

Review Of Islamic Criminal Law And Positive Criminal Law On Extortion Motived By The Distribution Of Obscious Videos On Social Media

Mulianda Alfikri^{1*}, Zulkarnain²

¹⁻²Islamic Criminal Law State Islamic University of North Sumatra Medan, Indonesia

*Corresponding Author: Mulianda0205192098@uinsu.ac.id

Article Info	Abstract
Received: 23-10-2024 Accepted: 03-12-2024 Published: 04-12-2024 Keywords: Islamic Criminal Law; Positive Criminal Law; Extortion as Motive for Spreading Pornographic Vid.	The distribution of indecent or inappropriate content through social media has become a serious problem in this digital era. This can have negative impacts, especially when the content concerns a person's personal life and has caused suffering and psychological suffering for the victim. In response to this problem, it is important to review Islamic criminal law and positive criminal law related to the protection of individuals who become victims of actors who are motivated to spread pornographic videos on social media. The research method used in this study is the analytical descriptive method. Data were collected through a literature study covering sources of Islamic law such as the Qur'an, hadith, and Islamic studies, as well as sources of positive law such as laws and related government regulations. The results of the study in Islamic law, the act will be subject to Ta'zir punishment and in positive law Article 27 Paragraph (1) of the ITE Law states that anyone who intentionally and without the right distributes, transmits, or makes accessible electronic information that has moral content can be subject to a maximum of 6 years imprisonment and/or a maximum fine of IDR 1 billion.
Info Artikel	Abstrak
Kata Kunci: Hukum Pidana Islam; Hukum Pidana Positif; Pemerasan Motif Penyebaran Video Syur.	Penyebaran konten tidak senonoh atau tidak pantas melalui media sosial telah menjadi permasalahan serius di era digital ini. Hal ini dapat berdampak negatif, terutama ketika konten tersebut menyangkut kehidupan pribadi seseorang dan telah menimbulkan penderitaan dan penderitaan psikologis bagi korban. Sebagai respons terhadap permasalahan ini, penting untuk meninjau hukum pidana Islam dan hukum pidana positif terkait perlindungan terhadap individu yang menjadi korban pemerasan yang bermotif penyebaran video syur di media sosial. Metode penelitian yang digunakan dalam studi ini adalah metode deskriptif analitis. Data dikumpulkan melalui studi pustaka yang meliputi sumber hukum Islam seperti Al-Qur'an, hadis, dan kaidah-kaidah Islam, serta sumber hukum positif seperti undang-undang dan peraturan pemerintah terkait. Hasil penelitian dalam hukum Islam perbuatan tersebut akan

dikenakan hukuman Ta'zir dan dalam hukum positif Pasal 27 Ayat (1) UU ITE menyatakan bahwa setiap orang yang dengan sengaja dan tanpa hak mendistribusikan, mentransmisikan, atau membuat dapat diaksesnya informasi elektronik yang memiliki muatan kesusilaan dapat dikenakan pidana penjara paling lama 6 tahun dan/atau denda paling banyak Rp1 miliar.



Copyright© 2024 by Author(s)

This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License.

INTRODUCTION

The phenomenon of the distribution of pornographic videos on social media has become a prominent issue in recent years. Technological advances and increasingly easy internet access have had positive impacts, but they have also been accompanied by negative consequences, one of which is the misuse of social media for criminal purposes such as extortion. Extortion through the threat of spreading pornographic videos is a form of crime that exploits the victim's vulnerability for profit. In this context, it is important to understand how Islamic criminal law and positive criminal law respond to this phenomenon..

The distribution of pornographic content and extortion through digital media are crimes that are increasing with the development of information technology. (Barda Nawawi Arief, 2011)

In a legal context, extortion motivated by the distribution of pornographic videos can be categorized as a violation of privacy and defamation. However, legal handling of these cases often encounters obstacles, both in terms of evidence and effective law enforcement. (Mohammad Daud Ali, 1990) Therefore, an in-depth study is needed regarding the appropriate legal approach to handling these cases..

