

Juridical Review of the Dissemination of Pornographic Videos Through Social Media

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ABSTRACT

Cases of dissemination of pornographic videos in Indonesia are currently mushrooming and are even in the stage of destroying morals and decency. Social media including electronic media is used by the public to seek information and entertainment. In its development, technology plays an important role, but people often abuse the use of social media, for example being able to access any video including pornographic videos. This type of research uses a qualitative juridical type research method, namely by using a problem approach through a statute approach. The sources and collection of data used in this study are normative. The analysis used in this research is using descriptive analysis method. The purpose of this study was to determine the negative impact of spreading pornographic videos through social media and the efforts made to tackle the spread of pornographic videos through social media according to Law Number 44 of 2008 concerning Pornography. The results of this study explain that the negative impacts of spreading pornographic videos through social media and efforts that can be made in tackling the spread of pornographic videos can be done with preventive and repressive efforts. Another effort is to pass Law Number 44 of 2008 concerning Pornography. As for suggestions given by researchers regarding a juridical review of the dissemination of pornographic videos through social media according to Law Number 44 of 2008 concerning pornography, it is necessary to instill legal awareness within the community that the dissemination pornographic videos are prohibited and violators can be subject to criminal sanctions and there must be firm action from the government and law enforcement agencies in tackling the spread of pornographic videos.

Keywords: Juridical Review, Dissemination, Pornographic Video, Social Media, UUD

1. INTRODUCTION

In an era of increasingly rapid development in all aspects of human life, it is constantly experiencing development and change. These changes and developments are indeed interrelated between one sector and another along with the development and rotation of the wheel of development.

Growth in the era of globalization, which is currently developing and even actively carrying out development using social media, is not something new anymore if information and communication technology has been used in everyday life. The existence of technology that was initially only used by certain circles, but now almost all levels of society have used it. One of them is social media which is a very sophisticated and modern means of communication. However, it cannot be denied that apart from having a positive impact, social media also has a negative impact (Gani, 2017).



The Indonesian state is experiencing modernization, this is also difficult to separate from the role of electronic media such as newspapers, television, videos and so on. Today technology plays a very important role in supporting the achievement of development, one of which is a communication medium that is quite popular with the general public. The use of the internet has now become a daily activity for most people from among students, students, and workers. Various conveniences for accessing the internet, especially social media, make it easy for people to get information, the latest news, use social media, download videos or write on personal blogspot using only mobile phones (Pratiwi & Yulianti, 2022).

The development of electronic media which includes sound (sound system) and images (audio visual) is a means of supporting and entertaining various activities involved in the scope of society. Apart from the positive things mentioned above, electronic media can also have negative impacts, especially electronic media which specifically functions as a means of entertainment, for example in the form of videos (Adhistian et al., 2021).

Whether you realize it or not, the presence of social media facilitates the dissemination of information and easy access to this information, including pornographic videos. Pornographic videos on social media that can be accessed easily either via computers, mobile phones, or internet cafes (cafes) are very troubling. Pornographic videos that are widely circulated in society apart from having a positive impact can also have a negative impact. Videos that have a negative impact in this case can damage the morals and morals of the younger generation (Damayanti & Gemiharto, 2019).

In everyday life, the role of electronic media and technological advances are widely misused by certain irresponsible people. This is proven by the large circulation of pornographic videos that occur in the surrounding community. One of the distributions of pornographic videos that occurred in the city of Bandung in January 2018, the perpetrators of which involved children. Research conducted by researchers from the Social Welfare Research and Development Center of the Indonesian Ministry of Social Affairs (Puslitbangkesos) also found that almost all children, 94% of 718 high school students, were victims of watching pornographic videos because friends invited them.

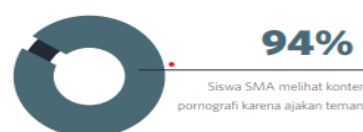


Figure 1. Percentage of high school students viewing pornographic videos

Before the internet era, pornographic videos were accessed through magazines and stencil books and their circulation was limited (Anggraini & Maulidya, 2020). Research conducted by the Social Welfare Research and Development Center of the Indonesian Ministry of Social Affairs (Puslitbangkesos) found, in this digital era, out of every 100 children surveyed, only 4 children had never seen pornographic videos. 80% access it via cellphone or tablet.

