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Legal Construction of Criminal Prosecution Against Perpetrators of Rape in the Metaverse

Konstruksi Hukum Pidana Terhadap Pelaku Pemerkosaan di Metaverse

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Abstrak

Pemerkosaan virtual dialami oleh seorang gadis berusia di bawah 16 tahun yang saat itu sedang menjelajah dunia *Metaverse*, namun avatar miliknya diperkosa oleh beberapa avatar yang lain. Gadis ini tidak terdapat luka fisik tetapi mengalami trauma psikologis dan emosional yang serupa dengan korban pemerkosaan di dunia nyata. Kasus tersebut menjadi tantangan tersendiri dalam dunia hukum, mengingat banyaknya keterbatasan kasus *cybercrime* dalam perlindungan, pertanggungjawaban, dan pidana. Penelitian ini menggunakan metode penelitian normatif dengan pendekatan perundangan-undangan, pendekatan konseptual serta pendekatan kasus. Berdasarkan hukum positif di Indonesia, belum terdapat undang-undang yang mengatur unsur-unsur kekerasan seksual secara online. Hal ini menjadi bukti adanya keterbatasan perlindungan terhadap korban pemerkosaan virtual. Adapun terdapat dua pandangan sebagai solusi dari kasus-kasus di *Metaverse* tersebut, yaitu (1) avatar dalam *Metaverse* dianggap sebagai kepribadian hukum yang terpisah, artinya dipandang sebagai entitas berbeda. (2) Avatar dipandang sebagai subjek hukum yang tidak terpisahkan dari dunia konvensional dengan menggunakan konsep *vicarious liability*.

Kata kunci: Penyempurnaan Hukum; Pidana; Pemerkosaan; Metaverse

Abstract

Virtual rape was experienced by a girl under 16 years old who was exploring the *Metaverse* world, but her avatar was raped by several other avatars. This girl had no physical injuries but experienced psychological and emotional trauma similar to rape victims in the real world. This case is a challenge in itself in the legal world, considering the many limitations of *cybercrime* cases in terms of protection, accountability, and punishment. This research uses normative research methods with a statutory approach, a conceptual approach, and a case approach. According to positive law in Indonesia, there is no law that regulates

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elements of online sexual violence. This is a proof that there are limited protections for virtual rape victims. There are two views as a solution to these cases in the Metaverse, namely (1) the avatar in the Metaverse is considered a separate legal personality, which means that it is seen as a different entity. (2) Avatars are seen as legal subjects that cannot be separated from the conventional world by using the concept of vicarious liability.

Keywords: Legal Improvement; Punishment; Rape; Metaverse.

Introduction

The rapid development of technology not only facilitates human life in various fields such as education, entertainment, and work but also brings significant negative impacts. One of these negative impacts is cybercrime. Technology-based crimes continue to evolve, while the norms and regulations governing prevention and legal enforcement tend to lag behind due to the lengthy and complex political process they must undergo. The case of rape in the metaverse is one of the latest examples of this legal challenge.²

The main topic of this research is the strategy for addressing the normative void in cases of rape in the metaverse, which has been studied by Faris Islami et al. in their work titled "Legal Aspects of Preventing Indecency in the Virtual World." The difference with this research topic lies in its specific focus on victims of sexual harassment in the metaverse and the strategy for legal improvement to address the normative void, particularly in Indonesia.³

The urgency in addressing the normative void in rape cases arises from the rapidly evolving virtual environment landscape and the increasing prevalence of digital crimes. As more individuals engage in online interactions and activities within the metaverse, the risk of exploitation and harm, including virtual sexual violence, becomes more common. Immediate action is required to bridge the legal gap and develop comprehensive strategies to protect individuals from violations in digital spaces.

The legal issue that is the focus of this research is how legal protection and prosecution in Indonesia can be applied to perpetrators of rape in the metaverse. How can legal reform be carried out to keep pace with the diversity of cybercrimes? A case in the UK involving the virtual rape of a girl under 16 years old shows that, despite the

² Alexander Joseph Woon, "Criminal Law in the Metaverse: Defining Wrongdoing in a Virtual World," dalam *Global Perspectives in the Metaverse*, ed. oleh Hung-Yi Chen, Pawee Jenweeranon, dan Nafis Alam (Cham: Springer Nature Switzerland, 2024), 65, https://doi.org/10.1007/978-3-031-54802-4_5.

