

Reforming Justice for Digital Sexual Violence in Southeast Asia: Indonesia's Legal Protection Framework and Regional Lessons

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Abstract

Digital sexual violence is escalating in Southeast Asia as social media, chat services, and cloud storage enable non-consensual recording, dissemination of intimate images, sexual threats, and technology-facilitated harassment. This article assesses Indonesia's legal protection framework and draws regional lessons for reform. Using normative legal research with international human rights law and comparative legal study as its primary approaches, this article examines Indonesia's criminal law policies and selected judicial decisions concerning electronic-based sexual violence under the Sexual Violence Criminal Acts Law (SVCA Law, Law



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No. 12/2022) and the Electronic Information and Transactions Law (EIT Law, Law No. 19/2016). The analysis finds that Indonesia has advanced by criminalizing electronic-based sexual violence under the SVCA Law, yet sanctions remain focused on imprisonment and fines, leaving gaps for effective deterrence when offenders repeatedly exploit online communication tools. A recent revenge-porn case illustrates judicial experimentation with internet-access restrictions and the countervailing legality principle. Comparative insights from Canada and Germany show that court-supervised digital restrictions can be structured as additional penalties, while regional experiences in Malaysia, Thailand, and Japan underscore the value of conduct-specific offences and safeguards. The article proposes amending the SVCA Law, as *lex specialis*, to authorize proportionate revocation or limitation of online-communication access, supported by clear criteria, review mechanisms, and consistent inter-agency monitoring to balance constitutional freedoms and human rights.

KEYWORDS *digital sexual violence, technology-facilitated sexual violence, SVCA Law No. 12/2022, EIT Law No. 19/2016, internet access restriction*

Introduction

Electronic sexual assaults are becoming more common in contemporary society, progressing alongside technical improvements. The swift proliferation of digital platforms has enabled novel forms of criminal behavior, particularly sexually motivated acts perpetrated via electronic communication channels. Although technology provides substantial advantages in most facets of life, it simultaneously facilitates misuse, allowing offenders to utilize digital environments for illicit activities. Nonetheless, it is indisputable that technology can enable other forms of criminal activity, including sexual offenses via online communication platforms.

Cyberspace is a worldwide communication medium that facilitates data transformation and interpersonal interaction. For persons engaged in criminal acts associated with pornography, it functions as a conduit for communicating with others possessing analogous sexual problems. Therefore, the discussion of pornography-related conduct in cyberspace must be framed through legally precise and neutral terminology, so that the analysis focuses on the unlawful use of digital communication channels rather than on stigmatizing personal characteristics or moral labels. Such neutrality is important in this article because the central issue

is not the personal condition of offenders, but the way online platforms facilitate sexual violence, exploitation, dissemination, and repeated victimization.¹

This focus is important because digital sexual violence should not be introduced merely as one example within the broad category of cybercrime, but as a specific form of gender-based and sexual harm facilitated by online communication technologies. In this context, cyberspace is relevant not because it hosts various forms of cyber offences in general, but because it enables conduct such as non-consensual dissemination of intimate material, sexual threats, harassment, coercion, and repeated victimization across digital platforms.

The World Bank Gender Data Portal indicates that over 736 million women globally, aged 15 and older approximately one in three have encountered intimate relationship violence or non-partner sexual violence at least once in their lifetime. Furthermore, around 25% of women have experienced violence from their partners, underscoring the prevalence of gender-based violence and the critical necessity for robust legal safeguards and preventive strategies to combat these extensive human rights abuses.² Moreover, data published by the Indonesian Women's Association for Justice (LBH APIK) Legal Aid Institute indicates a substantial rise in online gender-based assault cases from 2018 to 2022. In 2018, 42 incidents were reported; in 2019, 17 cases; in 2020, 307 cases; in 2021, 489 cases; and in 2022, 440 cases were registered.³

The National Commission on Violence Against Women (Komnas Perempuan) disclosed in its 2023 annual report that there were 821 instances of personal cyber incidents. Sexual violence constituted the predominant form of abuse, with ex-boyfriends responsible for 549 incidents and boyfriends for 230.⁴ Annually, the statistics on gender-based

¹ Nazura Sulistio, Faizin and Abdul Manap, "Pornography and Sexual Crimes towards Children in Indonesia: A Judicial Approach," *Brawijaya Law Journal* 2, no. 5 (2018): 261–70, <https://doi.org/https://doi.org/10.21776/ub.blj.2018.005.02.09>.

² Hana Brixi dan Haishan Fu, "International Women's Day 2023: Three Important Facts (and Charts) from the World Bank's Gender Data Portal," World Bank Blogs, 2023, <https://blogs.worldbank.org/en/opendata/international-womens-day-2023-three-important-facts-and-charts-world-banks-gender-data>.

³ Mela Syaharani, "Jumlah Kasus Kekerasan Berbasis Gender Online tahun 2022 Menurun, Berapa Totalnya?," GoodStats, 2023, <https://goodstats.id/article/jumlah-kasus-kekerasan-berbasis-gender-online-tahun-2022-menurun-berapa-totalnya-3EFTc>.

⁴ Komnas Perempuan, "Catatu 2023: Peluang Penguatan Sistem Penyikapan Di Tengah Peningkatan Kompleksitas Kekerasan Terhadap Perempuan," Komnas Perempuan, 2024, <https://komnasperempuan.go.id/catatan-tahunan-detail/catahu-2023-peluang>.

violence (GBV) indicate a rising incidence of instances, as observed by Komnas Perempuan. Since 2001, almost 2.7 million cases have been documented, classified into personal, public, and state-involved categories.⁵

Recent data indicate a substantial rise in sexual offenses perpetrated via electronic or online communication devices in Indonesia. These offenses transpire across several digital platforms, encompassing chat rooms, online forums, emails, and social media networks. Gender harassment, especially directed at a person's sexual orientation or identity, has emerged as a significant issue, presenting in several detrimental ways. This misconduct encompasses hate speech pertaining to gender and sexuality, threats of sexual violence, dissemination of defamatory misinformation, identity theft, and unfounded allegations regarding sexual conduct.⁶

Victims of sexual violence encompass both men and women. Women are frequently classified as more vulnerable to sexual violence in several circumstances. Moreover, it is important to acknowledge that sexual assault constitutes a grave concern that might manifest in numerous locations. These offenses manifest in multiple forms, including attempted rape, sexual coercion, non-consensual physical contact, and non-contact violations such as harassment. Each of these actions is a significant violation of personal autonomy and dignity, underscoring the widespread prevalence of sexual violence in both physical and digital realms.⁷ Tendency occurs in both public and electronic spaces (social media).

Sexual assault constitutes a criminal act and infringes against human rights. In 2007, the United Nations formally designated it as a crime against humanity and a peril to global peace and security.⁸ Sexual offenses fundamentally infringe upon human rights. D. F. Scheltens, in his book "Mensenrechten," elucidates that fundamental rights, originating from the

penguatan-sistem-penyikapan-di-tengah-peningkatan-kompleksitas-kekerasan-terhadap-perempuan.

⁵ Komnas Perempuan, "Kajian 21 Tahun CATAHU Komnas Perempuan," Komnas Perempuan, 2024, <https://komnasperempuan.go.id/catatan-tahunan-detail/kajian-21-tahun-catatan-tahunan-komnas-perempuan>.

