

The Fragile Walls of Digital Sexual Violence Victims' Protection

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Abstract

Despite Indonesia has enacted the Anti-Sexual Violence Law, cases of sexual violence on social media platforms continue to occur and are not easy to resolve. There are problems in implementing regulations in the digital space: criminalization of the victim, regulations that do not accommodate women's experiences, and the issue of evidence. This article discusses digital sexual violence cases, focus on the non-consensual sharing of intimate content and trespassing of private spaces. How regulations are still unable to provide a safe space in the digital sphere. This article is based on literature research including analysis of regulations, court verdict, and some news about sexual violence in digital sphere. The author uses a feminist legal studies perspective in the analysis.

Keywords: digital sexual violence, personal data protection, trespassing boundaries between private and public space

Introduction

This article explores how various laws and regulations reflect the state's perspective on the position of victims of digital-based sexual violence. The focus is on a specific form of sexual violence: the non-consensual dissemination of intimate content, commonly referred to as *non-consensual dissemination of intimate images* (NCII). This act, often termed 'revenge porn,' can be motivated by desires for sexual gratification, financial gain, or the intent to humiliate an ex-partner.

In today's digital interactions, strangers can freely comment on photos or videos uploaded by others on social media. In one case involving an Indonesian singer, an unknown individual commented on a photo uploaded by the singer's child, using the term 'Loli,' which is commonly associated with the pedophile community (Febrian 2017). 'Loli' is derived from the word 'Lolita,' referring to children with a beautiful appearance who may be sexually objectified (Connolly 2009)¹. One of the author's colleagues was also forced to temporarily close his account and delete all photos of his children after discovering that a stranger had re-uploaded the photos with the comment 'beautiful children.' The account in question featured numerous photos of children in various poses, taken from other people's social media accounts. It appeared that this account had several followers, many of whom displayed profile photos of adult men.

Stalking and hacking into private spaces in the digital world can escalate into sexual violence. For example, an unknown person might send private messages containing non-consensual sexual content, even without prior interaction in the real or digital world, causing discomfort for the recipient. In the case of the aforementioned artist, unknown individuals not only sent sexually charged messages but also followed them to their apartment and invited them to interact (Hadiansyah 2023). This indicates that acts of stalking and hacking in the digital world can not only involve sexual violence but also extend into physical spaces. The cases of digital sexual violence discussed in this article primarily focus on the non-consensual distribution of intimate content.

Indonesia has already established a series of regulations concerning the distribution of non-consensual intimate content. The assumption is that actions in the digital space involving sexual violence can be prevented, controlled, and addressed. The key regulations established by the Indonesian Government related to digital interactions include: Law Number 27 of 2022 concerning Protection of Personal Data; Law Number 12 of 2022 concerning the Crime of Sexual Violence; Law Number 44 of 2008 concerning Pornography—though this was drafted long before the widespread occurrence of digital sexual violence, and its

provisions often risk criminalizing victims, especially in digital contexts; and Law Number 11 of 2008 concerning Information and Electronic Transactions.

Legal instruments are expected to act as protective barriers, but in practice, they have not significantly impacted the prevention and handling of digital sexual violence cases. This article specifically addresses the following issues: First, why has this set of regulations failed to significantly curb digital-based sexual crimes? Second, how does the state perceive the position of victims of digital-based sexual violence through its legal frameworks, particularly in the Indonesian context, both in terms of digital space governance and sexual violence? Third, what perspectives are strongly represented in these regulations, and what are the consequences for victims of sexual violence, especially female victims?

Research Methods

This article is based on research utilizing secondary materials and observations of interactions in social media spaces. The analysis of secondary materials includes various regulations related to digital-based sexual violence, specifically: Law Number 27 of 2022 concerning Protection of Personal Data, Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, Law Number 44 of 2008 concerning Pornography, and Law Number 11 of 2008 concerning Information and Electronic Transactions. The analysis of these legal regulations involved selecting relevant articles using keywords such as electronic content, content containing nudity, and sexual violence in digital spaces.

The analysis of the Pandeglang District Court Decision Number 71/Pid.Sus/2023/PN PdI, which was later appealed to the Banten High Court and resulted in High Court Decision Number 96/Pid.Sus/2023/PT BTN (Andomo 2023), reflects broader issues. These two decisions were selected because the cases tried by the Banten High Court involved both physical and digital sexual violence. However, the legal process primarily focused on the aspect of non-consensual intimate content distribution in digital spaces, rather than addressing the sexual violence itself. The High Court's decision also overturned part of the previous ruling, specifically the additional sentence from the Pandeglang District Court that prohibited the convicts from accessing the internet for eight years. This verdict highlights a lack of literacy and sensitivity among law enforcement officials regarding digital-based sexual violence. Another reason for choosing this decision is

that, although the Sexual Violence Crime Law was in effect at the time, the legal process concentrated on the distribution of content prohibited under the ITE Law.

