

Criminal Sanctions for Distributing Explicit Videos on Social Media: A Comparative Study of Positive Law and Islamic Criminal Law

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Abstract: Crimes against morality continue to be a pressing issue, particularly amidst the rapid expansion of internet technology. The increasing number of cases involving the violation of moral norms through social media platforms illustrates that technological advancement is not always accompanied by ethical awareness among its users. This situation underscores the need for a legal framework capable of effectively addressing emerging forms of indecent conduct within the digital sphere. This study aims to examine and compare the criminal sanctions imposed on individuals who distribute sexually explicit videos via social media, from the perspectives of both Indonesian positive law and Islamic criminal law. Employing a normative juridical approach combined with comparative legal analysis, the research reveals that Indonesian law addresses such offenses primarily through the Electronic Information and Transactions Law. However, its practical implementation continues to face several challenges, including inadequate digital oversight and low levels of public legal literacy. In contrast, Islamic criminal law classifies such actions as violations of moral integrity, falling under the category of *jarīmah ta'zīr*. The punishment in this framework is determined by judicial or governmental authority with the primary aim of safeguarding personal dignity and communal ethics (*hifz al-'ird*), which is a core objective of the *maqāṣid al-syarī'ah* (higher objectives of Islamic law). The comparative analysis highlights that Islamic criminal law emphasizes moral rectitude and spiritual rehabilitation, whereas Indonesian positive law is more oriented toward procedural legality. Together, these systems offer complementary insights for the development of a more responsive and dignified legal order in the digital age.

Keywords:
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INTRODUCTION

The rapid advancement of telecommunications, electronics, and telematics has created a new perspective in understanding the role of increasingly sophisticated technology.¹ As innovation continues, especially in the realm of communication networks, people across the world are now more connected than ever, with information flowing at unprecedented speed.² This ease of internet access has broadened the dynamics of interpersonal relationships, particularly in how individuals communicate and interact in everyday life.³

¹ Abdul Sakti, "Meningkatkan Pembelajaran Melalui Teknologi Digital," *Jurnal Penelitian Rumpun Ilmu Teknik* 2, no. 2 (2023): 212–19, <https://doi.org/10.55606/juprit.v2i2.2025>.

² Moody R Syailendra, "Perlindungan Data Pribadi Terhadap Tindakan Penyebaran Sex Tape Menurut Hukum Positif Di Indonesia," *Jurnal Muara Ilmu Sosial, Humaniora, Dan Seni* 5, no. 2 (2021): 440, <https://doi.org/10.24912/jmishumsen.v5i2.12506.2021>.

³ Alaika Amaly Khaira et al., "Pengaruh Media Digital Dalam Penggunaan Media Sosial Terhadap Pola Komunikasi Interpersonal Pada Remaja Universitas Bina Bangsa , Indonesia Kehidupan Manusia Keterampilan Ini Memungkinkan Individu Untuk Membangun," no. 4 (2024).

The widespread use of the internet has redefined the boundaries of personal privacy. Individuals often cross these boundaries by distributing private information without consent, conducting unauthorized surveillance, and exploiting others' personal data, actions which can cause significant harm to the individuals concerned.⁴ On a personal level, many users feel unsafe engaging in digital interactions due to the lack of protection over sensitive information, including identity details, phone numbers, residential addresses, and financial data. This reality underscores the necessity for individuals to implement robust digital security practices, such as using strong passwords, avoiding the disclosure of personal details on social media platforms, and regularly updating software to minimize the risk posed by irresponsible actors.⁵ These measures can significantly reduce the risk of identity theft, which is often used as a means of fraud, and prevent the misuse of personal data that could cause significant harm or loss.⁶

According to research conducted by We Are Social, the number of active internet users on social media has surpassed 5 billion globally, reaching approximately 5.04 billion at the beginning of 2024. This figure reflects a 5.6 percent increase from the previous year, with 266 million new users joining social media platforms for the first time in 2023 alone. Facebook remains the most widely used platform, recording around 3.05 billion users, predominantly individuals aged 13 and above.⁷ The majority of users fall within the 18 to 34 age range. Based on data from We Are Social, Facebook has emerged as the most dominant social media platform used by the public. According to the Indonesian Ministry of Communication and Informatics (Kominfo), by 2024, the number of internet users in Indonesia had reached approximately 185.3 million people, accounting for around 66.5% of the total population. As of January 2024, social media users in the country numbered around 139 million, representing roughly 49.9% of Indonesia's population.⁸

