Cyberstalking Crime and Application of Criminal Law in Indonesia

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ABSTRACT

The aim of this research is to understand the concept of cyberstalking in the context of Criminal Law in Indonesia and identify the factors that encourage the criminalization of this act. The method used is literature review, with a focus on secondary data which includes legal documentation, books and journals obtained via the internet. This research approach is normative law, focusing on the legal system and applicable norms. The research results show that the concept of cyberstalking in Indonesian Criminal Law has developed as a response to the challenges of the digital era, through the application of appropriate legal articles and providing a reporting mechanism for victims. Factors driving the criminalization of cyberstalking include the growth in internet and social media use, the severe psychological impact on victims, and the need for stricter legal protections. This research highlights the importance of a multidisciplinary approach in dealing with cyberstalking, involving collaboration between agencies, increasing law enforcement capacity, and increasing public awareness. The conclusions of this research emphasize the need for continued adaptation in laws and policies to effectively combat cybercrime and protect society.

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1. Introduction

These days, when IT has become a way to satisfy people's requirements in a very short amount of time, IT advancements are vital (Puluhulawa et al., 2023). Organisational structure and audience social ties have both been impacted by the rise of social media and other forms of advanced information technology (Zamroni & Mohamad, 2022).
Social media allows posting, two-way contact, and virtual communities. Gibson introduced "cyberspace" in Neuromancer. Gibson defines cyberspace as a daily illusion experienced by millions of legal operators worldwide, students learning mathematical concepts in the classroom, and a visual representation of information from all computers in the human system. Unfathomable complexity. Clusters and constellations of data and lines of light in mind-nospace (Gibson, 2010).

Gibson defines cyberspace as a visual representation of data gathered and abstracted by each computer in a system, not the real interaction between computers and networks. A difficult insoluble issue. In the 1990s, John Barlow coined the term "cyberspace" to characterize online or internet-connected areas (Frensh et al., 2017).

Since everyone with an internet connection and gadget may use social media, it has both pros and downsides. Positive effects of social mediaIt accelerates information access and sharing, which helps build larger networks and organizations with wide public-benefit impacts. Organizations utilizing the internet without social media responsibility may have a good or bad influence. With the growth of social media, "cybercrime" has come to characterize a variety of damaging acts (Octora, 2019).

Cybercrime has evolved in reaction to the spread of sophisticated online crime-solving tools made available by information technology (Sari, 2021). Cybercrime has grown due to harmful software and digital tool proliferation, which have hurt the digital lifestyle business (Arief, 2018). This led to cyberstalking, a newer cybercrime.

Cyberstalking is stalking someone using the internet, a mobile phone, or other technological methods. Cyberstalking includes making false accusations, threats, stealing identities, destroying data or equipment, sexually soliciting youngsters, and other repeated offensive behaviors (Afif, 2022).

The International Journal of Cyber Criminology defines cyberstalking as continually threatening, harassing, or intimidating someone online (Pittaro, 2007). Cyberstalking may be termed covert harassment since the cyberstalker never leaves the victim's sight while watching them online. Social media is sometimes used to find similar instances. (Amer et al., 2022).

Cyberstalking has been a major issue since the internet's invention. Technology has simplified communication and information gathering, but it has also allowed crooks to stalk victims online. (Harahap et al., 2023). As internet and social media use rises in Indonesia, this phenomenon is gaining attention. Cyberstalking—the continuous use of electronic means to intimidate or harass another person—has caused new criminal law issues.

Among the many obstacles to modernising cyberstalking legislation in Indonesia is the necessity to revise existing rules and statutes. Cyberstalking is a terrifying and harmful behaviour that can have a devastating effect on young people, particularly girls and young women. People who engage in this practice often target female victims because they believe they are emotionally vulnerable and easy to manipulate. Someone who adopts a false identity on social media often goes on to verbally abuse and persecute their victims, giving them the freedom to do what they want (cyberbullying) (Azhari, 2019).

