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Legal Protection for Women Victims of Online Gender Sexual Violence Based on the Misuse of Artificial Intelligence Deepfake

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Abstract. *The results of Online Gender Sexual Violence Based on the Misuse of Artificial Intelligence Deepfake that have been tried, all victims are women of all ages. From the results of interviews with investigators at the Ditreskrimsus Subdit Cyber of the Central Kalimantan Regional Police there are still many cases that do not reach the court because women as victims are embarrassed to report the cases; revoke the reports that have been made or choose to make peace with the perpetrators because in addition to psychological trauma they also have fears of the impact of criminalization, based on Article 4 of Law Number 44 of 2008 concerning Pornography. The Research used empirical juridical research method. The results of the research obtained by women victims of online gender violence Based on the Misuse of Artificial Intelligence Deepfake require the “right to be forgotten” which Man to have deleted informatif of Cher on the internet which unfortunately has not been implemented.*

Keywords : *Artificial; Deepfake; Intellegence; Legal; Protection.*

1. Introduction

According to Komnas Perempuan's 2023 Annual Report, in 2022 there were 821 complaints of GBV cases in the personal sphere, with most of the perpetrators being ex-lovers. Meanwhile, in the public sphere, the largest number of perpetrators came from “social media friends” with 383 cases. ¹

¹ Komnas Perempuan, 07 Maret 2023, *Catatan Tahunan Komnas Perempuan Tahun 2023*, Available at website: <https://komnasperempuan.go.id>. Accessed 06 May 2024.

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According to Jess Davies, creator of the BBC documentary Deepfake Porn: Could You Be Next?, the root cause of the deepfake porn phenomenon is the normalized culture of objectifying women's bodies. Through her investigation, Davies found that there are many men who believe that they do not need consent from women. "There is a culture that thrives on the objectification and humiliation of women, which then gives rise to a herd mentality where men band together to strip women of their bodily autonomy for fun,"²

Deepfake is a human image engineering technology or synthetic technique based on artificial intelligence ("AI"). Then, Marissa Koopman (et.al) explains deepfake as follows: The deepfake algorithm allows a user to switch the face of one actor in a video with the face of a different actor in a photorealistic manner.³

Deepfake technology is often misused so that it can lead to crimes such as the use of deepfake technology in spreading pornographic content. This is known as deepfake porn. Deepfake porn is included in Online Gender-Based Violence ("OGBV"). According to Ellen Kusuma and Nenden Sekar Arum, the following are the impacts that may be experienced by victims and survivors of GBV, in this case deepfake porn, including: ⁴

1. psychological harm;
2. social alienation;
3. economic loss;
4. limited mobility; and
5. self - censorship, loss of confidence in the safety of using digital technology.

Furthermore, the perpetrator of deepfake porn will steal the victim's bodily authority by making the victim do something the perpetrator wants without the victim's permission and even knowledge. The perpetrator acts as if he has complete power over the victim in cyberspace. This

²Anastasya Lavenia, 2024, *Deepfake Porn: Ketika AI Disalahgunakan untuk KBGO*, Available at website : <https://www.cxomedia.id/general-knowledge/20240305114942-55-180058/deepfake-porn-ketika-ai-disalahgunakan-untuk-kbgo>, Accessed 06 May 2024.

³ Marissa Koopman (et.al). *Detection of Deepfake Video Manipulation. Proceedings of the 20th Irish Machine Vision and Image Processing Conference*, University of Amsterdam & Netherlands Forensic Institute, 2018, hal. 133

⁴ Ellen Kusuma dan Nenden Sekar Arum. *Memahami dan Menyikapi Kekerasan Gender Berbasis Online: Sebuah Panduan*. Southeast Asia Freedom of Expression Network, 2019, hal. 10.

