

Criminal Liability The Dissemination of Immoral Photos on Whatsapp Social Media

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ABSTRACT

This study aims to determine the regulation of criminal acts of spreading immoral photos on social media in positive law in Indonesia and to determine criminal liability for spreading immoral photos on Whatsapp social media. This research uses normative legal research methods. The normative research method is library legal research which is carried out by examining secondary legal materials or literature studies. The types of approaches used are the Statute Approach and the case approach. The results of the study show that the legal regulation of the criminal act of disseminating immoral photos is regulated in Article 281 to Article 283 of the Criminal Code, Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions and Law 44 of 2008 concerning Pornography. The criminal responsibility of the perpetrator has fulfilled all the elements in accordance with the indictment by the public prosecutor with an alternative charge of Article 27 paragraph (1) of the ITE Law, so the perpetrator must be declared legally and convincingly proven to have committed a criminal offense as charged in the first alternative charge, based on decision Number: 9/Pid.sus/2023/Pn.Mna, the perpetrator of the crime of spreading indecent photos on social media in Manna City, South Bengkulu was sentenced to imprisonment for 10 (ten) months and a fine of Rp50,000,000.00.

INTRODUCTION

In criminal law, liability can be interpreted as criminal liability, or *torekenbaarheid* in Dutch, criminal liability in English, *criminal responsibility* or *criminal liability*. Punishing its creators for actions that violate prohibitions or create prohibited conditions is known as criminal liability. As a result, criminal liability requires transferring to the perpetrator of the existing punishment for a crime. The following are the three requirements for criminal liability: committing the crime of *dolus* (intentional) or *culpa* (negligence) in such a way that the crime is committed through negligence so that the crime cannot be abolished.¹

In today's era of globalization, irresponsible people have unlimited access to pornography. The internet, especially social media, is the place where pornography is most widely circulated. The Internet brings the threat of pornography closer to us. Due to easier internet access, the open nature of internet technology means that the information it contains cannot be accounted for in its entirety and without censorship.

Ultimately this will have an impact on changing values, moral standards, and morality. The loading of pornographic elements into the internet network, which is now widely presented freely and without limits by irresponsible users in the social media presented, is one of the forms. The use of criminal internet media is growing rapidly.²

Laws and regulations related to the dissemination of immoral photos/pornography are Law Number 11 of 2008 concerning Information and Electronic Transactions and Law Number 44 of 2008. Article 44 of Law Number 44 of 2008 shows this: "All laws and regulations governing or related to the crime of pornography are declared to remain valid at the time this Law comes into force as long as they do not conflict with this Law." Whoever possesses or stores pornographic products is charged with Law 44 of 2008. Article 6 of Law Number 44 of 2008 states that everyone is prohibited from playing, performing, using, possessing, or storing pornographic products unless permitted by law.³

People's social lives have been affected by social media. Changes in society's social system, such as shifts in values, attitudes, and patterns of behavior between social groups, can be associated with shifts in social relationships or shifts in social balance. Positive shifts in society, such as making it easier to obtain and share information and reap social and economic benefits. Although social change usually has negative outcomes, such as the formation of social groups based on religion, ethnicity, or

¹ Aryo Fadlan, "Pertanggungjawaban Pidana Dalam Suatu Teoritis," *Jurnal Hukum Positum* 5, no. 2 (2020).

² Dhifa Nabila, "Peradaban Media Sosial Di Era Industri" (Malang, 2020).

³ Dewi Bunga, "Penanggulangan Pornografi Dalam Mewujudkan Manusia Pancasila," *Jurnal Konstitusi* 8, no. 4 (2011).

certain behaviors, patterns that sometimes deviate from predetermined norms⁴.

However, many people who use social media abuse it, namely using social media to spread immoral photos or videos. One of the social media facilities that often becomes a place for the dissemination of immoral acts is the WhatsApp application. The crime of distributing immoral photos will result in the victim becoming embarrassed.

Immorality is an act that violates the norms or rules of politeness. Every individual, as is known, must not only enforce the law and his attitude and actions, but also must enforce other norms, such as moral norms. Crimes committed against moral values like this are a provocation to peace and inner peace in society and certain individuals.