As the world continues to advance, the growing needs of societies across the globe have demonstrated the increasing significance of digital technology, both in the present and in the future. Digital innovation has proven instrumental in transforming various aspects of life worldwide, particularly in the realm of social media, where it is perceived as a more efficient means of communication and interaction.⁹ The rapid rise in social media usage has significantly reshaped societal behavior as a whole. Social media is increasingly perceived as a primary necessity in daily life. This shift is largely due to the

⁴ Kadek Rima Anggen Suari and I Made Sarjana, "Menjaga Privasi Di Era Digital: Perlindungan Data Pribadi Di Indonesia," *Jurnal Analisis Hukum* 6, no. 1 (2023): 132–42, <https://doi.org/10.38043/jah.v6i1.4484>.

⁵ Cika Suci Dewi Utama and Nur Kholis Majid, "Pelecehan Seksual Dalam Dunia Maya : Studi Kasus Terhadap Penggunaan Media Sosial," *Journal of Contemporary Law Studies* 2, no. 1 (2024): 55–63, <https://doi.org/10.47134/lawstudies.v2i1.2106>.

⁶ Teni Nurjanah, "Menjaga Keadilan Publik Dengan Mengantisipasi Pelanggaran Privasi Di Media Sosial," *Konstruksi Sosial: Jurnal Penelitian Ilmu Sosial* 1, no. 4 (2024): 124–29, <https://doi.org/10.56393/konstruksisosial.v1i4.456>.

⁷ Nanda Elma Fitriani, "Etika Bermedia: Menyebar Foto Dan Video Tanpa Izin Termasuk Melanggar Privasi," *Academic Journal of Da'wa and Communication* 4, no. 2 (2023), <https://doi.org/10.15548/jt.v2i2.152>.

⁸ Digital 2024: Indonesia Diakses <https://datareportal.com/reports/digital-2024-indonesia> , Tanggal 6 Juni 2024

⁹ Yunita Salle, "Analisis Yuridis Terhadap Anak Korban Tindak Pidana Penyebaran Video Asusila Di Tana Toraja," 2022, 8.

role of technology, which not only contributes to enhancing welfare, progress, and civilization, but also carries the potential to facilitate cybercrime.¹⁰

A prior study conducted by Adzra Nabila Putri Litami concluded that individuals involved in the dissemination of obscene videos can be held legally accountable under Law No. 19 of 2016 concerning Electronic Information and Transactions (ITE Law). However, in practice, judges tend to impose relatively lenient sentences. In one observed case, the perpetrator received only six months of imprisonment, despite the law stipulating a maximum sentence of up to six years in prison and a fine of up to one billion rupiah.¹¹ A study conducted by Adzra Nabila Putri Litami highlights that perpetrators of the dissemination of pornographic videos may be held criminally liable under Law No. 19 of 2016 on Electronic Information and Transactions (ITE Law). Nevertheless, judicial practice reveals a tendency toward lenient sentencing. In one documented case, the offender was sentenced to only six months of imprisonment, despite the legal provision allowing for a maximum penalty of six years in prison and a fine of up to one billion Indonesian rupiah.¹²

On the other hand, Agustiar Hariri Lubis presents a differing perspective in his research regarding the implementation of punishment for individuals involved in distributing obscene content. In the case he analyzed, the offender was sentenced to six months of imprisonment or, alternatively, required to pay a fine of 500 million rupiah as a substitute penalty.¹³ Previous studies have yet to fully explore the comparative application of sanctions for the dissemination of obscene videos under both Islamic criminal law and positive law, nor have they comprehensively assessed the effectiveness of these legal measures. Therefore, this study aims to investigate the similarities and differences in the legal sanctions applied to the distribution of pornographic content from the perspectives of both Indonesian positive law and Islamic criminal law. Furthermore, it focuses on identifying solutions to the challenges encountered in enforcing the law against perpetrators who share such content on social media, as well as examining the obstacles faced in its implementation. The findings of this study are expected to provide constructive recommendations to enhance the enforcement of laws addressing the spread of obscene material and to strengthen policy measures for combating illegal content in a more effective and equitable manner, grounded in empirical experience.