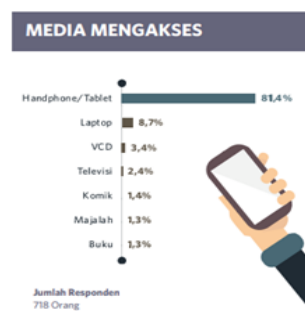


Figure 2. The Impact of Dissemination of Pornographic Videos on Society

2. RESEARCH METHODS

study uses two approaches in writing this thesis, namely the statute approach, conceptual approach. The statute approach is an approach that is taken by examining all laws and regulations that are related to the legal issues being handled. The conceptual approach is by studying the views that exist in the science of law, and will find ideas that give rise to legal notions, legal concepts and legal principles that are relevant to the legal issues at hand. The analysis technique used in this study is a normative juridical analysis perspective. In this study, data were obtained by reviewing literature studies, laws and regulations along with literature that can help interpret norms so that conclusions and suggestions can be drawn from the study.

3. RESULTS AND DISCUSSION

Law Number 44 of 2008 Concerning Pornography

The development of computer, telecommunications and information technology has proceeded in such a way, and has encouraged rapid business growth. Therefore various information can be presented in a sophisticated and easy to obtain manner, even through long distances by utilizing telecommunications technology (Rettob & Murtiningsih, 2021). The discussion on

pornography in Law Number 44 of 2008 states that the prohibition of pornography is also regulated by the government which contains:

1. Prohibition and restriction of the manufacture, distribution and use of pornography.
2. Protection of children from the influence of pornography.
3. Prevention of the production, distribution and use of pornography, including community participation in prevention.

Law Number 44 of 2008 also explicitly stipulates the form of punishment for violations of making, distributing and using pornography which is adjusted to the level of the offense committed, namely serious, moderate and light, and provides weighting for criminal acts involving children. In addition, weighting is also given to perpetrators of crimes committed by corporations by doubling the main sanctions and giving additional penalties (Mahesa & Rusdiana, 2022).

Meanwhile, to provide protection for victims of pornography, this law obliges all parties, in this case the state, social institutions, educational institutions, religious institutions, families and/or communities to provide guidance, assistance, social recovery, physical and mental health. for every child who is a victim or perpetrator of pornography. In chapter I article 1 of the Republic of Indonesia Law Number 44 of 2008 concerning Pornography it is explained that:

1. Pornography is pictures, sketches, illustrations, photos, writing, sounds, sounds, moving pictures, animations , cartoons, conversations, gestures, and other forms of messages through various forms of communication media and/or public performances, which contain obscenity or sexual exploitation that violates the norms of decency in society,
2. Pornographic services are all types of pornographic services provided by individuals or corporations through live shows, cable television, terrestrial television, radio, telephone, internet, d and other electronic communications as well as newspapers, magazines and other printed matter.

The scope of pornography is contained in Book Two (on crime) and Book Three (on violations) of the Criminal Code (KUHP) (Soesilo, 1995). The two objects of this study, both regarding "crimes" and "violations" contain aspects of "decency", it is necessary to first know and understand the background of "decency".

Decency is a form of human moral irritability ("sensitivity") in facing, assessing and responding to things related to decency and propriety values that grow and develop in people's lives.

While the norms that support good or bad moral values that live in society include: religious norms, moral norms, legal norms, and decency norms (grundnorm / or basic norms).



Violation is an act that is not specified in law as a criminal act but is felt as an 'onrecht', namely an act that is contrary to the legal system.

Broadly speaking, the Criminal Code (KUHP) regulates all acts that violate decency either intentionally or should be known or unintentionally, namely by broadcasting, showing, conveying, distributing, storing supplies and so on from all forms of writing, images or objects, all of which he knows or can hear, violate decency (Moeljatno, 2021). This pornographic crime via the internet media has a very bad impact on the development of a country. Pornographic crimes through internet media are commonly referred to as cyberporn, which means crimes committed through internet media by utilizing tools on the internet. The spread of pornography or cyberporn is done through one of the tools on the internet which is commonly called the web or site (Yustisia, 2016).

