**Criminal Implementation of Cyberbullying Based on Article 27 of Law No.19/2016 on Electronic Information and Transactions and Islamic Law Perspective**

**Jastin Nurul Inayah1, Taufiq Nugroho2**

 Faculty of Law, Muhammadiyah University of Surakarta, Surakarta, Indonesia

jastinnurulinayah@gmail.com

***Abstract***

*This writing aims to find out how the criminal application of the Crime of Cyberbullying based on Article 27 of the ITE Law and the perspective of Islamic law on cyberbullying. This legal writing focuses more on the application of the principle of legality by law enforcement agencies with the aim of increasing public awareness regarding cyberbullying. In this legal writing, the method used is normative juridical, this article has a difference, namely discussing more specific articles and identifying what cyberbullying acts can be charged with Article 27 paragraph (3) of the ITE Law jo. Article 45 paragraph (3) of the ITE Law, with a maximum imprisonment of 4 years or a fine of Rp750,000,000.00. In addition, Islamic law on cyberbullying will be analyzed to understand the consequences and sanctions according to Islamic law. This research is expected to be able to help law enforcement officials, increase public knowledge and awareness aimed at preventing cyberbullying.*

***Keywords****: cyberbullying, uu ite, Islamic law*

* 1. **INTRODUCTION**

The progress of this sophisticated era and its technological advancements is experienced not just by adults but also by Generation Z, who are increasingly embracing and making use of the current technological progress. Although technology has the potential to bring benefits with all the conveniences offered, it should be remembered that technology does not always have a positive impact and welfare for human life, because it can also be utilized by irresponsible people in carrying out unlawful acts. Technology can be likened to a double-edged knife that can bring advantages and disadvantages that affect human life.[[1]](#footnote-1) The presence of technology has an impact on the development of the world of crime, which initially the crimes we know are limited to theft, murder, insults, and others as defined in the Criminal Code. Crime or criminal acts are a type of deviant behavior that occurs at all levels of society, and no society is free from crime.[[2]](#footnote-2)

With the ease of information exchange, the availability of information is increasingly uncontrollable. A person can freely enter information into the internet media even though the information entered does not necessarily contain facts or may not be suitable for dissemination. Irresponsible parties try to abuse the convenience and freedom that technology offers with the aim of disrupting society. For example, they spread fake news with the intention of deceiving others for personal gain, spread content that harms one party, spread hate speech, defamation, and insults.[[3]](#footnote-3) Technological advancements have encouraged individuals to contribute and at the same time increased their potential for victimization.

Hentig, through Rena Yulia, suggests that victims can contribute to crime in various ways:[[4]](#footnote-4) a. The victim desires the committed crime; b. The crime brings benefits to the victim; c. Harmful outcomes to the victim can result from collaboration with the perpetrator; d. The victim's provocation leads to their own loss.

Social media is one of the information technologies to communicate and can access each site easily. The presence of social media allows us to maintain communication with friends and family. However, the existence of social media is not only used to access useful information but can also be used to carry out criminal activities in cyberspace. One example is the emergence of cybercrime. The targets of cybercrime are divided into several categories, including cybercrime that attacks individuals, cybercrime that attacks property rights, and cyber criminality that invades the government. Individual-attacking cybercrime is a cybercrime whose target is a person or an individual who meets certain characteristics of the purpose of the attack. Examples of crimes that attack individuals are pornography, cyberstalking, cyber fraud, and cyberbullying*.*[[5]](#footnote-5)

Bullying that occurs in cyberspace or on the internet is referred to as cyberbullying. Cyberbullying and bullying are basically the same, both intimidating or harassing weaker individuals. The difference between bullying and cyberbullying lies in the place/scope of intimidation. In bullying, the perpetrator carries out the action directly, while in cyberbullying the perpetrator uses electronic media, social media, or digital technology to intimidate, ridicule, insult, threaten the victim. The impact experienced by victims of cyberbullying is that it can make victims experience psychological pressure, depression, anxiety, worry, and the risk of committing suicide, this cyberbullying is worse because the perpetrators act anonymously (unknown) and can easily contact the victim anytime.[[6]](#footnote-6)

Cyberbullying crimes are rampant in Indonesia, especially by teenagers. Instagram is one of the highest platforms that trigger cases of cyberbullying in Indonesia.[[7]](#footnote-7) An example of a cyberbullying case in Indonesia is a viral case on social media, namely on twitter, which went viral in 2020 Dr. Tirta Mandira Hudhi, commonly known to us as Dr. Tirta, where he raised his voice on twitter that he felt disturbed because he experienced cyberbullying because he was blasphemed by netizens for 3 days, the blasphemy was because Dr. Tirta violated the rules of the Covid-19 health protocol, namely crowding and gathering more than 5 people. As a result, Dr. Tirta became the subject of ridicule by netizens, after feeling Dr. Tirta expressed his sadness through a twitter tweet on his personal account "After this, I will raise my voice about mental health due to CyberBullying. I was blasphemed for 3 days, fortunately I didn't commit suicide. Doesn't mean you can cuss at will and say 'cie baperan." Dr. Tirta tweeted.

Cyberlaw is a new legal framework that is now in place. As the law for the use of information technology, "cyber law" is now used worldwide; The term "Cyber​​​​​​Law" is considered equivalent. Mayantara Act, Cyber​​​​ Law and Information Technology Act are other topics. The use of information technology in virtual and Internet work has led to the emergence of these concepts.[[8]](#footnote-8)

The Indonesian government's efforts to form legislation that balances changes in people's lives due to technological developments that trigger criminal acts are specifically outlined in the ITE Law. Chapter XVI concerning insults lists the relevant sections of the Criminal Code that regulate actions of cyberbullying, including paragraphs (1) and (2) of article 310. However, the word bullying only applies in the actual world. The Electronic Information and Transaction Law in Indonesia has restrictions pertaining to cyberbullying. Specifically, Article 27 paragraph (3) of the ITE Law forbids the use of electronic media for communication that incorporates components of defamation and insults. Because in the ITE Law there are no clear elements regarding cyberbullying.