METHOD

The research employed a normative juridical method, which involves analyzing legal issues based on legal principles and norms. In this study, the author adopted a library research approach. The data analysis technique used includes reviewing, annotating, and reassessing various scholarly works relevant to the research topic. This process was

¹⁰ Isti'anatul Mashlahah and Syamsul Arifin, "Dampak Perkembangan Teknologi Terhadap Perilaku Dan Kehidupan Pemuda Pemudi Di Era Milenial," *Jurnal Pengabdian Masyarakat Dan Penerapan Ilmu Pengetahuan* 4, no. 2 (2023): 9–13, <https://doi.org/10.25299/jpmpip.2023.13167>.

¹¹ Adzra Nabila Putri Litami, "Pertanggungjawaban Pidana Pelaku Tindak Pidana Penyebaran Video Bermuatan Kesusastraan (Studi Putusan Nomo 48/Pid.b/2021/Pn Srp)," *Universitas Muhammadiyah Sumatera Barat*, 2023, <https://www.cloudmatika.co.id>.

¹² Dhaifullah, "Tindak Pidana Penyebaran Konten Asusila Dan Sanksinya (Perbandingan Undang-Undang No. 19 Tahun 2016 Tentang Informasi Dan Transaksi Elektronik Dan Qanun Aceh No. 6 Tahun 2014 Tentang Hukum Jinayat)" (2023).

¹³ Agustiar Hariri Lubis, "Studi Putusan Mahkamah Agung Nomor 83 Pk/Pid.Sus/2019 Terhadap Penyebaran Konten Asusila Perspektif Hukum Pidana Positif," *Sustainability (Switzerland)* 11, No. 1 (2019): 1–14.

carried out systematically to gain a deeper understanding and to identify diverse perspectives, legal theories, and prior findings pertinent to the subject matter.

The data analysis technique used in this research involves a comprehensive review of articles, academic journals, and undergraduate theses to identify and understand the core issues addressed by previous authors. This process includes systematically demonstrating and explaining the findings in a clear and coherent manner. The study concludes with the application of a deductive reasoning framework, progressing from general principles to specific insights, in order to develop well-structured and logical arguments.

RESULTS AND DISCUSSION

The Circulation of Obscene Videos by Netizens on Social Media

According to the Ministry of Communication and Digital Affairs of the Republic of Indonesia, between October 20, 2024, and March 8, 2025, a total of 1,352,401 pieces of harmful content were addressed. Of the 233,552 content items managed, 219,578 originated from websites, while the platform X (formerly Twitter) ranked second with 10,173 cases. A total of 1,118,849 of the cases were linked to online gambling, with websites and IP addresses being the primary source (1,017,274 cases), followed by Meta platforms (Facebook/Instagram) accounting for 46,207 instances. The spread of obscene videos on social media has emerged as a pressing concern in today's digital era. Social media platforms, which allow individuals to share content rapidly and on a large scale, have made it increasingly difficult to control the circulation of such explicit material. This dissemination process often begins with the recording or acquisition of videos from various sources, such as illegal blogs, links, or websites commonly found across social networks. In several reported cases, these videos were originally private recordings that leaked due to lapses in personal data protection or were exposed through hacking activities carried out by irresponsible parties.

In some cases, individuals deliberately record obscene acts with the intent of exploitation, blackmail, or revenge. Once obtained, these videos are uploaded to social media platforms. Perpetrators often disseminate the content using anonymous accounts to conceal their identities, making it more difficult for authorities to trace them. These videos may also circulate within closed groups that cater to specific online communities.

Some offenders go further by utilizing live streaming features to broadcast explicit content in real time, making intervention even more difficult before the material reaches a wider audience. Once uploaded, netizens who come across the video can easily redistribute it through features such as "share," "repost," or by downloading and re-uploading the content to other platforms like WhatsApp, Telegram, or illegal video-sharing sites.

