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Legal Challenges in Protecting Children from Online Violence and Exploitation

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Abstract. *Challenge law in Child protection from online violence and exploitation is a serious problem in this digital era. Although many countries have implemented laws to protect children from online violence and exploitation legal challenges remain. A lot of content is intentionally or unknowingly violent and exploitative to child through negative content. Meanwhile, various social media platforms often become places where such content is uploaded. Normative or juridical-normative research aims to understand the urgency of legal protection against child exploitation through content distributed on social media. Asking or using children to create content on social media can give rise to indications or have an impact as a form of violence and exploitation of children online. Result of research to overcome this challenge, government collaboration very necessary to develop a consistent and effective legal framework. In addition, innovation in law enforcement technology is needed to track and arrest online criminals. Additionally, strong education on digital awareness is also an important part of the solution, equipping children with the knowledge and skills to identify and protect themselves from online dangers.*

Keywords: *Challenge Law; Online Exploitation; Protection Children.*

1. Introduction

The development of the times which is accompanied by rapid technological advances and easy internet access in the current digital era, the digital space seems to have become a new world for people in the midst of globalization. All form exploitation and abuse Correct to child mainly occurs on digital space platforms, such as WhatsApp, Facebook, Instagram, YouTube and other digital space platforms. However, because various thing, kids Afraid For disclose incident

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terrible thing happened to them. The Ministry of Women's Empowerment and Child Protection (KPPPA) categorizes exploitation child into a number of types. First, exploitation in the form of sexual violence. Then, exploit child related with profit economics, like upload Photo or children's videos to the digital space platform for get coffers of rupiah. Next, trade child until content pornography that can accessed through broadcast direct or downloads. Something earned by parents from exploitation children in digital spaces do not comparable with impact bad results to child.¹

Children are the nation's future young generation who are expected to bring change for the future development of the country. A child is the same as an adult ie own rights human rights that must be upheld high or not can violated by anyone. Rights basic child This loaded in Constitution of the Republic of Indonesia 1945, various regulation legislation about arrangement about child as well as stated inside *United Nations Convention on the Rights of the Child* (Convention Children's Rights).²

The Child Protection Law in an effort to protect children, in practice there are still many children whose rights are violated, and become victims of various forms of violence, exploitation, abuse, discrimination and even inhumane acts against children, especially without adequate protection from their families, society, and government. In carrying out its obligations protect children, government obliged and responsible for give protection special to child.³ Indonesia also established protection institutions against children, for example KPAI (Indonesian Child Protection Commission) which has a supervisory role in fulfilling children's rights in accordance with article 76 Law No. 35 of 2014 concerning Child Protection. Basically, Indonesia has specifically regulated offenses regarding child victims of sexual exploitation which are regulated in Law Number 35 of 2014, Article 76 I, amendments to Law No. 23 of 2002, which are regulated in Article 88, namely imprisonment. a maximum of 10 years and a maximum fine of IDR 200,000,000.00. And Indonesia has also established institutions tasked with defending and supervising children's rights, but the problem of crimes against children who are victims of sexual exploitation remains high and according to data is higher than the previous year, in Article 20 of Law Number 35 of 2014 Concerning Child Protection states that

¹ Fihra Rizqi, *Legal Protection for Child Victims of Exploitation in the Digital Space*, Das Sollen: Journal of Contemporary Studies in Law and Society (2023) 1:2, 1-25, p. 2.

² Maya Novia Pramesthi, Subekti, *Legal Protection for Child Victims of Commercial Sexual Exploitation at the Surakarta Brother Foundation*, Recidive Volume 7 No. 1, January-April 2018, p. 73.

³ Astri Aprilianti, Sahat Maruli Tua Situmeang, *Legal Protection of Child Prostitution Victims Through Social Media Seen from Indonesian Positive Law*, RN res Nullius, Law Journal Vol. 6 No. January 1, 2024, p. 62.

