

HARMONIZING CENTRAL-LOCAL AUTHORITY FOR DIGITAL PORNOGRAPHY LAW: LEGAL IMPLICATIONS AND SOLUTIONS

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Abstrak

Penelitian ini mengkaji disharmonisasi antara Undang-Undang Nomor 44 Tahun 2008 tentang Pornografi dan Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah, khususnya terkait pembagian kewenangan antara pemerintah pusat dan daerah dalam penanganan tindak pidana pornografi digital. Dengan menggunakan metode yuridis normatif, penelitian ini mengadopsi pendekatan perundang-undangan, konseptual, dan komparatif untuk menilai konflik regulasi secara vertikal dan horizontal. Hasil penelitian menunjukkan bahwa ketidaksinkronan norma hukum tersebut menimbulkan ketidakpastian hukum, lemahnya penegakan hukum, serta kontradiksi peran kelembagaan yang berakibat pada menurunnya efektivitas penanganan hukum di ruang digital. Melalui kerangka teori kepastian hukum Gustav Radbruch dan kemanfaatan hukum Jeremy Bentham, penelitian ini menunjukkan bahwa ketidakjelasan kewenangan telah menghambat kinerja hukum dan perlindungan sosial. Penelitian ini menawarkan solusi preskriptif melalui harmonisasi regulasi, pembagian kewenangan berbasis fungsi dan wilayah, serta penguatan mekanisme koordinasi lintas sektor untuk membangun sistem tata kelola hukum digital yang responsif dan terintegrasi di Indonesia.

Keywords: *Kepastian Hukum, Konflik Regulation, Pornografi, Desentralisasi, Hukum Digital*

Abstract

This study investigates the disharmony between Law No. 44 of 2008 on Pornography and Law No. 23 of 2014 on Regional Government, particularly regarding the division of authority between the central and regional governments in handling digital pornography crimes. Utilizing a normative

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juridical method, the research applies legislative, conceptual, and comparative approaches to assess the vertical and horizontal regulatory conflicts. The findings show that the lack of synchronization between legal provisions leads to legal uncertainty, fragmented enforcement, and contradictions in institutional roles, thus weakening the effectiveness of law enforcement in cyberspace. By employing the theoretical framework of Gustav Radbruch's legal certainty and Jeremy Bentham's utilitarianism, the study reveals that ambiguous authority obstructs legal performance and social protection. The study offers prescriptive solutions through harmonization of regulations, functional-spatial authority distribution, and intersectoral coordination mechanisms to establish a responsive, integrated digital legal governance system in Indonesia.

Keywords: Legal Certainty, Regulatory Conflict, Pornography, Decentralization, Digital Law

INTRODUCTION

The development of information technology has created new challenges in law enforcement, especially against the spread of pornographic content on social media. Indonesia, as a state of law as affirmed in Article 1 paragraph (3) of the 1945 Constitution, demands a guarantee of legal certainty, justice, and protection for all citizens. However, in practice, there is still disharmony between laws and regulations, particularly between the Pornography Law (Law No. 44 of 2008) and the Local Government Law (Law No. 23 of 2014), which creates ambiguity in the implementation of duties and responsibilities in handling criminal acts of pornography on social media. (Supriyadi et al., 2025, p. 400).

There have been many studies on the crime of pornography on social media to identify regulatory gaps and challenges in law enforcement. One study was conducted by Dadin Eka Saputra (2017), who stated that the existence of the Pornography Law and the Electronic Information and Transaction Law (ITE) still contain normative weaknesses. He found that the unclear formulation of articles related to criminal elements resulted in multiple interpretations in law enforcement and had an impact on disproportionate criminal liability for perpetrators (Saputra, 2017, p. 286). However, this research has not explicitly linked the problem of multi-interpretation with the issue of overlapping authority between the central government and local governments. Then, research by Fahreza Arifin and



Dini Dewi Heniarti (2022) highlighted aspects of law enforcement against extortion based on pornographic content through social media, especially in the form of video call sex. They analyzed the practice of extortion as a form of digital crime that takes advantage of the weakness of legal control over online sexual content. This study provides important contributions related to the *modus operandi* of the perpetrators and the weaknesses of the legal system in tackling pornography-based crimes. However, this study focuses more on the crime of extortion and does not systematically address the issue of overlapping authority between the Pornography Law, the ITE Law, and the Local Government Law as a structural problem in the division of legal and structural implications (Arifin & Heniarti, 2022, p. 672).

