



Legal Review of Misuse of Personal Portraits in WhatsApp Stickers

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Abstract

The development of information technology has facilitated digital communication, but has also opened up opportunities for privacy abuse, especially in the use of personal portraits without permission as WhatsApp stickers. This study analyzes the legal aspects, socio-psychological impacts, and prevention efforts related to the illegal use of personal portraits on digital platforms. Through a comprehensive review of Indonesian laws and regulations, the study reveals the complexity of personal data protection in the digital era. The results of the study show that despite the existence of a regulatory legal framework, there are still significant challenges in law enforcement, public awareness, and prevention technology. This study emphasizes the need for a multidimensional approach involving public education, strengthening regulations, and collaboration between the government, digital platforms, and law enforcement agencies to protect individual privacy rights.

Keywords: Digital privacy, personal data protection, information technology law, whatsapp, digital stickers

1. Introduction

The development of information technology has made it easier for people to communicate and share information (Hartika et al., 2023). One of the most popular instant messaging applications is WhatsApp, which is not only used to exchange messages, but also to share media such as images, videos, and stickers. WhatsApp's sticker feature has become a trend, allowing users to express themselves in creative ways (Koska, 2023). However, this feature also carries the potential for reference, especially in the use of personal portraits without permission to be used as stickers.

Misuse of personal portraits as WhatsApp stickers is often done without the knowledge or consent of the photo owner (Kurniawan, 2024). This can have an impact on individual privacy and has the potential to cause both moral and material losses. Although it may initially appear to be a prank or joke, the use of someone's image without permission for certain purposes can violate the privacy and dignity rights of the individual concerned.

Privacy is a universally recognized human right and is guaranteed by various legal instruments, including in Indonesia. In the digital context, privacy violations can occur in more complex ways, including through the misuse of personal data such as portraits or photos of a person (Durnell et al., 2020). In Indonesia, the misuse of personal photos in WhatsApp stickers is an issue that requires legal attention because of its significant impact on victims.

Indonesia has several regulations that can be used to handle cases of misuse of personal photos, such as the Electronic Information and Transactions Law (UU ITE) and the Criminal Code (KUHP). In addition, the recently passed Personal Data Protection Law (UU PDP) also provides protection for personal data, including photos or portraits of a person (Isnawan, 2024). However, the implementation and enforcement of laws related to this case still face various challenges.

Digital platforms like WhatsApp have a crucial role to play in preventing abuse of their features. WhatsApp has implemented various privacy and security policies, but technical challenges in monitoring and enforcing these policies often hinder it from taking action against such violations. The absence of an automated detection system for privacy-violating content adds to the complexity of the issue.

Several cases of misuse of personal portraits in WhatsApp stickers have surfaced in the media, although they have not always received adequate attention. These cases reflect the weak public awareness and lack of understanding of digital privacy rights. This situation shows the need for strengthening regulations, public education, and cooperation between the government, digital platforms, and law enforcement agencies.

This study aims to analyze the legal aspects related to the misuse of personal portraits in WhatsApp stickers, including the effectiveness of existing regulations, challenges in law enforcement, and social and psychological implications for victims. This study will also explore efforts that can be made to prevent this misuse, both in terms of law, technology, and public education.

With the increasing use of instant messaging applications such as WhatsApp, the issue of misuse of personal portraits is becoming increasingly relevant to discuss. This study is expected to provide comprehensive insight into the importance of legal protection of digital privacy, as well as being a reference for policy makers in formulating steps to prevent and prosecute privacy violations in the digital era.

2. Theoretical basis

2.1. Privacy as a Human Right

The right to privacy is one of the universally recognized human rights. In the context of Indonesia, this right is protected by Article 28G paragraph (1) of the 1945 Constitution, which states that everyone has the right to protection of themselves, their families, their honor, their dignity, and their property (Ihya, 2023). In addition, privacy is also part of the Universal Declaration of Human Rights (UDHR), especially Article 12, which prohibits arbitrary interference in a person's private life (Putri & Martha, 2021). In the digital era, privacy is becoming increasingly important because technological advances open up greater opportunities for violations, including the misuse of personal portraits.

