



CYBER PORN (CRIME WITHOUT VICTIM) IN THE COUNTRY OF INDONESIA

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ABSTRACT

The number of pornography in Indonesia increase from year to year. Data from National Commission for Child Protection (KPAI) in 2016 there are 587 cases of pornography crimes. Law No. 44 of 2008 concerning pornography (pornography act), Law No. 11 of 2008 concerning Electronic Information and Technology (ITE Act) not maximally ensnare the perpetrators of crime. The victims of this crime are also widespread in all circles even to children. In fact, in many cases the position of the perpetrator is also a victim. This paper will examine two important points: how cyber porn reviews in psychiatric studies, and how to protect victims of cyber porn crime in Indonesia. This paper highlights that the crime of cyber porn in legislation in Indonesia still has many weaknesses, especially related between victim and perpetrator of this crime. Furthermore, this paper asserts that the importance of victim protection for cyber porn in Indonesia.

Keywords :cyber porn, victimology, victim and pornography

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A. INTRODUCTION

Indonesia is the fourth largest population country in the world. Technological developments have resulted in a system called Internet. It is undeniable that with the high number of population in Indonesia cause Indonesia became one of the users of Internet services actively. The Internet is the second big bang after the first big bang, the big bang material according to Stephen Hawking version. According to Steven Harnad, the Internet is a big bang knowledge and is characterized by electromagnetic-toopic communications via satellite and cable, supported by the existence of existing telephone networks and will soon be supported by hundreds of satellites being and will be launched.² According to Dimitri Mahayana "the Internet is knowledge big bangs (explosions of knowledge) marked by electromagnetic-toopic communications via satellites and cables, supported by the existence of existing telephony networks

and soon to be supported by hundreds of satellites being and will be launched".³ Internet (short for interconnection-networking) in the modern age as today is not only used by teenagers or adults but has penetrated into the world of children. Based on data from inet.detik.com, there are about 132 million Internet users in Indonesia which was reported by Tetra Pak Index in 2017.⁴ Not only adults, the Internet has also penetrated to the age of children. The Internet has become a symbol of the embryonic material of the global community.⁵

In the current era of globalization, the development of information technology and electronic media is growing rapidly. Science and technology have produced facilities, tools, and tools that make it easier for humans to engage in various activities. This development occurs continuously in line with the

³ Mahayana, D. 2000. *Picking Future, Future and Community Engineering Towards a Global Era*. Rosda. Bandung

⁴ Yudhianto. 2017. 132 Million Internet Users in Indonesia, 40% of meddos enthusiasts. Retrieved through the page <https://inet.detik.com/cyberlife/d-3659956/132-juta-user-internet-indonesia-40-catcher-meddos> on 13th June 2018 at 13.45pm.

⁵ Agus Raharjo, "Juridical Study Against Cyber porn And Prevention Efforts And Countermeasures Spread On The Internet" Journal of Law Respublica. Vol. 07 No. 01, 2007, p. 34.

² Steven Harnad, Post-Gutenberg Galaxy: *The Public-Access Computer System Review* 2 (1): 39-53, the electronic version can be read at <http://cogprints.org/1580/00/> harnad91.postquutenberg.html, access dated March 25, 2005. See also Dimitri Mahayana, Future, Futuristic and Community Engineering Towards a Global Era, (Bandung: Rosda, 200), p. 24 - 25

growing needs of mankind. The Internet plays an important role in the development of information technology, originated from the development of computer technology network called Advance Research Projects Agency Network (ARPANET) by the United States Military.⁶ At this stage the internet was private and limited to certain circles. Then in 1995, the new internet can be used publicly. Tim Berners-Lee was developing a world-wide-web (www) app. After the opening of the internet for public purposes, more and more emerging business applications are growing through the internet.⁷

Internet has positive and negative effect, in addition having a positive impact to help and facilitate human work, Internet also has many negative impacts if misused by the wearer. Internet only as a tool, while the crime related to the content or content presented by the internet. One example is cyber porn, cyber porn is a branch of cybercrime that focuses on the crime of decency that occurs through cyberspace. The term pornography itself derives from the term "pornographos"

⁶ Topo Santoso, *Sexuality and Criminal Law*, IND-HILL, Co., Jakarta, 1997, p. 143.

