



Optimization of Legal Enforcement and Protection Against Women Victims of Crime Threats (Revenge Porn) in Electronic Media

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Abstract

Technological advances in the era of the industrial revolution 4.0 have a significant impact on the development of social life patterns. In addition, information and communication technology which is developing very rapidly also has a negative impact. Among them is the misuse of internet media as a means of revenge porn, which often occurs within the scope of society. The purpose of this research is to find out how the legal efforts taken by a country in providing legal protection to women who are victims of revenge pornography. The approach method used in this study is a descriptive normative juridical approach, using a statutory approach (State Approach). The data collection method used by the author is to use library research collection methods (library research). The data in this paper are sourced from revelation data and secondary data using qualitative analysis. Based on the results of the study, it is known that actions related to revenge porn can be seen from the production of intimate content which is carried out by recording without permission, hacking intimate content, manipulating content regarding resemblance to someone. So it can be concluded that efforts to provide protection to women victims of revenge porn have been regulated in Law no. 19 of 2016 concerning Information and Electronic Transactions, Law no. 44 of 2008 concerning Pornography, but this protection is still considered ineffective and there is not full protection regarding the losses received by the victim.

Keywords: *Enforcement; Legal Protection; Women; Victims; Threats; Pornography*

Introduction

Technological advances in the era of the industrial revolution 4.0 have a significant impact on the development of social life patterns. It can be seen that the development of information and

communication technology in Indonesia has progressed very rapidly. The form of this progress can be seen from the existence of internet technology and virtual world networks that are also present in human life. This is what makes it easy for humans to access the sophistication of an information and communication technology quickly.

Sugeng argues that "advancements in information and communication technology that have an impact on the existence and use of the internet are like a double-edged sword".¹In addition to the positive benefits, advances in technology and communication also have a negative impact. Among the many negative impacts of an irresponsible internet, one of them is cybercrime or cyber crime. This is because there is one factor regarding the misuse of internet use and the absence of strict supervision from parents and people in the surrounding environment. The form of cybercrime that often appears in cyberspace is cybercrime regarding immorality, which includes cyberporn or pornography.²

In the Etymology dictionary, pornography comes from the words pornos and grafi. Pornos has the meaning of an act related to immorality (sexuality), while grafi has the meaning of an image or writing that shows the existence of something related to immorality or attacks the sense of decency in society.³Cybercrime in a discussion of cyberporn or pornography that often appears in this era is Revenge Porn. Revenge porn is an act of someone to be able to publish sexual content about someone where the act is carried out by an irresponsible person. Carmen M. Cusack in her book *Pornography and the Criminal Justice System*, argues that "Revenge pornography is pornography that is produced or distributed by an intimate partner with the intent to humiliate or harass the victim".⁴

The number of problems regarding the crime of pornography, of course, makes women often become the party who feels very disadvantaged. This can be seen from the many influencing factors, including the existence of a social structure that assumes that women are one of the objects of sexuality and the body of women is always considered as an ornament. Furthermore, there is a patriarchal culture that is considered to be able to worsen the situation of women and always makes women the other. It is even more concerning that women who incidentally are "victims" of a revenge porn case, often receive an inappropriate stigma in society. There are so many media that often find out about the personal life of the victim with the security of the victim's personal data guaranteed instead.⁵

Revenge porn basically focuses on a threat about the distribution of non-consensual intimate content without the consent of a partner or ex-partner, it can even be done by other people who feel hurt, do not want to be separated, and want to be able to refer back, or threaten the victim in order to comply with the wishes of the person. These inappropriate actions are often aimed at bringing down the image of the victims, bringing down the honor and good name of the victim and attacking the dignity of the victim by means of "revenge". It should be underlined, the recorded video is a private collection, not used as a commercial business interest or public consumption.⁶

Judging from the data held by Komnas Perempuan's 2020 Annual Records (CATAHU), there are many reports received by Komnas Perempuan regarding the existence of forms of violence. It has been noted that there has been a very significant increase when viewed from previous years, such as regarding complaints against cyber crime cases, there were 281 cases, of which in 2018 there was an increase of 300% with a record of 97 cases. And the most cyber cases are threats and intimidation regarding the

¹ Sugeng. 2020. *Hukum Telematika Indonesia*. Jakarta: Prenada Media, halaman 83.