Once the content has spread, it becomes nearly impossible to erase completely from the internet due to the capability of users to store and re-share the files. Moreover, the higher the engagement, such as comments, reactions, and viewer counts. The greater the likelihood that the video will go viral, further complicating efforts to control its circulation.¹⁴

¹⁴ Siti Nurfadilah M Dano, Fenty U. Puluhulawa, and Avelia Rahmah Y Mantali, "Tinjauan Viktimologi Terhadap Tindak Pidana Pendistribusian Dokumen Elektronik Bermuatan Pelanggaran Asusila," *SINERGI : Jurnal Riset Ilmiah* 1, no. 5 (2024): 294–308, <https://doi.org/10.62335/n2p8t203>.

Several key factors contribute to the rapid spread of obscene videos on social media platforms. These include the curiosity of internet users, the general lack of legal awareness among the public, economic motives behind the content's distribution, and the insufficient enforcement or updates from social media platforms in regulating such material.¹⁵ Many social media users remain unaware that sharing or reposting obscene videos constitutes a criminal offense that may lead to legal sanctions. In addition, there are individuals or groups who deliberately distribute illicit videos for financial gain. For instance, by boosting social media engagement to earn advertising revenue or by extorting victims. Another contributing factor is the limited capacity of social media platforms to moderate such content effectively. The automated detection systems employed by these platforms are often unable to respond swiftly enough to prevent the viral spread of obscene material. The consequences of disseminating obscene videos on social media are profound and far-reaching, affecting not only the victims and perpetrators but also society at large. For victims, the psychological toll can be severe, manifesting in acute stress, depression, loss of self-worth, and in extreme cases, suicide. Moreover, the victim's social reputation can be irreparably damaged within a short period, as digital footprints are notoriously difficult to erase completely.

Application of Criminal Sanctions Against Perpetrators of Obscene Video Dissemination

Law Number 19 of 2016 on Electronic Information and Transactions (ITE Law) serves as a special legal instrument to address criminal offenses involving moral violations in digital spaces via electronic media. This law aims to provide a legal foundation for the responsible use of information technology and electronic transactions in Indonesia, while also safeguarding the public from the misuse of technology.¹⁶ Article 27 paragraph (1) in conjunction with Article 45 paragraph (1) of the ITE Law criminalizes acts involving obscene content as a form of cybercrime. The provision states: "Any person who intentionally and without authorization distributes, transmits, or makes accessible electronic information and/or electronic documents containing content that violates decency shall be subject to a maximum imprisonment of six years and/or a maximum fine of one billion rupiah." This regulation underscores the seriousness with which the Indonesian legal system treats digital offenses that undermine societal morality, while also emphasizing the accountability of internet users in maintaining ethical conduct in cyberspace.¹⁷

Provisions regarding immoral or obscene acts are not only regulated under Law No. 19 of 2016 on Electronic Information and Transactions (ITE Law) but are also outlined in the Indonesian Criminal Code (KUHP). In addition, violations of decency are further clarified in the Pornography Law, which serves as a more specific legislative extension of the morality-related provisions found in the KUHP. In the KUHP, these offenses are addressed in Chapter XIV, which governs Crimes Against Morality. Article 281 specifically regulates indecent acts committed in public spaces. This article provides

¹⁵ Shofiyah, "Dampak Media Sosial Dan Pornografi Terhadap Perilaku Seks Bebas Anak Di Bawah Umur," *Alamtara: Jurnal Komunikasi Dan Penyiaran Islam* 4, no. 1 (2020): 57–68, <https://ejournal.iai-tabah.ac.id/index.php/alamtaraok/article/download/503/373/>.

¹⁶ Adami Chazawi dan Ardi Ferdian, 2015, Tindak Pidana Informasi dan Transaksi Elektronik Penyerangan Terhadap Kepentingan Hukum Pemanfaatan Teknologi Informasi dan Transaksi Elektronik, Media Nusa Creative, hal. 25.

¹⁷ Pratiwi Agustini , diakses <https://aptika.kominfo.go.id/2019/08/undang-undang-ite/>

a legal basis for punishing individuals who engage in acts that offend public decency, reinforcing the state's role in upholding moral standards in both physical and digital realms.

