

## 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 advancements have led to the emergence of new digital crimes, one of the most pressing being cyberbullying, which has become a significant issue requiring urgent attention. The impact of cyberbullying extends beyond physical and psychological harm to victims, necessitating a response that goes beyond mere prosecution or repressive measures. In Indonesia, existing legal provisions addressing cyberbullying are inadequate, leaving room for improvement in both legal frameworks and preventive strategies. This study aims to identify the gaps in Indonesian legislation concerning cyberbullying and propose integrated strategies for its prevention. Using a juridical-normative research approach, the study reveals that while cyberbullying is addressed in several existing laws and regulations, there is a lack of specific, explicit provisions that comprehensively define the crime's elements. As a result, the legal framework remains insufficient to effectively combat cyberbullying. To address this, the research advocates for an integrated approach to cyberbullying prevention that combines technological solutions with educational initiatives. This includes enhancing parental control features on smartphones and computer applications to block harmful content and promoting community awareness through education, counselling, and public campaigns. Additionally, the establishment of a dedicated cybercrime division by the Indonesian National Police is recommended to improve the enforcement and prosecution of cyberbullying offences.

## 1. Introduction

The rapid development of technology today has significantly accelerated accessibility in daily life. However, it has also brought about negative consequences for its users. Among these advancements is the widespread use of social media, accessible to people worldwide, including in Indonesia. Social media facilitates real-time communication, making it easier for users to connect. Unfortunately, it has also become a platform for cybercrimes. One notable downside is the increasing prevalence of cyberbullying. This issue arises partly because social media usage is not balanced with adherence to norms and ethical behaviour in the digital space. Additionally, the anonymity of social media accounts often enables users to act irresponsibly without accountability.<sup>1</sup>

Cyberbullying 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 only take short messages or writings posted on Twitter, Facebook, Instagram, line, and other social media accounts by close people or peers and even the public. Writings containing bullying can offend and embarrass others, ignite anger, or even lead to depression and suicide.<sup>2</sup>

Cyberbullying is a form of online harassment that uses digital platforms, such as social networking sites or other online media, to attack or humiliate individuals publicly. It often involves repeated actions intended to harm and degrade the victim, causing both physical and psychological distress. These acts are frequently motivated by revenge or a desire to embarrass the target. Unlike traditional bullying, cyberbullying has the potential to be more pervasive. While conventional bullying is typically confined to schools or homes and often involves teachers or parents as authority figures, cyberbullying lacks a clear enforcer. Victims may hesitate to report incidents to adults, fearing loss of internet access.<sup>3</sup> Although the exact relationship between traditional and cyberbullying is not fully understood, evidence shows that victims of cyberbullying are often heavy Internet users, making them particularly vulnerable to this form of abuse.<sup>4</sup>

In Indonesia, cyberbullying is considered a challenging crime to address because victims often choose to remain silent, afraid to disclose or report the

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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>.

incidents.<sup>5</sup> A study conducted by the Center for Digital Society (CfDS) at Universitas Gadjah Mada (UGM) in August 2021, entitled Teenager-Related Cyberbullying Case in Indonesia, surveyed 3,077 junior and senior high school students aged 13-18 from across 34 provinces. The findings were striking: 1,895 students (45.35%) admitted to being victims of bullying, while 1,182 students (38.41%) acknowledged being perpetrators.<sup>6</sup>

Considering the significant number of cyberbullying victims, it is essential to implement criminal law policies through non-penal measures to prevent further harm. This approach is fundamental in light of the regulatory gaps in addressing cyberbullying under existing laws and regulations. Many provisions contain ambiguous norms or unclear rules, leading to debates and differing interpretations that disadvantage those seeking justice. Additionally, the rapid advancement of information technology and the growing variety of social networking platforms have facilitated the spread of offensive content and defamatory remarks in cyberspace, further exacerbating the issue.<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 to overcome 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 behaviour arising from actions that lead to insults in cyberspace.<sup>8</sup>

