

HUMANIORASAINS Jurnal Humaniora dan Sosial Sains Vol. 2, No. 1, E-ISSN: 3032-5463

SOCIAL MEDIA AND CYBERBULLYING: LEGAL AND ETHICAL PERSPECTIVES IN COMMUNICATION

Khoirunnisa Khoirunnisa^{1*}, Didi Jubaidi²

Universitas 17 Agustus 1945 Jakarta Jl. Sunter Permai Raya No. 1, 14350, Indonesia Email: <u>khoirunnisa@uta45jakarta.ac.id¹</u>, didijubaidi@gmail.com²

Abstrak

Article history: Received: 15 January 2025 Revided: 15 January 2025

Accepted:

16 January 2025

Sosial, Perspektif

Komunikasi, Law, Media

Kata Kunci: Cyberbullying, Etika

Hukum.

ARTICLE

INFO

Cyberbullying adalah bentuk intimidasi yang dilakukan melalui media sosial, seiring meningkatnya penggunaan teknologi dan media sosial. Fenomena ini berdampak serius pada psikologis korban. Penelitian ini mengkaji cyberbullying dari perspektif hukum dan etika komunikasi, dengan menyadari bahwa regulasi yang ada seringkali kurang efektif menangani kasus ini. Penggunaan media sosial secara etis sangat penting, tidak hanya untuk menjaga martabat diri dan orang lain tetapi juga mencegah dampak negatif dan komplikasi hukum. Penelitian ini menganalisis peran media sosial dalam fenomena cyberbullying serta aspek hukum dan etika komunikasi dalam pengaturannya di Indonesia. Dengan metode yuridis normatif dan pendekatan legislatif, penelitian ini menggunakan data sekunder dari studi pustaka. Hasil penelitian menunjukkan bahwa cyberbullying terjadi akibat kurangnya kesadaran etis dalam penggunaan media sosial. Diperlukan regulasi yang lebih tegas dan spesifik untuk meningkatkan penanganan kasus, melindungi korban, dan menciptakan lingkungan daring yang lebih aman dan bermartabat.

Abstract

Cyberbullying is intimidation conducted through social media, emerging with the rise of technology and social media use. This phenomenon has severe psychological impacts on victims. This study examines cyberbullying from the perspectives of law and communication ethics, recognizing that current regulations often inadequately address such cases. The ethical use of social media is essential, not only to uphold dignity but also to prevent negative effects and legal complications. This research analyzes the role of social media in cyberbullying and the legal and ethical aspects of its regulation in Indonesia. Employing a normative juridical method with a legislative approach, the study uses secondary data from literature. Findings reveal that cyberbullying stems from insufficient ethical awareness in social media use. Addressing this requires stronger, specific regulations to improve case management, enhance victim protection, and foster a safer, more respectful online environment.

Keywords: Cyberbullying, Communication Ethics,

Law, Legal Perspective, Social Media

INTRODUNTION

The development of technology today presents a variety of responses from society. Individuals who accept changes positively will utilize technological advances to facilitate their daily activities. However, it is different with people who have a negative attitude; they do not take advantage of technological advances to develop their potential, but instead use them for negative behaviors that harm themselves and others. This is due to their inability to accept the changes that occur in society. People who behave negatively tend to be undeveloped in thinking and reject progress in various aspects of life, so their actions often violate the rule of law, even to the point of committing crimes, especially by utilizing technological developments, especially information technology such as computers and the internet (cybercrime) (Khoirunnisa & Jubaidi, 2023).

The phenomenon of crime through information technology is a matter of great concern. The advancement of information technology, despite bringing a practical digital revolution in the business world, also has a terrible dark side (Maman Suherman, 2015). This is because advances in information and communication technology can also be utilized to commit criminal acts that violate the law and harm people, society, and the State (Hartanto & Aida Dewi, 2020).