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³ Adami Chazawi, *Tindak Pidana Mengenai Kesopanan*, PT Raja Grafindo Persada, Jakarta, 2005, hlm. 22

⁴ Cusack, Carmen M. *Pornography and the criminal justice system*. CRC Press, 2014. h.145.

⁵ Okamaisya Sugiyanto. "Perempuan dan Revenge Porn: Konstruksi Sosial Terhadap Perempuan Indonesia dari Prespektif Viktimologi" dalam *Jurnal Wanita dan Keluarga* Vol. 2 Nomor 1. Juli 2021, halaman 23

⁶ Salter, Michael, and Thomas Crofts. "Responding to revenge porn: Challenges to online legal impunity." *New views on pornography: Sexuality, politics, and the law* (2015): 233-256.

distribution of pornographic photos and videos of victims.⁷2019 was the year in which there were 97 cases of violence against women in cyberspace, 33% of which were cases of revenge porn. This shows that every year, the graph of revenge porn crimes against women is always high.

The absence of a more specific regulation which addresses the issue of revenge porn, has resulted in the absence of a preventive action that can prevent an act of violence. Furthermore, there are consequences that arise where the perpetrators of revenge porn do not have a deterrent effect. This can also worsen the condition of legal protection and the response of victims which is often facilitated within the scope of the Electronic Information and Transaction Law. In the book Didik M. Arief Mansur, Leslie Lipton argues that “the most original and oldest function of the state is to provide protection. Because the state is formed by individuals to obtain protection and the state must continue to strive to maintain and maintain that goal.”⁸

So that an additional instrument is needed regarding the rules behind the revenge for a pornographic case, which is expected to be aggravating the punishment for the perpetrator. With the existence of legal instruments here in the future it can be used as a "protector" for victims of revenge porn. So it is not possible if the development of an information technology system can cause the act of revenge porn to become bigger and look ordinary. The existence of a statutory regulation that discusses the issue of revenge porn is expected to protect the victims and this issue can be handled immediately and can provide a deterrent effect to irresponsible persons.

Based on the explanation above, the formulation of the problem that will be discussed in this study is how to optimize the law enforcement and protection for women who are victims of revenge porn? Then, the main purpose of writing this study is to analyze efforts to protect the law against victims of revenge porn.

Research Methods

The approach method used in this study is a normative juridical approach⁹. The normative juridical research method is researching or analyzing library materials and secondary data. So it can be seen that this research comes from literature studies and theoretical/dogmatic legal research. Meanwhile, in this study, a statutory approach was used (State Approach). The statutory approach is the activity of researching all laws and regulations in them that are related to legal issues that are ruled out. This statutory approach is carried out in the context of conducting legal research for practical purposes as well as legal research for academic purposes.¹⁰

The specification of this scientific article writing research uses descriptive research, namely research by explaining in detail the state of an object or event with the aim of drawing conclusions that are generally applicable. The data collection method used by the author is to use library research collection methods, where this research is carried out by analyzing various sources of library data and secondary data. This secondary data can be obtained by collecting all materials from several books,

⁷ Komnas Perempuan, “Catatan Tahunan Kekerasan terhadap Perempuan 2019 Kekerasan Meningkat: Kebijakan Penghapusan Kekerasan Seksual untuk Membangun Ruang Aman Bagi Perempuan dan Anak Perempuan” melalui <https://komnasperempuan.go.id/siaran-persdetail/siaran-pers-dan-lembar-fakta-komnas-perempuan-catatan-tahunan-kekerasan-terhadap-perempuan-2020>, diakses Rabu, 27 Januari 2021, pukul 11.00 WIB

⁸ Dikdik M. Arief Mansur dan Elisatris Gultom. 2008. Urgensi Perlindungan Korban Kejahatan Antara Norma dan Realita. Jakarta: PT Raja Grafindo Persada, halaman 9.

⁹ Gea Illa Sevrina. 2020. Kebijakan Kriminalisasi Praktik Prostitusi di Indonesia. Jurnal Law And Justice UMS. Vol 5 No 1. Hal 17-29 <https://journals.ums.ac.id/index.php/laj/article/view/9216>

¹⁰ Dyah Ochtorina Susanti dan A'an Efendi. 2014. Penelitian Hukum (Legal Research). Jakarta: Sinar Grafika, halaman 19.

regulations or conventions, journals, and articles related to the essence of the problems discussed in writing this law. If the data has been obtained, the next step is to analyze the data.