Data in the form of news about digital-based sexual violence was collected using keywords in digital searches, namely sexual violence, digital space, the TPKS Law, and criminalization of victims of sexual violence. Three news stories about five relevant cases were selected, and the content uploads and comments responding to these cases were analyzed. The selection of these three cases was due to time constraints for tracking and analysis. The three cases are, first, the case of non-consensual distribution of intimate content in Pandeglang, Banten, which was then processed through legal channels. Second, in a case in East Nusa Tenggara province where a teenage girl suicided as a result of non-consensual intimate content involving her were spread through her community (Bere & Assifa 2023). The third case was the case experienced by two women whose photos were edited to make them appear nude and distributed by an online loan management company that lent them money (Assifa 2021).

According to a feminist legal perspective, legal products absorb and represent societal values—including patriarchal values—and are therefore never entirely objective. Women's experiences, especially when considering the context of social and economic class, are often overlooked in many legal products produced by those in positions of authority (Fineman 2005). This perspective differs from the paradigm of positive legal science, which views law as a set of positive norms that are general and should be objective (West 2018). Consequently, the law needs to be critically examined to determine whether legal texts have considered gender constructions that may restrict access to rights for men and women. It is crucial to assess whether a legal product accommodates protection for vulnerable groups due to gender constructions or whether it may result in injustice for those who actually need legal protection (Irianto & Nurtjahyo 2020). In other words, it is necessary to evaluate whether a legal regulation might have a detrimental impact on children and women, particularly those from impoverished backgrounds.

In this legal study from a feminist perspective, it is important to understand that the analysis is not aimed at 'justifying women.' A common misconception among conventional legal scholars is the joke that if a woman commits a criminal act, feminist legal studies will justify it. This is not the case. The focus of the analysis is not on

the criminal act itself, but on three key aspects (Irianto & Nurtjahyo 2020): First, whether the substance of a rule, both at the textual level and in its implementation, has a different impact on men and women, possibly placing a heavier burden on women. Second, whether the interpretation of a legal rule is influenced by gender and patriarchal constructions held by law enforcement officials. Third, what is the impact of this interpretation on women?

In the context of this article, the focus is on examining the legal regulations governing the protection of victims in cases of digital sexual violence. A series of regulations in Indonesia have stipulated that content depicting female intimacy, bodies, and sexuality is prohibited from being created and distributed. However, it is important to question whether the perception of bodyhood in these regulations actually targets the victim rather than the perpetrator. This discussion should explore whether these legal regulations also consider that the creation and dissemination of intimate content can occur without consent and under coercion, constituting a form of sexual violence. In cases of digital sexual violence, the objectification of women's bodies and their sexuality is prevalent. Unfortunately, discussing women's bodies and sexuality is often taboo, which hinders the prioritization of victims' experiences (Tambunsaribu & Widiyanti 2021, p. 83). As is evident in both the case studies in this article and broader narratives about digital sexual violence, the experiences and suffering of female victims are often neglected.

Cases of digital sexual violence share similar characteristics and impacts with acts of sexual violence that occur in physical spaces. Both types of violence stem from issues of unequal power relations between genders. Whether occurring in face-to-face interactions or digital spaces, sexual violence is an attack on a person's body, sexuality, and/or reproductive organs. The impact of this violence results in physical injuries, psychological trauma, and socio-economic and political losses. These elements are consistent with those of sexual violence in the physical world, often with broader and deeper impacts. Digital sexual violence, as defined by Attrill et al. (2015), involves accessing and distributing content that is harmful, hurtful, or dangerous. This content is typically online material, and the consequences include emotional, psychological, and/or physical harm. According to the Cyber Safe research team (2017), the forms of distributed material can vary and include electronic mail, text messages containing unwanted sexually explicit content, inappropriate or offensive

statements with sexual content made on social networking sites or internet chat rooms, and threats of physical and/or sexual violence sent via electronic mail or other online messages.

In this article, the term 'digital sexual violence' is used, taking into account that several references, such as the Catahu Komnas Perempuan and Safe Net, use the term 'Electronic Based Sexual Violence (KSBE)'. The author chooses 'digital sexual violence' to emphasize that the crimes occur within digital spaces and involve digital media.

The primary difference between cases of digital sexual violence and physical sexual violence lies in the use of digital technology as a medium to commit the act. However, it is crucial to understand that even though these acts of sexual violence occur within the digital space, they can originate from physical acts or lead to physical acts. For example, in a grooming case on the Facebook platform, the perpetrator observed the victim's habits and then approached the victim through online interactions. The perpetrator coerced the victim into sending intimate pictures, which he then used to blackmail them. The situation escalated further when the perpetrator arranged to meet the victim in person, where he committed acts of physical sexual violence. This highlights how such crimes are not confined to the digital space but can extend to physical sexual violence.