One of the cases of the dissemination of immoral photos occurred in Manna City, South Bengkulu Regency, starting when the defendant found a photo that had moral content through a Facebook post with the account name with the initials HD which the defendant then screenshotted and stored in the gallery or the defendant's cellphone. That the photo has the content of morality is a photo of the Victim Witness in a state of wearing underwear and showing breasts. The photo was sent to the witness Lingga via Whatsapp chat. And then the defendant sent a photo of the Victim Witness who had the content of decency to the witness Deki through the WhatsApp chat. And the purpose of the defendant is to distribute and/or transmit and/or make accessible electronic information and/or electronic documents that have the content of decency to inform the witness Deki, witness Erpin and witness Lingga so that they can embarrass the Victim Witness. Furthermore, witness Lingga, witness Deki reported the matter to the Victim Witness and witness Rahmat who then reported the act to the Police.⁵

As a result of his actions, the defendant has been legally and convincingly proven guilty of committing an immoral ITE crime as regulated and criminally threatened in Article 45 paragraph (1) Jo Article 27 paragraph (1) of the Law of the Republic of Indonesia Number 19 of 2016 concerning Information and Electronic Transactions. The defendant Loli Julia Darti Binti Darmawan was sentenced to 10 (ten) months in prison with a reduced period of temporary detention and a fine of Rp100,000,000 (one hundred million rupiah) subsidy of 1 (one) month of confinement.

Based on the background that has been described, there searcher concludes a problem, which is as follows: What is the legal regulation of the crime of distributing immoral photos on social media? And what is criminal liability for the dissemination of immoral photos on Whatsapp social media? To find out the regulation of the crime of distributing immoral photos on social media dan to find out criminal liability for the dissemination of immoral photos on Whatsapp social media

⁴ Anang Sugeng Cahyono, "Pengaruh Media Sosial Terhadap Perubahan Sosial Masyarakat Di Indonesia," *Journal Unita* 9, no. 1 (2018).

⁵ "https://Putusan3.Mahkamahagung.Go.Id/," n.d.

METHOD

This type of research uses a juridical-empirical approach with descriptive-analytical methods.⁶ Primary data was obtained from interviews, while secondary data came from literature study. The analysis was carried out qualitatively to understand the process of assessing evidence to identify a suspect and how investigators were trying to recover assets in this case.

This research uses a normative legal research method Normative research method is literature law research conducted by researching secondary legal materials or literature studies.

The types of approaches used are the Statute Approach and the Case Approach (Case Approach).⁷ The Legislation Approach is a way of analyzing laws that focus on the study and interpretation of legal texts, such as the Criminal Code, Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, Law 44 of 2008 concerning Pornography and other laws and regulations. In addition, review books, books and articles related to the object of research. While the case approach is a way in legal studies that focuses on the analysis of concrete legal cases, namely the Manna District Court Decision Number: 9/Pid.sus/2023/Pn.Mna, This approach aims to understand and assess how the law should be applied and complied with in accordance with the norms and principles that exist in the legal framework and to understand and evaluate how legal norms are applied in practice.

The next stage is data processing, namely analysis carried out by qualitative methods, namely research methods based on the philosophy of postpositivism, used to research on natural object conditions, where the researcher is the key instrument, data collection techniques are carried out in triangulation (combined), data analysis is inductive/qualitative, and qualitative research results emphasize meaning rather than generalization. The purpose of the qualitative method is to describe the results of literature research (secondary data).⁸ So that criminal liability can be known for the spread of porn video through WA. The data analysis in this study is inductive, namely the development of concepts based on existing data, following a flexible research design according to the context. The design is not rigid, so it provides an opportunity for researchers to adjust to the context in the field.

RESULT AND DISCUSSION

1. Legal Arrangements for the Crime of Spreading Immoral Photos on Social

⁶ Bambang W, *Penelitian Hukum Dalam Praktek* (Jakarta: Sinar Grafika, 2012).

⁷ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media 55, 2011).

⁸ M. Sirajudin, M. Nasron HK, and M. Arif Rahman Hakim, "Implementasi Hukum Adat Berbasis Kearifan Lokal Melalui Peraturan Daerah," *Kaganga Jurnal Pendidikan Sejarah Dan Riset Sosial Humaniora* 6, no. 2 (2023).

