

## The Discourse on Online Gender-Based Violence and Its Implications for Criminal Justice

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### Abstract

This research aims to understand and analyze gender-based violence as a phenomenon deeply rooted in social and cultural structures. The study employs a normative juridical method. Various regulations address how sextortion has become an increasingly alarming threat in the digital age. Gender-based violence has profound impacts on individuals, families, and society at large. In the context of gender-based violence, the state must ensure that the legal framework protects women's human rights online, including safeguarding women's rights to be free from violence, to express themselves freely, and to protect their privacy and personal data. Specifically, sextortion under Indonesian law is addressed in the Criminal Code (KUHP). According to the KUHP, perpetrators of sextortion violate Article 368 of the KUHP and Article 27A of Law No. 1 of 2024 on the Second Amendment to Law No. 11 of 2008 on Electronic Information and Transactions (UU ITE).

**Keywords:** Online Gender Based Violence (OGV), Criminal Justice, Implications

### Introduction

Sextortion has become an increasingly alarming threat in the digital age. It has significantly altered the landscape of personal security. This phenomenon, which combines elements of extortion and sexual exploitation through digital media, not only affects individuals psychologically but also presents serious challenges in law enforcement and victim protection. In everyday life, the presence of sextortion serves as a reminder of the complexities and risks associated with online interactions, as well as the need for a deep understanding of how to protect oneself from these threats. Therefore, addressing sextortion is not only an issue of individual privacy but also a security concern that requires a comprehensive approach from various parties, including the government, law enforcement agencies, technology platforms, and public education.

Gender-based violence is a phenomenon deeply rooted in the social and cultural structures of many societies around the world (Herry Christian, 2020). This phenomenon includes various forms of violence that occur due to gender differences and the power hierarchy that exists in society. One important aspect of gender-based violence is its profound impact on individuals, families, and society at large. In the context of gender-based violence, this includes digital crimes such as sextortion, which is a form of sexual violence carried out through exploitation and blackmail through digital media (Rizki & Yulida, 2020). Perpetrators often use sexual material they have about victims to threaten or coerce them into doing things they don't want to do. This not only violates the victim's privacy and dignity, but also reinforces gender inequality and reinforces unhealthy control and dominance (Muslimin et al., 2024).

The National Commission on Violence Against Women (Komnas Perempuan) receives reports of various forms of online gender-based violence, including tactics of coercion, online harassment, hacking, illegal content, privacy violations, threats of distributing personal photos or videos, and defamation. Additionally, there has been a significant increase in reports of online gender-based violence (KGBO) against women during the COVID-19 pandemic. Data from Komnas Perempuan for the year 2019 recorded 241 cases, while in 2020, the number rose to 940 cases. These reports further highlight the increase in gender-based violence, particularly in online crimes.

There are laws regulating sextortion, such as those outlined by the International Association of Women Judges (IAWJ). Additionally, other regulations like the General Data Protection Regulation (GDPR), although not specifically about gender-based violence, set stringent data protection standards in the European Union that can impact efforts to reduce the risk of online sexual exploitation. In Indonesia, sextortion is regulated by laws including the Minister of Communication and Information Regulation No. 5 of 2020 concerning the Protection of Personal Data in Electronic Systems. This regulation addresses the protection of personal data within electronic systems, which is also relevant in the context of online security and protection against gender-based violence.

Based on the description above, it can be formulated the problem as following:

1. what is the definition of sextortion from a criminal law perspective?
2. How the legal implications of sextortion cases in Indonesia?

### **Research Method**

The method used in this paper is normative legal research, which involves a literature or document study approach by examining the rules or norms and regulations related to the issue being discussed. The approach used in this research is the statute approach, which involves reviewing all legislation and regulations related to the legal issue under investigation. The researcher attempts to discuss the legal basis related to the sub-focus of sextortion, aligned with legislative principles.

### **Result and Discussion**

#### **Definition of Sextortion**

According to Cambridge, sextortion is derived from "sextortion" and is defined as extortion accompanied by the threat of distributing explicit, intimate, or personal content in the form of sexual photos and videos. Meanwhile, according to the KBBI (Indonesian Dictionary), sextortion is extortion accompanied by the threat of spreading explicit, intimate, or personal content in the form of sexual photos and videos, with the aim of obtaining additional sexual images and videos, coerced sexual relations, money, and so on. And according to Wittes et al., (2016) sextortion is old-fashioned extortion or blackmail, carried out over a computer network, involving some threat—generally but not always a threat to release sexually-explicit images of the victim—if the victim does not engage in some form of further sexual activity. The aim is to obtain benefits such as additional sexual images and videos, coerced sexual relations, or money.

