



Authority of the Indonesian Broadcasting Commission (KPI) over YouTube and Netflix according to law number 32 of 2002 concerning broadcasting

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ABSTRACT

Today there are many developments in broadcasting technology in Indonesia, educational and quality broadcasts are an important requirement for everyone. This is because quality broadcasts will form a quality society as well. Broadcasting technologies that are currently popular and widely discussed and widely accessed by people in Indonesia are Youtube and Netflix, people who want to access videos and films will be spoiled for convenience provided by these platforms. But what is unfortunate about the existence of Youtube and Netflix is that there are so many shows that can be accessed by everyone and also children without prior screening, supervision and control by the Indonesian Censorship Agency. For now.

1. Introduction

Indonesia as a country that upholds the values of decency, decency and also religious values is very protective of everything that will be consumed and enjoyed by its citizens. Not only food and drink, broadcast media such as radio, television and print media in Indonesia are regulated and monitored so that all content disseminated by the media is not dangerous and does not damage the personalities of the Indonesian people and the nation's next generation, namely children. In the current era, it cannot be denied that the existing and developing technology in Indonesia is increasing rapidly in all respects. One of them is the development of broadcast media which is no longer limited to television and radio, however, there are lots of online broadcasting media that make it very easy for users to access the content and shows they want to see, from adults to children. Online broadcast media that are currently developing rapidly in Indonesia are Youtube and Netflix. Youtube is a video sharing site for everyone where Youtube as a video publisher community gives everyone the opportunity to monetize their uploaded videos. Which means that on the Youtube platform, someone who wants to make videos and upload them on Youtube, or what is commonly called a content creator, can make money from the videos they upload on this one platform. Because the income you get from Youtube is quite

tempting, many people flock to create YouTube channels and create content that many people, from adults to children, can enjoy. But sometimes they forget the norms that apply in Indonesian society. Much we get that content creators who make pranks that are so outrageous that they can even hurt other people, not a few also from content creators who use offensive language in the videos they upload.

Unlike Netflix, Netflix is a streaming service that is the pioneer of online movie rental services. Established since 1997, Netflix accommodates the most complete film archive with the most operating areas. Netflix is a video streaming application with very good quality, especially movies in HD format, which Netflix itself is very similar to Cable TV, there are no ads at all and in it the viewer can choose for himself what content or movie he wants to enjoy. . The difference is in Netflix itself, when the user has subscribed, the user must have a strong internet network and internet quota because Netflix itself has a streaming mechanism. On these two platforms it is very difficult to censor shows that will be aired and also to give a statement that the show is not eligible to be broadcast, because the broadcast is in cyberspace or within online reach. Because Youtube or Netflix are foreign companies. It's different from cinema films or big screens, as well as television which will go through a censorship process before being aired. So it's things like this that ultimately make shows on this digital platform a lot that doesn't educate the nation's children, most of whom are Youtube or Netflix users, shows that are indecent and also not of good quality. Because of the freedom and convenience that is presented in online media, to date, many children in Indonesia can freely access content and even films that are broadcast without any supervision from the Government, the surrounding community, and also their parents. It is not uncommon for children who are still emotionally unstable to participate in practicing what they see from these shows. In this case the government cannot do much because it is hampered by empty legal regulations regarding content restrictions and supervision of the two digital platforms.

2 Method

The main problem in this research is the legal review of mobile internet in an effort to prevent the negative impact of information and communication technology in Indonesia. therefore the approach used to this problem cannot be separated from a policy-oriented approach. The policy approach includes a mutually reinforcing understanding between a goal-oriented approach, a rational approach, an economic and pragmatic approach, and a value-oriented approach. This research is focused on research on legal substance related to mobile internet, both the positive law currently in effect (*ius constitutum*) and the law that is aspired to (*ius constituendum*).

2.1 Approach Method

Research on mobile internet in an effort to prevent the negative impacts of information and communication technology in Indonesia uses a normative juridical approach, namely by studying/analyzing secondary data in the form of legal materials, especially primary legal materials and secondary legal materials, by understanding law as a set of rules or positive norms in the legal system that regulates human life.