Sexual violence in the digital space grew rapidly during the COVID-19 pandemic. This increase was due to the shift of nearly all work and study activities to online or work-from-home setups. As work and study moved online, so too did most human interactions, which had previously occurred face-to-face (Nurtjahyo 2020). This trend continued from early 2020 to mid-2023.

In their Annual Notes, the National Commission on Violence Against Women published data related to cases of sexual violence in the digital space. During the COVID-19 pandemic, the Commission noted a significant increase in gender-based violence in the digital space, with cases rising from 241 in 2019 to 940 in 2020. In 2022, the Commission reported a total of 1,371 cases occurring in the digital space within the personal domain, involving perpetrators such as boyfriends, ex-boyfriends, and ex-husbands. Additionally, 1,658 cases of sexual violence were reported in the public domain of digital spaces. According to the Commission, the number of these cases decreased in 2023, with 821 cases of electronic-based sexual violence reported in the personal domain and 383 cases in the public domain,

committed by strangers or acquaintances interacting on social media. Unfortunately, this decrease in numbers does not indicate a reduction in sexual violence cases in Indonesia. Rather, there has been a shift in the area or format of the violence from digital spaces back to face-to-face interactions.

How does Indonesian legislation regulate this? The following section of this article discusses several regulations relevant to protecting personal data and regulating interactions in the digital space. These regulations include Law Number 27 of 2022 concerning Protection of Personal Data, Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, Law Number 44 of 2008 concerning Pornography, and Law Number 11 of 2008 concerning Information and Electronic Transactions.

Law Number 11 of 2008, known as the Electronic Information and Transactions (EIT) Law, is relevant to the discussion of sexual violence in the digital space, particularly in Article 1. This article defines the scope and forms of electronic data, including writing, sound, images, photos, and electronic mail. However, it does not explicitly mention video recordings. In practice, intimate content is often disseminated non-consensually in various forms, including voice recordings, screenshots of written conversations, or electronic letters. In the Indonesian context, the dissemination of photos and video recordings on social media platforms is particularly common. Article 1 of the EIT Law reflects the state's perception of electronic information as consisting of writing, sound, and images, however it does not fully accommodate the reality that digital-based sexual violence can also involve video content.

In particular, acts of sexual violence in digital spaces are not explicitly mentioned in the EIT Law, as this law is specifically intended to regulate information sharing interactions. However, in the context of sharing information, the law outlines several criteria for prohibited acts. These prohibited acts are regulated under Article 27 of the EIT Law. The criteria relevant to the issue of sexual violence are found in Paragraph (1) of Article 27, which states that every person who intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents containing content that violates decency is committing a prohibited act.

The EIT Law does not explicitly define 'content that violates decency' in its Explanation section. However,

referring to the New Criminal Code, specifically Law Number 1 of 2023, the Explanation to Article 406 letter A states that 'violating decency' includes acts such as displaying nudity, genitals, and sexual activities that contradict societal values at the place and time the act is committed. This definition implies that victims of digital sexual violence, whose bodies and sexuality are shared as content in any format, could be perceived as 'displaying nudity, genitals, and sexual activities' if the content is spread in public spaces. If law enforcement authorities are not careful in handling cases of digital sexual violence, particularly those involving the non-consensual dissemination of intimate content, there is a risk that victims—especially female victims—could be criminalized for allegedly violating decency. This is especially concerning in cases where the content creation was a result of coercion or manipulation, leading the victim to be photographed or recorded.

In the Pandeglang, Banten case, the victim was subjected to both sexual violence and the additional psychological violence of having the incident recorded by the perpetrator. The case proceeded to the Pandeglang District Court, resulting in Decision Number 71/Pid.Sus/2023/PN Pdl, which was then appealed to the Banten High Court, leading to PT Decision Number 96/Pid.Sus/2023/PT BTN. In both the District Court and High Court decisions, the Panel of Judges recognized that the victim had suffered violence as neither the creation nor the dissemination of the content was consensual. The focus of the Panel of Judges was rightly on the perpetrator as the creator and disseminator of the content. It is also crucial to consider whether law enforcement officials fully understand that victims can still experience violence, manipulation, and coercion in creating digital content containing sexual violence, even if it does not manifest in physical forms such as beating, dragging or grabbing.

Another relevant article of the EIT Law concerning the issue of sexual violence in the digital space is Article 44. This article addresses the admissibility of evidence in investigations, prosecutions, and court hearings. It includes evidence as defined in other laws, such as witness testimony, expert testimony, relevant documents, and examination results, as regulated in the Criminal Procedure Code. Additionally, Article 44 mentions other necessary evidence, including Electronic Information and/or Electronic Documents as described in Article 1, numbers 1 and 4, as well as Article 5, paragraphs (1), (2), and (3).

In this context, Electronic Information as evidence can include photos, videos, or audio recordings, all of which may capture intimate content of the victim that was disseminated without consent. However, this law does not specifically address sexual violence occurring in digital spaces, including instances where the perpetrator is a stranger to the victim.

