

# Legal Protection for LGBT People from Bullying Comments via Social Media

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# Legal Protection for LGBT People from Bullying Comments via Social Media

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## Abstract

Misuse of social media users and lack of knowledge can lead to crime in cyberspace. With the harassment via electronic media carried out by the perpetrator against the victim, the victim feels fear in itself. This research aims to find out how legal protection is for LGBT people from bullying comments via social media. The method used in this research is the normative juridical method with a conceptual approach and a statutory regulatory approach. The results of this research are that bullying comments made via social media towards LGBT people is a serious problem that must be addressed immediately. LGBT people in Indonesia do not have special protection from bullying. However, there are several provisions that can be used to protect LGBT people from bullying comments via social media, namely Article 436 of Law no. 1/2023 and Article 27 letter a of Law no. 1/2024. The lack of reporting and the still closed nature of our society regarding these criminal acts, makes every case of defamation through electronic media difficult to uncover. Therefore, it is necessary to study the legal protection for LGBT regarding bullying comments via social media as a form of criminal act which is the cause of bullying crimes which violate human rights.

## 1 Introduction

One thing that continues to be of concern is the protection of LGBT rights. LGBT has existed for a long time, but not many people know and accept its existence. LGBT itself is synonymous with deviant sexual behavior, where the proper sexual orientation is a relationship involving the opposite sex and with one partner, but LGBT is a relationship involving the same sex, whether between men and men, women and women, and so on. dual sexual orientation where men relate to women as well as men and conversely women relate to men as well as women.

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The presence of LGBT is an issue that is widely discussed among Indonesian society with the rise of LGBT celebrities on social media (Pratiwi et al., 2022). LGBT people still often face discrimination, violence and other human rights violations in various countries around the world. LGBT often receive and receive negative views, prejudice and hatred from the environment around them. Like other minority groups, they experience rejection, violence, and discrimination in areas such as employment, school, health care, and their human rights. However, nowadays, LGBT people are increasing in number and are starting to have the courage to voice their existence and fight for their rights, since the importance of human rights was stated in the Universal Declaration of Human Rights of 1948 (UDHR).

The rise of LGBT issues is interesting because it is related to human rights, which is human nature. Even though several surveys state that only 3% of Indonesia's population identifies as LGBT, this phenomenon still attracts attention. Acceptance of LGBT in Indonesia is also related to the trend in liberal countries to provide recognition to the LGBT community. Differences in views towards LGBT create heated debates, involving human rights arguments and religious arguments. The challenge analyzed in this paper is about the causality of human rights law on the existence of LGBT globalization in Indonesia. A complex challenge involving a balance between Pancasila values, human rights, and the social realities of Indonesian society (Putri, 2022).

Protection of human rights, including LGBT rights, has become an important issue in the development of law and society. Law Number 1 of 2024 concerning the Second Amendment to Law Number 1 of 2008 concerning Information and Electronic Transactions (hereinafter referred to as Law No. 1/2024) reflects a significant change in the approach to the protection of human rights, especially for sexual minority groups. One critical aspect of these protections is how the law responds to bullying via social media (Rahmawati et al., 2021). The case study of Ragil Mahardika, who was a victim of bullying on social media, will provide a concrete picture of the challenges faced by LGBT people and how the new law addresses them. In 2023, Ragil Mahardika, a YouTuber and game streamer from Indonesia, was bombarded with hate comments and bullying on social media after a video of her wedding to a fellow man in Germany circulated (Kristina, 2022). This bullying includes insults, verbal abuse, and threats of violence. This case sparked public outrage and highlighted the lack of human rights protection for LGBT people in Indonesia.

Freedom to express opinions is a right that is inherent in all people which is then called human rights and is one of the signs of a democratic state (Suryadinata & Michael, 2023). Ease of access to information is not just freedom, however there is education in it (Michael, 2020). In today's digital era, society has become greatly facilitated by the existence of digital technologies that can reach all levels of society. Unwise misuse of social media users and lack of knowledge can give rise to crimes in cyberspace. An example is what happened to Ragil Mahardika, a gay or same-sex lover who has been appearing on social media for the last few years. Where he dared to be honest or open about his sexual orientation. Advances in the field of social media make it possible for opinions expressed by someone to be easily reached by various groups of society. However, problems arise when social media access is misused

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to carry out insults, defamation, and even hate speech against individuals or groups that are disliked (Sutrisno & Paksa, 2019).

With the bullying via electronic media carried out by the perpetrator against the victim, the victim feels fear in itself. So this has a negative impact on the victim's psychology, such as lack of self-confidence, fear, mental pressure and moreover can make the victim commit suicide. The lack of reporting and the still closed nature of our society regarding these criminal acts, makes every case of defamation through electronic media difficult to uncover. Therefore, it is necessary to study the legal protection for LGBT regarding bullying comments via social media as a form of criminal act which is the cause of bullying crimes which violate human rights.

## 2 Materials and Methods

This research, the methodology used by the author is a normative<sup>13</sup> juridical approach, which includes analysis of applicable regulations and laws, as well as a conceptual approach that refers to legal principles by considering the views of legal experts. (Marzuki, 2022; Michael, 2019).

