

Effectiveness of Legal Protection for Children Perpetrators of Sexual Abuse Due to the Influence of Internet Pornography in Cirebon City

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Abstract. *The influence of pornography circulation in the digital world through prohibited sites is increasing and damaging, this also damages children as the next generation of the nation, the circulation of pornography in cyberspace can cause children to experience pathological disorders in the form of sexual behavioral deviations which ultimately result in children committing acts of sexual violence against their peers. The position of children as victims of exposure to pornography circulation in cyberspace when they become perpetrators of sexual violence is considered a crime like that committed by adults, so that victims often refuse to resolve this problem through diversion. This study aims to determine and analyze the protection for children who commit sexual crimes due to the impact of the spread of pornographic sites on the internet that occurred in the city of Cirebon. To determine and analyze the obstacles and solutions related to the issue of protection for children who commit sexual crimes due to the impact of the spread of pornographic sites on the internet that occurred in the city of Cirebon. The type of legal research used is non-doctrinal. Emphasizing for the parties in cases of sexual violence committed by children that it is necessary to go through the legal process through diversion for children first. Implementation of legal counseling on the importance of diversion, especially in cases of violence committed by children in society.*

Keywords: *Children; Pornography; Sexual; Violence.*

1. Introduction

Technological advances have brought many rapid influences to the lives of society in general. The positive influence of technological advances is the increasingly open access to information and communication as a medium of interaction widely for every human being in developing their lives in society, in other words,

fulfilling the needs of society is getting easier with the presence of advances in information and communication technology.¹

The existence of advances in information and communication technology in the era of globalization not only brings convenience to every human being as a positive impact, but also brings negative impacts. One of the negative impacts can be observed in the issue of the negative impact of internet use. The first negative impact is that the information disseminated on the internet is not always true. This happens because the website does not have to provide correct and accurate information, and there is no responsibility for the truth of the information disseminated. The second negative impact is pornography which is a negative impact, the problem of pornography is not only sought intentionally, but is often easily obtained through hidden messages when every person is accessing the internet for their interests, the ease of getting pornography by searching for data and mp3 music files also makes it easy for everyone to access pornographic content on the internet.²

Former Minister of Communication and Information Budi Arie Setiadi stated that based on data from the Directorate General of Informatics Applications when Budi was in office, as of September 14, 2023, his staff had cut off access to 1,950,794 pornographic content.³The problem of pornography on the internet can have a negative impact on every person. The negative impacts are:⁴

1) Addicted

Various pornographic content that appears through advertisements, social media, games, films, video clips, or the above shows will initially arouse curiosity in children, even when they accidentally see it. This curiosity is what drives children to see more pornographic content. In addition, this addiction is triggered by the release of dopamine hormones in the brain so that it will cause feelings of happiness when watching pornographic content. If not prevented immediately, it is not impossible that addiction to pornography can occur in children.

2) Brain Damage

¹Juliyani Munthe, "Positive and Negative Impacts of the Development of Communication Technology on Civic Education Students of Stkip Labuhanbatu", *Cvivitas*, Vol. 2, No. 1, 2021, p. 37.

²Narantoputrayadi Makan Malay, "Positive and Negative Impacts of Internet Use Among Class A, B, C, and D Students of the 2021 Class of Indonesian Language and Literature Education Study Program, Nusa Cendana University", *Lazuardi Journal*, Volume 5, No.1, p. 77.

³Ministry of Communication and Information of the Republic of Indonesia, "Minister of Communication and Information: Ministry of Communication and Information Cuts Off Access to 1.9 Million Pornographic Contents", <https://aptika.kominfo.go.id/2023/09/menteri-budi-arie-kominfo-putus-akses-19-juta-konten-pornografi/>, January 12, 2025, 11.10 WIB.

⁴ Dina Rahmawati, "The Negative Impact of Pornography on Children", <https://www.sehatq.com/artikel/dampak-buruk-pornografi-pada-anak-anak>, January 12, 2025, 11.10 WIB.

Pornography can damage a child's brain, specifically in one part of the front of the brain called the Pre Frontal Cortex (PFC). This is because the PFC part of the child's brain is not yet fully mature. If this part of the brain is damaged, it can result in decreased concentration, difficulty understanding right and wrong, difficulty thinking critically, difficulty restraining oneself, difficulty delaying gratification, and difficulty planning for the future.

3) The Desire to Try and Imitate

Another impact felt by children after watching pornography is the desire to try and imitate. This is related to the influence of mirror neurons. Mirror neurons are brain cells that can make children feel or experience what they watch, including pornography. This can encourage children to try and imitate what they see.

4) Started Committing Deviant Sexual Acts

If not supervised, children exposed to pornography may try to do sexual acts to satisfy their curiosity. Especially if they are teenagers, if not given good sexual education and understanding, the desire to do sexual acts is difficult to prevent.