³ Faris Islami Wibisono, Dian Aries Mujiburohman, dan Sudibyanung Sudibyanung, "Aspek Hukum Pencegahan Tindak Kesusilaan di Dunia Virtual," *YUDISIA: Jurnal Pemikiran Hukum dan Hukum Islam* 13, no. 1 (30 Juni 2022): 1, <https://doi.org/10.21043/yudisia.v13i1.13849>.

absence of physical injuries, the psychological and emotional trauma experienced by the victim is similar to that of victims of rape in the real world.

This research aims to examine legal protection for victims of rape in the metaverse and identify legal reforms that can address the legal void in Indonesia. The current legal limitations contribute to the prevalence of cybercrime, necessitating supplementary instruments such as cyberlaw, the law of the internet, the law of information technology, the telecommunications law, and lex informatica to combat crimes in the digital world.

Method

The research method employed in this article is normative legal research.⁴ The methodologies adopted include the statutory approach, case approach, and conceptual approach. To complement the primary and secondary legal materials, tertiary sources such as magazines, articles, collections of papers, and dictionaries are employed. Primary legal materials, sourced directly from their original forms of binding legislation, are crucial for societal implementation. Secondary legal materials encompass research studies, scientific publications, literature, and workshops relevant to the research topic. The technique for analyzing these legal materials is content analysis, which involves systematic procedures recommended for scrutinizing the obtained information.⁵

Result and Discussion

A. Legal Protection and Prosecution in Rape Cases in the Metaverse Based on Positive Law in Indonesia

The term cybercrime has been known for quite some time. During the United Nations (UN) Congress held in Vienna from April 10-17, 2000, "The Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders" categorized cybercrime into two categories.

- a. *Cyber crime in a narrow sense ("computer crime") any illegal behavior directed by means of electronic operations that targets the security of computer system and the data processes by them;*

⁴ Irwansyah, *Penelitian Hukum : Pilihan Metode & Praktik Penulisan Artikel* (Mirra Buana Media, 2020), 58.

⁵ Mingming Cheng dkk., "A Tri-Method Approach to a Review of Adventure Tourism Literature: Bibliometric Analysis, Content Analysis, and a Quantitative Systematic Literature Review," *Journal of Hospitality & Tourism Research* 42, no. 6 (Agustus 2018): 998, <https://doi.org/10.1177/1096348016640588>.

- b. *Cyber crime in a broader sense (“computer-related crime”): any illegal behavior committed by means of, or in relation to, a computer or network, including such crimes as illegal possession, offering or distributing information by means of a computer system or network.*

A girl who became a victim of rape in the Metaverse was reportedly devastated because her avatar was raped by another avatar in cyberspace. Although she did not suffer any physical injuries or disabilities, she experienced psychological and emotional trauma similar to that of rape victims in the real world. Studies show that virtual sexual violence can cause serious psychological impacts, including PTSD, depression, and anxiety, similar to the effects of physical violence in the real world.⁶

Virtual reality has become popular among various groups, with major technology companies providing attractive facilities that users can enjoy while surfing the Metaverse. According to a report by BBC News, the use of VR and AR technology increased significantly during the pandemic, which also increased the potential risk of crimes in virtual spaces.⁷ Deputy Chief Constable Ian Critchley revealed that the Metaverse provides a new space for sexual predators to commit crimes against children. This is supported by a report from the National Society for the Prevention of Cruelty to Children (NSPCC)⁸ which shows an increase in incidents of online sexual abuse.

The details of the rape case in the Metaverse by the British police are kept confidential to protect the identity of the child victim. Additionally, there are concerns about whether the perpetrator can be prosecuted legally. These concerns are justified because the current legislation does not fully accommodate the phenomenon of virtual crime.⁹ Therefore, the existing legal framework needs to be updated to address the normative void in handling crimes in the Metaverse.¹⁰

⁶ Mohamed Chawki, Subhajt Basu, dan Kyung-Shick Choi, “Redefining Boundaries in the Metaverse: Navigating the Challenges of Virtual Harm and User Safety,” *Laws* 13, no. 3 (24 Mei 2024): 33, <https://doi.org/10.3390/laws13030033>.

⁷ BBC, “Year in tech: The stories making headlines in 2021,” 2021, <https://www.bbc.com/news/technology-59309768>.

⁸ NSPCC, “NSPCC | The UK Children’s Charity,” NSPCC, 2021, <http://www.nspcc.org.uk/>.

⁹ The New York Times, “The Metaverse’s Dark Side: Here Come Harassment and Assaults - The New York Times,” 2024, <https://www.nytimes.com/2021/12/30/technology/metaverse-harassment-assaults.html>.