⁶ Nicola Hendry dan Anastasia Powell, "Technology-Facilitated Sexual Violence: A Literature Review of Empirical Research," *Trauma, Violence & Abuse* 19, no. 2 (2018): 1–5, <https://doi.org/10.1177/1524838016650189>.

⁷ Priyono Tri Febrianto et al., "Sexual Violence and the Healing Process of the Victims," *Jurnal Sosiologi Dialektika* 17, no. 1 (2022): 109–19, <https://doi.org/https://doi.org/10.20473/jsd.v17i1.2022.109-119>.

⁸ Febrianto et al.

term "Grondrechten," are rights conferred to individuals by virtue of their citizenship in a nation. Consequently, certain rights are designated as positive rights, wherein the state is mandated to actively engage in their fulfillment, or alternatively termed derogable rights (rights that may be diminished or suspended). This category of rights include economic, social, cultural, educational, health, defense, security, and other fundamental rights conferred by the state.⁹

Individuals, as holders of fundamental rights, are entitled to equitable and just treatment, especially within the legal framework of Indonesia as established by the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). Article 28G(1) of the Constitution ensures that every individual is safeguarded against injury to themselves, their family, dignity, and personal property. It also asserts their entitlement to security and freedom from fear, guaranteeing their ability to enjoy fundamental rights without coercion, whether to act or refrain from doing.

Article 33(1) of Law No. 39 of 1999 on Human Rights fortifies this constitutional safeguard by asserting that every individual possesses the right to be free from torture, cruel punishment, or any treatment that undermines their dignity and humanity. The government holds the principal obligation to preserve these rights, as stipulated in Article 8 of the Human Rights Law, which requires the state to uphold, promote, protect, and fulfill human rights for all citizens.

The government endeavors to fulfill its obligations by ensuring legal protection for all Indonesian residents. The government establishes legal certainty for the public by enacting laws and regulations that define their rights and obligations. L.J. Van Apeldoorn contends that the law seeks to govern harmonious modes of existence.¹⁰ Consequently, from Apeldoorn's viewpoint, the presence of law establishes order and serenity throughout society. This viewpoint indicates that the law serves a highly commendable objective.

Law No. 12 of 2022 on Sexual Violence Criminal Acts (SVCA Law) provides legal protection for society against electronic-based sexual offenses. The introduction of this law offers a significant advancement for Indonesian society, ensuring legal clarity in the prevention of sexual violence within the criminal justice system. "Incertum lex non est lex," as the legal maxim states. In the absence of legal certainty, law ceases to exist.

⁹ M Aris Munandar, *Menilik Konsepsi Hukum, Hak Asasi Manusia, dan Keadilan*, Sulawesi S (Jariah Publishing Intermedia, 2019).

¹⁰ Donald Albert Rumokoy dan Frans Maramis, *Pengantar Ilmu Hukum* (Jakarta: Raja Grafindo Persada, 2014).

The enactment of the SVCA Law thus represents a demonstration of legal clarity in the prevention and management of sexual violence.

According to Article 4, Paragraphs (1) and (2) of the SVCA Law, the SVCA Law delineates 19 (nineteen) categories of sexual assault offenses. The structure and subject matter of the SVCA Law indicate that it is designed as a specific legal framework for sexual violence, including electronic-based sexual violence. This legislative focus is important because it clarifies that sexual violence should not be treated merely as an ordinary electronic-information offence, but as a distinct form of harm requiring specific criminal-law protection, victim-oriented safeguards, and proportionate sanctions. The SVCA Law explicitly governs the offense of sexual violence. Thus, it pertains to *lex specialis* (specific regulations). Consequently, all criminal offenses pertaining to sexual violence must adhere to the SVCA Law.

The penal provisions pertaining to electronic-based sexual violence in Indonesia are delineated in Article 14 of the SVCA Law. The article delineates the sorts of criminal punishments, which encompass imprisonment and monetary fines. Electronic-based sexual offenses possess a distinct nature of their own. The distinctive characteristic is that the criminal act is perpetrated utilizing online electronic communication devices. Consequently, legal enforcement must be executed with specificity. The principal deficiency of the SVCA Law and the Electronic Information and Transactions Law (EIT Law, Law No. 19/2016), which amends Law No. 11 of 2008 on Electronic Information and Transactions, is the lack of supplementary criminal penalties pertaining to the revocation of the right to utilize online communication tools when sex offenders engage in active offenses via such platforms.

This normative gap has also been emphasized in recent Indonesian legal scholarship. Mukhlis et al.¹¹ argue that the current sanctioning model under the SVCA Law and the EIT Law remains inadequate because it relies primarily on imprisonment and fines, without expressly enabling additional restrictions on perpetrators' access to online communication devices, even when such devices constitute the principal means of offending. Their analysis supports the view that a more specific and reviewable form of additional sanction may be necessary to strengthen victim protection and reduce repeated digital abuse.

¹¹ Muhammad Mutawalli Mukhlis et al., "Additional Criminal Revocation of Access to Online Communication Devices for Perpetrators of Electronic-Based Sexual Violence," *Indonesian Journal of Criminal Law Studies* 10, no. 2 (2025): 451–86, <https://doi.org/https://doi.org/10.15294/ijcls.v10i2.23100>.

From the standpoint of international human rights law, the deficiency in Indonesia's criminal law policy lies not only in its limited punitive design but also in its incomplete compliance with the State's due diligence obligations to prevent, protect against, investigate, punish, and provide redress for technology-facilitated sexual violence¹². Contemporary human rights instruments and interpretive standards have increasingly treated online violence against women and girls as a manifestation of gender-based violence and discrimination, requiring States to adopt effective legal frameworks that move beyond symbolic criminalization¹³. Accordingly, where perpetrators repeatedly use online communication tools as the very medium of abuse, a sanctioning model limited to imprisonment and fines may be insufficient; international human rights law instead points toward a more comprehensive response that also includes preventive, protective, and remedial measures to ensure effective protection and to reduce the risk of recurring harm.¹⁴ In this respect, the current Indonesian framework reveals a normative gap between criminal prohibition and human-rights-compliant protection, especially because victim protection in digital sexual violence cases depends not only on punishment after the fact, but also on proportionate legal measures capable of interrupting continued dissemination, harassment, coercion, or intimidation through digital platforms.¹⁵

This human-rights-based concern is consistent with Maskun's¹⁶ analysis that the implementation of international human rights principles

¹² United Nations, "General Recommendation No. 35 (2017) On Gender-Based Violence Against Women, Updating General Recommendation No. 19 (1992)," United Nations, 2017, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-35-2017-gender-based>.

¹³ United Nations, "38th session of the Human Rights Council, Statement by Ms. Dubravka Šimonović, Special Rapporteur on Violence against Women, its causes and consequences," United Nations, 2018, <https://www.ohchr.org/en/statements-and-speeches/2018/06/38th-session-human-rights-council-statement-ms-dubravka-simonovic>.

¹⁴ EDVAW Platform, *The Digital Dimension Of Violence Against Women As Addressed By The Seven Mechanisms Of The EDVAW Platform* (EDVAW Platform, 2022).

¹⁵ United Nations, "General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19," United Nations, 2017, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-35-2017-gender-based>.

¹⁶ Maskun, Maulidya Anwar, dan Judhariksawan, "Effectiveness of the Electronic Information and Transactions Act Against Dating APPS-Based Pornography Crimes," *Justitia Jurnal Hukum* 6, no. 2 (2022): 59–129, <https://doi.org/https://doi.org/10.30651/justitia.v6i2.17392>.

in Indonesia must not stop at formal legislative recognition, but must also be reflected in effective legal mechanisms capable of preventing continuing violations and ensuring substantive protection.