Data shows a significant increase in extortion cases involving threats to distribute sexually explicit videos on social media. According to a report from Kompasiana, there has been a 30% increase in cases over the past three years. This demonstrates that this crime is not just an individual issue, but also a social one that requires serious attention from law enforcement and the public. Meanwhile, according to data from the Ministry of Communication and Informatics, cybercrime cases in Indonesia increased by 27% in 2022, with the majority of these cases related to the unauthorized distribution of private content. This phenomenon raises concerns due to its detrimental impact on victims, both psychologically and socially. (Ministry of Communication and Informatics, 2022)

The increase in extortion cases involving threats of spreading pornographic videos on social media can be seen in various reports and statistics. According to data published by Global Planet, these cases often involve perpetrators using fake identities to approach victims through social media platforms. The modus operandi used includes pretending to be close to the victim before threatening to share pornographic videos obtained illegally or without their consent.

This case is not unique to Indonesia; it has become a global issue. In several countries, governments have taken steps to tighten regulations and raise public awareness about the dangers of cybercrime. In Indonesia itself, although laws governing cybercrime exist, implementation and enforcement still face various challenges. One of the obstacles



to law enforcement in Indonesia is the lack of coordination between law enforcement agencies and the limited human resources trained to handle cyber cases. (Soerjono Soekanto, 2005)

Understanding the differences between Islamic criminal law and positive criminal law in handling cases of blackmail involving the threat of distributing pornographic videos is crucial. Islamic criminal law, which is based on Sharia, has a different approach to addressing sexual crimes and blackmail compared to the positive criminal law in force in Indonesia. Under Islamic criminal law, acts of blackmail and the unauthorized distribution of sexual content are considered serious violations of an individual's honor and dignity.

Islamic criminal law, known as *fiqh jinayah* (Islamic jurisprudence), has different principles than positive criminal law in handling cases of blackmail. In Islamic law, acts of blackmail can be categorized as *ta'zir* crimes, depending on the elements of the crime. Blackmail (الابتزاز) is considered a forbidden act that damages a person's honor and dignity, and therefore the perpetrator must be punished with appropriate punishment. (Abu al-Hasan Al-Mawardi, 1996)

In the case of the distribution of pornographic videos, Islamic criminal law emphasizes the importance of protecting individual honor and privacy. According to Yusuf al-Qaradawi, the distribution of content that damages a person's reputation can be considered *qazaf*, a false accusation punishable by flogging or other equivalent penalties. (Yusuf Al-Qaradawi, 2000) However, the implementation of this law often faces challenges, especially in the context of a modern society that is more open to technology and information.

On the other hand, positive criminal law in Indonesia regulates this crime through the Law on Electronic Information and Transactions (UU ITE) and the Criminal Code (KUHP). (Barda Nawawi Arief, 1994) However, there is still debate regarding the effectiveness of these laws in providing adequate protection for victims. Further research and study are needed to understand how the law can adapt quickly to technological developments and new crime patterns. (Soerjono Soekanto, 2005)

Therefore, understanding these differences is important not only for legal practitioners but also for the wider public so they can be more vigilant and proactive in protecting themselves from cybercrime. Further research and discussion are also needed to explore how these two legal systems can complement each other in providing more effective protection for victims of extortion through the threat of spreading pornographic videos on social media.

This study aims to explore and compare the approaches of Islamic criminal law and positive criminal law to cases of extortion motivated by the distribution of pornographic videos on social media. In today's digital age, the distribution of pornographic videos is a serious threat that can damage a person's reputation and personal life. Therefore, it is important to understand how both legal systems handle such cases and evaluate their effectiveness in providing justice to victims. A qualitative approach was chosen because this study aims to understand the phenomenon of Islamic criminal law and positive criminal law related to extortion motivated by the distribution of pornographic videos on social media in depth. A qualitative approach allows researchers to explore various perspectives, attitudes, and views on the issue, as well as to gain a deeper understanding of

complex issues related to values, social norms, and law.

The data sources for this research will be textbooks, scientific journals, and related articles from valid references. Valid references include journals indexed in reliable scientific databases, textbooks written by experts in the field of criminal law, and articles published in reputable academic media.

By combining literature analysis and case studies, and utilizing data sources from valid references, this research is expected to make a significant contribution to understanding the implications of Islamic criminal law and positive criminal law on extortion motivated by the distribution of pornographic videos on social media, providing a comprehensive perspective on the issue. This research is also expected to provide a strong foundation for developing more effective policies and law enforcement related to this issue. (Muladi and Barda Nawawi Arief, 1992).