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every level, both government and society, is obliged and responsible for implementing child protection. Therefore, it is necessary to discuss legal protection based on these problems.⁴

Commercial Sexual Exploitation of Children (CSEC) is a fundamental violation of children's rights and crimes against humanity. A form of crime of violence and child exploitation is forcing children to carry out all forms of activities that are not their job.⁵ Examples of cases of child sexual violence and crimes were found in 10 (ten) tourist locations in Indonesia, these locations include Bali, Bukit Tinggi, Lombok, and Seribu Islands, in these locations children are still victims of the practice of sexual violence and exploitation. In general, exploitation of children often occurs among women, where girls are considered easy to persuade and have quite high selling value.⁶

The role of parents, family and society and the government is of course very important and is also responsible for safeguarding and maintaining the human rights of children so that undesirable things do not happen, such as cases of violence and exploitation of children. Apart from that, the government also plays a role the implementation of child protection, the state or government is responsible providing facilities and accessibility for children, especially in the context of insurance optimal growth and development of children.⁷

According to Satjipto Rahardjo, legal protection is legal protection that provides protection for human rights (HAM) that are harmed by other people and this protection is given to the community so that they can enjoy all the rights granted by law. In its function as law protection of human interests, law has goals and objectives that will be achieved. The main aim of law is to realize justice, orderly society, and create prosperity and balance. Meanwhile, child protection is all activities for guarantee and protect children and their rights so that they can live, grow, develop, and be able to participate optimally in accordance with dignity and human dignity, and receive protection from violence and discrimination.⁸

⁴ Emilia Susanti, Dona Raisa Monica, Sherinca Leanpuri Antika, *Construction of a Social Media-Based Protection Policy for Child Victims of Prostitution*, Law and the Digital Era, Faculty of Law, University of Lampung, p. 11.

⁵ Arist Merdeka Sirait, *Commercial Sexual Exploitation is Spying on Our Children*, Indonesian Legislation Journal, Vol. 5 No. 3, 2008, pal. 89

⁶ Widya Cindy Kirana Sari, *Legal Protection for Children as Victims of Sexual Exploitation Crimes*, Indonesian Law Student Writers Association Law Journal, VOL. 2 NO. 1, JAN-JUNE (2022), p. 63.

⁷ Lilik Purwastuti Yudaningsih, *Legal Protection for Children as Victims of Exploitation Commercial (CSEC)*, Jambi Legal Science Journal, Vol. 4 No. 1, 2005, pal. 64.

⁸ Reza Fahlevi, *Legal Aspects of Child Protection in the Perspective of National Law*, Lex Jurnalica, Vol. 12 No. 3, 2015, pal. 178.

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From a victimology perspective, the perpetrator of this crime can be said to be a violent criminal victimization, namely unlawful acts carried out intentionally by someone against another person either for their own interests or the interests of others. One consequence the sacrifice that gets the attention of victimology is suffering, mental, physical, economic, social and moral losses. It is clear that children as victims of crimes of sexual exploitation are included in the attention of victimology, because children as victims of crimes of sexual exploitation experience losses.⁹

Study This aim find t legal challenges in protecting children from online violence and exploitation arise due to the rapid development of digital technology. Lack of adequate regulations, limited jurisdiction in the digital world, difficulties in identifying perpetrators and victims, and the dilemma between protecting privacy and protecting children are some of the main factors that make law enforcement difficult in these cases. Lack of awareness, lack of legal adaptation to technological developments, and technical challenges in gathering evidence are also part of the background to this problem. In resolving legal challenges in protecting children from online violence and exploitation, several problem formulations that need to be answered, namely: How drafting and regulations protection child from online violence and exploitation? And how can law enforcement address emerging challenges in protecting children from online violence and exploitation?

2. Research Methods

Writing This use method study law juridical normative. For get inside data study law this, writer use a number of approach that is approach Constitution (*statute approach*), approach case (*case approach*), and also use approach comparative (*comparative approach*). Study This use research References with get secondary data form book literature, results research, journals, articles, etc regulation law related with object study that is protection child from crime online ¹⁰violence and exploitation.

⁹ Widya Cindy Kirana Sari, *Legal Protection for Children as Victims of Sexual Exploitation Crimes*, Indonesian Law Student Writers Association Law Journal, VOL. 2 NO. 1, JAN-JUNE (2022), p. 64.

¹⁰ Widya Cindy Kirana Sari, *Legal Protection for Children as Victims of Sexual Exploitation Crimes*, Indonesian Law Student Writers Association Law Journal, VOL. 2 NO. 1, JAN-JUNE (2022), p. 64.



