

X'S CORPORATE CRIMINAL LIABILITY FOR FAILURE TO PREVENT THE BROADCASTING OF DEEFAKE PORNOGRAPHY UNDER INDONESIAN CRIMINAL LAWS

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ABSTRACT

The rise of Artificial Intelligence has fueled the proliferation of deepfake pornography, which has become increasingly widespread on social media platforms, particularly X. Under Elon Musk's leadership, X's shift toward less restrictive moderation has enabled harmful content, including deepfake pornography, to spread rapidly. Although formally prohibited by policy, enforcement remains inconsistent, as demonstrated by cases involving public figures such as Taylor Swift.

This legal research analyzes X's potential corporate criminal liability under Indonesian criminal law for failing to prevent the broadcasting of deepfake pornography, using a normative-empirical approach that combines statutory analysis with platform observation and user surveys. Findings show that Indonesia's jurisdictional framework provides a basis for prosecuting foreign corporations, though enforcement remains difficult. Deepfake pornography continues to circulate on X, while its reporting mechanisms are ineffective, meeting the "failure to prevent" standard under the Penal Code and constituting offenses under Electronic Information Law and Pornography Law.

This research addresses two main questions. First, the extent to which Indonesian criminal law can criminalize foreign corporations for failing to prevent the broadcasting of deepfake pornography. Second, how X can be held corporately liable for such failure. It finds that Indonesia's jurisdiction may extend to foreign corporations through extraterritorial principles and international cooperation, though enforcement remains weak. Moreover, X's inaction meets the "failure to prevent" standard under Article 48(d) of the Penal Code and constitutes offenses under Article 27(1) of the Electronic Information Law and Article 4 of the Pornography Law.

Keywords: Deepfake Pornography, Corporate Criminal Liability, Electronic Information Law, Pornography Law

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**TANGGUNG JAWAB PIDANA KORPORASI X ATAS KEGAGALAN
MENCEGAH PENYIARAN DEEPFAKE PORNOGRAFI BERDASARKAN
HUKUM PIDANA INDONESIA**

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INTISARI

Perkembangan Artificial Intelligence telah memicu penyebaran deepfake pornografi, yang semakin meluas di platform media sosial, terutama X. Di bawah Elon Musk, pergeseran X menuju moderasi yang kurang ketat telah memudahkan penyebaran konten berbahaya, deepfake termasuk pornografi, secara cepat. Meskipun secara resmi dilarang oleh kebijakan, pelaksanaan tetap tidak konsisten, seperti yang terlihat dalam kasus yang melibatkan Taylor Swift.

Penelitian hukum ini menganalisis potensi tanggung jawab pidana korporasi X berdasarkan hukum pidana Indonesia atas kegagalan mencegah penyiaran deepfake pornografi, menggunakan pendekatan normatif-empiris yang menggabungkan analisis peraturan dengan pengamatan platform dan survei pengguna. Temuan menunjukkan bahwa kerangka yurisdiksi Indonesia memberikan dasar untuk menuntut korporasi asing, meskipun penegakan hukum tetap sulit. deepfake Pornografi terus beredar di X, sementara mekanisme pelaporannya tidak efektif, memenuhi standar “gagal mencegah” berdasarkan KUHP 2023 dan merupakan pelanggaran berdasarkan UU ITE dan UU Pornografi.

Penelitian ini menjawab dua pertanyaan utama. Pertama, sejauh mana hukum pidana Indonesia dapat menjatuhkan sanksi pidana terhadap korporasi asing yang gagal mencegah penyiaran deepfake pornografi. Kedua, bagaimana X dapat dituntut secara korporasi atas kegagalan tersebut. Penelitian ini menemukan bahwa Indonesia dapat mencakup perusahaan asing melalui prinsip-prinsip extraterritorial dan kerja sama internasional, meskipun penegakan hukum masih lemah. Selain itu, X memenuhi standar “kegagalan mencegah” sesuai Pasal 48(d) KUHP 2023 dan pelanggaran sesuai Pasal 27(1) UU ITE dan Pasal 4 UU Pornografi.

Kata Kunci: Deepfake Pornografi, Tanggung Jawab Korporasi, UU ITE, UU Pornografi

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