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Examining Religious and Justice System in Indonesia to Prevent Cyberbullying

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Abstract

Researchers have given a lot of attention to the relationship between religion and crime, finding that religion tends to have a deterring influence on crime-related attitudes and behaviors. This paper first examined the relationship between religiosity and cyberbullying, then ascertained how justice system could prevent cyberbullying behavior, through social and educational initiatives. The data was collected through normative juridical methods to provide a constructive understanding of the perspective of criminal law related to cyberbullying. It was revealed that the constitutional law took cognizance of cyberbullying, more than the religious laws, to curb cyberbullying in Indonesia on the pretext that cybercrimes took place in the cyberspace and not in real public. The findings also revealed an absence of the religious laws, and the increase in the cyber-sectarian conflict in Indonesia, where social media and other websites are indulged in slander and hoax with a view to insult Islamic leaders and their groups based on their religious affiliations, faith or ethnicity. Like the West and other developed nations, Indonesia has also thus witnessed cyber bullying and cybercrime incidents targeting individuals belonging to a particular religion, faith or ideology. The justice institutions and Ministry of Religious Affairs (Kementerian Agama) made several attempts to prevent this but the absence of robust religious laws were felt. The study concluded with recommending to take fresh insight into cyberbullying and its combating legal measures in the Indonesian religious justice system, appropriately aided by social and community initiatives.

Keywords: cyberbullying, religious, justice system, ideology

Introduction

In US and other European countries, cyberbullying and cyberattacks on individuals, groups and organizations based on their religious affiliation, ethnical background or ideology, are very common, often ascribed to 9/11 attacks and the events that followed. As a kind of vengeance, cyberbullying is seen as the most convenient tactic owing to its convenience and anonymity. The soft targets are the

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Muslim women who wore *hijabs* (head scarves) and Sikh men who wore turbans, as both wore visible symbols of their religion. With the increase in the Internet applications and wide accessibility, cyberbullying has got widespread and is not limited to any one religion. Incidents have been reported of cyberbullying against all types of faiths and religions. Pew Research Center (Lenhart et al., 2017) conducted a survey in September 2020 and reported that one-in-five Americans was harassed online because of their religion. A vast majority of 41% of U.S. adults admitted having harassed online for several reasons, among which a large share reported the harassment due to their religious affiliation.

In Indonesia, the cyber abuse against Muslim leaders, scholars and clerics needs a serious attention. These scholars and preachers who were victims of cyberbullying on social media, included Abdurrahman Wahid (former Indonesian President); Ma'ruf Amin (the Vice President and former MUI Chairman); M. Quraish Shihab (former Minister of Religious Affairs); Said Aqil Siradj (Chairman of the Nahdlatul Ulama [NU]); Ali Mustafa Yaqub (former Grand Imam of Istiqlal Mosque) and several others (Mahsun, 2000). Each of these prominent figures was ridiculed, insulted and psychologically assaulted for baseless accusations of being greedy, non-secular, indulged in polygamy and like. Cyber bullying for them occurred in social media in the form of abusive comments and tweets, memes on Facebook and Twitter. The social media was full of such abusive audio and video content, which not only maligned these targeted Muslim leaders but also exposed the conflicts between Indonesian Islamic groups (Nugraheni, 2021) (Mahsun, 2000).

Willard (2005) identified different types of cyber abuses and online harassment on religious affiliations namely posting vulgar messages, criticizing specific individuals or religious groups, cyberstalking and threatening, maligning and denigrating by insulting and releasing untrue statements, thus compelling them to go into forced isolation. C. Lee (2004); E. B. Lee (2017) suggested six concepts to diagnose cyberbullying or religious hatred online such as intention, hurt, repetition, duration, power conflict, and provocation. His research shows that cyber abuse on social media demonstrates all these six elements. Another important finding in this research was that cyber abuse in the religious context followed a pattern in which cyberbullying went beyond traditional bullying. C. Lee (2004) asserted that this pattern developed due to the unlimited access to information technology and digital resources.

Indonesia is the largest internet user in Southeast Asia (ASEAN), and also in the use of social media. Until January 2020, social media users in Indonesia had reached 160 million out of 171 million Indonesia internet users (<https://datareportal.com/reports/digital-2020-indonesia>) which means more than 93% of internet users remain active on social media. It also means that a large number of social media users have the opportunity and power to bully anyone. How strong is the influence of social media in affecting the religious life in Indonesia, was seen in the 2017 Jakarta Governor Elections (Hidayatullah et al., 2021). The social media users waged a war of pros and cons, an open warfare in the cyberspace, often resorting to cyberbullying. Many of these campaigns turned ideological war between two religious groups. This raises the question why cyberbullying resorts to ideology and what the role of the governments is. Are there any Acts or Laws that prevent cyberbullying against religious affiliations? Are there religious

courts dedicated to cases of online ideological warfare turning to cyberbullying? These were the questions that motivated this study.