The regulation of immoral offenses under the Pornography Law is intended to provide clearer and more assertive legal enforcement. Sanctions against individuals who disseminate pornographic videos on social media must be applied in an integrated manner, taking into account both structural and cultural aspects. Furthermore, a balanced approach between preventive measures and punitive actions is necessary. This can be achieved through well-designed social policies aimed at promoting public welfare while safeguarding societal values. Law enforcement is carried out by authorized institutions such as the police, prosecutors, courts, and correctional facilities. These bodies are responsible for processing offenders in accordance with legal procedures and ensuring that appropriate criminal penalties are imposed.

In the realm of criminal law, electronic and social media often serve as primary tools for disseminating illegal content. Therefore, criminal regulation plays a vital role in safeguarding both public legal interests and national integrity. The Electronic Information and Transactions Law (ITE Law) is one of the legal instruments used to prosecute criminal offenses committed in digital spaces. However, its implementation must be balanced to ensure it does not violate democratic values or suppress freedom of expression.

The Effectiveness of Criminal Sanctions in the Dissemination of Obscene Videos on Social Media

A legal regulation can be deemed effective when its existence and implementation succeed in enhancing public awareness of criminal behavior, discouraging unlawful acts, and fostering social order. To evaluate the effectiveness of a law, it is essential to measure the extent to which the public understands and complies with the relevant legal provisions. When a law is both understood and obeyed by its subjects, it can be considered effective in fulfilling its intended purpose.

However, in practice, the implementation faces several challenges, particularly due to the lack of synergy between law enforcement agencies and the public in efforts to halt the circulation of such recordings. The absence of a dedicated and proactive task force also serves as a major obstacle. Addressing social issues of this nature requires the active involvement of both the government and society. Nevertheless, policy implementation at the institutional level often encounters various difficulties. Consequently, several underlying factors contribute to the barriers in the legal process against individuals involved in the distribution of sexually explicit content on social media.¹⁸ The contributing factors can generally be categorized into two main aspects:

1. Internal Factors

In the enforcement of the law, the professionalism of law enforcement officers is crucial. This includes their skills, competence, and intellectual capacity in carrying out their duties. These qualities are essential to ensure that the law is upheld effectively, efficiently, and fairly, in a manner that meets the expectations of justice within society.

¹⁸ Anggini Salsabillah and Yudi Kornelis, "Penegakan Hukum Terhadap Kejahatan Seksual Melalui Media Sosial Menurut Undang Undang Nomor 1 Tahun 2024 Tentang ITE," 2024.

2. External Factors

The absence of specific regulations governing cybercrime, particularly the dissemination of pornographic content via the internet, forces law enforcement officers to rely on outdated legal frameworks that are often inadequate. As a result, broader legal interpretations are frequently required to address technological developments. A comprehensive analysis reveals that several external elements remain key obstacles in the effort to uphold the law against individuals who distribute or transmit such content on social media platforms.

Solutions to the Barriers in the Law Enforcement Process Against Perpetrators Who Distribute Pornographic Videos on Social Media

Policy strategies that can be implemented to strengthen the enforcement of criminal sanctions against individuals who distribute pornographic content may include the following:¹⁹

1. Practical Crime Prevention Through Comprehensive Legal Design
Practical efforts to counter criminal behavior can be carried out by developing legal norms that address three essential components: legal substance, institutional structure, and societal legal culture. These three components must align with the societal context in which criminal law is enforced. Once a robust criminal law framework is established, its implementation should operate through a well-integrated mechanism known as the Criminal Justice System. If this system is executed in a manner that reflects justice and meets societal expectations, it can serve as a primary instrument of repression in tackling the spread of pornographic content via social media. For this system to function effectively, coherence must be ensured among the legal substance, the institutional structures that enforce it, and the legal awareness embedded within society.

2. Enforcing Criminal Law Supremacy Through Penal Policy

The application of criminal law against individuals who commit offenses is a strategic measure rooted in both legal and political instruments. This approach, commonly referred to as penal policy, combines theoretical frameworks and practical applications to formulate effective regulations and provide direction for legislators and law enforcement agencies. In the context of increasingly widespread pornographic content, a robust enforcement of criminal law, supported by well-designed legal tools, can offer a strategic foundation for resolution. However, existing sanctions often lack deterrent power. Therefore, beyond legal approaches, a broader and more integrated strategy is needed. This strategy should not only address the pornographic acts themselves but also target individuals or networks responsible for distributing such content. Through this approach, the distribution of pornographic material in digital media can be significantly reduced:²⁰

a. Preventive Measures

A preventive approach to crime mitigation focuses on taking proactive steps before any criminal act occurs. This strategy emphasizes addressing both

¹⁹ Nurfitrah Pakaya, Mohamad Rusdiyanto Puluhulawa, and Julisa Aprilia Kaluku, "Upaya Penanggulangan Penyebaran Konten Pornografi Di Media Sosial," *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial Dan Politik* 1, no. 2 (2024): 10–24, <https://doi.org/10.62383/demokrasi.v1i2.96>.

