

Education on Sentencing Women as Victims of Pornographic Content (Analysis of Case Decision No. 2661/Pid.Sus/2020/Pn Mdn)

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ABSTRACT

One example of a case of Women as Victims of Pornographic Content occurred in the decision of the Medan District court with decision number 2661/Pid.Sus/2020/PN Mdn. Legal protection efforts against women as victims of pornography regulated in laws and regulations and The nature of this research is descriptive analysis, using normative types of research, while the methods used in this research are library research methods and the data collection techniques used are primary and secondary. The conduct of defendant Arisman Harefa als Arisman Harefa als Ama Endru has been validly and conclusively proven guilty of committing the Criminal Act "Without Rights and unlawfully intentionally making, reproducing, and disseminating pornography" in the First Alternative Indictment. Sentenced the Defendant Arisman Harefa als Arisman Harefa als Ama Endru therefore to imprisonment for 12 (twelve) years and a fine of Rp. 800,000,000,- (eight hundred million rupiah), provided that if the fine is not paid, it is replaced by imprisonment for 6 (six) months. There needs to be adequate legal protection for victims such as attention to victims for the provision of restitution, compensation, counseling, legal assistance, which is appropriate and agreed with the perpetrator to compensate for losses and reduce suffering experienced.

Keywords: Education Punishment, victims, pornographic content.

ABSTRAK

Salah satu contoh kasus Perempuan Sebagai Korban Konten Pornografi terjadi dalam putusan pengadilan Negeri Medan dengan nomor putusan 2661/Pid.Sus/2020/PN Mdn. Upaya perlindungan hukum terhadap perempuan sebagai korban pornografi yang di atur di dalam peraturan perundang-undangan dan Sifat penelitian ini adalah Deskriptif analisis, dengan menggunakan jenis penelitian Normatif, adapun metode yang dipakai dalam penelitian ini adalah metode penelitian Pustaka dan teknik pengumpulan data yang digunakan adalah primer dan sekunder. Perbuatan terdakwa Arisman Harefa als Arisman Harefa als Ama Endru telah terbukti secara sah dan meyakinkan bersalah melakukan Tindak Pidana "Tanpa Hak dan melawan hukum sengaja membuat, memperbanyak, dan menyebarkan pornografi" dalam Dakwaan Alternatif Pertama. Menjatuhkan pidana kepada Terdakwa Arisman Harefa als Arisman Harefa als Ama Endru oleh karena itu dengan pidana penjara selama 12 (dua belas) tahun dan denda sebesar Rp. 800.000.000,- (delapan ratus juta rupiah), dengan ketentuan apabila denda tersebut tidak dibayarkan, maka diganti dengan pidana penjara selama 6 (enam) bulan. Perlu adanya perlindungan hukum yang memadai bagi korban seperti perhatian terhadap korban untuk pemberian restitusi, kompensasi, konseling, bantuan hukum, yang sesuai dan disepakati bersama dengan pelaku untuk mengganti kerugian dan mengurangi penderitaan yang dialami.

Kata Kunci: Pendidikan Penjatuhan hukuman, korban, konten pornografi.

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INTRODUCTION

These crimes that often occur on the Internet are called Cybercrime or Cybercrime. This happens due to internet abuse factors and lack of supervision from parents and people around the user. One form of cybercrime or cybercrime that is already rife in cyberspace today is cybercrime in the field of decency, such as cyberporn or pornography. Etymologically pornography comes from two syllables, namely pornos and graphics. Pornos means an immoral act (related to sexuality), while graphography is an image or writing whose content or meaning shows or depicts things that are immoral or attack the sense of decency of society. *Cybercrime in the context of cyberporn or pornography that most often occurs today is the spread of immoral content or in other terms Non-Consensual Pornography and Involuntary Pornography which means the spread of Pornographic content which is an action that leads to actions committed by the perpetrator such as distribution photos or videos with sexual elements without the consent of the victim who is the owner of the material/content.*

It can be said that the dissemination of pornographic content refers to the threat or act of spreading non-consensual (non-consensual) intimate content carried out by the partner or ex-partner, or even other people outside of it due to the heartache of being abandoned, not wanting to separate, forcing the re-reference, or threatening and intimidating the victim into obeying his will. This act is carried out with the motive of bringing down the image of the victim, defaming honor and good name and attacking the dignity and dignity of the victim or in other words carried out on the basis of "revenge".(Willihardi, 2020)