Normative legal research is research conducted by examining literature. According to Soerjono Soekanto and Sri Mamuji, normative legal research includes: (1) research on legal principles; (2) research on legal systematics; (3) research on the level of vertical and horizontal synchronization; (4) legal comparisons; and (5) legal history.

Meanwhile, according to Ronny Hanitijo Soemitro, normative legal research also includes research on points (1), (2) and (3), but the other 2 (two) forms of research are different, namely research to find in *concreto* law and research on inventory of positive laws. The research in this thesis focuses on research on legal principles, legal systematics, levels of vertical and horizontal synchronization, comparative law and inventory of positive laws. The existence of a comparative law approach is needed to provide an overview and input for criminal law

formulation policies that should be formulated. In a comparison of laws between several countries, it is necessary to reveal the similarities and differences, even though in terms of economic and political developments they may be different.

2.2 Research Specifications

The specification in this study is descriptive analytical research, namely research that describes in detail the results of the analysis regarding legal principles, legal systematics, vertical and horizontal synchronization levels, comparative law and positive legal inventory. A descriptive study is intended to provide as accurate data as possible about humans, conditions or other phenomena.

Normative legal research always focuses on secondary data sources. Secondary data in research can be divided into primary legal materials, secondary legal materials and tertiary legal materials. In this study, sourced from secondary data as follows: a. Primary legal materials, namely binding legal materials, such as the Indonesian Criminal Code and the Criminal Code of several foreign countries as well as laws and regulations outside the Criminal Code relating to mobile internet issues; b. Secondary legal materials, which provide an explanation of primary legal materials, such as the 2005 Criminal Code Concept, the Draft Law on the Utilization of Information Technology (RUU PTI), the Draft Law on Anti-Pornography and Pornoaction (RUU APP), research results and scientific papers; c. tertiary Legal Materials.

Data collection methods used in a study basically depend on the scope and objectives of the research. According to Ronny Hanitijo Soemitro, data collection techniques consisted of literature studies, observations, interviews and the use of questionnaires. Based on the scope, objectives and approach of this study, the data collection techniques used were literature and documentary studies from the analyzed secondary data.

Based on the problem formulation and research objectives, the data analysis was carried out qualitatively normatively. Normative studies in the form of policy analysis on current and future criminal law formulations, within the Criminal Code and outside the Criminal Code. This normative study must also be supported by comparative studies, while qualitative is an analysis of existing legal principles, whether they are related to one another.

3. Analysis and Results

The Internet is a global (worldwide) collection of thousands of computer networks and millions of private computers that are freely managed. The internet has made communication between computers possible using the Transmission Control Protocol or Internet Protocol (TCL/IP) supported by communication media, such as satellites and radio packets. TCP / IP is like a language that is understood by all types of computers so that computers can communicate with each other without a protocol. Computers will not be able to communicate on the internet. The internet can connect computers and computer networks that are managed by both the government and the private sector and individuals in various countries via the internet. Anyone and anytime can freely access various kinds of information from various places. The information that can be accessed looks more alive because it is presented in the form of text, graphics, animation, sound and video. In addition, the information available varies widely and is always up-to-date.

The mobile web aims to access data services wirelessly using mobile devices such as cell phones and portable devices connected to a cellular telecommunications network. Mobile web that is accessed via mobile devices needs to be designed taking into account the limitations of mobile devices such as a mobile phone that has a screen with a limited size or some limitations on a mobile device.

In May 2005 the mobile web was issued by the W3C under the name Mobile Web Initiative (MWI) with the aim of making the web accessible from a mobile device as simple as accessing the web from a desktop computer. Making a mobile web requires implementation for improvements in terms of interoperability, usability and accessibility on a mobile web. The Mobile Web is generally light in size where each page is written in Extensible Hypertext Markup Language (XHTML) or Wireless Markup Language (WML) to deliver content to mobile devices. In addition, several techniques, such as using Adobe Flash Lite or Sun's J2ME, make it possible to create a wider variety of mobile devices. Limitations of processor speed in executing processes:

- a. Limited RAM
- b. The screen size is not too big, and also the difference in physical screen size and resolution for each device (although currently there are browsers such as Opera which can display the entire page like a browser on a PC).
- c. Limited input on each mobile device.
- d. Battery life varies from device to device.
- e. Apart from that, in terms of software, browser compatibility and supporting mobiles are quite influential in running a mobile web.