Hence, this study aims to conduct a juridical examination of cyberbullying offenses, specifically under Article 27, paragraph (3) of the ITE Law. The goal is to offer a thorough analysis of legal provisions for a more comprehensive grasp of law enforcement efforts in Indonesia. The research aspires to elucidate the primary objectives behind the application of justice principles across diverse legal systems, law enforcement bodies, and public education on cyberbullying prevention. Employing a normative juridical method, the study endeavors to shed light on the legal implications of cyberbullying crimes in Indonesia under Article 27 of the ITE Law and explores the perspective of Islamic law on cyberbullying.

* 1. **METHOD** .

This legal research employs the normative juridical method, concentrating on the examination of the application of legal norms to address specific issues.[[9]](#footnote-9) The approach taken involves a statutory analysis relevant to the identified problems.[[10]](#footnote-10) Data for this study is gathered through a literature review, exploring sources and expert opinions. The research conducts a descriptive analysis of the law, particularly Article 27 (3) of Law Number 19 of 2016 amending Law Number 11 of 2008 regarding Electronic Information and Transactions.

* 1. **RESULTS AND SICUSSION**

Cyberbullying is an extension of the word bullying; bullying is a negative action carried out repeatedly by a person or group of people that is offensive because of the imbalance of power between the victim and the perpetrator.[[11]](#footnote-11) In other words, it attacks victims who are weaker than the bully. It usually involves a difference in physical strength. This bullying is usually said to be a threat or disturbance from someone who feels the perpetrator is powerful. It causes the victim to experience physical, mental, and psychological harm. Bullying is both physical and mental violence. Bullying, often known as bullying, is a social issue that affects all walks of life. There are different forms of bullying, such as relational, physical, verbal, and cyber bullying, according to coloroso (Zakiyah in Krisdian and Iman Subekti, 2021). [[12]](#footnote-12)

Hinduja and Patchin describe cyberbullying as a repetitive and deliberate harmful behavior conducted through electronic media.[[13]](#footnote-13), It encompasses social bullying that occurs online, involving harassment and aggression targeted at individuals electronically.[[14]](#footnote-14) According to Kowalski, cyberbullying occurs on various platforms such as websites, chat rooms, email, instant messaging, video games, and through photos or messages delivered via cell phones.[[15]](#footnote-15) Willard adds that cyberbullying involves intentionally sending or spreading content that causes offense to another individual. It can be seen as a type of social violence that utilizes the Internet or other digital technologies. These online conversations are available 7 days a week, 24 hours a day. Destructive texts and images can spread very widely and cannot be completely deleted. Young people are reluctant to share abuse for fear of overreaction, restrictions on online activities, and possible retaliation against the cyberbullying.[[16]](#footnote-16) Therefore, cyberbullying can be defined as aggressive and repeated acts of intimidation, humiliation, and insults against the victim using electronic media or the internet by the bully.

* 1. **Legal Application of the Crime of Cyberbullying based on Article 27 of Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Electronic Information and Transactions against the crime of Cyberbullying.**

The current era, marked by the rapid development of information technology and its profound influence on people's lives, is propelled by the forces of globalization, particularly facilitated by the internet. Technology is essential to daily living. Cyberbullying is one of the negative effects of this development, though. Because of the growth of technology, the internet, and social media, cyberbullying has emerged as the most recent type of bullying. The targets of cyberbullying criminals are children, teenagers, and even adults who can become victims of cyberbullying through online platforms. The main characteristic of cyberbullying is that the perpetrator remains anonymous. Cyberbullying crimes can happen all the time and can potentially be faster and more widespread in society. Cyberbullying has specific characteristics including Non-violence, minimizing of physical contact, using technology, utilizing telematics networks (telecommunications, media, and informatics).

There are several types of cyberbullying actions according to Willard, namely:[[17]](#footnote-17) *flaming, harassment, denigration, impersonation, outing* dan *trikery, exclusion, cyberstalking. Flaming* is an action, such as sending text messages that contain angry and frontal words. *Harassment* is defined as the persistent sending of harassing messages via social networking sites, text messages, or email. *Defamation* is the act of spreading bad things about someone online with the aim of harming the victim's good name and reputation. *Impersonation* When someone impersonates someone else, they send hurtful messages or leave negative comments on photos posted on social media, so that the victim's friends believe that the victim created the status or message. While *Outing* is Spreading other people's personal or secret images with the aim of exposing bad things or violating the victim's privacy. *Trickery* is persuading someone with deception to get their secrets or personal photos, which can one day be used as a weapon to blackmail / threaten. The intentional and harsh act of excluding someone from an online group is known as *Exclusion*. *Cyberstalking* is harassing and defaming someone so intensely that it causes great fear in the victim.

Indonesia possesses adequate regulations to address the criminal act of cyberbullying. Both the ITE Law and the Criminal Code (Kitab Undang-Undang Hukum Pidana) encompass provisions that categorize cyberbullying as a criminal offense in the country. However, neither legal framework explicitly defines cyberbullying. Specific articles within the Criminal Code govern cyberbullying, particularly in Chapter XVI concerning insults, notably in Article 310, paragraphs (1) and (2).[[18]](#footnote-18) Article 310, paragraph (1) of the Criminal Code addresses intentional attacks on honor made public, while paragraph (2) is more applicable in cases where individuals deliberately engage in insults, particularly through written defamation broadcasted publicly.

