

Research Article

Legal Protection against Use of a Person's Face as a Meme or Stickers on WhatsApp without Permission

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Abstract: Development technology information , especially use WhatsApp application , has bring up phenomenon use stickers and memes as means expression in digital communication . However , misuse face somebody without permission in meme form or sticker cause problem serious law . Research This aim study provision related laws in Indonesia editing and distribution face individual without consent , use method study normative based studies library . Study results show that action the violate Copyright Act , Act Information and Electronic Transactions (ITE Law), as well as Constitution Personal Data Protection . Violations This can charged sanctions criminal Because concerning moral rights , rights economy and privacy individual . In addition to the aspects law , abuse this is also influenced by factors economy , environment social , and digital culture of society . Therefore that , is necessary education and enforcement more laws firm in order to create ethical and responsible digital space answer.

Keywords: Copyright; Memes; Personal Data ; Privacy ; Stickers Whatsapp

1. Introduction

The development of the modern era demands speed and accuracy in delivery information . Progress technology information and communication has develop very significantly throughout the world , including Indonesia . Changes This give impact big to values culture that has been This embraced by society , both in urban areas and rural areas . Various device technology like television , cell phone smart , and other digital media participate influence method public interact and absorb information .

The result of the most rapid technological development is smartphones, by using smartphones and the convenience internet access we can access various application message instant such as WhatsApp, Telegram, and social media other trigger birth phenomenon new in digital communication .

WhatsApp becomes application message with amount the most users in the world with the amount of 2 billion users spread across 180 countries. In Indonesia itself amount WhatsApp users reach 112 million which user occupies position third most in the list of countries with amount WhatsApp has the largest number of users . This application facilitates communication between users through text messages and is equipped with various features such as voice and video calls, sending images, audio, documents, and even location information. Thanks to its comprehensive features, WhatsApp has become one of the most popular communication platforms in Indonesia and has managed to rank in the top three globally, even surpassing several large countries such as the United States. Furthermore, WhatsApp also offers stickers and animated images or Graphic Interchange Format (GIF) features, making it just as attractive as other instant messaging applications.

One of a very popular trend among users is use of memes and stickers as a medium of expression and entertainment . Memes, which are usually in the form of picture or video with texts containing humor , satire , or comment social , as well as functional digital stickers enrich conversation , now has become part from culture everyday digital communication .

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However from side law and ethics , use face somebody in memes or sticker without permission cause serious and complex problems . Many individuals whose faces edited , changed , and distributed viral on WhatsApp and other platforms without agreement moreover before . This is No only cause potential violation privacy , but also damage reputation and good name individual said . In case this , face somebody considered as part from image self protected by rights personal . When the right This ignored or violated , the consequences can in the form of loss psychological , social , and even material .

In Indonesia, the provisions protection law to use face somebody This Still become relative topics new , especially in matter massive and rapid digital distribution . Although a number of regulation like Constitution Electronic Information and Transactions (ITE Law) and the Civil Code give room for protection right personal , implementation and enforcement law related use face as a meme or sticker without permission Still experience various constraints . This is due to technology that continues to develop rapidly Not yet fully followed with adaptive and specific regulations arrange digital content such as memes or stickers .

In a study conducted by Ida Bagus Kade Fajar Bukit Purnama, Si Ngurah Ardyana, and Ni Ketut Sari Adnyani regarding protection to work creation photography , explained that Constitution Number 28 of 2014 provides base clear laws through Article 40 paragraph (1) letter k. Research This focus on how provision the give protection law for results work photography for rights the creator still recognized and protected . Focus main study This No only on understanding aspect the laws that govern right creation photography , but also purpose For get more insight wide about impact the law that will faced by individuals or the violating party right creation photography with take Photo without permission from its creator .

Phenomenon This require existence study profound law about How regulations in Indonesia regulate problem editing and distribution face somebody without permission , in particular in the form of memes and stickers circulating on WhatsApp. This study is very important remembering WhatsApp as application message very popular instant own millions users in Indonesia and often used For personal and communication group . The spread of memes and stickers that are not ethical and without permission can spread with fast and hard For withdrawn back , so that harm the parties concerned in a way significant .

In addition , the aspect digital ethics and awareness law society also becomes factor important in handle problem This . Many social media and application users message instant that has not been realize that use face somebody without permission in memes or sticker can implications serious legal and social issues . Education about right on image self and consequences law need encouraged to create more digital culture responsible responsible and respectful right privacy every individual .

