

Role of Customary Law to Pornography Through Technology Media

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Abstract: Factor that can influence pornographic behaviour in adolescents is media that provides information and sexual stimulation. According to data from the Ministry of Communications and Information, at least 30 million children and adolescents in Indonesia are internet users, and digital media is the crucial choice of communication channels used. Pornographic activities that are accessed through technology contribute to the destruction of the nation's morals. This threat requires preventive and repressive efforts from various legal systems in force in Indonesia, including the customary legal system. Customary law is a guarantee for native people to create a conducive customary environment under customary norms that have been agreed upon. Customary law requires the community to be loyal and loyal to the customary law, so that customary law can grow, develop and bequeathed to its generation. Customary law also contributes to tackling pornography, one of which is by providing customary sanctions.

Keywords: Customary Law, Pornography, Technology

1. Introduction

1.1. Background

Globalization and the development of science and technology, especially information and communication technology, have contributed to the increasing production, dissemination and use of pornography which has a negative influence on the morals and noble personality of the Indonesian people, thus threatening the life and social order of the Indonesian people. With the widespread development of pornography in the community also resulted in an increase in immoral acts.

Factor that can influence pornographic behavior in adolescents is media that provides information and sexual stimulation. Dissemination of sexual information or pornographic material got through mass media and technology sourced from the internet can then be disseminated again through one mobile phone to another mobile phone. One of the easiest and fastest ways to send pornographic material from

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mobile phones is the Bluetooth application that is used by smartphone users. Bluetooth is a very good and practical technology. Bluetooth can move data from one device to another without using a cable or referred to as wireless technology. So, Bluetooth is an application that is often found on smartphones.

According to data from the Ministry of Communications and Information, at least 30 million children and adolescents in Indonesia are internet users, and digital media is the primary choice of communication channels used. The study found that 80% (eighty percent) of respondents surveyed were internet users, with evidence of a strong digital divide between those who live in urban areas who are more prosperous in Indonesia, and those who live in rural and less prosperous areas. It's just that the development of technological media has entered rural areas, and of course with the reach of this technology will ease the information and communication networks, including pornographic activities.

The People's Consultative Assembly of the Republic of Indonesia has signaled through the Decree of the Republic of Indonesia Republic of Indonesia Number VI / MPR / 2001 about the Ethics of National Life about serious threats to national unity and integrity and setbacks in implementing the ethics of national life, one of which is caused by increasing immoral acts, obscenity, prostitution, and pornographic media, so that serious efforts are needed to encourage the strengthening of ethics and morals of the Indonesian people.

Pornography is an act that negatively affects the behavior of the younger generation. Many children and women have become victims, both as pure victims and as "perpetrators as victims". So, pornography and porno-action are categorized as criminal acts. Pornography regulations in existing legislation, such as the Criminal Code (KUHP), Law Number 43 of 1999 about the Press, Law Number 32 of 2002 concerning Broadcasting, and Law Number 23 of the Year 2002 on Child Protection are inadequate and do not meet the legal needs and development of the community so it needs to prove a law that regulates pornography.

Through a long discussion process that took around 10 years, the Draft Pornography and Porno Act was ratified and enacted by undergoing changes from the results of the compromises that occurred through discussion in the DPR RI legislative body, which was established as Law Number 44 Year 2008 about Pornography.

Implementation of Law Number 44 Year 2008 about Pornography was a case for a petition to be tested by a group of people who opposed the existence of the law. This is filed through the Constitutional Court (MK) as a High State Institution that has the authority to do so, whose legal force has been guaranteed by the 1945 Constitution by supervising and giving sanction to pornography while respecting customs and cultural and artistic creativity. In advanced country the problem of pornography and porno-action is still regulated. This is done in the interest of maintaining order from the public sphere. So pornography laws have been established and are valid when they have become a state political decision. This means that, apart from a variety of pros and cons, both legally and politically in the state, a large part of the Indonesian people support the existence of laws governing pornography, and every Indonesian citizen must respect this.