LITERATURE RIVIEW

1 Extortion

Extortion is defined as an act of forcing or compelling another person to give up property, rights, or perform/omit an action, carried out through threats, intimidation, or abuse of power, with the aim of obtaining unlawful benefit. In positive law (Indonesian Criminal Code), this is regulated under Article 368 of the KUHP, which defines extortion as an act of compelling someone by threat or violence to surrender something belonging to them, or to grant a debt or debt relief, carrying a maximum penalty of 4 years imprisonment; if accompanied by violence or serious threats, the sentence may reach 9 years.

In Islamic Criminal Law (*Fiqh Jinayah*), extortion is categorized as a *jarīmah* (criminal act) that violates the rights of others. Scholars such as Al-Mawardi state that extortion is unlawful because it harms property, honor, and personal safety, and is classified as *jarīmah ta'zīr* — crimes whose sanctions are determined by judges or authorities based on public interest and the severity of harm, since there is no fixed punishment in primary texts. It violates the principle of *ḥifẓ al-māl* (protection of property) and *ḥifẓ al-'irdh* (protection of honor), which are core objectives of Islamic law (*Maqāṣid al-Sharī'ah*).

2 Distribution of Obscene/Explicit Content on Social Media

This act refers to unauthorized dissemination of videos, images, or messages containing sexual or indecent elements through digital platforms (Facebook, Instagram, WhatsApp, TikTok, etc.). Under positive law, this is regulated in:

- a. UU ITE Article 27B & 45: Criminalizes distribution of electronic content to threaten, blackmail, or harm reputation, punishable up to 6–12 years imprisonment and fines up to Rp12 billion.
- b. UU TPKS No.12/2022 Article 15: Classifies it as sexual violence, with penalties increased if used for extortion.

- c. UU Pornography No.44/2008: Prohibits production and distribution of pornographic content.

From the Islamic perspective, spreading explicit material without consent is strictly forbidden (*harām*) and falls under *fāḥishah* (indecent). It directly violates *ḥifẓ al-ʿirdh* (protection of dignity) and *ḥifẓ al-nasl* (protection of lineage), and is considered a major sin because it exposes people's private lives and destroys their reputation. It is also categorized as *jarimah ta'zīr*, with sanctions ranging from reprimand, imprisonment, to destruction of devices used, depending on the impact.

RESEARCH METHODS

1. Qualitative Approach

The qualitative approach was selected because this study aims to gain an in-depth understanding of the phenomena of Islamic criminal law and positive law related to extortion motivated by the distribution of explicit videos on social media. This approach enables the researcher to explore various perspectives, attitudes, and views regarding the issue, as well as to develop a deeper understanding of complex matters related to values, social norms, and the law.

2. Literature Analysis and Case Study:

- a. Literature Analysis: This study will analyze relevant literature, including books, journals, and scientific articles discussing Islamic criminal law, positive criminal law, and the context of extortion motivated by the distribution of explicit videos on social media. Through this literature analysis, the researcher will employ a theoretical approach to gain a deep understanding of the theoretical framework underlying the issues being investigated.
- b. Case Study: In addition to literature analysis, this study will also involve case studies to obtain a more concrete understanding of the application of Islamic criminal law and positive criminal law to cases of extortion motivated by the distribution of explicit videos on social media. These case studies will allow the researcher to identify patterns, challenges, and successes in the enforcement of laws related to this matter.

3. Data Sources

The data sources for this study will be derived from textbooks, scientific journals, and related articles obtained from valid references. Valid references include journals indexed in reputable scientific databases, textbooks written by experts in the field of criminal law, and articles published in leading academic media.

By combining literature analysis and case studies, as well as utilizing data sources from valid references, this study is expected to make a significant contribution to understanding the implications of Islamic criminal law and positive criminal law regarding extortion motivated by the distribution of explicit videos on social media, while providing a comprehensive view of the issue. Furthermore, this research is expected to establish a strong foundation for the development of policies and more effective law enforcement measures related to this issue.

RESULTS AND DISCUSSION

A. Basic Concepts of Islamic Criminal Law

Islamic criminal law is an integral part of Sharia, governing aspects of crime and punishment in Islamic society. Broadly defined, Islamic criminal law encompasses rules that serve to maintain social order and morality based on the teachings of the Qur'an and Sunnah. This law is based on the principles of justice, prevention, and rehabilitation. One key principle is that punishment must be proportionate to the crime committed, and that the perpetrator must be given the opportunity to repent and improve.