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is a criminal act, where the perpetrator commits several crimes at once when making deepfake porn, for example stealing personal data, disseminating information with content that violates decency, and also manipulating/falsifying data.⁵

The deepfake trend as an artificial engineering technology in the multimedia field-usually used as a visual manipulation technology in film, now also has the potential to be used to shape the production of fake cloning and even pornographic content. Sexual exploitation related to the deepfake trend is categorized as deepfake porn. This incident is rampant in cyberspace. Sadly, the majority of victims are women. The exploitation is done by stealing visual data on the victim's body in the form of audio visual, then engineering photos or videos with the aim of sexuality without the victim's consent.

Quoting the awaskbgo.id page, manipulating or creating content to resemble someone (Deepfake porn) can also be classified as online-based gender violence (KGBO). Victims of KGBO will directly experience losses for themselves, namely psychological, loss of privacy rights, social isolation, economic losses, limited mobility and self-censorship, namely loss of trust in technological security.⁶

Criminal sanctions for perpetrators are not specifically regulated in the law, however, judging from the elements of the action, it is included in the category of offense of decency, the regulation of which can be seen in:

1) Kitab Undang-Undang Hukum Pidana (KUHP)

Article 281, Article 282, and Article 533 of the Criminal Code then Article 406 of Law No.1 of 2023 of the new Criminal Code. Article 281 of the Criminal Code states as follows: "Shall be punished with a maximum imprisonment of 2 years and 8 months or a maximum fine of Rp 4.5 million:

- (1). Any person who with deliberate intent and in public violates decency;
- (2). Any person who with deliberate intent and in front of other persons present against his will, violates decency."

⁵ Ivana Dewi Kasita. *Deepfake Pornografi: Tren Kekerasan Gender Berbasis Online (KGBO) Di Era Pandemi Covid-19*. Jurnal Wanita dan Keluarga, Vol. 3, No. 1, 2022, hal. 22.

⁶ Editor SSK, 3 November 2023, *Deepfake Porn Artificial Intelligence (Ai) Alat Yang Mengancam Ruang Aman Bagi Perempuan*, Available at website: <https://ssk.lpsk.go.id/deepfake-porn-artificial-intelligence-ai-alat-yang-mengancam-ruang-aman-bagi-perempuan>, accessed 06 Mei 2024.

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And Article 406 of Law No. 1 of 2023 states:

“Shall be punished with imprisonment for a term not exceeding 1 year or a fine not exceeding category II, namely IDR 10 million for every person who:

- a. Violates decency in public; or
- b. Violates decency in front of another person who is present without the will of the person present.”

Explanation of Article 406 letter a. What is meant by “violating decency” is performing acts of displaying nudity, genitals, and sexual activities that are contrary to the values that live in the community at the place and time the act is committed.

From the explanation above, in Article 281 of the Criminal Code and Article 406 of Law Number 1 Year 2023 the elements of immoral acts are:

- a. Whoever
- b. Intentionally
- c. Openly (in public)
- d. Violating decency.

Article 282 of the Criminal Code states:

“Any person who disseminates, exhibits or affixes in public writings, drawings or objects of which it is known that the contents violate decency, or who with intent to disseminate, exhibit or affix in public, produces such writings, drawings or objects, imports them into the country, forwards them, takes them out of the country, or has them in stock, or who openly or by circulation of an unsolicited letter, offers them or shows them to be available.”

2. Article 29 of Law Number 44 of 2008 on Pornography, :

“In the case of dissemination of pornography on the internet, the person who can be held criminally responsible is ‘The person who produces, makes, reproduces, duplicates, disseminates, broadcasts, imports, exports, offers, trades, rents, or provides pornography.’”

3. Article 14 paragraphs (1) and (2) of Law Number 12 of 2022 on Criminal Acts of Sexual Violence (TPKS Law)

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Article 14:

(1) Every person who without right:

- a. recording and/or taking pictures or screenshots of sexual content against the will or without the consent of the person who is the object of the recording or pictures or screenshots;
- b. transmitting electronic information and/or electronic documents that are sexually charged against the will of the recipient that are directed towards sexual desires; and/or
- c. conducting stalking and/or tracking using an electronic system against the person who is the object of the electronic information/document for sexual purposes, shall be punished for committing electronic-based sexual violence, with a maximum imprisonment of 4 (four) years and/or a maximum fine of IDR 200,000,000.00 (Two Hundred Million Rupiah).