Children are the next generation of the nation who have an important position, this indicates that children are the determinants of the future of national and state life. The rapid flow of information that is present due to the advancement of digital technology in the current era of globalization, makes the problem of pornography vulnerable to also affecting children in this country. According to Aries Adi Leksono, Commissioner of KPAI, around 55 million children in Indonesia are addicted to pornography throughout 2024. Aries added that the problem of children's addiction to pornography in cyberspace can cause addiction or addiction which then affects the brain's work and mental health.⁵

The existence of the rate of information that is present due to the advancement of digital technology, has had an impact on the unfiltered pornographic sites, this allows children to access these prohibited sites, which can damage the behavior of children and harm victims due to sexual crime behavior committed by children whose thinking and behavior are damaged due to consuming pornographic sites on the internet. However, children who are perpetrators of sexual crimes as a result of consuming pornographic site products cannot be punished like perpetrators who are mature. This is because children do not yet have a mature understanding of the deviant actions they commit.⁶

This makes the method of taking action against children who commit violations of the law as deviations due to the influence of the spread of pornography on the

⁵ Radio Republik Indonesia, "KPAI: 5.5 Million Indonesian Children Addicted to Pornography", <https://rri.co.id/daerah/824614/kpai-5-5-juta-anak-indonesia-kecanduan-pornografi>, January 12, 2025, 11.10 WIB.

⁶Narantoputrayadi Eat Malay, op., cit.

internet must be carried out by means of fostering and reviving the child's mental and psychological well-being, this is considering that children who are perpetrators of sexual behavioral deviations due to the negative impacts of pornography on the internet are children who have neglected the responsibilities of their parents and their environment. Article 59 paragraph (1) of the Republic of Indonesia Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection states, "the government, regional governments, and other state institutions are obliged and responsible for providing Special Protection to Children". Article 59 paragraph (2) letter b of the Republic of Indonesia Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection states, "Special protection for children as referred to in paragraph (1) is given to children who are in conflict with the law".

Article 71 of the Republic of Indonesia Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection then reads:

Special protection for children who are victims of mistreatment and neglect as referred to in Article 59 paragraph (2) letter m is carried out through supervision, prevention, care, counseling, social rehabilitation and social assistance.

2. Research Methods

The type of legal research used is non-doctrinal. In this non-doctrinal legal research, law is conceptualized sociologically as an empirical phenomenon that can be observed in life. In terms of substance, law is seen as a social force that is empirical in form, but which is seen legally and works to pattern the actual behavior of citizens. Then in terms of structure, law is as a judicial institution whose work is to transform inputs (strictly legal material in abstracto in abstracto, namely the product of the political system) into outputs (strictly decisions in concreto) which in this way influence and direct the form and process of social interaction that takes place in society. In such a perspective, according to Soetandyo, law will appear as a natural fact that will certainly be subject to regularities (nomos) or uniformities (uniformities).

3. Results and Discussion

3.1. Protection for Children Who Commit Sexual Crimes Due to the Impact of the Spread of Pornographic Sites on the Internet in Cirebon City

Pornography crimes have a huge impact on deviant behavior in children. Pornography on the internet and social media has not only developed into a personal need, but also into a commodity that is traded commercially and carried out professionally. Online prostitution has also emerged with various faces by utilizing technology. Pornography has a very bad impact on children's lives, including reducing concentration in learning and the most dangerous is imitating

for an outlet, which can lead to sexual harassment or sexual crimes. So there is no other way, there must be a joint effort by the entire community to fight pornography so that it does not further lead children to deny our nature as humans who are gifted with everything by the Creator, including sexuality for noble tasks and purposes, namely creating a sustainable generation of humans with a healthy body and soul, soul and body. Everyone is obliged to protect children from the influence of pornography and prevent children from accessing technological information, the role of parents and families is to provide understanding to children which is a strong fortress for rejecting the influence of pornography. Pornography on the internet and social media is difficult to eradicate and difficult to block because the blocks are easily penetrated, so the safest thing is to teach children to be able to block themselves, that is more important. Computer abuse (cybercrime), namely computers become tools or media to commit crimes such as selling pornographic and pornographic sites that can lead to crimes such as rape, sexual harassment. In the form of computer crime, crimes that are closely related to the use of technology that is primarily based on computers and telecommunications networks, are called Illegal Contents, which are crimes by entering data or information into the internet about something that is not true, unethical and can be considered unlawful or disturbing public order. Social media is an online media that appears in various forms including magazines, internet forums, weblogs, social blogs, wikis, photos or images, videos, and so on. is currently the most visited media because social media seems to have magic that makes its users feel at home playing it. Pornographic content is easily spread on social media such as Facebook, Twitter and others that can be accessed by all ages because there is no security for users in terms of age, has caused unrest and concern for all of us. Adults when they see and/or hear and/or touch pornographic and/or porno-action objects will be different from children or minors. Adults can still control themselves from pornography and/or porno-action compared to minors, Meanwhile, people who are not yet adults, especially children approaching adolescence and teenagers, are more easily influenced by pornography and/or pornographic action, whether it is what they see, hear or touch.⁷

Endogenous factors are factors that originate from within the child itself that influence his/her behavior, including: first, biological and psychological disabilities. Second, hampered personality and intelligence development so that he/she cannot internalize the prevailing norms. Exogenous factors are factors that originate from outside the child that can influence his/her behavior. According to Walter Luden, the factors that play a role in the emergence of delinquency are as follows:⁸

⁷Rini Fitriani, "Legal Protection for Children Due to the Spread of Pornography on the Internet and Social Media", *Samudra Keadilan Law Journal*, Vol. 10, No. 2, 2015, pp. 229-231.