Media

Legal regulation is the concrete application of criminal law by law enforcement officials. In other words, criminal law regulation is the implementation of criminal regulations. Thus, legal regulation is a system that concerns the harmony between values and rules and real human behavior. These rules then become guidelines or benchmarks for behavior or actions that are considered appropriate or should. The behavior or attitude of the action aims to create, maintain, and maintain peace.

Law enforcement is an executive task in the institutional structure of the modern state and is carried out by the bureaucracy of the executive in question, or the so-called law enforcement bureaucracy. The executive with its bureaucracy is part of the chain to realize the plan stated in the regulations (law) in accordance with the fields handled (welfare state). Law enforcement is the activity of harmonizing the relationship of values described in the rules, a steady view and embodying it in attitudes, actions as a series of elaboration of values in the final stage to create peace in life. In terms of law enforcement in Indonesia, especially in the eradication of corruption, Satjipto is of the view that in general we are still fixated on conventional law enforcement methods, including culture.⁹

Electronic media can be a means of committing crimes in moral offenses regulated in Articles 281 to 283 of the Criminal Code. One of them is in Article 282 of the Criminal Code, the elements that are regulated include a prohibition on the distribution or dissemination of content in the form of images, writings or objects that contain immorality in public. In addition to being regulated in the Criminal Code, the crime of morality is regulated in Law Number 44 of 2008 concerning Pornography of the Statute Book of the Republic of Indonesia Number 181 of 2008, Supplement to the Statute Book of the Republic of Indonesia Number 4928 or hereinafter referred to as the Law on Pornographics.¹⁰

According to Article 39 of the Pornography Law, pornography is a crime, and the elements of pornography crime are contained in Article 4 Paragraph (1), which reads:

"Any person is prohibited from producing, making, reproducing, reproducing, disseminating, broadcasting, importing, exporting, offering, trading, renting, or otherwise providing pornography that explicitly contains: (1) nudity or an inducing display of nudity; (2) coherence/deviant cognition; (3) masturbation or masturbation; sexual

⁹ Adriansyah Adriansyah and I Wayan Bela Siki Layang, "Pertanggungjawaban Pidana Pada Pelaku Penyebaran Dan Jual Beli Konten Pornografi Pada Media Sosial Telegram," *Jurnal Hukum, Politik Dan Ilmu Sosial* 2, no. 3 (2023).

¹⁰ Adriansyah Adriansyah and I Wayan Bela Siki Layang.

violence; (4) genitals; or (5) child pornography.”¹¹

The regulation is also expanded in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 Statute Book of the Republic of Indonesia Number 251 of 2016, Supplement to Statute Book of the Republic of Indonesia Number 5952 concerning Information and Electronic Transactions or hereinafter referred to as the ITE Law. Considering that currently the use of electronic media is widely used in these crimes as one of the main means of its spread.

The existence of criminal provisions in this field serves to protect the legal interests of the community and the state. The rule is contained in Article 27 paragraph (1) of the ITE Law, the rules of the article contain elements of prohibited acts, among others, distributing, transmitting, and making accessible Electronic Information or Electronic Documents which contain content that violates morality. The elements contained in Article 27 paragraph (1) of the first ITE Law, are the act of distributing, namely the act of sending or disseminating Information or Electronic Documents to many people through an electronic system. Then what is meant by transmitting is sending electronic information or Electronic Documents addressed to one other party. Meanwhile, making accessible is all other acts other than those mentioned through electronic systems that cause Electronic Information and Documents to be known to the public.¹²

The case being studied related to violating the ITE Law, is case Number: 9/Pid.Sus/2023/Pn.Mna occurred in Manna City, South Bengkulu Regency, where the chronology of the incident began with the perpetrator finding a photo that had moral content through a Facebook post with the initials H D account name, which was then screenshotted by the defendant and stored in the gallery or the defendant's cellphone using a rosegold Iphone 7 Plus. That the photo that has the content of morality is a photo of the Victim Witness in a state of wearing underwear and showing breasts.

