The Urgency of Regulating Access to Pornography Content in Law No. 44 of 2008 concerning Pornography

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Abstract

Pornographic content is very troubling in the recent technological development, the impact of pornographic content has caused various kinds of negative things, one of which is addiction to pornographic content, this paper aims to answer the problems raised, namely related to the act of accessing pornographic content. The research method uses normative juridical by examining primary legal materials such as laws, as well as secondary legal materials such as books, journals and so on. The results of the study include an overview of whether the act of accessing falls into the category of pornography laws. The results of this study contain that it is appropriate for the act of accessing to be included in the category of pornography laws so that changes to the law are needed related to the act of accessing sexual content.

***Keywords**: Acts of Access, Pornography Laws, Pornographic Content.*

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A. INTRODUCTION

The Republic of Indonesia is a legal state based on Pancasila and the 1945 Constitution, which upholds the values of morality, ethics, noble character, and the high character of the nation, faithful and devoted to the One Almighty God, respects diversity in social, national, and state life, and protects the dignity and rights of every citizen. Globalization and the development of science and technology, especially information and communication technology, have contributed to the increasing production, dissemination, and use of pornography, which has a negative impact on the moral and noble character of the Indonesian nation, thus threatening the lives and social order of Indonesian society. The widespread prevalence of pornography in society has also led to an increase in sexual offenses and abuse.

The prevalence of pornography in Indonesia has been shown to have a significant negative impact on the nation's social and cultural values. Wijayanti & Fairus (2020) found that exposure to pornography was associated with a decrease in religiosity and an increase in negative attitudes towards women among Indonesian college students. Rahmayani et al. (2021) found that exposure to pornography was associated with an increased risk of perpetrating sexual violence among Indonesian men. The authors argued that the normalization of pornography in Indonesian society may be contributing to a culture of sexual violence and harassment. The rapid development of technology must be accompanied by good moral values, norms, manners, and propriety. If not, technological progress can destroy the life and meaning of the nation and state due to excessive permissiveness in social interaction.

These findings highlight the need for the Indonesian government to take action to address the harmful effects of pornography on the nation's social and cultural values. Efforts to regulate the production, dissemination, and use of pornography, as well as to promote healthy attitudes towards sex and relationships, may help to mitigate the negative impact of pornography on Indonesian society (Hafiar et al., 2019). Additionally, efforts to promote religious and cultural values that uphold the dignity and rights of every citizen may be necessary to counteract the negative effects of globalization and technology on Indonesia's moral and noble character (Rohaeni et al., 2021).

When discussing the criminal offense of pornography, it is useful to review what is meant by "*pidana*" (criminal law). "*Pidana*" is a principle or rule that regulates public conduct, while "*hukum pidana*" (criminal law) according to Moeljanto (1987), refers to the part of a country's legal system that enforces the fundamental rules and regulations for:

1. Determining which actions are not allowed, followed by sanctions, and certain criminal penalties against anyone who violates the prohibitio;
2. Determining when and for what actions criminal sanctions can be imposed on those who violate the law;
3. Determining how those sanctions will be enforced if someone is charged with violating the prohibited actions.

Criminal law in Indonesia is divided into two parts, namely general criminal law and special criminal law. General criminal law is a criminal law that can be applied to anyone in general, while special criminal law is intended for certain individuals or laws that regulate certain offenses (Octarina, et al., 2021). According to Jan Remelink, special criminal offenses are called delicti propria, "which is a crime committed by a person with certain qualities or qualifications" (Octarina, et al., 2021).

Deviation from the provisions in criminal law contained in the Criminal Law is a measure of whether the Criminal Law is a special or general criminal offense. Therefore, special criminal law is the Criminal Law or criminal law regulated in separate regulations outside the Criminal Code which in Indonesia it's called "*Kitab Undang-Undang Hukum Pidana*" (KUHP). This is in line with the statement that special criminal law has its own purposes and functions (Octarina, et al., 2021).