Online Harassment This causes significant harm and has far-reaching effects on the person and their family. Jerinx and Ahmad Syahroni were assaulted by Adam Deni. After hearing Jerinx speak about his melancholy, his wife felt suicidal. Attacker Adam Deni took personal information, publicized it on social media, and utilized chat to threaten and blackmail him.

The New York Penal Code defines stalking as one who engages in hostile, harassing, or threatening behavior toward a specific individual with the intent to cause physical harm to that person, their immediate family, or third parties known to them, with no reasonable excuse. (Stephanie, n.d.). Indonesia's Criminal Code (KUHP) and Law Number 19 of 2016, which changes Law Number 11 of 2008 on Information and Electronic Transactions, regulate cybercrime.

Article 1 paragraph (1) of the Criminal Code (KUHP) states that legality underpins criminal law. No behavior may be punished without written laws before the act. According to Professor Pompe, a strafbaar feit is a behavior that may be allowed by law via a statute under positive law. (Lamintang & Lamintang, 2022). An unlawful behavior must violate a stated
standard. Checking whether an action meets the requirements helps determine if it violates criminal law. Cyberstalking without gambling, insulting/defaming, blackmailing, or threatening violence has not been penalized till recently. Cyberstalking requires more than just "stalking" to be criminalized.

Law enforcement needs a comprehensive legal framework that handles individual cases and protects human rights to prevent cyberstalking. This includes any right the government may take away, like privacy or free speech. The government and anyone concerned in cyberstalking policy and regulation must balance victim protection and human rights.

Because of the pervasiveness of technology in modern life, particularly in the digital age, the field of criminal law must undergo constant development and refinement (Muhtar et al., 2022). Indonesia must educate the public about cyberstalking and work with foreign authorities to combat it. Cyberstalking claims must be addressed legally and as part of the campaign to create a trustworthy online environment.

The following is a formulation of the research issue based on the description given above: (1) How is cyberstalking defined under Indonesian criminal law? (2) Why is cyberstalking a crime under Indonesian law, and what are the reasons for this decision?

Cyberstalking is a serious problem, and this study might help educate the people of Indonesia about it. As a result, people will be better able to recognize dangers lurking on the internet and take precautions when needed. It would be easier for law enforcement to deal with instances of cyberstalking if they had a clearer idea of what to look for. By raising awareness of the dangers and repercussions of cyberstalking, the findings of this study may also aid in the fight against this practice.

2. Method
This study employs a literature review methodology, with secondary data collecting mostly including legal documents (AI, 2023). The majority of the information for this study came from books and publications that were accessed online. Normative legal research, which places an emphasis on legal systems and norms, is the method that is used (Bakung et al., 2022). A literature search was conducted to conduct this evaluation, with an emphasis on existing material and expert opinions. Library research or library legal research is another name for this. Without doing primary research in the field, this study relies on secondary sources that gathered their information in an indirect manner. Primary legal texts such as the 1945 Constitution, the Criminal Code, New York Penal Code 240.25, and Law Number 19 of 2016 amending Law Number 11 of 2008 addressing the ITE Law are among these sources. Secondary legal resources, on the other hand, consist of things like books, websites, newspapers, and the findings of prior studies.

An extensive literature research is conducted to gather data. This review draws on a wide range of reading materials, including academic journals, books, scholarly concepts, dictionaries, and, of course, the internet (Amer & Muhtar, 2023). The research questions were addressed by analysing the gathered data.

The qualitative method of data analysis relies on descriptive information gleaned from written sources or first-hand accounts of human behaviour. Quantitative data collection was followed by qualitative data processing and analysis. To get to the bottom of the research challenge, this data is descriptively analysed to provide a clear picture.

3. Results and Discussion
3.1. The Concept of Cyberstalking in Criminal Law
Someone commits cyberstalking if they harass or stalk another person using technology and the internet (Chang, 2020). This is a continuation of the same pattern as cyberbullying and stalking that occurs in person (Justice, 1999). But they are often persistent, planned, and systematic, and they come in many forms (emails, texts, social media postings, etc.).