Anyone can be a victim of this crime of spreading pornographic content. However, based on the cases that have occurred so far, the spread of pornographic content affects women more when compared to men. Pornographic content is often used to attack women and destroy their lives and careers digitally which ultimately adversely affects life in the real world. Perpetrators of cyber violence come from the closest people in the family, spouses (whether the relationship is married or not and whose relationship is still ongoing or has ended).(Muhammad, 2020)

Women victims of pornographic content are the most blamed and the most disadvantaged. The factor that most encourages this to happen is the social construction that considers that women are objects of sexuality and that women's bodies are only limited to ornaments. In addition, the patriarchal culture that is still strong in Indonesia further worsens the position of women and places women as the other. Ironically, women who are actually "victims" in this case of spreading pornographic content, often get bad labels in society. The public as well as the media flocked to expose the victim's private life instead of guaranteeing the protection of his personal data.(Sintia, 2021)

Society cornered its position by judging women's morals. This situation then made women victims a second time. Not done with the problem of the spread of intimate content of her, now coupled with the bullying she got. Women victims of the spread of pornographic content seem to be guilty of having a private life related to sex and are considered unfit to be categorized as victims of the spread of pornographic content who must receive protection.

One example of the case of Women as Victims of Pornographic Content occurred in the decision of the Medan District court with the judgment number 2661/Pid.Sus/2020/PN Mdn, that Defendant Arisman Harefa intentionally and without the right to produce, make, reproduce, duplicate, disseminate, broadcast, import, export, offer, trade, rent or otherwise make available pornography, the acts of which the Defendants committed in the following manner:

That initially the Defendant became acquainted with the victim Lestari Gulo at the BNKP SION Church Jalan Binjai Km 10.8 where between the Defendant Arisman Harefa and the victim were both Congregations at the BNKP Church then Defendant Arisman Harefa and the victim Lestari Gulo exchanged Mobile Numbers and often communicated via WhatsApp until the next courtship of the victim Lestari Gulo was seduced to be able to have a husband and wife relationship. So that the victim Lestari Gulo wanted to be invited to have a husband and wife relationship and Defendant Arisman Harefa at the time of the husband and wife relationship took photos of the scene and the photos were used as a threat to the victim

Lestari Gulo if he did not want to serve his lust then the photos would be disseminated by the Defendant Arisman Harefa so that the victim Lestari Gulo was frightened until finally the parents and extended family of the victim Lestari Gulo learned of the incident and the victim Lestari Gulo was not allowed to have contact with other male friends besides Defendant Arisman Harefa.

From the above legal events according to the author, pornography victims need laws and law enforcement that have gender sensitivity and not even harm women who are victims. It is necessary to add rules against the background of revenge on pornography to increase the punishment for perpetrators. The existence of this legal instrument is expected to be a "protector" for victims of this pornography. So it is not impossible anymore with the development of the times with information technology and various kinds of social networks will result in these pornographic acts becoming wider and more commonplace.

With the laws and regulations governing the problem of pornography, it is hoped that it can protect its victims so that in the future this problem can be resolved and can also have a deterrent effect on perpetrators so that the public can be more careful to do pornography and it is also hoped that legal protection of women as victims of pornography can be realized.

RESEARCH METHODS

The nature of the research used, namely descriptive analysis, is a method that aims to describe comprehensively or comprehensively about the legal protection of pornography victims, then systematically analyzed to obtain the overall research results to come to a conclusion. (Soekanto, 2008) The type of research on this thesis is Normative Juridical. What is meant by Normative Juridical short-tan is a legal research method which in principle is carried out by examining the legal rules in legislation, jurisprudence, and doctrines that are qualitatively implemented. (Soekanto, 2008)

To obtain the data needed, the author collects data carried out by means of Library Research or also known as document studies which include primary, secondary, and tertiary legal materials. The research was conducted by reading several references, such as books, laws, and literature related to the author's analysis of the