Initially, social media was only used to socialize with friends and relatives, but now it has begun to penetrate into communication between individuals and institutions. (Ardha, 2014). Social media gives people the freedom to express their opinions indirectly. However, on the other hand, this also poses a threat to users due to the rules in the Electronic Information and Transaction Law (UU ITE) which are considered to limit freedom of speec h (Rahmawat i & Mar iza l, 2021). Behavioral changes that occur in the context of using social media and the internet are very dynamic and are influenced by various factors.

Although social media and the internet provide convenience in social interaction and obtaining information, not all individuals can use them properly and responsibly. Some of them tend to take advantage of this convenience to behave negatively. Cyberbullying is one example of deviant behavior that is done intentionally through the internet media. Cyberbullying is included in the category of cybercrime, where the perpetrator deliberately commits actions aimed at hurting, degrading, or bringing down someone by using computer technology, the internet, and social media (Brequet, 2013).

Bullying is an aggressive act that disturbs the comfort and hurts others, which generally involves a difference in power or psychological status between the victim and the perpetrator, and these actions are often repeated (Kowalski, 2013). Based on the media used, bullying can be divided into two main types, namely traditional bullying and cyberbullying (Modecki, 2014). Traditional bullying occurs through direct contact between the perpetrator and the victim, such as in situations at school, work, or other social environments.

Examples of traditional bullying include physical harassment, intimidation, teasing, or direct verbal bullying. On the other hand, cyberbullying occurs through the medium of social media and digital technology. In cyberbullying, victims are harassed, mistreated, or intimidated through social media platforms, text messages, emails, online comments, or harmful content shared online. Forms of cyberbullying include the dissemination of personal or embarrassing information, online verbal abuse, threats, insults, or the creation of demeaning content (Modecki, 2014).

In the case of cyberbullying, the perpetrator uses technological media as a tool to intimidate, harass or spread harmful content. Victims of cyberbullying can experience serious psychological impacts, such as stress, depression, low self-esteem, or even suicidal thoughts. It is important to recognize and prevent cyberbullying by raising awareness of its negative impacts and involving all parties, including individuals, educational institutions, families, and governments, in the fight against cyberbullying. Legal protection also needs to be strengthened to combat cyberbullying and provide strict sanctions to perpetrators.

Education on responsible use and online etiquette is also important so that individuals can use social media and the internet in positive and constructive ways, and promote a safe and inclusive environment online. Cyberbullying has the potential to cause serious impacts on the well-being of victims, as it can reach a wider audience quickly and anonymously. Victims of cyberbullying often feel isolated and find it difficult to escape the constant attacks online.

The importance of ethics in communicating in the use of social media cannot be ignored, considering that every action or deed on social media can have an impact on others. The influence of social media is very large in a person's life, so that each individual must be able to be wise in using social media and still fulfill obligations in real life (R. Maulinda & Suyatno, 2016).

The application of ethics in the use of social media will help avoid negative behavior, as well as protect the rights and privacy of others, so that legal problems can be avoided. Cyberbullying must be stopped, because if left unchecked, it will become a negative culture that harms many people. Perpetrators must be held accountable for their actions that have hurt others. Those who dare to commit unlawful acts must also have the courage to face the consequences of their actions, including receiving appropriate sanctions for the impact of these actions (Jubaidi, 2023).

This article aims to examine the impact of social media in cyberbulling cases and explore the role of social media in the phenomenon of cyberbullying, as well as analyze relevant legal approaches and communication

ethics in handling it in Indonesia. Cyberbullying is a form of harassment conducted online, including through social media, that can cause significant harm to the victim. Mobile social media is the combination of mobile devices, such as cell phones and tablets, with social media.

The main difference between mobile social media and social media on the web is the presence of new factors, such as sensitivity to the user's location (location-sensitivity) or the time delay between sending and receiving messages (time-sensitivity). Society also often experiences struggles of interests that do not always seek the right path, so there are individuals or groups of people who use illegal or unlawful means to fulfill their interests (A. Wahid, 2014).