¹⁰ Beverley Brown dan Neil MacCormick, “Law, philosophy of,” dalam *Routledge Encyclopedia of Philosophy*, 1 ed. (London: Routledge, 2016), 36, <https://doi.org/10.4324/9780415249126-Too1-1>.

Indonesian law has also been adapting to the diversity of cybercrimes. Most recently, Law Number 1 of 2024 regarding the Second Amendment to Law Number 11 of 2008 on Electronic Information and Transactions (ITE) has been enacted. This law covers various aspects related to cybercrime, from online fraud to data theft, but it does not specifically regulate virtual rape in the metaverse. According to Jannus TH (2024), although the ITE Law has been updated, there are still legal gaps in handling cases of sexual violence in virtual spaces.¹¹

Additionally, Indonesian law enforcement through the Indonesian National Police has established a special unit for handling cybercrime, the Directorate of Cyber Crime. This unit is responsible for identifying, investigating, and prosecuting various forms of cybercrime. However, handling cases of virtual rape still faces challenges due to the lack of specific regulations governing this issue.¹²

Although Indonesian law has attempted to adapt to technological changes, the existing laws still cannot accommodate cases of virtual rape like those occurring in the UK. This is reflected in several existing laws, such as Law Number 1 of 2024 regarding the Second Amendment to Law Number 11 of 2008 on Electronic Information and Transactions (ITE), the Criminal Code (KUHP), Law Number 1 of 2023 on the Criminal Code (New KUHP), Law Number 12 of 2022 on Sexual Violence Crimes, and Law Number 44 of 2008 on Pornography (Pornography Law). Although these laws cover various types of crimes, there are no regulations that explicitly address sexual violence in the virtual world.¹³

This weakness underscores the importance of more comprehensive legal reforms to address crimes in the metaverse. An article published by the Journal of Cyber Policy (2023) mentions that other countries, such as the United States and the United Kingdom, have begun developing specific regulations to handle crimes in the virtual world, which can serve as a reference for Indonesia to strengthen its legal framework.

¹¹ Jannus TH Siahaan, "Saatnya Isu 'Cybersecurity' Dapat Ruang Strategis di Indonesia Halaman all - Kompas.com," 2024, <https://nasional.kompas.com/read/2024/01/22/11103891/saatnya-isu-cybersecurity-dapat-ruang-strategis-di-indonesia?page=all>.

¹² Abdurrahman Alhakim dan Sofia Sofia, "Kajian Normatif Penanganan Cyber Crime di Sektor Perbankan di Indonesia," *Jurnal Komunitas Yustisia* 4, no. 2 (20 Agustus 2021): 377, <https://doi.org/10.23887/jatayu.v4i2.38089>.

¹³ Nicola Henry dan Anastasia Powell, "Sexual Violence in the Digital Age: The Scope and Limits of Criminal Law," *Social & Legal Studies* 25, no. 4 (Agustus 2016): 398, <https://doi.org/10.1177/0964663915624273>.

Based on the previously mentioned regulations, although none specifically address online sexual crimes, some can be discussed as Indonesia's legal umbrella for online rape cases. Law Number 12 of 2022 on Sexual Violence Crimes categorizes types of sexual violence crimes, including non-physical sexual harassment and electronic-based sexual violence. However, although this law provides a framework for addressing various forms of sexual violence, including electronic-based ones, it still cannot serve as a strong foundation for the protection and prosecution of rape cases in the Metaverse, such as those occurring in the UK.

Further explanation of this law shows that the provided definitions and scope do not specifically cover sexual crimes in complex virtual environments like the Metaverse. According to research by Basu, traditional law is often not flexible enough to address crimes arising from new technologies, highlighting the need for more targeted and specific legal reforms. In this context, Indonesian law also faces the same challenges.¹⁴

The Criminal Code (KUHP) and the New Criminal Code have relevance to rape in the Metaverse, although they do not specifically cover online sexual harassment. The KUHP does not recognize the term "sexual harassment," let alone online sexual harassment, which falls under the category of cybercrime involving pornography. However, the Chapter on Crimes Against Decency in the KUHP can serve as a legal basis that can be enforced to prosecute perpetrators of online sexual crimes.

The New Criminal Code provides some clarity by including two relevant articles: Article 172 on Pornography and Article 158 on Public Exposure. Article 172 defines pornography as any form of media containing obscenity or sexual exploitation that violates societal norms of decency. Meanwhile, Article 158 explains that "Public Exposure" refers to any form of media that can be accessed by the public, either directly or indirectly.

As pornography is understood to violate decency, the New Criminal Code explains that acts violating decency include displaying nudity, genitalia, and sexual activities that contravene local societal values.¹⁵ Thus, the New Criminal Code can somewhat prosecute perpetrators of online sexual crimes as acts violating decency.

