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Topic: Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children

Legal Protection of Women and Children from Electronic-Based Violence in The Digital Era: Normative Juridical Study of Regulation Harmonization in Indonesia

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Abstract. *The development of information technology has given rise to various forms of violence against women and children in the digital space, such as electronic-based sexual violence, cybergrooming, cyberbullying, doxing, and online exploitation. This study aims to analyze the legal framework for protecting women and children in Indonesia in dealing with cybercrime and identify challenges in its implementation. The method used is normative juridical with a statutory and conceptual approach through an analysis of various related regulations, including the Law on Sexual Violence Crimes, Child Protection, Electronic Information and Transactions, Personal Data Protection, and the Criminal Code. The results of the study indicate that although regulations have developed quite progressively, there are still overlapping norms, regulatory gaps regarding several modes of cybercrime, and obstacles in digital evidence and inter-institutional coordination. Regulatory harmonization, strengthening the capacity of law enforcement officers, improving victim protection, and increasing public digital literacy are needed to realize more effective legal protection for women and children in the digital space.*

Keywords: Digital Era; Electronic-Based Violence; Legal Protection; Regulatory Harmonization; Women and Children.

1. Introduction

The massive digital transformation taking place in Indonesia has brought about fundamental changes in social relations, including the patterns of violence experienced by vulnerable groups, particularly women and children. Initially viewed as a new public space for information

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exchange and social interaction, cyberspace has now become a new arena for various forms of gender-based violence and child rights violations. The borderless, anonymous, viral, and persistent nature of cyberspace makes electronic violence inherently destructive, and in many cases even more complex, than conventional violence.

Various cybercrime methods targeting women and children are growing rapidly with the increasing penetration of the internet and the use of social media, including electronic-based sexual violence, cyber grooming or online manipulative approaches to children for the purpose of sexual exploitation, cyberbullying, doxing, which is the distribution of someone's personal data without consent for the purpose of intimidation, sextortion or sexual blackmail with the threat of distributing intimate content, and online child exploitation in the form of production and distribution of child sexual exploitation material. This phenomenon demands a responsive, adaptive, and integrated legal response across regulatory regimes.

Constitutionally, the state has an obligation to protect every citizen, including women and children, as mandated by Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia which affirms the rights of children to survival, growth and development as well as the right to protection from violence and discrimination, Article 28G paragraph (1) concerning the right to protection of oneself, family, honor, dignity and property, and Article 28I paragraph (2) concerning the right to be free from discriminatory treatment. This constitutional mandate is then translated into various laws and regulations, including Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, Law Number 23 of 2002 as amended by Law Number 35 of 2014 concerning Child Protection, Law Number 1 of 2024 concerning the Second Amendment to the Law on Information and Electronic Transactions, Law Number 27 of 2022 concerning Personal Data Protection, and Law Number 1 of 2023 concerning the Criminal Code.

The problem is that the existence of these various legal instruments has not actually fully addressed the complexity of cybercrimes against women and children. A number of fundamental issues have been identified, ranging from overlapping norms between laws, a lack of regulation of certain crime modes, to the weak capacity of law enforcement institutions to handle electronic evidence. This situation creates a gap between applicable legal norms (*das Sollen*) and the reality of their implementation (*das Sein*). Therefore, a comprehensive normative legal study is needed to map these issues and formulate relevant legal reform measures.

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2. Research Methods

This research uses a normative juridical legal research method (doctrinal legal research), namely research that examines law as written norms (law in books) by examining legal materials, both in the form of laws and regulations, doctrines, and legal concepts relevant to the object of study. The approaches used include a statute approach, namely by examining all laws and regulations related to the protection of women and children from electronic-based violence, and a conceptual approach, namely by examining the views and legal doctrines that have developed regarding legal protection, gender-based violence, and cybercrime.

The legal materials used consist of primary legal materials in the form of binding laws and regulations, namely the 1945 Constitution of the Republic of Indonesia, Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, Law Number 23 of 2002 in conjunction with Law Number 35 of 2014 concerning Child Protection, Law Number 1 of 2024 concerning the Second Amendment to the Law on Information and Electronic Transactions, Law Number 27 of 2022 concerning Personal Data Protection, and Law Number 1 of 2023 concerning the Criminal Code; secondary legal materials in the form of books, scientific journals, and relevant previous research results; and tertiary legal materials in the form of legal dictionaries and encyclopedias that support understanding of the legal terms used.

The legal materials collection technique is carried out through library research, namely by inventorying, identifying, and classifying legal materials relevant to the research problem. The collected legal materials are then analyzed qualitatively using a descriptive-prescriptive method, namely explaining the current regulatory conditions systematically, then providing normative prescriptions or recommendations for the problems found. The analysis is carried out using a deductive reasoning method, namely drawing conclusions from general premises in the form of applicable legal norms to specific premises in the form of electronic-based violence phenomena faced by women and children in the digital era.