Based on the description and explanation, the author formulates the problem of how communication ethics in the use of social media and its regulation in positive law in Indonesia.

RESEARCH METHODS

The method employed in this research is normative juridical. Normative juridical research involves the use of laws and regulations as primary study materials, supported by references such as legislation, journals, books, online news, and other literature sources, while emphasizing the approach to applicable laws and regulations (Khoirunnisa, 2023). Additionally, this study applies a descriptive qualitative research method to gain an in-depth understanding of the impact of social media on defamation cases. The qualitative approach enables researchers to collect and analyze data that effectively illustrates the phenomenon of cyberbullying within the context of social media.

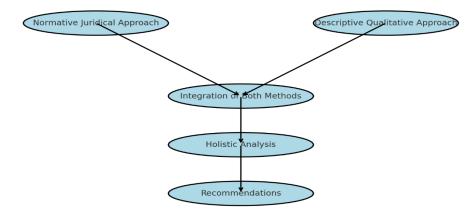


Figure 1. Research Method

By combining the normative juridical method with a descriptive qualitative approach, this research aims to provide a comprehensive analysis of how social media contributes to cyberbullying and its legal implications. The normative juridical method ensures that the study is grounded in legal frameworks, examining existing regulations and their effectiveness in addressing defamation and cyberbullying cases. Meanwhile, the descriptive qualitative approach facilitates a deeper exploration of real-life cases and the social dynamics surrounding these issues.

This dual-method approach allows for a holistic understanding of the phenomenon, bridging the gap between legal theory and practical implementation. The findings are expected to offer insights into the limitations of current laws, propose improvements to regulatory measures, and emphasize the importance of promoting ethical social media use to reduce cyberbullying incidents and enhance legal protection for victims.

RESULTS AND DISCUSSION

1. Definition of Cyber Bullying

Bullying is an aggressive act that manifests itself through abusive behavior and the use of force or intimidation to influence another individual. It is often repeated or potentially repeated, and involves an imbalance of power and/or authority (Elpemi, 2020). The conduct may involve demeaning words, acts of physical violence, or coercive pressure, and may be repeatedly directed at an individual victim, often based on factors such as race, religion, gender, sexual orientation, or ability. The effects of bullying can be profound, often leading to long-term emotional, psychological, and social consequences for the victim. These impacts may include feelings of isolation, depression, anxiety, and a decline in self-esteem. Victims may also experience difficulty in forming and

maintaining relationships, both in personal and professional settings. In extreme cases, bullying can lead to thoughts of self-harm or suicide.

Moreover, bullying does not only affect the victim but can also harm the community or organization as a whole. A culture of bullying can foster an environment of fear and hostility, reducing productivity and morale among peers or colleagues. It is essential to recognize the signs of bullying early and implement effective strategies to address and prevent such behaviors.

Education, awareness, and strong policies that promote respect and inclusion are vital to curbing bullying in any setting, be it schools, workplaces, or online platforms. Legal frameworks also play a critical role in providing protection for victims and holding perpetrators accountable for their actions.

Bullying can occur in a variety of social settings, and when not taken seriously, can negatively impact the well-being and mental health of the individuals affected, such as (Putri, 2018):

- a. Schools, called school bullying: Bullying that occurs in a school setting between students or between students and educational staff.
- b. The workplace, called workplace bullying: Bullying that occurs in the work environment between coworkers or superiors and subordinates.
- c. Internet or digital technology, called cyberbullying: Bullying that occurs through social media, online platforms, or other digital communications.
- d. The political environment, called political bullying: Bullying that occurs in a political context, where individuals or groups use intimidation or threats to influence or discredit their political opponents.
- e. The military environment, called military bullying: Bullying that occurs in the military environment between fellow military personnel or by superiors against subordinates.
- f. In hazing, that is called hazing: Bullying that occurs in the context of membership of a particular group, such as in initiation or acceptance activities within a group, where new members may experience demeaning or harmful treatment.