Based on these two studies, it can be concluded that there is no study that comprehensively analyzes the conflict of authority between the central and local governments in the context of handling pornography crimes on social media. This is a significant research gap, especially in the context of legal uncertainty, ambiguity in norm interpretation, and ineffective institutional coordination between the central and regional governments. Thus, the original contribution of this research (novelty) lies in a juridical study that not only dissects the normative aspects of Articles 18 and 19 of the Pornography Law and Article 15 paragraph (1) of the Local Government Law, but also offers a regulatory harmonization approach as a concrete solution to overcome the overlapping authorities that hamper law enforcement against digital pornographic content.

The urgency of this research lies in its massive impact on law enforcement and national digital governance. In the context of *ius constituendum*, the existence of multiple interpretations of norms causes legal uncertainty, potential human rights violations, and weakens the effectiveness of law enforcement agencies in the regions. Disharmonization between regulations also creates institutional conflicts between the central and local governments, which can disrupt national policy stability and hamper efforts to tackle pornographic content comprehensively. In addition, social media platforms such as "X" (Twitter) have now become the main platform for the dissemination of pornographic content, which not only affects public morality, but also opens up space for sexual exploitation and digital trade without jurisdictional boundaries (Viriya Singgih, 2024). Therefore, an in-depth legal analysis needs to be conducted to appropriately address the current challenges of cyber law.

Based on this explanation, the legal issues that become the main focus of this research are how the legal consequences and juridical consequences of the enactment of Article 18 and Article 19 of the



Pornography Law in relation to Article 15 Paragraph (1) of the Regional Government Law in the division of authority between the Central and Regional Governments on the handling of criminal acts of pornography on social media? and how is the legal solution in harmonizing the authority between the Central and Regional Governments in handling criminal acts of pornography on social media?

The purpose of this study is to analyze the legal consequences and juridical consequences of the disharmonization of the authority of the Central and Regional Governments in handling pornography crimes on social media, as well as to formulate legal solutions that can be the basis for regulatory improvements so that in the future a synchronous, effective and fair legal system is created in the context of digital content governance.

In the midst of the rapid flow of digital information, the rule of law is required not only to have adequate regulatory tools, but also to ensure integration and clarity in its implementation. When existing regulations create confusion of authority between the center and the regions, law enforcement becomes ineffective, and even tends to be counterproductive. This condition not only affects institutions, but also the rights of citizens who should be protected from the rampant pornographic content spread through social media. Thus, the urgency to evaluate, harmonize, and reformulate overlapping legal norms becomes increasingly inevitable. This study is expected to provide academic and practical contributions in encouraging the formation of a legal system that is responsive, harmonious, and able to answer the challenges of digitalization without sacrificing legal certainty and social protection.

LITERATURE REVIEW

In an effort to explain and solve the problem of disharmonization of authority between the central and local governments in handling criminal acts of pornography on social media, a strong theoretical framework is needed as a conceptual footing. The theories used in this research will guide in analyzing the substance of the norms as well as the juridical consequences arising from the inconsistency between the Pornography Law and the Local Government Law. The two most relevant and applicable legal theories in the context of this research are Gustav Radbruch's Legal Certainty Theory and Jeremy Bentham's Legal Benefit Theory, both of which provide an analytical basis for the normative and functional aspects of the legal system (Sayuti, 2021; Syaidi, 2024).

First, Gustav Radbruch's Legal Certainty Theory emphasizes that one of the basic values of law is *rechtssicherheit* (legal certainty), in addition



to *gerechtigkeits* (justice) and *zweckmassigkeit* (expediency) (Radbruch, 1950, p. 45). In this context, legal certainty must be prioritized as a fundamental requirement in the formulation and implementation of legal norms. Radbruch emphasized that the law must be positive, enforceable, and consistently obeyed, because laws that are multi-interpretive and indecisive will damage the structure of justice and the effectiveness of the legal system. Legal certainty lies not only in the existence of norms, but also in the coherence between applicable norms. Therefore, the inconsistency between Articles 18 and 19 of the Pornography Law and Article 15 paragraph (1) of the Local Government Law shows a lack of legal certainty, which results in the exercise of authority becoming overlapping and prone to institutional conflict (Obrien Kaawoan et al., 2024; Zaki Mahfuz Ridha et al., 2024)