Whenever there is a criminal penalty or the term "criminal", there is always a reference to a criminal act. A criminal act is a term that contains a basic understanding in legal science, as a term formed with awareness in providing certain characteristics in criminal law events. Criminal acts have an abstract meaning from concrete events in the field of criminal law, so criminal acts must be given a scientific and clear meaning to be able to separate them from the terms used in everyday life in society (Tomalili, 2019).

Returning to the topic of pornography in this article, pornography itself has the meaning of images, sketches, illustrations, photos, writings, sounds, noises, moving images, animations, cartoons, conversations, bodily movements, or other forms of messages through various forms of communication media and/or public

performances, which contain indecency or sexual exploitation that violates social norms of decency.

The background of the emergence of the pornography law is based on the fact that Indonesia has a strong Pancasila spirit, so there must be rights that must be protected, respect for human dignity and values, legal certainty, non-discrimination, and protection of all Indonesian citizens without exception (Nurjanah et al., 2022).

The purpose of the pornography law is to;

1. Realize and maintain an ethical and noble society, uphold the values of the One Supreme God, and respect the dignity and humanity of individuals;
2. Respect, protect, and preserve the values of art and culture, customs, and religious rituals of Indonesia's diverse society;
3. Provide guidance and education on the morals and ethics of society;
4. Provide legal certainty and protection for citizens from pornography, especially for children and women; and
5. Prevent the spread of pornography and commercialization of sex in society.

The goals are good because pornography has significant negative impacts such as promiscuity that can lead to deadly diseases like HIV/AIDS and abortion, from the perspective of the actor, and if viewed, it can cause brain damage, addiction, and other medical consequences that can result in losses if left without strict regulation related to pornography:

1. Sexual intercourse, including deviant sexual intercourse;
2. Sexual violence;
3. Masturbation or self-stimulation;
4. Nudity or suggestive depictions of nudity;
5. Genitalia; or
6. Hild pronography.

In its second article, it is mentioned that any person is prohibited from providing pornography services that:

1. Explicitly present nudity or suggestive depictions of nudity;
2. Explicitly present genitals;
3. Exploit or exhibit sexual activities; or
4. Affer or advertise, directly or indirectly, sexual services.

According to the author, there is a legal vacuum regarding whether accessing sexual content can be considered a pornography offense. This is because the pornography law does not mention whether accessing sexual content is included as part of pornography. For example, someone may create sexual content and store it on a drive or online platform, which can then be accessed by others. While the producer can be punished under pornography law, the question is whether accessing the content is also punishable. This is the main problem being researched.

One recent example of this is the spread of sexual content titled "*kebaya merah*" (red kebaya), which was reported by Kompas TV. In the video, there are performers and those who produced the photos and videos, which all violate the pornography law. But what about those who did not do anything but only accessed the content

online, since the video has spread on Twitter? Can they also be punished under the pornography law? Sexologist expert Dr. Boyke Dian Nugroho has stated that some men may be attracted to striking colors, like the red kebaya worn by the performers (Vanya, 2022).

However, after the news went viral, there were statements that the actress who wore the red kebaya in the video had a split personality, had a mental disorder, and other things, which have not been proven yet as the case is still under investigation. It is interesting to consider the criminal liability if the above statements are true, whether there is a reason to acquit the actress in the video. We will also discuss the issue of criminal responsibility in the upcoming discussion.

B. LITERATURE REVIEW

1. Criminal Elements

Criminal act is an act that is prohibited by a legal rule, which is accompanied by a certain penalty (sanction), for whoever violates the prohibition. It can also be said that a criminal act is an act that is prohibited and penalized by a legal rule, as long as it is remembered that the prohibition is directed at the act (i.e. a state or incident caused by a person's behavior), while the criminal threat is aimed at the person who caused the incident (Chuasanga, Victoria, 2019).