⁸*Location, cit.*

- 1) The wave of urbanization of teenagers from villages to cities is quite large in number and difficult to prevent.
- 2) The occurrence of conflict between traditional rural customary norms and new norms that are growing in the process and rapid sexual shifts, especially in big cities.
- 3) The fading of individual personality patterns that are strongly linked to traditional social control patterns, so that members of society, especially teenagers, face "vague patterns" in carrying out their behavior.
- 4) The development of juvenile delinquency is caused by the negative impact of rapid global changes including knowledge and technology beyond their awareness.

Social and cultural influences play a major role in the formation or conditioning of criminal behavior of teenagers. The behavior of these teenagers shows signs of lack or absence of confirmation of social norms, the majority of juvenile delinquents are under the age of 21 years. The highest number of crimes is at the age of 15-19 years: and after the age of 22 years, cases of crime committed by delinquent gangs decrease.⁹

Meanwhile, regarding criminalization, Barda Nawawi said that criminalization must be directed at two targets, namely:

- 1) Community protection;
- 2) Protection and guidance for individual criminals and victims.

So that criminalization should be able to see the interests of society which are then accommodated with the principle of legality and individual interests which are then accommodated with the principle of culpability or the principle of error. So that in terms of criminalization, it is necessary to review the matter of criminal acts and criminal responsibility.¹⁰

Child protection is all activities to guarantee and protect children and their rights to live, grow, develop, and participate, optimally, in accordance with human dignity and honor, as well as protection from violence and discrimination. In order to realize quality, noble and prosperous Indonesian children, child protection efforts need to be implemented as early as possible, namely from the fetus in the womb until the child is 18 years old. Starting from the concept of complete, comprehensive and comprehensive child protection, the Child Protection Law places the obligation to provide protection to children based on the principles of non-discrimination, the best interests of the child, the right to

⁹*Location, cit.*

¹⁰Barda Nawawi Arief, *Anthology of Criminal Law Policy*, Citra Aditya Bakti, Bandung, 2005, p. 88.

life, survival and development and respect for the child's opinion. Children must be protected so that they do not become victims of anyone's policy actions (individuals or groups, private or government organizations) either directly or indirectly. Being a victim means suffering losses (mental, physical, social) due to passive, active actions of other people or groups either directly or indirectly.

Legal protection for children due to the dissemination of pornography on the internet and social media has been accommodated in several laws and regulations, including Law Number 44 of 2008 concerning Pornography, which is a *lex specialis* providing protection for children as mandated in Article 16 of Law Number 44 of 2008 concerning Pornography, which states:

- (1) The government, social institutions, educational institutions, religious institutions, families and/or communities are obliged to provide guidance, assistance and social, physical and mental health recovery for every child who is a victim or perpetrator of pornography.
- (2) Further provisions regarding coaching, mentoring, and social, physical and mental health recovery as referred to in paragraph (1) are regulated by Government Regulation.

This law requires all parties, in this case the state, social institutions, educational institutions, religious institutions, families, and/or communities to provide guidance, assistance, social recovery, physical and mental health for every child who is a victim or perpetrator of pornography. The role of the government is to prevent the creation, distribution and use of pornography. Guidance here is a series of activities to improve and shape the child's identity in a better direction so that the child can grow and develop healthily and naturally. Such as providing an understanding of the dangers of pornography for perpetrators of pornography, spiritual mental guidance, guidance of moral and religious values and counseling guidance. Assistance is carried out as an effort to accompany children who are victims or perpetrators of pornography in order to overcome problems and strengthen the child's identity, such as restoring self-confidence, and making them aware of their wrong actions and not repeating them. After that, recovery is an effort to strengthen the self of children who are victims or perpetrators of pornography crimes so that they are more empowered, both socially, physically and mentally.

Law Number 23 of 2002 concerning Child Protection regulates the protection of children from pornography as mandated in Article 59 of Law Number 23 of 2002 concerning Child Protection, which states: The government and other state institutions are obliged and responsible for providing special protection to children in emergency situations, children in conflict with the law, children from minority and isolated groups, children who are exploited economically and/or sexually, children who are traded, children who are victims of abuse of narcotics,

alcohol, psychotropics, and other addictive substances (napza), children who are victims of kidnapping, sale and trade, children who are victims of physical and/or mental violence, children with disabilities, and children who are victims of mistreatment and neglect. The protection mandated in Article 59 of Law Number 23 of 2002 concerning Child Protection is only a small part, even with the wording of protecting children from sexual exploitation. Article 88 of Law Number 23 of 2002 concerning Child Protection states:

Any person who exploits a child economically or sexually with the intention of benefiting themselves or others shall be punished with imprisonment for a maximum of 10 (ten) years and/or a maximum fine of IDR 200,000,000.00 (two hundred million rupiah).