Another fundamental principle of Islamic criminal law is the emphasis on intent, or *mens rea*, in determining guilt. In cases of extortion, malicious intent to harm another person through the threat of distributing pornographic videos is a crucial element in sentencing. Furthermore, Islamic criminal law recognizes the victim's right to compensation, or *diyat*, as a form of reparation for the losses suffered.

1. Categories of Crimes in Islamic Criminal Law and Their Relevance to Extortion Cases (ابتزاز)

Crimes in Islamic criminal law are categorized into three main types: *hudud*, *qisas*, and *ta'zir*. *Hudud* are crimes for which punishments are prescribed by sharia, such as theft and adultery. *Qisas* is the equivalent punishment applied to crimes involving physical harm or murder. *Ta'zir*, on the other hand, covers crimes whose punishment is left to the judge's discretion, including extortion.

In the context of extortion involving the threat of distributing pornographic videos, the category of *ta'zir* becomes relevant. Extortion is not included in *hudud* or *qisas*, but its morally and socially damaging impact makes it punishable under the *ta'zir* principle. The judge has the authority to determine the appropriate punishment, which can be imprisonment, a fine, or another form of punishment deemed effective in deterring similar crimes in the future..

B. Basic Concepts of Positive Criminal Law

Positive criminal law in Indonesia is regulated by the Criminal Code (KUHP), a legacy of Dutch colonial law. The fundamental principle of positive criminal law is legality, meaning that no act can be considered a crime without clear, written regulations. M. Yahya Harahap, in "Discussion of Problems and Application of the Criminal Procedure Code," explains that positive criminal law aims to protect the public and individual interests from harmful criminal acts. (M. Yahya Harahap, 2002)

The application of positive criminal law in Indonesia emphasizes a fair and transparent judicial process. Everyone accused of a crime has the right to adequate defense and due process in accordance with established procedures. In cases of blackmail involving the threat of distributing pornographic videos, the Criminal Code provides a legal basis for prosecuting the perpetrator and imposing a punishment commensurate with the crime committed. (Andi Hamzah, 1994)

1. The Role of the Criminal Code in Handling Cases of Extortion with the Threat of Distributing Pornographic Videos

The Indonesian Criminal Code regulates extortion under Article 368, which states that

anyone who, with the intent to unlawfully benefit themselves or others, forces another person by threat of violence to give something, incur a debt, or cancel a debt is punishable by imprisonment. In the context of threats to distribute pornographic videos, this article provides a strong legal basis for prosecuting perpetrators of extortion. (Sudarto, 1990)

Extortion cases involving threats to distribute pornographic videos are increasingly prevalent in the current digital era. Data from the Ministry of Communication and Information Technology shows a significant increase in reported cybercrime cases, including extortion, over the past few years. Firm and consistent law enforcement is needed to handle these types of cases, to deter perpetrators and protect victims from further harm.

One example is the case in Pandeglang, Banten: The verdict hearing on July 13, 2023 at the Pandeglang District Court (PN), Banten Number: 71/Pid.Sus/2023/PN Pdg where the Defendant, Alwi Husen Maolana, was legally and convincingly proven to have distributed pornographic videos (revenge porn) with the motive of blackmail. Court Decision: The panel of judges sentenced.

Six years in prison and a fine of Rp 1 billion, or three months in prison. The defendant was also sentenced to an additional eight years' revocation of the right to use and utilize internet-based electronic communication devices.

This case highlights the importance of law enforcement against cybercrimes related to privacy violations and gender-based violence. Although the ITE Law was used in the prosecution, some have criticized the sexual violence aspect of this case for insufficient attention. It is hoped that in the future, law enforcement will be more comprehensive, considering various aspects of the violation, including utilizing the Sexual Violence Crimes Law (UU TPKS) to provide more comprehensive justice for victims.

Analysis of a Case of Blackmail with the Threat of Distributing an Obscene Video

Sexual exploitation through coercion (blackmail) and the distribution of pornographic videos on social media are acts that are morally, socially, and legally detrimental to individuals. As stated in Surah Luqman, verse 6:

وَمِنَ النَّاسِ مَن يَشْتَرِي لَهْوَ الْحَدِيثِ لِيُضِلَّ عَن سَبِيلِ اللَّهِ بِغَيْرِ عِلْمٍ وَيَتَّخِذَهَا هُزُوًا أُولَٰئِكَ لَهُمْ عَذَابٌ مُّهِينٌ

Among mankind are those who buy idle talk to lead people astray from the path of Allah without knowledge and make fun of it. They will have a humiliating punishment..