See description in section background behind previously , then focus the main thing that will be reviewed in study This can formulated as the core problem is How Legal provisions in Indonesia regarding editing and distribution face somebody become a meme or WhatsApp stickers without the relevant consent

2. Research Method

Study This use method study normative (normative legal research), namely research that focuses on studies against applicable legal norms , such as regulation legislation , doctrine law , as well as literature or material library related . This method aim For study , interpret , and analyze rules the laws that govern protection to use face somebody as a meme or stickers on WhatsApp without permission . Object study study This covering document law relevant positives and sources literature that discusses problem law related , so that can obtained comprehensive understanding about provisions and implementation the law .

Legal Provisions in Indonesia Regarding Editing and Dissemination of a Person's Face Become a Meme or Sticker Whatsapp Without Relevant Agreement

Use face somebody as object in memes or digital stickers distributed through platforms such as WhatsApp has become quite a phenomenon popular among Indonesian society . Use face somebody in form portrait or Photo own protection law alone in system Indonesian law . Although often meant as entertainment merely , action This cause various problem law , especially If done without permission from owner face .

Protection This in a way explicit listed in Constitution Number 28 of 2014 concerning Copyright. In Article 1 number (20) it has been explained that right economy is rights inherent in the creator or holder right creation For get benefit economy from the creation it produces . In context this , the photographed face including creations that can become object protection right economy If used For needs certain , including commercial .

Economic rights This give authority to owner work or portrait For allow or reject use by other parties . According to provision Constitution Number 28 of 2014 concerning Copyright, portrait or face somebody including in category work protected photography . Article 12 paragraph (1) states that every use Photo For interest commercial or publication must get permission written from subject in Photo said . This is indicates that use other people's faces without permission , moreover with element modification For made into sticker or meme, is form violation moral rights and rights economy on work copyright . In addition to copyright economics , the Copyright Law also recognizes the moral rights of the creator that are not can ignored . In Article 5 paragraph (1) letter e, it is explained that creator own right For reject all form changes that can be harm his honor . Modification face somebody become form of humor or meme without permission can classified as violation moral rights , because reduce honor and integrity photographed subject .

In practice , the distribution sticker faces on social media , especially WhatsApp, often done without notice agreement from subject . Phenomenon this is very common happened in Indonesia because lack of understanding public will law right copyright and personal data privacy . Portrait the face used as WhatsApp stickers , okay For objective entertainment and mockery , can harm subject in a way psychological and law .

Apart from violating Copyright Law, the distribution of sticker face without permission can also be obtained contradictory with the ITE Law (Information and Electronic Transactions). In Law No. 19 of 2016 which is change on in Constitution Number 11 of 2008, and in Law no. 1 of 2024 as change second , it is emphasized that distribution information or document electronics containing content violate the norms of decency or attack honor somebody is action criminal

Article 27A states that that everyone who distributes content electronics containing element defamation or violation politeness , including in form sticker or image , can subject to sanctions criminal provisions this also confirms that action the No only moral transgressions , but also actions criminal based technology .

Regulations on the Protection of Personal Data on Insults via Whatsapp

Making process WhatsApp stickers in general involving a number of steps , one of them is stage modification . At this stage this , someone usually use the image that has been owned Then add element such as writing or illustration certain to produce stickers that are interesting , cute , and capable represent expression users moment used in conversation .

Modification to work creation related with right For guard integrity work (the right to protect the integrity of the work). This right given for creation No changed in a way carelessly , which can tarnish one 's good name or reputation its creator . In the context right For respected (right of respect), creator entitled sue if his work utilized with deviant ways , or used in forms that can touch on honor and disgrace his reputation .

Use face somebody as stickers also touch aspect personal data protection , which exists in Constitution Number 27 of 2022 concerning Personal Data Protection . Biometric data , including face is part from highly sensitive personal data Because can identify individual in a way specific and not can disseminated without agreement explicit from the owner . Therefore that , when somebody edit and distribute picture face individual without permission , then He has do disclosure of personal data in violation of law . Article 67 paragraph (2) of the PDP Law states that perpetrator can charged criminal maximum four years in prison year and/ or fine maximum four billion rupiah.