At first, cyberstalking encounters may appear harmless, but they can escalate into a pattern of disturbing or terrifying behaviour (Fissel, 2023). Some even find the first phases of
cyberstalking endearing and harmless; nevertheless, the enjoyment quickly fades when the receiver continues to receive messages expressing their dissatisfaction and requests that the connection halt (Begotti & Acquadro Maran, 2019). Inappropriate and distressing content is often aimed at victims. In order to instill fear in their targets, cyberstalkers may use many accounts to send messages multiple times each day.

Many victims of cyberstalking are unaware that they are being followed or harassed in any manner, shape, or form. Multiple techniques exist for monitoring victims, with the data gathered potentially exploited for crimes like identity theft. Offline, some stalkers even get in touch with their victims' acquaintances to continue the harassment.

Tracking the victim's whereabouts, breaching data privacy, monitoring their online and offline activities, scaring them, etc. are all prevalent aspects of cyberstalking behaviour. The use of phoney images or threatening private messages is one kind of social media stalking (Abu-Ulbeh et al., 2021)

Claims of wrongdoing, damaging gossip, false online personas, and even revenge pornography are common tactics used by cyberstalkers. Contrary to popular assumption, cyberstalking is equally as damaging as physical stalking (Vidal Verástegui et al., 2023). No, that's incorrect. No aspect of our lives, from work to play, is now complete without the internet. As access to private data grows, this just facilitates communication (Chang, 2020)

Cyberstalking as a crime has social and legal implications. Cyberstalking starts with harmless discussions and escalates into more systematic, irritating, or threatening attacks. Cyberstalking may range from small offenses to persistent attacks that can severely impact the victim.

The digital nature of cyberstalking makes attackers anonymous, while victims have a harder difficulty identifying or fleeing. Stalkers employ email, social media, and other digital channels to keep victims unaware of their long-term surveillance. This shows how technical advances may facilitate stalker behavior in ways physical stalking cannot.

Cyberstalking’s ease of data collection for identity theft is most worrisome. This behavior has larger implications and raises privacy concerns. Data security and internet security are crucial to fighting cyberstalking.

Cyberstalking is sometimes perceived for less dangerous than physical stalking since it does not involve touch. Cyberstalking may be harmful emotionally and psychologically. Since everyone uses the internet at work and home, cyberstalking may have a major impact on the victim.

There has been some discussion in Indonesian criminal law regarding cyberstalking as a modern crime. Based on the current legal framework, particularly Article 27, paragraph 4 of Law Number 11 of 2008 concerning Information and Electronic Transactions, cyberstalking activities might be considered a violation of the law. The dissemination, transmission, or accessibility of electronic material including extortion and/or threats is expressly forbidden under this article. Those found guilty of this offence face harsh punishments, including a maximum fine of IDR 1 billion and/or six years in jail (Anisah & Nurusman, 2022)

The National Police Chief, Attorney General, and Minister of Communication and Information have issued a joint decree on the ITE Law, and one of the appendices provides more clarification on the interpretation of paragraph four of Article 27. The dissemination, transmission, or accessibility of electronic material containing extortion and/or threats is expressly forbidden under this article. Those found guilty of this offence face harsh punishments, including a maximum fine of IDR 1 billion and/or six years in jail (Anisah & Nurusman, 2022)

The use of force or threats of force to coerce another person into giving commodities, incurring debts, or writing off receivables for one's own or another's illegal gain is what R. Soesilo defines in his book as extortion under Article 368 of the Criminal Code. Article 335 of the Criminal Code addresses the use of force or threats of force as a form of coercion (Afif, 2022)
Applying these elements to cyberstalking requires considering the perpetrator's goals. Criminal Code Article 368 covers blackmail. Article 335 of the Criminal Code applies when someone is coerced into doing, not doing, or allowing anything. In Indonesia, victims or parties with knowledge of such crimes may report them to the police via legal processes.