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3. Results and Discussion

3.1. Preparation and Regulation Protection of Children from Online Violence and Exploitation

Drafting and Updating regulations is very step important in face challenge protection children in the increasingly digital era develop. In Indonesia, there is a number of relevant laws and regulations with statement this and who has role important in protect violence and exploitation to children in online environments. One of Constitution key is Constitution Information and Transactions Electronics (ITE Law). The ITE Law has role big in arrange online privacy, crime cyber to children, and settings content dangerous. This give base important law for handle action violence and detrimental exploitation child and protect they from content dangerous by online.¹¹

Apart from the ITE Law, Minister of Communication and Informatics Regulation no. 19 of 2014 concerning Child Protection in Access Information on the Internet is also relevant. Regulation This arrange obligation provider internet service for protect violence and exploitation children from access to content dangerous or harm. This create framework Work For guard children from potency online dangers. It's also important to take notes Minister of Communication and Information Regulation No. 20 of 2016 concerning Personal Data Protection in System Electronic. Regulations This ensure that personal data children treated with careful and just used in accordance with applicable law. This involve relevant online privacy with protection child.¹²

Update regulations also require an inclusive and collaborative approach between government, expert law, company technology, and organization advocacy children. This ensure that resulting regulations more comprehensive and effective in protect children. Relevant regulations must also push digital literacy education in schools. Education programs This will equip children with necessary knowledge and skills for identify potency risk online violence and exploitation, safeguarding privacy them, and report actions that don't safe. Enforcement Strong laws are also needed. This involve training officer enforcer law in handle action crime

¹¹ Muh. Fachrur Razy Mahka, Fatri Sagita, Najirah Umar, Sitti Zuhriyah, Nur Lilis Sukanda, *Preventive Legal Strategies in Improving Child Protection in the Digital Era*, IAI Proceedings of the SISFOTEK National Seminar, p. 374.

¹² Muh. Fachrur Razy Mahka, Fatri Sagita, Najirah Umar, Sitti Zuhriyah, Nur Lilis Sukanda, *Preventive Legal Strategies in Improving Child Protection in the Digital Era*, IAI Proceedings of the SISFOTEK National Seminar, p. 375.



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cyber to children. Regulation not only must be created, but also implemented in a way consistent. Besides that, channel safe and effective reporting for children who are victims of acts of cyber crime should also be built. Constitution Protection Witnesses and Victims (Law No. 31 of 2014) are the base relevant laws in context. This.¹³

Lastly, relevant regulations must consider protection of children in cyberspace from facet protection to children from violence and exploitation online sex. Constitution Child Protection (Law No. 23 of 2002) and Law Protection Witnesses and Victims (Law No. 31 of 2014) are applicable regulations updated for strengthen protection of children in context. This. With integrate existing laws and regulations as well as develop new ones in accordance with development technology and online behavior, we can create more environment safe and supportive for children in the digital era. Regulations. This must be capable to overcome challenge online privacy, cyber crime, and content dangerous, while ensure that children can use technology with safe and responsible answer. With so, steps. This support protection more children. Good in an ever-digital world changed.¹⁴

Factors such as lack of resources, lack of public awareness, and non-compliance with regulations remain obstacles in realizing effective child protection. In addition, there are still gaps between child protection policies at different levels national with implementation at the local level. This is caused by various factors, including differences in culture, infrastructure and access to resources in various regions in Indonesia. Increased coordination between related institutions and strengthening mechanisms supervision and law enforcement are key in improving the implementation of child protection policies in Indonesia. Apart from that, it increases public awareness about children's rights and the importance of child protection is also a step crucial in strengthening the child protection system in Indonesia.¹⁵

Protection of children have objective for ensure fulfillment rights of children to get it live, grow, and develop and participate optimally, accordingly with honor and dignity of humanity as well as get protection from violence, discrimination and exploitation for its implementation generation

¹³ Muh. Fachrur Razy Mahka, Fatri Sagita, Najirah Umar, Sitti Zuhriyah, Nur Lilis Sukanda, *Preventive Legal Strategies in Improving Child Protection in the Digital Era*, IAI Proceedings of the SISFOTEK National Seminar, p. 375.

¹⁴ Muh. Fachrur Razy Mahka, Fatri Sagita, Najirah Umar, Sitti Zuhriyah, Nur Lilis Sukanda, *Preventive Legal Strategies in Improving Child Protection in the Digital Era*, IAI Proceedings of the SISFOTEK National Seminar, p. 375.

¹⁵ Putri Oktaviani, *Child Protection Law in Indonesia: An Overview Juridical and Policy Implementation*, Faculty of Law, Medan Area University, Indonesia, p. 7.



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quality nation, behave glorious as well as prosperous as listed in Law no. 35 of 2014 article 1 number 2. Protection to child differentiated become two parts, namely:¹⁶

(1). Protection characteristic child jurisdiction which includes protection in field law public and deep field law civil. Protection This concerning all rule the law has impact in a way direct to life child.