There are several perspectives in viewing children as victims of the spread of pornography:¹¹

- 1) Children become victims of the spread of pornography because they are deprived of their right to grow and develop naturally, and to have a future because their thinking, mentality, and even their physicality are damaged by pornography.
- 2) Children become victims of the spread of pornography due to sexual exploitation to become the subject of pornographic material.
- 3) Children who become victims of the spread of pornography will be pushed to become perpetrators of sexual crimes in the form of molestation, rape, and even rape that results in murder and the loss of their future, as well as being convicted of consuming pornography.
- 4) Children become victims of sexual crimes in the form of molestation, rape, and even murder by child and adult perpetrators who are driven to commit criminal acts due to pornography.

Armed with these various perspectives, child protection against the dangers of the spread of pornography must be carried out by preventing children from accessing pornographic sites. Preventing access to pornography includes prohibiting the production, distribution and consumption of pornography. The effects of the influence of pornography for adults if they see, hear or touch pornographic objects will be different from children who see, hear or touch pornographic objects, adults are likely to control themselves, while people who are not yet adults, especially children who are approaching adulthood and adolescence, are more easily influenced by pornography so that it will lead to criminal acts. The problem of pornography is increasingly concerning and its

¹¹ [ps://fairuzelsaid.wordpress.com/2010/10/20/fakta-hukum-perlindungan-anak-terhadap-pornografi](https://fairuzelsaid.wordpress.com/2010/10/20/fakta-hukum-perlindungan-anak-terhadap-pornografi) accessed 15 November 2024.

negative impacts are increasingly apparent, especially for children who do not understand so that they only practice what they see. criminal acts that arise from the influence of pornography on the internet such as adultery, abortion, rape or murder. Child protection is an important job that must continue to be carried out by all elements of our country. Forms of child protection must be carried out from all aspects, starting from guidance in the family, social control over children's relationships, and proper handling through good regulations made by a country. The parties involved in providing child protection are every member of society according to their abilities with various kinds of efforts, so that child protection is not only the task of parents but is also an obligation for society and the government.

Based on the various explanations above, it can be seen that children who commit sexual violence are children who experience pathological disorders due to exposure to pornography via the internet. So the law should view children as perpetrators of sexual violence as victims of pathological disorders due to the influence of pornography on the internet. Addiction to pornography on the internet has various negative impacts. For example, these children will spend a lot of time accessing pornographic materials both in internet cafes and with mobile phones. For those who access it at school, pornography reduces concentration in learning and productivity. For personal development, pornography causes negative impacts such as becoming a slave to lust, lazy to work hard, likes to lie, and always fantasizes, losing future orientation. Worse, pornography damages the mind, makes you lazy, and ultimately reduces intelligence levels.

Islam views children as parties who also need to receive the right to legal protection. Islam's seriousness towards a generation (descendants read children) cannot be denied by anything and anyone. So serious, Islam through its holy book has given a special space for children. However, before discussing children more broadly, it would be good to look at the various definitions of children. From the perspective of the Indonesian dictionary, a child is "a human being who is still small" or "children who are still small (not yet adults)".¹²

Meanwhile, from a terminology perspective, many experts provide definitions of children. Among these definitions are the second generation, a small human being, a small animal, a small tree that grows on a tuber or a clump of large plants, a person who is included in one work group (family and so on), a small part (of an object), which is smaller than the others.¹³

¹²Ahmad Muzakki, 2013, Gus Dur: Reformer of Indonesian Islamic Humanist Education in the 21st Century, Idea Press Yogyakarta, pp. 19-30.

¹³*Location, cit.*

In the context of Islamic law and civil law, the definition of a child is closely related to the family. If related to the family, then the definition of a child is very diverse. Therefore, it is not surprising that when classified, the definition of a child is very diverse and has broad aspects. Thus, it can be underlined that various meanings of children can be translated from various perspectives and approaches. So that to approach children correctly can be done through the system of religious, legal, social interests from each field. Wisely from the explanation above, it can be said that the understanding of children from various branches of science will have differences, both in terms of their function, meaning and purpose. For example, in the context of Islamic law, children will have a different definition from the understanding of children in the context of legal, social, economic, political and defense disciplines. In this case, Islam firmly provides definition limitations and always socializes that children are wise and noble creatures of Allah SWT. In addition, the process of creation and existence through various dimensions and becomes the authority of the will of Allah SWT.¹⁴

The "seriousness" of Islam in dealing with the status of children is increasingly legitimate with the many verses of the Qur'an - as a holy book and source of Islamic law - that discuss the status of children. This seems to illustrate and confirm that the Qur'an or Islamic creed is very humanistic, namely positioning children as very noble creatures, complete with the "equipment" of their sustenance and having added value. The emergence of this, in the context of Islam, is the absolute right and will of Allah SWT. So to respond to and reveal the transcendental value in question, Allah SWT also confirms the existence and presence of children in another part of the Qur'an, namely Qs al-Tîn verse 4, it is stated that, "Indeed I created you humans in the best form, or the most noble".¹⁵