Medan District Court Decision Number 2661 / Pid.Sus / 2020 / PN Mdn

RESULTS OF RESEARCH AND DISCUSSION

The law is a rule that must be enforced and has sanctions if it is violated. Law as a regulatory instrument as well as an instrument of protection is expected to be able to realize the purpose of law, namely to create a harmonious, balanced, peaceful and just atmosphere among legal subjects. Such a goal will be easily achieved if the subject of law obtains reasonably granted rights and obligations in accordance with the applicable rules of law. Thus, legal protection is the most important thing in a legal state, because when a state is formed, laws will always be formed to regulate every citizen. (Suryamizon, 2017)

Legal protections also need to be provided given the tremendous impact women victims of pornography face. The impact of pornography as one of the Online Gender-Based Violence (OGBV) that mostly attacks women is as follows:

- a. Psychological impact: the victim experiences depression, anxiety and fear. Trauma is prolonged to a certain point where the victim thinks of approaching his life.
- b. Social alienation: the victim withdraws from public life, including with family and friends. This is because the victim feels humiliated and ridiculed because her photos and/or videos are spread without her consent.
- c. Economic losses: victims of pornography can also become unemployed and loss of income.
- d. Limited mobility: victims of pornography lose the ability to move freely and participate in online and/or offline spaces.
- e. Self-censorship: due to fear of further victimization, and due to loss of trust in the use of digital technology, so that the victim removes themselves from the internet which has further implications beyond self-censorship, such as the termination of access to information, electronic services and social or professional communication. (Rahmi, 2019)

Looking at the impact of pornography, it can be said that the biggest impact of pornography is the harm that the victim suffers

mentally. This loss then causes various substantial damages of human rights which are fundamental rights to human beings as stipulated in Article 28 G paragraph (1) of the 1945 Constitution. The article reads "Everyone has the right to the protection of personal self, family, honor, dignity and property under his control, and is entitled to a sense of security and protection from the threat of fear of doing or not doing something that is a human right."

Efforts that can be made to provide legal protection for women victims of pornographic content can be done in two paths, namely the preventive route (prevention before crime occurs), and the repressive route (eradication after the occurrence of crime). In the opinion of Philipus M. Hadjon, the author quoted from the research journal Fransisca Medina Alisaputri, Vita Setya Permatahi and Mochamad Arinal Rifa entitled *The Government's Efforts to Provide Legal Protection for Women Victims of Violence*, legal protection for the people includes two things, namely: (Alisaputri et al., 2020)

1. Preventive Legal Protection This type of legal protection is a legal protection in which the people are given the opportunity to raise their objections or opinions before a government decision gets a definitive form. So the conclusion is that preventive protection has the purpose of preventing disputes from occurring.

Preventive countermeasures are carried out moralistic and abolitionistic. Moralistic is done by raising public awareness so as not to do pornography While abolitionistic is done by crossing the cause of pornography or in other words done by eradicating everything that is the root of the pornography problem. This preventive effort is more of a preventive measure before the occurrence of crime which is generally aimed at the community. So that the main goal is to deal with the factors causing the occurrence of crimes centered on problems or social conditions that directly or indirectly give rise to or foster the development of crime.

As one of the efforts to prevent and overcome violence against women, a special commission was formed to deal with the problem of violence against women, which was later named the National Commission on Violence against Women (Komnas Perempuan). The purpose of the establishment of Komnas Perempuan is

specifically contained in Presidential Regulation Number 65 of 2005 Article 2 as follows:

1. Mengembangkan kondisi yang kondusif bagi penghapusan segala bentuk kekerasan terhadap perempuan dan penegakan hak-hak asasi manusia perempuan di Indonesia;
2. Increase efforts to prevent and combat all forms of violence against women and the protection of human rights.

Preventive efforts carried out by the National Commission on Violence against Women (Komnas Perempuan) to prevent pornography victims are to conduct public education through press releases with service institutions to publish cases of cyber Violence against Women (KTP). With the existence of educational institutions, Komnas Perempuan initiated human rights with a gender perspective, namely integrating human rights with a gender perspective in the curriculum of high school and college education.

In addition to the National Commission on Violence against Women (Komnas Perempuan), preventive legal protection for women victims is also carried out through the Witness and Victim Protection Agency (LPSK), and the Legal Aid Institute of the Indonesian Association for Justice (LBH APIK) by providing counseling and socialization on how to use the internet properly and prevent pornography crimes by not providing personal pornographic content to others.