This victim-centred perspective is further reinforced by Mukhlis et al.¹⁷, who argue that the effectiveness of criminal justice mechanisms in Indonesia should not be measured merely by procedural settlement, but by their capacity to secure victims' psychological recovery and substantive justice. Their study shows that legal responses which appear formally successful may still fail to restore victims in any meaningful sense when protection, support, and recovery are treated as secondary concerns. In the context of digital sexual violence, this insight is especially relevant because legal reform must be directed not only toward punishing perpetrators or restricting abusive digital conduct, but also toward ensuring that victims receive effective recovery-oriented protection within the justice system.

In the context of digital sexual violence, this means that the State's legal response should be assessed not only by the existence of criminal prohibitions, but also by the adequacy of protection measures available to prevent ongoing harm to victims.

When the legal framework provides only general criminal prohibitions without sufficient protective and preventive measures, it may fail to produce an adequate deterrent effect, particularly where perpetrators repeatedly use online communication tools to continue harassment, coercion, dissemination, or intimidation. Criminal law must therefore operate not merely as a declaratory prohibition, but also as a clear warning that specific conduct will attract specific legal consequences. According to Paul Johann Anselm von Feuerbach's theory of psychological coercion, the deterrent function of criminal law depends on the prior legal formulation of prohibited conduct and its corresponding sanctions, so that individuals are aware in advance of the consequences attached to unlawful acts.¹⁸

This research will thoroughly analyze the criminal law policy on electronic-based sexual violence perpetrated using online communication platforms. This research will also address the necessity of instituting

¹⁷ Muhammad Mutawalli Mukhlis et al., "Psychological Recovery of Crime Victims within Contemporary Restorative Justice: An Islamic Legal Perspective," *MILRev: Metro Islamic Law Review* 4, no. 2 (2025): 1098–1127, <https://doi.org/https://doi.org/10.32332/milrev.v4i2.11184>.

¹⁸ Eddy O S Hiarij, "Asas Legalitas dan Perkembangannya dalam Hukum Pidana," in *Pelatihan Hukum Pidana dan Kriminologi*, Universitas Gadjah Mada, 2014.

supplementary criminal sanctions for the revocation of online communication privileges for offenders of electronic-based sexual violence crimes, in accordance with the SVCA Law and various related judicial rulings. This research presents a novel topic that has not been utilized in any other research or publication.

This article adopts a normative legal research design that places international human rights law and comparative legal study as the primary analytical approaches. Rather than treating criminal law doctrine as the sole lens of inquiry, this study evaluates Indonesia's legal response to electronic-based sexual violence against the broader framework of international human rights obligations concerning gender-based violence, victim protection, access to justice, and effective remedies. In this respect, criminal law policies and judicial decisions are positioned as the main objects of analysis, not as the primary methodological approaches.

The human rights law approach is used to assess whether the Indonesian legal framework adequately reflects the State's due diligence obligations to prevent, protect against, investigate, punish, and provide redress for technology-facilitated sexual violence. This approach is particularly relevant because contemporary legal scholarship increasingly recognizes online and technology-facilitated violence against women as part of the continuum of gender-based violence and as a matter of human rights protection.

The comparative legal approach is employed to examine how selected jurisdictions have regulated comparable forms of digital sexual abuse, especially in relation to conduct-specific offences, procedural safeguards, and proportionate restrictions linked to the means of offending. The purpose of this comparison is not merely descriptive, but evaluative: it is used to identify legislative models, limitations, and safeguards that may inform future reform in Indonesia.

The primary legal materials analyzed in this article consist of the Sexual Violence Criminal Acts Law (SVCA Law, Law No. 12 of 2022), the Electronic Information and Transactions Law (EIT Law, Law No. 19 of 2016), and selected judicial decisions relevant to electronic-based sexual violence. Secondary legal materials include journal articles, scholarly commentaries, textbooks, and academic works concerning human rights law, comparative criminal law, and criminal law reform. Contextual materials are used only to clarify the social and technological background of digital sexual violence. All materials are analyzed qualitatively and prescriptively to formulate a legal recommendation that is consistent with

Indonesia's criminal justice framework, human rights standards, and comparative lessons from other jurisdictions.

To maintain terminological consistency for an international readership, this article uses English references for Indonesian legal instruments throughout the manuscript. Accordingly, Law No. 12 of 2022 is referred to as the Sexual Violence Criminal Acts Law or SVCA Law, while Law No. 19 of 2016 is referred to as the Electronic Information and Transactions Law or EIT Law.

Criminal Law Policy of Additional Criminal Sanctions for Revocation of Access Rights to Online Communication Devices for Perpetrators of Electronic-Based Sexual Violence

Many different schools of thought contribute to the ever-changing landscape of criminal law theory as it pertains to penal policy. Eko Soponyono argues that the goal of criminal law policy is to create legislative provisions that are applicable to both the present and the future by integrating them into the larger framework of the criminal justice system. Consequently, the policy of the criminal justice system is considered as a crucial component of the continuing reform of criminal law, which aims to maintain legal laws that are adaptable to society changes while maintaining fairness and clarity.¹⁹ Ivo Lapenna considers criminal law policy as an integral component of overarching societal policy aimed at combatting criminal behavior. The strategy to combat crime is categorized into two primary types: preventative measures and punitive enforcement operations.²⁰

In principle, criminal law policy encompasses two fundamental aspects that shape its formulation and implementation. First, it involves efforts to establish regulations that are contextually relevant and responsive to the prevailing circumstances. Laws must be adaptable and reflective of societal dynamics, ensuring their effectiveness in addressing contemporary legal challenges. Second, the government plays a crucial role in enacting policies through authorized institutions, aiming to regulate

¹⁹ Eko Soponyono, *Kebijakan Orientasi Hukum Pidana dalam Ius Constitutum dan Ius Constituendum di Indonesia* (Semarang: Penerbit Pustaka Magister, 2012).

²⁰ Pujiyono dan Ade Adhari, *Hukum Pidana di Bidang Sumber Daya Alam* (Yogyakarta: Deepublish, 2019).

society and achieve specific legal and social objectives. These regulations must be aligned with societal values and aspirations, ensuring that the legal framework not only maintains order but also fosters justice and harmony within the community. Through these two pillars, criminal law policy serves as a dynamic instrument that evolves alongside societal developments while upholding legal certainty and the rule of law.²¹

The essence of criminal law policy is rooted in the *ratio legis* of a criminal provision, which pertains to the rationale for its existence. Each provision should ideally correspond with the exigencies of the period during which the rule was instituted. This applies similarly to the regulation of electronic-based sexual violence offenses. As developments in knowledge and technology progress, the methods by which criminal offenses, particularly sexual violence, are perpetrated evolve.²²

In this context, media, computer systems, and digital platforms function not merely as neutral communication channels, but as instruments through which electronic-based sexual violence may be prepared, committed, disseminated, and repeated.

The Sexual Violence Criminal Acts Law (SVCA Law, Law No. 12 of 2022) is a key piece of Indonesia's legislative framework that regulates sexual crimes committed by electronic means. However, the existence of Article 14 of the SVCA Law does not automatically resolve all interpretive and enforcement problems. Maskun et al.²³ note that the regulation of electronic-based sexual violence in Indonesia still requires clearer legislative formulation and stronger criminal-law policy design so that the law can function not merely symbolically, but as an effective instrument for protecting victims and supporting the broader objectives of justice and institutional strengthening reflected in SDG 16.

