



## Legal Protection of Victims of Artificial Intelligence Misuse in the Form of Deepfake Porn in Indonesian Law

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### ABSTRACT

In the era of Society 5.0, which is better known as the era of technological maturity and humanity, this era emphasizes increasing the capacity and quality of human resources (HR) in all joints, especially the use of technology. Until now, there has not been a single regulation that specifically regulates artificial intelligence. For all criminal offenses related to AI, the applicable law is ITE Law Number 1 of 2024. Issues related to misuse, legal protection efforts for victims, and law enforcement for perpetrators of misuse of AI in the form of deepfake porn are essential because it is a violation of honor and reputation. It is hoped that in the future, the public can protect themselves from the potential misuse of this technology. Therefore, to be able to comprehensively interpret how legal protection for victims of AI misuse in the form of deepfake porn is provided, analytical and in-depth research is needed regarding the legal review of the misuse of artificial intelligence in Indonesian regulations.

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## **INTRODUCTION**

Technological advancements will always have a significant influence on people's behaviours and mentalities, both directly and indirectly, and in both positive and negative ways. Misuse of information technology can lead to crimes and criminal offenses, even though crime is part of people's lives and is an everyday event, as an example of the misuse of artificial intelligence, namely the crime of deepfake porn. The legal protection of crime victims in relation to the misuse of AI in the form of deepfake porn is part of the protection of the community, which can be realized in various forms, such as through the provision of compensation, restitution, counselling, medical services, and legal assistance. Victims of AI misuse in the form of deepfake porn are included as victims of sexual violence, therefore more attention is needed to treatment and recovery due to the psychological suffering they experience. Victims will suffer from stress and trauma disorders that require medical treatment and protection with legal aid.

The ITE Law is a legal umbrella for various activities utilizing technology, including electronic transactions. In its development and implementation, the ITE Law has experienced various criticisms and negative responses from the public. This includes articles on artificial intelligence that have not been drafted in any of its amendments. However, the ITE Law can currently be used to take action against perpetrators who are indicated to have violated the law in relation to artificial intelligence. The term artificial intelligence in the ITE Law is equalized with the term "Electronic Agent". This equation is based on the characteristics of both in the automation of information processing. An electronic agent is defined as a device of an electronic system designed to carry out an action on specific electronic information automatically organized by a person under Article 1 Point 8 of the ITE Law. The notion of "automatically" in the context of an electronic agent is then utilized to establish AI as an electronic agent. The actual duties of electronic agents are already well regulated; these duties include the need to protect users' privacy, maintain control over their personal data, and communicate information about the systems they use in a way that prevents harm to users. However, in the ITE Law, there is not a single article that explains the rights and legal protection for victims.

## **LITERATURE REVIEW**

AI is the answer to today's massive technological advancements. Technological advances that are very rapid and have a significant impact on various aspects of human life in fact imply that almost all current life facilities also use AI technology to provide efficiency to make a creation that facilitates human life. However, its use is often misused, one of which is by using deepfake techniques that can attack a person's honour. Deepfake is an artificial intelligence that can be used to engineer photos, audio, or video in a photorealistic form by utilizing AI technology. In connection with the dangers of deepfake technology, it is necessary to have a regulation governing deepfake so that this technology does not have the potential to be misused.

## METHODOLOGY

The type of research used in this legal research is prescriptive normative legal research. Normative legal research does not recognize field research. In conducting research on law, an understanding of the law itself is needed. The subject matter of normative legal research is law which is conceptualized as a norm of rules that apply in society and become a reference for everyone's behaviour. The approaches used in this legal research include comparative approaches and conceptual approaches.