⁷ Didik M. Arif & Elisatris Gultom, *CYBERLAW Legal Aspects of Information Technology*, (Bandung: Refika Aditama, 2009), p. 2.

(porne = whore and graphein = writing or painting) so that it can be understood as writing or painting of prostitutes or a description of the act of prostitutes.⁸ The Internet today has become a new means of committing a crime. The advancement of information technology and electronic media is expected to have a positive impact on human life, which will ultimately lead to the achievement of the welfare of mankind.⁹ However, the development is also followed by negative impacts that threaten and endanger the social and economic development of mankind in the world.¹⁰ The misuse or adverse impact of information technology advances through computerized systems and internet networks is known as "Cyber Crime".¹¹ Extensive networks and penetrating the borders of states, enabling cybercrime to be committed across national / transnational borders. Pornography (cyber porn) is one form of

⁸ Barda Nawawi Arif, *Mayantara Criminal Act, Development of Cyber Crime Studies in Indonesia*, (Jakarta: Raja Grafindo Persada, 2006), p. 2.

⁹ Barda Nawawi Arif, *Kapita Selektia Penal Law*, (Bandung: Citra Aditya Bhakti, 2003), p. 239.

¹⁰ Majid Yar, *Cybercrime and Society*, (London: SAGE Publication, 2006), p. 7.

¹¹ Budi Raharjo, *Pernak Pernik Regulation and Cyberspace Arrangement in Indonesia*, 2003, <https://behard.files.wordpress.com/2011/01/draft-buku-cyberlaw.pdf>, p. 02, accessed on May 29, 2018.

cybercrime that has a very large negative impact for humans.

B. RESEARCH METHODS

1. Research Design

In this study the primary data used are literature study, interview, questionnaire, and comparative study. Literature study is referred in the research to learn first to find out about cyber porn cases involving minors on the material side. Furthermore, there are interviews with related parties (Criminal Investigation Unit, BP3AKB) to get complete and tangible information to support the activities of interviewing and filling out questionnaires addressed to related child and related parent related to fact field data. The final stage is a comparative study conducted by the implementation of juridical-sociological review.

2. Population and Sample Research:

a. Law Enforcement Officials

The population in this study is law enforcement officers. The sample of this study was taken using interview technique and literature study, where literature study is intended to find out about Cyber porn

involving minors and interviews intended to know concretely about Cyber porn cases involving minors so that juridical-sociological review can be found cyber porn cases involving minors. The location of the destination for research is as follows:

- 1) Criminal Investigation Unit, Regional police of the Republic of Indonesia, covering a Central Java.
- 2) BP3AKB (Women's Empowerment Agency for Child and Family Planning Protection)

b. Underage Children and Related Parent Children

The population in this study were underage children of both men and women. The sample of this research is taken by using purposive sampling technique that is sampling based on characteristic, certain characteristic or characteristic which is considered to have close relation with characteristic and characteristic of known population, and interview. The characteristics of the sample used are as follows:

- 1) Male and female sex
- 2) Children under the age of 18 years

3) Living in Semarang Town Central Java

3. Research Stages

In this research, the steps taken are as follows:

- a. *Preparatory stages* include focusing activities during the making of interview instruments and questionnaires, preparing research strategies, exploring research tools, and conducting counseling consultations to counselors.
- b. *The field work stage*, including literature study for basic knowledge and conducting interviews and filling out questionnaires in accordance with early stage corporation to all samples in the study.
- c. *Phase data analysis*, including data analysis obtained from literature study, interviews, and questionnaires with the law enforcement agencies and minors.
- d. *Stage of report writing*, including activity of compilation of research result from all series of activity from start of data collecting until result of data analysis and interpretation of data. Interpretation is done to

examine deeper the results of data analysis that has been obtained.