## 2. Method

This research adopts a normative juridical method, analyzing rules or norms in positive law<sup>9</sup>, specifically legal provisions governing cyberbullying offences in the Criminal Code and Electronic Information and Transactions (ITE) Laws. This research also employs statutory and conceptual approaches. The statutory approach examines the weaknesses in the regulation of cyberbullying in the Criminal Code and the ITE Law, while the conceptual approach analyzes non-penal policy models for preventing cyberbullying. The data sources in this study consist of 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 Cyberbullying In Indonesian Legislation

Under the provisions of the current Criminal Code, cyberbullying is categorized as a general criminal offence. It aligns with offences related to defamation or insult, as regulated in Article 310 of the previous Criminal Code and the revised Criminal Code, stating:

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

"Any person who with deliberate intent attacks the honour 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 cyberbullying. This includes intimidating actions that escalate to harassment or abusive behaviour, often repeated through digital platforms as seen today. To address these emerging cyber-related crimes, the Electronic Information and Transactions Law was established. Under this law, cyberbullying offences can be punished according to the following provisions:

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.

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.

While cyberbullying is addressed in the provisions above, none of the articles specifically and comprehensively define the elements of the offence. For example, articles related to defamation in the ITE Law do not specify whether their elements align with *lex generalis* provisions or stand independently. This lack of clarity creates ambiguity, which can harm victims. The reliance on the ITE Law for the prosecution of cyberbullying crimes may lead to multiple interpretations, ultimately hindering the pursuit of justice for justice seekers.<sup>10</sup>

### 3.2. Non-Penal Policy in Tackling Cyberbullying

Realizing criminal politics and strategic measures in crime prevention are inextricable. These measures can take penal and non-penal approaches. While penal measures focus on crime prevention through the criminal justice system, non-penal prevent crimes outside the criminal justice system by involving the role of the community as part of crime prevention measures.<sup>11</sup>

The approach to handling crime through non-penal policy aligns with G.P. Hoefnagel's theory of crime prevention, which distinguishes between penal and non-penal efforts. Penal measures focus on repressive actions taken after a crime has occurred, while non-penal measures emphasize preventive strategies aimed at stopping crimes before they happen. Within the broader framework of macro criminal policy, non-penal measures are seen as highly strategic. They aim to minimize criminal activity by addressing and eliminating factors that create an environment conducive to crime, thereby offering a proactive form of crime prevention and treatment.<sup>12</sup>

Non-penal policy measures in criminal law represent a social defence strategy aimed at promoting the overall welfare of society. This approach seeks to benefit not only the victims and the general public, who may not be directly impacted by crimes but also considers the interests of the offenders. By focusing on crime prevention, non-penal measures target the root causes of criminal behaviour, addressing underlying social conditions that either directly or indirectly contribute to or encourage criminal activity.<sup>13</sup>

To effectively prevent cyberbullying, it is essential to consider non-penal policies. This crime involves the use of electronic devices to access cyberspace with the intent to harm, often characterized by a power imbalance between the perpetrator and the victim. It typically occurs repeatedly and persistently, creating

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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).

a situation that becomes widely recognized, with perpetrators sometimes hiding behind anonymous identities.<sup>14</sup>

Cyberbullying, which takes place in cyberspace using electronic media, may have indirect physical consequences, but it may cause psychological, mental, and spiritual problems. Cyberbullying involves intimidation, harassment, and defamation of the dignity of the victim, and this issue needs to be addressed urgently. Surmounting this issue is crucial, as the rapid development of technology is likely to lead to a rise in cybercrime. To tackle this effectively, proactive prevention measures and a robust legal framework must keep pace with the evolving conditions of technological development.<sup>15</sup>

Firda suggests that surmounting cyberbullying requires a comprehensive and systematic approach, incorporating criminal law (criminal policy) alongside other strategies. This includes leveraging technology (techno-prevention), fostering cultural awareness, promoting moral and educational initiatives, and embracing international cooperation for a global response.

Wenggedes and Rizkan suggest that addressing cyberbullying may require strategies beyond criminal law, focusing on a non-penal policy approach. This involves both moral and technological measures. The moral approach emphasizes instilling moral values through education within families, fostering responsible and ethical behaviour among internet users. Meanwhile, the technological approach leverages anti-bullying software to discourage harmful online behaviour by alerting users and promoting a safer digital environment.<sup>16</sup>

Raquel, Antonio, and Mercedes showed that cyberbullying prevention is 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, which 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 synergistically. Prevention and countermeasure instruments must be defined, implemented, tested, and incorporated to address cyberbullying.<sup>18</sup>

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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>.