## RESULT AND DISCUSSION

Numerous advantages, including improved healthcare, safer and cleaner transportation, more effective manufacturing, and more affordable and sustainable energy, can be brought about by AI. AI has numerous positive applications, but it may also be abused to create new, potent weapons for social control, exploitation, and manipulation. Some types of deepfake uses of AI include face replacement or swapping, context repetition, lip-syncing, gesture transfer, photo generation, audio generation, and text generation. The use of deepfake technology in these forms can pose serious challenges to individual privacy and security, as it can create new forms of sexual violence in the form of gender-based online harassment through the misuse of AI. Cases such as the manipulation of deepfake porn videos that show a person's face without their consent are clearly a major risk to the advancement of this technology. Deepfake technology is not only limited to visual manipulation but also includes audio and text manipulation. The ability to misuse deepfake techniques can open up opportunities for identity abuse that can damage reputations and threaten the security of individuals. Such practices are extremely dangerous and abusive and should be prohibited as they go against human values of respect for human dignity, freedom, equality, democracy, and the rule of law, including the right not to be discriminated against and data protection and privacy. Victims of AI misuse in the form of deepfake porn are included as victims of sexual violence; therefore, more attention is needed to treatment and recovery due to the psychological suffering they experience. Victims will suffer from stress and trauma that require medical treatment and protection through legal aid. This can lead to the conclusion that victims of crime do not always prioritize material compensation as a form of attention to victims, such as in the case of AI misuse, one of which is deepfake porn. In this case, material compensation given to the victim is unlikely to be able to restore the victim's psychological health to its original state.

The ITE Law is an umbrella provision for various activities utilizing technology, including electronic transactions. Indonesia currently does not have special regulations governing artificial intelligence, the problems regarding the utilization and misuse of artificial intelligence in Indonesia are currently still using existing legal tools, namely the ITE Law. The ITE Law can currently be used to take action against perpetrators who are indicated to have violated the law in relation to artificial intelligence. The term artificial intelligence in the ITE Law is equalized with the term "electronic agent." This equation is based on the

characteristics of both in the automation of information processing. An electronic agent is defined as a device of an electronic system designed to carry out an action on specific electronic information automatically organized by a person under Article 1 Point 8 of the ITE Law. The notion of "automatically" in the context of an electronic agent is then utilized to establish AI as an electronic agent. The actual duties of electronic agents are already well regulated; these duties include the need to protect users' privacy, maintain control over their personal data, and communicate information about the systems they use in a way that prevents harm to users. Article 27 Paragraph (1) of the ITE Law regulates prohibited conduct pertaining to the misuse of AI in the form of deepfake pornography, which reads:

“Every person intentionally and without right broadcasts, shows, distributes, transmits, and/or makes accessible electronic information and/or electronic documents that have content that violates decency for public knowledge”.

This article explains that actions in the form of broadcasting, performing, distributing, transmitting, and/or making accessible electronic information and/or electronic documents containing content that violates decency can be subject to criminal punishment in the form of imprisonment for a maximum of six (six) years and/or a maximum fine of Rp1,000,000,000.00 (one billion rupiah). However, there are exceptions to these prohibited acts as stated in Article 45 Paragraph (2) of the ITE Law, namely if:

- a. Performed in the public interest;
- b. Conducted in self-defence; or
- c. The electronic information and/or electronic documents are works of art, culture, sports, health, and/or science.

This list of forbidden behaviours is a criminal violation that can only be prosecuted upon the victim's or affected party's complaint, not the legal entity's. Polemics from the victim's side are raised by this. For the reasons that there is no protection for victims, the legal foundation for the crime is weak, and the punishments meted out to the offenders are not worth it, victims of crime in this instance – particularly those involving the exploitation of AI in the form of deepfake porn – tend not to disclose their cases to law enforcement authorities. Survivors are also unwilling to interact with the legal procedure because of their fear and the difficulty of gathering evidence.

Not all victims who experience similar incidents have the courage to report the incident. This is because their reputation is at stake because the electronic information is manipulated as if it were them (deepfake). In addition, it is also possible for victims who do not have the courage to report the incident to get threats of violence from parties who irresponsibly distribute manipulated electronic information as if the content is really the victims. This threat of violence can cause fear, anxiety, or worry that violence or other acts will be committed in the future. In addition to threats of violence, there are also threats

of defamation given by the perpetrator to the victim to attack the honor or reputation of another person by alleging something with the intention that it becomes public knowledge. Various external factors can be an obstacle for victims to report the incident to the authorities. In addition to external factors, internal factors from within the victim can also be an aspect of not reporting a crime of decency using AI, namely the lack of public knowledge of legal protection for victims of criminal acts. Therefore, cases like this often go unreported because the victim chooses to remain silent and not bring it to the attention of the law. This is a form of injustice for the victim because, as the injured party, it only functions as a means of proof, and it is not uncommon for the victim's human rights to be neglected.