In practice , many case distribution sticker face without permission done as form joke or humor. However , ignorance to provision law This No become reason justification . Moreover If modifications made cause perception negative to subject in picture the . This action can considered as form defamation , as arranged in Article 310 of the Criminal Code (KUHP) and Article 27 paragraph (3) of the Law Information and Electronic Transactions Law (ITE Law). In the provisions the mentioned that everyone who with intentionally and without right

disseminate, transmit, or make accessible something information electronic and document electronics that contain element insult or defamation, can subject to sanctions law in accordance regulation applicable laws and regulations.

Handling case like This classified as as offense complaint, which means only can processed if There is report from the victim. This is different with offense general that can direct prosecuted by the authorities enforcer law without existence report moreover before. This is in accordance with Article 27A of the ITE Law which states that action criminal defamation and breach of personal data including in category offense complaint.

In the provisions of Article 319 of the Criminal Code it is explained that action criminal insult as arranged in chapter the only can processed in a way law if There is complaint from the victim, except in matter certain as arranged in Article 316. Meanwhile that, in digital context, insult and defamation arranged in Article 27 paragraph (3) of the Law Information and Electronic Transactions Law (ITE Law). The sanctions criminal to violation chapter the explained in Article 45 paragraph (3) of Law Number 19 of 2016, which states that everyone who with intentionally and without right distribute, send, or make can accessible information or document electronics that contain element insult and/ or defamation can subject to punishment prison until four year and/ or fine maximum Rp. 750 million.

Besides that there is also an article Prohibitions on the Use of Personal Data someone is arranged in Law no. 27 of 2022 concerning Personal Data Protection specifically in Article 65. In Article the confirmed that: (1) Every individual No permitted in a way oppose law access or collect personal data belonging to someone else with objective get profit personal and other potential parties harm data owner, (2) It is also prohibited to disclose information personal belonging to someone else without base valid law, (3) In addition, the use of personal data belonging to someone else No legal and also prohibited based on provision law the.

Influencing Factors Misuse of Other People's Photos as WhatsApp Stickers

Technological developments have significantly contributed to the increase in internet and social media crime. According to the views of Didik M. Arief Mansur and Elisatris Gultom, the level of security felt by the perpetrator moment using the internet also become factor dominant driving force occurrence action crime based technology the internet is utilized as means supporters Because assessed give gap as well as convenience in operate action without detected in a way direct. Following This will explained a number of contributing factors influence practice abuse Photo somebody For made into stickers in the WhatsApp application. Based on results search various source references, authors will centralize attention to some aspect the main thing that becomes reason dominant occurrence violation namely:

Economic Factors

One of reason emergence action crime can traced from aspect economy, especially for individuals with background behind low education. Conditions This hinder they in get suitable job, because skills possessed No fulfil job market needs. As a result, they experience unemployment and stress economy. In this situation said, no a little later choose road shortcut For get income, even though through way that violates law. For example, doing fraud via the internet, blackmail, even data theft. Ease access to technology and its difficulty tracking the perpetrator also made crime cyber as alternatives that are considered 'practical' for some people.

Environmental Factors

Environment social own role important in form character and attitude someone. If someone grow in a familiar environment with behavior deviate or violate law, then big possibility He will pushed For imitate and do matter similar. This is in line with theory association differential proposed by Edwin Sutherland, who stated that behavior criminal can studied through interaction social. Therefore that, bad company often become trigger beginning somebody involved in action violate law.

Social Factors Culture

From the side social and cultural, some aspect follow contribute to emergence digital crime. First, the rapid development technology information has open gap for various form crime digital-based. Second, not yet evenly distributed ability source Power man in understand ethics use technology. Third, the emergence of group or community new in the virtual world that is not own limitation control social as in the real world. Lastly, the factor intellectual or ability individual in utilise technology For wrong goals make things worse situation. Inequality in understanding digital culture and its weaknesses literacy law make crime like abuse Photo as WhatsApp stickers are getting more and more often happen.

3. Conclusion

Study This highlight abuse face somebody as sticker or memes on WhatsApp without permits, which are increasingly rampant consequence development digital technology. Although often considered entertainment, action This violate law Because involving violation right copyright, privacy, and personal data, as arranged in Copyright Law, ITE Law, and Personal Data Protection Law. Violation the can impact law and social serious, including sanctions crime. Triggering factors mainly covering economy, environment social, and digital culture. Therefore that, it is needed education digital law and ethics and enforcement more laws firm For protect right individuals in the modern communication era.

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