Various forms of sexual abuse perpetrated by electronic means are addressed by this legislation, which seeks to protect victims and punish offenders severely. Crimes involving the unlawful recording, photographing, or taking screenshots of sexually explicit photos or videos

²¹ John Kenedi, "Kebijakan Kriminal (Criminal Policy) dalam Negara Hukum Indonesia: Upaya Mensejahterakan Masyarakat (Social Welfare)," *Jurnal Pemerintahan dan Politik Islam: Al-Imarah* 2, no. 1 (2017): 15–26, <https://doi.org/http://dx.doi.org/10.29300/imr.v2i1.1026>.

²² Muhammad Mutawalli Mukhlis et al., "Status Anak dalam Perkawinan Campuran: Kewajiban Negara dan Implikasi Hukum Perlindungan Hak Anak," *Jurnal LITIGASI* 25, no. 2 (2024): 101–29, <https://doi.org/https://doi.org/10.23969/litigasi.v25i2.17914>.

²³ Maskun et al., "Empowering SDG 16: Electronics-Based Criminal Law Policy to Combat Sexual Violence in Indonesia," *Jurnal Hukum Novelty* 14, no. 2 (2023): 288–303, <https://doi.org/10.26555/novelty.v14i2.a26968>.

without the person's consent are thoroughly regulated under Article 14. Transmitting sexually explicit electronic documents or material with the intent to satisfy sexual urges against the recipient's will is also made illegal under this law. Furthermore, this crime encompasses the use of technological devices to stalk or track individuals for sexual purposes; the maximum penalty for this offense is four years in prison and a fine of up to Rp. 200,000,000.00.

A punishment of up to Rp. 300,000,000.00 and six years in jail are the maximum penalty for these offenses when perpetrated with the aim to extort, threaten, compel, deceive, or mislead another person into doing or not doing anything. The victim must formally file a complaint in order for the perpetrator to be prosecuted for an offense of electronic-based sexual violence, unless the victim is a minor or has a disability. The recording or transmission of explicit content does not, however, constitute a criminal if done in the public interest or in self-defense against sexual violence.

The EIT Law lays the groundwork for legally accessing internet media and electronic information. Private illegal behavior, such as sexual offenses aided by internet communication means, is expressly not addressed by the EIT Law, which primarily regulates electronic information and transactions. Crimes of indecency are regulated by Law No. 1/1946 on Criminal Law Regulations (Criminal Code/KUHP), which was later superseded by Law No. 1/2023 on the Criminal Code (National Criminal Code). However, this law only applies to public spaces and does not cover private issues, like private messages or chat platforms.

The primary issue of sexual offenses employing electronic communication devices pertains to the offenders. Criminal penalties, including incarceration and monetary fines, are explicitly governed. Nonetheless, Indonesia lacks a comprehensive legislative framework that imposes supplementary penalties on offenders of electronic-based sexual offenses. In actuality, numerous instances demonstrate that specific cases may incur supplementary criminal penalties.²⁴

In instances of corruption, the offender may receive an additional criminal penalty requiring restitution equivalent to the value of the assets acquired through corrupt practices (Refer to Article 18 Paragraph (1) letter b of Law Number 31 Year 1999 concerning the Eradication of Corruption

²⁴ Muhammad Ikram Nur Fuady et al., *Hukum Di Indonesia* (Jakarta Selatan: Galiono Digdaya Kawthar, 2023).

Crimes).²⁵ Moreover, there are supplementary penalties, including the revocation of political privileges for individuals convicted of corruption offenses.²⁶

Additional criminal consequences are necessary to establish a deterrent effect on offenders. However, within a human-rights-based legal analysis, the justification for additional sanctions should not be framed solely in terms of deterrence. It must also be grounded in the State's obligation to secure victims' rights to dignity, safety, access to justice, and effective protection from continuing abuse.²⁷ In cases of digital sexual violence, the means of perpetration are often inseparable from the harm itself: online platforms enable repetition, amplification, permanence, and wider circulation of abusive material.²⁸ For that reason, international and comparative scholarship suggests that legal reform should not be confined to naming the offence, but should also consider whether the legal system has sufficiently equipped courts to stop ongoing harm and prevent revictimization.²⁹ Thus, any proposal to restrict access to online communication tools should be carefully designed as a proportionate, reviewable, and conduct-specific measure, aimed at victim protection rather than as a general deprivation of digital freedom.

Moreover, his activities not only contravene the principle of public decency but also significantly infringe upon the human rights of the victims through acts of sexual violence facilitated by online communication technology. It engenders disorder and trepidation. Consequently, a viable solution is required to address it.

²⁵ Juliani Grace Rori, "Penjatuhan Hukum Pidana Tambahan Pencabutan Hak-Hak Tertentu oleh Hakim dalam Kasus Korupsi," *Jurnal Lex Crimen* 7, no. 9 (2019): 62–69, <https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/22574>.

²⁶ Citra Januardi Cibro, "Analisis Yuridis Penjatuhan Pidana Tambahan berupa Pencabutan Hak Politik terhadap Pelaku Tindak Pidana Korupsi yang Terkait dengan Jabatan Publik (Studi Putusan Mahkamah Agung Nomor 1195 K/Pid. Sus/2014)" (Universitas Sumatera Utara, 2022).

²⁷ United Nations, "General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19."

²⁸ United Nations, "A/HRC/38/47: Report Of The Special Rapporteur On Violence Against Women, Its Causes And Consequences On Online Violence Against Women And Girls From A Human Rights Perspective," United Nations, 2018, <https://www.ohchr.org/en/documents/thematic-reports/ahrc3847-report-special-rapporteur-violence-against-women-its-causes-and>.

²⁹ Rusdi dan Abdullah Sulaiman, "Evaluation of Legal Reform and Implementation of Protection for Victims of Sexual Violence in Indonesia Through Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence," *Jurnal Greenation Sosial dan Politik* 3, no. 4 (2025): 760–68, <https://doi.org/https://doi.org/10.38035/jgsp.v3i4>.

The Pandeglang District Court recently decided a case (No. 71/Pid.Sus/2023/PN Pdl), and the Banten High Court received an appeal (No. 96/Pid.Sus/2023/PT BTN). The offender was sentenced by the Pandeglang District Court to eight years without the ability to use any electronic communication devices that are connected to the Internet. The chain of events suggests that the perpetrator of revenge porn, AH, distributed a video with material that violates personal and social standards related to the victim, whose initials are IAK. A friend of the victim received the footage through an Instagram direct message.³⁰

The Pandeglang District Court's verdict was overturned by the Banten High Court's panel of judges due to the fact that the EIT Law does not provide for such additional criminal punishments. There can be no crime and, by extension, no penalty, according to the principle of *nullum delictum nulla poena sine praevia lege poenali*.

Primarily, there is clearly a lack of legislation about the addition of criminal penalties for the revocation of permission to use online communication utilities. To establish transparent and exact rules about the subject, legislation is necessary. Not simply to ensure justice, but also for the sake of clear law. A law that is unfair to some people is not a law, as the old adage goes.