Cyberbullying is a form of crime that extends from regular bullying and brings it into the digital world. Cyberbullying occurs in the form of verbal crimes in cyberspace and generally involves children as the main victims. According to Willard in his book entitled "Save Our Children From School Bullying" by Novan Ardy Wiyani, there are various types of cyberbullying, such as (Mukhlishotin, 2017):

- a. Flaming: Sending angry and frontal text messages. The term "flame" refers to the emotionally charged words and aggression in the message.
- b. Harassment: Sending persistent annoying messages via email, SMS, or social media.
- c. Denigration: Disseminating negative and derogatory information about someone on the Internet with the aim of damaging their reputation and good name.
- d. Impersonation: Pretending to be someone else and sending harmful messages or statuses.
- e. Outing: Disseminating other people's secrets or private photos without permission.
- f. Trickery: Manipulating someone to reveal secrets or share private photos through trickery.
- g. Exclusion: Deliberately and cruelly excluding someone from an online group.
- h. Cyberstalking: Intensive harassment and defamation of a person that causes severe fear in the victim.

These types of cyberbullying describe harmful and malicious behavior that occurs online, and can cause significant stress and emotional harm to the victims involved.

2. Criminal Regulation of Cyber Bullying in Indonesian Positive Law

A. Regulation of Cyber Bullying Criminal Offenses in Review of the Criminal Code

The Criminal Code (KUHP) serves as the main guide in finding sanctions to be imposed on a criminal act. Provisions regarding criminal offenses in Indonesia are regulated in the Criminal Code and several other special laws, such as the ITE Law (Pradityo, n.d.). Regulations regarding the criminal offense of cyber bullying can be found in Article 310, Article 311, and Article 315 of the Criminal Code.

However, for cyber bullying cases, Article 315 is the most suitable as the legal basis. This article states that any insult intentionally committed against a person, either orally or in writing in public, or in the presence of such person directly by words or actions, or by means of a letter sent or received by such person, shall be punishable by a maximum imprisonment of four months and two weeks or a maximum fine of three hundred rupiahs. Another commonly used term for crimes against honor is "insult". The word "mild insult" in Article 315 of the Criminal Code is defined as "ordinary" in Dutch, namely "eenvoudige belediging," but there are also experts who translate it as "mild" (Hamzah, 2015).

The article is still insufficient to accommodate all acts of cyberbullying that we often encounter today. Although Article 315 of the Criminal Code regulates insults that are intentionally committed without defiling or dishonoring either orally or in writing, this provision is still limited. Article 315 of the Criminal Code does not provide a detailed explanation of the forms of insults that can be considered as minor insults. In other words, the current Criminal Code only regulates insults in a broad sense without details, which may lead to different interpretations in its implementation.

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Furthermore, cyberbullying involves behaviors that are not just limited to verbal insults but can include actions such as online harassment, spreading false information, or creating harmful content that targets an individual. These behaviors can be executed through social media platforms, text messages, or other forms of digital communication, and the impact of such actions can be far-reaching, affecting the victim's mental health and social reputation.

Given the rapid development of technology and the growing prevalence of cyberbullying, there is an urgent need for more specific and comprehensive legal provisions to address these issues. The existing regulations are often outdated and fail to cover the full spectrum of cyberbullying tactics. To effectively combat cyberbullying, it is crucial for the law to evolve, incorporating modern forms of communication and technology. Additionally, a more detailed framework would help ensure consistent legal responses and provide clear guidance on what constitutes cyberbullying, making it easier to identify and prosecute offenders. This can be observed from the elements listed in Article 315 of the Criminal Code, which include (Ismail & Suriani, 2020):

1) Objective Elements:

- a. Refers to the criminal offense of defamation that is not verbal or written defamation. This occurs when a person insults or reproaches another person with factually correct words without the intention of defaming them, but their words cause the other person to feel offended and degrade their dignity as a human being.
- b. States that the offense of defamation is committed in public by speech or writing, or even in front of the person directly by words or actions. This also includes insults that occur through electronic media such as comments or letters.
- c. Refers to the criminal offense of defamation committed through a letter sent or received by the person targeted by the defamation. This letter can be evidence of the act of defamation from both the sender and the recipient.

