

Criminal Law Policy in Indonesia Regarding the Distribution of Pornographic Videos on Social Media

Fajar Sitorus^{1*}, Herlina Manullang², July Esther³

¹⁻³ Faculty Of Law, HKBP Nomensen University, Indonesia

Email : fajar.sitorus@student.uhn.ac.id^{1*}, herlinamanullang@uhn.ac.id², julyesther@uhn.ac.id³

Abstract, *The objective of this study is to evaluate the effectiveness of criminal law policies in Indonesia in addressing the dissemination of pornographic videos on social media. The spread of pornographic videos on social media has become a serious issue in Indonesia, affecting societal morality, particularly among the younger generation. This study aims to analyze the criminal law policies implemented in Indonesia to combat the distribution of pornographic videos through social media platforms. Social media refers to tools or platforms used for communication via networks. This research adopts a normative approach by analyzing relevant regulations, such as the Electronic Information and Transactions (ITE) Law and criminal laws governing pornography. The findings indicate that while several regulations address the dissemination of pornographic content, the effective implementation of these laws remains limited. Challenges include a lack of legal awareness, difficulties in enforcing laws in the digital realm, and weak coordination among law enforcement agencies. Therefore, this study recommends strengthening policies, enhancing public education on the negative impacts of pornography dissemination, and improving the capacity of law enforcement officers to tackle cybercrimes.*

Keywords: Policy; Criminal Law; Pornography; Social Media

1. INTRODUCTION

Policy Criminal law is an integrated effort with social policy and law enforcement to formulate regulations related to criminal law. In general, this policy aims to create regulations that are in accordance with the current and future conditions of society and social situations. The term policy comes from the English policy or in Dutch politie. In general, policy can be interpreted as general principles that function to direct the government in managing, regulating or resolving public affairs, community problems or areas of drafting legislation and applying laws/regulations, with a goal that is directed.

With the development of the era, humans can cause various problems only through social media networks or technological developments, with the emergence of this technology, it will become one of the new tools to cause conflict between humans. With the emergence of technology, social media networks will also appear. According to social media, it is an online media where users can easily use it to meet their communication needs. Along with the rapid development of technology and social media, it can cause criminal crimes.

In general, there are two types of law and criminal law. Law is the whole life that is intended to force to protect human interests in society. Criminal or straf is a suffering that has been associated with a violation of a norm by criminal law which is imposed by a judge's decision on someone who is guilty. criminal law consists of norms containing obligations and

prohibitions that (by the legislators) have been linked to a sanction in the form of punishment, namely a special suffering. The norms in question are stated in criminal law. Basically, all legal rules aim to create order, harmony in the life of society, both in small environments and in larger environments.

As individual and member public which live in era millennium, man undergo activity daily along with progress technology. In this, technology develop with very fast. Progress this bring change and development in life social, good from side positive and also negative. Along with development technology, appear various form crime which happen in internet, which more known as cybercrime. Cybercrime refer to an action criminal which utilise network computer. The existence cybercrime has threaten stability, so that government difficulty for respond techniques crime which done through technology computer. Wrong one issue cybercrime which very worrying and interesting attention various party is problem cybercrime in field decency. Type cybercrime in field decency covers cyber pornography and cybersex. Cyberporn and cybersex will attack and damage generation young from a nation which security internet low or level crime cyber porn tall. Impact the negative not only limited on behavior sex free, but also can cause decline quality source power man because only oriented on pornography.