(2) In the event that the act as referred to in paragraph (1) is committed with the intent:

- a. to commit extortion or threaten, force; or
- b. to mislead and/or deceive a person into doing, allowing to be done, or not doing something, shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 300,000,000 (Three Hundred Million Rupiah).

4. Article 27 of Law of the Republic of Indonesia Number 1 Year 2024 on the Second Amendment to Law Number 1 Year 2008 on Electronic Information and Transactions:

(1) Every person intentionally and without right to broadcast, show, distribute, transmit, and/or make accessible Electronic Information and/or Electronic Documents that have content that violates decency for public knowledge.

(4) Every person intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain extortion and/or threats.

With criminal provisions in Article 45 Paragraph (1) and paragraph (4) of Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions:

Article 45 (1):

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Every person who fulfills the elements as referred to in Article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4) shall be punished with imprisonment of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).

Article 45 (4):

Any person who intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents containing extortion and/or threatening content as referred to in Article 27 paragraph (4) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp1,000,000,000.00 (one billion rupiah).

Based on the results of an interview with the Central Kalimantan Police Cyber Investigator Mrs. Widyawati Setyaningrum on March 30, 2024, who handled the reporting victim of deepfake pornography. At first, the victim got acquainted with the perpetrator through a Facebook account and established an online relationship. When problems occurred and the victim broke off the relationship, the perpetrator stole the victim's photo through social media and edited it into a sexualized photo. The photo was then disseminated by the perpetrator. In fact, the perpetrator also included the victim's full name in the title of the video. Of course, this incident left a very deep psychological wound for the victim.

Victims of deepfake pornography are victims of sexual violence. The victim is a very disadvantaged party, because the fabricated video can change other people's views about him when the truth has not been proven. This can invite the public to bully. Victims of sexual violence will be affected psychologically and emotionally, which is not easy to recover from. Depression, flashbacks of the painful event and Post-Traumatic Stress Disorder (PTSD) become difficult to avoid.

The deep wounds felt by victims can lead to efforts by victims to harm themselves, so victims of sexual violence really need psychological assistance and legal protection to help their recovery.

2. Research Methods

In this research, a sociolegal legal research approach is used. Socio legal research is sociological legal research that emphasizes the importance of observation, observation and analytical steps that are empirical juridical in nature. As stated by Sabian Utsman that law can be studied and researched as a study of the law that actually lives in society as a non-doctrinal and empirical

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study in observing the problem of protection for women victims of online gender-based sexual violence based on justice.⁷

1) Source and Type of Data

The source of data is where the data is obtained. The data sources used in this research consist of primary and secondary data sources. Primary data sources are data obtained directly from the community to be studied, while secondary data sources are data obtained from library materials or literature that has to do with the object of Research:⁸

a. Primary Data

Primary data sources are data obtained from the main source. Primary data is obtained from respondents and informants and sources. Sources of data in empirical legal research come from field data. Field data is data that comes from respondents and informants including experts as sources.⁹

b. Secondary Data

Secondary data, namely library data and documents which include primary legal materials, secondary legal materials, tertiary legal materials, and non-legal materials. This legal research uses secondary data in the form of legal materials, as follows: ¹⁰

1) Primary legal materials, namely legal materials that are binding and consist of:

- a). The 1945 Constitution of the Republic of Indonesia;
- b). Law Number 8 of 1981 concerning the Criminal Procedure Code;
- c). Law Number 44 of 2008 concerning Pornography;

⁷ Sabian Utsman, 2013, *Dasar-dasar Sosiologi Hukum: Dilengkapi Proposal Penelitian Hukum (Legal Research)*, Cetakan Ketiga, Pustaka Pelajar, Yogyakarta, hal. 310.

