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## ANALYSIS OF CRIMINAL SANCTIONS FOR SELLERS OF PRIVATE PORNOGRAPHIC CONTENT ON SOCIAL MEDIA

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### Abstrak

Salah satu problematika berkaitan dengan penyalahgunaan internet adalah penyebaran konten-konten yang bermuatan pornografi. Tujuan penulisan artikel ini adalah untuk mengetahui bentuk pertanggungjawaban terhadap pelaku tindak pidana penyebaran konten pornografi di media sosial. Penulisan artikel ini menggunakan metode penelitian hukum normative dengan pendekatan perundang-undangan. Hasil dari penelitian ini adalah berkaitan dengan tindak pidana penyebaran konten bermuatan pornografi, Pemerintah Republik Indonesia telah mengeluarkan beberapa peraturan perundang-undangan terkait. Beberapa aturan tersebut diantaranya adalah Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana, Undang-Undang Nomor 44 Tahun 2008 tentang Pornografi, Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik yang telah mengalami 2 (dua) kali perubahan. Keseluruhan undang-undang tersebut telah memberikan sanksi tegas bagi pelaku penyebaran konten pornografi oleh karena telah melanggar norma kesusilaan, selain melanggar norma hukum.

### Abstract

One of the problems related to internet abuse is the spread of pornographic content. The purpose of writing this article is to determine the form of accountability for perpetrators of criminal acts of spreading pornographic content on social media. This article was written using normative legal research methods with a statutory approach. The results of this research are related to the criminal act of distributing pornographic content, the Government of the Republic of Indonesia has issued several related laws and regulations. Some of these regulations include Law Number 1 of 2023 concerning the Criminal Code, Law Number 44 of 2008 concerning Pornography, Law Number 11 of 2008 concerning Information and Electronic Transactions which have been passed 2 (two) times change. All of these laws have provided strict sanctions for perpetrators of spreading pornographic content because they have violated moral norms, in addition to violating legal norms.

## INTRODUCTION

The development of progress in the era of globalization 4.0 has made technology develop more rapidly than in the past, this determines that there are significant impacts that can be seen, namely the positive impact where we can connect over long distances or access the internet faster and smarter. enjoy in this era of globalization, but not only that, the negative impacts also cause concern for every nation and country regarding this technological progress. This can be seen from the existence of criminal acts that are often carried out using existing technology, the existence of a modus operandi where there is a victim and the perpetrator of the criminal act, this is very significant because these modes are no longer directly face to face but can be done through the internet which is called cybercrime where pornographic content can be accessed which can be bought and sold freely which makes sex their highlight which is called pornographic (Riya Majalista and Tata Sutabri 2023).

Cyber crimes are disturbing the public because of the many abuses that perpetrators commit, resulting in the negative impact of this technological progress in Indonesia. One of the criminal acts using internet technology that is widespread in society is that which violates the norms of decency, namely the crime of pornography or cyberporn. Where there is content regarding pornography on the internet network as an intermediary (Abidin 2015)

Content that is adult content related to men and women with things that are taboo and not suitable for minors to see is often seen milling about on existing internet media, especially among social media users, therefore this is dangerous because Children can now access these things, not just adults.

## RESEARCH METHOD

The implementation of this research refers to the usefulness of existing normative law by examining existing cases by using statutory regulations as the basic reference for the legal provisions that must be used (Susanto and B. 2016). With the norm system used in this research, it uses norms in the form of principles, statutory regulations, decisions, legal doctrine and also legal teachings. By using an approach to problems with a close connection to the law, this approach is carried out with the aim of understanding and providing a review of the existing legal regulations in close connection with the problems in this research, therefore it will be possible to explain how the legal regulations provide legal consequences for criminals who sell and buy pornographic content on social media.

## RESULTS AND DISCUSSION

The existence of regulations governing the existence of pornography in Indonesia is the beginning of regulations for criminal acts which will then be followed by acts of pornography, and also ultimately will discover the essence of these legal regulations. The existence of norms and rules can be used as an object for the regulation of criminal acts in the formulation of criminal law which is closely related to things which have become the basis for any actions that must be punished in the presence of an action. (Mahendra 2021).

There is criminalization and decriminalization, each of which is meant by the process of determining a criminal act which will threaten to result in punishment ending in law; then with decriminalization, namely the process of determining which is carried out by eliminating the criminal nature of the act (Alhakim 2022). Actions that are contrary to the fundamentals of Indonesian law will indeed be subject to punishment.

The existence of an unlawful nature is something that is indeed contrary to what exists in people's lives, which is a form of resistance to material law, where in legal regulations this is indeed a violation, there are existing written provisions. The existence of criminal acts in the scope of pornography is one of the legal acts in which there is a violation of norms, laws or rules for which there are already formulated legal rules which are written in the provisions of the Criminal Code or other legal regulations outside of that which are in line with the Criminal Code, this is All forms of action that lead to unlawful sexual treatment constitute the crime of pornography.