Islam's "partisanship" towards child protection efforts is truly a priority. The instruments related to this matter seem to have been arranged and arranged neatly in order to realize a generation that is a perfect human being and has rahmatan lil 'alamin. Therefore, protection of children has also been taught from an early age, namely by giving the right to life to the fetus in the mother's womb before birth. This is illustrated in the word of Allah Qs al-An'am verse 140, which states that:

Indeed, it is a loss for those who kill their children, because they are ignorant and do not know and they forbid what Allah has provided for them by merely making things against Allah. Indeed, they have gone astray and they have not been guided.

Firmly and clearly, Islam has given instructions to its people to provide protection for their children. More specifically, Islam never mentions or touches on the

¹⁴Location, cit.

¹⁵Location, cit.

differences in gender and sex of a child. This means that all children get the same portion and rights to be protected for the development and growth of children naturally, both physically and mentally and socially. This is intended so that in the future parents do not leave weak offspring. Therefore, the seriousness of Islamic law towards child protection is absolute and is a very original sacred teaching originating from Divine revelation - long before the emergence of the basis or foundation of Law Number 23 of 2002 concerning Human Rights (HAM) and the UN Convention on the Rights of the Child. Recognition and protection of children emerged along with the consecration of Muhammad ibn Abdullah as an apostle. Islamic law is truly without doubt and is able to become a pioneer in the sustainability of human rights in the world. In the context of Islamic law, children are a gift and blessing from Allah whose presence should be grateful for. He is the successor of the baton of descent who can preserve the reward for parents even though the parents have died. In addition, children are also the future "fathers" who are ready to prosper the motherland, become future soldiers who are ready to protect the homeland, become scientists who will spread the light of Islam and science to all corners of the country. Therefore, children are a trust and mandate from Allah that must be handled properly. Every parent will always work hard and try as hard as possible - even to the point where some use various ways to care for, nurture and guide their children so that they can grow and develop properly.¹⁶

3.2. Obstacles and Solutions Related to the Problem of Protection for Children Who Commit Sexual Crimes Due to the Impact of the Spread of Pornographic Sites on the Internet in the City of Cirebon

1) Obstacles Related to the Issue of Protection for Children Who Commit Sexual Crimes Due to the Impact of the Spread of Pornographic Sites on the Internet That Occurred in the City of Cirebon

Law Number 44 of 2008 concerning Pornography has weaknesses, namely:

- a. There is an overlap in the meaning of one with another regarding the terms in the statutory dictum.

This overlapping understanding can be observed in the understanding of producing by making, multiplying by duplicating, disseminating by circulating and trading. This is also clarified in the explanation of article 13 paragraph 1, namely:

- 1) The term "act" includes producing, making, reproducing or duplicating.
- 2) The term "use" includes listening to, watching, utilizing, possessing or storing.

¹⁶Location, cit.

This has the effect that in a particular case two or three criminal acts can be applied at once. The objects of pornography are regulated in Article 1 paragraph 1, Articles 4 to 12 in conjunction with Articles 29 to 38, namely:

- a. Picture
- b. Sketch
- c. Illustration
- d. Sound, sound
- e. Moving image
- f. Animation, cartoon,
- g. Conversation
- h. Body movement
- i. Message format

The objects of pornographic acts explicitly include:

- a. Intercourse
- b. Sexual violence
- c. Masturbation or onani
- d. Nudity or the appearance of nudity
- e. Genitals
- f. Child pornography

This view will not automatically provide a guarantee for the implementation of all forms of community activities related to various activities. If viewed, this UUP does not reflect several principles that should be as regulated in Article 5 of the Republic of Indonesia Law Number 12 of 2011 concerning the Formation of Legislation which states that:

(1) In forming Legislation, it must be done based on the principles of forming good Legislation, which include:

- a. clarity of purpose;
- b. appropriate institutional or official formation;
- c. conformity between type, hierarchy, and content material;

- d. can be implemented;
- e. usability and effectiveness;
- f. clarity of formulation; and
- g. openness.
- h. equality before the law and government;
- i. order and legal certainty; and/or
- j. balance, harmony and alignment.

(2) In addition to reflecting the principles as referred to in paragraph (1), certain Legislation may contain other principles in accordance with the legal field of the relevant Legislation.