Pornography is Wrong One type crime cybercrime Which become issue Serious in Indonesia. From side etymology, term pornography originate from two part porn And graphics. Porn means action Which No indecent (related) with activity sexual), temporary graphics refer to on picture or writing Which show or describe something Which No polite or Which can touch on norm decency public. On context regulation law in Indonesia, all form pornography has forbidden And set up by a number of chapter in various Constitution. Matter This set up in Chapter 281, Chapter 282, Chapter 533 Book Constitution Law Criminal (Criminal Code), Chapter 27 Paragraph (1) And Chapter 45 Paragraph (1) Constitution Republic Indonesia Number 11 Year 2008 about Information And Transaction Electronic, Constitution Republic Indonesia Number 1 Year 2024 about Change Second on Constitution Republic Indonesia Number 11 Year 2008 about Information And Transaction Electronic, And Constitution Republic Indonesia Number 44 Year 2008 about Pornography. In accordance with Which stated in

Constitution Number 44 Year 2008, pornography defined as picture, sketch, illustration, Photo, writing, voice, picture move, animation, cartoon, conversation, movement body, or type message other through various type media communication and/or show in front general, Which containing content obscene And exploitation sexual Which contradictory with norm courtesy in public.

In overcome problem distribution video pornography in Network media social, government Already should set or apply policy law criminal. Policy law criminal or (penal policy / criminal law policy / political (society) can defined as “ Business realize regulation legislation criminal Which in accordance with condition And situation on time And time Which will come”.

as for regulation legislation Which arrange protection to victim from distribution video pornography in media social that is, as following:

1. Constitution Number 39 Year 2009 About Right Basic Man Chapter 30 And Chapter 35, second chapter This ensure "Every inhabitant country For free from flavor Afraid And threat". In problem justice And HAM in the relation with enforcement law criminal of course No is work Which simple For realized. Lots incident in life public show that second matter the not enough get concern law criminal positive Not yet prove protection maximum to victim.
2. Constitution Pornography No in a way firm to abolish act criminal pornography in Criminal Code, However still enforce Also Criminal Code. Only given just condition “Throughout No contradictory with Constitution Pornography”, condition thus That obscurity And No easy implement it.

On in essence policy law criminal contain policy Country in arrange And limit A power, Good authority on public generally. In run it enforcer law ensure that public obedient And obedient on regulation Which Already in set.

Policy law criminal is a series process Which consists of from on three stages namely :

- a. Stages policy legislative/normative
- b. Stages policy judicial/applicative
- c. Stages policy executive/administrative

Based on three description stages policy enforcement law criminal the contained inside it three power authority that is :

1. Power legislative/ formulative authorized in matter set or formulate action
What Which can convicted Which oriented on problem main in law
criminal covering action Which nature oppose law, error/ accountability
criminal And sanctions What Which can charged by maker Constitution.
2. Power judicial/applicative is power in matter apply law criminal by apparatus
enforcer law or court.
3. Power executive/ administrative in carry out law criminal by apparatus
executor/executor criminal.

Policy criminal This aiming For various type interest between other that is
as following :

1. Protect public from content Which harm moral And ethics.
2. Provide sanctions Which firm for perpetrator distribution pornography.
3. Push awareness public will danger from distribution content pornography
in media social.

With existence policy law criminal This, expected can created environment
Which more safe And moral in use media social as well as reduce impact
negative from distribution video pornography.

Distribution video pornography in media social has become issue Which
very Serious in era modern like moment This. With develop rapid progress
technology And information, distribution video pornography in media social can
develop fast to various type media social or media Internet. With thus, Writer
interested For do discussion in a way deep Which poured out in title Which
titled " Criminal Law Policy in Indonesia Regarding the Distribution of Pornographic Videos
on Social Media ".

2. METHOD STUDY

Method research Which used in do research with title “ Policy Law
Criminal To Distribution Video Pornography In Media Social “ is use method
study normative. Study normative is study Which focus on analysis or Analysis
in rule law Which There is like Constitution pornography And Constitution ITE.
Method study normative This focus on Analysis to norms law And relevant. In
method This will use analysis Constitution that is Constitution number 44 Year
2008 About pornography And Constitution number 11 Year 2008 about ITE.

Type study Which used in study This is method study in a way combination that is study law normative-empirical . Research law normative-empirical is study Which to study implementation or implementation provision law positive (legislation- invitation) And document written in a way in action (factual) on a every incident law certain Which happen in public. technique collection data Which used in study This is studies literature. Results from study Which collected will analyzed with use method descriptive with method describe or give description on subject And object study from results study Which done researcher.