²⁰ Barda Nawawi Arief, 2003, *Kapita Selekta Hukum Pidana*, Citra Aditya Bhakti, Bandung).

direct and indirect contributing factors that may influence individuals to engage in unlawful conduct. These factors often relate to broader social conditions that create an environment conducive to crime. In the context of digital media-related offenses, preventive policies are especially vital and should be prioritized as a core component of crime prevention efforts. By emphasizing early intervention, such policies aim to curb legal violations before they escalate. Practical implementation includes measures such as increased surveillance, digital literacy campaigns, and tighter content monitoring systems.

b. Repressive Measures

Repressive efforts involve enforcing penalties against individuals who have committed offenses, in accordance with legal standards. The primary purpose is not only to punish but also to deter both the perpetrator and the public from engaging in similar criminal behavior. When addressing pornography-related offenses, criminal sanctions should be understood not as acts of retribution but as preventive tools, both at individual and societal levels. General deterrence seeks to protect the wider public from harmful exposure and imitation, while specific deterrence targets the offender to prevent recidivism. As the main authority responsible for public safety, the government must act decisively to curb the spread of illicit content on digital platforms. This includes implementing stricter legal frameworks and comprehensive enforcement strategies to combat cyber-based offenses. Such measures are essential in upholding public morality, legal order, and religious values, especially within the framework of Islamic ethical principles.

Therefore, authorities must implement a range of comprehensive strategies, including the enactment of stricter legal policies deemed necessary to address crimes committed on digital platforms. This approach aims to protect society from the widespread circulation of pornographic video content, which openly violates prevailing social norms, established legal provisions, and the moral values upheld in Islamic teachings.

Forms of Dissemination of Obscene Videos Containing Pornographic Elements on Social Media

Various types of pornographic media circulate widely within society, making it increasingly easy for individuals to access prohibited websites. The media serves as a channel through which individuals can obtain pornographic material. According to Article 1 of the Pornography Law, pornographic services encompass all forms of content distributed by individuals or entities through multiple platforms. These include live performances, cable television, television broadcasts, mobile devices, the internet, and other electronic and print media, such as newspapers and magazines.²¹

1. Audio Media refers to platforms used to enjoy various forms of sound-based content. Examples include radio, CDs, cassettes, MP3s, music, and audio recordings. The distribution of pornographic material in audio form can occur through several means. Such as sexually suggestive dialogues broadcast on radio

²¹ Muhammad Alfaiz and Agustin Hanapi, "Penyebaran Video Asusila Di Media Sosial Disertai Dengan Pemerasan Dan Pengancaman (Studi Undang-Undang Nomor 11 Tahun 2008 Tentang UU ITE)," *Jurnal Justisia* Volume 5 N (2025): 52.

between hosts and callers, song lyrics that contain obscene elements or moaning sounds embedded in music, and explicit conversations over the phone that can be heard by recipients. In the digital age, the internet has become a highly efficient tool for accessing such content.

2. Audiovisual Media combines both visual and auditory components, allowing users to watch and listen to content simultaneously. This category includes films, videos, stage performances, concerts, computers, internet-based games, and various other platforms that present pornographic elements in both sound and imagery. For instance, movies or videos may feature explicit scenes, while live performances or concerts might involve sensual dances by singers or background dancers. In digital games, pornography can be embedded through character designs, storylines, or graphics that display indecent content.
3. Visual Media enables audiences to view content directly, particularly through social media platforms. Pornographic material in this form may be found in newspapers, magazines, tabloids, books (including fiction, popular novels, and non-fiction), illustrated books, visual advertisements, artworks, photographs, and even card-based entertainment. Illustrations that openly depict intimate scenes may fall under the category of erotic visual media. Pornography itself is often classified into two levels, soft and hard. The former generally refers to content featuring nudity, intimate acts, or simulated sexual behavior, while the latter includes graphic depictions of aroused sexual organs and direct representations of intercourse. The presence of vulgar content in information channels can be assessed through two main aspects: first, the explicit nature of the message, such as nudity or sexual scenes; and second, the potential arousal effect such content may have on viewers.