The Criminal Code predates the current technological advancements. To address regulations within the realm of cyberspace, Law No. 19 of 2016, amending Law No. 11 of 2008 regarding Information and Electronic Transactions, was enacted. While the ITE Law doesn't explicitly define the criminal act of cyberbullying, it includes articles suitable for prosecuting cyberbullying perpetrators. Article 27 encompasses elements such as insult, defamation, threatening, and extortion. Notably, Article 27, paragraph (3) of the ITE Law stipulates that "Any person who intentionally and without right disseminates, transmits, or makes accessible electronic documents with insulting and defamatory content" can be held accountable.

Article 27, paragraph (3) of the ITE Law encapsulates various elements. It delineates that any individual whether an Indonesian citizen, foreign citizen, or legal entity—committing intentional actions without rightful authorization, implying a conscious awareness of the content's insulting and defamatory nature, falls under its purview.[[19]](#footnote-19) The narrative unfolds with the deliberate distribution and/or transmission or making accessible of such content to the public. The narrative then delves into the realm of insult and defamation, clarifying that insults perpetrated through electronic media and defamation, as per the Criminal Code, are integral components. The phrase "has the content of insult or defamation" seamlessly integrates into the narrative, signifying one of the criminal acts constituting cyberbullying, where insult denotes an assault on a person's honor and reputation, colloquially known as defamation.

Based on Article 27 paragraph (3) of the ITE Law, cyberbullying is considered a criminal offense of insulting, disseminating information that demeans or defames a person through electronic media. Although Article 27 does not explicitly explain the term "cyberbullying". However, Article 27 paragraph (3) covers various actions that can be classified as cyberbullying crimes.

There are several examples of classification of cyberbullying actions that fall into the elements of Article 27 paragraph (3) of the ITE Law: a. Insult is the act of saying something that hurts someone's feelings or demeans their dignity. Verbally, in writing, behavior that causes the victim to feel embarrassed, hateful and can lead to depression. This conduct occurs via electronic media or social platforms. Denigration constitutes disseminating electronic information that damages an individual's image, encompassing activities like spreading slander, hate speech, and engaging in body shaming through social or electronic media. As for slander, it involves oral defamation, entailing the spread of false information about an individual verbally or through audio-visual recordings disseminated through electronic media. In contrast, libel is the crime of spreading slander or lies through written statements.[[20]](#footnote-20); d. Harassment is the repeated act of harassing someone through text messages, social media, email. [[21]](#footnote-21) This perpetrator often sends comments on social media that cause the victim to feel uncomfortable or uneasy.; e. Outing and trickery, outing is spreading other people's secrets, for example, someone's private photos are disseminated which can cause the victim to feel embarrassed, depressed. While Trickery is a fraud committed by persuading others to get secrets or photos of the victim.[[22]](#footnote-22)

The individuals involved in perpetrating cyberbullying offenses, which contravene and fulfill the stipulations set forth in Article 27, paragraph (3) of the ITE Law, find themselves intricately connected to the provisions outlined in Article 45, paragraph (3) of the same legal framework. This particular article delineates that these wrongdoers may face legal consequences, which include imprisonment for a maximum duration of 4 years and/or a substantial fine, reaching up to Rp750,000,000.00, particularly when the injurious actions manifest on social media platforms.

Furthermore, the legal landscape unfolds in Article 45, paragraph (5) of Law Number 19 of 2016, which introduces amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. This provision explicitly elucidates that Article 27, paragraph (3), which falls under the purview of the penalties outlined in Article 45, paragraph (3), is categorized as a complaint offense. This implies that the legal proceedings against the perpetrators of cyberbullying, as described in Article 27, paragraph (3), can be initiated and pursued based on a formal complaint filed by the offended party, adding a layer of procedural intricacy to the legal framework governing cyberbullying offenses.[[23]](#footnote-23) What is meant by complaint offense, namely. Offenses that can only be processed by the police if there is a complaint from the victim.[[24]](#footnote-24)

According to the Criminal Code (KUHP), defamation is considered a criminal offense that necessitates a complaint from the aggrieved party, commonly known as a "complaint offense." In Constitutional Court Decision Number 50/PU-VI/2008, which assesses the constitutionality of Article 27, paragraph (3) of the ITE Law, it is clarified that this article also falls under the category of a complaint offense. This signifies that legal proceedings can take place if there is a complaint from an offended party. The Criminal Code governs provisions related to insult or defamation, while the ITE Law serves as a specialized regulation derived from the Criminal Code, following the legal principle "lex specialis derogat legi generalis," indicating that special laws take precedence over general laws. Article 310 of the Criminal Code represents the lex generalis for criminal acts of defamation and insult, whereas Article 27, paragraph (3) of the ITE Law serves as lex specialis.[[25]](#footnote-25)

In the consequential legal proceedings at the Sleman State Court, documented in Verdict No.471/Pid.Sus.2013/PN/Slmn, a Twitter account became the focal point of cyberbullying allegations, specifically targeting custodians with insulting content. The accused, without obtaining prior consent from the accuser, uploaded a stamp, leaving the victim at D'Paragon and the witness Prayitno feeling humiliated and disappointed. The court's decisive ruling found the accused guilty under Article 27, paragraph (3) of the ITE Act, resulting in a judicial sentence of a 4-month imprisonment term and a fine of Rp 1,000,000. Additionally, a subsidiary penalty of 1 month in jail was imposed. This case, a poignant example of cyberbullying crimes, falls squarely within the denigration category, reflecting the court's commitment to addressing such offenses with severity.