At around 13.00 WIB in August, the defendant sent a screenshot of the victim's witness's photo that had a moral content obtained from the Facebook post of the H D initials account to witness L via a Whatsapp chat with the defendant's number 0822-5314-3441 with the content of the chat "this is alap" or this is good. Then at around 14.39 the perpetrator sent a photo of the Victim Witness who had the content of decency to witness D via WhatsApp chat with the defendant number 0822-5314-3441 with the content of the chat "don't tweet get jak me om, get jak that account"; - And the next day, the perpetrator again sent a photo of the Victim Witness who had the content of decency to witness E at around 12.00 in August

¹¹ Dewi Bunga, "Penanggulangan Pornografi Dalam Mewujudkan Manusia Pancasila," *Jurnal Konstitusi* 8, no. 4 (2011).

¹² Kasrota Rizki and Aghnisi, "Dasar Pertimbangan Hakim Pengadilan Militer Dalam Menjatuhkan Putusan-Putusan Terhadap TNI (Tentara Nasional Indonesia) Sebagai Pelaku Tindakan Asusila (Studi Atas Putusan NO. 28-K / PM. II-10 / AD / IV / 2013 Di Mahkamah Militer I," n.d.

through Facebook Messenger using the defendant's Facebook account name with the initials L D to the Facebook account of witness E with the initials W B.

Furthermore, the photo of the Victim Witness that has a moral content is sent by the defendant to witness D, witness E and witness L in the form of 2 (two) different types of photos. Furthermore, witness L, witness D report this to the Victim Witness and witness R who then the Victim Witness asks for a screenshot of the photo to be used as evidence. The perpetrator's tool to send a screenshot of the photo of the Victim Witness who has the content of morality is 1 (one) unit of Iphone 7 Plus brand mobile phone in Rose Gold color that has been sold by the defendant to sister Y whose address is in Mas Village, mambang Talo small, Seluma Regency. That the screenshot of the photo of the Victim Witness who has the content of decency has been lost because 1 (one) unit of Iphone 7 plus the rosegold color to distribute the photo that has the content of decency has been sold. That the photos and videos posted on the Facebook account with the initials H D were never produced/made by the Victim Witness because the photos and videos were the result of sceenshoot and screenrecord made by the Victim Witness's ex-husband, namely (DPO) G who made a video call to the Victim Witness and at the time the Victim Witness had just finished taking a shower and was wearing underwear.

The defendant's actions are as regulated and criminally threatened in Article 45 Paragraph (1) Jo Article 27 Paragraph (1) of Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law of the Republic of Indonesia Number 11 of 2008 concerning Information and Electronic Transactions. And the defendant was sentenced to imprisonment for 10 (ten) months, reduced the period of temporary detention and a fine of Rp100,000,000,- (one hundred million rupiah) subsidy of 1 (one) month of imprisonment.¹³

By referring to the provisions of Article 27 paragraph (1) of the Electronic Information and Transaction Law, a person can be held criminally liable if it is proven that he intentionally without the right to distribute, transmit and make accessible an Electronic Information and Document containing immoral content.¹⁴

Legal arrangements regarding the dissemination of immoral photos on social media such as Whatsapp are important topics in the context of protecting privacy and digital security. In many countries, including Indonesia, there are laws regulating this issue to protect individuals from unauthorized and harmful spread. The Electronic Information and Transaction Law (*UU ITE*) in Indonesia has been amended to address the problem of spreading negative content on social media, including immoral photos. The articles in this law provide a legal basis to crack down on the spread of content that contains elements of defamation, defamation,

¹³ "Https://Putusan3.Mahkamahagung.Go.Id/," n.d.