Based on the legal system in Indonesia, which includes continental European law, customary law and Islamic law, these three systems must have different ways or systems in preventing pornographic activities that are influenced by technological developments. Customary law is a law that grows in Indonesian society. Its form is in the form of legal rules that arise and grow from within and are caused by the association of human life. Customary law norms emerge along with the dynamics of human relations. The entire relationship of human interaction with other humans is called the association of human life. This has resulted in the composition of the association of human life that determine the nature and style of the rule of law, so that in order to understand the customary legal system, it must first be understood the nature and structure of the structure of the community in which customary law grows and develops..

The existence of customary law towards positive law in Indonesia is recognized in the constitution, namely Article 18B paragraph (2) of the 1945 Constitution which states that "the State recognizes and respects the customary law community units along with their traditional rights as long as they are alive

and in accordance with the development of the community. and the principles of the Unitary State of the Republic of Indonesia, which are stipulated in the Law". This article is a constitutional basis for the recognition of customary law in Indonesia, even though historically there is a customary law before the constitution.

Customary law has also a stake in preventing the occurrence of pornographic activities through technological media. The community will never be separated from the social order of native peoples who are very bound by customary norms. This customary norm is the result of an agreement of indigenous peoples that was developed and passed down from generation to generation. So, if there is pornographic activity or immoral acts within the indigenous community, of customary sanctions should be conducted. Pornography is an activity that is contrary to moral, ethical and customary norms course while will receive adat sanctions.

1.2 Limitation of the problem

The social environment of the community gives birth to relationships between organized patterns of customs in such a way that they relate to certain problems or goals. Along with the development of technological and information advancements, it will have an impact on the shifting ethics and culture of the community. Pornographic activities that are easily accessed through technology contribute to the destruction of the nation's morals. This threat certainly requires preventive and repressive efforts from various legal systems in force in Indonesia, including the customary legal system. Customary Law, although in the form of unwritten form, the enforcement must first be accepted by native people, it means that customary law is an agreement of indigenous peoples. Based on this presentation, the writers examine the role of customary law on pornography through technology media.

2. RESEARCH METHODOLOGY

The type of approach used by the writer is a normative approach because it makes library materials the focus. In this normative research the writer examines the study of documents, namely using various secondary data, such as documents / texts of Pancasila, theories, and opinions of experts / scholars relating to customary law.

Following the title of this study, the object of the study is customary law. This study only examines cultural values and customs so that they can actualize cultural values and customs in order to prevent pornographic activities as a result of current technological developments.

The method used in this study is through literature study / document study, so the data used in this study are:

- 1) Primary Materials, namely materials that are closely related to the problem under study, namely Customary Law;
- 2) Secondary Materials, namely materials that provide explanations or writers discussion that have been investigated in primary materials, namely:
 - a. a book on Customary Law, opinions that are relevant to the study problem and written data related to the study.
 - b. various papers, journals, newspapers, magazines, documents and data from the internet relating to the study.
- 3) Tertiary Materials, materials that provide an explanation of Primary and Secondary materials, namely the Large Indonesian Dictionary.

In this study the analysis conducted is a qualitative analysis which is a study procedure that produces descriptive data, that is, what is stated in writing. Furthermore, the author draws a deductive deduction, which is drawing conclusions from things that are general to things that are specific. In conclusion is drawn by looking at the real factors and ends with the drawing of a conclusion which is also a fact where the two facts are bridged by theories.

3. DISCUSSION

The impact of advanced technology should have made a positive contribution to the progress of development. It is just that its implementation today is increasing pornographic actions carried out by all elements of society, ranging from children to adults and from urban communities to rural communities.