¹⁴ Chawki, Basu, dan Choi, "Redefining Boundaries in the Metaverse," 35.

¹⁵ Walter S. DeKeseredy, "Image-Based Sexual Abuse: Social and Legal Implications," *Current Addiction Reports* 8, no. 2 (Juni 2021): 335, <https://doi.org/10.1007/s40429-021-00363-x>.

However, the details of offenses or crimes of online rape need to be concretely specified in a law that specifically regulates them (*lex specialis*) because the New Criminal Code is a general provision (*lex generalis*).

A study by Subhajit Basu and Kyung-Shick Choi shows that sexual crimes in cyberspace require more detailed and specific regulations to effectively prosecute perpetrators. Additionally, research by Olga Jurasz and Kim Barker underscores the importance of flexible and adaptive laws in addressing crimes emerging from new technological developments. This aligns with the view in the *Journal of Cyber Policy*, which suggests that countries need to develop specific regulations to address crimes in virtual worlds like the Metaverse.¹⁶

The latest version of the Electronic Information and Transactions (ITE) Law, enacted in 2024, does not have significant differences from the previous version, especially regarding decency. The explanation provided concerning violations of decency in the ITE Law is the same as what is meant by violations of decency in the new Criminal Code. The ITE Law focuses more on the technical aspects of using technology to disseminate sexual content online, rather than on specific types of online sexual crimes.¹⁷

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Sexual crimes in cyberspace often require more detailed and specific regulations to effectively handle perpetrators. For instance, rape in the Metaverse, where an individual's avatar experiences sexual harassment by another avatar, necessitates a more adaptive and flexible legal approach. Existing regulations are often insufficient to address crimes emerging from new technologies.

¹⁶ Olga Jurasz dan Kim Barker, "Sexual Violence in the Digital Age: A Criminal Law Conundrum?," *German Law Journal* 22, no. 5 (Agustus 2021): 785, <https://doi.org/10.1017/glj.2021.39>.

¹⁷ Vincent Mosco, "Into the Metaverse: Technical Challenges, Social Problems, Utopian Visions, and Policy Principles," *Javnost - The Public* 30, no. 2 (3 April 2023): 172, <https://doi.org/10.1080/13183222.2023.2200688>.

This limitation emphasizes the need for countries to develop specific regulations to address crimes in the virtual world. Although the ITE Law has undergone several revisions, the main substance related to decency still focuses on the aspect of content dissemination rather than identifying and addressing various specific forms of online sexual crimes.

For example, in cases of virtual sexual harassment, such as rape in the Metaverse, virtual reality allows for highly realistic experiences that can cause psychological trauma similar to real-world harassment. Freeman points out that experiences of sexual harassment in the virtual world can cause significant trauma because virtual reality offers a more immersive multi-user environment with a high sense of presence. This underscores the importance of stricter and more comprehensive regulations to protect users from sexual harassment in the virtual world.¹⁸

Furthermore, rapidly evolving technology also creates new forms of sexual violence that require innovative and responsive legal approaches. Henry and Powell (2021) note that digital communication technology and social media facilitate new forms of sexual violence, such as the unauthorized distribution of images or harassment through social media. The ITE Law needs to expand its scope to cover these forms of sexual violence and provide adequate protection for victims.¹⁹

The ITE Law also needs to consider the global dimension of cybercrime. Cybercrimes often involve perpetrators and victims from different countries, thus requiring an effective international legal framework. According to research by Frenkel and Browning, existing regulations in various countries, such as the United States and the United Kingdom, are beginning to develop more adaptive and flexible legal frameworks to address crimes in the virtual world.²⁰

Overall, although the ITE Law has provided a legal basis for addressing some aspects of cybercrime, there are still many gaps that need to be filled to effectively

¹⁸ Guo Freeman dkk., "Disturbing the Peace: Experiencing and Mitigating Emerging Harassment in Social Virtual Reality," *Proceedings of the ACM on Human-Computer Interaction* 6, no. CSCW1 (30 Maret 2022): 22, <https://doi.org/10.1145/3512932>.

¹⁹ Unnati Patel dan Ronald Roesch, "The Prevalence of Technology-Facilitated Sexual Violence: A Meta-Analysis and Systematic Review," *Trauma, Violence, & Abuse* 23, no. 2 (April 2022): 427, <https://doi.org/10.1177/1524838020958057>.