3. RESULTS AND DISCUSSION

Policy Law Criminal in Indonesia In Handle Distribution Video Pornography In Media Social

Policy law criminal on basically Also covers policy enforcement law criminal. Policy enforcement law criminal is a series process Which consists of from three stage policy. First, stage policy formulative or legislation, that is stage compilation or formulation law criminal. Second, stage policy judiciary or applicable, Which focus on implementation law criminal. Third, stage policy executive or administrative, Which related with implementation policy the. Policy enforcement law to perpetrator act criminal with use means law known as policy Law Criminal or political law criminal. Policy law criminal (Penal Policy) is A discipline knowledge at a time art Which aiming practical For allow formulation regulation law positive Which more Good And give guide to maker Constitution as well as court Which implement it. Policy law criminal This Also become Wrong One component in Knowledge Criminal Modern, together with Criminology And Law Criminal.

Pornography originate from Language Greece based on element etymological that is pornographic, porn prostitute And graphene. Say pornography can interpreted as following :

- a. Describe or to depict behavior erotic Which aiming For cause stimulation sexual through writing or picture.
- b. Material in the form of book or Photo Which describe behavior erotic with objective For trigger stimulation sexual.

Pornography is Wrong One type act criminal decency Which set up in Book Constitution Law Criminal (Criminal Code). Matter This listed in Book II Chapter XIV about crime to decency, that is Chapter 282-283, as well as in Book III Chapter VI about violation decency, Chapter 532-533. Provision about act criminal pornography set up in Chapter 282 Criminal Code.

Pornography No only problem for part group in the public will but is problem life in the society Which must solved together, with give protection law naturally objective from law the give peace can implemented in a way maximum. The problem pornography Country in matter This must as authority Which given mandate by people must absorb aspiration from people, with thus Country present in to give protection to its people, policy formulation act criminal pornography is Wrong One matter Which main in give protection to society. What Which meant with pornography And how to implement act criminal pornography And threat sanctions criminal pornography is task from Country For can make a policy Which pro people so that give orderly law And justice.

Indonesia own regulation Which Enough clear related with act criminal pornography. Constitution Number 44 Year 2008 about pornography arrange about production, distribution, And consumption material pornography, as well as punishment Which used or charged on perpetrator. chapter 282 Criminal Code Also give base law Which related with act criminal Which relate with decency, including pornography. Pornography Alone is Wrong One form offense decency in Criminal Code Which set up in Book II Chapter XIV about Crime to Decency (Chapter 282-283) And Book III Chapter VI about Violation Decency (Article 532-533) Which containing:

- a. Prohibition And restrictions, manufacture, dissemination, as well as use pornography.
- b. Protection child from influence pornography.
- c. Prevention manufacture, dissemination, And use pornography, including role as well as public in prevention.

Chapter 1 Act about Pornography explain that pornography covers picture, sketch, illustration, Photo, writing, voice, sound, picture move, animation, cartoon, conversation, movement body, And form message other Which delivered through various media communication and/or show in in front public, Which contain

element obscenity or exploitation sexual Which contradictory with norm decency public. Temporary That, service pornography covers all type service Which provided by individual or company through show direct, television cable, television terrestrial, radio, telephone, Internet, as well as media electronic other, including letter news, magazine, And publication print other.

In Enforcement Law Criminal For Perpetrator Spreader Content Pornography In Media Social Reviewed From Constitution Information And Transaction Electronic Chapter 45 paragraph 1 Act No 19 Year 2016 about ITE threat punishment for for perpetrator distribution can convicted with prison most long 6 year And maximum fine Rp. 1,000,000,000 billion. In its implementation policy law criminal divided in a number of regulation legislation that is :

- a. Constitution Number 19 Year 2016 About Transaction electronic And (IT) Chapter 27 paragraph (1): Forbid every person For distribute or transmit document electronic Which own load Which violate decency. Violation to chapter This can charged sanctions criminal.