The existence of internet technology originated from the development of computer technology and telecommunications. The combination of these two technologies has led to a new technology known as the internet. Starting from a series of several computers from a place or room or building called a LAN (Local Area Network), while in another building there is another LAN. If several of these LANs are combined or strung together, they eventually become a LAN group called a WAN (Wide Area Network). Some of these WANs can be combined into larger and more WANs and connected not only between buildings but also between cities, between provinces and even between countries which are strung together, hence it is called the internet. Internet history can be divided into 4 (four) aspects, namely:

- a. There was an aspect of technological evolution that started with packet switching research on the ARPANET (and its equipment technology), which at that time was carried out further research to develop insight into data communication infrastructure covering several dimensions such as scale, performance/ reliability, and high-level functionality ;
- b. There are aspects of implementation and management of a global and complex infrastructure;
- c. There is a social aspect that results in a large community of people consisting of Internauts who work together to create and continue to develop this technology;
- d. The commercial aspect resulted in an extreme yet effective transformation of research that resulted in the creation of a large and useful information infrastructure.

The forerunner of the internet was first developed in 1969 by the United States Department of Defense under the name ARPANet (United States Department of Defense Advanced Research Projects Agency). ARPANet was built with the aim of creating a dispersed computer network, to avoid the concentration of information at one point which was deemed vulnerable to being destroyed in the event of war. On January 1, 1983, the ARPANET changed its central chain protocol, from NCP to TCP/IP. This was the beginning of the Internet as we know it today. At first this interconnection network was called DARPA Internet, but then it was only called the internet. At the beginning of its development, the internet only offered text-based services, such as remote access, e-mail/messaging, and discussions through news groups (usenet). Graphical-based services such as www at that time still did not exist.

At first the internet was used more for academic purposes by connecting it to several universities, such as UCLA, University of California at Santa Barbara, University of Utah and Stanford Research Institute. However, after opening the Usenet and Bitnet services, the internet can be accessed by means of a personal computer. Currently the internet network has reached nearly a hundred countries in the world. The internet is a technological necessity that is used

and continues to be developed, both in developed and developing countries. In developed countries, the internet is no longer a new medium, but has become a necessity for activities. This is in accordance with the statement of the internet theorist, Nicholas Negroponte, that the digital revolution has ended. In the era of President Bill Clinton's administration, the United States Government awarded internet connections to 2000 high schools in California. This policy is intended so that residents of the United States in the coming years are expected to have at least electronic mail facilities. At this time the United States has been trying to make its citizens free from illiteracy to the internet, but Indonesia is still following the policy of eradicating illiteracy. Internet networks in Indonesia began to be developed in the early 1990s by UI, ITB, LAPAN and BPPT as well as the Packet Radio Technology Association as a basis for regional networks. In 1994 appeared Indo internet (INDONET) led by Sanjaya as the first commercial ISP in Indonesia. The internet business continues to grow and there are around 60 ISPs that have obtained licenses from the government. These ISPs formed an ISP association (APJII) in 1998. Connection efficiency between ISPs continued to be made by building several Internet Exchanges (IX) at Indosat, Telkom, APJII (IIX) and several other ISPs that exchanged with each other. APJII began to maneuver to increase the share of the internet market in Indonesia by carrying out the SMU 2000 program which was later developed into the 2000 School.

