

**JURIDICAL REVIEW OF DIGISEXUAL ACTIVITIES IN LIMITED
CYBERSPACE: REVIEWED FROM POSITIVE LAW IN INDONESIA**

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ABSTRACT

The advancement of technology has resulted in various products to fulfill human sexual needs, ranging from sex toys, sex dolls, to vibrators. However, not only that, technology has also spurred the emergence of various dating applications catering to diverse sexual orientations through smartphones. This research also highlights the importance of public education, law enforcement, regulation, collaboration with the technology industry, further research, and support for victims. Practical implications and policy recommendations are presented to assist society in protecting themselves from the risks and negative impacts of digital sexual practices in the digital era. This study employs a legal approach focusing on norms and literature research

methods to analyze the focal aspects of the research. The normative legal approach is utilized to analyze and comprehend all legal regulations related to the research topic. In Indonesia, the regulation of these activities from a positive legal perspective is still under development, largely due to the unique characteristics of digital media and its rapid evolution. The social impacts arising from digisexual activities entail fundamental changes in how individuals interact and experience sexuality. The absence of explicit regulations addressing digisexuality poses a significant challenge within the legal framework in Indonesia. The phenomenon of digisexuality, closely linked with the use of digital technology in the realm of sexuality, has yet to receive specific regulatory treatment at the national level.

Keywords: cyberspace, cybersexuality, Legal regulations.

INTRODUCTION

The rapid development of technology has changed not only the way we work and communicate, but also created a new culture that encompasses social interaction, information exchange, and identity development in a digital environment. This phenomenon includes the utilization of social media, online shopping, and various other activities that have become an integral part of everyday life.⁽¹⁾ The advent of technology has had a profound impact on not only the ways in which we communicate and work, but also on the ways in which we understand and live our sexuality. The advent of various technological innovations has facilitated the advent of more immersive and exciting sexual experiences for some individuals. Some individuals may opt for sexual interactions with technology over those with humans. Such individuals perceive technology as a conduit for more uninhibited self-expression, circumventing the potential constraints associated with direct physical and social interactions.

The concept of “digisexual” emerged as a term that refers to individuals who consider technology as an integral part of their sexual identity and preferences. For them, technology is not just a tool to fulfill their sexual needs, but also a part of how they define themselves and experience intimacy. With the adoption of technology in the realm of sexuality, digisexuals feel freer to explore their fantasies and desires without the social or moral pressures that may be present in in-person interactions. Moreover, for some individuals, sexual experiences with technology can be more gratifying than direct sexual interactions with other humans. Such individuals may perceive technology as a means of exerting greater control over their sexual experiences. Furthermore, they may view technology as a way of exploring different aspects

of sexuality without the constraints of physical or geographical limitations.(2) Society needs to open its mind and understand this cultural shift, treat digisexuals as part of the spectrum of human sexuality, and ensure their rights and dignity are recognized in an increasingly digital society. Therefore, digisexuality is a phenomenon that needs to be addressed and well understood in an era of ever-evolving technology.(3) This phenomenon highlights the importance of understanding the role of technology in shaping human sexual identity and recognizing the rights and dignity of digisexuals in an increasingly digital society.(4)

The prevalence of digisexual cases in Indonesia provides insight into the impact of technological advancements on human behavior and criminal activity in the digital age. Initially, interactions on social media and dating apps proceed smoothly, with clear and effective communication between perpetrators and victims. Nevertheless, in many instances, the circumstances evolve into a perilous digisexual case. As victims and offenders become more at ease with one another in virtual interactions, they may engage in sexual activities online, either of their own volition or as a consequence of the offender's persuasion. These activities are often a form of sexual expression in a virtual context and can involve the exchange of explicit messages or images. The concern is that digisexual acts like these can have serious consequences. When the victim and perpetrator decide to meet in the real world, it is often a potentially dangerous situation, especially if there is an element of coercion, blackmail or exploitation involved. Victims can be subjected to various forms of physical abuse or crimes.(5)

The rapid pace of technological advancement frequently presents a challenge for legal systems to keep pace with the latest developments. Consequently, legislation and regulatory frameworks are continuously evolving to address the challenges that emerge in the digital domain. Furthermore, it is crucial to acknowledge that individuals engaged in Digisexual activities possess rights and privacy that must be upheld. The protection of individual rights should be a paramount concern, irrespective of the context in which they are violated, whether online or offline.(6)