The ruling of the Pandeglang District Court may be read as an important judicial signal that the existing legal framework is struggling to respond adequately to technology-facilitated sexual violence, even though the legality principle still requires any additional sanction to be expressly grounded in statutory law.³¹

In addition to the *ratio decidendi*, or the judge's reasoning behind a decision, judicial authority also encompasses the principle of *rechtsschepping*, where judges play a role in creating law. This authority arises under specific conditions that necessitate judicial interpretation and innovation. First, when there are no explicit legal provisions governing a particular issue, judges are required to fill the legal vacuum through their rulings. Second, in cases where existing legal norms are ambiguous or open to multiple interpretations, judicial discretion is essential in clarifying the law's meaning and ensuring its effective application. Third, although excluded in this context, legal creation can also emerge when existing legislation no longer aligns with contemporary principles of justice,

³⁰ Bahtiar Rifa'i, "PT Banten Hapus Pencabutan Hak Akses Internet Alwi Terdakwa Revenge Porn," Detik News, 2023, <https://news.detik.com/berita/d-6894747/pt-banten-hapus-pencabutan-hak-akses-internet-alwi-terdakwa-revenge-porn>.

³¹ Sudikno Mertokusumo, *Penemuan Hukum Sebuah Pengantar* (Yogyakarta: Liberty, 2007).

prompting judges to adapt legal interpretations to uphold fairness. Lastly, judicial lawmaking may be derived from prior court decisions or the authoritative opinions of legal scholars, reinforcing the development of legal doctrines and precedents.³²

The judges in the stated case had to deal with the fact that there are no laws that make it illegal to deny someone access to online communication tools. Therefore, the additional criminal term issued by the Pandeglang District Court judge was not necessarily a violation of the EIT Law, but it still raised a legality concern because such a sanction had not been expressly formulated in statutory law. It is more of an effort to build law. The ruling, at the very least, indicates that such harsher criminal penalties are necessary.

As a kind of social control, harsher criminal punishments are required for perpetrators of electronic-based sexual abuse, including the denial of access to internet communication tools. It is possible to formulate claims that clarify each kind of social control, according to Donald Black's writings.³³ For instance, social etiquette or the apprehension of criminals and other forms of social regulation. Roscoe Pound asserted that the law serves as an instrument of social engineering.³⁴

In the analysis of laws across several industrialized nations, including Canada and Germany, particular restrictions have been instituted concerning criminal sanctions that revoke specific rights, notably the restriction of internet access for sexual offenders. Section 161(1), PART V: Sexual Offences, Public Morals, and Disorderly Conduct of the Criminal Code of Canada (R.S.C., 1985, c. C-46) stipulates:³⁵

Section 161(1) of the Criminal Code of Canada outlines specific prohibitions that may be imposed on offenders convicted or discharged under a probation order for offenses involving minors under the age of 16. These restrictions serve to prevent further harm and safeguard vulnerable individuals from potential reoffending. Among the key prohibitions, offenders may be barred from attending public spaces where minors are present, such as parks, swimming areas, daycare centers, school

³² Harifin A Tumpa, "Penerapan Konsep Rechtsvinding dan Rechtsschepping oleh Hakim dalam Memutus Suatu Perkara," *Hasanuddin Law Review* 1, no. 2 (2015): 122–33, <https://doi.org/https://doi.org/10.20956/halrev.v1i2.90>.

³³ Donald Black, *The Behavior of Law* (Jakarta: Pelangi Cendekia, 2020).

³⁴ Nazaruddin Lathif, "Teori Hukum sebagai Sarana Alat untuk Memperbaharui atau Merekayasa Masyarakat," *Pakuan Law Review* 3, no. 1 (2017): 73–94, <https://doi.org/https://doi.org/10.33751/v3i1.402>.

³⁵ Minister of Justice, "Criminal Code, R.S.C., 1985, c. C-46," Department Of Justice Canad, 1985, <https://laws-lois.justice.gc.ca/eng/acts/c-46/>.

grounds, playgrounds, or community centers. Additionally, they may be restricted from residing near the victim's home or specific locations determined by the court, ensuring a protective distance that minimizes risk. The law also prohibits offenders from seeking or maintaining employment or volunteer roles that place them in positions of trust or authority over minors.

More significantly, as seen in paragraph (d), the court may impose strict limitations on the use of the internet or other digital networks, allowing access only under court-determined conditions. This provision reflects the growing recognition of digital platforms as potential tools for facilitating exploitation, reinforcing the necessity of preventive measures in an increasingly interconnected world. The inclusion of such digital restrictions underscores a progressive legal approach to addressing cyber-facilitated offenses, setting a precedent that could be considered in Indonesia's national criminal law.

In addition, in Section 68b of the German Criminal Code (Strafgesetzbuch – StGB)³⁶ It is also regulated in Section 68b of the German Criminal Code (Strafgesetzbuch – StGB) regarding sanctions and restrictions for sexual offenders. Essentially, this provision outlines restrictions that may be imposed on offenders. The court may apply certain restrictions during the supervision period or for a shorter duration. Restrictions imposed on offenders can encompass a wide range of prohibitions aimed at preventing recidivism and ensuring public safety. These may include limiting movement by restricting the offender from leaving their residence or a designated area without prior authorization, prohibiting visits to certain locations, and barring contact with specific individuals, including victims or vulnerable groups.

Offenders may also be restricted from engaging in activities or possessing items that could facilitate further offenses, such as the use of vehicles for illicit purposes. In addition to these limitations, convicted individuals may be required to report regularly to the authorities, notify officials of any changes in their address or employment status, report periods of unemployment, and refrain from consuming alcohol or drugs if such substances pose a risk of triggering further criminal behavior. Compliance measures may also include undergoing non-invasive substance testing, attending mandatory sessions with medical or

³⁶ Federal Ministry of Justice and the Federal Office of Justice, "German Criminal Code (Strafgesetzbuch – StGB)," Federal Ministry of Justice and the Federal Office of Justice, 1998, https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html.

psychological professionals, and carrying electronic monitoring devices that must remain functional and untampered with.

Given the comprehensive nature of such restrictions, Indonesia should establish clear technical regulations governing the limitation of online communication tools for offenders of electronic-based sexual violence. To ensure the effective implementation of such additional sanctions, Indonesia's criminal law should introduce a structured mechanism for revoking access to digital communication platforms when deemed necessary.

In line with current legislative requirements, the suspension or termination of an individual's ability to use online communication tools should be considered an extra discipline that can be chosen as needed. Secondly, it is necessary to develop an oversight unit within the Ministry of Communication and Information (Kominfo), in partnership with the Correctional Institutions (Lapas) and the National Human Rights Commission (Komnas HAM), in order to track adherence to these supplementary sanctions. Thirdly, supplementary punishments ought to be reserved for particular instances, such as when the principal penalty is not a death sentence or life in prison, when the supplementary punishment goes beyond the jail term, when the criminal signifies a formal declaration and report, and when the criminal repeats the offense.

A written request from the court and consideration by the Panel of Judges should form the basis for the National Commission on Human Rights' decision to impose such punishments, which should only be done after their recommendations. Last but not least, offenders who commit acts of sexual violence through electronic means should be subject to criminal sanctions that include the loss of access to certain forms of online communication; this punishment should be enacted with the guiding principle of protecting victims, offenders, and society at large. Incorporating these legislative protections will allow Indonesia to further its dedication to ending sexual abuse in cyberspace while also respecting human rights and justice.