At the beginning of its emergence in Indonesia, the internet was a rare item that was only used by a few people, such as lecturers, researchers or government officials. However, with the commencement of commercial internet services in Indonesia in early 1994, now the public can access the internet easily and at an affordable cost. Since then the Internet has become a new commercial business medium. Now the internet network in Indonesia continues to grow and expand, because many companies, schools, campuses, even homes already have an internet network. Apart from that, many WARNETs (internet cafes) are now starting to appear and there is already an Indonesian WARNET Association which was established on May 25, 2000. In July 2001 the Indonesian Telematics Coordinating Team (TKTI), Kadin,

The wider internet network in Indonesia is a positive thing for the technology stutter eradication program (gaptek). But in reality, it turns out that the breadth of the network is not always in line with the increase in internet users. In 2003, out of around 240 million Indonesians, only around 3 to 4 million Indonesians used the internet. This is caused by many factors, one of which is the lack of socialization, both about how to use it, the benefits and how to avoid negative impacts. As a result, the community first avoids, stays away from, and even taboos the internet, because the information received by the community is only negative things, such as lots of pornographic content.

The internet has several features and advantages that other media may not have, both mass media and electronic media that existed before. There are several examples of the privileges and advantages of the internet, namely efficiency, without boundaries, 24-hours on-line (open 24 hours), interactive, hyperlink (connected in an instant), no license (no need for permission) and no censorship (without censorship). Another advantage that can be enjoyed via the internet is from several types of services, including:

- a. E-Commerce, is trading transaction activity through internet facility. Here products can be offered across countries;
- b. E-Banking, is a banking activity in cyberspace (virtual) via the internet. This service allows customers to carry out various transactions such as checking balances, transferring funds, paying bills and others without having to go to the bank;
- c. E-Government, is the government using the internet to provide various information, such as work programs/policies and various public services to the community;
- d. E-Learning, is a process of teaching and learning in schools in digital form/in cyberspace.

This is what causes various forms of crime and violations to occur in cyberspace, such as the emergence of cybercrime, cyberporn, cybersex and others. regarding "The Prevention of crime and the Treatment of Offenders. (which is held every 5 years) has also discussed this issue up to

three times, namely at the VIII/1990 Congress in Havana, X/2000 Congress in Vienna, and finally at the XI/2005 Congress in Bangkok (18-25 April 2005). In the "background paper" of the "Measures to Combat Computer-related Crime" workshop, the XI UN Congress stated,

The same concern was also expressed in the paper "Cyber Crime presented by the Information Technology Association of Canada (ITAC) at the International Information Industry Congress (IIIC) 2000 Millennium Congress" in Quebec on September 19, 2000, which stated that "Cyber crime is a real and growing threat to economic and social development around the world. Information technology touches every aspect of human life and so can electronically enable crime.

This ITAC statement shows that cyber crime is a threat to economic and social development, even every aspect of human life. This can be seen by the emergence of various types of new crimes. In the economic field, there are online business crimes, cyber money laundering and EFT crimes. In the field of politics and defense there are racist propaganda, cyber terrorism and hackers in online election vote counts. While in the moral field there is cyberporn and cybersex.

Internet users think that cyberspace is a global world that is free from the territorial boundaries of any country. Even though various forms of cyber crime have been rampant and harmed by many parties. While the jurisdictional theories above are basically applied to the territorial areas of each country with geographical boundaries. Therefore, it is necessary to have jurisdictional provisions in cyberspace that can reach cybercrime.

Masaki Hamano in his article entitled "Comparative Study in the Approach to Jurisdiction in Cyberspace" suggests the existence of jurisdiction based on traditional principles. According to him there are three categories of traditional jurisdiction, namely:

- a. Legislative jurisdiction ("legislative jurisdiction" or "jurisdiction to prescribe"), namely the authority to make substantive laws;
- b. 2. Judicial jurisdiction ("judicial jurisdiction" or "jurisdiction to advocate"), namely the authority to try or apply the law;
- c. 3. Executive jurisdiction ("executive jurisdiction" or "jurisdiction to enforce"), namely the authority to implement/enforce compliance with the law it makes.

With regard to jurisdiction in cyberspace, Masaki Hamano distinguishes the notion of "cyberjurisdiction" from the point of view of the cyber/virtual world and from a legal perspective. From the point of view of the virtual world, "cyberjurisdiction" is often interpreted as "the power of system operators and users ("users") to set rules and implement them in a society in cyber/virtual space". From a legal standpoint, "cyberjurisdiction" or "jurisdiction in cyber-space" is "the physical government's power and court's authority over Netusers or their activity in cyber-space").