Another legal framework that addresses intimate content in the digital space is Law Number 44 of 2008 concerning Pornography. While this law defines what constitutes pornography, it does not specifically address sexual violence that occurs in digital spaces. The issue can be observed in Article 1 of the Pornography Law, which defines pornography as images, sketches, illustrations, photos, writings, sounds, moving images, animations, cartoons, conversations, body movements, or other forms of messages transmitted through various forms of communication media and/or public performances, which contain obscenity or sexual exploitation that violates societal norms of decency.

This provision does not consider the context behind content that meets the criteria outlined in Article 1 of the Pornography Law. The content may be created with the full awareness and consent of the parties involved. However, it may also be produced under conditions of unequal power relations. For example, this could occur in a toxic dating relationship, as experienced by R in the Pandeglang Case, or due to debt issues, as seen in the case where two women's photos were manipulated and distributed as nude images by individuals from an online loan management institution (Assifa 2021).

Another relevant article in the Pornography Law concerning the dissemination of intimate content in digital spaces is Article 4, paragraph (1). This article prohibits any person from producing, creating, reproducing, duplicating, distributing, broadcasting, importing, exporting, offering, buying and selling, renting, or providing pornographic products. The term 'pornographic products' includes those that explicitly depict sexual activity. All forms of sexual intercourse are prohibited, including deviant acts such as sexual violence, masturbation, nudity or displays suggesting nudity, and the depiction of genitals or pornography involving children.

Article 4, paragraph (1) of the Pornography Law principally prohibits individuals from creating, distributing, reproducing, or offering any production that contains pornographic elements. These elements are outlined in Article 1 and further detailed in this

article. However, the law does not account for the possibility that the creation of such content may involve violence, including threats, coercion, or physical and psychological harm inflicted on one of the parties involved.

In the Pornography Law, Article 8 prohibits individuals from intentionally or willingly becoming the subject or model of pornographic content. At first glance, this article appears neutral, objective, and straightforward to apply. However, it fails to account for situations where victims are coerced into being recorded or photographed, with the resulting media used to further manipulate or control them. As a result, victims of such violence could potentially face criminalization and subsequent punishment under Article 8, which undermines the sense of justice. This is especially problematic if law enforcement officials do not thoroughly investigate whether the victim's participation was coerced or genuinely consensual.

Regarding sexual violence in the digital space, particularly the dissemination of non-consensual intimate content, this act not only involves violence against a person's body and sexuality but also raises issues of personal data protection. Unfortunately, Law Number 27 of 2022 concerning Personal Data Protection (PDP) does not explicitly address the protection of personal data for victims of sexual violence in the digital space. Article 4 of the PDP Law specifies that personal data includes both specific data and general personal data. In cases where victims' personal data is widely disseminated without their consent, such as in instances of digital sexual violence, this data should be considered under the provisions of specific personal data in paragraph (1) of Article 4 of the PDP Law.

It can be concluded that these regulations have not been effective in providing significant protection, particularly for those vulnerable groups—such as women, teenagers, and children—who need safeguarding when navigating and interacting in digital spaces. Although the digital space is intended to be a platform where women can freely express themselves, it often fails to offer adequate protection. For example, in the Indian context, the digital space has been utilized as a medium for women to respond to the need for cultural change, especially regarding the perception of women's roles in modern society. It has become a space where women find their heroes and voices advocating against gender-based violence. This is especially true when women challenge patriarchal norms and cultural practices that perpetuate violence, including sexual

violence and rape, which are prevalent issues in India (Chakraborty 2022).

The digital space is crucial for women, not only as a platform to actively combat gender-based violence but also as a communication channel that helps them fulfill emotional needs. In Miller's (2018) research on female Filipino migrant workers, it was found that the internet significantly benefited these women. They could communicate with their families, especially their children, more quickly and easily. Communication via electronic mail or social media helped reduce the emotional distance caused by physical separation, as it mitigated the time and distance constraints associated with traditional mail. Thus, the digital world can diminish the sense of separation between mothers and their children (Miller 2018). While the internet has the potential to be used positively, it is not without its challenges.

Indonesia has another specific legal product aimed at addressing sexual violence: Law Number 12 of 2022. This law provides protection against sexual violence in the digital space, specifically defining electronic-based sexual violence (EBSV) as a criminal act. The elements of EBSV are detailed in Article 14. According to Article 14 paragraph (1), acts classified as EBSV and punishable by law include the non-consensual recording of images or screenshots containing intimate or sexual content, the transmission of sexually explicit information or electronic documents against the recipient's will for the sender's sexual gratification, and/or cyberstalking or tracking individuals for sexual purposes. The penalties for these offenses include a maximum imprisonment of four years and/or a maximum fine of IDR 200,000,000 (two hundred million rupiah).