Second, in the Legal Benefit Theory pioneered by Jeremy Bentham, the law is considered good to the extent that it can provide the greatest happiness of the greatest number of people (Salle, 2020, p. 36). In this framework, legal regulation of digital pornography content must not only be able to enforce norms, but also provide real protection to the community from the negative impact of online pornography. A useful law is one that is responsive to the needs of society and able to anticipate technological developments, including social media, which is the main means of spreading pornographic content (Vianney Bagus Raditya et al., 2024). However, Utrecht reminded that expediency should not neglect legal certainty, because the law must still provide clear boundaries for the actions of individuals and state institutions to avoid arbitrary actions (Aqmadea Eshafia et al., 2024; Lutfiah et al., 2024)

By referring to these two theories, this research departs from the understanding that harmonization of authority between the central and regional governments is an urgent need to ensure legal certainty and create laws that are beneficial to society. When legal regulations are not harmonized and have multiple interpretations, not only justice is threatened, but also the effectiveness of legal protection for the community. Radbruch and Bentham's theories become the foundation to analyze the structure of norms, evaluate the effectiveness of legal implementation, and offer a solution design based on harmonization and the principle of strict legality.

RESEARCH METHODS

This research uses a normative juridical approach (Rizkia & Fardiansyah, 2023, p. 120) which focuses on the analysis of laws and



regulations, legal principles, and legal doctrines to examine the problem of disharmonization of authority between the central and regional governments in handling criminal acts of pornography on social media. This type of research was chosen because it is in accordance with the characteristics of legal studies that emphasize normative analysis of positive legal texts and logical testing between intersecting norms. As stated by Soerjono Soekanto, the normative juridical approach is used to study written laws that are arranged systematically, and see their application in practice which can lead to legal disharmony (Soekanto & Mamudji, 2010, p. 13).

This research examines the norms in Articles 18 and 19 of Law Number 44/2008 on Pornography, and compares them with Article 15 paragraph (1) of Law Number 23/2014 on Regional Government, and examines their applicability in the context of the authority of the central and regional governments. The disharmonization that occurs is also associated with Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions (PSTE), and Permenkominfo Number 5 of 2020 concerning Private Scope Electronic System Operators.

In this research, three complementary legal approaches are used to thoroughly examine the issue of disharmonization of authority between the central and local governments in handling criminal acts of pornography on social media. First, the statutory approach is conducted by analyzing relevant legal norms, especially those contained in the Pornography Law, the Regional Government Law, as well as implementing regulations such as Government Regulations and Ministerial Regulations. The purpose of this approach is to identify potential inconsistencies and conflicts of norms that may interfere with the effectiveness of law enforcement. Second, a conceptual approach is used, which examines the theory of authority in state administrative law and constitutional law, to understand the limits and scope of authority between the central and regional levels. This approach is important to explain the theoretical basis of the distribution of power in the Indonesian legal system. Third, this research also adopts a comparative approach, which compares similar regulatory models in other countries, especially in the context of the distribution of authority and supervision of pornographic content in digital media. Through this approach, the author can assess whether Indonesia's legal structure is in line with global best practices and offer constructive recommendations. These three approaches are designed to complement each other, so as to provide



a complete picture of normative problems and legal solutions that can be proposed academically and practically.

The technique of collecting legal materials is carried out through three main stages, namely: first, a document study of relevant laws and implementing regulations such as the Pornography Law, the Local Government Law, and their derivative regulations; second, a literature review of legal theories used as a basis for thinking, especially Gustav Radbruch's theory of legal certainty which emphasizes the importance of norm clarity, as well as Jeremy Bentham's theory of benefits which prioritizes the effectiveness of law for the wider community; third, case studies of court decisions or concrete policies that show differences in interpretation or implementation of authority between central and regional institutions. The analysis of legal materials is conducted qualitatively through two main approaches, namely systematic interpretation, to link norms in the national legal system coherently and avoid multiple interpretations that undermine legal certainty; and comparative interpretation, to assess how other countries respond to the distribution of pornographic content on social media through more harmonious authority arrangements. With this method, this research not only portrays the problem from the normative side, but also provides prescriptive solutions to strengthen the clarity and effectiveness of the Indonesian legal system.