Comparative Perspectives in Asia: Malaysia, Thailand, and Japan

A. Malaysia

Ammar Abdullah Saeed Mohammed and Nazli Ismail Nawang³⁷ identifies the Communications and Multimedia Act 1998 as a central framework, with Sections 211 and 233 frequently discussed as key bases for regulating online communications viewed as offensive or improper. They recurring criticism that these provisions can be applied broadly and may be used to suppress criticism or political commentary, raising concerns about freedom of expression and legal certainty. Ahmad et al.,³⁸ similarly treats the CMA as enabling state regulation of social media communications and frames Sections 211 and 233 as provisions that can shape or restrict online expression. In the specific context of non-consensual intimate image abuse, comparative legal research has argued that Malaysia often relies on a patchwork of provisions including the Penal Code together with Section 233 of the CMA, rather than a single purpose-built statute.³⁹ Recent constitutional litigation⁴⁰ also illustrates the risks of overbroad drafting, as Malaysian courts have scrutinized the constitutionality of Section 233 language relating to offensive content and intent requirements.

From a sentencing-design standpoint, Malaysia's experience is useful as a cautionary comparator, where legal standards are expansive or conceptually vague, enforcement can become inconsistent and vulnerable to constitutional challenge. Accordingly, if Indonesia develops limitations on online communication tools as a penal measure, comparative lessons

³⁷ Ammar Abdullah Saeed Mohammed dan Nazli Ismail Nawang, "Offensive Content on The Internet: The Malaysian Legal Approach," *International Journal of Innovation, Creativity and Change* 5, no. 2 (2019): 367–77, https://www.researchgate.net/publication/335227743_Offensive_Content_on_The_Internet_The_Malaysian_Legal_Approach.

³⁸ Rusniah Ahmad, Ahmad Shamsul Abd Aziz, dan Nor Azlina Mohd Noor, "Communications And Multimedia Act 1998: A Discussion," in *Public Law Remedies In Government Procurement: Perspective From Malaysia*, 2017, <https://doi.org/10.15405/epsbs.2018.12.03.85>.

³⁹ Afiqah Nadhirah Binti Nordin et al., "A Criminal Perspective on Revenge Pornography: Comparative Legal Gaps and Public Perceptions in Malaysia and Indonesia," *International Journal Of Academic Research In Business And Social Sciences* 15, no. 10 (2025): 613–25, <https://doi.org/http://dx.doi.org/10.6007/IJARBS/v15-i10/26658>.

⁴⁰ Yeap Yee Lin dan Sarah San, "Court of Appeal Delivers Landmark Ruling on the Constitutionality of the Prohibition Against Content that is 'Offensive' and 'with Intention to Annoy' under Section 233(1)(a) of the Communications and Multimedia Act 1998," Christopher & Lee Ong Malaysia, 2025, <https://www.christopherleeong.com/viewpoints/court-of-appeal-delivers-landmark-ruling-on-the-constitutionality-of-the-prohibition-against-content-that-is-offensive-and-with-intention-to-annoy-under-section-2331a-of-the-communications-and/>.

suggest it should be anchored to narrowly defined harms and accompanied by transparent thresholds, procedural safeguards, and review mechanisms to strengthen proportionality and legality.

B. Thailand

Cheurprakobkit and Lerwongrat⁴¹ discussing Thailand's cybercrime regime often positions the Computer Crime Act, including its modern amendments, as a core legal instrument used to address computer-related wrongdoing and online dissemination harms. Benkhan examining non-consensual disclosure of intimate images emphasizes a recurring doctrinal problem: treating intimate-image disclosure as ordinary pornography dissemination can distort culpability and proportionality because the images are private and linked to personal autonomy and dignity harms.

Benkhan likewise differentiates intimate images from typical pornography and argues that applying general pornography rules to non-consensual intimate image disclosure creates legal problems and may be insufficiently effective to protect victims' rights. These analyses support a reform logic that prioritizes conduct-specific criminalization and victim-protective remedies, rather than primarily expanding broad restrictions that are hard to supervise in practice. They also imply that a system focused on interrupting circulation and preventing repeated victimization through continued sharing is operationally central, because the core harm escalates when dissemination persists.

For Indonesia's drafting choices, the Thai literature is relevant because it highlights why legal frameworks should distinguish intimate-image abuse from general obscenity concepts, then align sanctions and remedies with that distinct harm profile. If Indonesia adopts restrictions on online communication tools, Thailand's comparative discussion suggests that such restrictions are more defensible when they are tightly scoped to prevent repeat dissemination or harassment conduct, rather than framed as a generalized deprivation of internet access.

C. Japan

Comparative criminal-law literature explains that Japan initially addressed intimate-image abuse through general Penal Code provisions

⁴¹ Sutham Cheurprakobkit dan Kidtanathat Lerwongrat, "Criminal Justice Officials' Attitudes Towards Addressing Computer Crimes In Thailand: Difficulties And Recommendations," *Trends in Organized Crime* 28 (2023): 293-313, <https://doi.org/https://doi.org/10.1007/s12117-023-09493-2>.

and local nuisance-prevention ordinances, but concerns about insufficiency contributed to national legislative movement.⁴² They state that Japan introduced a dedicated 2014 statute regulating revenge pornography, reflecting an explicit shift toward specialized regulation.

Matsui⁴³ analyzes Japan's revenge pornography legislation and critically evaluates constitutional implications, including tensions with freedom of expression. Kotani⁴⁴ describes the 2014 law's enactment context and discusses the speed of passage and the policy drivers behind adoption, again emphasizing the move toward specialization in this area of harm.

Japan's specialization has continued through subsequent reforms, including a 2023 statute on the punishment of acts of filming sexual images and on the erasure of electronic or magnetic records relating to sexual images.⁴⁵ This Japanese trajectory shows a pattern of building a targeted toolkit for image-based sexual abuse, combining dedicated offences with procedural mechanisms connected to recorded sexual images.

For Indonesia, Japan functions as a strong comparator supporting the argument that precision in defining prohibited conduct and creating harm-specific legal routes can be preferable to broad restrictions on general online communication tools.

Challenges in Setting Additional Criminal Sanctions for Revocation of Access to Online Communication Tools for Perpetrators of Electronic-Based Sexual Violence

A method to combat crime is by employing criminal law to impose sanctions. This approach is frequently contested. For millennia, differing

⁴² Y. Okada, "Criminalization of intimate image abuse in Japan," in *Criminalizing intimate image abuse: A comparative perspective* (Oxford University Press, 2024).

⁴³ Shigenori Matsui, "The Criminalization of Revenge Porn in Japan," *Washington International Law Journal* 24, no. 2 (2015): 289–317, <https://digitalcommons.law.uw.edu/wilj/vol24/iss2/11/>.

⁴⁴ Junko Kotani, "Regulation of Sexual Expression in Japan: Criminalisation of Non-Consensual Distribution of Private Sexual Images and Beyond," *Australian Journal of Asian Law* 23, no. 2 (2022): 125–38, <https://ssrn.com/abstract=4284294>.

