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Criminal Policy on the Distribution of Pornographic Content Through Electronic Media

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Abstract: The dissemination of pornographic content in cyberspace represents a complex challenge arising from advancements in information and communication technology. This content is widely accessible and distributed through social media and instant messaging platforms, presenting significant obstacles in law enforcement and criminal accountability. In Indonesia, the dissemination of pornographic content is regulated under Law No. 44 of 2008 on Pornography and Law No. 11 of 2008 on Information and Electronic Transactions (ITE). These laws prohibit the creation, distribution, and access to pornographic materials, with clear criminal sanctions for violators. Two models of liability are addressed: individual and corporate. Individual accountability involves actions such as uploading content, while corporate liability pertains to platforms facilitating its dissemination. Enforcement challenges include user anonymity and resource limitations among law enforcement agencies. To address this issue, preventive measures such as public education on the dangers of pornography and involvement of internet service providers in monitoring illegal content are crucial. International cooperation is also essential to tackle cross-border violations. With collective efforts, the spread of pornographic content can be mitigated. Effective prosecution, based on the relevant legal framework, is imperative to deter violations, protect society, and foster a safer cyberspace environment.

Keyword: Cybercrime, Pornographic Content, Criminal Liability.

INTRODUCTION

In the midst of the rapid development of electronic media, the phenomenon of pornography dissemination has become a serious issue threatening the social, moral, and legal order of society. Pornographic content available on the internet can be easily accessed by various groups, including children and adolescents, which can have negative impacts on the mental development, behavior, and morals of the younger generation. Indonesia, as a country with a large population, diverse cultures, and strong religious values, faces significant challenges in addressing the circulation of pornographic content. In this regard, the government, through law enforcement agencies, needs to formulate appropriate and effective criminal

policies to combat the spread of pornography that encompass not only punitive measures but also prevention and education for society.

Despite the existence of laws prohibiting the dissemination of pornographic content, such as Law Number 44 of 2008 concerning Pornography and Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE), the effectiveness of law enforcement against perpetrators of pornography dissemination still faces various challenges. One major issue is technological advancements that enable criminals to operate beyond the reach of national laws, considering that the internet is a global medium without borders. Additionally, the process of identifying and proving digital offenses related to pornography dissemination is often difficult, requiring specialized skills from law enforcement and strengthening of digital infrastructure.

In this context, research on criminal policies regarding the dissemination of pornographic content through electronic media has become relevant and urgent. This study aims not only to examine how existing legal policies currently address this issue but also to evaluate the extent to which these policies can provide effective protection for society, especially vulnerable groups such as children and adolescents. Furthermore, this research is expected to offer recommendations for more effective and comprehensive policies, taking into account technological developments and social dynamics occurring in society. The benefits of this research can also be viewed from various aspects. Academically, this study will enrich the literature in the fields of criminal law and cyber law, particularly concerning pornography regulation in the digital era. This research can serve as an important reference for academics, researchers, and students interested in studies related to cybercrime, human rights protection in digital spaces, and the dynamics of regulation and law enforcement in cyberspace.

From a practical standpoint, the results of this research are expected to serve as a guide for law enforcement agencies in handling cases of pornography dissemination through electronic media. The law enforcement process, which has often faced technical and procedural challenges, can be further refined through the recommendations produced by this study. The benefits of this research extend beyond legal and enforcement aspects; it also has significant social impacts. The dissemination of pornographic content through electronic media can undermine the social and moral fabric of society, particularly among children and adolescents. Therefore, this research aims to contribute positively to efforts aimed at protecting the community from the negative effects of pornographic content, both through stricter policy recommendations and through educational programs designed to raise public awareness about the dangers of pornography on the internet.

From a legal perspective, this research also holds significant value for the evaluation and development of existing regulations. Criminal policies applied to perpetrators of pornography dissemination must be continuously updated and adjusted to technological advancements and social dynamics. This is necessary because the modus operandi of cybercriminals, including those involved in the dissemination of pornographic content, continues to evolve with technological progress. Therefore, this research is expected to provide a comprehensive overview of the weaknesses in current legal policies and offer more effective solutions to address these issues. Additionally, this research has the potential to contribute to efforts aimed at harmonizing regulations at both national and international levels. Given that the internet is a global medium without borders, international cooperation in combating the dissemination of pornographic content becomes crucial. The findings of this research can serve as a basis for formulating more synchronized policies between national laws and international agreements, thereby enabling more effective law enforcement against cross-border pornography dissemination.

METHOD

This research employs a normative legal approach. Data sources include primary, secondary, and tertiary legal materials collected through literature studies. The data analysis method is deductive, drawing conclusions from general issues to specific matters.

RESULTS AND DISCUSSION

Criminal Liability for Pornographic Content in Cyberspace

The dissemination of pornographic content in cyberspace is a serious issue that has become increasingly complex with the advancement of digital technology. The ease of access and distribution through various platforms such as social media, websites, and instant messaging applications presents significant challenges for law enforcement. In the context of Indonesian law, regulations are governed by Law Number 44 of 2008 concerning Pornography and Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law). These two laws provide a legal foundation for the criminal enforcement against perpetrators of pornography dissemination. However, their implementation requires comprehensive understanding and effective collaboration among stakeholders.