4. Data Collection Techniques

Data collection techniques used in this study are as follows:

- a. Comparative study
Comparative study is conducted as an implementation of juridical-sociological review, ie when it has been known facts and field facts so it can know the relevant results.
- b. Filling out a questionnaire filled by related child's parent
Filling out a questionnaire for related parents to find out where the parent is in the parenting process.
- c. Library Studies
Comparative studies were conducted as a starting point to obtain data and theory for a Cyber porn-related knowledge base involving minors from books, newspapers, journals, thesis theses with clear sources.
- d. Record the minors related
Make a list of data of related parties to continue the next stage is to know the condition directly.

e. Structured Interviews by the Central Java Police and Criminal Investigation Unit

Structured interviews were conducted in order to get an explanation of the Cyber porn case phenomenon involving minors by bringing and preparing the instrument as an interview guide.

f. Structured Interviews of Women's Empowerment, Child Protection and Family Planning (BP3AKB)

Structured interviews are conducted in order to get an explanation of the Cyber porn phenomenon involving minors by bringing and preparing the instrument as an interview guide.

g. Unstructured Interview with related child

Conducting interviews with the context of an easier conversation that only refers to the theme and purpose because the subject is a child under age so that the interview process is made as comfortable as possible.

C. RESULTS AND DISCUSSION

1. The Cause of The Emergence of Cyber Porn

Internet technology is constantly evolving and innovation has

provided opportunities for access to communication and information more quickly and dynamically. The dynamics of that information can be seen from the spread of information through devices that are not limited to distance and time reaching the global community. Of these various advantages emerged the tendency of the public to access any information on the Internet, not to mention information related to pornography. The rise of the internet without unwittingly also gave birth to negative effects, namely as a crime media that smells decency or pornography. For example, in the presence of cybersex and cyber porn.¹² This technological sophistication also has the potential to make people more likely to engage in acts contrary to prevailing social norms.

Cyber porn will continue to grow because it is a crime in the field of decency in which the evolution or evil is dependent on each individual self. To stop this crime must be based on individual consciousness. Perpetrators of cyber porn unwittingly they are also

¹² Barda Nawawi Arief, Mayantara, *Crime: The Development of Cyber Crime Studies in Indonesia*, Rajagrafindo Persada, Jakarta, 2006, p. 173.

victims, both people who spread, who consume and who play an active role in making. The crime of pornography is very harmful to all parties because the unwitting perpetrators of crime are also included in the victims. Neill Barrett and Mark D. Rasch in his research revealed that the internet has a dark side, as a means of supporting crime, in which 80% of images on the internet are pornographic images.¹³ With so many pornographic images circulating on the internet, it causes internet users with easy to find pornographic images without difficulty to find the image. With the availability of images and websites openly this will trigger the increasing number of pornographic video consumption is also higher. The initial cause of someone watching pornography is because curious about sex things, cannot be denied sex is a human nature and everyone has a desire to have sex. However, there are people who can withstand the desire and there are people who vent on negative things such as watching porn videos. Curiosity is what causes a person to start

watching a porn video before at the very last stage of addiction. Another cause of someone accessing porn video is the lack of fortify themselves with religion.

Indonesia is ranked seventh largest access to porn sites and according to research conducted by Information and Communication Technology (ICT Watch). In Indonesia there are more than 1,000 local porn sites.¹⁴ This is indirectly influenced by the increasing consumption of pornographic videos. Because based on the economic formula more and more demand will be directly proportional to the offer, as well as in these circumstances. In fact, the greatest trade transactions through the internet are derived from the business of pornography.¹⁵ So that pornography affects the development of the internet indirectly.

2. Impact of Watching Pornographic Videos for Health

a. Pornography feeds on the "eye desire" and "the desire of the flesh"

¹³ Herlita Eryke, "Cyber Porn". Kutei. September 2010, p. 36.

¹⁴ Barda Nawawi Arief, *Pornography* (Semarang: Pustaka Magister, 2011), p. 63.