Media that has pornography which is currently developing has become a reference for adolescent knowledge and understanding and has also become the main source of learning about sexual life and pornography. According to Ade Armando, types of media that have pornographic elements are:

1. Audio media (listen) such as radio broadcasts, cassettes, CDs, telephones, various other media that can be accessed on the internet:

- a. Songs that contain obscene lyrics, songs that contain sounds or sounds that can be associated with sexual activity;
- b. Radio programs from announcers or listeners to speak in obscene style;
- c. Talk services in a sordid style;
- d. And so forth

2. Audio-visual media (view-hearing) such as television programs, widescreen movies, videos, laser disks, VCDs, DVDs, computer games, or various other audio-visual media that can be accessed on the internet:

- a. Films that contain sexual scenes or feature artists who appear scantily clad, or not (or as if they are not) clothed;
- b. A musical performance scene where a singer, musician or background dancer comes with a look and motion that arouses the lust of the audience

3. Visual media (viewpoints) such as newspapers, magazines, tabloids, books (literary works, popular novels, non-fiction books) comics, billboard advertisements, paintings, photographs, or even game media such as:

- a. News, stories or articles that describe sexual activity in detail or that are made in such a way to stimulate the sexual desire of the reader;
- b. Images, photos of sex scenes or artists appearing in a style that can arouse sexual attraction;
- c. Print advertisements featuring artists in a style that accentuates sexual attraction;
- d. Fiction or comic that tells or depicts sexual scenes in such a way to arouse sexual desire. Easily accessing pornographic material in the media today has increased deviant behavior among adolescents that continues to grow, this is not only happening in urban areas but also in rural areas that are still very strong with their customs. So, of course, customary law can be one of the foundations so that ethics and morals of the nation's generation, especially children and adolescents, will continue to comply with customary norms, and avoid pornography.

3.1 Preventive Efforts of Customary Laws against Pornography through Media Technology

The fundamental change that occurs in the attitudes and behavior of pornography among adolescents is also due to changes in a number of values from traditional to the values that some people call "modern", and also the influence of information-communication that is so fast and without obstacles hindering the change in behavior this. One of the factors that influence the problem of pornographic behavior is the rapid development of technology, especially the development of information. The presence of print and electronic media to remote areas has provided many opportunities for behavioral change that is not necessarily good. Along with the times and technological advances, information from the fastest mass media is the internet.

Preventive efforts are efforts to prevent that can be carried out by customary law among others are:

a. Customary Rules or Customary Norms

Customary norms are norms that have existed since the Indonesian nation existed, and are norms derived from the customs of indigenous peoples and the agreement of native people themselves. Customary norms grow and develop and are still kept by indigenous peoples. Customary norms are rules of human habits in social life, which basically starts from values that grow, develop and are accepted by society.

Customary norms although not made in written form but get recognition from indigenous peoples. Its existence is a necessity in the environment of indigenous peoples, so that the social structure of indigenous peoples can run well and is conducive in accordance with ethical values.

Customary norms are norms that only accept ethical behavior, so that pornography is a very unethical action. Customary norms in Indonesia have never accepted acts of pornography as ethical acts. Pornography is considered an immoral act which is a "big disgrace" so that sanctions can be expelled from the village.

Therefore, the existence of customary norms is very important in efforts to prevent the occurrence of acts of pornography that are influenced by technological developments. However, the existence of these customary norms also demands that native people to obey and support the existence of customary norms that exist in the indigenous community.

b. Customary Device

The role of traditional instruments in combating pornographic activities influenced by technological developments is continuing to instil noble character and good manners in accordance with the nature of customary law communities. Cultivating a number of customary traditions. Children and adolescents in each customary activity will certainly have an impact on many positive activities they do, so that there is no time left to play with technology. In addition, adat instruments can also make customary rules that adjust to technological developments so that adat norms do not appear to be rigid.

Customary instruments can also provide strict sanctions for any violations, mistakes and negligence committed by indigenous peoples. This will have a deterrent or deterrent effect that can be done to reduce or even avoid the occurrence of pornographic activities in the territory of indigenous peoples.

c. Custom Society

Indigenous peoples are organized human unity, settled in a certain area, having authority, and intangible wealth. Bushar Muhammad urges an understanding of the customary law community, that is, a legal community deals with members feel bound by an order based on the belief, that they all come from the same descendant or come from the same place of residence.