The existence of an effort to establish jurisdiction in cyberspace means that it will determine who has the right/authority to regulate the internet. Aron Mefford, a cyber law expert from Michigan State University, proposed "Lex Informatica" (Independent Net Law) as "Foundations of Law on the Internet". This idea seems to be inspired by the thought of "Lex Mercatoria". While David R. Johnson and David G. Post in their article entitled "And How Should the Internet Be Governed?" put forward 4 (four) competing models, namely:

- a. The exercise of control is exercised by the existing judicial forums ("the existing judicial forums");
- b. National authorities carry out international agreements regarding "the governance of Cyberspace";
- c. Formation of a new international organization ("A New International Organization") which specifically deals with problems in the world of the Internet;
- d. Self-governance by Internet users.

Of the four models, Johnson and Post (JP) support the 4th model ("self-governance") and both argue that the application of the traditional principles of "Due Process and personal

jurisdiction" is inappropriate and confusing when applied to cyberspace. According to them, cyberspace must be treated as a separate space from the real world by applying different laws to cyberspace ("cyberspace should be treated as a separate "space" from the "real world" by applying distinct laws to cyberspace).

Johnson and Post's opinion, according to Lawrence Lessig, is more of an excuse/excuse from a normative perspective than an analytic argument. If "JP"'s view is correct, that the cyber world and its activities must be distinguished from the real world, then the people involved in cyberspace are not real people ("are not real people"), objects/goods in cyberspace are "intangible", and the loss/injury it causes is "immaterial". This, of course, is a ridiculous proposition and is not true according to public opinion. According to Lessig, "people remain people, both before and after they move away from the computer screen" ("People remain people before and after they step away from the computer screen").

Johnson and Post's view did not only receive responses or criticism from Lessig, but also from Christopher Doran. According to him, the view that personal jurisdiction cannot be applied to internet defendants is not a prominent/influential view. While Masaki Hamano also stated that Johnson and Post's ideas did not materialize in reality. Even though there are many legal cases related to cyberspace, courts in the United States have accepted the traditional approach to cyberspace jurisdictional disputes rather than creating a complete new set of rules regarding cyberlaw.

Barda Nawawi Arief agrees with Masaki Hamano's statement above, stating that:

"The legal system and national/territorial jurisdiction do have limitations because it is not easy to reach perpetrators of criminal acts in a borderless cyberspace. However, this does not mean that activities in cyber space are left free without law. Cyberspace is part or extension of the "environment" and "life environment" which needs to be maintained and maintained. So it is also a "legal interest" that must be protected. Therefore, legislative jurisdiction or "jurisdiction to prescribe" can and must still function to tackle "cyber-crime" which is a new dimension of "environmental crime".

According to Barda Nawawi Arief, in the effort to determine cyberspace jurisdiction, why not use the universal principle or the principle of ubiquity? This principle was recommended at the "International Meeting of Experts on the use of Criminal Sanctions in the Protection of the Environment, Internationally, Domestically and Regionally" in Portland, Oregon, United States of America 19-23 March 1994. This principle of ubiquity may be used in jurisdictions in several countries, such as Australia and the USA. Australian law gives the authority to prosecute anyone anywhere who attacks a computer in its territory. While in the USA, not only can sue every foreigner who attacks every computer in the USA, but also Americans who attack computers in other countries.

3.1 Earning Experts About Mobile Internet

The use of internet technology has formed a new world society that is no longer hindered by the territorial boundaries of a country which were previously determined to be very essential, namely cyberspace, a world without boundaries or virtual reality. This is actually what Borderless World is. The development of information technology is not only capable of creating a global world, but has also developed a space for new life for society, namely the life of virtual society (cyber community). In cyber community, all activities, interactions, communications, social processes, creations, etc. can be carried out freely and without limits. All activities in cyberspace seem to be separated from the national jurisdiction of any country, so they are value-free.