¹⁴ Ayya Sofia Istifarrah, "Pertanggungjawaban Pidana Pelaku Pendistribusian Konten Yang Bermuatan Asusila Melalui Media Elektronik," *Jurisdiction* 3, no. 4 (2020).

and pornography.¹⁵

The regulation also includes criminal sanctions for perpetrators who deliberately disseminate pornographic content through social media. This threat of punishment aims to prevent detrimental behavior and damage the reputation and privacy of the individual who is the victim. To implement the Law, Law enforcement can investigate cases of dissemination of immoral photos and act against perpetrators in accordance with applicable provisions.¹⁶

Apart from criminal sanctions, victims who feel aggrieved can also file a civil lawsuit against the perpetrators of spreading immoral content. This includes claims for moral and material damages suffered because of the dissemination of photos or videos that violate privacy. While legal efforts continue to be stepped up, it is important for social media users to be more vigilant and educate themselves about the risks associated with sharing private content. Public education and awareness about digital security is key in reducing the incidence of the spread of immoral photos on WhatsApp and other social media platforms.¹⁷

According to researchers, the dissemination of immoral photos on Whatsapp-type social media is a serious problem involving privacy, ethics, and the law. This phenomenon not only has a personal adverse impact on the individuals involved, but can also have serious legal consequences for the perpetrators of the spread. In this context, it is important to understand some aspects related to the spread of immoral photos on platforms like Whatsapp.

Researchers argue that the spread of immoral photos on Whatsapp can occur intentionally or unintentionally. The most common case is when someone intentionally sends or shares a photo or video that contains sexual content without the permission of the subject involved. This is often a serious violation of an individual's privacy and can defame the victim. The spread of immoral photos through WhatsApp can cause uncontrollable dissemination and suffer losses for the victim, both psychologically and socially.

The Whatsapp platform itself has introduced various security and privacy features to help its users protect themselves from the spread of unwanted content. However, the effectiveness of this protection still depends on user awareness and behavior in using the application. The psychological impact of the dissemination of immoral photos can be very damaging for the victim. Victims often experience

¹⁵ Karman Jaya, "Analisis Terhadap Putusan Hakim Dalam Tindak Pidana Kesusilaan (Studi Putusan Nomor: 06-K/Pm/Iii-16/Al/I/2017)," *Jurnal Hukum UIN Alauddin Makassar*, n.d.

¹⁶ Karman Jaya, "Analisis Terhadap Putusan Hakim Dalam Tindak Pidana Kesusilaan (Studi Putusan Nomor: 06-K/Pm/Iii-16/Al/I/2017)," *Jurnal Hukum UIN Alauddin Makassar*, n.d.

¹⁷ Hikmawan and Rizky Yulda, "Alasan Kasasi Oditur Militer Dan Pertimbangan Hukum Mahkamah Agung Dalam Memutus Perkara Dengan Sengaja Dan Terbuka Melanggar Kesusilaan (Studi Putusan Mahkamah Agung Nomor 243 K/Mil/2014)," *Jurnal Verstek* 5, no. 3 (2018).

severe stress, depression, and even experience other mental health disorders due to the violation of privacy experienced by the victim.¹⁸ In many jurisdictions, the dissemination of immoral photos on social media such as WhatsApp can violate laws on pornography, defamation, and personal data protection. This can result in serious legal consequences for the perpetrator, including criminal prosecution and compensation claims.¹⁹

To combat this problem, some countries have adopted stricter laws to protect individuals from the spread of immoral content. For example, the law may provide a clear definition of what constitutes pornographic content and strict sanctions for perpetrators. Law enforcement against such violations often involves cooperation between internet service providers, law enforcement agencies, and the government. It aims to identify the perpetrators of the spread and take appropriate legal action.²⁰

2. Criminal Liability for Spreading Immoral Photos on Whatsapp Social Media

Criminal law defines responsibility as the capacity to assume responsibility for a person who has or has not committed an act that is prohibited by rules and statutes, is not universally justified, or is inappropriate in all views of society. Resisting the rules and laws are elements of criminal acts that can result in punishment. Activities in society/socialization in the country need to be legally supervised and coordinated without neglecting openness in socializing. Supervision measures must be applied in activities so that positive activities are formed and do not violate the law.

Criminal liability for the dissemination of immoral photos on Whatsapp social media is a serious matter and can cause severe legal consequences for the perpetrators. When someone spreads immoral photos through Whatsapp, they can be entangled in various articles in the criminal law that applies in many countries, including in Indonesia. One of the underlying aspects is the violation of privacy and protection of one's honor.²¹

Criminal liability is a form of determining whether a suspect or defendant is held accountable for a criminal act that has occurred. Criminal liability is a form of obligation to account for the success or failure in carrying out law enforcement and

¹⁸ Siti Zubaidah, "Analisis Penjatuhan Tindakan Terhadap Anak Yang Mengakses Sistem Elektronik Tanpa Hak," *Journal of Law* 19, no. 1 (2020).