2.2. Laws Governing Digital Privacy in Indonesia

Indonesia has several regulations that can be used as a legal basis to protect digital privacy. The Electronic Information and Transactions Law (UU ITE) is one of the main legal umbrellas, especially Article 27 paragraph (3) which regulates insults or defamation, and Article 28 paragraph (2) which prohibits the dissemination of information that can cause hatred (Nugroho, 2023). The Personal Data Protection Law (UU PDP), which was passed in 2022, provides a more specific legal basis regarding the protection of personal data, including portraits or photos of individuals. This law emphasizes the rights of individuals over their personal data, while also providing sanctions for violations.

2.3. Ethics and Social Awareness Perspective

In the digital environment, ethics plays an important role in encouraging responsible behavior among technology users. Digital ethics includes the principle of respecting the privacy and digital rights of others. However, in Indonesia, public awareness of digital ethics is still low (Yusuf et al., 2024). Many users consider actions such as using someone's photo without permission as a sticker to be trivial, without understanding the legal implications. Therefore, education on digital ethics and privacy awareness is urgently needed, especially in an era where the use of internet-based applications is increasingly massive.

2.4. Legal Protection

Legal protection explains that every individual has the right to receive protection from the law against potential threats to their rights, including the right to privacy. The law must be preventive (preventing violations from occurring) and repressive (handling violations that have already occurred) (Mokoross & Payuse, 2023). In the context of misuse of personal portraits, legal regulations such as the ITE Law and the PDP Law function as preventive measures by providing clear legal guidelines, while being repressive by imposing sanctions on perpetrators of violations.

2.5. Challenges of Law Enforcement in the Digital World

Law enforcement in digital privacy cases faces various challenges. One of them is the technical difficulty in tracking perpetrators who use digital platforms, such as WhatsApp, which has an end-to-end encryption system (Olaniyi & Omubo, 2023). In addition, many victims do not report these cases due to a lack of knowledge about their rights or fear of a complicated legal process. This challenge shows the importance of synergy between stronger regulations, supporting technology, and increasing public awareness to create effective legal protection.

3. Legal Aspects in Indonesia

The use of a person's personal portrait without permission in the form of a WhatsApp sticker has legal implications that cover several aspects, both based on laws governing electronic information, copyright, and general criminal law. Here is a complete explanation:

3.1. Electronic Information and Transactions Law (UU ITE)

Law Number 11 of 2008 concerning Electronic Information and Transactions, as amended by Law Number 19 of 2016, provides a legal basis for the use of electronic information. In the context of using a personal portrait as a WhatsApp sticker, Article 26 paragraph (1) states that the use of personal data must have the consent of the data owner (Putri & Martha, 2021). This article is relevant because a person's photo is part of personal data.

Article 32 paragraph (1) regulates the prohibition of changing, adding, or damaging electronic information belonging to others without rights or permission. Editing a person's photo to be used as a joke or sticker without permission can fulfill the elements of a violation of this article (Kurniawan, 2024).

3.2. Copyright Law

Copyright for photos as portraits is regulated in Law Number 28 of 2014 concerning Copyright. A person's photo is a protected photographic work, as stated in Article 40 paragraph (1) letter 1 (Suhartini & Pebriani, 2023). In addition, the owner of the photo has the moral right to determine whether his work may be changed or used in a certain way.

Moral rights are explained in Article 5 paragraph (1) letter e, which states that the owner of the work has the right to prohibit modifications that harm his honor or reputation. In this case, the use of a person's face without permission, especially if it is modified inappropriately, can be considered a violation of the moral rights and economic rights of the portrait owner.