Furthermore, the definition of Sextortion according to the International legal perspective, the term sextortion as a type of corruption was first coined in 2008 by the International Association of Women Judges (IAWJ). This term refers to a phenomenon that occurs when those who are entrusted or have power use it to sexually exploit those who depend on that power. This practice often involves threats or blackmail using personal or embarrassing information or images, with the aim of forcing the victim to perform sexual acts or provide other benefits to the perpetrator (Tri Afrida & Elda, 2023).

Sextortion according to Indonesian law, Sextortion according to Article 27A of Law No. 1 of 2024 concerning the Second Amendment to Law No. 11 of 2008 concerning Electronic Information and Transactions (UU ITE), the perpetrator of "sextortion" violates the article because the perpetrator of "sextortion" wants to benefit himself to get what is requested such as sexual activity or property by threatening to spread indecent photos or videos of his victim. However, in reality, the threat of violence in the Criminal Code is different from the threat of violence in "sextortion".

#### **Implikasi hukum terhadap sekstorasi hukum pidana di Indonesia**

Before discussing the legal implications of sextortion, it should be noted that sextortion in Indonesia is regulated by several laws, especially in the Criminal Code (KUHP) and the ITE Law (Law on Information and Electronic Transactions). Although Indonesia does not have a law that specifically regulates sextortion, the crime of sextortion can be based on Article 27A of Law No. 1 of 2024 concerning the Second Amendment to Law No. 11 of 2008 concerning Information and Electronic Transactions (UU ITE) which focuses on violations of the ITE Law, including in cases of sextortion.

In the criminal law of the ITE Law, especially in Article 27A of Law No. 1 of 2024 concerning the Second Amendment to Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law) which is pornographic and detrimental to other parties. This article contains various forms of information or electronic documents that have pornographic content and are disseminated via the internet, email, or other digital platforms without permission. Article 27 paragraph (3) complements this provision by adding that the distribution of pornographic content that also contains elements of defamation, In this case, the article includes the distribution of content that is detrimental to a person's reputation or honor, providing additional protection for affected individuals.

From the explanation above, it proves that the legal implications of sextortion in Indonesia are very serious. Based on the Criminal Code (KUHP) and related laws, perpetrators of sextortion can be subject to severe criminal penalties, including the threat of imprisonment. (Tri Afrida & Elda, 2023). In addition, victims have the right to report and sue the perpetrator, with the hope that the

law will provide protection and justice. Effective law enforcement is also important to prevent similar crimes in the future. In the context of law and crimes such as sextortion, the word "implication" refers to the meaning of the consequences or impacts arising from legal actions or regulations (Wittes et al., n.d.). Implications can cover various aspects, such as:

1. **Legal consequences:** this includes the type of punishment or sanction imposed on the perpetrator of the crime, as well as the legal impact on the victim. For example, in the case of sextortion, the implications include the criminal penalties that may be imposed on the perpetrator and the victim's rights to legal protection.
2. **Social impact:** this refers to how an action or legal regulation affects the wider community. In the case of sextortion, social implications can include the impact on the victim's reputation, changes in societal attitudes towards cybercrime, and prevention efforts.
3. **Psychological impact:** this includes the effects on the victim's mental and emotional health. Sextortion, for example, can cause psychological trauma for the victim, and the implications include the need for psychological support and recovery.
4. **Legal changes:** implications can also involve changes or adjustments in policies or legal regulations in response to specific cases or trends. For example, an increase in sextortion cases could trigger stricter laws or policies related to cybercrime.

Overall, implications refer to the results, effects, or impacts resulting from an action or regulation in various dimensions, whether legal, social, or psychological.

### **Criminal Responsibility of Perpetrators of "Sextortion"**

According to the Criminal Code (KUHP), the sanctions for perpetrators who carry out "sextortion" on their victims are based on the provisions contained in Article 27 paragraph (3) which regulates the threat of criminal penalties for perpetrators who disseminate electronic information without permission.

**Violation**, if a person or entity violates the provisions of Article 27A by distributing electronic information containing prohibited elements such as SARA, pornography, fraud, intimidation, lies that cause unrest, or other illegal content, they may be subject to legal sanctions.