(2). Protection non - juridical children which include protection in field social, health as well as in field education.

3.2. Law Enforcement Can Address Emerging Challenges in Protecting Children from Online Violence and Exploitation

True law give protection to all appropriate party with its legal status, because everyone has the same position in front law (*equality before the law*). Law is also a useful interests for take care of rights and interests human, so law own authority highest to use determine interest necessary humans regulated and protected.¹⁷ Enforcement law to protection very important for all children, especially for those who have become victims of violence and exploitation digital space. They must protected from loss physical and psychological possibilities they experience consequence action online crime. This matter covers respect rights they for feel safe, respected, and not misused in digital space. Government, institutions enforcer law, as well public must Work The same for create safe and supportive online environment development children.¹⁸

All child need nurturing and protection from family, parents, society and government they. KPAI is institution national that has mission protect rights child as it has been be included in Article 75 of the Law Number 35 of 2014. KPAI report that victims of violence and exploitation sexual child spread wide online, violence online sexual relations towards child become trend new, current, and practice the make child exposed exploitation systematic.¹⁹

¹⁶ Maidin Gulto, 2010, *Legal Protection of Children in the Juvenile Criminal Justice System in Indonesia*, Refika Aditama, Bandung, Page. 33.

¹⁷ Satjipto Rahardjo, 2000, *Legal Studies*, Citra Aditya Bakti, Bandung, Page. 69.

¹⁸ Muh. Fachrur Razy Mahka, Fatri Sagita, Najirah Umar, Sitti Zuhriyah, Nur Lilis Sukanda, *Preventive Legal Strategies in Improving Child Protection in the Digital Era*, IAI Proceedings of the SISFOTEK National Seminar, p. 374.

¹⁹ Fihra Rizqi, *Legal Protection for Child Victims of Exploitation in the Digital Space*, Das Sollen: Journal of Contemporary Studies in Law and Society (2023) 1:2, 1-25, p. 7.



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Protection special for child victims of exploitation online sexual as arranged in the Article 59 paragraph (2) letter d and letter e of the Law Child protection.²⁰ Legal arrangements for child protection in Indonesia are regulated comprehensively in Law Number 23 of 2002 concerning Child Protection. this law emphasizes that every child has the right to live, grow and develop properly optimally in accordance with human dignity. Article 5 of the Law stipulates that every child has the right to protection from violence, exploitation and discrimination. Article 11 of the Child Protection Law stipulates that every child has the right receive care that is in accordance with human dignity. This includes the right to receive adequate care, education and maintenance from both parents or their successors. In addition, Article 14 of the Child Protection Law confirms that every child has the right to quality and appropriate education, which includes equal access towards education, without discrimination. The education provided must be pay attention to children's rights to develop optimally and prepare them to face future challenges.²¹

In Constitution Number 39 of 1999 concerning Right Asasi Humans, Article 52 outlines that every child own right for protected by parents, family, society and the State. Chapter it also confirms that right child is an integral part of right basic human, and for interest children, rights the must recognized and protected by law even since child is at in her parents ' womb. Besides that, Article 64 and Article 65 of the Law About human rights provide protection law special to worker child. Article 64 states: " Every child entitled get protection from activity exploitation economy and everything form possible work endanger himself, so can bother education, health physical, moral, life social, and spiritual mental well-being." Meanwhile That, Article 65 states: " Every child entitled get protection from activity exploitation and abuse sexual, kidnapping, trafficking children, as well all form abuse narcotics, psychotropics, and substances addictive other." With Thus, this law give base strong law For protect rights child from various form possible exploits and threats faced.²²

Article 15 of the Law confirms that every child has the right to optimal health, which includes equal access to health services quality. This includes the right to appropriate health care with their physical, mental and emotional needs. Apart from these articles, there are also other

²⁰ Fawwas Aufaa Taqiyyah Prastiwi, Aroma Elmina Martha, *Legal Protection of Children as Victims of Sexual Exploitation Through Online Media*, Proceedings of Seminar on Actual Law, Ideals and Problems of Implementing Laws Crime of Sexual Violence, p. 51.

²¹ Putri Oktaviani, *Child Protection Law in Indonesia: An Overview Juridical and Policy Implementation*, Faculty of Law, Medan Area University, Indonesia, p. 6.

²² Unitary State of the Republic of Indonesia, "Law Number 39 1999 Concerning Human Rights," Pub. L.No. 39 (1999).