The elements or components of a criminal act, according to Moeljatno, are:

a. Behavior and consequence (action).
b. Circumstances or conditions accompanying the action.
c. Aggravating circumstances that increase the severity of the punishment.
d. Objective illegality element.
e. Subjective illegality element (Teguh, 2017).

There is also a term called Criminal Act (Sari, 2020). Criminal Act is an act which is prohibited by the law and threatened with criminal sanction, where the notion of act here is not only an active act (doing something that is actually prohibited by the law) but also a passive act (not doing something that is actually required by the law (Teguh, 2017).

After understanding the definition and deeper understanding of the criminal act itself, then there are elements of a criminal act, namely:

a. The objective element

   Elements that exist outside the perpetrator. Elements related to the circumstances in which the perpetrator's actions are carried out. Consists of:

   1). Illegality
   2). Quality of the perpetrator

   For example, the status of a civil servant in a crime related to their duties under Article 415 of KUHP, or the position of an executive or commissioner of a limited liability company in a crime under Article 398 of KUHP.

   3). Causality

   The relationship between an action as a cause and a fact as an effect.

b. The subjective element

Elements that exist or are inherent in the perpetrator, or are associated with the perpetrator and include everything contained in their mind. These elements consist of:

1). Intention or negligence (*dolus* or culpa).
2). Attempted intent, as determined in Article 53 (1) of KUHP.
3). Various types of intentions, such as those found in crimes of theft, fraud, extortion, and so on.
4). Pre-planning, as stipulated in Article 340 of KUHP, namely premeditated murder.
5). Fear, as found in Article 308 of KUHP.

2. Criminal Liability

In criminal law, several theories have been formulated by experts to explain in detail about punishment and the purpose of imposing punishment (Usman, 2011). Generally, theories of punishment are divided into three major groups, namely:

a. Absolute theory or retributive theory

This stream considers the basis of criminal law to be the concept of revenge (vergelding or vergeltung). The absolute theory views punishment as retribution for the committed crime. So, it is oriented towards the action and is located in the occurrence of the crime itself. Retributive theory seeks to justify punishment by looking to the past, namely by focusing its arguments on the criminal act that has been committed.

Immanuel Kant argued that retribution for an unlawful act is an absolute requirement according to law and justice, and that the death penalty for a premeditated murder must be imposed. Therefore, this theory is called the absolute theory. The essence of punishment according to this theory is retribution.

b. Relative theory or goal theory

This theory emerged as a reaction to objections to the absolute theory. According to this theory, punishment is not to satisfy the absolute demands of justice. Retribution itself has no value, but only serves as a means to protect the interests of society. Therefore, as quoted from J. Andenles, it can be called the "theory of social defense.

Starting from the basic idea that the main purpose of punishment is a tool to organize, uphold, protect, and defend the interests of individuals as well as the public and to maintain legal and social order in society (*rechtsorde*; social order) for preventing the occurrence of crimes. Therefore, to realize it, punishment is needed, which according to its nature is: to frighten, to improve, or to annihilate.

This relative theory is based on three main goals of punishment, namely preventive, deterrent, and reformative. The preventive goal is to protect society by separating criminals from society. The preventive goal is to prevent, not as the ultimate goal but only as a means to achieve higher goals, namely the welfare of

society. The deterrent goal is to create a fear of committing crimes. This goal is divided into three parts, namely those that are individual, public, and long-term in nature.

The individual deterrent goal aims to make the perpetrator reluctant to commit a crime again. While the public deterrent goal is to make other members of the community afraid to commit crimes. And the long-term deterrent goal is to maintain the community's attitude towards punishment. The reformative goal is to change the bad nature of the perpetrator by providing guidance and supervision, so that they can return to their daily life as a person in accordance with the values that exist in society.

c. Combined theory (Vernegins Theories).