Chapter 45 paragraph (1) : Arrange sanctions for perpetrator distribution content pornography, with threat punishment prison most long 6 year And fine maximum Rp1,000,000,000

- b. Constitution Number 44 Year 2008 About Pornography

Chapter 4 paragraph (1) : forbid, production, distribution, And distribution pornography in form whatever, with threat punishment most short 6 month And most long 12 Year, as well as fine between Rp.250,000,000 until Rp.6,000,000,000.

- c. Book Constitution Law Criminal

Chapter 281 And Chapter 282 : Arrange about crime to decency, including actions Which related with pornography.

Constitution Number 11 Year 2008 About Information And Transaction Electronic specifically Chapter 27 that somebody forbidden do actions distribution or distribution, transmission, can accessible content illegal Good That decency, gambling, insult or pollution, as well as extortion or threats.

Constitution No 19 Year 2016 About Information And Transaction Electronic Also there is in Criminal Code, Arrangement Which formulate about act criminal immoral there is also in Act Pornography, Where is arrangement

more carry on in form Constitution alone from provision act criminal decency in Criminal Code. Where in Criminal Code rule the loaded in Chapter XIV about Crime To Decency (Chapter 281 And 282 Criminal Code). Function arranged return act criminal decency in Act Pornography namely For to emphasize coming into effect on field work certain Which generally accompanied by with weighting the crime. Action criminal pornography is act criminal special from act criminal general in matter This act criminal decency. Room scope pornography according to Act Pornography covering picture, sketch, illustration, Photo, writing, voice, sound, picture move, animation, cartoon, conversation, or form other Which its spread through various form in media communication or Which shown in audience general. Where media the loaded exploitation sexual Which violate norm decency in public.

In implementation or application policy law criminal, There is a number of aspect Which need in take note in policy law criminal related distribution video pornography in media social between other as following :

a. The need for Updates Regulation

Although Constitution Pornography And Act ITE Already There is, Still required Updates And clarification to regulation Which arrange distribution content pornography in media social. Updates This important For adapt with development technology Which fast And change behavior user media social.

b. Cooperation Between Institution

Enforcement law Which effective need synergy between government, provider platform media social, apparatus enforcer law, And public. Cooperation This very important For speed up Handling perpetrator distribution content pornography.

c. Approach Prevention

Besides enforcement law Which more firm, steps prevention like education about sex Which Healthy And socialization about impact negative distribution content pornography, especially in circles teenager And children, must become priority. Public need given understanding Which more deep about limitations law related decency.

Approach law Which done in handle case distribution video pornography will through a number of stage approach that is between other :

1. Investigation And Enforcement

Directorate Action Criminal Cyber Police, Work The same with platform media social, active track perpetrator distribution content pornography. Technology detection automatic utilized For identify And delete content Which violate law.

2. Upgrade Literacy Digital

Government together organization public civil stage education For increase awareness public about danger pornography And importance use media social in a way wise.

3. Collaboration With Platform Media Social

Platform like YouTube, Facebook, Instagram, And TikTok invited For tighten rule related content pornography as well as provide feature reporting for users.

4. Improvement Capacity Enforcer Law

Apparatus enforcer law get training special For handle case crime cyber, including distribution content pornography through media social.

In process handle distribution video pornography in media social party related or government difficult For overcome problem This with fast Because limitations source Power man And technology in handling, as well as the difficulty For track perpetrator Because height enthusiastic use media social. In overcome act criminal distribution video pornography in media social experience difficulty other Also. difficulty in overcome act criminal pornography between other due to by existence understanding And interpretation Which different to articles Criminal Code Which arrange problem pornography, And formerly public weak in respond pornography. Law Which concerning act criminal pornography And How enforcement the law, so There is a number of matter Which need done. First review And to renew regulation legislation Which discriminatory to woman, Which reduce freedom woman as victim For report And second Which hinder execution punishment for perpetrator violence.