²⁰ Sheera Frenkel dan Kellen Browning, "The Metaverse's Dark Side: Here Come Harassment and Assaults," *The New York Times*, 30 Desember 2021, bag. Technology, <https://www.nytimes.com/2021/12/30/technology/metaverse-harassment-assaults.html>.

address online sexual crimes. More specific and adaptive regulations are needed to protect users from various forms of sexual crimes in the virtual world, including sexual harassment in the Metaverse. With the rapid advancement of technology, the law must be able to adapt and respond to these new dynamics to provide more comprehensive protection for all users.

The Pornography Law, enacted in 2008, has lagged far behind the rapid technological advancements and the variety of online sexual crimes. Although this law includes types of criminal acts in Article 4 paragraph (1) and criminal provisions in Article 29, which, when linked to the definition of pornography in Article 172 of the new Criminal Code, can serve as a legal umbrella to prosecute perpetrators of online sexual crimes, it still has many weaknesses in addressing sexual crimes in cyberspace, especially in virtual environments like the Metaverse.

One of the main issues is the lack of specificity in defining the types of offenses and elements of online sexual violence. The absence of detailed definitions makes it difficult to prosecute perpetrators of sexual crimes in cyberspace. This is exacerbated by technological developments that allow users to create and interact through avatars in virtual worlds like the Metaverse. In this context, avatars can become legal subjects that require clear legal protection.

B. Addressing the Legal Void in Handling Rape Cases in the Metaverse

In essence, the existence of humans and the law are inseparably linked. The importance of the law in creating an environment that allows society to feel safe, coexist peacefully, and continue to thrive in the world has been recognized throughout human civilization.²¹ Therefore, legal reform is essential to keep pace with societal developments. Legal reform, also known as law reform, refers to the process of interpreting and improving the legal system to make it more relevant, fair, beneficial, and characterized by legal certainty. Legal reform also includes the expansion, correction, review, replacement, or complete elimination of regulations, principles, and legislation within a legal system.²²

However, it is undeniable that the law seems unable to keep up with the rapid advancement of humanity. In other words, the government often struggles to create

²¹ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2005).

²² Teguh Prasetyo, *Pembaharuan hukum : perspektif teori keadilan bermartabat* (Malang: Setara Press, 2017).

legislation that effectively protects against societal changes or advancements.²³ The Metaverse is a concrete example of the rapid flow of human development towards the digital era. People can perform activities in the virtual world just as they do in the conventional world. This represents a significant shift in human habits, where activities that once could only be done face-to-face can now be conducted online.²⁴

People have begun to embrace the digital world, for instance, to engage in economic activities such as buying and selling, investing, and even socializing in the Metaverse. This, of course, can give rise to new legal issues, and thus, the government is expected to provide legal certainty to protect society.²⁵ Therefore, the objectives and aspirations of law in the Metaverse are formulated into policy recommendations and regulations that are not only positivistic but also form legal norms.

The objectives and aspirations of law in the Metaverse are formulated into policy recommendations and regulations that are not only positivistic but also establish legal norms. This represents progressive legal reform that can be developed to accommodate legal protection for society, ultimately enabling the execution of many digital activities.²⁶ The necessary legal reforms should not only address the norms related to new legal objects that society must face, but progressive elements should also be evident in the values and principles that will form the basis of the legal norms to be developed. In short, progressive legal theory views legislation merely as a tool, not as the ultimate goal of humanity. Thus, it can be concluded that the law is for humans, not humans for the law.

Currently, we only recognize natural persons and legal persons as legal subjects, whereas avatars do not have legal standing to be classified as legal subjects. On the other hand, these avatars are capable of performing actions, such as crimes or other criminal activities in the Metaverse. Therefore, although criminals act as

²³ Pistor dan Katharina, *The code of capital: How the law creates wealth and inequality* (Princeton: Princeton University Press, 2019), 144.

²⁴ John David N. Dionisio, William G. Burns Iii, dan Richard Gilbert, "3D Virtual Worlds and the Metaverse: Current Status and Future Possibilities," *ACM Computing Surveys* 45, no. 3 (Juni 2013): 28, <https://doi.org/10.1145/2480741.2480751>.

²⁵ Alexandre Dolgui dan Dmitry Ivanov, "Metaverse Supply Chain and Operations Management," *International Journal of Production Research* 61, no. 23 (2 Desember 2023): 8178, <https://doi.org/10.1080/00207543.2023.2240900>.