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articles in the Law Child Protection which regulates the rights and protection of children in various ways context, such as the right to identity, the right to special protection for vulnerable children, and the right to participation in decisions that affect life they. Although Law Number 23 of 2002 provides a legal framework that strong for child protection in Indonesia, its implementation is still facing challenges challenge.²³

So based on article 88 of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection, the sanctions that can be imposed on people who violate the provisions of Article 761 of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection, especially economic exploitation with the intention of benefiting themselves or others, is a sanction in the form of imprisonment for a maximum of 10 (ten) years and/or a maximum fine of IDR 200,000,000 (two hundred million rupiah).²⁴

Based on matter on Already clear that the victim of exploitation child must obtain protection law as has been mandated in regulation legislation. So that children who are victims of crime exploitation sexual must get attention special from all circles or party specifically in matter the is government good government center nor government area. Whereas in article 78 Law no. 23 of 2002 is mentioned to Who just do it exploitation to child threatened with criminal imprisonment for a maximum of 5 (five) years and/ or a maximum fine of Rp. 100,000,000.00. (one hundred million rupiah). That matter comparable with deeds that have been done carried out by the perpetrators exploitation crime sexual to child, because in case the child No treated as source Power human beings who deserve to have it potential, and rights personal has threatened and deprived Because deed si perpetrator.²⁵

In Law no. 35 of 2014 concerning Child Protection in article 59 as already mentioned on has arranged about obligation government regions and other state institutions that are obliged and responsible answer give protection special to experienced child exploitation in article 66 law no. 35 of 2014, namely:

²³ Putri Oktaviani, *Child Protection Law in Indonesia: An Overview Juridical and Policy Implementation*, Faculty of Law, Medan Area University, Indonesia, p. 7.

²⁴ Khusnul Hitaminah, Syamsul Askandar, Rofiatul Umroh, *Duties of the Probolinggo Regency Child Protection Agency in Handling Economic Exploitation of Minors r*, Justness Journal of Political and Religious Law, Vol. 3 No. 02, December 202 3, p. 5.

²⁵ Widya Cindy Kirana Sari, *Legal Protection for Children as Victims of Sexual Exploitation Crimes*, Indonesia Law Journal, Vol. 2 No. 1, Jan-June (2022), Pg. 69.



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1). Protection special for exploited children in a way economy or sexual is obligations and responsibilities answer government and society.

2). Protection special for exploited children done with:

a. Dissemination and/ or socialization provision regulation related legislation with protection child as a crime victim exploitation in a way economy nor sexual.

b. Monitoring, reporting and delivery penalty; And

c. Engagement various company union workers, institutions self-subsistent society, and society in effort deletion exploitation to child in a way economy nor sexual.

Protection to children also have principles, namely:

a. Children are as main capital continuity people, nations, and families, then from That his rights must protected.

b. Interest best for child (*the best interest of the child*).

c. Plan cycle life, meaning protection child refers to understanding protection must started since early and on continuously.²⁶

Protection law for children are very much victims of exploitation in the digital space important for guard rights child and protect they from all form exploitation and violence. In matter this, government, family and society need Work The same for ensure that children protected with good and get access to healthy education and information. Then, it is necessary exists effort for educate children about dangers and risks that exist in cyberspace as well as teach they method use the internet with wise and safe. With So, it is expected children can grow and thrive with healthy and safe from exploitation in the digital space is terrifying.²⁷

4. Conclusion

The legal challenge in protecting children from online violence and exploitation is that protecting children in the digital world requires better regulation, better cross-border

²⁶ Iyaomil Achir Burhan, *Victimological Analysis of Sexual Crimes Against Children*, Hasanudin University, 2017, p. 27.

²⁷ Fihra Rizqi, *Legal Protection for Child Victims of Exploitation in the Digital Space*, Das Sollen: Journal of Contemporary Studies in Law and Society (2023) 1:2, 1-25, p. 10.



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cooperation, the use of technology to identify perpetrators and victims, and the right balance between protection individual privacy and the protection of children. There is also a need for greater awareness and investment in the technical capacity of law enforcement to address these challenges effectively. Governments, especially those responsible for child protection, need to improve legal instruments governing child protection and increase cross-border cooperation to strengthen efforts to prevent sexual exploitation of children, which can cross national borders. It is hoped that the government will implement strict sanctions against perpetrators of sexual exploitation of children, with fair punishment, to provide a deterrent effect and reduce the number of cases of this crime. Apart from that, the role of the community as non-legal social control in the surrounding environment needs to be increased so that signs or cases of child exploitation can be avoided.

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