This verse gives a warning about people who buy empty or worthless talk, with the aim of leading people astray from the path of Allah without true knowledge, and making religion a subject of mockery.

The explanation of this verse is that people who intentionally spread false information, mislead others from the right path, and belittle Allah's religion with jokes or mockery, will receive a very humiliating punishment in this world and in the hereafter..

This verse emphasizes the importance of caution in accepting and disseminating information, and emphasizes the primacy of sound knowledge in approaching religion and life. Allah affirms that those who intentionally mislead others and belittle religion will receive a fitting retribution, and this is certainly related to spreading the blame of others without considering the long-term consequences..

In the context of Islamic criminal law, extortion motivated by the distribution of

pornographic videos can be analyzed using the basic principles stipulated in sharia. In accordance with the word of Allah:

□ وَلَا تَأْكُلُوا أَمْوَالَكُم بَيْنَكُم بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنتُمْ تَعْلَمُونَ

Meaning: "Do not consume your property among yourselves by wrongdoing, and do not bring it to the judges with the intention of consuming some of it sinfully, while you know." (QS Al-Baqarah:188).

Then in a hadith Abu Dawud explains that it is not permissible to take other people's property without their consent. Rasulullah saw said:

Artinya, "It is not permissible to take the property of a Muslim except with his consent.." (HR. Abu Dawud dan Ad-Daruquthni)

Imam Al-Ghazali in the book *Ihya'* as quoted by Syihabuddin Ar-Ramli said:

Artinya: "If someone asks someone in public and then gives because of embarrassment, so that if he were in a quiet place he would not give, then it is haram, as explained in several sources. Likewise, (it is haram) anything given to someone because of the giver's fear of the bad behavior, slander, or slander of the person who asked.. (Syihabuddin Ar-Ramli, 1984)

From the explanation above, it is very clear that extortion, in the sense of demanding something through force and threats, whether physical or non-physical, is forbidden. This is because the giver is unwilling to provide what is requested. They are forced to give it out of fear of the perpetrator's threats.

Meanwhile, the system of sanctions in Islamic Criminal Law states that extortion falls under the category of *jarimah* (crimes) that can be subject to *ta'zir* punishment. *Ta'zir* is a punishment determined by the ruler or judge based on their discretion, with the aim of preventing crime and protecting society. In this context, the unauthorized distribution of pornographic videos constitutes a violation of individual honor and privacy, which are highly valued in Islam. (Sholehuddin, 2004)

Relevant sanctions in Islamic law for such cases can be fines, imprisonment, or physical punishment, depending on the severity and impact of the act. Punishment should be educational and deterrent, not merely for revenge. In some cases, the perpetrator may also be asked to publicly apologize to the victim as part of the social recovery process. (Abdul Qodir Jaelani, 2010) Relevant *Ta'zir* penalties for blackmail motivated by the distribution of pornographic videos on social media can be subject to imprisonment for a certain period, according to the severity of the threat and social impact, Fines or compensation to the victim, if there are material or psychological losses, Revocation of access rights to social media or technology, as a form of limiting the means of crime.

In practice, the application of Islamic criminal law to cases of blackmail involving the threat of distributing pornographic videos requires strong evidence. This includes witnesses, the perpetrator's confession, or physical evidence supporting the victim's claim. Evidence under Islamic law must meet certain requirements to ensure justice and truth. (Ali, Mohammad Daud, 1990)

Allah Subhanahu Wataala says:

إِنَّ الَّذِينَ يُحِبُّونَ أَنْ تَشِيعَ الْفَاحِشَةُ فِي الَّذِينَ آمَنُوا لَهُمْ عَذَابٌ أَلِيمٌ فِي الدُّنْيَا وَالْآخِرَةِ وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ

Meaning: "Indeed, those who wish (news of) a very heinous act to spread among the believers, for them will be a painful punishment in this world and in the hereafter. And Allah knows, while you do not know". (QS An-Nur: 19)