Onno W. Purbo stated that the internet is seen by most people, users, social observers as a world without borders, a world without rules, a world of freedom. This is what causes various forms of crime and violations in cyberspace, such as the emergence of cybercrime, cyberporn, cybersex and others.

David Greenfield, a psychologist in America, found about 6% of internet users experience addiction. These people experience the same symptoms as drug addiction, namely losing track of time on the internet. Most people who are addicted to the internet are because they find satisfaction on the internet, which they don't get in the real world. Most of them are trapped in negative activities, such as games, gambling and online sex.

According to Ronald Moglia of New York University, these love peddlers, both women and men, are on the Internet every night looking for new or old customers. Computers and modems have replaced street vendors and street lights as places to sell. This phenomenon has also begun to occur in Indonesia. Polda Metro Jaya once revealed that there was a mode of offering commercial sex workers (PSK) through the poskota.net site. This case is a natural phenomenon, because the internet is a trading medium (E-Commerce), including in the offer of Commercial Sex Worker (PSK) services. A message board on the internet entitled "Information on Commercial Sex Vendors" hosted on ezbo***.com. The contents include bartering information related to sex, including names and cell phone numbers.

Jery Repolato in his presentation on "CyberPorn and Internet Safety", 2003, stated that every day there are 270 million internet users and 68 million or 25% of them. Searching for pornography in cyberspace is made easier by the existence of sites that search for all forms of information (web search engines). including searching for addresses of pornographic sites. The daily USA Today edition of August 28, 1997, in a media study it did, concluded that 28.2% of Americans online had visited pornographic sites on the internet and 20% of them used search engine facilities to find these sex sites. . Nathan Tabor said that statistics show that 25% of all internet search engines ask to be linked to pornography. and conducted several kinds of searches for pornography.

According to the author, there are several factors that cause children to consume pornography, especially the internet, namely:

- a. Lack of supervision and guidance from parents to their children about the benefits of the internet and its negative impacts;
- b. The closed attitude of parents to their children about sex education, as a result of which a great curiosity is sought for answers outside the home, such as in internet cafes;
- c. Parents who are technologically illiterate, thus fulfilling the internet needs for their children at home, but the parents themselves do not master it, and do not even know about the negative effects of the internet;
- d. Lack of protection efforts by parents who have internet at home or in children's rooms, namely not equipping it with software to block porn sites;
- e. The lack of information and education from schools regarding sex education and the negative impacts of the internet and pornography;
- f. The orientation is financial gain for internet cafe owners, so that anyone can rent internet including children or teenagers, even during school hours. In addition, the closed rooms available in internet cafes make children feel comfortable and safe to open porn sites;
- g. The low cost of being able to consume and even possess downloading pornographic photos or videos by them from a pornographic site and storing them on diskettes, CDs or flash discs;
- h. The attitude of openness in society, including parents who little by little do not consider taboo pornographic matters. As a result, social control is reduced towards pornography.

The large number of Internet pornography enthusiasts can be seen not only from the large number of porn site searchers, but also from the number of members of a mailing list. The "nonaman***" mailing list on YahooGroup.com which is aimed at pornography enthusiasts has more than 9000 members. 120 This number far exceeds the mailing lists that discuss information technology, such as GENETICS (the national telematics movement), which only has 2,000 members.

In relation to the attitude of openness, society is basically a social process that can occur because of the influence of modernity values and technological advances that change people's perspectives. However, this influence should still be filtered by existing norms, so that social control continues, including perspectives on pornography and sexuality.

3.2 Testin Based on Statistical Basic Assumptions

The criminal responsibility formulation system is closely related to the subject of the crime. In view of the Criminal Code, who can become the subject of a crime is a human being as an individual. This is in accordance with Article 59 of the Criminal Code, which states that legal entities/corporations are not subject to criminal responsibility. In the official explanation (Memorie van Toelichting) of Article 59 of the Criminal Code it is stated that a crime can only be realized by humans, and fiction about legal entities does not apply in criminal law. Therefore, the perpetrators of criminal acts who can be held accountable in crime offenses are only individuals/persons. The system for formulating criminal liability in criminal acts of decency is based on error or the principle of culpability. This can be seen by the presence of an element of intent or negligence. The element of error in the form of intentional/dolus can be seen in the formula "it is known that the contents of the writing, picture or object violate decency". While the element of error in the form of negligence/culpa can be seen in the formula "if there is strong reason for him to suspect that the writing, image or object violates decency".