Further, Article 14 paragraph 2 stipulates that if the act is carried out with the intent to blackmail, threaten, mislead, and/or manipulate someone into committing or allowing an act, or not committing an act, it constitutes a criminal offense. The penalty for such actions is a maximum imprisonment of six years and/or a fine of IDR 300,000,000 (three hundred million rupiah). This provision addresses cases where intimate content is recorded or captured non-consensually and used to coerce or threaten the victim into complying with the perpetrator's demands. The rules in this paragraph are grounded in the reality that digital sexual violence can escalate to physical sexual violence, or vice versa. For instance, in the Pandeglang case, the victim was coerced into complying with the perpetrator's demands under the threat of public exposure of intimate content. This

content was also evidence of physical sexual violence perpetrated against the victim. In contrast, in a case involving two women and an online loan company, the perpetrator digitally manipulated the victims' photos and threatened to distribute them to force compliance. These examples underscore the severity and complexity of EBSV cases.

Article 14 of the TPKS Law provides a breath of fresh air for the protection of victims of sexual violence in the digital space, especially in cases of non-consensual distribution of intimate content. However, there are specific notes regarding Article 14 of this law. Notably, Paragraph 3 stipulates that electronic-based sexual violence, as referred to in Paragraph 1, falls into the category of complaint offenses, except when the victim is a child or a person with a disability. This means that in cases of the dissemination of non-consensual intimate content, law enforcement officials can only intervene if the victim submits a complaint or report.

Questioning Cyber-Based Sexual Violence

As we all understand, in cases of sexual violence, both physical and non-physical, victims often feel afraid and embarrassed to report the incidents. This feeling of fear and shame was also experienced by the victims in the Pandeglang case in East Nusa Tenggara province and by two women from Semarang and Sukabumi. Therefore, in relation to Paragraph 3 of Article 14 of the TPKS Law, the presence of a companion who can support and strengthen the victim is crucial. This support is necessary for the victim to recover while also preparing a strategy for reporting. This strategy includes how to collect evidence, which, in the context of sexual violence in the digital space, is not always easy because perpetrators may quickly erase or delete it.

Article 14, paragraph 3 also does not take into account that not all regions in Indonesia have access to education or outreach regarding reporting procedures and data collection strategies. While it is true that the majority of Indonesians have internet access, this does not necessarily mean they understand how to report incidents if they experience sexual violence, bullying, or even breaches of personal data in digital spaces.

Taking a feminist perspective in legal analysis involves carefully examining whether legal rules accommodate the experiences and needs of men and women equally and fairly (Irianto & Nurtjahyo 2020). After analyzing these rules, researchers should also investigate real-world situations to understand the consequences of

implementing these regulations for different genders. This includes assessing whether certain sexes and/or genders experience more severe impacts due to the application of these legal rules. The need to examine the consequences of implementing these regulations on society guides the following section which discusses three cases of sexual violence that occurred in digital spaces. First, the case that occurred in Pandeglang involved a perpetrator named A and a victim named R (a pseudonym). This Pandeglang case went through a legal process involving the Pandeglang District Court and then Banten High Court as the perpetrator filed an appeal. The court decisions for this case are Pandeglang District Court Decision Number 71/Pid.Sus/2023/PN Pdl and PT Decision Number 96/Pid.Sus/2023/PT BTN. Second, the case that occurred in East Nusa Tenggara province was experienced by teenager and student Nona (a pseudonym). As a result of the trauma and shame of the case, Nona took her own life. Third, the cases in Semarang and Sukabumi involved intimidation by online loan companies against two women who were accused of failing to meet their loan payment obligations. The intimidation included threats to disseminate manipulated photos of the women, which were altered to appear as nude images.

Pandeglang Case

This case was adjudicated in both the Pandeglang District Court and the Banten High Court. The case details are based on the narrative provided in the Pandeglang District Court Decision Number 71/Pid.Sus/2023/PN Pdl, which was subsequently appealed to the Banten High Court, resulting in PT Decision Number 96/Pid.Sus/2023/PT BTN. The chronology of the reporting and the perpetrators' reactions were further detailed through news analysis from online newspapers. This case will be referred to as the Pandeglang Case.

In the Pandeglang case, the perpetrator, identified as A, recorded the rape he committed against the victim, R. A had repeatedly subjected R to sexual and physical violence within a violent and manipulative relationship. He threatened R with the dissemination of videos of their sexual encounters to coerce her into staying with him. When R decided to leave A, he retaliated by sending the video to R's older brother via social media, using a feature that allowed the message to be viewed only once, so the video would disappear after viewing. Despite this, R's older brother reported the incident to the authorities.

