## 2. Method

This research is a type of normative juridical research because this research focuses on the study of the application of rules or norms in positive law<sup>9</sup>, namely the legal provisions governing cyberbullying crimes in the Criminal Code and ITE Laws. as for the approach used in this research is a statutory approach and conceptual approach. the statutory approach is used because in this study it examines the weaknesses of the regulation of cyberbullying crimes in the Criminal Code and the ITE law. while the conceptual approach in this study is used to analyze the non-penal policy model in preventing cyberbullying crimes. data sources in this study use secondary legal materials.

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<sup>5</sup> Ade Borami Ju dan Eko Nurisman, "Cyberbullying: Pertanggungjawaban Pidana Anak Atas Hilangnya Nyawa Seseorang Ditinjau Berdasarkan Keadilan Restoratif," *Jurnal Hukum Sasana* 8, no. 1 (8 April 2022): 175–86, <https://doi.org/10.31599/sasana.v8i1.1055>.

<sup>6</sup> Kurnia Yohana Yulianti, & Acintya Ratna Priwati, "Cyberbullying: Unveiling the Digital Landscape of Teenage Bullying in Indonesia," *Penelitian (Fakultas Ilmu Sosial dan Ilmu Politik Universitas Gadjah Mada, 2021)*, <https://cfds.fisipol.ugm.ac.id/wp-content/uploads/sites/1423/2021/09/Digitimes-35.pdf>.

<sup>7</sup> Bambang Indra Gunawan, "Upaya Hukum Penghinaan (Body Shaming) Dikalangan Media Sosial Menurut Hukum Pidana Dan Uu Ite," t.t.

<sup>8</sup> Muhammad Dani Ihkam dan I Gusti Ngurah Parwata, "Tindak Pidana Cyber Bullying Dalam Perspektif Hukum Pidana Di Indonesia," *Kertha Wicara : Jurnal Ilmu Hukum; Vol 9 No 11 (2020)*, 12 Oktober 2020, <https://ojs.unud.ac.id/index.php/kerthawicara/article/view/64580>.

<sup>9</sup> P.D.M. Marzuki, *Penelitian Hukum: Edisi Revisi* (Prenada Media, 2017), <https://books.google.co.id/books?id=CKZADwAAQBAJ>.

### 3. Analysis or Discussion

#### 3.1. Regulation Of Cyber-Bullying In Indonesian Legislation

In the provisions of the Criminal Code currently in force, the crime of cyberbullying is categorized as a general criminal offense that can be interpreted and has compatibility with crimes that lead to defamation / insult as regulated in the provisions of article 310 of the old Criminal Code or the new Criminal Code which reads:

Article 310 paragraph (1) or article 433 paragraph (1) of the New Criminal Code

"Any person who with deliberate intent attacks the honor or good name of a person by alleging something, with the clear intention of making it known to the public, shall, being guilty of libel, be punished by a maximum imprisonment of nine months or a maximum fine of three hundred Rupiahs".

Article 310 paragraph (2) or article 433 paragraph (2) of the New Criminal Code

"If it is committed by means of writings or portraits broadcast, exhibited or affixed in public, it shall, being guilty of libel, be punished by a maximum imprisonment of one year and four months or a maximum fine of three hundred Rupiahs".

The existence of the Criminal Code, which was compiled long before the emergence and development of crimes in cyberspace, has not specifically accommodated the elements of the offense of cyberbullying which is carried out in the form of intimidative actions, actions that lead to harassment or abusive treatment carried out repeatedly through cyber media facilities as is happening today. Therefore, in order to accommodate new crimes that are closely related to the cyber world, the Electronic Information and Transaction Law was established. In the provisions of this law, the crime of cyber bullying can be punished in accordance with the following articles:

Article 27 paragraph (1):

"Every person intentionally and without the right to distribute and/or transmit and/or make accessible Electronic Information and/or Electronic Documents that have content that violates decency.

Article 27 paragraph (3)

"Every person intentionally, and without the right to distribute and/or transmit and/or make accessible Electronic Information and/or Electronic Documents that contain insults and/or defamation".

Article 28 paragraph (2)

Every Person intentionally and without rights disseminates information aimed at creating a sense of hatred or hostility of individuals and/or certain community groups based on ethnicity, religion, race, and intergroup (SARA).