Legal regulations governing these cases are increasingly important to provide protection for victims and punish perpetrators. Law enforcement should also be improved to

prevent these cases. In addition, education and awareness about the risks of cybersex need to be increased, especially among adolescents and parents, in order to identify and avoid potentially harmful situations. Cybersex cases demonstrate the complexities and challenges that arise along with technological developments. This requires a holistic approach that includes legal, educational, and social awareness aspects to protect the public from the potential risks involved in online interactions.(7)

So, based on the description above, it can be formulated that the relevance and applicability of the concepts and regulations contained in Indonesian positive law towards the handling of Digisexual practices in limited cyberspace needs to be seriously considered. This highlights the necessity for a comprehensive investigation into the capacity of Indonesian positive law to effectively address and safeguard individuals from the potential risks and adverse consequences associated with Digisexual practices within the confines of a limited cyberspace. Therefore, a more profound comprehension of the relevance and efficacy of the implementation of existing concepts and regulations in the context of this case is imperative to ensure the safety and well-being of society in the contemporary digital age. by referring to the various previous explanations, it can be concluded that the problems can be formulated in this study are as follows: How can Indonesian positive law address and protect individuals from the risks and negative impacts associated with Digisexual practices in limited cyberspace?

RESEARCH METHOD

This research uses a legal approach that focuses on norms and literature research methods to analyze aspects that are the focus of the research. The normative legal approach is used to analyze and understand all legal regulations related to the research topic.(8) The library law research method entails a comprehensive examination of pertinent literature sources to gain insight into the subject matter under investigation.(9) This study has descriptive-analytical specifications, aiming to provide a detailed, structured, and comprehensive description of the issues being studied. In the descriptive normative legal research method, the data used are primary legal materials such as laws, regulations, court decisions, and related policies.(10) Additional data such as law books, scientific articles, and research journals can also be utilized

as support. In this context, it can be concluded that this research makes an important contribution in understanding the issue under study and serves as a foundation for further development in the legal domain.(11)

RESULTS AND DISCUSSION

Forms of digisexuality

The development of technology has produced various products to fulfill human sexual needs, ranging from sex toys, sex dolls, to vibrators. However, not only that, technology has also led to the birth of various partner search applications for various sexual orientations through smartphones. These apps utilize the power of internet connectivity and matching algorithms to help users find individuals who match their preferences and desires in terms of relationships and sexuality. This illustrates the extent to which technology has permeated the private sphere of human existence, facilitating novel avenues for the pursuit of sexual intimacy and gratification.(12) Etymologically, the word “digisexual” comes from the combination of two words, namely “digital” and “sexual”. “Digital” comes from the Latin “digitālis”, which means relating to numbers or calculations, as well as the use of electronic systems. While “sexual” comes from the Latin “sexuālis”, which refers to things related to sexuality.(13)

In terminology, “digisexual” refers to a primary sexual identity that emerges through the use of technology, or describes a person whose sexual and emotional attractions are satisfied through interactions in a virtual world. This reflects how the development of digital technology has affected various aspects of human life, including sexuality and gender identity.(14) Thus, digisexuality is an activity that refers to sexual activity that involves the use of digital technologies, such as the internet, electronic devices, or online communication platforms.(15) Here are some common forms of digisexuality activities:

Video call sex is a sexual activity without direct contact with the perpetrator through video features. It involves two individuals engaging in sexual activity using a video calling service, usually through a messaging app or video sharing platform. In this sexual practice, there is communication and exchange of sexual content via video online.(16)

Call sex, or phone sex, is a sexual activity that involves talking or chatting sexually with another person in order to fulfill their sexual desires. This type of activity involves two people having a sexual conversation over a phone call. It includes explicit talk and audio designed to arouse sexual desire without being physically present.(17)

Chat sex or what is often called “sexting” is a conversation that contains sexual chat to achieve sexual stimulation. This includes the sending of explicit text messages, images, or videos via cell phones or other digital media. Typically, sexting is a form of conversation or exchange of sexual content aimed at stimulating sexual desire between two individuals, often in the context of a romantic or sexual relationship.(18)