Through this site, cyberporn or the crime of spreading pornography on the internet facilitates internet users with various forms of pornography such as photos of naked women and men, porn videos, porn stories, etc. Cyberporn is a form of cybercrime which can be called illegal content. Illegal content is the act of entering data and or information into the internet that is considered incorrect, unethical and violates the law or disturbs public order (Raiz, 2021).

Cyberporn itself is an activity carried out by creating, installing, distributing and spreading material that smells pornographic, obscene and exposes things that are inappropriate to see. Cyberporn has become one of the masterminds behind the damage to the mentality of the nation's young generation (Rusli et al., 2019). There are lots of porn sites circulating on the internet, whether they are owned by Indonesians or people outside Indonesia. In the Indonesian criminal law, pornography is included in a delict offense, because pornography is generally considered to violate social decency (Utama, 2020). Delicts of decency in the Criminal Code are contained in Book II Chapter XIV Concerning Crimes Against Decency, which are regulated in Articles 281-303. In Book III Chapter VI on Violations of Decency in Articles 532-547. Crimes of decency regulated in Articles 281-303 of the Criminal Code include the following acts:

1. Violating decency in public, contained in Article 281
2. Broadcasting, showing, making, offering and so on writing, pictures, objects that violate decency or are pornography, contained in Articles 282-283.
3. Committing adultery, rape and other matters related to committing or connecting or facilitating obscenity and sexual intercourse, are found in Articles 284- 296.
4. Trafficking in women and underage boys, is contained in Article 297.
5. Related to medication to abort pregnancy, found in Article 299.
6. Related to intoxicating drinks, found in Article 300.

7. Giving children to begging and so on, found in Article 301.
8. Animal abuse, found in Article 302 9.
- . Gambling, contained in Articles 303 and 303 bis

Article 27 paragraph (!) of the ITE Law which reads as follows: "Anyone who intentionally and without rights distributes and/or transmits and/or makes Electronic information and/or Electronic Documents accessible that has content that violates decency. Violators of the above article shall be punished with a maximum imprisonment of 6 years and/or a maximum fine of Rp. 1,000,000,000,-

Efforts to Prosecute the Perpetrators of Dissemination of Pornographic Videos According to Law Number 44 of 2008

The phenomenon that occurs in Indonesia as a developing country, makes the government, law enforcement officials, and the community required to be active and not remain silent watching developments life right now. If the current phenomenon is not immediately handled or responded to by the government or law enforcement officials to prevent the manufacture, distribution and use of pornography, it can damage the morale of the Indonesian people (Law, 2008).

Efforts to Prosecute Perpetrators of Dissemination of Pornographic Videos

Efforts to prosecute pornographic videos must be integrative between structure and culture, as well as a balance between preventive and repressive measures. This can be realized if a social policy is created as a rational effort to achieve social welfare and at the same time includes community protection. So, in the sense of social policy, it also includes social welfare policies and social defense policies (MALAU, nd). Countermeasures against the criminal act of distributing pornographic videos on social media are divided into two (2) categories, namely as follows:

1. Preventive Measures

The definition of preventive is action in social control which is carried out in order to prevent or reduce the occurrence of unwanted things in the future.

Preventive countermeasures are carried out to prevent or avoid someone committing the crime of distributing pornographic videos on social media, these preventive efforts are carried out by authorized parties such as the police.

Efforts made by the police in tackling the criminal act of spreading pornographic videos on social media include conducting counseling about the negative effects of the dangers of watching pornographic videos, especially on social media, both in the form of pictures and videos.

The aim of this counseling is for all levels of society to participate in efforts to tackle criminal acts of pornographic videos on social media together and in an integrated manner.



Other efforts in preventing and overcoming pornographic crimes that can be carried out by the police include:

- a. Carry out socialization activities or outreach and education about pornography to the public, especially junior and senior high school students on an incidental basis. This is done in order to provide students with an understanding of the impact and dangers of pornography, so that they avoid things that smell porn and their future is not damaged.
- b. Carry out operations/raids at cafes, entertainment venues, internet cafes, hotels, inns, or other entertainment venues that may be used as immoral places.

The government has issued a general policy regulated in the Pornography Law, namely that the government, local officials, as well as community components are involved in preventing and tackling pornography, where people are encouraged to take legal action against actors who distribute or display pornography.