This study aimed to examine the relationship between religiosity and cyberbullying to ascertain how religious institution and justice system can prevent cyberbullying behavior. The religious laws and the cyber-sectarian conflict has recently grown to new heights in Indonesia where social media and other websites are indulged in slander and hoax with a view to insult Islamic leaders and their groups based on their religious affiliations, faith or ethnicity (T. B. Q. Li, 2005). There are no existing studies that specifically discuss cyberbullying based on a person's religion, faith or ethnicity. Considering the lack of studies and in the pretext of the negative impact that the internet was making on inter-and intra-religious harmony, this research aimed to assess the extent to which the Indonesian legal system was strong enough to prevent such cyberbullying and whether social and educational initiatives can help prevent such bullying activities.

This study therefore brings together the two opposing forces: Cyberbullying and religious courts. On one hand, this study attempted to study the nature of cyberbullying on the basis of religious affiliations, and on the other hand, it questioned the usefulness and significance of religious courts and the existence of the prevention laws and acts.

Literature Review

- *Religion and Cyber-Bullying*

The problems of religiosity and Internet had not been researched until 9/11 attacks and the misuse of Internet for provocations and spreading hatred against social and religious communities. Religion is often related to ethics and ideology, and social behavior is determined accordingly (Armfield & Holbert, 2003; Dilmaghani, 2018; Fariddanesh & Rezaei, 2019; McNamara Barry et al., 2010). A few studies highlighted this negative association between individual's religiosity and ethically suspected behaviors (Benjamins, 2012; Parboteeah et al., 2008), which became more obvious after finding its way in the online content. The cyberbullying did not care for moral or ethical judgments but only attacked people's religious affiliations (Gerlich et al., 2010). With regard to cyber bullying on religious grounds, Pitel et al. (2012) observed that no single religion was different from the other one in terms of abusive online behavior. In fact, studies have reported inverse relationship between religiosity and unhealthy behavior (Pitel et al., 2012), stating that religiosity even failed to serve as a protective factor against violence in general and cyber-bullying in particular (Q. Li, 2010; Malinakova et al., 2018).

A study by the Cyberbullying Research Center (Patchin & Hinduja, 2019) in the United States had found that about one-fifth of American internet users have reported of online harassment (19%) because of their religion. These victims experienced online abusive behaviors including threats, stalking, sexual harassment, and offensive name-calling or purposeful embarrassment. All of them attributed their harassment to their religious beliefs. It was also added that such bullying based on religion, faith or ideology hindered the victim's spiritual development and growth, particularly if the victim is a teen or adolescent. The abusive behavior might lead him to question his faith and beliefs, critically arguing why he or she was bullied owing to holding a

specific religion or beliefs. When a person is bullied because of something specific to his or her identity like religion, sexual orientation, or race, its influence is far greater emotionally and psychologically than if a person were bullied based on non-identity-related factors (Almeida et al., 2009; Every & Perry, 2014; Garnett et al., 2014; Kim et al., 2018; Rippey & Newman, 2006). This suggests that cyber bullies targeted purposefully their victims only after first knowing about their identity.

- *Religious Courts in Indonesia*

The religious courts or *Peradilan Agama* in Indonesia are only for the Muslim citizens. It settles disputes related to marriage, inheritance, and property. In Aceh, there are special Sharia Courts (*Mahkamah Syar'iyah*) whose jurisdiction includes criminal cases incompatible with Islamic values. Article 2 of 1989 Law regarding Religious Courts has stated that religious courts are authorized to make justice available to people based on Islamic law and can deal with 'particular civil cases' as regulated in the Law. It is unsure whether cyberbullying could be included in the jurisdiction of religious courts, but in Indonesia, cyberbullying is recognized as a criminal offence. In this regard, there exists Law Number 11 of 2008 Concerning Information and Electronic Transactions (UU EIT), later amended to Law Number 19 of 2016 Concerning Information and Electronic Transactions. The Indonesia Criminal Code also states that defamation or insult is a criminal offense if a complaint is registered. One can cite an example of the Constitutional Court's established under Article 27 paragraph (3) of the ITE Law, number 50/PUU-VI/2008 which approved any defamation or insult on WhatsApp or any virtual mode as offence and can be processed by law. This leads to conclusion that cyberbullying can be included in the jurisdiction of Indonesian courts once it has now been recognized as a criminal offence.