Delict delict in the Criminal Code adheres to an alternative criminal formulation system and a single basic criminal formulation. The alternative formulation system can be seen from the formulation of the criminal threat, namely "threatened with imprisonment/confinement... or a fine...". The existence of a prison sentence alone indicates the use of a single principal criminal formulation system. Types of criminal sanctions (strafsoort) in decency offenses in the Criminal Code consist of imprisonment, confinement and fines. The three types of sanctions are threatened with crimes of crime, while violations of crime are only threatened with imprisonment or fines. Meanwhile, the length of sentence (strafmaat) is formulated in various ways. The length of the prison term for crimes of decency is between 4 months and 12 years, while the fine is between Rp. 4,500. 00 (four thousand five hundred rupiah) to IDR 75,000.00 (seventy five thousand rupiah). As for violations of decency, the imprisonment is between 3 days and 3 months and the fine is between Rp. 225.00 (two hundred and twenty five rupiahs) to Rp. 4,500.00 (four thousand five hundred rupiahs).

Explicitly in the Criminal Code there are no sentencing guidelines. However, according to Sudarto, the Criminal Code, which is a Dutch heritage, has sentencing guidelines, as stated in Memory van Toelichting of the Dutch WvS 1886, the contents of which (translation) are as follows: In determining the level of punishment, the judge for each incident must pay attention to:

- a. The objective and subjective circumstances of the criminal act committed must pay attention to the act and its creation;
- b. What rights were violated by the crime?
- c. What losses did it cause?
- d. What was the life of criminals like in the past?
- e. Was the crime that was blamed on him the first step towards a wrong path or was an act that was a repetition of an evil disposition that had previously appeared;
- f. The limit between the minimum and the maximum must be set as wide as possible, so that even though all of the above questions are answered to the detriment of the defendant, the usual maximum sentence is sufficient.

Meanwhile, according to Barda Nawawi Arief, not all conceptual buildings/constructions of the criminal law system were included/formulated in the General Section of Book I, including regarding sentencing guidelines. However, this is in the subject/science of criminal law and is generally taught to law students. However, because it is not stated explicitly in the Criminal

Code, this general conceptual construction is often forgotten; even the possibility of "forbidden" in practice or court decisions.

The existence of explicit sentencing guidelines, for example in Book I and in the elucidation of the Criminal Code, according to the author basically does not make the notion of sentencing guidelines only limited to a few provisions regulated in the sentencing guidelines, because basically in general or all of the criminal law provisions contained in the Criminal Code and laws outside the Criminal Code, is a guideline for sentencing.

According to Sudarto, the purpose of indirect sentencing can be used as "guidelines in sentencing by judges". This means that not only the provisions under the title of sentencing guidelines are sentencing guidelines, but also includes all provisions that serve as guidelines in sentencing. In this regard, Barda Nawawi Arief stated that: "despite the provisions concerning "criminal changes/adjustments", "guidelines for the application of a single/alternative formulation", provisions concerning "selection of types of crimes/actions", the circumstances considered for "not imposing imprisonment", for "imposition of criminal fines", for "implementation of a special minimum sentence", for "criminalization of children", it is not under the heading " Based on these 2 (two) opinions, it can be said that in general all the provisions contained in the Criminal Code and laws outside the Criminal Code, are sentencing guidelines, including sentencing rules. One of the sentencing rules in the Criminal Code is about the rules for imposing criminal fines and these fines are not paid, namely as stipulated in Article 30 paragraph (2) which states that "if a fine is imposed, and the fine is not paid, then it is replaced by imprisonment." . The length of imprisonment in this case is at least one day and a maximum of 6 months (Article 30 paragraph (2)). Meanwhile, if there is aggravation, the maximum length of imprisonment is 8 months (Article 30 paragraph (6)).