¹⁵ Edmon Makarim, *Compilation of Telematics Law*, Raja Grafindo Persada, Jakarta, 2004, p. 196-197.

which will never be satisfied. Pornography will only make the 'audience' ask for added and added again because it is influenced by dopamine hormone that triggers a sense of happiness, so if this hormone increases into the midbrain of the front of the PFC (Pre frontal cortex) will cause damage to the excess dopamine produced.

- b. Pornography makes a person's way of thinking becomes full of sex alone. Sexual thoughts will dominate their subconscious. Sexual images will stick to their brains so that when a person decides to stop seeing pornography-even the images he has seen in the past will last for several years and even for ever to fulfill his happy desires.
- c. Pornography makes a person trigger to prefer self-serving than others. For example, pornography usually makes people addicted to masturbation. This is the fulfillment of personal passions that can make a person difficult to accept and share the true love of others.
- d. Accustomed to seeing pornography will damage the person's relationship

with his environment in this case the family or the people closest to him. In one such case of courtship relationships, relationships that develop become unhealthy because people involved in pornography will blame their lover on the sexual acts they will do just like on a pornographic video. Though the problem is in his own person and his partner is the 'victim'. In married couples this will trigger sexual dissatisfaction and sexual practices that deviate so that leads to disharmony even lead to family divorce.

- e. In many cases pornography makes a person lose his work power. The former is active and creative can become unfocused in the work.
- f. Can damage sexual intercourse with partner because accustomed to imagine other people in sexual relationship. Imagination is one of the most powerful pornography effects. Sexual value and purity actually become damaged by too high a partner's imagination.
- g. Seeing pornography will make a person lie often. People who are

bound to pornography will keep this habit as a secret so by lying he can hide his shame and avoid criticism from his environment. Wherever he goes he will tend to wear a 'mask'.

h. Pornography will lead one to serious spiritual consequences. The pressure and confusion will fulfill her life. Pornography brings evil forces that will control and dominate the audience. Once a person sees that pornography will take him deeper. Correct moral values are fading longer, resulting in a confusing double standard.

Pornography has an impact on brain damage. If a person is addicted to pornographic material then the five parts of the brain will be disturbed. The most damaged part of the brain is the frontal cortex or brain. The big part that makes it difficult for a person to make a plan, control the passions, and emotions, and make decisions.¹⁶

According to Donald Hilton Jr. (Brain surgeon) said that if

photographed using a magnetic resonance imagine, a brain damaged by pornography shows the same result as a brain damaged by an accident. He also said, in contrast to drugs, pornography in children damage 5 parts of the brain while the drug damages 3 parts of the brain. So based on these conclusions can be stated that NARKOLEMA (Narkotika Lewat Mata) more dangerous impact on the brain compared with the drug, although in handling narcotics has been dealt with more seriously and deeply compared with cyber porn that has no legal clarity.

3. Cyber porn in the victim's perspective

Cyber porn is a crime of decency derived from cyberspace. Where this crime takes place through cyberspace and happens without the face-to-face between perpetrators and victims. The word victim is derived from the Latin word "victim".¹⁷ Whereas the victim, as stated in the Declaration of Basic Principles of

¹⁶ Kartika, Diah. 2015. *Pornography Destucts the Brain Twice More Than Drugs*. [Online Serial] [united in june 2015]. Retrieved from URL: http://www.kompasiana.com/ikab_undaalika/_/pornography-two-2x-more-bad-thannarkoba_54f75f41a3331145338b46b3

¹⁷ Benjamin Mendelsohn, In Emilio C. Viano, (ED), Victimology, in Sanford H. Kadish, *Encyclopedia of Crime and Justice*, Volume 4, New York: The Free Press1976., p. 9

Justice for Victims of Crime and Abuse of Power,¹⁸ is an individual both individual and collective suffer physical, mental, emotional, or impairment of their basic rights either through acts or not, but is a violation of national criminal law as well as on the basis of internationally recognized norms relating to human rights. This pornography crime occurs because of the victim's desire to perform the activity consciously or unconsciously.