2) Subjective Elements:

In Article 315 of the Criminal Code, the term "intentionally" is not directly explained. However, based on Memorie van Toelicthing (M.v.T), the meaning of "intentionally" is having the intention or purpose to do so and knowing that the act constitutes an insult (Saroinsong, 2017). Thus, it can be stated that "intentionally" means having the will or awareness of the act committed. A person who acts intentionally intends the act and is aware of what he or she is doing.

The elements of Article 315 of the Criminal Code as described previously clearly regulate the crime of minor insult. However, Article 315 of the Criminal Code does not explain in detail the forms of minor insults included in it. Based on the characteristics of cyber bullying that have been explained previously, it can be concluded that cyber bullying fulfills the objective elements of Article 315 of the Criminal Code, such as insults in the form of oral or written defamation committed in public by speech or writing, as well as in front of the person by speech or action, as well as by mail sent or received to him.

Thus, cyber bullying is part of the crime of minor insults committed to harm a person's body image. Therefore, Article 315 of the Criminal Code can be applied to ensnare netizens who engage in cyber bullying either through comment sections or direct messages because the form of action is written, which can be accessed by many people or in public. In addition, Article 315 of the Criminal Code also applies to target individuals who send cyber bullying messages directly to the targeted person, because this action is in accordance with the elements stipulated in Article 315 of the Criminal Code, which is carried out in front of the person in person (Irawan, n.d.).

B. Regulation of Cyber Bullying Crime in Law Number 11 Year 2008 on Electronic Information and Transaction (ITE Law)

In addition to Article 315 of the Criminal Code which is the legal basis for criminalizing criminal acts of insult through cyberspace (Cyber Bullying), there are also regulations outside the Criminal Code that regulate this matter and have been used in court decisions. These regulations are contained in several articles in Law No. 11 of 2008 on Electronic Information and Transactions which has been amended by Law No. 19 of 2016 on Amendments to Law No. 11 of 2008 on Electronic Information and Transactions, or better known as the ITE Law.

Law Number 11/2008 on Electronic Information and Transactions (UU ITE) does accommodate criminal provisions for cybercrimes, which are criminal acts in the context of using information technology and the internet as a means to commit illegal acts (Fadhila, 2020).

The ITE Law serves as a legal umbrella to regulate and protect electronic transactions as well as regulate obligations, rights, responsibilities, and criminal sanctions related to the use of information technology and electronic transactions. Several articles in the ITE Law regulate criminal actions against illegal acts that occur in cyberspace, including cases of cyber bullying or insults through cyberspace. With the existence of the ITE Law, the government and law enforcement officials have a strong legal tool to take action and punish perpetrators of cyber crime, so that it is expected to provide protection and security for information technology users and society as a whole.

Based on Article 27 paragraph (3) and paragraph (4) of Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE), it is stated that every person intentionally, and without rights, performs

actions such as distributing, transmitting, or making accessible Electronic Information and/or Electronic Documents that have insulting content, defamation, extortion, and/or threatening.

Article 27 paragraph (3) of the ITE Law refers to the criminal offense of defamation which refers to the Criminal Code. Although it does not explicitly mention "criminal defamation through cyberspace" or "cyber bullying," the term "insult/defamation" used in the regulation is general and can often lead to multiple interpretations. In this case, the scope of this offense includes minor insults, which, when viewed from the characteristics of cyber bullying, have fulfilled the elements of the crime of minor insult in Article 315 of the Criminal Code.