²⁶ Dewi Ambarwati, "Urgensi Pembaharuan Hukum Di Era 'Metaverse' Dalam Perspektif Hukum Progresif," *DIALEKTIKA: Jurnal Ekonomi dan Ilmu Sosial* 7, no. 2 (12 September 2022): 151-67, <https://doi.org/10.36636/dialektika.v7i2.1306>.

avatars, it is important to consider how to apply cyberlaw or digital law enforcement against them.²⁷

There are various situations where an avatar interacts with another avatar, and the actions of these avatars can affect: (a) another avatar, (b) the infrastructure in the Metaverse, (c) the person behind the avatar, or (d) third parties in the real world. If damage occurs in the Metaverse and even extends to the real world, liability can be attributed to (i) the avatar itself, (ii) the creators and developers of the Metaverse, or (iii) the person behind the avatar.

There are several viewpoints as solutions to cases in the Metaverse. First, based on *ius constituendum*, there is the perspective that avatars in the Metaverse constitute separate legal personalities. This means that individuals in the real world and in the virtual world can function independently from human personas, thus representing distinct entities. Naturally, it will take several years for humans to gain a deeper understanding of the Metaverse. This legal subject must exist within the Metaverse itself, so that anyone who creates an avatar in the Metaverse agrees to make their avatar a legal subject governed by Metaverse laws.²⁸ This legal subject status can be granted through a registration process, and each person is entitled to only one avatar in the decentralized Metaverse. Lucchetti previously argued that the benefit of granting legal subject status to artificial intelligence systems lies in the establishment of a set of rules that regulate the rights and obligations between them.²⁹ A similar concept can be applied to avatars in the Metaverse. By incorporating avatars as legal subjects, it allows for the establishment of specific rules that govern the rights and obligations of avatars in the Metaverse.

If avatars are capable of performing various actions in the Metaverse, then as individuals in the Metaverse, they must be granted rights and obligations. This necessitates the development of new laws specifically for the Metaverse that address various issues such as copyright, theft, harassment, and other criminal acts. These

²⁷ Wiwin Ariesta dan Tuti Tuti, "Penerapan Doktrin Vicarious Liability Untuk Pertanggungjawaban Pelaku Tindak Pidana Dunia Maya," *Jurnal Penelitian IPTEKS* 8, no. 1 (31 Januari 2023): 39-45, <https://doi.org/10.32528/ipteks.v8i1.8907>.

²⁸ Perry Parks, Rosanna Cruz, dan Sun Joo Grace Ahn, "Don't hurt my Avatar: the use and potential of digital self-representation in risk communication," *International Journal of Robots, Education and Art* 4, no. 2 (2014): 10.

²⁹ Stefania Lucchetti, "Why Artificial Intelligence Will Need a Legal Personality," *LawCrossBorder*, 22 Mei 2017, <https://lawcrossborder.com/2017/05/22/why-robots-need-a-legal-personality/>.

laws could be ratified by the international Metaverse community without being limited to any specific country.³⁰

Secondly, avatars are viewed as legal subject's inseparable from the conventional world. When users interact through their avatars, there may be situations where actions equivalent to legal violations in the real world occur, potentially resulting in criminal acts. An example is a case that occurred in the UK where a girl was virtually raped, raising questions such as whether the perpetrator's actions were illegal, and which laws apply to such a situation. Issues like this will arise in the Metaverse. According to this perspective, one way to address the problem is to hold the person behind the avatar accountable for their actions in the Metaverse. This view analogizes avatars as legal subjects inseparable from the humans operating them. To ensure that the law can reach perpetrators of crimes who do not yet have legal status as subjects, the doctrine of vicarious liability can be applied to hold the creators of avatars in the real world criminally responsible, ensuring that the mastermind behind the criminal acts cannot evade responsibility for the actions of their avatar in the Metaverse.

The concept of the 2010 Criminal Code (KUHP) stipulates that if the perpetrator is a corporation, criminal responsibility falls on both the corporation and its management. The management holds a functional position within the organizational structure as per the General Meeting of Shareholders (RUPS) and has the authority to act both within and outside the court on behalf of the corporation (*intra vires*). Therefore, it can be said that although a corporation is not a person (*natuurlijke persoon*) in the true sense, it is still considered a legal subject because it is a legal entity (*rechtspersoon*) functioning as a representative legal subject. Because companies and individuals are similar, they can also behave as legal subjects. This means that corporations can engage in legal activities that ultimately create rights and obligations for them as well. Since avatars are virtual but have the power to behave legally, law enforcement in the real world might use this analogy

³⁰ Ben Chester Cheong, "Avatars in the Metaverse: Potential Legal Issues and Remedies," *International Cybersecurity Law Review* 3, no. 2 (Desember 2022): 467–94, <https://doi.org/10.1365/s43439-022-00056-9>.

in the future to apprehend avatar characters committing crimes, as the avatars are acting on the orders of their owners in the Metaverse.³¹

Conclusion

Based on Law Number 1 of 2024 regarding the Second Amendment to Law Number 11 of 2008 on Electronic Information and Transactions, the Criminal Code (KUHP), the New Criminal Code, Law Number 12 of 2022 on Sexual Violence Crimes, and Law Number 44 of 2008 on Pornography, there are no detailed provisions regarding the types of offenses and elements of online sexual violence. This is clear evidence of the limitations of Indonesian law in providing protection and prosecution against virtual rape.