## Article 29

Every Person intentionally and without rights sends Electronic Information and/or Electronic Documents containing threats of violence or fear that are personally intended.

Although the crime of cyberbullying has been accommodated with some of the provisions above, there is no article whose formulation specifically and limitatively regulates the elements of the crime. For example, regarding articles related to defamation, the ITE Law does not clearly define the elements of the offense whether the elements follow the *lex generalis* provisions stipulated in the provisions of the Criminal Code or not. If the article contains ambiguity in its regulation, it will harm the victim. The reliance on the ITE Law for the prosecution of cyberbullying crimes will give birth to a multi-interpretation understanding that is detrimental to justice seekers.<sup>10</sup>

### 3.2. Non Penal Policy In Tackling Cyber Bullying

In realizing criminal politics, it cannot be separated from strategic efforts in crime prevention that can be implemented through penal and non-penal efforts. The use of penal measures focuses on crime prevention through the criminal justice system. Meanwhile, the use of non-penal efforts focuses on crime prevention using means outside the criminal justice system which will practically involve the role of the community through crime prevention measures.<sup>11</sup>

The mechanism of handling crime through non penal policy means has relevance to G.P. Hoefnagels theory of crime prevention where the use of penal means is a crime prevention effort that prioritizes repressive action after a crime occurs. Meanwhile, non-penal efforts prioritize preventive measures before the crime occurs. In the context of macro criminal politics, the use of non penal policy measures is a form of crime prevention policy that is considered the most strategic because it is carried out to minimize and provide treatment by removing conducive factors that trigger crime.<sup>12</sup>

Criminal law policy through non penal policy means is the implementation of a social defence policy that was initiated in order to realize the social welfare of the community. This welfare is intended to provide benefits not only for victims and the general public who are not directly affected by the crimes that occur but also consider the benefits of the perpetrators. Seeing the use of non penal policy measures that prioritize crime prevention, the main target is to deal with the factors that trigger crime, which includes handling social conditions that can indirectly or directly cause and foster crime.<sup>13</sup>

It is necessary to use non penal policy means in preventing cyber bullying crimes because this crime has special characteristics which include the use of

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<sup>10</sup> Hariyanto Hariyanto, 'Konsep Cyberbullying Dalam Perspektif Hukum Pidana' (2021) 4 UNES Law Review 121.

<sup>11</sup> Muladi, *Kapita selekta sistem peradilan pidana*, Cet. 1 (Semarang: Badan Penerbit, Universitas Diponegoro, 1995).

<sup>12</sup> Wenggedes Frensh Frensh dkk., "Kebijakan Kriminal Penanggulangan Cyber Bullying terhadap Anak sebagai Korban," *USU Law Journal* 5, no. 2 (2017).

<sup>13</sup> Barda Nawawi Arief, *Bunga rampai kebijakan hukum pidana: perkembangan penyusunan konsep CRIMINAL CODE baru*, Ed. 1., cet. 1 (Rawamangun, Jakarta: Kencana, 2008).

electronic means to access cyberspace, aimed at hurting someone, the existence of an imbalance of power between the perpetrator and the victim, carried out repeatedly and continuously, causing a publicly known situation, while the perpetrator sometimes uses an unknown identity.<sup>14</sup>

Cyberbullying, which takes place in cyberspace using electronic media, has an impact that does not result in direct physical consequences, but rather has an impact on psychological, mental and spiritual disorders. Cyberbullying is a new form of crime that leads to intimidation, harassment, and defamation of the dignity of the victim, which needs to be addressed urgently. This is important to overcome because the rapid development of technology will have an impact on the increase of crime in cyberspace, so prevention efforts and a legal framework are needed to address the conditions of technological development.<sup>15</sup>

According to Firda efforts to overcome cyber bullying cannot only be carried out partially with criminal law (criminal policy), but must also be taken with an integral/systematic approach. Efforts to overcome cyberbullying must also be taken with a technological approach (techno-prevention). In addition, a cultural approach, a moral/educational approach, and even a global approach (international cooperation) are needed.