In response to the existence of the absolute theory and the relative theory, a third theory emerged, namely the combined theory, which emphasizes the view that punishment should be based on the goal of retribution but also prioritize order in society, with a combination of emphasis on one element without eliminating the other element or by balancing both elements (Usman, 2011).

If we further examine the issue discussed in this research related to pornography content producers and analyze it using the absolute theory, it is appropriate because there is a mistake made by pornography content producers in making videos, which is also stated in the pornography law. However, in terms of "accessing" pornography content with the intention of watching it for oneself, whether it also violates the pornography law, if we look at it using thematic interpretation (according to the language in Article 4 paragraph 1 of the pornography law), it is mentioned, but it does not mean that it is allowed. According to the researcher, if we use an interpretation that contradicts this, even though it is not regulated in the pornography law, it is still mandatory to be prohibited. Even though the Indonesian criminal law recognizes the principle of legality, which means no punishment without fault, it is also related to the principles of divinity and moral values of decency that exist in Indonesian society, because frequent access to pornography content can damage the brain or reduce its size due to negative effects and can open the door to other negative behaviors. This is also in line with the doctrine in criminal law, namely the formal and material illegality.

In his book "*Asas-Asas Hukum Pidana*" (Principles of Criminal Law), Andi Hamzah states that illegality in a formal sense means contrary to the law. If an act conforms to the definition of a crime, it is usually said to be formally illegal. Material illegality must only mean in a negative sense, meaning that if there is no material illegality, it is considered justified. In imposing criminal sanctions, formal illegality must be used, meaning that which is contrary to positive law, because of the nullum crimen sine lege stricta principle stated in Article 1 paragraph (1) of KUHP.

Meanwhile, according to Satochi Kartanegara, "illegality" (*wederrechtelijk*) in criminal law is divided into two categories:

a. *Wederrechtelijk formil*, which means that an action is prohibited and threatened with punishment by law.
b. *Wederrechtelijk Materiil*, which is an action that is "possibly" illegal, even though it is not expressly prohibited and threatened with punishment by law. It also

includes general principles found in the field of law (algemen beginsel) (Sari, 2020).

C. RESULT AND DISCUSSION

1. Actions Prohibited by Pornography Laws

Indonesia is a country that upholds Pancasila, which is based on the agreement of the founding fathers of Indonesia that was taken from religious values, ethics, ancestral customs, respect for differences, justice, morality, ethics, and so on (Dimyati et al, 2021). According to Hans Kelsen, law as a moral category is similar to justice, and the statement aimed at social grouping is entirely correct, which fully achieves its goal by satisfying everyone. The longing for justice, which is considered psychologically, is the eternal human desire for happiness, which cannot be found as an individual and therefore seeks it in society. Social happiness is called justice (Suharti, 2011). The general characteristic of law that stands out throughout time and place is that its existence means that certain types of human behavior are no longer optional, but rather, in a certain sense, mandatory. However, this seemingly simple characteristic of law is not actually simple.

Within the scope of mandatory behavior that is not optional, there can be different forms. The first, simplest understanding where behavior is no longer optional is when someone is forced to do what another person tells them to do, not because they are physically forced and their body is pushed or pulled, but because the other person threatens them with consequences like not giving their wallet back and threatening to shoot them if they refuse. If the victim complies, the ways in which they are forced to do so can be said to require them to perform that action. For some people, it is already clear that in this situation where someone gives orders to another person with the support of threats and obligations, in this sense, forcing them to comply, the essence of law can be seen (Suharti, 2011).

Pornography itself has the meaning of pictures, sketches, illustrations, photos, writing, sound, noise, moving images, animation, cartoons, conversations, bodily movements, or other forms of messages through various forms of communication media and/or performances in public, which contain obscenity or sexual exploitation that violates moral norms in society.

Meanwhile, the service of pornography refers to all types of pornography services provided by individuals or corporations through live performances, cable television, terrestrial television, radio, telephone, internet, and other electronic communications, as well as newspapers, magazines, and other printed materials.