- *Cyberbullying and Legal Enforcement*

Cyberbullying is thus a part of Indonesian national legal regulations. The Minister of Defense Regulation No. 82/2014 in Article 2.2.a. has stated that threats to state sovereignty can be caused by cyber threats from internal and external sources, which comprise "hack activists" groups or crime groups of hackers and cyber criminals. Further to this regulation, the Minister of Defense issued a decree No. KEP/1008/M/V/2017 concerning 2018 National Defense Policy, to establish a national infrastructure to combat the threat of cyberattacks. It laid outlines to integrate cyber defense information systems by strengthening the IT infrastructure to face the cyber-attacks. Indonesian government has thus prioritized cyber security as legislation accepting the new dimensions of crimes associated with cyberbullying. The Law No.19 of 2016, as an Amendment to Law No. 11 of 2008 concerning Information and Electronic Transactions, whose Article 27 paragraph (3) also states that "everyone intentionally and without rights distributing nor transmitting nor making Accessible electronic material or electronic documents containing insults or defamation might result in a maximum penalty of 6 (six) years in prison or a maximum fine Rp. 1. 0000.000.000.000 (one billion rupiahs)".

Indonesia also became a signatory nation of implementing Tallinn Manual-2, the International Law Applicable to Cyber Warfare. It is a manual that discusses the issue

of how to apply international laws in the context of cyber warfare and destructive cyber operations. After adopting the Tallin Manual-2 regulations, Indonesia redefined its cyber terminology, wherein the term “cyber” was included as a legal concept, which earlier was defined only as a virtual space. Eventually, the Minister of Defense’s Regulation No. 82 of 2014 defined cyber-attacks as “all forms of actions, words, thoughts, whether intentionally or unintentionally carried out by any party with any motive and purpose, which are carried out at any location, which are targeted at the electronic system or its contents (information) or equipment that relies heavily on technology and natural networks of any scale, to vital and non-vital objects in the military and non-military sphere, which threaten the country’s sovereignty, territorial integrity and national safety”.

Theoretical framework

This study is derived from the hypothesis that cyberbullying is caused by ideological competitions when two or more ideologies are in conflict. Cyberbullying is often perpetuated by individuals who believe in an ideology different from their victims. We can say that cyberbullying unethically expresses rivalry or conflict between two ideologies or religions or sects. Van Dijk (2006) described ideology as a belief system shared by a specific group of people, who follow views and who have identities different from those of others. Such an ideological superiority through unethical expressions or discourses cannot be legitimized and must be rejected (Van Dijk, 2006).

The study was premised based on the legal protection theory (Raharjo & Sudrajat, 2018) which stipulated that those in power or in the judicial system must be accountable to frame strict laws and establish dedicated courts for such religious or ideological warfare (Erliyani et al., 2016a). Principle of Law and Justice Certainty on the Position of Woman Witness in Prof System in the Procedural Law of Religion Court, *Pollicy and Globalization, vol 54.*) Legal protection refers to a protection provided by the law against something that causes harm to people, emotionally, psychologically, physically and socially. With this definition of legal protection, cyberbullying comes under this ambit and therefore law must prevent the victimization of the innocent individuals.