3.3. Criminal Code and Law

The use of personal portraits for stickers can be categorized as a minor insult, especially if the use is carried out to harass or embarrass someone. Article 315 of the Criminal Code states that insults that are not in the form of written defamation can be subject to a maximum prison sentence of 4 months and 2 weeks or a fine (Kurniawan, 2024).

3.4. Privacy Protection

In addition to the ITE and Copyright Laws, a person's right to privacy is also recognized in Article 28G paragraph (1) of the 1945 Constitution (Irianto, 2023). Privacy of photos or self-images is part of the protection of human rights that cannot be violated without permission. This is also reinforced by the principle of personal data protection which is currently being strengthened by law through the Draft Personal Data Protection Law (RUU PDP).

4. Impact of Abuse

4.1. Social and Psychological

Misuse of someone's personal photos for WhatsApp stickers can cause severe emotional distress. Victims may feel embarrassed, disrespected, or humiliated, especially if the stickers are used inappropriately or distributed without permission. This can trigger feelings of anxiety, anger, and even depression, especially if the victim becomes the subject of jokes in social or digital environments. When someone's portrait is used for inappropriate material, such as memes or stickers with negative messages, the victim's reputation can be tarnished. In some cases, this can cause victims to lose trust in their workplace, school, or community. This can also have long-term impacts such as being shunned by people around them or losing professional opportunities.

4.2. Legal Costs for Reporting Cases

Victims who want to sue the perpetrator legally must pay costs, including administrative fees, attorneys, or investigations. The lengthy legal process can also take significant time and energy, adding to the burden on victims. After experiencing abuse, victims may feel less safe when interacting in digital spaces. This can lead to reduced trust in digital platforms, even affecting daily habits in using technology. Fear of further abuse can also cause victims to limit their participation in social media or other digital applications.

5. Prevention Efforts and Solutions

5.1. Prevention

The government, educational institutions, and non-governmental organizations need to work together to educate the public about the importance of respecting the privacy of others in the digital world. Training programs and seminars on digital ethics, personal data protection, and the legal consequences of misuse of personal information can help reduce violations.

The government can conduct a national campaign to introduce and promote the PDP Act (if passed), including the steps that the public must take to protect their personal data. Social media, television, and other mass media can be used to disseminate this information widely and effectively. Digital platforms such as WhatsApp can add security features to protect users, for example:

- WhatsApp can develop a detection system to identify images used without permission.
- Tighten access controls to profile photos, images, or other information that can be used by third parties.
- Provide faster and more responsive features for users to report misuse of stickers or other digital content.

5.2. Solution

The government must ensure that victims of personal data misuse can report their cases easily. A simple reporting system and affordable or free legal fees for cases of privacy violations can encourage more victims to take legal action. The government and related organizations need to work with digital platforms such as WhatsApp, Instagram, or Facebook to ensure that users have access to features that help protect their personal data. Joint campaigns between the government and digital platforms can also raise awareness about the importance of maintaining privacy.

In addition to general campaigns, the government can also target specific groups, such as school students, college students, and employees, through seminars and training. The focus of this socialization is to increase understanding of the dangers of misuse of personal photos and steps to prevent it.

The use of artificial intelligence (AI) technology by digital platforms to detect and stop misuse of photos or personal content before it spreads more widely. This technology can block uploads that are considered to violate privacy rights based on automatic content analysis.

6. Conclusion

Misuse of personal images can have significant socio-psychological impacts, including emotional distress, loss of social trust, and potential professional losses. Victims often experience psychological distress and self-limitation in the digital space. Therefore, comprehensive prevention efforts are needed, involving public education on digital ethics, strengthening digital platform security features, national campaigns on personal data protection, and developing AI technology for detecting and preventing violations. As a recommendation, the government needs to simplify the mechanism for reporting violations, organize socialization programs in various circles, and collaborate with digital platforms to improve user protection. However, the main challenges faced are the low public awareness of digital privacy rights, limited violation detection technology, and the complexity of law enforcement in the digital space.

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