According to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the following are included in victim protection:

- a. Victims of crime must be treated with the utmost respect for their dignity and have the right to seek compensation right away;
- b. They must be informed about their role, the timeframes involved, and the status of their case; and
- c. They must be awarded the compensation allotted to victims of crime and their families.

No one shall be subjected to arbitrary interference with his private affairs, family, household, or correspondence, nor to abuses of his honour and reputation, according to the Universal Declaration of Human Rights. Everyone has a right to legal defence against this kind of meddling or infringement. Therefore, legal protection is something that is fundamentally given to every community, whether they are victims of crime or not. The protection of victims of criminal acts in Indonesia has been regulated by various laws, but the ITE Law is still not comprehensively regulated. The fulfilment of victims' rights is the most important thing in the protection of victims of criminal acts. The fulfilment of rights in an effective, efficient, uncomplicated, procedural, and objective manner is something that is expected by all parties. However, in relation to the legal protection of victims, the ITE Law and its two amendments do not contain any article that specifically regulates the rights of victims as an effort to provide legal protection for victims of artificial intelligence misuse.

Legal protection of crime victims is part of the protection and respect for the human rights of the community, which can be implemented with various efforts, such as providing restitution and compensation, medical services, and legal assistance. The provision of legal protection for victims of crimes related to cyber-based sexual violence, including deepfake porn crimes, is divided into three categories of protection, namely:

- a. Social protection, including actions in the form of assistance that provide a sense of security for victims from the impact of social sanctions.
- b. Psychological protection, including actions in the form of assistance that provide a sense of security for victims and strive for victims to recover both mentally and psychologically so that they can return to normal.

- c. Legal protection, including actions from law enforcement officials who are required to provide various legal efforts as an effort to provide a sense of security, both psychological and physical, free from interference and threats from any party.

Legal protection of crime victims in relation to the misuse of AI in the form of deepfake porn is part of protection for the community, which can be realized in various forms, such as through the provision of compensation, restitution, counselling, medical services, and legal assistance.

- a. Compensation

The obligation to compensate is something that is concrete and directly related to the wrongdoing of the perpetrator. The term compensation is used in KUHAP Article 99 Paragraphs (1) and (2) by emphasizing the reimbursement of costs that have been incurred by the injured party or victim. When viewed from the victim's side, the concept of compensation has two benefits, namely: first, as a fulfilment of material losses and all costs incurred by the victim. Second, as an effort to satisfy the victim's emotional state. The main purpose of providing compensation is none other than an effort to realize justice and the welfare of victims as part of society, in practice by providing opportunities for each victim to obtain their rights and obligations as human beings. There are five purposes of the obligation to compensate, according to Gelaway, namely:

1. Relieve the suffering of the victim;
2. As an element that mitigates the punishment imposed,
3. As a way of rehabilitating the convicted person;
4. To facilitate the judicial process; and
5. Reducing threats.

It can be understood that the provision of compensation must be carried out in a planned and integrated manner, meaning that not all victims should be given compensation because there are also victims who are directly or indirectly involved in the occurrence of a crime. Victims who need to be protected are victims who belong to the underprivileged group of society, both financially and socially.

- b. Restitution

Restitution is defined as payment made by offenders or other third parties to victims or their families under the Protection of Witnesses and Victims Law. Restitution places greater emphasis on the offender's accountability for the harm that resulted from the crime he committed, with the ultimate goal being the victim's complete recovery from all of the experiences she endured. The benchmark used to calculate the amount of restitution is based on the victim's and perpetrator's socioeconomic level. The material form of compensation will take precedence if the victim's social level is lower than the perpetrator's; if the victim's status is greater than the perpetrator's, the restoration of dignity will take precedence. To be able to apply for restitution, the applicant must pay attention to the administrative requirements of a

written application stipulated in Article 5 of Supreme Court Regulation No. 1 of 2022, then signed by the applicant or his/her attorney and submitted to the Chairperson/Head of the Court, either directly or through Witness and Victim Protection Institution, investigators, or public prosecutors. If the victim is a child, the application is submitted by the parents, family, guardian, heirs or proxies, or Witness and Victim Protection Institution, and in the event that the applicant is more than one person, a joint application can be made.