The data analysis process used in this scientific article uses a qualitative approach method, where in doing a data analysis we can express and draw a conclusion about the truth of a literature, namely by combining some of the information contained in legislation and scientific writings that have relevance with the title so that it can be analyzed qualitatively which can then be drawn a conclusion that makes it easier for the reader to understand it.

Results and Discussion

Law Enforcement and Protection Against Women Crimes of Revenge Porn (Revenge Porn)

Law is a rule that has a regulating and coercive nature. This must be enforced and have sanctions if the rules are violated. In this context, there are many hopes that the objectives of the law can be realized, such as the creation of harmonious, peaceful and just conditions among legal subjects. This goal can be understood if the legal subject here succeeds in achieving his rights and obligations fairly based on the legal rules that have been applied. So that protection is considered very important for a country, this is because a country can be formed if there is a rule of law in it.¹¹

Constitutionally, the rights of Indonesian citizens have been explained in the 1945 Constitution. Starting from the existence of human rights, the right to education, the right to get a job to the issue of protection. The 1945 Constitution paragraph IV has regulated the violation of human rights related to revenge porn, which reads "Protecting every nation and all of Indonesia's bloodshed, promoting public welfare and implementing world order based on independence, eternal peace and social justice". So that the Republic of Indonesia has a goal in providing protection, peace and prosperity.

As stated in the 1945 Constitution Chapter XA (Article 28A to Article 28J) precisely the sound of Article 28 G paragraph (1) of the 1945 Constitution, namely, "Everyone has the right to the protection of his personal, family, honor, dignity and property under his control. and has the right to a sense of security and protection from the threat of fear to do or not do something which is a human right." Article 28 I paragraph (4) of the 1945 Constitution also explains that "the protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state." In addition, Law Number 39 of 2009 Article 30 concerning Human Rights also explains that, "Everyone has the right to a sense of security and peace and protection against the threat of fear to do or not do something. And Article 71 also explains that, "The government is obliged and responsible to respect, protect, uphold and promote human rights. In accordance with these rules, it can be seen that the state has a great obligation and responsibility in guaranteeing the rights and obligations of citizens to be free from any threat and anxiety."¹²

The magnitude of the impact experienced by women victims of revenge porn makes the need for strong law enforcement protection. The impact of revenge porn, which is a form of Online Gender-Based Violence (KBGO), which is often experienced by women, includes:

1. Psychologically: the victim experiences depression, anxiety and fear. In addition, the victim becomes traumatized to think that he wants to end his life.

¹¹ Marisa Kurnianingsih, Khudzaifah Dimiyati, Kelik Wardiono, Absori Absori. 2021. Sexual Exploitation of Children in the Digital Age in the Victimology Perspective. Jurnal Jurisprudence UMS. Vol. 11. No. 2. Pp 205-220. <https://journals.ums.ac.id/index.php/jurisprudence/article/view/16030>

¹² Mohamad Nur Kholiq, Dinda Ajeng Puspanita, Prawitra Thalib. 2021. Copyright Protection of Art Containing Nudist Elements Under Positive Law In Indonesia. Vol 6. No. 2. Pp 161-173 <https://journals.ums.ac.id/index.php/laj/article/view/17480>

2. Social alienation: the victim withdraws from public life, including with family and relatives. Victims here feel that they have been humiliated and ridiculed because their photos and/or videos were spread without their consent.
3. Economic losses: victims can become unemployed and lose their jobs due to the situation that befell them.
4. Limited mobility: the victim loses the ability to move freely and participate in the environment.
5. Self-censorship: due to fear of further victimization, and because of the loss of confidence in the security of using digital technology, victims remove themselves from the internet which has further implications beyond self-censorship, such as a loss of access to information, electronic services and social or professional communications.¹³

Revenge pornography (revenge porn) is clearly a genuine form of violation of human rights and is included in acts of discrimination. Based on the Convention on the Elimination of All Forms Discrimination Against Women (CEDAW), specifically Article 1, it is explained that, "Discrimination against women means any distinction, exclusion or restriction made on the basis of sex, which has the effect or purpose of reducing or eliminating recognition, the enjoyment or exercise of human rights and fundamental freedoms in the political, economic, socio-cultural, civil or whatever fields by women, irrespective of their marital status, on the basis of equality between men and women".¹⁴