⁴⁵ Tokikazu Konishi dan Sakiko Ishida, "Criminal Law and Procedure," *Waseda Bulletin of Comparative Law* 43, no. 72 (2025): 58–62, https://waseda.repo.nii.ac.jp/record/2000894/files/WasedaBulletinOfComparativeLaw_42_26.pdf.

viewpoints on the function of punishment in combating crime have endured, as indicated by Inkrei Anttila. Herbert L. Packer asserts that the endeavor to regulate anti-social conduct through the imposition of penalties on those who breach criminal laws constitutes a social issue with considerable legal implications.⁴⁶ Before explaining further, it is important to understand that the term “punishment” (strafoemeting) is derived from the word “punishment” (straf).⁴⁷

The phrase criminal pertains to the application of punishment, criminal sanctions, or criminal punishments. The notion of criminalization pertains to legal procedures associated with the administration of punishment (criminalization system). According to the new criminal code in Indonesia, judges must maintain law and justice in trying criminal cases, as stated in Article 53 of the National Criminal Code, which lays out the requirements for punishment. When tensions emerge between judges' duties to maintain law and justice, they must put the principle of fairness ahead of precise legal requirements.

Countless factors must be taken into account in every law that is passed. If the legislation fails to fulfill community needs, it could be seen as an infringement on their will. Another issue is that while criminalizing an act, human rights (HAM) aren't always taken with account.⁴⁸

The 1945 Constitution of the Republic of Indonesia guarantees certain rights to its citizens. The freedom to know is guaranteed by the Constitution of 1945 as a basic human right. Everyone has the right to freely express themselves, learn as much as they want, and work on improving themselves and their communities, according to Article 28F of the Constitution from 1945. They have the right to utilize various communication channels to search, acquire, own, store, manage, and transmit information.⁴⁹

However, the exercise of these rights is not absolute because Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia allows rights and freedoms to be limited by law to ensure recognition and respect for the rights and freedoms of others, as well as to satisfy

⁴⁶ Jandi Mukianto, *Prinsip dan Bantuan Hukum di Indonesia* (Jakarta: Kencana Prenada Media Group, 2017).

⁴⁷ Lysa Angrayni dan Hj Yusliati, *Efektivitas Rehabilitasi Pecandu Narkotika serta Pengaruhnya terhadap Tingkat Kejahatan di Indonesia* (Ponorogo: Uwais Inspirasi Indonesia, 2018).

⁴⁸ Muhammad Mutawalli, *Negara Hukum Kedaulatan Dan Demokrasi (Konsepsi Teori Dan Perkembangannya)*, 1 ed. (Surabaya: Pustaka Aksara, 2023).

⁴⁹ Muhammad Mutawalli, “Implementasi Prinsip Konvensi Internasional dalam Mengurai Pelanggaran HAM di Indonesia,” *Jurnal Arajang* 6, no. 1 (2023): 1–21, <https://doi.org/https://doi.org/10.31605/arajang.v6i1.2829>.

considerations of morality, religious values, security, and public order in a democratic society. As a result, people must follow the rules when they use their freedoms and rights. This is done in a democratic society in order to maintain public order, protect individual rights and liberties, and administer justice in accordance with religious values, public safety, and ethical norms.

The rights described above are fundamental rights when considering human rights. According to D. F. Scheltens basic rights, known as *Grondrechten* in translation,⁵⁰ are granted to individuals based on their citizenship status within a country. Thus, these rights could be categorized as either derogable rights, where the state is fully responsible for their fulfillment, or positive rights. Rights in the realms of politics and civil society that are not absolute and which the state may suspend under certain circumstances are known as derogable rights. These rights cover: (i) the ability to peacefully gather in large groups; (ii) the freedom to form and join labor unions; and (iii) the right to freely express oneself, including the ability to seek, receive, and share ideas and information verbally or in writing.⁵¹

Access to online communication tools is a basic right that the state might withdraw if it deems it necessary, according to the previously indicated reasoning. Therefore, the criminal penalty of denial of access to internet communication tools for perpetrators of sexual abuse through electronic means is legitimate under the Constitution.

One legal maxim, *apices juris non sunt jura*, signifies that the law must serve as the supreme authority in the affairs of the nation and state. The law must be robust and applied impartially.⁵² This indicates that the law must be unequivocally enforced to safeguard societal interests without exception. To uphold order and social justice comprehensively. Consequently, the imposition of supplementary criminal sanctions is fundamentally aligned with the human rights of numerous individuals in Indonesia.

Perpetrators of sexual violence committed by electronic means violate public decency and the standards of justice, which disproportionately impact victims. Article 73 of the Human Rights Law is cited in the book by Ruslan Renggong and Dyah Aula Rachma Ruslan.

⁵⁰ Munandar, *Menilik Konsepsi Hukum, Hak Asasi Manusia, dan Keadilan*.

⁵¹ Suparman Marzuki, "Perspektif Mahkamah Konstitusi tentang Hak Asasi Manusia," *Jurnal Yudisial* 6, no. 3 (2013): 189=206, <https://doi.org/https://doi.org/10.29123/jy.v6i3.98>.

⁵² Zainal Arifin Mochtar dan Eddy O.S. Hiariej, *Dasar-Dasar Ilmu Hukum: Memahami Kaidah, Teori, Asas, dan Filsafat Hukum* (Depok: PT Raja Grafindo Persada, 2023).

This article states that the rights and freedoms outlined in the law are meant to ensure the recognition and respect of human rights, the fundamental freedoms of others, decency, public order, and national interests. Human rights and basic freedoms, according to Ruslan Renggong and Dyah Aulia Rachma Ruslan, are inherently absolute; but, there are certain situations in which they can be limited, and such restrictions must be codified into law. This limitation does not apply in a broad sense; rather, it applies to certain traits related to the sacredness of life, state sovereignty, and national integrity.⁵³

The aforementioned viewpoint is pertinent to the offense of sexual assault by electronic means. Indonesian culture rejects and condemns sexual assault as immoral and unethical. The basic goal of criminal law, according to Lord Devlin, is to uphold moral and ethical values in society.⁵⁴

Another rationale for the potential necessity of supplementary criminal punishments is the ubiquity of pervasive, unregulated offenses inside society. These concealed offenses are very alarming and necessitate more stringent efforts to avert future incidents. A significant number of these offenses stay concealed as both the perpetrator and the victim strive to obscure the conduct from public scrutiny.⁵⁵ Victims often acquiesce to the demands of offenders due to several factors, including the apprehension of violence or additional threats. In numerous instances, victims are predominantly compelled by the prospect of their personal information being disclosed should they fail to acquiesce to the perpetrator's requests.

This unethical behavior must be rectified with a more commensurate approach. The advised method is retribution. Incapacitation theory is one of the most esteemed ideas of punishment. This theory entails penalizing offenders by limiting their liberty for a designated duration to protect

⁵³ Ruslan Renggong dan Dyah Aulia Rachma Ruslan, *Hak Asasi Manusia dalam Perspektif Hukum Nasional* (Jakarta: Kencana Prenada Media Group, 2021).

⁵⁴ Lidya Suryani Widayati, "Kebijakan Kriminalisasi Kesusilaan dalam Rancangan Undang-Undang tentang Hukum Pidana dari Perspektif Moral," *Jurnal Negara Hukum* 9, no. 2 (2018): 181–98, <https://doi.org/https://doi.org/10.22212/jnh.v9i2.1051>.

⁵⁵ I Gusti Ngurah Erman Triardana, Ni Putu Rai Yuliantini, dan Dewa Gede Sudika Mangku, "Tinjauan Kriminologis terhadap Tindak Pidana Kekerasan dalam Rumah Tangga di Kabupaten Buleleng," *e-Journal Komunitas Yustisia Universitas Pendidikan Ganesha* 4, no. 2 (2021): 461–72, https://ejournal.undiksha.ac.id/index.php/jatayu/article/view/38111?__cf_chl_f_tk=n.14gtCygf30319RsflVhI43ZTGEL4xXRjujOqGqWY-1783156806-1.0.1.1-IYaCPb.tHOW4ZfoDyQXfUuEBDIRaF.WGIZwsMnh0fIM.

society as a whole.⁵⁶ This theory addresses illegal acts that endanger society, particularly those related to electronic sexual violence and other unsettling behaviors.