3.3 Criminal Aspects in Mobile Internet

Delict delict in the Criminal Code adheres to an alternative criminal formulation system and a single basic criminal formulation. The alternative formulation system can be seen from the formulation of the criminal threat, namely "threatened with imprisonment/confinement... or a fine...". The existence of a prison sentence alone indicates the use of a single principal criminal formulation system. Types of criminal sanctions (strafsoort) in decency offenses in the Criminal Code consist of imprisonment, confinement and fines. The three types of sanctions are threatened with crimes of crime, while violations of crime are only threatened with imprisonment or fines. Meanwhile, the length of sentence (strafmaat) is formulated in various ways. The length of the prison term for crimes of decency is between 4 months and 12 years, while the fine is between Rp. 4,500. 00 (four thousand five hundred rupiah) to IDR 75,000.00 (seventy five thousand rupiah). As for violations of decency, the imprisonment is between 3 days and 3 months and the fine is between Rp. 225.00 (two hundred and twenty five rupiahs) to Rp. 4,500.00 (four thousand five hundred rupiahs).

The rise of pornography and pornography circulating freely in society through various media with broad negative impacts and in efforts to protect women and children and the current weakness of criminal law policies in efforts to overcome them, especially eradicating cyberporn, the criminalization of pornography and pornography in the APP Bill is a necessity in the context of protecting society and structuring social life in accordance with religious and moral values.

The existence of internet criminalization in the Concept of the 2005 Criminal Code is an effort to anticipate and overcome the rise of pornography in cyberspace. In this criminalization process, it is necessary to pay attention to the causes of the negative impacts of the mobile internet which include various aspects, such as economic, socio-cultural aspects and the existence of abnormalities or deviations in sexual behavior. Apart from that, preventive efforts and aspects of protecting victims, the morality of perpetrators, children and the general public are also important, both using penal and non-penal means.

4. Conclusion

Based on the discussion in the research results and data analysis above, the authors draw the following conclusions: The negative impact of mobile internet use in Indonesia was created as a medium for disseminating all forms of data with positive value. However, the internet has now changed its function as a medium for spreading harmful things. The following are some of the negative impacts of using the internet: pornography, cyber-relationship addiction, gambling, excess information, violence, kidnapping, cyber harassment, cyber black market trading, and data security hacking. Apart from that, the negative impact of the internet can result in a person's economic factors. Legal efforts to prevent the negative impact of information technology in Indonesia, namely taking legal policy steps by making laws that can prosecute perpetrators of information technology crimes. Apart from that, Urges member countries to intensify efforts to combat computer abuse more effectively by considering the following steps: modernizing material criminal law and criminal procedural law, developing computer prevention and security measures, taking steps to sensitize citizens, court officials and law enforcers to the importance of preventing computer-related crimes, carry out training efforts for judges, officials and law enforcement officials regarding economic crimes and Expand the "rules of ethics" in the use of computers and teach it through the informatics curriculum, adopt a victim protection policy in accordance with the UN declaration on victims, and take steps to encourage victims to report information technology crimes, call on member countries to increase international activities in efforts to overcome the negative impacts of information technology, recommend to the Committee for the Control and Prevention of negative impacts of information technology Sanctions and criminal regulations that can be used to ensnare accusers of information technology crimes. There are 2 (two) types of criminal sanctions in pornography crimes, namely imprisonment and fines. The amount of fines is between IDR 300,000,000 to IDR 3. recommend to the Committee for the Control and Prevention of negative impacts of information technology Sanctions and criminal regulations that can be used to ensnare perpetrators of information technology crimes. There are 2 (two) types of criminal sanctions in pornography crimes, namely imprisonment and fines. The amount of fines is between IDR 300,000,000 to IDR 3. recommend to the Committee for the Control and Prevention of negative impacts of information technology Sanctions and criminal regulations that can be used to ensnare perpetrators of information technology crimes. There are 2 (two) types of criminal sanctions in pornography crimes, namely imprisonment and fines. The amount of fines is between IDR 300,000,000 to IDR 3.

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