Wenggedes and Rizkan, efforts to overcome bullying in cyberspace (cyberbullying) can be done by using countermeasures outside the criminal law with a non-penal policy approach. Overcoming bullying in cyberspace with a non-penal policy approach is carried out using a moral approach and a technological approach. The moral approach is carried out by providing moral education starting from the family so that it can make Internet users have good behavior when using the Internet. The technological approach is carried out by using anti-bullying software in cyberspace, which aims to warn Internet users not to bully in cyberspace.<sup>16</sup>

Raquel, Antonio and Mercedes showed that cyberbullying prevention integrated into the school curriculum, which includes psychological assistance to increase student awareness and responsibility, guidance in positive digital learning and increased supervisory roles of teachers and parents can effectively prevent cyberbullying.<sup>17</sup> Furthermore, Pamela et al found that Cyberbullying requires an integrated method of treatment, involving the contributions of mental health professionals, parents, educators, and digital experts working together

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<sup>14</sup> Wenggedes Frensh, 'Kelemahan Pelaksanaan Kebijakan Kriminal Terhadap Cyberbullying Anak Di Indonesia' (2022) 01.

<sup>15</sup> Rocky Prayogo dan Abraham Ferry Rosando, "Korban Cyberbullying Anak sebagai Korban dalam Pemberitaan Media," t.t.

<sup>16</sup> Wenggedes Frensh dan Rizkan Zulyadi, "Kebijakan Non Penal Dalam Upaya Penanggulangan Perundungan Di Ruang Siber," *Journal Justiciabelen (JJ)* 3, no. 02 (31 Juli 2023): 70, <https://doi.org/10.35194/jj.v3i02.3081>.

<sup>17</sup> Raquel Flores Buils, Antonio Caballer Miedes, dan Mercedes Romero Oliver, "Effect of a Cyberbullying Prevention Program Integrated in the Primary Education Curriculum," *Revista de Psicodidáctica (English Ed.)* 25, no. 1 (Januari 2020): 23–29, <https://doi.org/10.1016/j.psicoe.2019.08.004>.

synergistically. Prevention and countermeasure instruments must be defined, implemented, tested, and incorporated to address cyberbullying.<sup>18</sup>

### 3.3. Integrated Cyber Prevention Schemes In Tackling Cyberbullying

Non penal policy in tackling cyber bullying crime is carried out through integrated cyber prevention. Integrated cyber prevention is an effort by combining important sub-components of crime prevention by combining efforts that are educative and prevention based on a technological approach which is implemented in the following efforts:

1. A number of applications such as Google and social media provide parental control features to prevent the spread of negative content including content that leads to cyberbullying by involving parental supervision and assistance so that children can access the internet safely and wisely.
2. The government's preventive efforts are also carried out by counseling, education, campaigns and assistance to the community. Counseling is held in all elements of society ranging from the education sector, government to the general public both online and offline, for example the promotion of digital literacy webinars initiated by the Ministry of Communication and Information in the education sector, government sector and the general public sector. Education is carried out at all levels of education through national seminars and workshops. Campaigns are carried out through digital media such as social media, online radio, websites and anti-bullying pamphlets posters distributed in several public places. Meanwhile, assistance is provided to victims of cyberbullying through placement in safe houses, providing legal assistance, medical rehabilitation, mental and psychosocial rehabilitation by the integrated service center for the protection of women and children (P2TP2A).<sup>19</sup>
3. The government, through the National Police Headquarters, has established a special cybercrime unit, one of whose tasks is to conduct cyber patrols to monitor, control, and take action against crimes committed through social media and other Internet uses to prevent the spread of false news, online gambling, online fraud, cyberbullying, hate speech, and pornographic content.