RESULTS AND DISCUSSION

The Urgency of Regulatory Arrangement in the Digital Era: Answering the Challenges of Cyber Law

The development of digital technology has changed the face of global society, including in terms of social interaction and information dissemination. In Indonesia, social media such as X (formerly Twitter), TikTok, and Telegram are often used as a medium for spreading pornographic content, either overtly or hidden in features such as private groups or live streams. This condition poses a serious challenge to the national legal system, especially when existing legal norms are unable to effectively reach or anticipate cyber dynamics. This has raised concerns about the adequacy of current legal frameworks in managing these challenges. A number of studies have shown that the proliferation of pornographic digital content not only threatens public morality, but also creates the potential for sexual exploitation, human trafficking, and violations of privacy rights (Muliani S, 2025, p. 51).

In the Indonesian context, disharmonization between regulations is the main obstacle in answering these cyber law challenges. As described in



the background of the research, there is an inconsistency between Articles 18 and 19 of Law No. 44/2008 on Pornography and Article 15 paragraph (1) of Law No. 23/2014 on Regional Government. The absence of strict delineation of authority causes confusion in the implementation of law enforcement in the field. Local governments often lack sufficient authority to act, while the central government is administratively and operationally burdened. This creates a vacuum of legal action in responding to violations that occur rapidly in cyberspace.

Theoretically, this situation shows the absence of *rechtssicherheit* as explained by Gustav Radbruch, who stated that legal certainty is one of the essential values of the legal system. Multiple interpretations, unsynchronized and overlapping legal norms hinder the implementation of fair and functional law (Julyano & Sulistyawan, 2019, p. 15). On the other hand, the utilitarianism theory developed by Jeremy Bentham demands that laws have a high utility value for society (Bentham, 2016, p. 1). Laws that fail to protect citizens from the dangers of digital pornography clearly do not reflect utility and may even harm many parties, especially vulnerable groups such as children and women. The proliferation of digital pornography also highlights the inadequacy of current regulatory frameworks in addressing the evolving digital landscape, necessitating a more harmonized and responsive legal approach.

Therefore, it is important to analyze the substance of existing norms and identify weak points in the regulatory order. Through statutory, conceptual and comparative approaches, this research not only assesses the compatibility between norms, but also opens up space to adopt best practices from other countries that have successfully built responsive and harmonious cyber legal frameworks. Regulatory reform is an urgent need, not only to catch up with technology, but also to ensure legal protection and social justice in an ever-evolving digital space.

Misalignment of Central and Regional Authority in Handling Digital Pornography

One of the main obstacles in law enforcement against the spread of pornographic content on social media in Indonesia is the misalignment between regulations governing the authority of the central and local governments. Law No. 44/2008 on Pornography in Articles 18 and 19 tasks the government without explicit explanation of the vertical distribution of authority. On the other hand, Law No. 23/2014 on Regional Government, specifically Article 15 paragraph (1), stipulates that moral affairs fall under the absolute authority of the central government. This mismatch creates ambiguity in the implementation of duties and responsibilities, especially



when local governments are faced with the situation of the spread of pornographic content through digital platforms that occurs in their jurisdiction.

This disharmony not only results in structural confusion but also has implications for weak coordination in law enforcement. In many cases, local governments do not have strong legal authority to act quickly, while the central government tends not to be in direct proximity to local dynamics. This results in an enforcement gap, which is the gap between existing rules and implementation in the field. In the context of handling cybercrime, it shows that overlapping authorities between institutions slow down and complicate the process of handling digital crimes effectively.

From a constitutional law perspective, this issue indicates the weakness of normative arrangements in dividing and integrating sectoral and territorial authority (Zuhdi et al., 2025, p. 48). The Local Government Law does establish the absolute authority of the center for moral affairs, but does not provide for the strengthening or delegation of operational functions to the regions. In administrative law theory, the failure to clearly define jurisdictional boundaries leaves institutions vulnerable to conflicts of interest and functional dysfunction (Iriawan & Edyanto, 2024, p. 29).