Methodology

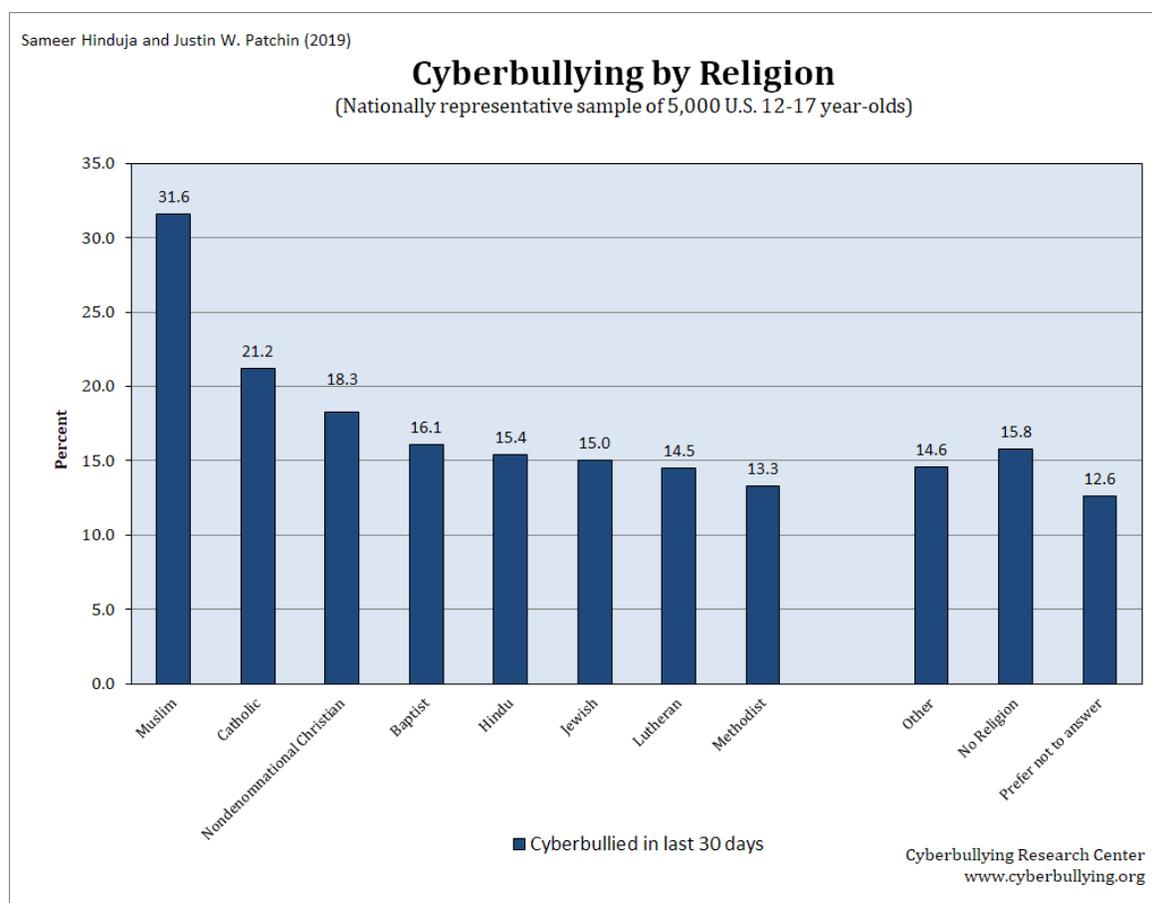
The normative juridical method (Budianto, 2020) was used in this study to collect data from legal documents and other literature related to the topic. The purpose was to provide a constructive understanding of the problem under study and help readers analyze the data comprehensively. The research was designed in the perspective of criminal law related to cyberbullying and the literature reviewed and the legal documentation cited aimed at establishing cyberbullying as a criminal act. A content analysis of the data was made to extract the true nature of cyberbullying based on religion, faith or ideology. Regarding content analysis, Creswell and Poth (2016) recommended important questions: “who says what, to whom, why, for what, and how it impacts”.

During the research adequate attention was given on various Indonesian laws and regulations such as Article 28 paragraph (2) Law Number 19 of 2016 about

Information and Electronic Transactions (the ITE Law). The characteristic of cyberbullying on social media against people of specific religion, faith or ethnicity was a major focus in this study

Results and discussion

This study, after having found the evidence of cyberbullying recognized as a criminal offence in Indonesia, sought to find out why cyberattacks were targeted based on a person’s religion, race or ethnicity. A study by Patchin and Hinduja (2019) revealed the increase in incidents of cyberbullying because of religion (See Figure 1). The statistics reveal that in US alone, 34.3% of Muslim, 25% of Jewish, and 23.1% of Hindus were targeted at school in a short period of 30 days because of their faith. If this is the case of cyberbullying in developed nations, the situation in developing countries like Indonesia could be very grim.



Source: Patchin and Hinduja (2019)

Such types of bullying based on race/ethnicity, national origin, or religion, are also considered discriminatory harassment which need to be examined for their root cause (Juvonen & Gross, 2008). It is still not clear why people get bullied because of their race or national origin, ethnicity, religion or even language. There is a dearth of research; however, it is clear that bullying based on religious or ethnic differences may be less to do with a person’s beliefs and more to do with misinformation or

negative perceptions about how someone expresses his or her belief (Arnarsson et al., 2020; Elçi & Seçkin, 2019). People have often reported bullying experiences because of their outward practices that reflects in their behavior and expressions such as prayers, fasting, avoiding certain food or alcohol, and wearing visible faith-related attires. Muslim girls who wear hijabs (head scarves) or Sikh boys who wear turbans, and Jewish boys who wear yarmulkes (skullcap) are mostly targeted because of these visible symbols of their religions. The memes or cartoons about these visible symbols abound in the cyber space, meant to malign them or humiliate them.