1. Protection of Repressive Laws

Repressive efforts consist of methods of treatment and punishment with investigations to be carried out in order to be further processed through the courts. Repressive efforts that can be carried out are through the means of legal sanctions provided through applicable laws and regulations and after going through the evidentiary process Thus resulting in a court ruling that is charged with justice. This punishment is not a form of revenge, blasphemy but aims to return the perpetrator to the right path and not to commit the crime of pornography again.

This protection is resolved. Thus, repressive efforts that can be carried out include:(ANJANI et al., 2021)

- a. Providing physical and psychological health services for victims.
- b. Providing criminal sanctions for female abusers. One of the efforts that can be made to provide repressive protection to pornography victims is to enforce the law through sanctions for pornography perpetrators based on the current laws and regulations in force in Indonesia.(Sintia, 2021).

In addition to these forms of protection, theoretically the form of protection against victims of crime can be provided in a variety of ways, depending on the suffering/harm suffered by the victim. Generally, these protections include.

- a. Restitution and Compensation
- b. Medical Assistance and Psycho-Social Rehabilitation Assistance
- c. Protection from Family
- d. Protection from Society.(Mahendra, 2021)

Meanwhile, to provide protection for women victims of Online Gender-Based Violence (OGBV), Komnas Perempuan provides its recommendations contained in the Annual Record. Komnas Perempuan's efforts in providing protection for women victims of Online Gender-Based Violence (OGBV) include:

1. Preparation of a protection system for women victims of Online Gender-Based Violence (OGBV) by the Ministry of Women's Empowerment and Child.
2. When handling cases related to online gender-based sexual violence, the Indonesian National Police has to use the perspective of victims of OGBV violence.
3. Increase the capacity of social work and institutions that serve victims of Online Gender Based Violence (KBGO) through the Ministry of Social Affairs.
4. Encourage all Ministries/Agencies to understand the activities regarding the special needs of vulnerable and minority groups, including persons with disabilities in preparing information and service mechanisms..

CONCLUSION

Regulation of Criminal Law Against Pornography In the Perundang-undangan Regulation, especially regarding the Prosecution of decency in the pidana law in Indonesia, it has been regulated in Article 281 and Article 282 of the Criminal Code and article 29 of Undang-Law number 44 of 2008 concerning Pornography

Legal Protection of Women as Victims of Pornographic Content, namely Efforts that can be made to provide legal protection to victims' per-empuan Pornographic content can be done with two paths, namely the pre-ventive path (prevention before the outbreak of violence), and the repressive path (eradication after the occurrence of *keja-hatan*), Preventive counter-measures are carried out moralistic and abolition-istic. Moralistic is done by raising public awareness so as not to do pornography While abolitionistic is done by crossing the cause of pornography or in other words done by eradicating everything that is the root of the pornography problem. Meanwhile, preventive efforts carried out by the National Commission on Violence against Women (Komnas Perempuan) to prevent pornography victims are to conduct public education through press releases with service institutions to publish cases of Violence against Women (KTP) *si-ber*.

Legal Analysis of Women as Victims of Pornographic Content in the Medan District Court Putusan Number 2661 Pid.Sus / 2020 / Pn Mdn, namely the author concludes that the Panel of Judges has agreed with the absolute theory in the application of articles against the defendants where the conduct of the accused Arisman Harefa als Arisman Harefa als Ama Endru has been validly and convincingly proved to have wrongly committed the Criminal Act "Without Rights and against the law deliberately abetting, reproducing, and disseminating pornography". Sentenced the Defendant Arisman Harefa als Arisman Harefa als Ama Endru therefore to imprisonment for 12 (twelve) years and a fine of Rp. 800.000.000,- (eight hundred million rupiah), with the certainty that if the fine is not paid, it is replaced by imprisonment for 6 (six) months

SUGGESTION

The need for individual awareness on the basis of preventing the occurrence of criminal acts

of decency by not distributing pornographic content to anyone. There needs to be adequate legal protection for victims such as the victim's attention to the provision of restitution, compensation, counseling, legal assistance, which is appropriate and agreed with the perpetrator to compensate for losses and reduce the suffering experienced.

Should a Judge in passing judgment against the perpetrators of the criminal act of Dissemination of Pornographic Content using Social media, Ha-kim must be firm in imposing his putusan because the dissemination of pornographic content violates immoral content is a societal disease that in addition to violating juridical aspects can also violate so-siological aspects.

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