## 3 Results and Discussions

### Legal Protection for LGBT People from Bullying Comments via Social Media

Human Rights are legal rights that every person has as a human being and are universal. Human Rights are rights that humans have solely because they are human (SERI REZKI FAUZIAH, 2019). Human beings have it not because it is given to them by society or based on positive law, but solely based on their dignity as human beings. In the development of human rights, there are many new problems, one of which is minority groups, in the case Lesbian, Gay, Bisexual, Transgender (LGBT). In Indonesia, except for the provisions in Law no. 1 of 1974 concerning Marriage which confirms that a valid marriage is between a heterosexual couple, there is no national law that explicitly prohibits homosexuality (Naryakusuma & Wijaya, 2021).

<sup>9</sup> In Article 27 of the International Covenant on Civil and Political Rights (ICCPR) it is stated that the rights of minority groups (need special protection). This means that in a country where there are minorities their rights cannot be denied<sup>16</sup> Indonesia, as one of the countries that ratified the ICCPR, needs to pay attention to existing minority groups, including Lesbian, Gay, Bisexual and Transgender (LGBT) groups who are vulnerable to discrimination regardless of their gender (Hapsari, 2021). According to the American Psychiatric Association, sexual orientation will continue to develop throughout a person's life. Sexual orientation is divided into three based on sexual and emotional drives or desires that are romantic attraction<sup>10</sup> to the same gender. If we explain the meaning of each term LGBT, namely:

- Lesbianism is a deviant sexual disorder where women are attracted to other women.
  - Gay is a sexually deviant behavior where men are attracted to other men. Style Also called homosexual.
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- Bisexuality is deviant behavior where <sup>1</sup> a person likes two genders at once, both women and men.
- Transgender is a change in genitals because someone feels that their genitals do not show their true identity, which is the opposite of what they have. This condition triggers a person to change their gender by means of genital surgery.

Bullying and harassment on social media are actions that have a detrimental aim or impact on certain individuals or groups, which are carried out through social media platforms. Social media bullying is aggressive or degrading actions carried out repeatedly against someone using digital technology, such as social media platforms. Bullying often aims to hurt, demean, or intimidate the target. This may include the use of harsh words, insults, spreading false rumors, or threats directed at the victim (Pakpahan et al., 2020).

LGBT people who are victims of bullying and harassment tend to experience high levels of stress and anxiety. They may feel threatened and unsafe, both physically and emotionally, because they are often the target of negative comments or actions from others on social media. Online bullying and harassment can cause LGBT individuals to feel socially isolated. Additionally, the severe psychological impact of online bullying and harassment can cause LGBT individuals to consider suicide as a way out of painful and unbearable situations (Hudi et al., 2023).

Legally, LGBT people in Indonesia do not have special protection from bullying. However, there are several laws that can be used to protect them. For same-sex obscene acts between adults, there are no legal provisions contained in the Criminal Code or RKUHP (Kusumo et al., 2021). This has become one of the pillars of the LGBT movement in Indonesia, which reminds us that same-sex obscene acts between adults are valid and contrary to the laws in force in Indonesia, which contain religious norms, customs and culture of the Indonesian nation. Apart from that, there are also provisions a law that prohibits same-sex obscene acts that enter the public sphere or that threaten the morality of future generations of the Indonesian nation. However, it should be remembered that same-sex obscene acts between adults are not described in the legal provisions contained in the Criminal Code or RKUHP. Bullying via social media can be a source of bullying for LGBT people (Fauziah et al., 2020). Article 436 of Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code (hereinafter referred to as Law No. 1/2023) states that insults that are not in the nature of defamation or written defamation are committed against other people, whether in public orally or in writing, or in the face of the person who is insulted verbally or by actions or in writing sent or received to him or her, shall be punished for light insult with a maximum imprisonment of 6 (six) months or a maximum fine of category II.

Regarding social media, there are several studies that show that social media has the potential to increase LGBT existence and help change public perceptions of the LGBT community. However, it should be remembered that legal protection against discrimination and hate crimes does not consist in legal provisions that prohibit same-sex obscene acts

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committed via social media. In addition, there are also several legal provisions that prohibit same-sex obscene acts that involve violence, as stipulated in Article 27 letter a of Law no. 1/2024 states "Each individual who deliberately undermines the reputation or integrity of another individual by alleging something against them, with the aim of disseminating this information to the public through Electronic Information and/or Electronic Documents via an Electronic System.." If someone deliberately uses an electronic platform to attack the honor or good name of an individual or LGBT person by making false or derogatory accusations, this can be considered a violation of human rights (Sudarmanto et al., 2020).

#### 4 Conclusion

Bullying comments via social media towards LGBT people is a serious problem that must be addressed immediately. Various efforts need to be made to increase legal protection for LGBT people, including increasing education and awareness about the law. LGBT people in Indonesia do not have special protection from bullying. However, there are several laws that can be used to protect LGBT, namely Article 436 of Law no. 1/2023 and Article 27 letter a of Law No. 1/2024. Therefore, concrete action is needed from the government, legal institutions and society as a whole to strengthen legal protection for LGBT people and overcome bullying that occurs through social media.

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