The philosophy behind the regulation of pornography laws is that Indonesia is a country based on Pancasila, which upholds moral values, ethics, noble character, and the noble personality of the nation, believes in and is devoted to God Almighty, respects diversity in social, national, and state life, and protects the dignity and honor of every citizen.

This philosophy sets boundaries so that individuals do not fall into practices that violate religious (divine), ethical, moral, and moral norms. Indeed, some people

consider such practices to be normal, but it must be seen first that in Europe, it is considered normal or common, but it is not suitable in Indonesia because the culture in Indonesia still dominates the daily life order.

In Article 4 paragraph 1 of the pornography law, it is stated that every person is prohibited from producing, making, copying, duplicating, disseminating, broadcasting, importing, exporting, offering, selling, renting, or providing pornography that blatantly contains: a) sexual intercourse, including deviant sexual intercourse, b) sexual violence, c) masturbation or onanism, d) nudity or suggestive displays of nudity, e) genitals, or f) child pornography.

The writer is inspired by the phrase "nudity or suggestive displays of nudity" in Article 4 paragraph 1 sub d of the pornography law, which can certainly give rise to various interpretations, whether from judges, legal experts, advocates, or academics, because every person has different thoughts. However, if we look at the explanation of the article, it is stated that "suggestive displays of nudity" refer to a condition where a person uses body coverings, but still explicitly shows their genitals. This also raises a debate that this is related to the sociological foundation of every Indonesian citizen with various ethnicities, races, cultures, religions, and customs, so its existence must bring about an appropriate reconception (Michael, 2014). With the explanation given, it certainly narrows down the various interpretations regarding the impression of nudity which was previously diverse, limited by the explanation of the Article.

The author remembers that in Islam, a woman is truly respected, as it relates to the hadith of the Prophet Muhammad (Peace Be Upon Him), which states that the best adornment of the world is a righteous wife. Nowadays, there are many women who resemble men and vice versa, but that does not respect the gift of God that has been bestowed upon them. There is a proverb that says that a woman is like a diamond, which can only be known and appreciated by those who know the quality of diamonds themselves.

In Article 2, it is stated that everyone is prohibited from providing pornography services that: a) explicitly present nudity or suggestive nudity, b) explicitly present genitalia, c) exploit or display sexual activities, or d) offer or advertise sexual services, either directly or indirectly.

Then, in Article 5 of the Pornography Law, it is stated that everyone is not allowed to borrow or download pornographic content from the internet because it is prohibited both by the Pornography Law and the philosophy behind its formation. However, it is not explained in the article whether accessing pornographic content on the internet without borrowing or downloading it also violates the provisions of the Pornography Law?.

Furthermore, in Article 6 of the Pornography Law, it is stated that everyone is not allowed to listen to, show, utilize, possess, or store pornographic products mentioned in Article 4 paragraph 1, but there is an exception allowed by the law for institutions that are authorized.

The purpose of Article 6 with the phrase "authorized by the law" refers to institutions that are authorized to censor films, supervise broadcasts in Indonesia, law enforcement agencies, sexual therapy health institutions, and educational institutions (which refers to libraries, laboratories, and other educational facilities). The activity of listening to, showing, utilizing, possessing, or storing pornographic content can only be used in the authorized institutions mentioned above.

However, there is a discrepancy between Article 6 of the pornography law and its explanation. The explanation of Article 6 states that the phrase "Prohibition of possession or storage does not include for oneself and one's own interests". According to the author, this is a vague norm or a contradictory norm because there is a loophole for people to store pornography content on their personal electronic devices such as phones, physical hard drives, internet storage (cloud, drive, and so on), or other storage devices. Therefore, clear and detailed interpretation of the explanation of the article is necessary.

In the pornography law, specifically in Article 7, it is stated that any person is prohibited from financing or providing facilities to anyone to create pornography content that is contrary to this pornography law, especially the prohibitions in Article 4, as well as the norms that exist in everyday society.