Regulation of pornography is also regulated in Law Number 19 of 2016, Amendment to Law Number 11 of 2008 concerning Information and Transactions (UU ITE), especially regarding internet use. In the ITE Law and its amendments there is no term pornography, but "content that violates decency". This action is regulated in Article 27 paragraph (1).

The thing that makes it difficult to initially understand the attitudes of citizens within the scope of society, then there is a distinction that needs to be distinguished between a belief that is believed by society about an important thing which refers to the law, namely compliance with the law, the law has different characteristics. without favoritism and also does not take sides with anyone, the existence of the rights of the people makes the law a matter which determines the validity of which is applied to all existing cases. Law exists because there are different societies in each region with different characteristics, making law one of the axes through which a peaceful and serene environment will be created because society makes the law a guideline in its daily life. Therefore, violations committed by people in one region are not the same as in other regions, therefore each region will make that region a benchmark for compliance with the law, the law is an intimate part of society where many books or legal sources say that where If there is a society, there must be laws and vice versa (Sidiq 2023).

The spread of pornographic content and physical products which have been monitored and also prevented and eradicated using the authority possessed by law enforcement officials in the implementation of the Pornography Law. Where there is an investigation where the authority given is to examine the existence of networks, files, media in the presence of cyber or other electronic devices where pornography is owned. Where the owner of the data must compulsorily submit and disclose the existing data which will be requested by the Investigator, this is contained in Article 25 (Simangunsong 2018).

One example of a case that was widely discussed by Balinese people in 2021 was that a husband and wife couple from Gianyar were caught by the Bali Police cybercrime unit on July 22 2022. The couple was selling and buying personal pornographic content on Twitter social media, a video made by husband and wife. It was distributed via Twitter with a duration of 2 minutes, the suspect also included comments for followers who were interested in subscribing to their videos for a long duration and had to pay a group entry fee of 200 thousand Rupiah. After transferring it to the suspect, the perpetrator then invited members on the Telegram application which was at The application is suspected of providing their dirty videos, and a fee is charged for each group member every month.

There was a statement from Head of Unit 2, Cyber Sub-Directorate V Ditreskrimsus Bali Police, Police Commissioner Tri Joko Widiyanto, in which he said that the start of this case was from a patrol carried out by ordered officers and the officer found a Twitter social media account with pornographic video posts. Due to the implementation of the undercover buy, it was revealed that the perpetrator was an admin of a group who shared immoral videos with his wife. There is the arrest of the perpetrator and his wife was carried out in Gianyar on July 22 2022, which was carried out by officers from Subdit V Ditreskrimsus Polda Bali.

After carrying out an examination, the result was that the wife and the suspect admitted that the video postings on the account belonged to them since 2019. The statement made by the suspect was that he and his wife had a sexual fantasy which they recorded. only private and unpaid, where the account has 69,800 followers and also follows 106 people on the Twitter account. There is a group on Telegram where pornographic videos of the couple began to circulate. So at the end of 2020 there was a group in the form of a telegram that they specifically created to trade pornographic videos that they had made, where it was stated that 200 thousand rupiah would be paid if you wanted to become a member. With the number of videos from initially 20 to 50 videos.

Head of Cyber Sub-Directorate 2 V Ditreskrimsus Polda Bali Police Commissioner Tri Joko Widiyanto revealed that the couple's initial motive for making the video was personal interest and only personal gain in terms of sexual fantasies, but over time this has spread to economic sales motives. Not only did the two of them make the video, they often invited other people to join in making the video and their statement was that the person was voluntarily invited.

The results of the examination stated that the suspect and the suspect's wife made an introduction to two people who were having threesome sex or a threesome whose video circulated on Twitter via the social media account where the suspect was the one who made an offer to be invited to have a relationship by making an immoral video together. , with an agreement made without payment or in other words voluntarily. And there was also a statement from the suspect who indeed had a fantasy of being satisfied seeing his wife playing sexually with another person and it was also said that the profit made from selling the pornographic video reached 50 million rupiah, where in total there were three groups that they had and in all of these groups has a membership of hundreds of people.

The police charged the suspect with multiple articles, namely Article 27 paragraph 1 in conjunction with Article 45 paragraph 1 of Law Number 19 of 2016 concerning Information and Electronic Transactions and Articles 4 and 10 of Law Number 44 of 2008 concerning Pornography, as well as Article 55 of the Criminal Code. Based on the Giayar District Court Decision Case Number: 50/Pid.B/2022/PN Gin with Public Prosecutor Ni Made Widyastuti stating that the Defendant I GEDE PUTRA ARIWIGUNA mentioned above, was legally and convincingly proven guilty of committing the crime of "offering and selling videos/images containing pornographic content" as stated in the first alternative indictment.