3. Results and Discussion

3.1. Characteristics and Modes of Electronic-Based Violence against Women and Children

Electronic violence against women and children manifests in various modes of operation that continue to evolve with technological advances. Cybergrooming is a process of approaching a perpetrator online, usually by disguising their identity or gradually building a child's trust, with the ultimate goal of sexual exploitation, both online and offline. Cyberbullying is a form of harassment carried out through electronic media, which can include insults, ostracism,

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spreading rumors, or repeated intimidation that causes serious psychological distress for the victim. Doxing is the act of disseminating someone's personal data, such as their address, telephone number, or family details, without their consent, with the intent to embarrass, intimidate, or endanger the victim's safety.

Sextortion is a form of sexual blackmail carried out by threatening to disseminate intimate or sexually explicit content belonging to the victim if the victim does not fulfill the perpetrator's demands, whether in the form of money, additional sexual content, or other actions. Online child exploitation includes the production, possession, and distribution of child sexual abuse material through digital platforms, often involving transnational organized crime networks. These five modes have characteristics that distinguish them from conventional violence, namely their cross-jurisdictional nature, the anonymity of the perpetrator, the speed of content dissemination, the difficulty of permanently erasing digital traces, and the psychological impact on victims that tends to be long-lasting due to the threat of repeated victimization (revictimization) through re-dissemination of content.

3.2. Constitutional and Legislative Framework for the Protection of Women and Children

3.2.1. Constitutional Basis. The protection of women and children from all forms of violence, including electronic-based violence, has a strong constitutional basis in the 1945 Constitution of the Republic of Indonesia. Article 28B paragraph (2) guarantees children's rights to survival, growth, and development, as well as the right to protection from violence and discrimination. Article 28G paragraph (1) guarantees the right of every person to protection of themselves, their families, honor, dignity, and property, which is relevant to the protection of personal data and the honor of victims of cybercrime. Article 28I paragraph (2) affirms the right of every person to be free from discriminatory treatment. These provisions form the basis for the state to form laws and regulations that specifically protect women and children, including in the context of the digital space.

3.2.2. Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (TPKS Law). The TPKS Law is a significant milestone in the regulation of electronic-based sexual violence in Indonesia because it explicitly accommodates electronic-based sexual violence as a form of sexual violence. This law also regulates comprehensive victim recovery mechanisms, encompassing the right to treatment, protection, and recovery, including restitution and victim assistance funds. It also introduces a rights-based and victim-centered approach throughout the entire law enforcement process, from investigation to post-trial recovery.

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3.2.3. Law Number 23 of 2002 in conjunction with Law Number 35 of 2014 concerning Child Protection. This law establishes the principle of the best interests of the child as the primary foundation for all policies concerning children, and also provides increased criminal penalties for perpetrators of crimes against children, including sexual exploitation and child trafficking. Although this law is not specifically designed to address cybercrime, its protection principles serve as a normative framework for addressing child exploitation through electronic media, particularly regarding the potential criminal penalties for perpetrators of commercial sexual exploitation of children.

3.2.4. Law Number 1 of 2024 concerning the Second Amendment to the Electronic Information and Transactions Law (ITE Law). The second amendment to the ITE Law introduces several provisions relevant to protecting victims of cyber violence, including strengthening provisions regarding content that violates morality and the distribution of electronic information containing blackmail or threats, which are directly relevant to handling sextortion and doxing. The strengthened provisions regarding the right to request the deletion of irrelevant electronic information (the "right to be forgotten") also provide legal instruments for victims to restore their honor and privacy after the distribution of harmful content.

3.2.5. Law Number 27 of 2022 concerning Personal Data Protection (PDP Law). The Personal Data Protection Law provides a framework for protecting against the misuse of personal data, including children's data as data subjects requiring special protection. The principle of consent, limitations on the purposes of data processing, and administrative and criminal sanctions for violations of personal data protection are crucial tools in preventing and prosecuting doxing practices and the misuse of women's and children's personal data in the digital space.

3.2.6. Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code). The National Criminal Code also regulates crimes against morality committed through electronic means and provides for increased penalties if the victim is a child. The National Criminal Code, which will come into effect this year, provides momentum for harmonizing general criminal provisions with specific criminal provisions already stipulated in the TPKS Law and the Child Protection Law. This harmonization requires further scrutiny to avoid overlapping norms.

3.3. Effectiveness of Implementation and Challenges of Law Enforcement

The review of the various legal instruments above shows that, normatively, Indonesia has a relatively progressive legal framework in place to address electronic-based violence against women and children. However, the effectiveness of regulations cannot be measured solely by



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the availability of norms, but also by their implementation capacity. Several fundamental challenges hamper effective law enforcement.

First, the limited capacity of law enforcement officials to conduct electronic forensic analysis. Handling electronic violence requires specialized technical skills in identifying, collecting, and securing electronic evidence to meet the requirements of authenticity and integrity (chain of custody) as required by criminal procedure law. Limited human resources and digital forensic facilities, particularly at the regional police level, often slow down the investigation process.