Cases of sexual violence in cyberspace, such as virtual rape, have become a global concern. For instance, cases occurring on the Metaverse platform, where users report experiences of sexual violence through their avatars. In the real world, these cases face significant legal challenges due to the lack of specific and clear regulations covering such actions. One notable case is the harassment incident on the VRChat platform, where users reported sexual harassment experienced by their avatars, but authorities found it difficult to take action due to the lack of clear legal grounds.

To address this issue, there are two viewpoints as solutions. First, avatars in the Metaverse can be considered as separate legal personalities, meaning that avatars are viewed as distinct entities from the actual users. This perspective allows for the application of specific laws to actions taken in the virtual world, similar to other legal entities. Second, avatars are viewed as legal subjects inseparable from the conventional world using the concept of vicarious liability. In this concept, real-world users are held accountable for the actions of their avatars in the virtual world, allowing for the application of conventional laws to cases in the Metaverse.

Bibliography

Alhakim, Abdurrahman, dan Sofia Sofia. "Kajian Normatif Penanganan Cyber Crime di Sektor Perbankan di Indonesia." *Jurnal Komunitas Yustisia* 4, no. 2 (20 Agustus 2021): 377–85. <https://doi.org/10.23887/jatayu.v4i2.38089>.

Ambarwati, Dewi. "Urgensi Pembaharuan Hukum Di Era 'Metaverse' Dalam Perspektif Hukum Progresif." *DIALEKTIKA: Jurnal Ekonomi dan Ilmu Sosial* 7, no. 2 (12 September 2022): 151–67. <https://doi.org/10.36636/dialektika.v7i2.1306>.

³¹ Ariesta dan Tuti, "Penerapan Doktrin Vicarious Liability Untuk Pertanggungjawaban Pelaku Tindak Pidana Dunia Maya."

- Ariesta, Wiwin, dan Tuti Tuti. "Penerapan Doktrin Vicarious Liability Untuk Pertanggungjawaban Pelaku Tindak Pidana Dunia Maya." *Jurnal Penelitian IPTEKS* 8, no. 1 (31 Januari 2023): 39–45. <https://doi.org/10.32528/ipteks.v8i1.8907>.
- BBC. "Year in tech: The stories making headlines in 2021," 2021. <https://www.bbc.com/news/technology-59309768>.
- Brown, Beverley, dan Neil MacCormick. "Law, philosophy of." Dalam *Routledge Encyclopedia of Philosophy*, 1 ed. London: Routledge, 2016. <https://doi.org/10.4324/9780415249126-T001-1>.
- Chawki, Mohamed, Subhajit Basu, dan Kyung-Shick Choi. "Redefining Boundaries in the Metaverse: Navigating the Challenges of Virtual Harm and User Safety." *Laws* 13, no. 3 (24 Mei 2024): 33. <https://doi.org/10.3390/laws13030033>.
- Cheng, Mingming, Deborah Edwards, Simon Darcy, dan Kylie Redfern. "A Tri-Method Approach to a Review of Adventure Tourism Literature: Bibliometric Analysis, Content Analysis, and a Quantitative Systematic Literature Review." *Journal of Hospitality & Tourism Research* 42, no. 6 (Agustus 2018): 997–1020. <https://doi.org/10.1177/1096348016640588>.
- Cheong, Ben Chester. "Avatars in the Metaverse: Potential Legal Issues and Remedies." *International Cybersecurity Law Review* 3, no. 2 (Desember 2022): 467–94. <https://doi.org/10.1365/s43439-022-00056-9>.
- DeKeseredy, Walter S. "Image-Based Sexual Abuse: Social and Legal Implications." *Current Addiction Reports* 8, no. 2 (Juni 2021): 330–35. <https://doi.org/10.1007/s40429-021-00363-x>.
- Dionisio, John David N., William G. Burns Iii, dan Richard Gilbert. "3D Virtual Worlds and the Metaverse: Current Status and Future Possibilities." *ACM Computing Surveys* 45, no. 3 (Juni 2013): 1–38. <https://doi.org/10.1145/2480741.2480751>.
- Dolgui, Alexandre, dan Dmitry Ivanov. "Metaverse Supply Chain and Operations Management." *International Journal of Production Research* 61, no. 23 (2 Desember 2023): 8179–91. <https://doi.org/10.1080/00207543.2023.2240900>.
- Freeman, Guo, Samaneh Zamanifard, Divine Maloney, dan Dane Acena. "Disturbing the Peace: Experiencing and Mitigating Emerging Harassment in Social Virtual Reality." *Proceedings of the ACM on Human-Computer Interaction* 6, no. CSCW1 (30 Maret 2022): 1–30. <https://doi.org/10.1145/3512932>.
- Frenkel, Sheera, dan Kellen Browning. "The Metaverse's Dark Side: Here Come Harassment and Assaults." *The New York Times*, 30 Desember 2021, bag. Technology. <https://www.nytimes.com/2021/12/30/technology/metaverse-harassment-assaults.html>.
- Henry, Nicola, dan Anastasia Powell. "Sexual Violence in the Digital Age: The Scope and Limits of Criminal Law." *Social & Legal Studies* 25, no. 4 (Agustus 2016): 397–418. <https://doi.org/10.1177/0964663915624273>.