In this verse, Allah explains that people who like to broadcast vile and shameful acts such as adultery among the muhsan believers, both men and women, will be punished in this world and in the afterlife, if they do not repent and carry out the punishment in this world, they will be punished in hell. Spreading news that is inappropriate is prohibited in Islam. What is requested should be that news about ethical violations must be kept, as the Prophet said:

Meaning: "True Muslims are those who are safe from the evil of their tongues and hands, and those who emigrate are those who abandon Allah's prohibitions." (Riwayat al-Bukhari, Abu Daud dan an-Nasa'i)

Case studies in several countries that implement Islamic criminal law show that the threat of spreading indecent material is often taken seriously. For example, in Saudi Arabia, a Snapchat case involving a young woman posting a video deemed to violate public decency norms can result in a six-month prison sentence, a financial fine, a ban on social media use during her sentence, and strict post-release supervision. This aligns with the goal of Islamic law to maintain morality and public order. In Indonesia, there are several types of ta'zir punishments, including caning, fines, confiscation of assets, and imprisonment.

C. Positive Criminal Law Perspective

From the perspective of positive criminal law in Indonesia, blackmail involving the threat of distributing pornographic videos can be categorized as a criminal act of extortion and/or threats, as regulated in the Criminal Code (KUHP). Threatening to distribute pornographic personal information can be subject to criminal sanctions in accordance with Article 368 of the Criminal Code, which regulates extortion and threats. (Muladi dan Barda Nawawi Arief, 1992)

In addition, the Electronic Information and Transactions Law (ITE Law) also provides a legal basis for prosecuting extortionists who use social media or other digital platforms.. Pasal 27 Ayat (1) UU

ITE states that any person who intentionally and without the right distributes, transmits, or makes accessible electronic information containing moral content can be subject to a maximum prison sentence of 6 years and/or a maximum fine of IDR 1 billion.

Legally, this act violates Article 27 paragraph (4) of Law Number 11 of 2008 concerning Electronic Information and Transactions, namely:

"Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents containing extortion and/or threatening content." And Article 45 paragraph (1) of Law Number 19 of 2016 concerning Electronic Information and Transactions, amending Law Number 11 of 2008, namely a maximum imprisonment of six years or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).

A relevant case in Indonesia is the one featured in a Detik.com report, where a victim was blackmailed with the threat of distributing a sex video call. This case demonstrates how the perpetrator used technology to pressure the victim into handing over money. The application of positive criminal law in this case involved collaboration between the police and internet service providers to track and apprehend the perpetrator.

Another case study that can be used as a reference is the case reported by Tempo.co, in which a perpetrator was arrested after attempting to blackmail a victim by threatening to distribute nude photos. This case highlights the importance of victims' courage in reporting the incident to the authorities so that the legal process can proceed according to applicable regulations.

The implementation of positive criminal law in Indonesia in cases of extortion involving the threat of distributing pornographic videos demonstrates the government's commitment to protecting the public from cybercrime. However, challenges such as a lack of public understanding of digital rights and legal procedures remain obstacles that need to be addressed. Based on the author's analysis, those who distribute VCS should be punished according to applicable regulations, even though it is considered a wrong and improper act.

Comparison Of Islamic Criminal Law and Positive Criminal Law

Discussion of the similarities in the objectives and principles of law enforcement between Islamic criminal law and positive criminal law can begin with the view that both legal systems aim to maintain order and justice in society. In Islamic criminal law, the primary goal is to achieve justice in accordance with sharia principles, which govern not only relationships between humans but also relationships with God. Meanwhile, positive criminal law focuses more on regulating and enforcing laws based on socially and legally agreed-upon norms to protect individual rights and the public interest. (Abdul Qodir Jaelani, 2010)

However, there are significant differences in the approaches, procedures, and sanctions applied. Islamic criminal law tends to use a more theocentric and moralistic approach, with sanctions that are often fixed and non-negotiable, such as qisas and hudud punishments. (M. Sholehuddin, 2004) In contrast, positive criminal law is more flexible in procedures and sanctions, with room for negotiation and adjustment based on the context of the case and legislative policy. (M. Yahya Harahap, 2002)

The practical implications of this difference can be seen in the handling of blackmail cases motivated by the distribution of pornographic videos on social media. Under Islamic criminal law, this act can be categorized as a violation of an individual's honor and dignity, which can be subject to ta'zir punishment, namely a punishment determined by a judge based on discretion and context.²⁹ On the other hand, positive criminal law in Indonesia regulates such acts within the framework of the ITE Law, with more measured and specific criminal sanctions..