Regarding the principles in the legal product of the Pornography Law, one of the Constitutional Court Judges, Maria Farida Indrati, has a different opinion (dissenting opinion) with 8 (eight) other judges who agree with the Pornography Law or reject the Judicial Review lawsuit in the Decision of Case Number 10-17-23/PUU-VII/2009 Concerning Pornography with several considerations, namely:

1. The Pornography Law is difficult to implement effectively and effectively. According to him, there is still confusion in its articles. And there are already many laws that regulate the content of the Pornography Law, namely:

- a. Criminal Code. In the Criminal Code, the crime of pornography can be classified as moral crime, as a criminal act of violating morality (*zedelijkheid*), which is regulated in Article 282 paragraph (1), (2) and 3. Article 283 paragraph (1), in book (2), (3) and Article 283 bis. Article 532, Article 533, Article 534 and Article 535 in Book II, Chapter XIV.
- b. Law No. 40 of 1999 concerning the Press, specifically Article 5 paragraph (1), Article 13 and Article 18 paragraphs (1) and (2).
- c. Law No. 23 of 2002 concerning Child Protection.
- d. Law No. 32 of 2002 concerning Broadcasting, specifically Article 36 paragraph (5) point b, Article 46 paragraph (3) letter d and Article 48 paragraph (4) letters c, d and e.
- e. Law No. 11 of 2008 concerning Electronic Information and Transactions.
- f. Law No. 28 of 1992 concerning Film, especially Article 3, Article 13 and Article 33.

2. The Pornography Law does not meet the principle of openness because during the process of making the law, great opposition occurred both in the mass media, demonstrations, discussions and others. And he reminded that there were 2 factions that walked out and 2 regions, namely Bali and Papua, firmly rejected it.

3. The change of the name of the Law from Anti Pornography to Pornography Law, in terms of legal technique, is questionable. The explanation of homosexuality in the Pornography Law is referred to as a sexual deviation which is not appropriate because it contradicts the WHO definition and the book on Classification and Diagnosis of Mental Disorders issued by the Ministry of Health.

4. With the name of the Pornography Law, its contents are about pornography and there is no legal procedure.

5. To implement the goal of an ethical social order, it is not as easy as turning over your hand, namely by making a Pornography Law. Of the 40 articles, only 1 article, namely article 16, states guidance.

Furthermore, the ambiguity in the application of principles as a basis for all regulations and laws will have implications for the extraordinary culmination point in applying legal rules to a concrete regulation. The construction of legal buildings will only be a procedural force without being able to clarify a problem that is to be resolved fairly. Shifting meanings, misunderstandings, misplaced aggressiveness and excessive anomalies will arise when the law provides guarantees and understands true justice. However, the understanding of pornography is still ambiguous, mixed up and unable to sort out the legal issues that are developing, so it will become wild and will bring disaster to the law enforcement process.

The next obstacle is the obstacle in law enforcement. In general, Indonesian Police investigators are still very minimal in computer operational mastery and understanding of computer hacking as well as the ability to investigate cyberporn and cybersex cases. Cybercrime is more virtual and non-physical in nature, which makes the evidence system for this crime difficult for investigators. In addition, the technical knowledge and experience of investigators in handling cybersex and cyberporn cases are still very limited. Never having undergone special education for investigating cybercrime cases such as cybersex and cyberporn cases is also a weakness in the investigators' abilities. Another problem that arises in law enforcement against cybersex and cyberporn crimes is determining evidence. The problem of evidence faced in cybersex and cyberporn investigations is related to the characteristics of cybersex and cyberporn crimes themselves, namely:¹⁷

¹⁷Don Raisa Monica and Diah Gustiniati Maulani. "Cybersex and Cyberporn as Moral Offenses". *Fiat Justitia Journal of Legal Studies*. 7(3), 2013, pp. 337-344.

a. The target or media of cybersex and cyberporn is data and/or computer systems or internet systems that are easily changed, deleted, or hidden by the perpetrator. Therefore, data or computer systems or the internet related to the crime must be recorded as evidence of the crime that has been committed. The problem arises in relation to the position of recording media (recorders) which have not been recognized by the Criminal Procedure Code as valid evidence;

b. The position of victim witnesses in cybersex and cyberporn is very important because cybersex and cyberporn are often carried out almost without witnesses. On the other hand, victim witnesses are often far abroad, making it difficult for investigators to examine witnesses and file investigation results. Public prosecutors also do not want to accept case files that are not equipped with Witness Examination Reports, especially victim witnesses and must be equipped with Witness Oath Reports because it is likely that witnesses will not be able to attend the trial considering the distance from the witness's residence. This results in a lack of valid evidence if the case files are submitted to the court for trial, so there is a risk that the defendant will be declared free.