**Sanctions**, sanctions imposed on violators can be in the form of fines, imprisonment, or other administrative sanctions in accordance with applicable laws and regulations. This type of sanction is determined based on the severity of the violation and its impact on society.

**Legal Process**, the legal process will follow the mechanisms applicable in the Indonesian justice system, including investigation, inquiry, prosecution, and trial.

In Indonesia, the practice of sextortion is often covered under Article 27A of Law Number 1 of 2024 on the Second Amendment to Law No. 11 of 2008 on Electronic Information and Transactions (UU ITE), which deals with negative content. Generally, Article 27A regulates sanctions for parties that disseminate electronic information deemed to violate legal and ethical norms in society. The articles in UU ITE address the prohibition of disseminating information or electronic documents that contain threats or insults, including those of a sexual nature. Threatening to distribute personal information, photos, or videos with sexual content unlawfully can be subject to criminal penalties. In practice, perpetrators of sextortion can face imprisonment of up to 12 years or more, depending on the severity of the case and its impact on the victim. Law enforcement is expected to protect victims and deter perpetrators (Permana, 2022).

In cases of "sextortion," perpetrators often obtain photos or videos of the victim containing pornographic content from the victims themselves. Typically, before sextortion occurs, the perpetrator and the victim are a couple with a very high level of mutual trust (Hidayat et al., 2023). In this context, the victim may send personal photos or videos with pornographic content to the perpetrator, assuming that the perpetrator will honor the trust as a partner would. However, even though the victim sends such material based on trust, this does not automatically make the victim a perpetrator of the violation (Hikmawati et al., n.d.).

In this case, it is important to consider the element of intent on the part of the victim. The element of intent refers to a person's intention or will to commit a certain act. In the context of sextortion, the victim is not categorized as a perpetrator because the victim did not intend to engage in sextortion (Nila Arzaqi, 2024). The victim also could not have anticipated or known that the photos or videos sent would be used for extortion or threats. The trust that the victim placed in the perpetrator, based on their relationship, leads the victim to be unaware of the potential for sextortion (Tri Rahayu et al., 2023).

Law enforcement in sextortion cases aims not only to provide justice for the victim but also to deter perpetrators and maintain safety and trust in personal relationships and digital communication.

### **Closing**

### **Conclusion and Recommendation**

#### **Conclusion**

Based on the research on sextortion, it can be concluded that this act is a form of extortion involving the threat of disseminating explicit, intimate, or personal content in the form of sexual photos and videos. Sextortion refers to extortion carried out with the threat of releasing the victim's personal sexual material if they do not meet the perpetrator's demands. In international law, this term refers to sexual exploitation by individuals in positions of power over those who depend on that power.

In Indonesia, although there are no specific laws on sextortion, such actions can be penalized under Article 27A of Law No. 1 of 2024 on the Second Amendment to Law No. 11 of 2008 on Electronic Information and Transactions (UU ITE), particularly concerning sextortion and defamation cases. Perpetrators of sextortion can face criminal penalties of up to 6 years in prison and/or a fine of IDR 1,000,000,000.00.

The legal implications of sextortion include legal, social, psychological impacts, and the potential for policy changes. Effective law enforcement is expected to protect victims, deter perpetrators, and maintain trust in personal relationships and digital communication. Victims of sextortion, who typically have no intent or desire to engage in such acts, are entitled to legal protection and psychological support to recover from trauma.

#### **Recommendation**

Intensive efforts are needed to raise public awareness about the dangers of sextortion and how to protect oneself from such extortion. Educational programs on digital security and communication ethics need to be strengthened. These programs could be targeted at students as fundamental knowledge.

Strengthening regulations and policies is essential. Although the UU ITE and the Criminal Code (KUHP) already cover legal aspects of sextortion, more specific and comprehensive regulations regarding sextortion could aid in law enforcement and victim protection. Updating existing laws or adding related regulations should be considered to help reduce sextortion rates in Indonesia. Additionally, support for victims is necessary, and psychological support services and legal aid should be expanded to assist sextortion victims in their recovery process. Providing safe and easily accessible reporting facilities is also crucial to support victims.

Collaboration among researcher, coordination between law enforcement agencies, digital platform providers, and civil society organizations can enhance efforts to prevent and address sextortion cases. Prevention and case management programs should be developed integratively.