The Perspective of Islamic Criminal Law on the Application of Sanctions for the Dissemination of Obscene Videos by Internet Users on Social Media

Islamic criminal law does not contain explicit provisions from Allah or His Messenger regarding pornographic offenses. As such, the regulation and enforcement of laws related to pornography fall under the authority of the government. In Islamic jurisprudence, this category of law is referred to as *ta'zīr*, which encompasses discretionary punishments determined by the state for offenses not directly addressed in primary Islamic sources. Generally, Islamic criminal law is classified into three main categories: (1) *Qisās* and *Diyāt*, (2) *Hudūd* crimes, and (3) *Ta'zīr* offenses.²² From an Islamic perspective, the understanding of pornography must be grounded in Sharia principles. Any action that involves the exposure, exhibition, or depiction of 'awrah (private parts), which degrades human dignity or incites immoral behavior such as fornication (*zīnā*), is categorically prohibited. The prohibition of pornography in Islam is aligned with the broader objective of preventing acts that may serve as a gateway to *zīnā*, thereby reinforcing the moral and ethical safeguards intended by Islamic teachings.²³

In Islamic criminal law (fiqh jinayah), criminal acts are classified as violations of the Shariah and are referred to as *jarimah*, meaning offenses that are subject to punishment. These offenses are categorized into three main types, 1.) *Jarimah hudud*, which are crimes for which fixed punishments have been prescribed in the Qur'an and

²² Ahmad Hanafi, *Asas-asas Hukum Pidana Islam*, (Jakarta: Bulan Bintang, 1993), hal. 1.

²³ Badiatul muchlisin Asti, *Remaja Dirantai Birahi (Kupas Tuntas pornografi dalam Perspektif Islam)*, (Bandung: Pustaka Ulumuddin, 2004, Cet. 1), hal. 58.

Hadith, 2.) *Jarimah ta'zir*, which are offenses that do not have specific sanctions in the sacred texts and are therefore subject to the discretion of the ruling authority. 3.) *Jarimah qishas*, which involve retributive justice, where the punishment mirrors the nature of the crime committed.²⁴ Any behavior that undermines moral integrity, disrespects human dignity, or violates social decency, including the spread of pornographic content is strictly forbidden in Islam. Numerous Islamic legal sources emphasize that pornography contradicts the principles of Islamic ethics, particularly with regard to the obligation to cover and avoid viewing *aurat* (parts of the body that must be concealed). In this context, safeguarding *aurat* plays a crucial role in upholding personal and societal honor, as well as in preventing actions that may lead to *zina* (unlawful sexual acts). These prohibitions reflect Islam's comprehensive approach to protecting dignity, morality, and public virtue.

Furthermore, the Qur'an explicitly commands believers to avoid any actions that may lead to unlawful sexual conduct (*zina*), as emphasized in Surah Al-Isra (17:32):

وَلَا تَقْرُبُوا الْزِّنَى إِنَّهُ كَانَ فُجْحَةً وَسَاءَ سَبِيلًا

"And do not approach zina, for indeed it is an abomination and an evil path."

This verse underscores a strong prohibition against not only committing *zina*, but also coming close to anything that may arouse or incite such behavior. The directive encompasses all forms of physical or visual interactions that may stimulate desire, such as touching, holding hands, kissing, gazing with lust, or physical contact between non-mahram men and women. This interpretation aligns with the legal maxim in *usul al-fiqh* known as *sadd al-zara'I*, the principle of blocking the means to sin by prohibiting preliminary actions that could lead to greater moral transgression. Ibn Kathir, in his renowned *tafsir*, explains that Allah not only forbids the act of *zina* itself but also instructs His servants to avoid all potential pathways leading to it. *Zina* is described as a heinous act and a major sin that leads to immense moral and social harm.