It's noteworthy that the legal intricacies of this case led to a deliberate choice not to prosecute the perpetrator under Article 310 of the Covenant on Humiliation. This strategic decision was informed by the legal principle "lex specialis derogate legi lex generalis," wherein the ITE Act is considered lex specialis while the covenant is viewed as lex generalalis. Despite the ITE Act not explicitly detailing cyberbullying, the legal application classifies the perpetrator's actions as cyberbullying offenses, encompassing humiliation, denigration, defamation, harassment, outing, and trickery. The charges were brought forth using Article 27, paragraph (3) of the ITE Law in conjunction with Article 45, paragraph (3) of the ITE Law, bringing forth the potential for severe criminal penalties a maximum imprisonment term of 4 years and/or a fine of up to Rp750,000,000.00 (seven hundred and fifty million rupiah). This underscores the gravity with which the legal system addresses cyberbullying, aiming to curb such offenses with stringent consequences.[[26]](#footnote-26)

* 1. **Perspective of Islamic Law on Cyberbullying**

Islamic law is the law derived from the Quran and Sunnah that regulates human social behavior in society. Islamic law is a rule or law from Allah and the Prophet Muhammad (PBUH) to regulate human behavior among his people.[[27]](#footnote-27) The only purpose of this arrangement is to a better life for mankind in this world and the Hereafter. The only purpose of this arrangement is to a better life for mankind in this world and the Hereafter. There are four sources of Islam: the Quran, the Hadith, the Imam, and the Qiyas. The Prophet (peace and blessings of Allah be upon him) said: “He who follows the Qur’an will not be lost in his journey.

Moral conduct, known as "Akhlak" in Islam, stands as a cornerstone in its teachings. It signifies recognition of the Creator of the universe and mankind. Akhlak guides Muslims toward virtuous behavior, embodying qualities like compassion and integrity. It serves as a moral compass, shaping character and fostering a harmonious connection between individuals and the divine principles of Islam.[[28]](#footnote-28)

Although Islam doesn't specifically address cyberbullying, its teachings prohibit the humiliation and defamation of individuals, as outlined in the Quran and Hadith. Cyberbullying falls within the broader prohibitions of insulting and defaming, emphasizing the importance of upholding human dignity and respect in both physical and digital interactions. The foundational principles of Islam guide individuals to navigate online spaces with integrity and ethical conduct.

**Al-Quran**

The prohibition of this behavior is explained and included in several letters in the Koran, in the word of God which reads:

 يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْا لَا يَسْخَرْ قَوْمٌ مِّنْ قَوْمٍ عَسٰٓى اَنْ يَّكُوْنُوْا خَيْرًا مِّنْهُمْ وَلَا نِسَاۤءٌ مِّنْ نِّسَاۤءٍ عَسٰٓى اَنْ يَّكُنَّ خَيْرًا مِّنْهُنَّۚ وَلَا تَلْمِزُوْٓا اَنْفُسَكُمْ وَلَا تَنَابَزُوْا بِالْاَلْقَابِۗ بِئْسَ الِاسْمُ الْفُسُوْقُ بَعْدَ الْاِيْمَانِۚ وَمَنْ لَّمْ يَتُبْ فَاُولٰۤىِٕكَ هُمُ الظّٰلِمُوْنَ

“*It is not a good thing for a woman to be a good person, but it is not for a good woman to have a good wife, and it is for a bad woman not to be an evil woman." (Which is insulting). Do not defy one another, and do not call one another with evil names. And whoever does not repent, they are the wrongdoers.*” (Al-Hujurat:11)

In the Qur'an, it is stated: "It is not a good thing for a woman to be a good person, but it is not for a good woman to have a good wife, and it is for a bad woman not to be an evil woman." (Which is insulting). Do not defy one another, and do not call one another with evil names. And whoever does not repent, they are the wrongdoers." (Al-Hujurat:11):

اَلَّذِيْنَ يَلْمِزُوْنَ الْمُطَّوِّعِيْنَ مِنَ الْمُؤْمِنِيْنَ فِى الصَّدَقٰتِ وَالَّذِيْنَ لَا يَجِدُوْنَ اِلَّا جُهْدَهُمْ فَيَسْخَرُوْنَ مِنْهُمْ ۗسَخِرَ اللّٰهُ مِنْهُمْ ۖ وَلَهُمْ عَذَابٌ اَلِيْمٌ

“*(The hypocrites are those who reproach the believers who give alms voluntarily and who (reproach) those who obtain only what they can afford, so the hypocrites insult them. Allah will avenge their insults, and they will have a painful punishment.*” (At-Taubah: 79)

The Surah affirms that hypocrites are people who mock, criticize and underestimate others, even when they do the right thing. Allah will punish those who have committed such wrongs with a painful punishment.

The Qur'an does not describe the acts of cyberbullying but acts that enter into cyber bullying aimed at hurting others through humiliation, pollution of the good name, diffamation, rude speech, and threats, can be attributed to the three letters above. The three letters strictly prohibit bullying and warn that whoever commits such acts against others will face punishment of himself.