Likewise, cyberbullying on social media against Muslim ulemas in Indonesia was engineered by the rival Islamic groups, which followed different political attitudes and choices. Hence, cyberbullying due to religious affiliation also took the form of ideological and political cyberwars. In Indonesia, when there was a cyber-warfare against Muslim leaders, it also reflected a change in people's attitudes towards Muslim leaders. People who respected them suddenly turned hostile, indicating that the charisma of Muslim leaders in the Indonesian society was declining. These Muslim leaders became target of cyberbullying because of their religious affiliations, and provoking sectarian conflicts. A few of them were also involved in political battles, forcing people to disrespect them. The 2017 Jakarta Governor Elections also saw the use of the social media and several other websites staged a warfare beyond decency. Cyberbullying took place mainly through fake and anonymous accounts, which were convenient tools for the cybercriminals to attack their targets. The Indonesian Government failed to prevent such large scale of cyberbullying which exposed negativity more for a persons' religious affiliations than political. It also shows that people who respected and revered Islamic leaders, now have changed their attitude.

Another revelation of this research was that many social media users in Indonesia posted or forwarded messages because they could not distinguish between authentic posts and personal attacks buzzing as trolls against a set of individuals. This increased the frequency of cyberbullying. Such perpetrators were large in number as they did not analyze the contents of the post and simply shared them with their immediate contacts. They failed to realize that they were only aggravating the problem and committing cyber offence by spreading negativity. Some of these perpetrators could be innocent as they were only provoked to forward such hoaxes, slander, and memes, never realizing that they are contributing to cyberbullying against people belonging to a particular religion, faith or ethnicity.

Since the enactment of Law No. 7 in 1989, religious courts gained an equal position, in terms of jurisdiction, to other courts in Indonesia (Erliyani et al., 2016b) though cybercrimes were still not included in their jurisdiction by that time. In fact, the term cyber was never linked with crime in the Indonesian legal glossary. The Law No. 7 of 1989 on the Court of Religion, later amended as Law No. 50 of 2009, only gave the religious courts the authority to adjudicate matters that were earlier handled by District Courts as well as the status of appellate courts. The Law does not mention about cybercrimes or cyberattacks on Muslim individuals or Islamic groups. Another big drawback was the Constitutional Court Decision Number 50/PUU-VI/2008, which stated that insults on cyber space are different from insults or defamation happened in the real or public life. Hence, the Criminal Code refused to accept insults and defamation committed in the cyber world as "public" or happening in real life. Even the regulation

regarding cyberbullying in the Criminal Code and Information and Electronic Transactions Law No. 11 of 2008 was insufficient to establish cyber bullying as a criminal offence. Subsequently, Law No. 19 of 2016 revised the Law No. 11 of 2008 stating that the Criminal Code was formed before technological developments took place. Hence, there is a need to formulate comprehensible rules against cyber criminals. The cyberbullying regulations were included in Chapter VII of Law No. 11 of 2008 Concerning Information and Electronic Transactions, when it was amended as Law No. 19 of 2016. The criminal provisions regarding cyberbullying were regulated in Chapter XI of in the ITE Law and also acts of defamation/insulting, slandering/spreading false news in the cyberspace were declared as criminal offences.

After the amendment, the Law stipulated that all types of cyber bullying or oppression and humiliation would be punishable. Article 27 *vide* article (3) of Information and Electronic Transaction Law describe a cybercrime as an act if a person "intentionally and without rights distributes and/or transmits and/or makes access to Electronic Information and/or Electronic Documents that have insult and / or defamation content." Such acts were categorized as criminal threats and a sentence provision to the offenders was made of 6 years' imprisonment and/or a fine of Rp. 1.000.000.000. The Law also took the cognizance of such cyber bullying done on the basis of a person's religion, race or ethnicity. Article 28, Paragraph (2) describes it as "Any person intentionally and without the right to disseminate information intended to cause hatred or hostility individual and/or a particular group of people based on ethnicity, religion, race and intergroup (SARA)."