There are no special regulations in Indonesia that can strongly help defend the rights of victims, specifically women, in the issue of revenge porn, which often occurs in the digital realm. However, there are also positive laws in Indonesia that are used as the basis for protecting the victims of revenge porn, including:

1. Criminal Code (KUHP)

In the Criminal Code (KUHP), the rules regarding pornography are often referred to as decency offenses or crimes against decency. The forms of the existence of criminal acts regarding pornography cases have been described in detail in:

a. Article 282 of the Criminal Code (KUHP)

Article 282 paragraph (1) states "Whoever broadcasts, displays or pastes openly a writing whose contents are known, or a picture or object known to him which violates the feeling of decency, or makes, brings in, sends directly, takes out or providing such writing, pictures or goods to be broadcast, displayed or pasted so that they can be seen by many people, or openly or by broadcasting a letter, or by being openly requested or showing that the writing, pictures or goods may be obtained, shall be punished with imprisonment a maximum of one year and four months or a maximum fine of Rp.

The crime of pornography as formulated From paragraph (1) above, the crime of pornography is explained in the sentence "...broadcasting, showing or introducing in public writings, pictures or objects that are known to violate decency."

2. Law Number 19 of 2016 concerning Information and Electronic Transactions (ITE)

Article 27 paragraph (1) reads "Everyone intentionally and without rights distributes and/or transmits and/or makes accessible electronic information and/or electronic documents that have content that violates decency."

¹³ Ellen Kusuma dan Nenden Sekar Arum, Op.Cit., halaman 10.

¹⁴ Achie Sudiarti Luhulima. 2014. CEDAW: Menegakkan Hak Asasi Perempuan. Jakarta: Yayasan Pustaka Ober Indonesia, halaman 8.

3. Law Number 44 of 2008 concerning Pornography

Article 4 paragraph (1) reads "To regulate the prohibition of the act of producing, making, reproducing, duplicating, distributing, broadcasting, importing, exporting, offering, trading, renting, or providing pornography which explicitly contains: (a) intercourse, including deviant intercourse ; (b) sexual violence; (c) masturbation or masturbation; (d) nudity or the appearance of nudity; (e) genitals; or (f) child pornography." From this article the meaning of the word "make" is not for himself or for individual interests.

4. Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims

Article 1 paragraph (3) reads: "Victim is a person who suffers from physical, mental, and/or economic loss caused by a criminal act." From this article, the victim does not have bargaining power over what is felt as a result of the criminal act but instead submits the interest to be represented by the state. Moreover, especially cyberporn is often detrimental to the victim's mental, psychological and good name which is polluted because of getting a bad stigma from the community.

Optimization to be able to provide legal enforcement and protection to victims of revenge pornography, especially women, can be done in two ways, namely preventive methods (prevention before the occurrence of a crime), and repressive methods (eradication after a crime has occurred). The law here functions in providing forms of protection for justice, legal certainty, and peace, where protection is given to legal subjects. Victims of cyberporn crimes have the right to obtain protection from various agencies such as the government. In addition, victims are also entitled to special services and treatment and special assistance is still carried out both from a psychological perspective so that the rights of victims are guaranteed.

Closing

A. Conclusion

Based on the results of the analysis above, it can be concluded that:

1. The crime of revenge porn is a crime committed by one person to another by disseminating pornographic content belonging to others through social media with the aim of degrading the image and dignity of the victim. The form of revenge pornography can be seen from the production of intimate content by recording without permission, hacking other people's intimate content, and manipulating sexual content similar to other people's.
2. Law enforcement and protection for women victims of revenge porn have been regulated and explained in the Criminal Code (KUHP), Law no. 19 of 2016 concerning Information and Electronic Transactions, Law no. 44 of 2008 concerning Pornography, and Law no. 31 of 2014 concerning Amendments to Law No. 13 of 2006 82 which discusses the protection of witnesses and victims. Although these rules have not been implemented effectively, at least there are binding rules regarding revenge porn cases.

B. Suggestion

To all women, to be precise, teenagers are required to be careful in taking care of themselves and to be wise in the use of social media, especially when getting to know new people. To be able to apply

this precautionary nature, it is hoped that it can reduce the crime rate of revenge porn cases. In addition, the need for new legal regulations from the government, is expected to be more focused and able to provide legal protection and guarantee the rights of victims of online gender based violence (KBGO) cases.

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