This problem shows the need for revision of regulations that emphasize a more precise and flexible division of authority. The decentralization system implemented in Indonesia should open space for local government participation in issues of decency that occur locally, including the handling of digital pornography. Without synchronization between central norms and regional capabilities, the legal system will lose its adaptability to the rapid digital social dynamics (Wibowo & Yulianingsih, 2025, p. 22). Regulatory harmonization is not just a matter of arranging overlaps, but a matter of uniting institutional visions to protect citizens from the dangers of damaging sexual content through an effective and well-distributed legal system.

The Juridical Impact of Regulatory Disharmonization: Between Uncertainty and Norm Contradiction

The disharmony between central and regional regulations in handling digital pornography crimes has a direct impact on legal certainty in Indonesia. When one law stipulates that handling pornography is the responsibility of the center, while another norm calls for the role of local governments without clear normative coordination, what happens is a vacuum of authority in law enforcement practice (Indraswari, 2024). This condition creates what is referred to as a legal vacuum, where norms exist but cannot be consistently operationalized at the implementation level. This



uncertainty is a violation of the basic principle of the rule of law, which demands a system of norms that is logical, not contradictory, and can be applied effectively.

Another juridical impact is the potential for conflicts of authority between agencies, which directly hampers the effectiveness of inter-agency coordination, both vertically and horizontally. Without an explicit division of tasks, the room for interpretation is wide open, which can be utilized by apparatus or officials to delay or deny responsibility for cases that actually require immediate handling. Furthermore, such conditions can also lead to regulatory capture and abuse of authority, especially when institutions do not feel bound by a single and coherent legal system. Institutional fragmentation in the context of digital content monitoring poses a latent threat to the integrity of the law enforcement system.

From a normative perspective, this disharmonization also impacts the protection of citizens' constitutional rights. When legal norms do not provide certainty and open room for multiple interpretations, citizens lose a definite reference regarding the boundaries of their rights and obligations, including in terms of accessing, disseminating, or reporting digital content (Zulfikri, 2023, p. 16). This uncertainty can lead to a violation of the principle of *nullum crimen sine lege certa*, where a person cannot be legally sanctioned based on vague or contradictory rules (Hairi, 2017, p. 92). In modern legal systems, contradictions between norms are not only harmful from a government administration perspective, but also directly undermine the credibility of the legal system itself as a responsible guardian of justice and freedom.

In principle, the biggest threat from regulatory disharmonization is the weakening of legal authority in the eyes of the public. Laws that are unable to provide direction, let alone resolve conflicts between institutions, will lose legitimacy as guidelines for social behavior. In the context of digital pornography, the delay or indecisiveness of law enforcement is not just a matter of bureaucracy, but concerns the social safety and broader public morals (Haris, 2024). Therefore, restoring legal certainty is not enough just by adding regulations, but must be done by ensuring harmony between norms and strengthening the institutional functions involved.

Theoretical Evaluation and International Comparison of Digital Authority Arrangements

Evaluation of the disharmonization of authority in handling digital pornography crimes needs to be placed within a strong legal theory framework so as not to be trapped in administrative solutions alone. The theory of legal certainty developed by Gustav Radbruch states that the law



must be positive, can be applied permanently, and is not multi-interpreted. When there are two legal norms such as in the case of the Pornography Law and the Local Government Law that overlap and cause confusion in the division of authority, it directly injures the principle of *rechtssicherheit* (Situmorang, 2023, p. 11). In Radbruch's view, norm ambiguity is not just a technical inaccuracy, but a form of legal failure in ensuring certainty and social order (Laritmas & Rosidi, 2024, p. 160).

In addition, from Jeremy Bentham's perspective, a good law is one that provides the greatest benefit to the greatest number of people (Mina et al., 2023, p. 174). In the context of tackling digital pornography, overlapping or unenforceable legal norms lose their usefulness. When the law is unable to be a tool to address the spread of damaging sexually explicit content, especially through platforms such as X or Telegram, then the law fails to fulfill the principle of utilitarianism. This situation indicates the need for a legal system that is not only compliant but also responsive to the rapid and dynamic development of information technology.