c. Counselling

Counselling is the process of providing assistance to someone who is experiencing a problem through an interview consultation with an expert (a counsellor) who provides direction on the solution to the problem faced by the person or victim. This counselling is needed by both victims and survivors of sexual crimes, such as the misuse of AI in the form of deep-fake porn. This is done in an effort to improve the psychological and mental condition of the victim and help them return to normal.

d. Medical Services

Medical services are all efforts made alone or together to maintain and restore the victim's health condition as a result of a criminal offense. Victims of AI misuse in the form of deepfake porn experience stress, anxiety, and so on. Therefore, medical services are needed in an effort to restore the victim's psychological condition so that it can return to normal. Medical services include the examination and provision of a written medical report that is legally valid and can be used as evidence in court. The results of the medical examination are intended primarily for victims when they want to report the crime they have experienced to the authorities for follow-up.

e. Legal Aid

Most victims of crime have low legal awareness; therefore, legal aid must be provided to victims of crime, regardless of whether the victim requests it or not. The victim's ignorance or fear of the legal provisions that could ensnare them is often the main reason why victims of AI misuse in the form of deepfake porn rarely report their losses.

## CONCLUSIONS AND RECOMMENDATIONS

The development of technological excellence has given rise to artificial intelligence in the field of technology, that is, artificial intelligences that model the processes of human thinking and design machines so that they can follow human behaviour, namely Artificial Intelligence. This action is regulated in the ITE Law, which is equal to the phrase electronic agent. Observing the rapid development of technology, in addition to bringing many benefits and conveniences, in reality there are still many people who misuse this advancement in technology, one of which is the deepfake technique, namely by manipulating audio, photos or videos. No one should be arbitrarily interfered with in his personal affairs, family, household or correspondence, nor should he

be allowed to violate his honour and good name. Therefore, everyone is entitled to legal protection against such interference or violation. Legal protection for victims of artificial intelligence misuse in the form of deepfake porn includes: compensation, restitution, counselling, medical services and legal assistance.

### **FURTHER RESEARCH**

This research still has limitations so further research needs to be done on this topic "Legal Protection of Victims of Artificial Intelligence Misuse in The Form of Deepfake Porn in Indonesian Law".

### **REFERENCES**

- Amelia, Y. F., Kaimuddin, A., & Ashsyarofi, H. L. (2024). Criminal Liability of Perpetrators Against Victims of Artificial Intelligence Deepfake Abuse According to Indonesian Positive Law. *Dinamika*, 30(1), 9677.
- Bawole, H. (2021). Legal Protection for Victims in the Criminal Justice System. *Lex Et Societatis*, 9(3), 16–24.
- Deloitte, D. (2017). *AI and you: Perceptions of Artificial Intelligence from the EMEA financial services industry*. Deloitte.
- Hamet, P., & Tremblay, J. (2017). Artificial Intelligence in Medicine. *Metabolism: Clinical and Experimental*, 69.
- Kasita, I. D. (2022). Deepfake Pornography: Trends in Online-Based Gender Violence (KGBO) in the Era of the Covid-19 Pandemic. *Journal of Women and Family*, 3(1). <https://doi.org/10.22146/jwk.5202>
- Laza, J. M., & Karo, R. K. (2023). Legal Protection of Artificial Intelligence in the Aspect of Misuse of Deepfake Technology in the Perspective of the PDP Law and GDPR. *Lex Prospicit*, 1(2). <http://dx.doi.org/10.19166/lp.v1i2.7368>
- Mahardika, Z. P., & Priancha, A. (2024). *Indonesia's Current Legal Arrangement of Artificial Intelligence*. Faculty of Law, University of Indonesia. <https://law.ui.ac.id/pengaturan-hukum-artifical-intelligence-indonesia-saat-ini-oleh-zahrashafa-pm-angga-priancha/>
- Novyanti, H., & Astuti, P. (2021). The Legal Snares of Misuse of Deepfake Applications in Review of Criminal Law. *Novum: Jurnal Hukum*, 1(1), 1–18. <https://doi.org/10.2674/novum.v0i1.43571>.
- Williams, S. (2021). *Artificial Intelligence in the New Era*. 6(4).