Digisexual-related regulations

The absence of regulations that explicitly regulate digisexuality is a significant challenge in the Indonesian legal sphere. The phenomenon of digisexuality, which is closely related to the use of digital technology in the realm of sexuality, has not received special treatment in terms of regulations at the national level. This creates a legal gap that complicates the handling of digisexual-related cases. Without specific regulations, law enforcement officials and authorities face difficulties in determining a clear and firm legal framework related to digisexual practices, including in terms of regulating, enforcing and protecting the rights of individuals involved in this phenomenon.(5) Therefore, the need for explicit and comprehensive regulation of digisexuality has become increasingly urgent, so that the public can be effectively protected from the risks and negative effects that may arise from the practice:

1. CRIMINAL CODE

Although it does not explicitly regulate digisex activities, the Criminal Code still provides a legal basis that can be interpreted to handle related cases. Several articles in the Criminal Code can be considered relevant in the context of digisexuality, including:

Article 281 of the Criminal Code on Decency:

- Article 281(1) prohibits intentionally showing or demonstrating obscene acts to another person.
- Article 281(2) prohibits intentionally holding or participating in a performance or fashion show that violates decency.

Article 284 of the Penal Code on Obscene Acts:

- Article 284(1) prohibits intentionally committing obscene acts against another person.
- Article 284(2) prohibits intentionally inducing another person to commit or tolerate obscene acts.

Article 296 of the Criminal Code on Spreading Pornography:

- Article 296(1) prohibits intentionally producing, distributing, or disseminating pornography.
- Article 296(2) prohibits intentionally offering, broadcasting, displaying, or trading pornography.

Interpretation of articles of the Criminal Code against digisexuals:

Article 281 of the Criminal Code confirms that digisexual activities can be considered as obscene acts when there is an explicit demonstration or show of sexuality, which is done in the presence of another person without their consent. In the digital context, this can include situations where a person engages in sexual activity or sends sexual content online to another person without their consent. The principles of consent and respect for individual privacy are of great consequence in determining whether a digisexual act can be classified as obscene. Consequently, Article 281 of the Criminal Code furnishes a legal foundation for law enforcement against digisexual practices that contravene norms of decency and propriety, particularly in regard to the utilisation of digital technology.(19)

Article 284 of the Criminal Code states that digisexual activity can be categorised as obscene acts if there is inducement or coercion to engage in sexual activity, or if sexual activity is carried out without consent.(20) In the digisexual context, this includes situations where an individual uses pressure or coercion to direct another individual to engage in sexual activity online. In addition, if the sexual activity is conducted without the consent or clear understanding of the parties involved, it can also be considered as obscene. The principle of consent is very important in determining the legality and morality of a sexual activity, including in the digisexual context. Therefore, Article 284 of the Criminal Code provides a legal basis

for law enforcement against digisexual practices that involve elements of persuasion, coercion, or violation of consent.

Article 296 of the Criminal Code confirms that digisexual activity can be categorized as pornography if there is a dissemination of sexually explicit content through digital media. The sexual content is disseminated without regard to age restrictions, which means that the content can be accessed by anyone without any age restrictions or protection of children and adolescents.(21) In the context of digisexuality, this includes situations where sexually explicit content, such as images or videos, is disseminated through digital platforms regardless of whether or not the recipient of the content is of legal age to access it. Article 296 of the Criminal Code aims to protect the public, particularly children and young people, from exposure to inappropriate or harmful sexual content through digital media, as well as to uphold moral and ethical standards in the use of digital technology. Therefore, Article 296 of the Criminal Code provides a legal basis for enforcement against digisexual practices that violate the principles of pornography and the protection of children.

PENALTIES

Criminal penalties for digisexual offenders who violate the Criminal Code vary depending on the article violated, including:(22)

Article 281 of the Criminal Code: Shall be punished with a maximum imprisonment of 2 years and 8 months.

Article 284 of the Criminal Code: Shall be punished with a maximum imprisonment of 9 years.

Article 296 of the Criminal Code: Shall be punished by a maximum imprisonment of 15 years.

Digisexual activities have the potential to violate the Criminal Code, especially if the content and context indicate obscene or pornographic acts. Digisexual offenders can be charged with various articles of the Criminal Code and are punishable by imprisonment.(23)

Law Number 11 Year 2008 on Electronic Information and Transactions

The Electronic Information and Transaction Law regulates information and electronic transactions, including digisexual activities. Here are some relevant articles of the Electronic Information and Transaction Law:

Article 27 paragraph (1): It is prohibited for any individual to intentionally and without right distribute, transmit, and/or make accessible electronic information and/or electronic documents that contain content that violates standards of decency.