As Richard Quinney¹⁹ once wrote that "All crime have a victim" as well as cyber porn because cyber-porn criminals play a role as victims. viktimology is the study of the victim. Including relationships between victims and perpetrators, as well as interactions between victims and the judicial system - that is, the police, the courts, and the

relationships between the parties concerned - as well as in the relationship of the victim with other social groups. Regarding the attention of scientists to victimization, according to Mardjono Reksodiputro²⁰ it is based on two currents:

1. The existence of the mind that the state is guilty of the occurrence of the victim, therefore it is reasonable for the state to compensate the victim;
2. The existence of a new school of thought in criminology that abandoned the positivist approach, and paid more attention to the processes occurring in the criminal justice system and its critical criminology, this critical criminological outlook influenced much thought in ideology.

According to Stephen Schafer in principle there are 4 types of victims:

1. Provocative Victims, is someone who actively encourages himself to be a victim, such as cases of cheating, prostitution, gambling,

¹⁸ Annex IV Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, In United Nations Office for Drug Control and Crime Prevention, Handbook on Justice for Victims, Center for International Crime Prevention, New York, 1999, p. 118. Victims means person who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of criminal laws but of internationally recognized norms relating to human rights.

¹⁹ Richard Quinney, *Criminology, Analysis and Critique of Crime in America*, 1975, Canada: Little, Brown and Company (Inc.), p. 129.

²⁰ Mardjono Reksodiputro, *Some General Records of Victim Problems*, In J.E. Sahetapy, (ED), *Viktuology of a Potpourri*, Sinar Harapan Library, Jakarta, 1987, p.97.

adultery, and cyber porn. Where the victims of the crime are also called perpetrators. This is what is said to be a crime without a victim. Because the guilty party is both a victim and a perpetrator.

2. Participating Victims, is someone who does not do but with his attitude actually pushed himself a victim.
3. Biologically weak Victims, is those who are physically weak or potential to become victims, such as old people, children and people who cannot do anything.
4. Self Victimizing Victims, those who become victims because of their own crimes, drug users, gambling, abortion and prostitution.

Factors cause the incidence of cyber porn victims are:

1. Deviation Behavior of Law.
2. Disintegration of Rules of Law.
 - a. The legality tends to be shaky.
 - b. The law effectivity which is weak.
 - c. The quality of law which decreases.

3. Political, Economic, Social and Cultural, Security and Other Factors.

According to Muladi victims of crimes need to be protected because:

- a. Society is regarded as a form of institutionalized trust system (system of institutionalized trust)
- b. Arguments of social contract and social solidarity
- c. Conflict resolution

4. Efforts to Limit Cyber Porn in Cyberspace

Pornography on the internet continues to be controversial, blocking sites offering pornography has also been done. Regardless of the adverse effects it causes, pornography is the trigger for the success of internet development in the world. Without the online sex business, the world-wide-web (www) will never grow big quickly. Cyber porn is very supportive in the development of Internet technology, without this pornographic site site will not be

advanced a technology called the internet.²¹

Efforts to limit the crime of pornography in children are basically done through the surrounding environment in advance such as moral education from parents, deepening the science of religion, extending knowledge so as to be able to know the impact of impact on what we do. Proven pornography involving children at risk of harm because PFC (Pre frontal cortex) is immature perfectly causing the fragility of this part but fortunately the brain of an imperfect child is still easily formed and eliminated as long as there is a patient endeavor by the father, mother, family and the nearest environment. Good cultivation of the child is believed to be able to fortify children from NARKOLEMA. Because if he has morals, ethics and social norms, then the drive to see pornography even though it is fun will automatically ignore it.