Examining cyberstalking under Indonesian criminal law, notably Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE) and the Criminal Code (KUHP), reveals several important aspects of this cybercrime. Article 27, paragraph (4) of the ITE Law emphasizes the dissemination, transmission, or availability of electronic content that contains extortion or threats, providing a clear legal basis for cyberstalking prosecutions. Indonesia's legal response to digital crime is evident given its rising incidence and severity. The Indonesian government takes cyberstalking seriously with the ITE Law's draconian penalties, including six years in prison and/or IDR 1 billion. Punishments are meant to discourage and send the message that cybercrime is unacceptable. However, cyberstalking situations may make it difficult to prove a criminal offence, especially a perpetrator's economic incentive.

Besides the ITE Law, Articles 368 and 335 of the Criminal Code give legal support. Article 368 of the Criminal Code, which covers extortion with violence or threats, may be used in cyberstalking cases. The Constitutional Court's removal of "unpleasant acts" from Article 335 of the Criminal Code requires more consideration, especially with cyber coercion's vagueness. These articles must take into account the cyberstalker's aims. Criminal activity classification determines effective prosecution articles. Unfortunately, victims often experience difficulties to reporting such incidents due to a lack of awareness about the process or fear of further repercussions from the perpetrator. This contrasts with Indonesia's criminal reporting system.

Cyberstalking in Indonesia is caused by legal, social, and technological issues. Cyberstalking prevention needs public awareness and reporting to authorities. Additionally, law enforcement must improve cybercrime response and communication across organizations. An integrated approach including the public, law enforcement, and technological experts is needed to address cyberstalking in Indonesia.

3.2. Factors in the Criminalization of Cyberstalking in Criminal Law in Indonesia

An essential response to evolving social and technical dynamics is the illegality of cyberstalking under Indonesian law (Fissel & Reyns, 2020). Cybercrime, particularly cyberstalking, has grown in prevalence with the expansion of IT and now demands heavy-handed judicial and legislative responses (Fissel et al., 2023). Reasons for its criminalization include the proliferation of internet access, shifts in social interaction patterns towards digital platforms, and rising public awareness of the harm that cybercrime causes (Hazelwood & Koon-Magnin, 2013).

Internet access has rapidly expanded in Indonesia, changing many people's habits. Social media and other digital platforms have increased people's capacity to communicate and share ideas, but they have also promoted cyberstalking. Indonesia criminalizes cyberstalking to balance criminality and free speech.

Public awareness of cyberstalking is essential to changing laws and policy. Cyberstalking victims typically feel terror, anxiety, and melancholy. This worry requires tougher and more targeted legislation to safeguard sensitive data from hostile invasions.

Cybercrime criminalization also relies on government and law enforcement action. Police face new challenges from cybercrimes like cyberstalking, and old legal frameworks are inadequate. New policies and legislation are needed to solve this issue.

Digital technology offers numerous benefits, but it has also introduced cyberstalking and other cybercrimes to Indonesia. To protect society from cybercriminals, the legal system must change. Many organizations and people react to these atrocities. Law enforcement, politicians, and the public.

Everyone must know how to recognize and prevent cybercrime, thus digital education and awareness are essential. Cyberstalking prevention may need public awareness campaigns.
and education programs about its hazards and effects. This curriculum emphasizes online privacy and criminal reporting.

Conversely, inter-institutional collaboration matters. International organizations, businesses, and law enforcement must work together to combat cyberstalking. Data exchange, investigations, and a united legal approach are instances of collaboration.

Laws and regulations must be updated often to keep up with changing technologies. Cyberstalking should be criminalized, but the law must adapt to new crimes and technology.