The government's role is regulated in Article 18 of the Pornography Law, where the government has the authority to:

- a. Termination of the network for the manufacture and distribution of pornographic products or pornographic services, including blocking pornography via the internet.
- b. Supervise the production, distribution and use of pornography, and
- c. Cooperating and coordinating with various parties, both from within and outside the country, in preventing the production, distribution and use of pornography.

The government's actions in prevention as referred to above, Regional Governments are also given authority that is not much different from that of the Government. The difference in authority is that there is authority for actions taken directed at certain areas, this is regulated in Article 19 of the Pornography Law. Meanwhile, community participation in preventing, disseminating and using pornography is contained in Article 21 paragraph 1, which can be done by:

- a. Report violations of this law
- b. Carrying out a representative lawsuit to court
- c. Dissemination of laws and regulations that regulate pornography.
- d. Conduct training to the community against the dangers and effects of pornography.

Law enforcers must also try to carry out early detection in preventive efforts, namely measures to control Police Hazard, namely by preventing supply and demand from interacting with each other, or in other words preventing factual threats from outside. This preventive effort includes preventing the entry of pornographic videos from abroad.



2. Repressive Efforts The

definition of repressive measures is an act of social control that is carried out after a violation or an adverse event has occurred. In other words, the actions taken after an event has occurred. In the process of law enforcement to eradicate pornography, there are several institutions that have great influence in its implementation. In tackling the spread of pornographic videos on social media in the form of massive raids on websites that are prohibited by the Ministry of Communication and Information Technology (Kominfo) and blocking websites, pornographic websites, blogs, accounts containing pornographic images and videos, as well as links providing pornographic videos. Institutions for handling pornography are formally known as law enforcement agencies such as the police, prosecutors, lawyers, judiciary and correctional institutions.

Other institutes in handling pornography include the following:

- a. The Film Censorship Institute (LSF), was formed based on PP no. 7 of 1994 as a follow-up to Law no. 8 of 1992 about old cinema. The new film law is Law no. 33 of 2009.
- b. The Indonesian Broadcasting Commission (KPI), has a very decisive meaning. The role of KPI is very decisive for the realization of quality television programs, and preventing the spread of programs with pornographic nuances in particular, as well as shows that are destructive for viewers in general. The Broadcasting Code of Conduct (P3) and Broadcast Program Standards (SPS) that have been formed contain things that television may and may not do.

KPI has the authority to impose administrative sanctions, namely:

- 1) Written warning
 - 2) Temporary suspension of problematic agendas after going through a certain stage.
 - 3) Limitation of broadcast duration and time.
 - 4) Administrative fines
 - 5) Freezing of broadcasting activities for a certain time
 - 6) Not being given an extension of broadcasting operation license
 - 7) Revocation of broadcasting operation license
- c. Another institution in dealing with pornography is the Indonesian Ulema Council (MUI), which is a forum or assembly that brings together Indonesian Muslim clerics, zuama and intellectuals to adjust the movements and steps of Muslims in realizing common goals.
 - d. Another religious institution, the Indonesian Church Council (DGI), also has an equally important role. What is clear is that these institutions play a role in providing moral appeal to



their respective followers. Because the impact caused by pornography is not only directed to certain people, but to all people regardless of their religion.

The role of the government Article 17 of the Pornography Law, in which the government and regional governments are obliged to prevent the manufacture, distribution and use of pornography.

The prevention of pornographic crime can be viewed from a sociological perspective, crime/criminalism is caused by the lack of harmonious integration between social institutions so that each individual has difficulty adjusting to various kinds of social relations. Symptoms of social problems result in disrupted social relations and cause unrest in group life.

4. CONCLUSION

The impact of pornographic videos is that they can damage the minds, morals, and mentality of the people who watch them, so that it will lead to other crimes such as rape, sexual harassment, obscenity, apart from that other crimes can also occur such as robbery which ends in rape and murder. The implementation of countermeasures against the criminal act of spreading pornographic videos on social media by the police consists of preventive efforts in the form of outreach or outreach and education, as well as repressive efforts in the form of raids at places where prostitution transactions occur. Another effort was made by the Ministry of Communication and Informatics (Kominfo) to block sites, blogs, websites that contain pornographic elements.

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