Article 27 paragraph (3): Prohibits any person who intentionally and without rights disseminates information aimed at creating a sense of hatred or hostility of individuals and/or certain community groups based on ethnicity, religion, race and intergroup (SARA).

Article 28 paragraph (1): Prohibits any person who intentionally and without right alters, adds, reduces, transmits, damages, removes, moves, hides Electronic Information and/or Electronic Documents belonging to another person.

Article 30 paragraph (1): Prohibits any person who intentionally and without right accesses Electronic Information and/or Electronic Documents belonging to another person without the consent of the owner.

Interpretation of Articles of the Electronic Information and Transaction Law on Digisexuals

Article 27 paragraph (1): Digisexuality can be categorized as a violation if there is dissemination of explicit sexual content without the consent of the parties involved, and if digisexual content is disseminated for the purpose of personal gain. In this context, the dissemination of explicit sexual content without consent and for personal gain is a violation of the provisions of the Electronic Information and Transaction Law.

Article 27 paragraph (3): Digisexuality can be categorized as a violation if the digisexual content contains elements of ethnicity, religion, race and intergroup or if the dissemination of such content triggers hatred or hostility between individuals or groups. In this case, the dissemination of digisexual content that causes social conflict or tension between groups is a violation of the Electronic Information and Transaction Law.

Article 28 paragraph (1): Digisexuals can be categorized as violations if there is manipulation or hacking of personal data related to digisexuals, as well as if there is dissemination of digisexual recordings without the consent of the recorded individual. In this context, manipulation of personal data related to digisexuals or dissemination of recordings without permission is a violation of the law that can be followed up in accordance with Article 28 paragraph (1) of the Electronic Information and Transaction Law.

Article 30 paragraph (1): Digisexuals can be categorized as violations if there is unauthorized access to personal data related to digisexuals, as well as if there is dissemination of personal data related to digisexuals without consent. In this context, illegal access or dissemination of personal data related to digisexuals without permission is a violation of the law that violates the provisions of Article 30 paragraph (1) of the Electronic Information and Transaction Law. In consequence, the Articles of the Electronic Information and Transaction Law furnish a legal foundation for law enforcement action against digisexual practices that contravene existing legal provisions, including the dissemination of explicit content without consent, the dissemination of personal data without permission, and the dissemination of content that gives rise to social conflict.(24)

PENALTIES

Criminal penalties for digisexual offenders who violate the Electronic Information and Transaction Law vary depending on the article violated, among others:

Article 27 paragraph (1): Threatened with a maximum imprisonment of 6 years and/or a maximum fine of IDR 1 billion.

Article 27 paragraph (3): Threatened with a maximum imprisonment of 6 years and/or a maximum fine of IDR 1 billion.

Article 28 paragraph (1): Shall be punished with a maximum imprisonment of 12 years and/or a maximum fine of IDR 2 billion.

Article 30 paragraph (1): Shall be punished with a maximum imprisonment of 8 years and/or a maximum fine of IDR 800 million.

Electronic Information and Transaction Law No. 19 of 2016

Article 27 paragraph (1): Prohibits the dissemination of Electronic Information and/or Electronic Documents that have content that violates decency.

Article 29 paragraph (2): Prohibits the dissemination of information that is intended to frighten someone so as to cause insecurity.

Interpretation of articles of the Electronic Information and Transaction Law No. 19 of 2016 against digisexuals:(25)

Article 27 paragraph (1): The assertion is that digisexual activity can be categorized as an offense if there is dissemination of sexually explicit content without the consent of the parties involved. Furthermore, the dissemination of digisexual content is often driven by personal gain, including instances where individuals exploit sexual material for financial or other personal benefits without the consent of those involved in the content. In evaluating whether a digisexual act constitutes an offense, it is crucial to consider the principles of consent and respect for individual privacy.

Article 29 paragraph (2): It is argued that digisexual activities can be classified as criminal acts if they are carried out with the intention of making threats or exerting blackmail. The dissemination of digisexual content with the objective of exerting pressure or instilling fear in the recipient is also deemed a criminal act. In this context, threats or blackmail in digisexual practices can be defined as situations where an individual uses sexual content to threaten or coerce another person into performing an act that is unwanted or against their will.