This table summarizes the events that led Indonesia to criminalize cyberstalking:

<table>
<thead>
<tr>
<th>Factor</th>
<th>Information</th>
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</thead>
<tbody>
<tr>
<td>Growth in Internet Use</td>
<td>Cybercrimes, such as cyberstalking, are becoming more common as internet use and accessibility continue to rise.</td>
</tr>
<tr>
<td>Social and Digital Media</td>
<td>Although cyberstalking is more common on digital platforms, they are still the primary method of communication and expression.</td>
</tr>
<tr>
<td>Psychological Impact</td>
<td>Realisation that cyberstalking may cause serious mental health issues, such as sadness, anxiety, and dread, in its victims.</td>
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<tr>
<td>Legal protection</td>
<td>The need for more targeted legislation to safeguard citizens against cybercrime.</td>
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<tr>
<td>Government Response</td>
<td>Responding to and combating cybercrime should be a top priority for government and law enforcement authorities.</td>
</tr>
<tr>
<td>Digital Education and Awareness</td>
<td>More people need to know how to spot cyberstalking and what to do if it happens to them.</td>
</tr>
<tr>
<td>Inter-Agency Collaboration</td>
<td>The development of successful solutions to fight cyberstalking requires collaboration across different agencies.</td>
</tr>
<tr>
<td>Law and Policy Adaptation</td>
<td>Constant work to revise legislation and policy to reflect changes in criminal tactics and technological capabilities.</td>
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Indonesia's cyberstalking crime is influenced by technology, society, and law. Online platforms have changed human contact but also increased cyberstalking risks. The psychological toll on victims highlights the need for stronger and more focused legal protection. Criminalization punishes criminals and normalizes bad behavior like cyberstalking.

Education and digital awareness are crucial. Cyberstalking awareness, prevention, and reporting are vital to digital literacy. This ongoing awareness and education should engage schools, neighborhoods, and news sources.

Institutional cooperation is key to cyberstalking prevention. Public and private institutions, as well as international organizations, must collaborate to share information, investigate, and enforce laws. The judicial system can better tackle cybercrime when these two forces cooperate together.

To adapt to technology and crime, governments must regularly alter laws and policies. These initiatives must balance privacy and security while protecting free expression and human rights.

Given the worldwide nature of the internet, international coordination on cyberstalking may be suggested. Police require IT and digital forensics training to handle cyberstalking cases properly. Finally, community input is essential for drafting cyberstalking laws. This ensures that policies reflect community needs and social realities.

Cyberstalking is illegal in Indonesia, however public education, awareness, and cross-sector collaboration are needed. A comprehensive and adaptable policy can help Indonesia fight cybercrime and protect its citizens.

4. Conclusion

To address the difficulties posed by the digital age, the idea of cyberstalking has evolved in Indonesian Criminal Law. This has resulted in the adoption of legislative provisions that account for the intents of the offender and provide a system for victims to report such incidents.
The surge in internet and social media use, the devastating psychological effects on victims, and the need for more robust legal safeguards are all factors propelling the criminalization of cyberstalking. Institutional cooperation, increased law enforcement capability, public education and awareness, and a multidisciplinary approach are all necessary to address this situation. An encouraging development is that cyberstalking is now a felony in Indonesia. This shows how laws and policies must be constantly adjusted to counter cybercrime and its harmful effects on society.

Limitations of the research include problems with data availability, a possible limited scope, an overemphasis on the law without looking at alternatives, the possibility that results will be out of date because cybercrime laws are changing so fast, a lack of investigation into the impact of culture and socioeconomic factors on cyberstalking, and an absence of an in-depth analysis of victims' experiences. Conducting a longitudinal study to monitor the changing patterns of cyberstalking, the reactions from the legal system, and the experiences of victims will greatly improve future research in this field. The human elements of cyberstalking may be explored using qualitative research methods such as surveys and interviews, and a comparison with other nations might provide useful insights. Furthermore, victim-centered research should be prioritised, and the cultural and socioeconomic environment should be investigated, in order to develop intervention and preventive techniques that are more successful. A more thorough knowledge of cyberstalking and its legal consequences in Indonesia can only be achieved by reviewing current laws and regulations, suggesting appropriate amendments, and keeping up of technical advancements.

References