Thus, Article 27 paragraph (3) of the ITE Law remains relevant to handle cases of cyber bullying, provided that the act is committed through computer or electronic media and meets the qualifications of the crime regulated in the law. It is important to emphasize that the elements of "making accessible", "distributing," and "transmitting" in Article 27 paragraph (3) of ITE Law are related to the element of "in public" in the Criminal Code. With these three actions mentioned in Article 27 paragraph (3) of the ITE Law, it is hoped that law enforcers can prevent abuse of authority when cracking down on cyber crime. (Wulan, 2020). In this context, the element of "in public" in the Criminal Code refers to actions that are carried out openly and can be accessed by many people.

With the elements of "making accessible," "distributing," and "transmitting" in Art icle 27 paragraph (3) of the ITE Law, then acts of cybercrime, such as cyber insults (cyber bullying), which occur on social media, comment columns, or private messages which are then shared or disseminated to many people, can be considered as acts committed in public. By emphasizing the relationship between the three acts in Article 27 paragraph (3) of the ITE Law and the element of "in public" in the Criminal Code, the hope is that law enforcers will act with integrity and avoid abuse of authority when prosecuting cyber crimes. This will provide legal certainty for the perpetrators and victims of cyber bullying and create a fair and just legal environment in handling cyber crime cases.

Based on the understanding of Article 27 paragraph (3) of the ITE Law, it can be recognized that cyber bullying is a form of insult offense regulated in the Law. Even so, the regulation of the criminal offense of cyber insult (cyber bullying) in the ITE Law is still based on the provisions contained in Article 310, Article 311, and Article 315 of the Criminal Code. Article 310 of the Criminal Code regulates the crime of defamation, Article 311 of the Criminal Code regulates the crime of slander, and Article 315 of the Criminal Code regulates the crime of slander, and Article 315 of the Criminal Code regulates the crime of slander, and Article 315 of the Criminal Code regulates the crime of mild insult. These three articles are the relevant legal basis to ensnare the perpetrators of criminal defamation through cyberspace, in accordance with the characteristics and elements of cyber bullying. Thus, although the ITE Law includes the offense of insult in Article 27 paragraph (3), the main legal basis still refers to the provisions stipulated in the Criminal Code, specifically Article 310, Article 311, and Article 315 of the Criminal Code. This emphasizes the importance of proper use and understanding of legal regulations in handling cases of cyber bullying so that law enforcement can be carried out fairly and in accordance with applicable provisions.

CONCLUSION

Cyberbullying has a negative impact and many end up through legal channels because it involves elements of a criminal offense. The importance of applying ethics in interacting on social media is important to avoid negative behavior and protect the rights and privacy of others, so that legal problems can be avoided. Cyberbullying is also an act that violates the human rights of others. Free expression on social media does not mean obscuring human rights.

Based on the analysis above, it can be concluded that the regulation of cyber bullying criminal offense can be found in Article 310, Article 311, and Article 315 of the Criminal Code. However, Article 315 of the Criminal Code is the most suitable legal basis for the criminal offense of cyber bullying because it fulfills the subjective and objective elements contained in the article.

Outside the Criminal Code, the regulation of cyber bullying can be found in Article 27 paragraph (3) of the ITE Law, because this article describes insults committed through computer facilities or electronic media, in accordance with the characteristics of cyber bullying which is an insult through cyberspace. To realize legal justice for the community, especially in the case of cyber bullying, it is recommended that the government and law enforcement officials expand and make more specific arrangements in the Criminal Code. A clear regulation will make it easier to prove crimes in cases like this and provide sanctions in accordance with applicable laws, with the hope of reducing the criminal offense of cyber insults (cyber bullying).

In addition, it is also expected that there will be a clear regulation on the criminal offense of cyber bullying outside the Criminal Code, so that it can support the evidentiary process and provide sanctions in the event of a similar case. With that.

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