**Hadist or As-Sunnah**

As-Sunnah or hadith contains the words, deeds, and attitudes of the Prophet, as-sunnah and hadith as an explanation for the interpretation of the verses in the Qur'an: [[29]](#footnote-29)

عَنْ عَبْدِ اللهِ بْنِ عُمَرَ: رَضِيَ اللهُ عَنْهُمَا: أَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَ سَلَّمَ قَالَ "الْمُسْلِمُ أَخُو المُسْلِمِ لاَ يَظْلِمُهُ وَلَا يسْلِمُهُ وَمَنْ كَانَ فِيْ حَاجَةِ أَخِيْهِ كَانَ اللهُ فِيْ حَاجَتِهِ وَمَنْ فَرَّجَ عَنْ مُسْلِمٍ كُرْبَةً فَرَّجَ اللهُ عَنْهُ كُرْبَةً مِنْ كُرُبَاتِ يَوْمِ القِيَامَةِ وَمَنْ سَتَرَ مُسْلِمًا سَتَرَهُ اللهُ يَوْمَ الْقِيَامَةِ" (رواه البخاري)

From Abdullah ibn ‘Umar ra: that the Prophet saw him said: “*Muslims are brothers. You shall not wrong him, nor destroy him. Whoever helps his brother, Allah will help him, and whoever helps him, When the Day of Resurrection arrives, he will have less hardship. Additionally, God will conceal the humiliation of a Muslim on that day. You shall not wrong him, nor destroy him. Whoever helps his brother, Allah will help him, and whoever helps him, He will relieve him on the Day of Resurrection. He who covers the shame of a Muslim, God will cover his shame on the day of resurrection."* (HR. Al-Bukhari)

The Hadith explains that our Muslims must respect each other and not spread bad news to each other or spread the wickedness and mischief of the Muslims. And we should behave like brothers by helping each other, alleviating difficulties, covering shame. Instead, Allah will fulfill his will, and will lighten his trouble, and cover the Day of Resurrection.[[30]](#footnote-30)

**Punishment of perpetrators of cyberbullying crimes under Islamic law**

Within the expansive realm of cybercrime, negotiations on social media, commonly known as cyberbullying, have emerged as a disconcerting phenomenon where individuals deploy electronic and internet media for their actions. The pervasive nature of cyberbullying raises profound concerns about its impact on individuals and society at large. To comprehensively understand cyberbullying within the view of Islamic law (jarimah), it is essential to embark on a detailed study and classification of these criminal acts, aligning them with the principles of Islamic jurisprudence.

Examining cyberbullying through the lens of Islamic law reveals a nuanced perspective that extends beyond legal considerations to encompass ethical and moral dimensions. As technology continues to shape new forms of interaction, this exploration seeks to unravel the underlying principles that guide the Islamic view on cyberbullying. This holistic inquiry provides a foundation for informed discourse and effective legal responses, addressing the evolving nature of crimes committed in the digital realm within the broader context of Islamic legal principles.

It is therefore important to understand the criteria/classifications that cause an act of cyberbullying to fall into the classification of Islamic crimes. (jarimah). When he sees the elements of the law that must be fulfilled among them[[31]](#footnote-31): a. Al- Rukn al-syari (formal element), the formal element is the existence of a nash (legal provision) that prohibits an act with punitive sanctions. For the crime of cyberbullying itself, there is no text that regulates both in the Koran and Hadith, but the crime of cyberbullying can ensnare the perpetrator using the ITE Law. In addition, the Koran and Hadith prohibit insulting, denouncing, and making fun of fellow Muslims; b. Al-Rukn al-madi (Material Element), the material element is the existence of behavior that forms the jarimah, either in the form of real actions, or by not doing it. In the crime of cyberbullying itself there is a material element, namely the act of deliberately threatening, intimidating, slandering, ridiculing, insulting, and intimidating the victim by sending text messages that are carried out repeatedly; c. Al-Rukn al-adabi (Moral Element), The moral element is a maker or a mukallaf (an individual who is an adult and can be held accountable for his actions. In the crime of cyberbullying itself is a person who has legal capacity (mukalaf) because he can use and optimize the use of technology.

Of the three mentioned elements of Jarimah, cyberbullying aligns with Al-Rukn al-madi and Al-Rukn al-adabi components. [[32]](#footnote-32) In the realm of Islamic law, the perpetration of cyberbullying crimes activates the imposition of sanctions, guided by specific criteria within the framework of "Uqubat" or punishment determination. This intricate process involves weighing various classifications of criminal acts against the severity stipulated by Islamic law.

Within the context of Islamic law, Jarimah Hudud signifies the most serious crimes, primarily targeting public interests and involving harm to the human body. Punishments such as Qishas and Diyat, as dictated by Sharia, carry a distinctive feature: the had punishment is regarded as God's right, while Qishas and Diyat are recognized as human rights. Conversely, Jarimah Ta'zir addresses offenses that pose threats to individuals or disrupt well-being, permitting punishments not explicitly defined by Sharia. Ulil amri or judges possess the authority to determine Ta'zir penalties, exemplifying flexibility in the legal system to address various offenses. These classifications underscore the nuanced approach of Islamic jurisprudence in the administration of justice.

In the context of cyberbullying, these classifications serve as a compass for the application of sanctions, ensuring a response that is both equitable and proportionate in adherence to Islamic law. This underscores the paramount importance of considering factors such as severity, justice, and the safeguarding of public interests when addressing such transgressions within the framework of Islamic jurisprudence.

From the explanation of criminal sanctions according to Islamic law, the perpetrator of the crime can be charged with Jinayah Ta'zir, which is a crime that causes the victim to become afraid, depressed or psychologically depressed. According to the categorization of Jarimah Ta'zir, there is currently no specific regulation determining the extent of punishment for cyberbullying. It falls within the realm of criminal acts subject to Jarimah Ta'zir, wherein the severity of the penalty is at the discretion of the ruler or ulil amri (judge). In Ta'zir punishments, the victim can play a role, and the judge holds the authority to grant forgiveness. While this forgiveness may not completely eliminate the punishment, it has the power to mitigate the consequences for the perpetrator. The panel of judges has the power to consider the elements that can alleviate the punishment for the perpetrator of the crime of cyberbullying.[[33]](#footnote-33)

In addition to the Koran and hadiths, the MUI Fatwa does not directly prohibit cyberbullying but prohibits acts that fall into the classification of cyberbullying crimes contained in MUI Fatwa Number: 24 of 2017 Fatwa on laws and guidelines for business through social media.[[34]](#footnote-34) Some of them prohibit various behaviors and actions against Muslims who are active on social media. Some of these include prohibitions on slandering, namimah, pitting, bullying, and spreading hostility, including hate speech. All these prohibitions aim upholding the sanctity, ethics, morality, and goodness of social media for Muslims in accordance with the principles of Islamic sharia.