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In Article 10 of the Pornography Law, it is stated that any person is prohibited from showing, whether for oneself or in public, depictions of nudity, sexual exploitation, sexual acts, or other pornographic elements such as masturbation, sexual violence, and so on. Then in Article 11, it is stated that anyone is prohibited from involving or enticing a child in activities that contain pornographic elements as listed in Articles 4, 5, 6, 8, 9, and 10 of this Pornography Law. This is because it also violates the Child Protection Law related to the exploitation and negative influence of pornography on a child's psychological well-being.

Article 12 of the Pornography Law states that every person, in this case a legal subject who can be held accountable for their actions that have legal implications, is not allowed or prohibited from inciting, persuading, exploiting, allowing, misusing power, or forcing a child to use any product or service that has a connection with pornographic elements.

There are other limitations stated in the Pornography Law, especially in Article 13 paragraphs 1 and 2, which stipulate that (1) the creation, distribution, and use of pornography that contains elements other than those listed in Article 4 paragraph 1 of the Pornography Law must be based on existing legislation, and (2) the creation, distribution, and use of pornography as referred to in the above paragraph 1 must be done in a certain place and in a specific manner.

In Article 14 of the pornography law, it is stated that the provisions regarding the requirements and procedures for licensing the production, dissemination, and use

of pornography products for educational and health purposes and the implementation of Article 13 are regulated by Government Regulation. As for the relevant parties that are permitted as mentioned above, in Article 14 of the pornography law that regulates the requirements and procedures that are allowed to produce, distribute, and use pornography products specifically for the purposes of education and health, and implementing the aforementioned Article 13 is regulated separately in Government Regulation number 5 of 2014 concerning requirements and procedures for the production, dissemination, and use of pornography products.

2. Regulations on Accessing in the Pornography Law

Basically, the word "accessing" is not mentioned in the aforementioned pornography law. If we look at the act of accessing according to KBBI, it can be interpreted as creating access, forwarding. This raises questions whether anyone who accesses pornographic content via streaming on the internet can be subject to sanctions under the pornography law. If we look at each article in the pornography law, accessing is not included, so it raises the question whether accessing can be subject to criminal sanctions. However, according to the author, it is clear that the act of accessing can be considered a moral violation. Indeed, there are gaps or difficulties in law enforcement when enforcing the regulations in the pornography law, as stated by Soerjono Soekanto (1983), there are problems that can affect law enforcement:

a. Legal factors or the law itself;
b. Law enforcement factors, including the enforcers and the makers of the rules (law enforcers or rule makers);
c. Factors of tools that can help in law enforcement;
d. Then the factor of society itself which is related to the community environment and where the law applies because every environment and society where the law applies can affect law enforcement itself;
e. Cultural factors have different characteristics, traits, and cultures that influence the creation and feelings based on human will or intentions in everyday life.

In pornography itself, there are elements that must be proven beforehand as stated in the journal written by Suratman & Laksana (2014), the aforementioned elements, as implied in Article 8 and 34 of the pornography law, constitute the same act. If we break down the article, there are two elements: subjective and objective.

a. Subjective Element
   Subjective element: the offense committed intentionally or with one's consent;
b. Objective Element
   Objective element: the act is the object of intention, whether it pertains to the model or other aspects that contain pornographic content.

Regarding the phrase "suggestive nudity," the question arises as to whether it also applies to anyone, whether male or female, wearing tight clothing that accentuates their body shape. This becomes a separate question . In the journal written by Tomy Michael (2014) the presence of the phrase impliedly creates women as subjects who do not have the same position as men. Referring to the content of legal

regulations in Article 6 paragraph (1) letter g of the Republic of Indonesia Law Number 12 Year 2011 concerning the Formation of Regulations (Law No. 12-2011), it should reflect the principle of justice, which means that every content of legal regulations should reflect proportional justice for every citizen.