- Ibrahim, Johnny. *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing, 2005.
- Irwansyah. *Penelitian Hukum : Pilihan Metode & Praktik Penulisan Artikel*. Mirra Buana Media, 2020.
- Jurasz, Olga, dan Kim Barker. "Sexual Violence in the Digital Age: A Criminal Law Conundrum?" *German Law Journal* 22, no. 5 (Agustus 2021): 784-99. <https://doi.org/10.1017/glj.2021.39>.
- Lucchetti, Stefania. "Why Artificial Intelligence Will Need a Legal Personality." *LawCrossBorder*, 22 Mei 2017. <https://lawcrossborder.com/2017/05/22/why-robots-need-a-legal-personality/>.
- Mosco, Vincent. "Into the Metaverse: Technical Challenges, Social Problems, Utopian Visions, and Policy Principles." *Javnost - The Public* 30, no. 2 (3 April 2023): 161-73. <https://doi.org/10.1080/13183222.2023.2200688>.
- NSPCC. "NSPCC | The UK Children's Charity." NSPCC, 2021. <http://www.nspcc.org.uk/>.
- Parks, Perry, Rosanna Cruz, dan Sun Joo Grace Ahn. "Don't hurt my Avatar: the use and potential of digital self-representation in risk communication." *International Journal of Robots, Education and Art* 4, no. 2 (2014): 10.
- Patel, Unnati, dan Ronald Roesch. "The Prevalence of Technology-Facilitated Sexual Violence: A Meta-Analysis and Systematic Review." *Trauma, Violence, & Abuse* 23, no. 2 (April 2022): 428-43. <https://doi.org/10.1177/1524838020958057>.
- Pistor dan Katharina. *The code of capital: How the law creates wealth and inequality*. Princeton: Princeton University Press, 2019.
- Prasetyo, Teguh. *Pembaharuan hukum : perspektif teori keadilan bermartabat*. Malang: Setara Press, 2017.
- Siahaan, Jannus TH. "Saatnya Isu 'Cybersecurity' Dapat Ruang Strategis di Indonesia Halaman all - Kompas.com," 2024. <https://nasional.kompas.com/read/2024/01/22/11103891/saatnya-isu-cybersecurity-dapat-ruang-strategis-di-indonesia?page=all>.
- The New York Times. "The Metaverse's Dark Side: Here Come Harassment and Assaults - The New York Times," 2024. <https://www.nytimes.com/2021/12/30/technology/metaverse-harassment-assaults.html>.
- Wibisono, Faris Islami, Dian Aries Mujiburohman, dan Sudibyanung Sudibyanung. "Aspek Hukum Pencegahan Tindak Kesusilaan di Dunia Virtual." *YUDISIA : Jurnal Pemikiran Hukum dan Hukum Islam* 13, no. 1 (30 Juni 2022): 1. <https://doi.org/10.21043/yudisia.v13i1.13849>.
- Woon, Alexander Joseph. "Criminal Law in the Metaverse: Defining Wrongdoing in a Virtual World." Dalam *Global Perspectives in the Metaverse*, disunting oleh Hung-Yi Chen, Pawee Jenweeranon, dan Nafis Alam, 61-81. Cham: Springer Nature Switzerland, 2024. https://doi.org/10.1007/978-3-031-54802-4_5.