According to *Tafsir Al-Wajiz*, the verse imposes a strict prohibition not only on the act of *zina* but also on any behavior that might become a gateway to it. It identifies *zina* as a disgraceful act with far-reaching consequences, including the loss of personal honor, ambiguity in lineage, the spread of harmful diseases, and divine punishment in the hereafter.²⁵

Islam unequivocally prohibits *zina*, or sexual relations outside of marriage. Within Islamic teachings, *zina* is categorized as a vile act (*fāhishah*) and a morally corrupt path (*sā'a sabīlā*). Therefore, not only is the act itself forbidden, but also anything that may serve as a cause or means leading to it. The Qur'an clearly commands believers to avoid all forms of behavior that could bring one closer to committing *zina*, highlighting that such avoidance must be carried out with full awareness and sincerity. As a result, any action that can incite or encourage immoral conduct, whether directly or indirectly, must be avoided in accordance with Islamic legal principles.

The regulation outlined in Indonesia's Law No. 44 of 2008 on Pornography differs from the way Islamic law addresses the offense of pornography dissemination. Since the Qur'an does not explicitly stipulate a specific punishment for individuals who distribute

²⁴ Dudi Badruzaman, "Tinjauan Hukum Islam Terhadap Fasilitator Perbuatan Zina," *Tahkim (Jurnal Peradaban Dan Hukum Islam)* 3, no. 2 (2020): 79–94, <https://doi.org/10.29313/tahkim.v3i2.6367>.

²⁵ Sukma Ningsih et al., "Zina Dalam Perspektif Al- Qur ' an Surah Al - Isra ' Ayat 32 Menurut Tafsir Al - Azhar" 4, no. 1 (2025): 676–89.

pornographic content, there is no predetermined *hadd* penalty in Islamic criminal law for such an act. However, Islam firmly prohibits all forms of conduct that promote or lead to *zina*. Consequently, the act of spreading pornographic material is considered a *ta'zir* offense, meaning that the form and severity of the punishment are determined by the authority (*ulil amri*). In practice, such punishment may be analogized (*qiyās*) to those outlined in existing statutory law, such as Law No. 44 of 2008, thereby ensuring that the sanctions are contextually relevant while maintaining a foundation in Islamic jurisprudence.

CONCLUSION

This study has found that the imposition of criminal sanctions on individuals who distribute obscene videos via social media is legally supported by clear statutory provisions, specifically Article 27(1) in conjunction with Article 45(1) of Law No. 19 of 2016 on Electronic Information and Transactions (ITE Law). Nonetheless, despite the existence of these legal provisions, the enforcement of such sanctions remains suboptimal, as evidenced by the continued proliferation of indecent content across digital platforms. This gap indicates that the presence of legal norms has not yet translated into effective public compliance. Several factors contribute to this shortfall, including weak regulatory oversight, limited public digital literacy, and the insufficient deterrent effect of current punishments. From the standpoint of Islamic criminal law, the distribution of pornographic material is categorized as a *jarimah*, a transgression that harms public morality and spiritual integrity. As such, it falls under the domain of *ta'zir*, a type of discretionary punishment that grants the authority (*ulil amri*) the right to impose sanctions not only of a punitive nature, but also those aimed at education and prevention. Therefore, integrating positive law with Islamic legal values is crucial in developing a more holistic legal system, one that does not merely penalize but also rehabilitates and deters deviant behavior in today's digital society.

Recommendations

Based on the findings of this study, several actionable recommendations are proposed for future implementation:

1. The government is urged to formulate legislation that reflects the evolving patterns of obscene video distribution on social media. Such legal instruments must be responsive to technological advancements and grounded in a robust legal framework that effectively addresses emerging challenges in the digital realm.
2. The public is encouraged to exercise greater responsibility in utilizing technology, including smartphones, laptops, and other digital devices. Misuse of these technologies may lead to actions that constitute criminal offenses. Moreover, it is vital for individuals to uphold ethical standards, particularly by dressing modestly and avoiding visual exposure to indecent content, to prevent engagement in morally or legally objectionable activities. Cultivating ethical digital behavior at the individual level will play a significant role in curbing the spread of indecency and reinforcing the moral fabric of society.

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