The violence perpetrated by A, including both the rape and the non-consensual dissemination of intimate content, exemplifies a form of sexual violence that is prevalent in abusive dating relationships and is addressed under the TPKS Law. However, Indonesia lacks specific laws that address violence within dating relationships. While the crime of sexual violence is regulated under the TPKS Law, this legislation does not specifically address sexual violence in the context of dating relationships (Dhewy 2017). This contrasts with the regulations for the family context. Article 1 of the TPKS Law, specifically Point 7, defines the family as individuals directly related by blood in a straight line upwards, as well as those related laterally up to the third degree, such as uncles, aunts, nephews, and grand-nephews. It also includes individuals related by marriage, such as spouses, stepchildren, and stepparents, as well as dependents of witnesses and/or victims, including adopted children or those living and working in the household. Given this, it is crucial to include regulations that address sexual violence occurring within dating relationships. However, this presents challenges, as societal norms in some cultures may view dating relationships as morally or religiously inappropriate. Such norms can lead to secrecy and vulnerability, making individuals more susceptible to threats and manipulation by perpetrators. In these situations, perpetrators may use intimate photos or recordings to coerce victims, exploiting the power imbalance inherent in dating relationships.

In the context of the Pandeglang case, it was reported that one of the prosecutors met with R's family and encouraged them to reach a settlement with the perpetrator. During this meeting, the prosecutor suggested that R should not be accompanied by legal counsel, explaining to R's brother that R, as the victim, was already represented by the prosecutor—the Public Prosecutor (JPU). According to this account, which was detailed in an article by Andomo (2023), the prosecutor claimed to serve as a legal advisor to the victim. This approach is problematic because the Public Prosecutor (JPU) is supposed to represent the state and is tasked with bringing charges against the perpetrator while ensuring that the victim's rights to justice are upheld. The prosecutor's authority is defined in Article 14 of Law Number 8 of 1981 concerning Criminal Procedure Law. This article outlines that a public prosecutor has the authority to receive and examine investigation case files, conduct pre-prosecution procedures if deficiencies are found, grant or extend detention, make indictments,

hand over cases to court, and carry out prosecutions, among other responsibilities. Notably, there is no provision within this authority that allows a prosecutor to 'represent the victim.' Instead, the prosecutor acts on behalf of the state to prosecute the perpetrator for violating the law.

To assist victims in understanding their rights and navigating the legal process, it is essential to have a legal advisor or victim companion. These individuals play a crucial role in providing guidance, support, and ensuring victims are prepared to testify truthfully in court. According to Article 1, Point 14 of the TPKS Law, a companion is defined as someone trusted by the victim who has the competence to help them access treatment, protection, and recovery rights. Article 26, Paragraph (2) of the TPKS Law specifies that potential companions include LPSK officers, UPTD PPA officers, health workers, psychologists, social workers, social welfare workers, psychiatrists, legal assistance providers (such as advocates and paralegals), and officers from Community-Based Service Provider Institutions, among others. Notably, the role of a prosecutor is not included in this list of companions or advisors. Instead, the prosecutor represents the state and is responsible for prosecuting the perpetrator, rather than directly assisting or advising the victim.

Another notable aspect is the use of the ITE Law in this case, rather than the TPKS Law. According to interviews with the victim's brother and law enforcement officials, the choice to apply the ITE Law was based on the view that the primary legal issue was the dissemination of intimate content. Although it is clear that the video in question depicts the rape committed by the perpetrator against the victim, law enforcement officials might have considered the ITE Law more applicable because the case involved the dissemination of content, and because the victim and perpetrator were known to each other and were in a dating relationship. This perspective suggests that law enforcement may have viewed the sexual violence as a less direct issue, focusing instead on the unauthorized distribution of intimate content.

Statements from law enforcement officials suggest that they view the dissemination of non-consensual intimate content as falling under the ITE Law rather than constituting sexual violence. This perspective overlooks the relevance of the TPKS Law, particularly its provisions addressing sexual violence in digital spaces. The assumption by law enforcement that sexual violence in R's case is less clear reflects a broader denial within a patriarchal society that sexual violence constitutes

violence. This perspective illustrates how the state legal system often fails to recognize and address the violence affecting private spaces like the body and sexuality (Tambunsaribu & Widiyanti 2021).

In this case, the perpetrator did not express remorse, claiming instead that he was simply unlucky to have been caught (Andomo 2023). The case was prosecuted under the ITE Law rather than the TPKS Law. However, the judges were able to uncover that R was indeed a victim and had been unaware that she was being recorded during the assault. A was sentenced to six years in prison, with the District Court also imposing an additional eight-year ban on internet use. This additional punishment, however, was later overturned by the Banten High Court. While the additional punishment imposed by the District Court was a significant legal step, a key issue remains: determining which party is responsible for monitoring and evaluating the implementation of such sanctions.

Another important issue concerning the Banten High Court decision is that the victim's name was not fully concealed in the case documents. Specifically, the victim's full name appears in one section of the decision. To protect the victim's privacy, especially since the decision is published in the Supreme Court Decision Directory² and is accessible to the public, the victim's name should have been fully anonymized.