The characteristics of pornography dissemination on the internet differ from those in conventional media. The internet allows for rapid distribution without age restrictions, and offenders often exploit anonymity to evade legal accountability. This exacerbates risks for vulnerable groups, particularly children and adolescents. The negative impacts of pornographic content extend beyond legal aspects to social and psychological dimensions. Research indicates that exposure to pornographic content can influence perceptions of sexual relationships and gender roles, as well as increase the normalization of sexual violence behaviors.

Legal sanctions for these violations are strictly regulated under both the Pornography Law and the ITE Law. Individuals found guilty of disseminating pornographic content may face imprisonment for up to 12 years and/or fines up to IDR 6 billion under the Pornography Law, as well as imprisonment for up to 6 years and/or fines up to IDR 1 billion under the ITE Law. Additionally, internet service providers have a responsibility to ensure their platforms are free from pornographic content. Failure to monitor user-uploaded content can result in legal sanctions against these companies.

Despite existing regulations, significant challenges remain in law enforcement. Authorities often lack technical resources and digital forensic infrastructure necessary to effectively handle these cases. Moreover, the transnational nature of pornography dissemination adds complexity, necessitating international cooperation. Internet service providers must actively utilize advanced technologies such as detection algorithms and artificial intelligence to prevent and remove pornographic content.

Efforts to combat this issue also require preventive measures, such as public education about the risks associated with pornographic content and ways to protect oneself in the digital world. Educational programs in schools, parental involvement, and collaboration between government entities and internet service providers can help build awareness and shared responsibility. With a comprehensive approach involving all parties, it is hoped that the dissemination of pornographic content in cyberspace can be minimized, creating a safer and healthier digital environment.

Criminal Sanctions for Pornographic Content in Cyberspace

Criminal sanctions for pornographic content in cyberspace represent an urgent issue governed by Law Number 44 of 2008 concerning Pornography and Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law). These laws prohibit the creation, distribution, or access to pornographic content with strict penalties, including imprisonment for up to 12 years and fines of up to IDR 6 billion. This regulation demonstrates the state's commitment to protecting society from the negative impacts of pornographic content

that can undermine moral values, particularly for children and adolescents. The government also emphasizes the importance of providing a deterrent effect to offenders to prevent further dissemination.

The criminal procedure begins with a report from the public, followed by an investigation, evidence collection, and judicial proceedings. Law enforcement requires strong evidence to ensure justice and respect the rights of the accused. However, significant challenges arise from the rapid dissemination of pornographic content via the internet, the anonymity of offenders, and jurisdictional issues. Many digital platforms lack adequate systems to remove illegal content, adding to the burden on law enforcement agencies. International cooperation is key in addressing violations involving perpetrators from abroad. Effective and fair law enforcement must be complemented by public education on the risks associated with pornographic content and ways to protect oneself in the digital realm. The government, law enforcement, technology companies, and society must collaborate to create a safe and healthy digital environment. With appropriate preventive measures, a transparent legal system, and advanced detection technologies, it is hoped that the spread of pornographic content can be minimized, protecting society while supporting the development of better social norms.

The process of criminal prosecution for pornographic content in Indonesia begins with public reports regarding the dissemination of illegal content. After receiving a report, an investigation is conducted to gather sufficient evidence to prove legal violations. If adequate evidence is found, law enforcement can proceed with the arrest and detention of offenders, whose cases are then brought to court for trial. During the trial, the public prosecutor presents evidence to establish the offender's guilt while the defendant's legal counsel defends their client. The presiding judge listens to all arguments and evidence before making a ruling. However, law enforcement related to pornographic content faces several challenges, particularly concerning rapid technological advancements. The swift spread of pornographic content through the internet and digital platforms is difficult to halt, especially given the numerous platforms used for sharing illegal content. Additionally, many offenders operate from abroad, making these cases harder to manage without international cooperation.

In addition to law enforcement, preventive efforts are crucial in reducing the spread of pornographic content. Education for society especially children and adolescents about the dangers and negative impacts of pornographic content is essential. Educational programs in schools and parental involvement in supervising and guiding their children's internet use are necessary. Public awareness must also be raised so that individuals are more proactive in reporting any instances of pornography they encounter. This will facilitate prompt and accurate action by law enforcement agencies. Another challenge is the limited resources and infrastructure available within law enforcement institutions. Without adequate forensic technology, law enforcement struggles to handle cyber pornography cases that involve multiple platforms and types of digital media. Therefore, alongside fair and effective law enforcement, closer cooperation between government entities, law enforcement agencies, internet service providers, and society is needed. By enhancing law enforcement capacity, ensuring more responsive internet service providers, and implementing comprehensive public education initiatives, it is hoped that the dissemination of pornographic content can be curtailed, creating a safer digital space.

CONCLUSION

The criminal responsibility associated with pornography in cyberspace represents a multifaceted issue requiring serious attention from all stakeholders involved. In Indonesia, existing legal frameworks provided by Law Number 44 of 2008 concerning Pornography alongside Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE) are available; however, challenges persist regarding enforcement due largely due anonymity

inherent within internet usage coupled with limited resources among law enforcement agencies amidst rapid technological advances.

To address these challenges effectively requires comprehensive preventive strategies including public education about negative impacts stemming from exposure towards pornographic materials while fostering cooperation between internet service providers aimed at monitoring illicit content distribution actively alongside enhancing international collaboration necessary for addressing cross-border issues surrounding this matter effectively.

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