By implementing these recommendations, it is hoped that there will be a decrease in sextortion cases and an improvement in protection and justice for victims. Increased public awareness and support for victims will strengthen prevention and handling of sextortion cases. Strengthening legal regulations and policies will provide legal certainty and effectiveness in law enforcement. Meanwhile, collaboration between researcher and the community will enhance the response to this crime. All these steps are expected to create a safer and fairer environment for everyone facing the threat of sextortion.

### **References**

#### **Book and Journal**

- Herry Christian, J. (2020). Sekstorsi: Kekerasan Berbasis Gender Online Dalam Paradigma Hukum Indonesia. *Binamulia Hukum*, 9(1), 83–92. <https://doi.org/10.37893/jbh.v9i1.103>
- Hidayat, S., Kaimuddin Haris, O., Safiuddin, S., & Anton Bhayangkara Gaisar, M. (2023). Kebijakan Formulasi Kejahatan Sekstorsi dalam Sistem Pidana Indonesia Sextortion Crime Formulation Policy in the Indonesian Criminal System. In *Halu Oleo Legal Research* / (Vol. 5, Issue 2). <https://tekno.kompas.com/read/2020/08/28/18000087/kasus-kekerasan-pada-perempuan-via->
- Hikmawati, P., Penelitian, P., Keahlian, B., Jenderal, S., Ri, D., Mpr, K., Dpr, /, Dpd, /, Nusantara, G., Lantai, I., Jenderal, J., Subroto, G., & Senayan, J. (n.d.). *The Legal Policy of Online*

*Gender Based Violence Regulation: Ius Constitutum and Ius Constituendum Perspective.*  
<https://www.kompas.tv/>

- Muslimin, J. M., Shodiq, S., Kamarusdiana, & Almutairi, T. H. M. (2024). Sextortion, Gender, and Digital Crime: A Socio-Legal Comparison between Positive and Islamic Law. *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial*, 19(2), 53–77. <https://doi.org/10.19105/al-ihkam.v19i1.8731>
- Nila Arzaqi, F. P. A. (2024). Kebijakan Hukum Pidana terhadap Perkembangan Tindak Pidana Sekstorsi dalam Panggilan Video Call Sex (VCS). *Jurnali Analisis Hukum*, 7(1).
- Permana, F. C. (2022). Pertanggungjawaban Pidana Pelaku “Sekstorsi” dalam Kekerasan Berbasis Gender Online (KBGO). *Jurist-Diction*, 5(3), 883–898. <https://doi.org/10.20473/jd.v5i3.35776>
- Rizki, J. D., & Yulida, D. (2020). *Al-Hakam Islamic Law & Contemporary Issues* (Vol. 1). <https://www.kemenpppa.go.id/index.php/page/read/29/2304/kemen-pppa-lakukan-literasi-digital-demi->
- Tri Afrida, D., & Elda, E. (2023). Sekstorsi Sebagai Tindak Pidana Kekerasan Seksual Berbasis Elektronik dalam Sistem Hukum di Indonesia. *Jurnal Hukum Pidana Dan Kriminologi : DELICTI /*, 1(1), 11–26.
- Tri Rahayu, M., Anggrayni, L., & Hukum Tindak Pidana Sekstorsi Oleh Kepolisian Daerah Riau, P. (2023). PENEGAKAN HUKUM TINDAK PIDANA SEKSTORSI OLEH KEPOLISIAN DAERAH RIAU. *Journal of Sharia and Law*, 2(3), 994–1016. <https://jom.uin-suska.ac.id/index.php/jurnalsh/login>.
- Wittes, B., Poplin, C., Jurecic, Q., & Spera, C. (n.d.). *Sextortion: Cybersecurity, teenagers, and remote sexual assault 1*.
- Wittes, B., Poplin, C., Jurecic, Q., & Spera, C. (2016). *Sextortion: Cybersecurity, teenagers, and remote sexual assault 1*.

#### **Web**

<https://dictionary.cambridge.org/dictionary/english/sextortion>

#### **Constitution**

Pasal 368 KUHP mengatur tentang pemerasan dengan ancaman pidana

Pasal 27 ayat (1) dan Pasal 27 ayat (3) UU ITE tentang pencemaran nama baik

Undang-Undang Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik

Pasal 310-311 KUHP tentang pencemaran nama