Distribution video pornography in media social normal called Also with cyber porn is action display, make or produce material or video, or picture

smelly pornography or obscene in media social. Constitution Number 44 Year 2008 about Pornography Also can used For to ensnare perpetrator cyberporn. Specifically on element broadcast, to show off, show off or become model pornography Which done through media social Instagram, like Chapter 29, Chapter 30, Chapter 34, Article 36, with element his actions as following :

1. Chapter 29 :

Produce, make, multiply, to duplicate, to spread,
broadcast, import, export, offer, to trade, rent, or provide pornography.

2. Chapter 30 :

Provide service pornography.

3. Chapter 34 :

Become object or model Which contain pornography.

4. Chapter 36 :

Showing off self or person other in show off or in advance general Which describe exploitation sexual, intercourse Which smelly pornography.

Action criminal related pornography has set up in Chapter 29 Constitution Number 4 Year 2008 about Pornography. Chapter the state that every person Which produce, make, multiply, to duplicate, to spread, broadcast, import, export, offer, to sell buy, rent, or provide pornography as meant in Chapter 4 paragraph (1) can charged criminal prison minimum 6 month And maximum 12 year and/or fine minimum Rp250,000,000.00 And maximum Rp. 6,000,000,000.00. Besides That, act criminal pornography Also set up in Chapter 27 paragraph (1) Constitution Number 19 Year 2016 about Change on Constitution Number 11 Year 2008 about Information And Transaction Electronic (ITE). Chapter This refer to on provision Which set up in Act Pornography. On Chapter 45 paragraph (1) Act ITE mentioned that every person Which with on purpose And without right distribute, transmit, and/or make can accessible information electronic or document electronic Which contain load violate decency as meant in Chapter 27 paragraph (1) can charged criminal prison maximum 6 year and/or fine maximum Rp1,000,000,000.00.

In carry out its policies, There is enforcer law Which play a role important in Handling distribution video pornography in media social between other :

a. Police

Party This own authority big in eradicate distribution video pornography in media social. In operate his job police will to form team special Which only move in the field technology information Which named Cyber crime Which on duty track, catch, And processing perpetrator distribution video pornography in media social.

b. Ministry of Information (Ministry Information And Communication)

Institutions This play a role vital in limit circulation video Which smelly immoral. Ministry of Information on duty For blocking or restrictions video smelly pornography and also site pornography.

In handle distribution video pornography in media social with to apply policy law Which applicable, party related Also need do policy preventive. Policy preventive is effort Which done For prevent the occurrence a problem before the problem develop more Far like, education And do activity counseling use awaken public wide.

Implementation Sanctions Criminal To Perpetrator Distribution Video Pornography In Media Social

In give effect deterrent to perpetrator distribution video pornography in media social, piha law related must give sanctions criminal Which strong so that perpetrator No do matter Which The same For in the future. For give effect deterrent to perpetrator, There is a number of sanctions main Which can given, that is as following :

a. Constitution Number 44 Year 2008

Chapter 29 : Every person Which produce, make, to spread, And utilise pornography can sentenced criminal prison maximum 12 year and/or fine until Rp6 billion.

b. Constitution Number 16 Year 2016 About Change On Constitution Number 11 Year 2008 About Information And Transaction Electronic

Chapter 27 paragraph (1) : Forbid every person distribute information electronic Which loaded violate decency. With sanctions prison minimum 6 year And penalty 1 billion Rupiah.

c. Book Constitution Law Criminal (Criminal Code)

Chapter 28 : Forbid dissemination material obscene in form What even with threat criminal prison until 1 year 4 month.

d. Constitution Protection Child (Constitution Number 35 Year 2014)

If involving child, perpetrator can charged criminal Which more heavy, that is prison maximum 15 year And fine until Rp5 billion.