The impact of these differences on law enforcement and victim protection is significant. In the context of positive criminal law, victims have clearer and more structured access to legal processes and protection, including the existence of supportive institutions and reporting mechanisms. In contrast, in Islamic criminal law, victim protection relies more on the interpretation and decisions of judges, which can vary depending on the prevailing

understanding of sharia.. (H. A. Mukti Arto, 2003)

The potential for integrating or adapting positive elements from both legal systems for more effective handling can be considered. For example, principles of Islamic criminal law can be integrated with the positive legal system to provide more holistic solutions for victims and perpetrators, taking into account the moral and social aspects of the crime. Thus, a more inclusive and adaptive approach can improve the effectiveness of law enforcement and protect victims of extortion in this digital era. (Mohammad Daud Ali, 1990)

A comparison between Islamic criminal law and positive criminal law in handling cases of extortion motivated by the distribution of pornographic videos reveals fundamental differences in their approaches and legal implementation. Islamic criminal law places greater emphasis on moral and ethical aspects and provides harsh penalties for perpetrators to create a deterrent effect. Meanwhile, positive criminal law focuses more on formal and procedural legal aspects, with penalties varying depending on the severity of the crime.

In terms of effectiveness, Islamic criminal law can be more effective in providing justice to victims if applied consistently and fairly. However, in the context of modern, pluralistic societies, the application of Islamic criminal law often faces challenges, particularly in terms of societal acceptance and compliance with human rights principles.

CONCLUSION

From the discussion above, it can be concluded that both Islamic criminal law and positive criminal law have their respective advantages and disadvantages in handling cases of extortion motivated by the distribution of pornographic videos. To improve the effectiveness of law enforcement, collaborative efforts are needed between the government, law enforcement, and the public to raise awareness of the dangers of the distribution of pornographic content and the importance of protecting individual privacy.

Furthermore, there is a need for more comprehensive and adaptive regulatory revisions and updates to address technological developments, as well as increased capacity of law enforcement in handling cybercrime cases. This way, it is hoped that extortion cases motivated by the distribution of pornographic videos can be handled more effectively and fairly.

A review of Islamic Criminal Law and Positive Criminal Law on Extortion Motivated by the Distribution of Obscene Videos on Social Media further emphasizes the importance of legal protection for individuals who become victims of crime in this digital era. The phenomenon of the distribution of adult content or obscene videos on social media has become a disturbing issue, and therefore, a review of criminal law is crucial to maintaining order and justice in society

.In the context of Islamic Criminal Law, the distribution of pornographic videos on social media is considered a criminal act that violates Islamic moral and ethical values. Under Islamic criminal law, such actions can be categorized as slander or spreading slander, which is punishable by criminal penalties under Islamic law. Protection of an individual's right not to be disseminated inappropriately is expressly stipulated in Islamic law, and violations of this right are considered serious crimes.

On the other hand, Positive Criminal Law also plays a crucial role in addressing cases

of the distribution of pornographic videos on social media. Positive criminal law establishes provisions governing the illegal distribution of adult content and provides strict legal sanctions for perpetrators. Within the context of positive criminal law, the distribution of pornographic videos on social media can be categorized as a crime of defamation, pornography, and violation of privacy, all of which are subject to legal sanctions in accordance with applicable laws and regulations.

These two reviews demonstrate that both Islamic Criminal Law and Positive Criminal Law take a serious interest in the distribution of pornographic videos on social media. Both legal systems aim to protect individual rights, uphold morality, and maintain social stability through fair and firm law enforcement.

However, in practice, certain challenges exist, particularly in enforcing laws related to the distribution of adult content on social media. These challenges include investigations and law enforcement, which often involve cross-border perpetrators, as well as technical issues related to social media regulations. Therefore, handling such cases requires cooperation between countries and efforts to develop stricter regulations regarding social media.

In conclusion, a review of Islamic Criminal Law and Positive Criminal Law regarding the distribution of pornographic videos on social media provides a comprehensive view of the urgency of legal protection for individuals in the digital context. Both legal systems fundamentally share similar goals: maintaining morality, upholding justice, and protecting individual rights. Despite challenges in their implementation, collaboration and efforts to develop better regulations are expected to improve the effectiveness of law enforcement in handling similar cases in the future.