Hazairin provides an understanding of customary law communities, namely social unity that has the completeness to be able to stand on its own, namely to have legal unity, unity of authority, and environmental unity based on common rights to land and water for all its members. Meanwhile, Saragih calls it the term legal alliance, which is a group of people who are bound as a single entity in an orderly and eternal arrangement, and have leaders and wealth both tangible and intangible and inhabit and live on a certain territory.

Indigenous peoples have a very important role in maintaining customary norms. Loyalty and community loyalty will certainly affect the development of these customs or norms. Towards indigenous communities, it highly upholds the values of traditional customs and norms, so that pornographic acts that conflict with customary norms will be avoided from the traditional environment.

The culture of indigenous peoples still considers "taboo" when talking about matters relating to reproduction and sexual activity. So, this also becomes one of the prevention efforts to protect children and adolescents from being influenced by pornographic behavior. Although advances in technology have entered the village or rural areas, it is certainly a major challenge that must be faced by customary instruments and indigenous communities.

3.2 Repressive Efforts of Customary Laws against Pornography through Media Technology

Repressive measures are countermeasures, in the case of customary law overcoming the act of pornography by giving adat sanctions against the perpetrators of the pornography. Customary sanctions are the result of indigenous peoples' negotiations and agreements, and their enforcement is used only for these indigenous peoples. The reality, all adat states that pornography is an act that violates customary norms, so giving adat sanctions to perpetrators is a form of providing a deterrent effect on perpetrators in particular and indigenous peoples in general.

The term sanctions in the realm of legal science cannot be separated from criminal law or in other words the term sanctions are always inherent in criminal law. As Jan Remmelink states that criminal law is the law (regarding imposing) sanctions: the matter of enforcing norms (rules) by means of power (the state) aimed at resisting and eradicating behavior that threatens the enforcement of the norm which is more visible here compared to other fields of law, such as civil law.

The term native comes from Arabic, namely Hadazt, which when translated in Indonesian means "habit". Custom has permeated Indonesian, so that all regional languages in Indonesia have known and used the term. Understanding the customs and attitudes related to the behavior of someone who is followed by others in a process that is long enough, this shows the breadth of understanding of these customs. Each community or nation and country has its own customs, one and the other must not be the same. Customs can reflect the soul of a community or nation and are a personality of a community or nation.

The level of civilization, one's modern way of life cannot drop the behavior or customs that live and take root in society. At first, customary law was called customary law. In some statutory regulations called customary law and not customary law. Habits deals with anything (actions, behavior, behavior) that are repeated in the face of the same will do the same for the same time.

Theoretically between *adat* and *adat law* are distinguished. Christian Snouck Hurgronjo states that *adat law* (adatrecht) is a social control system with sanctions, while *adat* has no sanctions. Van Vollen Hoven used the appropriateness and attachment of citizens to the rules themselves as there was a general feeling that these regulations must be kept by legal officials as a differentiator with *adat*.

Sukanto stated that customary complexes which were mostly unneeded, uncodified, and coercive, have legal consequences, called adat law. Customary law is the entire custom that is not written and lives in society in the form of decency, habit and custom which has legal consequences. Customary law is a guarantee for indigenous peoples to create a conducive customary environment in accordance with customary norms that have been mutually agreed upon. Customary law requires the community to be loyal and loyal to the customary law, so that customary law can grow, develop and bequeath to its generation. Customary law also contributes to overcoming pornography. The imposition of customary sanctions on pornographic activities will certainly vary in each region, this depends on the customary legal system and the agreement of the local indigenous people. It is only the similarity is that customary sanctions given to pornography perpetrators is to provide penalties for perpetrators to deter and not repeat these actions.

4. CONCLUSION

Customary law also contributes to preventing and overcoming acts of pornography that are influenced by developments in information technology. Preventive efforts that can be conducted by customary law are the presence of Adat Regulations or Adat Norms, the existence of Adat Instruments, and the existence of Indigenous Peoples themselves. While the repressive efforts are the application of traditional sanctions on the offender.

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Rujukan

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