Nona's Case in East Nusa Tenggara

The 17 year old teenagers Nona and Jong (both pseudonyms) were in a dating relationship, in which they exchanged intimate content including nude photos. However, one of their friends found out and without Jong's or Nona's consent, distributed a photo of Nona on the internet via his Facebook account, where members of their school and community found out. This sharing of non-consensual intimate content spread to the surrounding community (Bere & Assifa 2023). This shame of the incident pushed Nona to end her life. This case is still being handled by the local police, and must be explored more deeply, whether the third party as the disseminator of the content obtained it outside of Nona's or Jong's knowledge and/or consent.

In Nona's case, while the exchange of intimate content between Nona and Jong was consensual, the subsequent distribution of Nona's photo by Jong's friend was not. This act of spreading the photo on social media without consent falls under Article 14, Paragraph 1 of the TPKS Law, which addresses non-consensual

dissemination of intimate content. This provision stipulates that such acts, which involve the illegal or non-consensual recording and sharing of intimate content, are punishable. However, it must be confirmed whether the third party who distributed the photo is a minor, as they would be subject to the provisions of the Juvenile Justice Act.

In this case, education about the limits of interaction and message sharing in the digital space is crucial, particularly for children and teenagers. It's important to understand how to share personal data, such as photos, responsibly, and the consequences of disseminating such information widely without proper consent. Awareness of these issues is vital for all, especially for the perpetrator who distributed Nona's photo in public spaces, leading to devastating consequences.

Victim of Photo Manipulation by Online Loan Companies

The third case discussed in this article involves two women whose photos were edited and manipulated to appear as if they were naked. These altered photos were then widely distributed by an online loan company that had lent money to the victims (Assifa 2021). The two victims came from different areas: one from Semarang and the other from Sukabumi.

In the Semarang case, the online lending company offered easy loans without collateral. The victim, who needed money for her child's milk, took out the loan. In the Sukabumi case, the victim discovered money had been deposited into her account without her applying for a loan. Initially, the victims attempted to repay the debt, but the amount grew rapidly due to exorbitant interest rates, eventually making it impossible for them to settle the debt. When the victims were unable to pay off the debt, the online lender began contacting them with harsh and intimidating messages. The situation escalated when the lender edited and manipulated the victims' photos to make it appear as though they were naked. The victims were then threatened with having these manipulated photos widely distributed.

This intimidation caused the victims significant fear, distress and feelings of isolation, not knowing who to turn to for help. The constant threats and the fear of public exposure disrupted their daily lives and work, as they worried about the spread of the manipulated photos. Additionally, they suffered financial losses due to ongoing demands from the lender for money. Overwhelmed by the situation, the victims eventually shared their ordeal with their husbands and extended

families. Ultimately, accompanied by their families, the victims reported the harassment to the police.

In the cases involving the victims from Semarang and Sukabumi, the protection of personal data is as crucial as addressing the sexual violence perpetrated by the online lending company. In these cases, it is pertinent that Article 35 and Article 36 of the ITE Law were included in the indictment and considered in the judge's decision. Article 35 specifically addresses actions such as manipulation, creation, and editing of data that are performed without authorization and cause harm to others. The online lending companies not only intimidated and humiliated the victims but also invaded their private space without consent. They manipulated and altered the victims' photos, resulting in significant trauma and social and financial damage to the victims, as reported by them.

The case of intimidation by online loan companies is notably prevalent among women. Many women are drawn to online loans due to their easy requirements, quick disbursement, and relatively small amounts borrowed. Research by Lestari et al. (2021) indicates that women, particularly housewives, often turn to online loans when they urgently need funds and lack other sources of income (Lestari et al. 2021). The victims from Semarang and Sukabumi, both teachers, faced a unique set of challenges. The threats from the online loan companies were particularly effective because of their professional status. As respected and well-known figures in their communities, the potential dissemination of manipulated nude photos severely compromised their professional image and personal dignity. This fear of public humiliation and reputational damage significantly intensified their distress.

In the three cases discussed, derived from court decisions and online newspaper reports, it becomes evident that while the TPKS Law provides specific protection for women victims of digital sexual violence, there is still a need for improvements in related regulations. Both the ITE Law and the Pornography Law, for instance, primarily focus on penalizing the creation and dissemination of content featuring women's bodies and sexuality, particularly involving nudity or sexual activity. However, these laws do not adequately address the issues of 'intention,' the parties orchestrating the acts, or whether intimidation or manipulation was involved in the creation and/or dissemination of such content.

From the perspective of law enforcement officials, there are still views that fail to recognize digital sexual violence as a form of sexual violence. Instead, it is often seen merely as a matter of moral violations or pornography. This perspective leads to a focus on upholding taboos about sexuality that are deemed inappropriate for public expression. Consequently, efforts are often concentrated on punishing those involved, including the victim, in order to re-establish community morals. In contrast, viewing digital sexual violence as a form sexual violence shifts the focus toward preventing further harm. This approach prioritizes stopping the circulation of harmful content, supporting the victim, and deterring the perpetrator. With this perspective, it is understood that in cases of digital sexual violence, the victim is the individual whose body and sexuality are exploited as objects in the content. As a result, this perspective helps prevent the criminalization of victims.