Although "cyberbullying" is not explicitly mentioned, the prohibition of insulting, denouncing, and fitnah found in the Quran and hadith can be related to cyber bullying. It is important for us as Muslims to maintain morals and ethics in using social media, respecting each other among Muslims because these are values that are emphasized in Islamic teachings. So, it is necessary to have awareness and responsibility for Muslims so as not to violate the morals and ethics that have been established in Islamic teachings.

* 1. **CONSLUSION**

The implementation of laws against cyberbullying aims to explore the legal measures taken against offenders based on Article 27 of Law No. 19 of 2016, amending Law No. 8 of 2008 on Electronic Information and Transactions. This investigation also considers the perspectives of Islamic law on cyberbullying. The acts classified under Article 27 of the ITE Law encompass insults, defamation, slander, harassment, expulsion, and fraud conducted through social media platforms, causing the victim to feel humiliated, insulted, and disturbed. Perpetrators of cyberbullying may be charged under Article 27, paragraph (3) of the ITE Law, facing a maximum imprisonment of 4 years and/or a maximum fine of 750 million rupiah. Furthermore, Islamic law deems cyberbullying as a prohibited act, aligning with the explicit warnings found in the Quran (QS. Al-Hujurat verse 11, QS. At-Taubah verse 79) against bullying. The Hadith (HR. Al-Bukhari) from Abdullah Ibn Umar ra. reinforces this prohibition, cautioning that those who engage in such actions will face consequences. Additionally, MUI Fatwa Number 24 of 2017, addressing the law and guidelines for business through social media, prohibits actions falling within the classification of cyberbullying criminal acts.

**REFERENCES**

Alhakim, A, J Girsang, and Wadhi GY. 2023. "Kajian Yuridis Sanksi Pidana Terhadap Tindak Pidana Hate Speech Cyberbullying di Indonesia." *Legalitas: Jurnal Hukum, 15(2)* 158-165.

Asmadi, E. 2021. "Rumusan Delik Dan Pemidanaan Bagi Tindak Pidana Pencemaran Nama Baik Di Media Sosial." *De Lega Lata: Jurnal Ilmu Hukum 6, no. 1 (2021)* 16-32.

Fadilah, A. 2020. "Analisis tindak pidana Cyberbullying studi kasus Nomor 471/PID.SUS/2013/PN.SLMN." *repository.uinjkt.ac.id* 49.

Firmansyah, M.F. 2023. "Tindakan Cyberbullying Dalam Kajian Hukum Pidana Islam dan Hukum Positif." *Edulaw: Journal of Islamic Law and Jurisprudance 5, no. 2 (2023)* 48-57.

Hinduja, S. and Patchin, J.W. 2010. "Bullying, cyberbullying, and suicide." *Archives of suicide research 14, no. 3 (2010)* 206-221.

Hutson, E., Kelly, S. and Militello, L.K. 2018. "Systematic review of cyberbullying interventions for youth and parents with implications for evidence‐based practice." *Worldviews on evidence‐based nursing 15, no. 1 (2018)* 72-79.

Islamy, A. 2020. "Fatwa About Social Interaction on Social Media in The Paradigm of Islamic Legal Philosophy." *Al-Mishbah: Jurnal Ilmu Dakwah dan Komunikasi 15, no. 2 (2020)* 163-174.

Kowalski, R.M., Giumetti, G.W., Schroeder, A.N. and Lattanner, M.R. 2014. "Bullying in the digital age: a critical review and meta-analysis of cyberbullying research among youth." *Psychological bulletin 140, no. 4 (2014)* 1073-1137.

Krisdian, Eka Anggraeni, and Subekti I. 2021. "E-Book Cerita Bergambar Pencegahan Bullying Untuk Anak Usia 9-11 Tahun Berbasis Alkitab." *Aaletheia Christian Educators Journal 2, No.1* 57-68.

Mahmud Marzuki, Peter. 2005. *Penelitian Hukum.* Jakarta: Kencana Prenada Media.

Marzuki. 2017. *Pengantar Studi Hukum Islam.* Yogyakarta: Penerbit Ombak.

Meinarni, N.P.S. 2019. "Tinjauan Yuridis Cyber Bullying Dalam Ranah Hukum Indonesia." *Ganaya : Jurnal Ilmu Sosial Dan Humaniora 2, no. 1 (2019)* 299-308.

Mukhlishotin, M.N. 2017. "Cyberbullying Perspektif hukum pidana islam." *Al-Jinayah: Jurnal Hukum Pidana Islam 3, no. 2* 370-402.

Nasution, Baher Johan. 2008. *Metode Penelitian Ilmu Hukum.* Bandung: Mahdar Maju.

Nur, M. 2020. *Pengantar Dan Asas-Asas Hukum Pidana Islam.* Banda Aceh: Yayasan PeNA Aceh.

Nuraini, Febi Fitria. 2022. "Perlindungan Hukum Tentang Kejahatan Pencurian Data Pribadi Dihubungkan Dengan Undang-Undang Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik Dalam Perspektif Ham." *elibrary.unikom.ac.id* 35.