⁸ Ishaq, 2017, *Metode Penelitian Hukum dan Penulisan Skripsi, Tesis serta Disertasi*, Cetakan Kesatu, Alfabeta, Bandung,,hal. 100.

⁹ Muhaimin, 2020, *Metode Penelitian Hukum*, Cetakan Pertama, Mataram University Press, Mataram-NTB, hal. 90.

¹⁰ Soerjono Soekanto, 1986, *Pengantar Penelitian Hukum*, UI Press, Jakarta, hal. 52.

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- d). Law No. 31 of 2014 on the Amendment to Law No. 13 of 2006 on Witness and Victim Protection;
- f). Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia;
- g). Law Number 12 of 2022 on Sexual Violence Crimes;
- h). Law Number 1 Year 2024 on the Second Amendment to Law Number 11 Year 2008 on Electronic Information and Transactions;

3. Results and Discussion

The ease of technological manipulation in the 4.0 era does open up many possibilities, but on the other hand it also creates new forms of violence that are not widely known and have not been regulated by law. As a result, many victims of deepfake porn are left to fend for themselves, without knowing where to turn for help. Worse still, something that has gone viral online is very difficult to remove and many digital platforms do not have policies in place for the spread of deepfake porn content. There are steps that can be taken by victims of deepfake porn crimes. The most important thing is that victims must report to law enforcement officials about what they have experienced. This is one way to prevent criminalization or create other victims by providing a deterrent effect for the perpetrator.

Victims and witnesses of deepfake porn crimes who qualify as victims of sexual violence have the right to access protection and recovery mandated by the state through the Witness and Victim Protection Agency (LPSK). Protection and remedies that are often accessed by victims of sexual violence include psychological rehabilitation and restitution facilitation.

What can be done to address this issue? First, the public and especially law enforcement officials must know and recognize deepfake pornography as a form of online gender-based violence. Once recognized, there must be a legal umbrella that can not only protect victims, but also prevent it from happening again. Prevention, handling and recovery mechanisms are key in this legal umbrella. The Draft Law on the Elimination of Sexual Violence can be a legal umbrella to prevent and deal with the problem of sexual violence. The RUU PKS has become increasingly urgent, because it contains six key advantages compared to existing legal regulations, namely:

- 1) contains criminal procedures that favor victims ;
- 2) regulates victim recovery ;

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- 3) contains provisions for main and additional punishment ;
- 4) contains prevention rules ;
- 5) contains monitoring material by placing state responsibility and;
- 6) contains definitions of nine forms of sexual violence.

4. Conclusion

Women Victims of Online Gender Violence based on Deepfake technology experience prolonged and severe mental suffering due to defamation and negative stigma. Article 26 paragraph (1) of the Law on Electronic Information and Transactions Law Number 11 of 2008 concerning Electronic Information and Transactions (hereinafter written as ITE Law) as amended by Law Number 19 of 2016 concerning Amendments to Law No. 11 of 2008 regulates the mechanism by which victims must request internet service providers to block or delete information through a court order. Understanding the form of victims as predisposed victims and participating victims. As a result, the right to be forgotten is part of human rights as self-recognition as a victim so that the removal of infringing electronic information that harms victims becomes a mechanism for its fulfillment. The legal provisions provide rights for parties who feel harmed as a result of the use of electronic information in electronic media. There are 3 (three) forms of rights regulated, namely the right to give consent to information displayed on internet media, the right to request compensation, and the right to delete information that harms him by the electronic system organizer. The fulfillment of the right to be forgotten in cyberspace must be the main concern of the judge after the verdict against the perpetrator of deepfake-based online gender sexual violence, because in addition to the deterrent effect for the perpetrator, it is hoped that the judge's decision in Indonesia can also help in restoring the psychological condition of the victim to the state before the incident occurred.

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