Given the characteristics of cybercrime, special rules are needed for several provisions of procedural law to combat cybersex and cyberporn. At this time, what is considered most urgent by researchers is the regulation of the position of valid evidence for several pieces of evidence that are often found in cybersex and cyberporn such as data or program systems stored on diskettes, hard disks, chips, or other recorder media. In order to prove the traces of perpetrators of cybersex and cyberporn crimes in carrying out their actions, especially those related to computer programs and data, the National Police's facilities are inadequate because there are no forensic computers. This facility is needed to reveal digital data such as pornographic images, pornographic videos, and so on, as well as to record and store evidence in the form of soft copies of images, videos, and other programs. In this case, the National Police still does not have adequate forensic computing facilities. The forensic computing facilities that will be established by the National Police are expected to be able to serve three important things, namely evidence, forensic analysis, and expert witnesses.¹⁸

The next obstacle is the lack of public concern in law enforcement and handling of cybersex and cyberporn crimes is still often felt, such as reluctance to report if they know of cyberporn crimes. Public curiosity about things that smell of porn is also still very high, as an example can be seen from the rapid circulation of Ariel's pornographic video case, either because they are just curious to see it, or because to satisfy their biological needs they are not reluctant to send it to fellow

¹⁸*Lic, cit.*

colleagues either through computer media such as downloading or practical media such as sending it via cellphone.¹⁹

Based on various explanations, it is clear that child perpetrators of sexual violence are actually victims of the spread of pornography and pornographic action on the internet, resulting in pathological disorders in children in the form of sexual behavioral deviations that cause children to commit sexual violence against their peers. For child perpetrators of sexual violence, legal action needs to use diversion in order to realize restorative justice.

The transfer of child case resolution outside the criminal justice process, known as diversion, is part of state policy. This is done by considering the best interests of the child, to prevent stigmatization and avoid imprisonment. Efforts to resolve child crimes through diversion are implemented as much as possible, considering that Article 13 of the SPPA Law emphasizes that if the diversion process does not result in an agreement between the victim and the perpetrator of the crime or the agreement is not implemented, then the process outside the child criminal justice system will be continued into the child justice process as a formality contained in the Criminal Procedure Code. Based on the various weaknesses that exist, it is clear that in the existing investigation process, diversion as a legal instrument to protect children as perpetrators of violence has not been realized, this also shows that the legal process has not been able to realize child protection in terms of children's basic rights.

2) Solutions Regarding the Problem of Protection for Children Who Commit Sexual Crimes Due to the Impact of the Spread of Pornographic Sites on the Internet That Occurred in the City of Cirebon

Factors that greatly influence problem simple mentation of restorative justice is a cultural factor. Culture as according to Soerjono Soekanto, what is meant by culture is one element of the legal system, in the form of values that underlie the implementation of a law. These values are abstract conceptions of what is considered good (so it is adopted) and what is considered bad (so it is avoided).²⁰The solution that can be implemented to protect child perpetrators of sexual violence due to the influence of exposure to the circulation of pornography in the digital world is to optimize diversion in cases of child sexual violence by:

a. affirms in Article 7 of the Republic of Indonesia Law Number 11 of 2012 concerning the Juvenile Criminal Justice System that the type of conditions for carrying out diversion are not only based on the child's actions which constitute a

¹⁹*Lic, cit.*

²⁰M. Gargarin Friyandi and Aryani Witasari, Restorative Justice In Application For Crime Investigation Abuse In Polsek Middle Semarang, Jurnal Daulat Hukum Volume 2 Issue 1, March 2019, pp. 41-44. <http://jurnal.unissula.ac.id/index.php/RH/article/view/4204>.

criminal act which is subject to a 7-year prison sentence but also need to look at the aspects of the child's criminal responsibility and the child's future circumstances.

b. Emphasizing to the parties in cases of sexual violence committed by children that it is necessary to go through the legal process through diversion for the child first.

c. Implementation of legal counseling on the importance of diversion, especially in cases of violence committed by children in the community.

4. Conclusion

Protection for children who commit sexual crimes due to the impact of the spread of pornographic sites on the internet that occurred in the city of Cirebon has not been realized. This is indicated by the large number of children who are perpetrators of sexual violence due to the influence of exposure to pornography in the digital world which are resolved in court. The obstacles that cause children to commit sexual violence due to the influence of pornography in the digital world are pathological disorders due to seeing pornography and wanting to try it on their peers, minimal parental supervision and attention, and the government's failure to eradicate pornography crimes in digital spaces so that children can access them easily. Meanwhile, the obstacles in protecting children who commit crimes due to pathological disorders caused by exposure to pornography in the digital world are the lack of clear legal provisions regarding the implementation of handling children who commit sexual violence due to the influence of pornography in the digital world, then the less than optimal implementation of diversion in resolving cases of children who commit sexual violence due to the circulation of pornography in the digital world. The solution that can be done to protect children who commit sexual violence due to the influence of exposure to the circulation of pornography in the digital world is to optimize diversion in cases of child sexual violence by emphasizing in Article 7 of Law of the Republic of Indonesia Number 11 of 2012 concerning the Child Criminal Justice System that the type of requirements for diversion are not only based on the child's actions which are criminal acts that are threatened with 7 years of imprisonment but also need to look at the aspects of the child's criminal responsibility and the child's future. Emphasizing to the parties in cases of sexual violence committed by children that it is necessary to go through the legal process through diversion for children first. Implementation of legal counseling on the importance of diversion especially in cases of violence committed by children in the community.