Though there is still a lack of legal protection for cyberbullying in Indonesia, Article 27 paragraph 3 of the Information and Electronic Transaction Act can still act as a remedy to the victims of cyberbullying. The law clearly states that a complaint ought to be received by an individual alleging bullying behavior committed. Such a complainant shall be redressed under against Article 27 paragraph 3 of Law Information and Electronic Transactions of the Criminal Code.

An action also needs to be taken against social media, which is no longer a source to obtain and disseminate information or entertainment, but maneuvered to attack individuals and groups for their personal identifies, affiliations or ideology. There is a need to stop slanders and hoaxes leading to character assassination of individuals. The Law must take the cognizance and categorize such social media violations as cyber violence and cyberbullying. Often it is feared that cybercrimes in such a style might give birth to cyber terrorism, examples of which are abounding in Europe and the West. In Indonesia, too, cybercrimes have become a high-level crime that has changed the concept of conventional crime. Besides the cyberattacks on Islamic scholars, there are frequent interactions between individuals and groups through the cyberspace which can be categorized as serious crimes. This is consistent with Chan and La Greca (2016), who believed that such types of bullying can lead to violent extremism. The stakeholders on this matter emphasize on the need to introduce a special legal socialization process that could suppress the bullying tendencies on social media. The law enforcers should place serious criminal sanctions against cyberbullying by means of either having separate laws or cybercrime cells to directly check the prevalence of these activities. This is consistent with Craig and Edge (2010) and Baldry et al. (2018) who regarded that cyber bullying requires attention of the

educators and community to come forward and check their prevalence. These studies recommended faith-based nonprofit digital campaigns to raise awareness about religious and customs, and remove any misunderstanding about religions and faith among the cyber criminals.

In such a situation, online campaigns are the best way to educate people about religious faiths and dispel their myths, and promote tolerance and inclusiveness. Young teens and adolescents who may have been misled and got indulged into cyberbullying would feel more empowered and can become strong social catalysts to bring a change in the perception of the cybercriminals. This is in line with several studies (Farrington & Ttofi, 2009; Oliver et al., 2011; Spriggs et al., 2007; Ttofi & Farrington, 2008) who encouraged communities to come forward and unite themselves against cyberbullying efforts and develop empathy and tolerance for different religions; and with (Gómez et al., 2014), who emphasized people to rise above racial and religious backgrounds, and build relationships by removing misperceptions and prejudices based on ignorance about other religions.

Conclusion

Based on the findings of this study, it is concluded that there exists indiscriminate cyberbullying in Indonesia based on a person's religious affiliation or ideology. The lack of robust laws to prevent such cyberbullying is another matter of concern. Although there are cyberbullying regulations included in Chapter VII regarding prohibited acts in Articles 27-29 Amendments to Law No. 11 of 2008 Concerning Information and Electronic Transactions, by Law No. 19 of 2016, the Law fails to widen its coverage on the pretext that the Criminal Code in Indonesian Legal system was formed long before technological developments took place in Indonesia. Ironically, the Law also states that acts of cyberbullying such as slander, insult and humiliation actually occur virtually and therefore such acts of victimization are also virtual and not in the real life. The Law addresses only those acts that happen in the real life and not what are carried out in cyberspace.

For these reasons and limitations, the research on religious bullying in the Indonesian context is minimal. The 2016 elections did raise the alarm of fear and anxiety among people, especially the Muslim children who were subject to cyberbullying because of their religion, and a few of them were even subjected to interrogation and surveillance, suspecting them of cyberterrorism. These innocent people have nothing to do with any cyberterrorism, or violent extremism; they just suffered due to their religion or ethnic identity. Some of them even suffered the brunt of religious bullying from their own peers and social acquaintances in the form of slander, insult and humiliation. It is also feared that such a type of bullying hinders spiritual and moral development, and may cause a person question his own faith and beliefs. It is very embarrassing for a person to feel that he is bullied because he holds a particular set of beliefs or followed a specific religion.

Preventive measures must be adopted to stop cyberbullying based on religious faith or beliefs. The role of the community is very significant to stop such types of cyberbullying. For example, schools can organize special programs or secular and multicultural themes to increase tolerance and inclusiveness among children. religious bullying is often not due to the religion itself but a lack of shared knowledge

about other religions also cause cyber bullying (Beale & Hall, 2007; Olweus, 2013). Such educational programs be organized to increase the awareness about other religions. Such initiatives at social and cultural level could compensate the absence judicial authority of the religious courts or the lack of the dedicated laws to prevent cyberbullying.

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