Criminal penalties for digisexual offenders who violate the Electronic Information and Transaction Law No. 19 of 2016:

Article 27 paragraph (1): Threatened with a maximum imprisonment of 6 years and/or a maximum fine of Rp1 billion.(26)

Pornography Law No. 44 of 2008 regulates pornography

Here are some articles of the Pornography Law related to digisexuals:

Article 4 paragraph (1): Prohibits any person who produces, distributes, and/or disseminates pornography.

Article 8 paragraph (1): Prohibits any person from producing, distributing, and/or disseminating pornography through electronic media.

Article 10 paragraph (1): Prohibits any person from displaying pornography in public.

Interpretation of articles of the Pornography Law towards digisexuals:

Interpretation of articles of the Pornography Law towards digisexuals:

Article 4 paragraph (1): Digisexuality can be categorized as pornography if there is a performance or dissemination of explicit sexual content through digital media. The digisexual content is also disseminated for the purpose of personal gain. In this context, explicit sexual content disseminated through digital media, such as images or videos, may be considered pornography if the purpose is to gain financial or other personal benefit without the consent of the individual involved in the content.

Article 8 paragraph (1): Digisexuality can be categorized as an offense if digisexual content is disseminated through electronic media, such as the internet, chat, or video call. The dissemination of such content is done without the consent of the parties involved. In this context, the dissemination of sexual content through electronic media without the consent of the individuals involved can be considered a violation of the Pornography Law.

Article 10 paragraph (1): Digisexual activity can be categorized as an offense if the digisexual activity is carried out in a public place and can be seen by other people. In this context, digisexual activities carried out in public places and exposed to other people without their consent can be considered a violation of the Pornography Law.

In consequence, the Pornography Law furnishes a legal foundation for the implementation of legislation that prohibits sexual practices that contravene the tenets of pornography and the safeguarding of individuals.

Criminal penalties for digisexual offenders who violate the Pornography Law:

Article 4 paragraph (1): Shall be punished with a maximum imprisonment of 15 years and/or a maximum fine of IDR 1 billion.

Article 8 paragraph (1): Shall be punished with a maximum imprisonment of 12 years and/or a maximum fine of IDR 6 billion.

Article 10 paragraph (1): Shall be punished with a maximum imprisonment of 6 years and/or a maximum fine of IDR 250 million.

Digisexual activity, which involves sexual or intimate content shared, exchanged or accessed through digital media, is an increasingly common phenomenon in an increasingly digitally connected contemporary society. In Indonesia, regulating these activities from a positive law perspective is still a work in progress, largely due to the unique characteristics of digital media and the speed at which they develop. The social impact of digisexual activity represents a fundamental alteration in the manner by which individuals engage in and experience sexuality. Such shifts can influence the dynamics of human relationships in both positive and negative ways. It is also noteworthy that the potential exists for the formation of new sexual identities related to digisexuality. An individual's sexual identity constitutes an integral aspect of their identity as a whole. The utilisation of technology in the context of sexual activity can serve as a significant factor in the formation and definition of an individual's sexual identity.(2)

CONCLUSION

Associated with the rapid development of technology, we are seeing a major shift in the way humans interact and experience sexuality. The term “digisexual” reflects this phenomenon, where technology becomes an integral part of one's sexual identity and preferences. Digisexual activities, such as video call sex, phone sex, and sexting, are becoming increasingly common in digital environments. However, the lack of explicit regulation on digisexuality creates legal loopholes that complicate the handling of related cases. Therefore, it is important for the law to continuously adapt to technological developments and protect individuals from the risks and negative impacts associated with digisexual practices. Law enforcement, education and social awareness also need to be improved to protect people from the potential risks involved in online interactions.

In order to address the issue of harmful digisexual practices in the digital age, it is essential to implement a multi-faceted approach that encompasses a range of strategies. These include public education on the potential risks associated with cybersex, effective law enforcement measures against perpetrators, the development of comprehensive regulations governing digisexual practices in the context of digital technology, collaboration with the technology industry to prevent platform abuse, further research on the phenomenon of

digisexuality, the empowerment of digital communities, the provision of guidance to parents on supervising their children's use of technology, and the establishment of support services for victims and their families. It is anticipated that the implementation of these recommendations will facilitate more effective community protection from the risks and adverse consequences associated with digisexual practices.

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