<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>.

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

A non-penal policy to tackle cyberbullying crime takes place through integrated cyber prevention. Integrated cyber prevention combines important sub-components of crime prevention involving educative and preventive measures based on a technological approach:

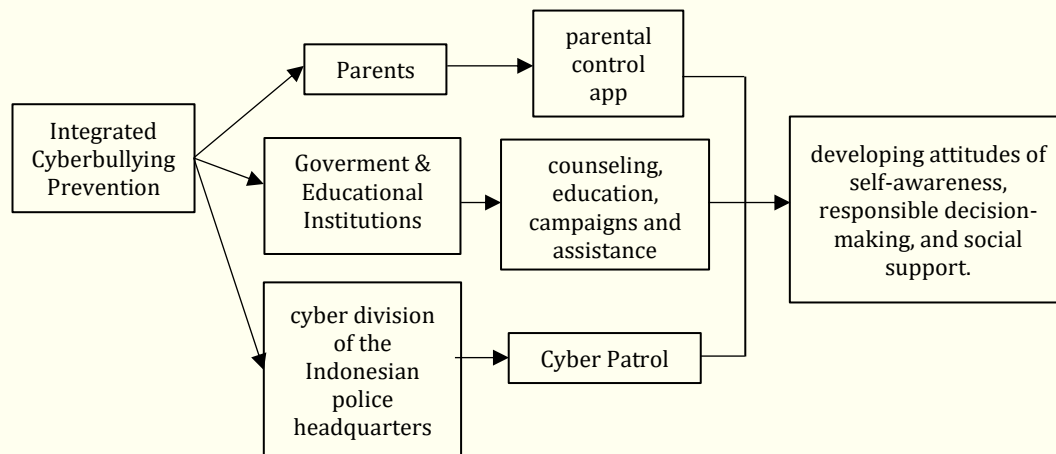
1. Several applications such as Google and social media provide parental control features to prevent the spread of harmful content, including content that leads to cyberbullying, by involving parental supervision and assistance, ensuring that children can access the internet safely and wisely.
2. The government's preventive measures are taken by providing counselling, education, campaigns, and assistance to the community. Counselling is held in all societal elements, from the education sector and government to the general public, both online and offline. This includes 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 and posters distributed in several public places. Meanwhile, assistance is provided to victims of cyberbullying through placement in safe houses, legal assistance, medical rehabilitation, and 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 on social media and other Internet use to prevent the spread of fake news, online gambling, online fraud, cyberbullying, hate speech, and pornographic content.

The three prevention models outlined above must work together as an integrated system to effectively minimize cyberbullying. Combining multiple approaches enhances the preventive effort, fostering greater awareness, self-control, and a sense of responsibility among individuals while building strong social support networks. These elements create a powerful framework to discourage harmful online behaviours. In essence, this integrated strategy for preventing cyberbullying is illustrated in the following scheme:

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<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



Using parental control applications can help safeguard adolescents from cyberbullying and cyber victimization. These tools allow young people to explore the virtual world while staying within boundaries set by their parents. For effective intervention, parents do not need to resort to turning off their children's devices. Instead, they should stay engaged with their online activities, openly discuss concerns, guide safe internet use, and establish clear rules and limits when needed.<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 of educating 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 perform other reporting features.<sup>22</sup>

#### 4. Conclusion

The urgency of non-penal policy measures in combating cyberbullying is to prevent conducive factors that trigger the increase in cyberbullying crimes, causing physical, mental, and social losses and suffering to their victims. The non-penal policy against cyberbullying requires the integration of cyber prevention through the creation of parental control applications, which give parents the authority to monitor children's cyberspace activities that could lead to cyberbullying. The government conducts counselling, education, and anti-bullying campaigns and provides victim assistance through legal aid and rehabilitation. The government,

<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).



through the National Police Headquarters, also conducts cyber patrols to take action against content that potentially sparks bullying, while the Ministry of Communication and Information monitors and confirms the spread of fake news that may give rise to cyberbullying.

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