

## INTISARI

### **REKONSTRUKSI HUKUM PIDANA DALAM PENANGGULANGAN PERUNDUNGAN DI DUNIA SIBER (CYBERBULLYING) TERHADAP ANAK**

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Ruang maya memberikan kesempatan bagi pelaku untuk melakukan *cyberbullying* terhadap anak. Kurangnya pemahaman orang dewasa terhadap bahaya *cyberbullying* terhadap anak menyebabkan terjadinya reviktimisasi yang justru dilakukan oleh orang terdekat seperti keluarga dan guru. Rumusan ketentuan *cyberbullying* hanya diatur dalam Penjelasan Pasal 45B Undang-undang Informasi dan Transaksi Elektronik (2016). Pengaturan dalam Penjelasan Pasal ini berimplikasi pada ketiadaan proses hukum terhadap pelaku *cyberbullying* karena penegak hukum tidak dapat menjerat pelaku dengan ketentuan penjelasan. Tujuan penelitian ini adalah untuk mengidentifikasi, menguraikan, mengkaji dan mengevaluasi kebijakan hukum pidana di Indonesia dalam mengatur tentang *cyberbullying* terhadap anak. Penelitian ini juga bertujuan untuk merancang dan membangun konstruksi baru (rekonstruksi) hukum pidana *cyberbullying* terhadap anak di masa depan.

Tipe penelitian dalam disertasi ini adalah yuridis empiris dan yuridis normatif. Data primer bersumber dari hasil wawancara sedangkan data sekunder dikumpulkan melalui studi kepustakaan. Wawancara dilakukan terhadap responden yang terdiri dari 2 psikolog, 1 penyidik, 8 guru, dan 7 korban. Wawancara juga dilakukan dengan narasumber yang terdiri dari Asisten Deputi Perlindungan Anak dari Kekerasan dan Eksploitasi, Kementerian Perlindungan Perempuan dan Anak Republik Indonesia, Kanit IV Subdit I Direktorat Siber Bareskrim Mabes Polri, Asistensi bidang Pornografi dan *Cybercrime*, Komisi Perlindungan Anak Indonesia, Koordinator Divisi Pendidikan, Komisi Nasional Anti Kekerasan terhadap Perempuan dan Psikolog Pendidikan. Penelitian pada level makro adalah Indonesia dan pada level mikro adalah Bali. Pengolahan data dilakukan dalam beberapa tahapan yakni *editing*, *coding* dan tabulasi data. Analisis data dilakukan dengan pendekatan perundang-undangan, pendekatan konseptual, pendekatan filosofis, pendekatan komparatif, dan pendekatan kasus. Penarikan kesimpulan dilakukan dengan cara induktif.

Konstruksi suatu delik dalam Penjelasan 45 B Undang-undang Informasi dan Transaksi Elektronik (2016) tentu tidak tepat. Rekonstruksi hukum pidana *cyberbullying* terhadap anak di masa depan mencakup kebijakan penal dan kebijakan non penal. Pengaturan *cyberbullying* terhadap anak di masa mendatang harus dilakukan di dalam suatu undang-undang. Undang-undang di masa mendatang juga perlu mengatur mengenai definisi, cara-cara perbuatan dilakukan, mekanisme pelaporan dan penanganan korban, pelaku dan keluarganya masing-masing serta meletakkan kewajiban hukum kepada orang tua, penyelenggara pendidikan dan penyelenggara sistem elektronik untuk menanggulangi

*cyberbullying* terhadap anak. *Cyberbullying* terhadap anak merupakan kekerasan yang melibatkan relasi kuasa. Subjek hukum yang dapat dipertanggungjawabkan dalam perbuatan *cyberbullying* terhadap anak pelaku utama dan pelaku yang terprovokasi. Dalam konsep *cyberbullying*, konsep repetisi mencakup pengulangan yang dilakukan oleh pelaku terprovokasi.

**Kata kunci:** Rekonstruksi, hukum pidana, *cyberbullying*, anak.

## ABSTRACT

### **THE RECONSTRUCTION OF CRIMINAL LAW IN TREATING BULLYING IN THE CYBER WORLD (CYBERBULLYING) AGAINST CHILDREN**

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*Cyber space provides opportunities for perpetrators to do cyberbullying against children. The lack of understanding by adults about the dangers of cyberbullying against children causes re-victimization that is actually carried out by those closest to them such as family and teachers. From a regulatory perspective, Indonesia does not yet have specific rules regarding cyberbullying against children. The formulation of cyberbullying provisions is only regulated in the Elucidation of Article 45B of the Act concerning Electronic Information and Transactions (2016). The provisions in the Elucidation of this Article have implications for the absence of legal process against the perpetrators of cyberbullying because law enforcers cannot charge the perpetrator with the provisions of the elucidation. The purpose of this study is to identify, describe, study and evaluate criminal law policies in Indonesia in regulating cyberbullying against children. This study also aims to design and build a new construction (reconstruction) of the criminal law of cyberbullying against children in the future.*

*The type of research in this dissertation is juridical empirical and juridical normative. Primary data comes from interviews, while secondary data is collected through library research. Interviews were conducted with respondents consisting of 2 psychologists, 1 investigator, 8 teachers, and 7 victims. Interviews were also conducted with resource persons consisting of the Assistant Deputy for Child Protection from Violence and Exploitation, the Ministry of Women and Children Protection of the Republic of Indonesia, IV Sub-Directorate I of the Cyber Crime Directorate, National Police Headquarters, Assistant in the field of Pornography and Cybercrime, the Indonesian Child Protection Commission, Coordinator of the Education Division, National Commission on Violence against Women and Educational Psychologists. Research at the macro level is Indonesia and at the micro level is Bali. Data processing is carried out in several stages, namely editing, coding and data tabulation. Data analysis was carried out using a statutory approach, conceptual approach, philosophical approach, comparative approach, and case approach. Drawing conclusions is done by inductive.*

*The construction of an offense in Elucidation 45 B of the the Act concerning Electronic Information and Transactions (2016) is certainly incorrect. The reconstruction of the criminal law of cyberbullying against children in the future includes penal policies and non-penal policies. The regulation of cyberbullying against children in the future must be carried out in an act. Future laws also need to regulate definitions, the ways in which acts are carried out, mechanisms for reporting and handling of victims, perpetrators and their respective families as well as placing legal obligations on parents, education providers and administrators of*

*electronic systems to tackle cyberbullying against children. Cyberbullying against children is violence that involves power relations. Legal subjects who can be held accountable for cyberbullying against the child of the main perpetrator and the perpetrator who is provoked. In the cyberbullying concept, the concept of repetition includes repetition by the provoked offender.*

**Keywords:** *reconstruction, criminal law, cyberbullying, children.*