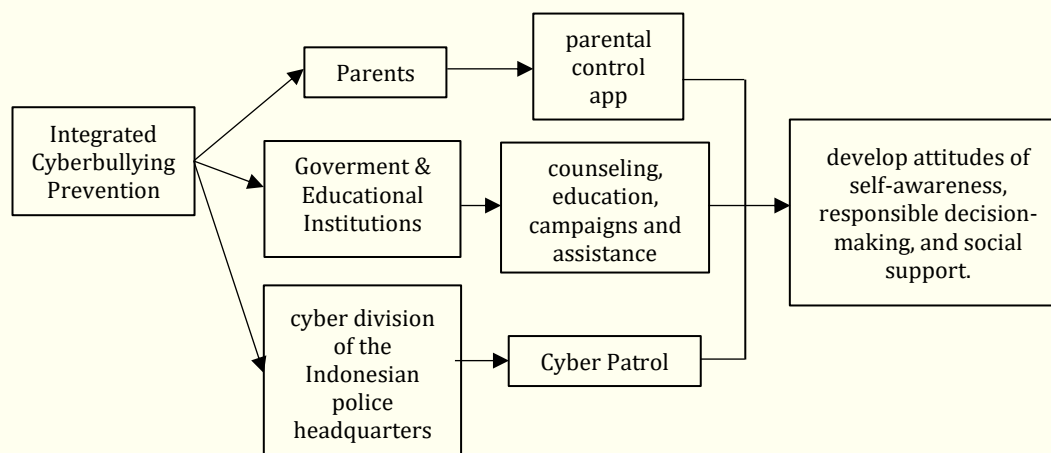
The three prevention models above are efforts that must be integrated because a prevention system that involves many approaches will maximize efforts to reduce the occurrence of cyberbullying. If it can be carried out in tandem, it will have an impact on the growth of awareness and self-control, the emergence of a sense of responsibility and self-control and strong social support so that negative cyberbullying behavior can be avoided. More simply, the integrated cyberbullying prevention strategy can be depicted in the following scheme:

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<sup>18</sup> Pamela Tozzo dkk., "Family and Educational Strategies for Cyberbullying Prevention: A Systematic Review," *International Journal of Environmental Research and Public Health* 19, no. 16 (22 Agustus 2022): 10452, <https://doi.org/10.3390/ijerph191610452>.

<sup>19</sup> Abdul Sakban dan Zaini Bidaya, "Desain Pola Integrasi Cyber dalam Mengurangi Kejahatan Cyberbullying," *CIVICUS: Pendidikan-Penelitian-Pengabdian Pendidikan Pancasila dan Kewarganegaraan* 9, no. 1 (30 Maret 2021): 38, <https://doi.org/10.31764/civicus.v9i1.5815>.

Figure 3.1. Integrated cyberbullying prevention scheme



Parents' supervision using parental control applications can protect adolescents from cyberbullying and cybervictimization, the feature is effective in giving children the power to access the virtual world but can remain under parental control and control. In addition, in terms of possible intervention strategies, if parents want to be active online, this does not mean that they should turn off their children's electronic devices, but they should know what is going on, share their concerns with them, and give them knowledge about the Internet, but also set rules and limits if necessary.<sup>20</sup>

Awareness campaigns in cyberbullying prevention aim to educate and nurture community values. Awareness campaigns both through conventional and interactive digital methods have the same goal to educate the public especially in eradicating this problem. The power of social media has a strong influence in developing knowledge about cyberbullying as an educational tool to deliver messages about cyberbullying.<sup>21</sup>

Cyber patrols can help in conducting data analysis to identify and analyze various patterns in cyberbullying. Cyber patrols can automate the system to update the database and also perform other reporting features.<sup>22</sup>

## 4. Conclusion

The urgency of non penal policy efforts in combating cyberbullying is to prevent conducive factors that trigger the increase of cyberbullying crimes, which not only cause physical, mental and social losses and suffering to their victims. Non-penal policy efforts against cyberbullying crimes are carried out by integrated cyber prevention through the creation of parental control applications by giving parents the authority to monitor children's activities in cyberspace that lead to

<sup>20</sup> Anna Costanza Baldry, Anna Sorrentino, dan David P. Farrington, "Cyberbullying and Cybervictimization versus Parental Supervision, Monitoring and Control of Adolescents' Online Activities," *Children and Youth Services Review* 96 (Januari 2019): 302-7, <https://doi.org/10.1016/j.chilyouth.2018.11.058>.

<sup>21</sup> Amarah A, "Cyberbullying Campaign Review for New Implementation and Prevention," *International Journal of Advanced Trends in Computer Science and Engineering* 9, no. 1.3 (25 Juni 2020): 395-401, <https://doi.org/10.30534/ijatcse/2020/6291.32020>.

<sup>22</sup> Akash Balachandar dkk., "Cyber Patrol – A Cyber Bullying Solution," *International Journal of Computer Sciences and Engineering* 7 (2019).



cyberbullying; the government conducts counseling, education, anti-bullying campaigns and provides victim assistance through the provision of legal aid and rehabilitation: The government, through the National Police Headquarters, conducts cyber patrols to take action against content that leads to bullying, and the Ministry of Communication and Information monitors and confirms the spread of fake news that leads to cyberbullying.

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