Sentenced the Defendant to imprisonment for 1 (one) year and 2 (two) months, and a fine of IDR 250,000,000 (two hundred and fifty million rupiah) with the provision that if the fine is not paid, then replaced with imprisonment for 1 (one) month and 15 (fifteen) days, Determines that the period of arrest and detention that the Defendant has served is deducted entirely from the sentence imposed. Determines that the Defendant remains detained, Determines evidence in the form of:

1. 1 (one) flash disk white, KINGSTONE brand 16 GB;
2. 1 (one) 2 GB microSD Sanddisk.

Returned to I GEDE PUTRA ARIWIGUNA 1 (one) printout/hardcopy capture of the Handsome Warrior's twitter account post with the link <https://twitter.com/PedjuangRe>, the Pejuang Tampan twitter account with the link <https://twitter.com/Pedjuangmalam>, and the Panglimatampan twitter account with the link <https://twitter.com/Panglimatampan1>; 1 (one) CD/DVD copy of downloaded content containing pornography; 1 (one) print transfer to Mandiri Account No. account 1450012127219 a.n. I GEDE PUTRA ARIWIGUNA; 1 (one) unit of HP Iphone 6 black; 1 (one) unit of HP Xiomi MD G 1 black; 1 (one) External Harddisk WESTERN DIGITAL 11 TB brand; 2 (two) black and gray t-shirts; 1 (one) bundle of Mandiri account printout printouts in the name of I GEDE PUTRA ARIWIGUNA number: 1450012127219; 1 (one) DVD exported from the Twitter account @Panglimatampan with the link <https://twitter.com/Panglimatampan1>; 1 (one) DVD exported from PANGKLIMATAMPAN25@GMAIL.COM Account; in the name of I GEDE PUTRA ARIWIGUNA; 1 (one) Bank Mandiri account printout bundle No. Account 145-00-1212721-9 in the name of I GEDE PUTRA ARIWIGUNA; 1 (one) Mandiri ATM card number 14097663115908833; 1 (one) gold HUBLOT brand watch;

Confiscated for destruction; money in the Mandiri bank account in the name of I GEDE PUTRA ARIWIGUNA number: 1450012127219, which was the proceeds of crime was confiscated to the state after deducting bank administration fees and 1 (one) Mandiri account book in the name of I GEDE PUTRA ARIWIGUNA number: 1450012127219, returned to Bank Mandiri; Charging the Defendant to pay court costs in the amount of IDR 5,000.

The existence of a bio which already has a term identifier on the Twitter accounts of users whose aim is to trade pornographic content, namely by making an age, and also the existence of keywords which can be interpreted only by fellow individuals which can make them more it is easy to buy and sell pornographic content or just have an interest in discussing something related to pornography and also have an interest in sexual conversation. These actions start with people who have accounts selling pornographic content and will make posts in the form of photos or videos of themselves which are deliberately included in pornography so that they can attract the interest of other accounts by adding captions that contain seduction or can attract other users to buy something. which they sell on the platform. Therefore, after they have posted, they will continue with the specifications given such as height, weight, and the size of even sensitive areas, and they also often include the prices they have with an agreement that can be made by both parties.

## CONCLUSION

The regulation of criminal acts in the form of pornography in Indonesia begins with the existence of regulations for criminal acts and is also followed by the existence of criminal acts of pornography and the ending is the essence of the regulation of pornographic acts. with the existence of norms and legal rules which are used as a regulation of criminal acts where the object of study is a formulation of existing law and also has a very close connection with the things which form the basis for the cause of the action which is actually used as an action. criminal. There are regulations that regulate the existence of pornography itself, namely Law Number 19 of 2016 Amendments to Law Number 11 of 2008 concerning Information and Transactions where the use of the internet in this case

is regulated in this Law, there is no finding regarding the existence of pornography as a term but it does contain content that is not in accordance with morality or violates morality.

Criminal sanctions are imposed on perpetrators who buy and sell content containing things that violate decency or pornography. Indonesia itself has legal regulations regarding violations of existing legal regulations. There are references to the Criminal Code in criminal law. The Criminal Code consists of three books, namely Book I: General Provisions, Book II: Crimes, and Book III: Violations. Pornography is included in Book II: Crimes in Chapter XIV which is spread over several articles. Pornography itself also has a *lex specialis*, namely Law Number 44 of 2008 concerning Pornography (Pornography Law). Apart from that, there is Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions which discusses pornography and the threat of punishment.

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