References

- Arief, B. N. (2011). *Pornografi Pornoaksi dan Cybersex-Cyberporn*. Semarang: Pustaka Magister.
- Ali, M. D. (1990). *Hukum Islam: Pengantar Ilmu Hukum dan Tata Hukum Islam di Indonesia*. Jakarta: Raja Grafindo Persada.
- Magenda, P. "Pemerasan dengan Ancaman Penyebaran Video non-Konsensual Melalui Dunia Maya." Dapat diakses melalui: [Kompasiana](<https://www.kompasiana.com/puspa0619/606fd97cd541df5bb716c683/pemerasan-dengan-ancaman-penyebaran-video-non-konsensual-melalui-dunia-maya>).
- Kementerian Komunikasi dan Informatika. (2022). *Laporan Tahunan Kejahatan Siber*. Jakarta.
- Planet, G. "Menyikapi Kasus Pidana Pemerasan dengan Ancaman Penyebaran Video Porno Melalui Media Sosial." Dapat diakses melalui: [Global Planet](<https://globalplanet.news/hukum/43524/menyikapi-kasus-pidana-pemerasan-dengan-ancaman-penyebaran-video-porno-melalui-media-sosial>).
- Soekanto, S. (2005). *Pokok-Pokok Sosiologi Hukum*. Jakarta: Raja Grafindo Persada.
- Al-Mawardi, A. H. (1996). *Al-Ahkam As-Sultaniyyah*. Beirut: Dar al-Kutub al-Ilmiyyah.
- Al-Qaradawi, Y. (2000). *Fiqh al-Jinayah: Dirasah Muqaranah*. Kairo: Maktabah Wahbah.
- Arief, B. N. (1994). *Kebijakan Legislatif dalam Penanggulangan Kejahatan dengan Pidana Penjara*. Bandung: Alumni.
- Soekanto, S. (2014). *Pengantar Penelitian Hukum*. Jakarta: UI Press.

- Muladi, & Arief, B. N. (1992). *Teori-teori dan Kebijakan Pidana*. Bandung: Alumni.
- Jaelani, A. Q. (2010). *Hukum Pidana Islam*. Bandung: Pustaka Setia.
- Harahap, M. Y. (2002). *Pembahasan Permasalahan dan Penerapan KUHAP: Pemeriksaan Sidang Pengadilan, Banding, Kasasi, dan Peninjauan Kembali*. Jakarta: Sinar Grafika.
- Hamzah, A. (1994). *Asas-asas Hukum Pidana*. Jakarta: Rineka Cipta.
- Sudarto. (1990). *Hukum Pidana I*. Semarang: Yayasan Sudarto.
- Sholehuddin, M. (2004). *Sistem Sanksi dalam Hukum Pidana Islam*. Jakarta: Raja Grafindo Persada.
- Ali, M. D. (1990). *Hukum Islam: Pengantar Ilmu Hukum dan Tata Hukum Islam di Indonesia*. Jakarta: RajaGrafindo Persada.
- Detik.com. "Korban Video Call Sex Diperas Hingga Diteror, Apa yang Harus Saya Lakukan?". Diakses dari: <https://news.detik.com/berita/d-6507216/korban-video-call-sex-diperas-hingga-diteror-apa-yang-harus-saya-lakukan>
- Tempo.co. "Kasus Pemerasan Bermotif Penyebaran Foto Bugil Korban Terbongkar". Diakses dari: <https://nasional.tempo.co/read/1078943/kasus-pemerasan-bermotif-penyebaran-foto-bugil-korban-terbongkar>
- Arto, H. A. M. (2003). *Membangun Sistem Peradilan Berbasis Syariah*. Yogyakarta: Pustaka Pelajar.
- Soekanto, S. (2004). *Faktor-faktor yang Mempengaruhi Penegakan Hukum*. Jakarta: RajaGrafindo Persada.
- Mohammad Daud Ali. (1990). *Hukum Islam: Pengantar Ilmu Hukum dan Tata Hukum Islam di Indonesia*. Jakarta: RajaGrafindo Persada.
- Ibnu Hajar Al-Haitami, *Az-Zawajir 'an Iqtirafil Kabair*, Beirut, Darul Fikr: 1407 H, juz II
- Syihabuddin Ar-Ramli, *Nihayatul Muhtaj*, Beirut, Darul Fikr: 1984,