Patchin, Justin W, and Sameer Hinduja. 2012. *Cyberbullying prevention and response : expert perspectives.* New York: Routledge.

Pratama, KR, and Nistanto RK. 2021. *Kompas.com.* March 29. Accessed September 25, 2023. https://tekno.kompas.com/read/2021/03/29/07164137/instagram-media-sosial-pemicu-cyberbullying-tertinggi.

Ramadhani, Khoiriah. 2023. "TINJAUAN KRIMINOLOGIS TERHADAP KEJAHATAN PENYEBARAN BERITA BOHONG DAN MENYESATKAN YANG MENGAKIBATKAN KERUGIAN KONSUMEN DALAM TRANSAKSI ELEKTRONIK (Studi Kasus di POLDA SULSEL Tahun 2019-2021)." *repository.unhas.ac.id* 2-3.

Ramli, T.S., Ramli, A.M., Permata, R.R., Wahyuningsih, T. and Mutiara, D. 2020. "spek Hukum Atas Konten Hak Cipta Dikaitkan dengan Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi dan Transaksi Elektronik." *Jurnal Legislasi Indonesia 17, no. 1 (2020).*

Sadli, S. 1976. *Persepsi Sosial Mengenai Perilaku Menyimpang.* Jakarta: Bulan Bintang.

Saimima, Ika Dewi Sartika, and Anita Pristiani Rahayu. mei 2020. "Anak Korban Tindak Pidana Perundungan (Cyberbullying) Di Media Sosial." *Jurnal Kajian Ilmiah 20, no. 2 (2020).* 126.

Sepang, M.B. 2018. "Pertanggung Jawaban Tindak Pidana Pencemaran Nama Baik Melalui Media Sosial Menurut UU No. 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik dan KUHP." *Lex Crimen: Vol. 7 No. 3 (2018).*

Surilena. 2016. "Perilaku Bullying (Perundungan) Pada Anak dan Remaja." *Cermin Dunia Kedokteran, 43, No.1* 35-38.

Turangan, NB. 2022. "KAJIAN KEBEBASAN BERPENDAPAT DI JEJARING SOSIAL TERHADAP DELIK PENGHINAAN." *LEX CRIMEN 10 No. 12.*

Wahyudi, R. 2024. "Tindakan Pencemaran Nama Baik Melalui Media Sosial Dalam Perspektif Hukum Pidana." *AL-BAHTS: Jurnal Ilmu Sosial, Politik, Dah Hukum, 2(1)* 17-25.

Willard, Nancy E. 2007. *Cyberbullying and cyberthreats: Responding to the challenge of online social aggression, threats, and distress.* Champaign, Illinois: Research press.

Winda, F, and Putri N. 2021. "KAJIAN HUKUM ISLAM ATAS PERBUATAN PERUNDUNGAN (BULLYING) SECARA ONLINE DI MEDIA SOSIAL." *Jurnal Pendidikan Kewarganegaraan Undiksha 9, no. 1 (2021)* 143-156.

Wiyani, N.A. 2012. *Save Our Children From School Bullying.* Jogjakarta: Ar-Ruzz Media.