5. Cyber Porn in Legislation in Indonesia

Pancasila is a static foundation that unites as well as a dynamic star (Leitstar), which directs the nation in reaching its goals.²² The massive pornography industry. The abundance of child predators in cyberspace, which perpetuates sexual exploitation via web cam. It can be said that information technology today has become a double-edged sword, in addition to contributing to the improvement of welfare, progress, and human civilization, as well as being an effective means of unlawful acts.²³ It has become the obligation of the Republic of Indonesia to confuse the entire Indonesian nation. Some policies have been issued, but in fact the crime of pornography (cyber porn) is still rampant in society. So that the Ministry of Communications and Information needs to be more intensive to socialize and conduct cyber porn.²⁴

²¹ Ferry Irawan Febriansyah, "Cyber porn Criminal Acts in the Juridical Review of the Pornography Act". Perspective. Vol. 22 No. 03, September 2017, p. 205.

²² Yudi Latif, State of Historicality, Rationality, and Actuality of Pancasila, (Jakarta: Kompas Gramedia, 2011), p. 41.

²³ Ahmad Ramli, Cyber Law and Intellectual Property In the Indonesian Law System (Bandung: Rafika Anditama, 2004), p. 1.

²⁴ Hilarion Hamjen, "People's Appreciation of Pornography Blocking Policies on the Internet".

Seeing the magnitude of the negative impact of cyber porn, it is necessary to prevent and mitigate efforts so that similar crimes can be detected as early as possible, so that the moral and personality of the nation can be protected properly. One such mitigation effort is to apply penal means both the Criminal Code and the special law outside the Criminal Code.²⁵ The crime of live sex business at this time is explicitly not regulated in the Pornography Act. However, there are some very close articles, namely Article 34 for live actor or actor, and Article 35 for the audience or live sex viewers. Secondly, in the KUHP Bill accommodates the sanctions of the crime of live sex business, but again it is not explicitly regulated. However, it can be applied Article 469, Article 473, Article 475 for the offender, while for the audience or the live sex scene spectator can be applied Article 472 and Article 474. The role of the Pornography Act is to filter a crime of pornography, especially Internet

pornography Cyber porn in order to make restrictions for users of the Internet site so as not to do things that smell porn on a cyberspace site that is the internet. Often law enforcers in Indonesia have difficulty in ensnaring perpetrators because of a documentary evidence that does not meet the requirements of Indonesia's criminal law system. While attempts to harass the perpetrators of cybercrime must still be done, efforts to expand the evidence into a solution to enforce the law.²⁶

C. CONCLUSIONS

Based on research that has been done through literature study, interviews, questionnaires, and comparative study results obtained that the cause of cyber porn is the lack of parental supervision, low public awareness of the dangers of watching pornographic videos. The Internet contributes the most to the development of science and technology. Rapid development through the internet is not only used by humans in terms of goodness, but many negative impacts that arise in unison with the positive impact that comes from the internet. Cannot be

Society of Telematics and Information. Vol. 03 No. 02, November 2012, p. 77.

²⁵ Randy Pradityo, "Criminal Policy in Efforts to Crime Business Live Sex Crime". Journal of the Law of Ius Quia Iustum. Vol. 22 No. 04, October 2015, p. 640.

²⁶ M. Arief Mansur and Elisatris Gultom, *Cyber Law-Aspects of Information Technology Law*, Bandung; Refika Aditama, 2005, p. 100.

denied cyber porn accounted for a fairly large number in the development of the internet in the world. Broad networks and penetrating the borders of the state, allowing cybercrime to be committed across national / transnational borders. Pornography (cyber porn) is one form of cybercrime that has a very large negative and negative impact on humans. Handling efforts ever undertaken by the government in minimizing cyber porn is by blocking sites that provide spectacle, images, and live sex in cyberspace. The perpetrator of this crime is unwittingly victimized as he actively encourages himself to become a victim as well as a perpetrator. Factors that cause the incidence of cyber porn victims namely Deviation Behavior of Law; Disintegration of Rules of Law; Political, Economic, Social and Cultural, Security and Other Factors. Seeing the magnitude of the negative impact of cyber porn, it is necessary to have a written legal effort clearly related to cyber porn. Because until now there is unclear article governing cyber porn in cyberspace.

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