¹⁹ Siti Zubaidah, "Analisis Penjatuhan Tindakan Terhadap Anak Yang Mengakses Sistem Elektronik Tanpa Hak," *Journal of Law* 19, no. 1 (2020).

²⁰ Tungga Deva and Pindo Asmara, "Tinjauan Pertimbangan Hakim Menjatuhkan Pidana Pokok Dan Tambahan Dalam Perkara Melanggar Kesusilaan Di Depan Orang Lain (Studi Putusan Mahkamah Agung Nomor: 45k/ Mil/2015)," *Jurnal Verstek* 7, no. 1 (2019).

²¹ Teguh Prasetyo, *Keadilan Bermartabat Perspektif Teori Hukum* (Bandung: Nusa Media, 2015).

achieving the goals and objectives that have been set previously through a medium of accountability that is carried out periodically.

The law on privacy protection in Indonesia stipulates that distributing immoral photos without permission can be considered defamation. Defamation is an act that can be criminally punished according to Article 310 of the Criminal Code (KUHP). Perpetrators can be subject to sanctions in the form of prison sentences and/or fines, depending on the severity of their actions.

In addition, the dissemination of immoral photos can also be categorized as a violation of the Electronic Information and Transaction Law (*UU ITE*) in Indonesia. Article 27 paragraph (1) of the ITE Law stipulates that everyone is prohibited from disseminating information that contains threats, defamation, or pornography through electronic media, including Whatsapp. The threats mentioned in this article include the threat of a maximum prison sentence of 6 years and/or a maximum fine of 1 billion rupiah.

Likewise, the case of the dissemination of immoral videos that occurred in Manna City, South Bengkulu Regency which is listed in Decision Number: 9/Pid.sus/2023/Pn.mna, criminal liability needs to be carried out to provide protection for victims of the dissemination of immoral photos and to uphold justice for victims from the dissemination of immoral photos. The consequences of the viral immoral photo have caused concern among the public. The viral photo also made the victim's family object.

The settlement of the case against the perpetrators of the dissemination of immoral photos began with the police process, namely at the South Bengkulu Police. After the victim reported the case to the Tana Toraja Police, personnel immediately conducted a cyber patrol to find out the identity of the perpetrator. The South Bengkulu Police took legal action by arresting the perpetrator.

The implementation of the arrest was carried out by showing a letter of assignment in which the identity of the suspect had been listed and the reason for the arrest was stated. Detention was carried out against the perpetrators of spreading immoral photos. The detention was carried out to speed up and facilitate the process of examining the case by the Investigator.

Based on the results of the judge's decision Number: 9/Pid.sus/2023/Pn.mna, it is stated that the perpetrator has been legally and convincingly proven guilty of committing an immoral ITE crime as regulated and criminally threatened in Article 45 paragraph (1) Jo Article 27 paragraph (1) of Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to the Indonesian Republik Law Number 11 of 2008 concerning Information and Electronic Transactions. The perpetrator of the crime of distributing immoral photos on social media in Manna City, South Bengkulu, was sentenced to 10 (ten) months in prison and a fine of Rp50,000,000.00 (fifty million rupiah) with the provision that if the fine is not paid,

it will be replaced with imprisonment for 1 (one) month.²²

With the criminal liability that the perpetrator undergoes, it is hoped that it can provide a deterrent effect for the perpetrators of the dissemination of immoral photos and become a deterrent to the public from committing these acts. Law enforcement efforts are carried out by law enforcement officials, which aim to eliminate cases of the act of spreading immoral photos in social circles, especially on social media.

According to researchers, criminal liability in cases of immoral crimes aims to uphold justice and ensure that the perpetrators receive punishments commensurate with the level of crime committed. The law regulates various types of immoral crimes and provides guidelines on the punishment sanctions that can be given to the perpetrator, depending on the seriousness of the action. Criminal liability for perpetrators of immoral crimes also involves efforts to educate and improve the behavior of perpetrators through rehabilitation programs that are tailored to their needs.