System determination amount or duration criminal Which set up in Constitution Number 44 Year 2008 about Pornography use draft minimum special And maximum special, with details as following :

a. Criminal Prison

Minimum special range between 6 month until 2 year And Maximum special range between 6 year until 15 year.

b. Criminal Fine

Minimum special start from Rp250,000,000.00 (two hundred five tens million rupiah) until Rp1,000,000,000.00 (One billion rupiah) And Maximum special start from Rp3,000,000,000.00 (three billion rupiah) until Rp7,500,000,000.00 (seven billion five hundred million rupiah).

Provision in Chapter 31, Chapter 32, Chapter 34, And Chapter 36 Constitution Number 44 Year 2008 about Pornography apply system criminal maximum special with details as following :

a. Criminal Prison Maximum special set between 4 year until 10 year.

b. Criminal Fine Maximum special set between Rp2,000,000,000.00 (two billion rupiah) until Rp5,000,000,000.00 (five billion rupiah).

In Criminal Code, specifically Chapter 282, set up about transaction pornography. Chapter This arrange provision sanctions Which given in accordance with form action crime Which done perpetrator to the victim. Temporary That, according to Constitution Pornography, besides arrange about transaction or sell buy content pornography, Also there is prohibition And restrictions activity other Which related with act criminal pornography, like download, to show off, to spread, And action similar other. Prohibition making content pornography applicable For all form load pornography as set up in Chapter 4 Paragraph (1), without look at whether the perpetrator is at in bond marriage or No. Actions making video pornography, Which Then disseminated through Internet And

accessed by public, can cause various impact negative. Matter This become A boomerang Which can cause a number of consequence, between other rape, violence sexual, adultery according to norm social, And pregnancy consequence adultery Which end on abortion.

Based on Constitution Number 44 Year 2008 about Pornography, sanctions Which given to perpetrator set up in Chapter 29, Chapter 31, And Chapter 32. Sanctions This intended to perpetrator Which with on purpose spread or utilise content pornography, including distribution video or Photo through media Internet.

According to Chapter 31, perpetrator can charged sanctions Because action download content pornography before spread or use it For interest personal Which harm public. In a number of case, perpetrator Possible No only download content the, but Also make it Alone, for example with partner they. Content the Then recorded in a way independent And saved. Furthermore, perpetrator spread video the through media Internet, including to site web loaded pornography Which managed Alone, or even sell it For get profit. Behavior This show intention perpetrator in make, keep, And to spread content pornography, Which in a way direct impact harm public.

In implementation sanctions criminal Constitution ITE Also very play a role important in giving sanctions Criminal To Perpetrator Distribution video pornography in media social. Constitution Information And Transaction Electronic (UU ITE) arrange various action Which categorized as act criminal in field technology information And communication, including violation Which related with characteristic attack to crime similar. Publishing Constitution This aiming For give protection to public from threat crime in world virtual, at a time prevent public involved in impact negative Which caused by technology electronic. Constitution ITE covers various rule Which arrange act criminal in era digital, including modes new Which utilise media electronic. Wrong One form crime Which set up in Constitution This is act criminal pornography Which done through media electronic. According to Law ITE, perpetrator Which involved in transaction pornography through media electronic will charged sanctions in accordance provision Which set up in Chapter 45 Paragraph (1) about provision criminal.

4 CONCLUSION

Distribution video pornography in media social become Wrong One challenge big in era digital Which need attention Serious from various party. Policy law criminal in Indonesia, through regulation like Constitution Pornography And Constitution ITE, has set base law Which clear For punish perpetrator. However, implementation policy This Still face various obstacle, like limitations in technology, lack of awareness law in public, as well as characteristic media social Which nature global And often involving jurisdiction international.

For That, required approach Which more coordinated, including strengthen Work The same between countries, increase ability technology forensics digital, And do education to public about danger pornography as well as consequence law from its distribution. With efforts the, expected policy law criminal in Indonesia can give protection Which more Good for public And reduce impact negative from distribution video pornography in media social. expected policy law criminal in Indonesia can more effective in to overcome distribution video pornography in media social, as well as protect public from impact negative.

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