The existence of women created with unequal status with men also has an impact on the status of women. There is a meaning for women as to whether they are subjects or objects. Assuming women as subjects is only seen in Article 3 of the Pornography Law, where the law aims to provide legal certainty and protection for citizens from pornography, especially for children and women (Michael, 2014).

If we look at the philosophy of legal certainty, it is different from what Hans Kelsen (2013) expressed regarding norms because norms are related to commandments, so whoever commands means that they want something that should happen. Therefore, we can understand that the meaning of legal certainty should have an impact on anyone without exception.

If we examine it, the dissemination of pornography actually starts from the victim's consent as one of the parties who contribute to the making of pornography for their own interests. The victim's consent is possible considering that the making of pornography for personal interests is exempt from the pornography ban based on the Explanation of Article 4 paragraph (1) of the Pornography Law. This exception positions the making of pornography for personal interests allowed as long as it is not disseminated. The making of pornography for personal interests is essentially done with the consent of both parties, related to the substance of the information made and the purpose of making the information. Both parties position themselves as makers of the pornographic content. Both parties also agree that the making is for personal documentation, not for dissemination (Christianto, 2020).

The author wants to emphasize that individuals who produce or create, as stated in Article 4 paragraph 1 of the pornography law, cannot be prosecuted or punished if they create it for their own personal use. The issue here is whether the person who creates the content is married or if it is simply an act of adultery (zina), and if the file is leaked without the knowledge of the pornography content creator, can they be held criminally responsible?. We can analyze that the key phrase is "create" "not for oneself and personal interests." Therefore, the prohibition in Article 4 paragraph 1 of the pornography law does not apply if we look at that phrase. Returning to the issue, if it was created for oneself and personal interests and it was leaked online, and the creator did not intend or have a purpose to distribute it, can they be held criminally responsible? If we look at the principle of legality in criminal law which states that there is no punishment without fault, there are two elements: fault and form of fault. The element of fault is committing a criminal act, being able to be held responsible, and grounds for pardon. The form of fault is more related to intent or negligence.

Intent itself is divided into two, *dolus* and *culpa*. Dolus is also divided into three parts, namely intent as purpose (*opzet als oogmerk*), intent as certainty *(opzet als*

zekerheldsbewustzijn), and intent as possibility (*dolus eventualis*). *Culpa* is also divided into two parts, *culpa levissima* (slight negligence) and *culpa latta* (gross negligence).

If we analyze the issue above (creating pornography content for oneself but it spreads widely and the creator has no intention or purpose to spread it) using dolus eventualis, they knew that there was a prohibition on creating pornography content but with the exception for themselves. If it spreads, whether intentional or not, it can be categorized as intent. Actually, Article 4 paragraph 1 of the pornography law is sufficient as a warning for the pornography content creator when creating such content. If we think about it, for the author and some people, it is not appropriate to create pornography content in the form of videos, images, or other media because it is private in nature. Returning to the author's main issue, what about those who access it? Even though the pornography law does not regulate it, we can first look at it from an ethical standpoint to determine if it violates ethics or not, as a starting point so that individuals do not engage in or be involved in things that can be harmful.

D. CONCLUSION

In the pornography law, it is clearly stated the limitations on actions that lead to pornography, and it is also mentioned that the philosophy behind the formation of this law is because Indonesia is a country of divine power, respecting customs, upholding the dignity and honor of individuals, valuing moral and ethical values. Therefore, accessing pornographic content can be categorized as an act that violates the values of divinity, morality, ethics, and the cultural heritage of the Indonesian nation. Therefore, the phrase "accessing" must be declared as an act that contradicts the purpose of the formation of the pornography law.

The government should revise the pornography law so that accessing such content can be categorized as an act that violates the provisions in the pornography law. The government and law enforcement agencies should also be able to detect content containing pornographic elements so that the pornography law can be implemented effectively and in accordance with its purpose.

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