In a fair criminal law system, it is important to ensure that all parties involved in immoral crimes, both victims and perpetrators, are treated fairly in accordance with the applicable legal process. The role of investigation and law enforcement is very important in handling cases of immoral crimes to ensure that sufficient evidence is obtained, and the legal process runs in accordance with applicable rules. In addition, the community also plays an important role in identifying and reporting immoral crimes to the authorities to ensure that the perpetrators can be held accountable, and the victims receive proper protection. Criminal liability in the context of immoral crimes is part of a broader effort to create a safe, just, and respectful society of human rights, where every individual can live without fear of becoming a victim of such crimes.

The researcher argues that criminal liability for the dissemination of immoral photos on Whatsapp social media requires a holistic and collaborative approach from various related parties to achieve optimal effectiveness. Liability for the dissemination of immoral photos on social media is a serious matter and can have severe legal consequences. Such actions may be considered an invasion of an individual's privacy or defamation, depending on the context and jurisdiction of the applicable law. Such crimes can include significant fines, prison sentences, or even recording criminal records that have an impact on a person's future. Therefore, it is necessary to understand and comply with the legal regulations that regulate the dissemination of immoral photos on social media to avoid unwanted legal consequences.

In response to the development of technology and social media, the law continues

²² Radita Ajie, "Batasan Pilihan Kebijakan Pembentuk Undang-Undang (Open Legal Policy) Dalam Pembentukan Peraturan Perundang-Undangan Berdasarkan Tafsir Putusan Mahkamah Konstitusi," *Jurnal Legislasi* 13, no. 2 (2016).

to strive to accommodate these developments so that they remain relevant and effective in handling cases like this. There needs to be legal and ethical awareness among social media users in order to reduce the incidence of spreading immoral photos and better protection of personal privacy.²³

Furthermore, the researcher argued that the importance of legal awareness is also emphasized to parents, educators, and institutions to educate the younger generation about the legal consequences of irresponsible actions on social media. This can help reduce the incidence of immoral photo dissemination among teenagers and children who are often unaware of the serious impact of the act. Many countries also face similar challenges in dealing with cybercrime, including the spread of immoral photos. International cooperation and laws between countries are essential to effectively address these challenges at the global level.

Thus, criminal liability for the dissemination of immoral photos on Whatsapp social media is a complex issue with many aspects that must be considered, both from a legal, social, and technological point of view. Strict punishment and consistent law enforcement are needed to prevent the spread of immoral photos and protect individuals' right to privacy in this digital age.

CONCLUSION

From the results of the research and discussion, conclusions can be drawn as follows the legal regulation of the crime of distributing immoral photos is regulated in Law Number Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions and is also regulated in the Criminal Code, further also regulated in Law 44 of 2008 concerning Pornography.

Criminal liability for the perpetrator has fulfilled all elements in accordance with the indictment by the public prosecutor with an indictment in the form of an alternative from Article 27 paragraph (1) of the ITE Law, the perpetrator must be declared to have been legally and convincingly proven to have committed a criminal act as charged in the first alternative indictment, based on the decision Number: 9/Pid.sus/2023/Pn.Mna, The perpetrator of the crime of distributing immoral photos on social media in Manna City, South Bengkulu was sentenced to a criminal offense imprisonment for 10 (ten) months and a fine of Rp50,000,000.00 (fifty million rupiah) with the provision that if the fine is not paid, it will be replaced with imprisonment for 1 (one) month. The judge's decision has been appropriate and ensnared the perpetrator so that he does not repeat his act in the future, and in accordance with the prison sentence makes a deterrent effect on the perpetrator.

²³ Joko Trianto, "Persamaan Didepan Hukum Penyelesaian Tindak Pidana Kesusilaan Dalam Pasal 281 Kuhp Yang Dilakukan Oleh Prajurit Tni Dengan Warga Sipil Terkait Penegakan Hak Asasi Manusia," *Lex Et Societatis* 6, no. 1 (2020).

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