1. Khoriah Ramadhani. “TINJAUAN KRIMINOLOGIS TERHADAP KEJAHATAN PENYEBARAN BERITA BOHONG DAN MENYESATKAN YANG MENGAKIBATKAN KERUGIAN KONSUMEN DALAM TRANSAKSI ELEKTRONIK (Studi Kasus di POLDA SULSEL Tahun 2019-2021)”, (Doctoral dissertation, Universitas Hasanuddin), (2023). hal 2 [↑](#footnote-ref-1)
2. Sadli S, *Persepsi Sosial Mengenai Perilaku Menyimpang*, (Jakarta: Bulan Bintang, 1976) hlm 56. [↑](#footnote-ref-2)
3. Ibid hal 3 [↑](#footnote-ref-3)
4. Ika Dewi Sartika Saimima, Anita Pristiani Rahayu, “Anak Korban Tindak Pidana Perundungan (Cyber Bullying) Di Media Sosial Dalam Perspektif Viktimologi”*, Jurnal Kajian Ilmiah (JKI)*, Vol. 20 No. 2 (Mei 2020), Hal: 126, <https://doi.org/10.31599/jki.v20i2.102>. [↑](#footnote-ref-4)
5. Febi Fitria Nuraini, “Perlindungan Hukum Tentang Kejahatan Pencurian Data Pribadi Dihubungkan Dengan Undang-Undang Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik Dalam Perspektif Ham”, Bandung, (Doctoral dissertation, Universitas Komputer Indonesia). Hal 35 [↑](#footnote-ref-5)
6. Hutson E, Stephanie Kelly, Militello LK. (2018), ”Systematic review of cyberbullying interventions for youth and parents with implications for evidence-based practice.” *Worldviews Evid Based Nurs*. 15:72–9. doi: 10.1111/wvn.12257 [↑](#footnote-ref-6)
7. Dikutip dari <https://tekno.kompas.com/read/2021/03/29/07164137/instagram-media-sosial-pemicu-cyberbullying-tertinggi> diakses pada 25 September 2023 [↑](#footnote-ref-7)
8. Tasya Safiranita Ramli, Ahmad M Ramli, dan Rika Ratna Permata "Aspek Hukum Atas Konten Hak Cipta Dikaitkan dengan Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi dan Transaksi Elektronik." *Jurnal Legislasi Indonesia* 17, no. 1 (2020). [↑](#footnote-ref-8)
9. Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana Prenada Media, Vol.55 Tahun 2005) [↑](#footnote-ref-9)
10. Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum*, (Bandung: Mandar Maju, Tahun 2008) [↑](#footnote-ref-10)
11. Surilena, S, “Perilaku Bullying (Perundungan) Pada Anak Dan Remaja.” *Cermin Dunia Kedokteran*, *43*(1), (2016). hal 35 [↑](#footnote-ref-11)
12. Eka Anggraeni Krisdian, and Iman Subekti. "E-Book Cerita Bergambar Pencegahan Bullying Untuk Anak Usia 9-11 Tahun Berbasis Alkitab." *Aletheia Christian Educators Journal* 2, no. 1 (2021): 57-68. [↑](#footnote-ref-12)
13. Hinduja, Sameer, and Justin W. Patchin. "Bullying, cyberbullying, and suicide." *Archives of suicide research* 14, no. 3 (2010): 206-221. [↑](#footnote-ref-13)
14. Kowalski, Robin M., Gary W. Giumetti, Amber N. Schroeder, and Micah R. Lattanner. "Bullying in the digital age: a critical review and meta-analysis of cyberbullying research among youth." *Psychological bulletin* 140, no. 4 (2014): 1073, [https://doi.org/10.1037/a0035618](https://psycnet.apa.org/doi/10.1037/a0035618). [↑](#footnote-ref-14)
15. Agatston, Patricia, Robin Kowalski, and Susan Limber. "Youth views on cyberbullying." *Cyberbullying prevention and response: Expert perspectives* (2012): 57-71. [↑](#footnote-ref-15)
16. Willard, Nancy E., “*Cyberbullying and cyberthreats: Responding to the challenge of online social aggression, threats, and distress”*. Research press, 2007.Hal 1 [↑](#footnote-ref-16)
17. Ibid hal 5-11 [↑](#footnote-ref-17)
18. Ni Putu Suci Meinarni (2019). “Tinjauan Yuridis Cyber Bullying Dalam Ranah Hukum Indonesia.” *Ganaya : Jurnal Ilmu Sosial Dan Humaniora 2*, no. 1 (2019): 299-308. [↑](#footnote-ref-18)
19. Erwin Asmadi, “Rumusan Delik dan Pemidanaan bagi Tindak Pidana Pencemaran Nama Baik di Media Sosial, *De Lega Lata: Jurnal Ilmu Hukum* 6, no. 1 (2021): 16-32 <https://doi.org/10.30596/dll.v6i1.4910>. [↑](#footnote-ref-19)
20. Ibid [↑](#footnote-ref-20)
21. Novan Ardy Wiyani, “Save Our Children From School Bullying”, (Jogjakarta: AR-RUZZ Media, 2012), hal 14. [↑](#footnote-ref-21)
22. Ibid [↑](#footnote-ref-22)
23. Natalia Brigita Turangan. "KAJIAN KEBEBASAN BERPENDAPAT DI JEJARING SOSIAL TERHADAP DELIK PENGHINAAN." *LEX CRIMEN* 10, no. 12 (2022). [↑](#footnote-ref-23)
24. Rifal Wahyudi. "Tindakan Pencemaran Nama Baik Melalui Media Sosial Dalam Perspektif Hukum Pidana." *AL-BAHTS: Jurnal Ilmu Sosial, Politik, dah Hukum* 2, no. 1 (2024): 17-25. [↑](#footnote-ref-24)
25. Marcelino Brayen Sepang. "Pertanggung Jawaban Tindak Pidana Pencemaran Nama Baik Melalui Media Sosial Menurut UU No. 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik dan KUHP." *Lex Crimen* 7, no. 3 (2018).). Hal 742 [↑](#footnote-ref-25)
26. Abdurrakhman Alhakim et.al, “Kajian Yuridis Sanksi Pidana Terhadap Tindak Pidana Hate Speech Cyberbullying di Indonesia”, *Legalitas: Jurnal Hukum, 15(2), Desember 2023, 158-165*, [↑](#footnote-ref-26)
27. Marzuki, 2017, “Pengantar Studi Hukum Islam”*,* (Yogyakarta: Penerbit Ombak), hal 12 [↑](#footnote-ref-27)
28. Maulida Nur Mukhlishotin. "Cyberbullying Perspektif hukum pidana islam." *Al-Jinayah: Jurnal Hukum Pidana Islam* 3, no. 2 (2017): 370-402 [↑](#footnote-ref-28)
29. Arif Fadilah, “Analisis tindak pidana Cyberbullying studi kasus Nomor 471/PID. SUS/2013/PN. SLMN”, Bachelor's thesis, Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta). Hal 49 [↑](#footnote-ref-29)
30. Ibid Hal 55 [↑](#footnote-ref-30)
31. Moch Fahmi Firmansyah. "Tindakan Cyberbullying Dalam Kajian Hukum Pidana Islam dan Hukum Positif." *Edulaw: Journal of Islamic Law and Jurisprudance* 5, no. 2 (2023): Hal 52 [↑](#footnote-ref-31)
32. Ibid, hal 54 [↑](#footnote-ref-32)
33. Fitri et al. "Kajian Hukum Islam Atas Perbuatan Perundungan (Bullying) Secara Online Di Media Sosial." *Jurnal Pendidikan Kewarganegaraan Undiksha* 9, no. 1 (2021): 143-156 Hal 151 <https://doi.org/10.23887/jpku.v9i1.31438>. [↑](#footnote-ref-33)
34. Athoillah Islamy, “Fatwa About Social Intercation On Social Media In The Paradigm of Islamic Legal Philosophy,” Al-Mishbah : Jurnal Ilmu Dakwah dan Komunikasi, Vol.15, No.2 (2019) : 169-170. [↑](#footnote-ref-34)