When compared to some other countries, Indonesia lags behind in terms of consistency and integration of regulatory authority in the digital realm. Germany, for example, through the principle of *Bundestreue* or federal loyalty, emphasizes the division of responsibilities between the center and the states vertically but remains synergistic, including in cyber law issues (Klamert, 2014, p. 30). Meanwhile, in the Netherlands, supervision of online content is managed by the central authority, but the reporting, monitoring and prevention system is left to local institutions through a *decentraal bestuur* system that is flexible and adaptive (Susilo & Muthia, 2025, p. 44). This experience shows that vertical harmonization does not necessarily mean centralization, but rather strengthening institutional roles tailored to regional capacity and speed of handling.

Thus, an evaluation of Indonesia's regulations is necessary not only to remove contradictory norms, but also to strengthen the integration between legal principles and modern digital governance. The solutions offered should be grounded in normative principles such as legal certainty and expediency, but also open to global practices that have successfully addressed similar issues (Anggara, 2024). Harmonization does not necessarily mean homogenizing everything, but adjusting duties and authorities based on institutional efficiency and the evolving characteristics of digital technology. National legal frameworks should ideally combine the firmness of norms with the flexibility of function distribution to ensure legal effectiveness and legitimacy in a complex and cross-border digital space.



Prescriptive Solutions: Regulatory Harmonization and Recommendations for Improving Digital Legal Governance

The initial step in resolving the problem of regulatory disharmony related to the authority in handling digital pornography crimes is through vertical and horizontal harmonization between laws and regulations. Vertical harmonization requires integration between the Pornography Law and the Regional Government Law, as well as derivative regulations such as PP No. 71 of 2019 and Permenkominfo No. 5 of 2020. Meanwhile, horizontal harmonization is needed to synchronize between institutional sectors related to law, communication, and digital security. Without this step, overlapping authorities will continue to be an obstacle in presenting an effective and measurable law enforcement system.

Furthermore, it is necessary to redesign the division of authority using a functional-spatial approach (Elvira Romano et al., 2025). Instead of maintaining a rigid administrative division of authority, the government can establish a function- and region-based scheme that takes into account local characteristics and the complexity of digital crime. The central government retains macro-regulatory functions, while regions can be given operational execution authority with direct supervision from the central agency. This model is similar to the shared governance approach applied in Canada and Australia in the field of online content monitoring, where central regulation goes hand in hand with the involvement of local actors based on roles and capacities (Canada, 2018, p. 24).

The next recommendation is the need to establish a permanent and independent cross-sector coordination institution. This institution functions as a coordination node between the Ministry of Communication and Information, BSSN, the Police, and local governments, with a mandate to develop technical SOPs for handling digital pornographic content in a standardized and integrated manner. In addition, this institution can also be mandated to integrate monitoring data and public complaints nationally.

As a long-term step, improving digital law governance should lead to the establishment of a National Digital Law Framework, a master framework that summarizes the principles, norms, and strategies of digital law enforcement in an integrated manner. This framework includes legal substance standards, enforcement procedures, coordination mechanisms, and protection of human rights in the digital space. With these guidelines, every agency and level of government can act within the same legal corridor, without the risk of violating the principle of *rechtssicherheit*. That way, Indonesian digital law can develop progressively without losing its normative basis.



CONCLUSION

The conclusion is that the disharmonization between Articles 18 and 19 of the Pornography Law and Article 15 paragraph (1) of the Regional Government Law creates legal uncertainty and normative contradictions that clearly hamper the effectiveness of handling criminal acts of pornography on social media. The mismatch in the division of authority between the central and regional governments results in weak institutional coordination, a vacuum of legal action, and potential violations of the principle of *rechtssicherheit* and the principle of the rule of law. The novelty of this research lies in the systematic description of regulatory conflicts between levels of government and their impact on the effectiveness of digital law enforcement in Indonesia. The urgency of this research is reinforced by the rampant spread of pornographic content on social media, which requires an integrated and responsive legal response. Therefore, it is necessary to vertically and horizontally harmonize the existing legal framework, arrange the division of authority based on function and region, and strengthen the cross-sectoral coordination system so that the law can run fairly, surely, and usefully in responding to the challenges of the evolving digital world.

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