In order to control crime within the criminal justice system, it is essential to regulate criminal sanctions that limit offenders' access to electronic communication devices. According to Mardjono, the criminal justice system is a social mechanism that tackles criminal activity.⁵⁷

Mitigating crime is regulating criminal activity to maintain it within the bounds of public acceptance. The criminal justice system aims to achieve three primary objectives: first, to protect the public from becoming victims of crime; second, to address crimes in a way that fosters public confidence in the justice system, ensuring that offenders receive suitable punishment; and third, to deter recidivism among individuals with prior criminal offenses. Given these aims, it is clear that the enforcement of punishments is crucial for tackling sexual offenses perpetrated via online electronic media. Provided that the regulations conform to essential legal principles, especially those prioritizing fairness and proportionality, their implementation will not violate human dignity.

Nonetheless, the implementation of supplementary criminal penalties poses numerous obstacles for law enforcement authorities. A significant concern is the interplay between human rights standards and legal punishments, as severe limits may result in abuses of fundamental freedoms. The professionalism of law enforcement personnel is essential for the just and impartial imposition of sanctions. Moreover, the current facilities and infrastructure for overseeing the enforcement of such sanctions necessitate substantial enhancement to guarantee successful implementation. A further obstacle pertains to the necessity for social adaptation, as these policies are relatively novel and may not have been adopted in any other nation, necessitating gradual community acceptance and institutional modifications.

Notwithstanding the lack of analogous legislation in other jurisdictions, Indonesia ought to earnestly contemplate the implementation of such measures, especially in light of its dedication to maintaining moral and ethical principles as articulated in Pancasila and the 1945 Constitution of the Republic of Indonesia. Legal frameworks must be progressive, following the idea of *lex prospicit*, not *respicit* (the law

⁵⁶ Andi Sofyan dan Nur Azisa, *Buku Ajar Hukum Pidana* (Makassar: Pustaka Pena Pers, 2016).

⁵⁷ Romli Atmasasmita, *Sistem Peradilan Pidana Kontemporer* (Jakarta: Kencana Prenada Media Group, 2010).

looks forward, not backward), to ensure that laws stay pertinent in addressing developing societal challenges. A judicial remedy is essential to address sexual assault committed via electronic media, as these actions not only breach standards of decency but also infringe upon the core principles of international human rights. Human dignity is fundamentally a global idea that emphasizes the necessity of acknowledging and honoring the rights of every individual.⁵⁸

According to human rights theory, it is the indisputable duty of the state to preserve and defend the rights of its inhabitants. There are three main duties that fall under this category. To begin, the state has a responsibility to respect human rights by not doing anything that could be seen as an infringement on such rights. This includes not allowing citizens to freely pursue and practice their human rights without interference. Furthermore, the government is obligated to prohibit third parties from violating the human rights of its inhabitants, as part of its obligation to protect them. Third, the state must establish procedures through legislation, administration, law, and the budget to ensure that all individuals fully realize their human rights; this is known as the responsibility of fulfillment.

Based on these basic duties, it's clear that the state has an obligation to safeguard its inhabitants from damage, even when it comes from outside sources. This guiding concept explains why more severe criminal penalties, like cutting off the criminals' access to internet-based electronic communication tools, are needed for sexual violence. Those who engage in sexual assault via electronic means do so in violation of the human rights of others, as well as of Indonesian law and the principles of basic human rights. It would be necessary to amend the relevant Indonesian criminal law framework, particularly the SVCA Law and, where necessary, the EIT Law, in order to integrate such punishments into Indonesia's criminal law system.

Applying the *lex specialis systematis* principle, which determines the applicability of special legal provisions, the *Systematische Specialiteit* approach suggests that between the two statutes, the most relevant law should be applied in cases of electronic-based sexual violence. Given that the SVCA Law is specifically designed to address sexual violence, whereas the EIT Law historically regulates electronic information and transactions,

⁵⁸ Andi Akhira Khairunnisa, "Penerapan Prinsip-Prinsip Hak Asasi Manusia dalam Pembentukan Produk Hukum oleh Pemerintah Daerah," *Jurnal MP (Manajemen Pemerintahan)* 5, no. 1 (2018): 65–78, <https://ejournal.ipdn.ac.id/JMP/article/view/451/273>.

it would be more appropriate for additional sanctions related to online sexual violence to be incorporated into the SVCA Law.

Considering these factors, Indonesia must recognize the urgency of implementing additional criminal sanctions to combat sexual violence perpetrated through online platforms. This is an essential measure in adapting to the evolving nature of cybercrime, particularly in an era where internet access has become an indispensable aspect of daily life. Far from infringing upon human rights, the introduction of these sanctions serves as a protective mechanism that upholds the rights of victims and prevents further harm. By integrating these legal measures, Indonesia reaffirms its commitment to ensuring justice, strengthening legal protections, and preserving human dignity in the digital age.

Conclusion

In order to fill the deficiencies in Indonesia's current legislative framework, it is important that perpetrators of electronic-based sexual abuse face extra criminal punishments, such as the loss of access to online communication tools. The absence of clear regulation of such supplemental punishments under the current Sexual Violence Criminal Acts Law (SVCA Law, Law No. 12 of 2022) and the Electronic Information and Transactions Law (EIT Law, Law No. 19 of 2016) renders the existing framework less effective as a deterrent to offenders. Establishing more extensive legislative measures to properly handle sexual violence is vital, given the increased incidence of this crime enabled through digital platforms. By making sure that perpetrators suffer fair punishments, these sanctions are in line with human rights values and put victims' needs first.

This study's originality comes from its *lex specialis systematis*-based recommendation to amend the SVCA Law to include new criminal penalties instead of placing the reform primarily within the EIT Law. While the EIT Law mainly regulates electronic information and transactions, the SVCA Law governs acts of sexual violence specifically. To ensure that legal responses to online sexual violence address the root problem—protecting victims and reducing recidivism—instead of merely regulating electronic communications, Indonesia could amend the SVCA Law to include proportionate limitations on online access privileges. Section 161 of the Criminal Code of Canada and Section 68b of the StGB of Germany both limit the ability of sexual offenders to access the internet; this strategy would take a page out of their books.

This study has important ramifications for how criminal justice legislation in Indonesia is shaped going forward. The first point is that additional sanctions should not infringe on constitutional rights, so the National Human Rights Commission (Komnas HAM), Correctional Institutions (Lapas), and the Ministry of Communication and Information (Kominfo) should work together to clarify the procedures. Furthermore, it stresses the need for robust legal mechanisms and technical frameworks to ensure efficient monitoring of compliance with such sanctions. Last but not least, it lays the groundwork for future research on the equilibrium between criminal penalties and human rights, with a focus on the digital realm where the ability to communicate online is frequently regarded as an essential right. In order to combat electronic-based sexual violence, preserve legal clarity, and promote human rights, the study proposes this amendment. Both Indonesia and other jurisdictions facing comparable difficulties in regulating digital crimes can benefit from this research, which adds to the reform of Indonesian criminal law.

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