Second, weak inter-agency coordination. Handling electronic violence against women and children involves many stakeholders, including the Indonesian National Police, the Ministry of Communication and Digital Development, the Ministry of Women's Empowerment and Child Protection, the Indonesian Child Protection Commission, the National Commission on Violence Against Women, and the Regional Technical Implementation Units for the Protection of Women and Children. The absence of an integrated coordination mechanism leads to overlapping authorities and accountability gaps at certain stages, particularly in the process of blocking or removing content and rehabilitating victims.

Third, cross-border jurisdiction. Most cybercrimes against women and children involve perpetrators, platforms, or servers located outside of Indonesian jurisdiction. Therefore, law enforcement relies heavily on international cooperation and mutual legal assistance, which is often time-consuming and hampered by differences in legal systems across countries.

Fourth, low levels of victim reporting (underreporting). Social stigma, shame, fear of secondary victimization, and victims' limited understanding of their rights lead to many cases of e-violence going unreported to law enforcement, thus official data tends to underrepresent the true scale of the problem.

3.4. Regulatory Harmonization: Overlap and Normative Voids

One of the important findings in this study is the persistent problem of harmonization between laws and regulations governing the protection of women and children from electronic-based violence. First, there is overlap between the ITE Law and the TPKS Law in defining and qualifying electronic-based sexual violence, which has the potential to create legal uncertainty regarding the appropriate legal basis for prosecution for investigators and prosecutors, including the potential for conflicting applications of the principle of *lex specialis derogat legi generali*.

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Second, a legal vacuum was found regarding a number of rapidly developing crime modes, such as sextortion, which has not been explicitly regulated as a separate crime with specific criminal elements, so that its handling still relies on the construction of articles on extortion and threats in the Criminal Code or provisions on morality in the ITE Law, which do not fully describe the typical characteristics of this crime.

Third, the suboptimal synchronization between the PDP Law and the Child Protection Law regarding the regulation of children's personal data as vulnerable data subjects, particularly regarding the mechanism for parental or guardian consent, limitations on the processing of children's data by digital platforms, and the responsibility of data controllers for leaks of children's data that could potentially be used for exploitation purposes.

Fourth, there is no single, comprehensive definition of online gender-based violence that can serve as a common reference across laws and regulations, so that each law tends to regulate from its own sectoral perspective without a unified conceptual framework.

3.5. Future Legal Reform Strategy

Based on the issues above, several strategic steps are needed within the framework of legal reform to strengthen the protection of women and children from electronic-based violence. First, the development of comprehensive implementing regulations for the TPKS Law, specifically those that detail the mechanisms for handling electronic-based sexual violence, including technical qualifications for electronic evidence and standard operating procedures for cross-agency handling.

Second, harmonization of regulations through the preparation of academic papers across ministries/institutions to align the definitions and qualifications of criminal acts between the ITE Law, the TPKS Law, the Child Protection Law, the PDP Law, and the National Criminal Code, so that legal certainty is created in the application of the *lex specialis* principle and there is no overlapping of law enforcement authority.

Third, strengthening the capacity of law enforcement institutions through the establishment or strengthening of special units for cybercrimes against women and children equipped with adequate digital forensic capabilities, accompanied by continuous improvement of human resource capacity, both at the central and regional levels.

Fourth, strengthening victim protection and recovery mechanisms, including optimizing the Regional Technical Implementation Unit for the Protection of Women and Children, providing

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easily accessible psychological and legal assistance services, and guaranteeing the confidentiality of victims' identities during the legal process to prevent re-victimization.

Fifth, improving digital literacy among the public, particularly women, children, and parents or guardians, through educational programs integrated into the curriculum and public campaigns, as a long-term preventative measure. Sixth, strengthening international cooperation in addressing cross-jurisdictional cybercrime, including considering accession to international conventions on cybercrime to strengthen the framework for law enforcement cooperation and the exchange of electronic evidence between countries.

4. Conclusion

Based on the results and discussion above, several conclusions can be drawn. First, regulations on legal protection for women and children from electronic-based violence in Indonesia have been relatively progressive, with the enactment of the TPKS Law, the Child Protection Law, the ITE Law, the PDP Law, and the National Criminal Code. However, their effectiveness remains hampered by limited electronic evidence capacity, weak inter-institutional coordination, cross-border jurisdictional constraints, and low levels of victim reporting. Second, the harmonization of laws and regulations governing the protection of women and children from electronic-based violence still faces problems in the form of overlapping norms between the ITE Law and the TPKS Law, a lack of regulation regarding certain crime modes such as sextortion, the suboptimal synchronization of the PDP Law with the Child Protection Law, and the absence of a single definition of gender-based violence in cyberspace. Third, the necessary legal reform strategy includes the development of comprehensive implementing regulations, harmonization of regulations across ministries/agencies, strengthening the capacity of law enforcement institutions, strengthening victim protection and recovery mechanisms, increasing public digital literacy, and strengthening international cooperation. These steps must be implemented simultaneously and in an integrated manner to ensure effective and sustainable legal protection for women and children in the digital era.

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