Another important issue related to digital sexual violence is that law enforcement officials often fail to recognize that victims experience the same psychological impact as those of physical sexual violence. Victims of digital sexual violence endure significant shame and distress. It is crucial for law enforcement officials to understand the severity of this impact. Consequently, mediation between the victim and the perpetrator, or attempts to halt the process of addressing digital sexual violence cases, should not occur, as the victim has already suffered enough.

Closing

There are two important aspects in addressing sexual violence in the digital space: First, the challenges faced in handling cases of sexual violence that occur in digital spaces in Indonesia. Second, recommendations for improving Indonesian government policies to better address and manage cases of sexual violence in the digital realm.

The challenges in handling sexual violence cases in the digital space include several key issues. First, law enforcement officials often hold a conventional view of sexual violence, which typically requires physical acts with visible impacts on the victim. However, digital sexual violence does not always involve physical actions, yet its consequences can be as severe as those of physical sexual violence. For example, in the cases discussed, the impacts include trauma leading to a reluctance to meet people, hesitation to interact on

social media, financial losses due to extortion by the perpetrator, and severe psychological effects such as depression and health problems, as experienced by R in the Pandeglang case. In extreme instances, it can even lead to suicide, as seen in the case from Nusa Tenggara Province.

Apart from questions about the boundaries of what constitutes sexual violence, law enforcement officials often feel the need to investigate the sexual history of victims in both physical and digital cases. This exploration of the victim's sexual history and their relationship with the perpetrator frequently becomes a barrier to justice, affecting both the processing of their cases and the pursuit of justice. For instance, in the R case in Pandeglang, the police and prosecutors deemed the case not as sexual violence but rather as an issue related to information technology, leading to its reassignment. Additionally, the consideration of the victim's sexual history in several judicial decisions resulted in less severe sanctions, under the assumption that the 'damage' was not as severe compared to victims who had never engaged in sexual relations (Ramadhan 2016).

The second challenge is related to people's digital literacy. In R's case, A believed that using the one-view feature to send the video would make it disappear. A overlooked that digital traces are not easily erased and can be forwarded, saved, and shared multiple times. Similarly, in Nona's case, Jong and Nona's friends who distributed her photo on Facebook did not consider that once a photo is uploaded to the digital space, it can spread rapidly. They likely did not anticipate the severe consequences for Nona, who, upon discovering the spread of her photo, experienced anxiety, embarrassment, and depression, ultimately leading to her decision to end her life. In another case involving two teachers in Semarang and Sukabumi, an online loan company, in its pursuit of maximum financial profit, used photos of the victims, digitally manipulated them, and distributed them. This company failed to recognize that its actions violated both the ITE Law and the TPKS Law.

The third challenge concerns the protection of victims of sexual violence in the digital space. These victims experience trauma, fear, and shame similar to those of physical sexual violence. It is crucial to establish appropriate mechanisms for providing protection and counseling to help victims recover. Efforts to protect victims are essential to prevent cases from escalating to extreme consequences, as seen in Nona's case. The role

of the Witness and Victim Protection Agency is vital in offering support and protection, including counseling, for victims of digital sexual violence (Iskandar 2021). Such services should extend beyond physical sexual violence to encompass victims and witnesses of digital sexual violence, who face comparable challenges. In digital cases, perpetrators can easily locate and terrorize victims through social media, with transgressing barriers of time and space.

What, then, is the strategy to address these challenges? Several recommendations related to Indonesian government policies can improve the handling of sexual violence cases in the digital space. First, it is crucial to educate law enforcement officers about the concept of sexual violence as outlined in Witness and Victim Protection Laws. The goal is to ensure that law enforcement officials understand that sexual violence encompasses more than just rape or attempted rape. This education will help officers, especially those on the front lines handling public reports, respond appropriately to cases of digital sexual violence.

Second, education on safe interactions, surfing, and sharing information in digital spaces is essential. This education should be structured and incorporated into the curriculum, not just offered through webinars, seminars, and workshops. It should be part of classroom teaching materials from basic education, covering topics such as what information can be safely shared online, respectful behavior in digital spaces, and how to protect personal data.

Third, the role of the Witness and Victim Protection Agency is crucial in providing protection for victims of digital sexual violence. It is necessary to expand the scope of protection offered to ensure comprehensive support for these victims.

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End Note

- 1 Lolita is the name of a character in Vladimir Nabokov's novel *Lolita* (1955), which depicts an unusual relationship between an adult man and a 13-14-year-old girl named Lolita. The novel describes the male protagonist's sexual interest in Lolita. This novel has been widely discussed in academic articles and books (Connolly 2009).
- 2 The author does not specify the page number of the decision where the victim's name appears to avoid further dissemination of the victim's personal data.