5. References

Journals:

Alcianno G. Gani, "Pengenalan Teknologi Internet Serta Dampaknya", *Jurnal Sistem Informasi*, Vol. 2, No. 2, 2015

Juliyani Munthe, "Dampak Positif Dan Negatif Perkembangan Teknologi Komunikasi Terhadap Mahasiswa Ppkn Stkip Labuhanbatu", *Civitas*, Vol. 2, No. 1, 2021

Narantoputrayadi Makan Malay, "Dampak Positif Dan Negatif Penggunaan Internet Pada Kalangan Mahasiswa Kelas A, B, C, Dan D Angkatan 2021 Prodi Pend. Bahasa Dan Sastra Indonesia, Universitas Nusa Cendana", *Jurnal Lazuardi*, Volume 5, No.1, 2022

Verlin Ferdina, "Penegakkan Hukum Terhadap Pelecehan Seksual Melalui Teknologi Informasi (Cyber) Ditinjau Dari Undang Undang Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang - Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik", *Jurnal Panorama Hukum*, Vol. 4, No. 2, 2019

Books:

Daud AM., Mohammad, 1993, *Hukum Islam Pengantar Ilmu Hukum dan Tata Hukum Islam di Indonesia*, Rajawali Pers, Jakarta

Edi Swasono, Sri, 2009, *Ekspose Ekonomika : Mewaspadaai Globalisme dan Pasar-Bebas Ekonomi*, Pusat Studi Ekonomi Pancasila-UGM, Yogyakarta

Endah Wahyuningsih, Sri, 2013, *Prinsip-Prinsip Individualisasi Pidana Dalam Hukum Islam Dan Pembaharuan Hukum Indonesia*, UNDIP, Semarang

Farida Indrati S., Maria, 2007, *Ilmu Perundang-Undangan: Jenis, Fungsi dan Materi Muatan, Buku 1*, Kanisius, Yogyakarta

Friedman, L. M., 1975, *Legal System*, Russel Sage Foundation, USA

Giddens, Anthony, 2003, *Runaway World Bagaimana Globalisasi Merombak Kehidupan Kita*, PT. Gramedia Pustaka Utama, Jakarta

HR., Mahmutarom, 2016 *Rekonstruksi Konsep Keadilan, Studi Perlindungan Korban Tindak Pidana Terhadap Nyawa Menurut Hukum Islam, Konstruksi Masyarakat, Dan Instrumen Internasional*, UNDIP, Semarang

Irmayanto, Juli, dkk, 2002, *Bank dan lembaga keuangan*, Universitas trisaksi, Jakarta

Kelsen, Hans, 1935, *General Theory of Law and State*, Russel & Russel, New York

Komarudian, 1994, *Enxiklopedia Manajemen*, Bumi Aksara, Jakarta

Lubis, Mochtar, 2013, *Manusia Indonesia*, Yayasan Pustaka Obor Indonesia, Jakarta

Mahfud M. D., Moh., 2006, *Membangun Politik Hukum, Menegakkan Konstitusi*, Pustaka LP3ES, Jakarta

Mertokusumo, Sudikno, 2014, *Penemuan Hukum, Sebuah Pengantar*, Cahaya Atama Pusaka, Yogyakarta

Meuwissen, 2018, *Tentang Pengembangan Hukum, Ilmu Hukum, Teori Hukum, Dan Filsafat Hukum*, PT. Refika Aditama, Bandung

Nawawi Arief, Barda, 1998, *Beberapa Aspek Kebijakan Penegakan dan Pengembangan Hukum*, Citra Aditya Bakti, Bandung

Regulation:

The 1945 Constitution of the Republic of Indonesia

Criminal Code

Republic of Indonesia Law Number 35 of 2014 Concerning Amendments to Law Number 23 of 2002 Concerning Child Protection

Interview:

Interview with Ipda Saeful Eka Priaga as Head of Women and Children Protection (PPA) Satreskim Polres Cirebon City, January 10, 2025

Interview with Kopol Joni Surya as Head of Samapta Polres Cirebon, April 4, 2025

Internet:

CSA Teddy Lesmana, *Pokok-Pokok Pikiran Lawrence Meir Friedman; Sistem Hukum Dalam Perspektif Ilmu Sosial*, diakses melalui <https://nusaputra.ac.id/article/pokok-pokok-pikiran-lawrence-meir-friedman-sistem-hukum-dalam-perspektif-ilmu-sosial/>, pada 12 May 2024

Dina Rahmawati, “ Dampak Buruk Pornografi Terhadap Anak”, <https://www.sehatq.com/artikel/dampak-buruk-pornografi-pada-anak-anak>, 12 January 2025, 11.10 WIB

Kominfo RI, “Menkominfo: Kominfo Putus Akses 1,9 Juta Konten Pornografi”, <https://aptika.kominfo.go.id/2023/09/menteri-budi-arie-kominfo-putus-akses-19-juta-konten-pornografi/>, 12 Januari 2025, 11.10 WIB

Pemerintah Kota Cirebon, “Profil Kota Cirebon”,
<https://cirebonkota.go.id/tentang-cirebon/geografis/>, 12 January 2025,
at 18.36 WIB

Radio Republik Indonesia, “KPAI: 5,5 Juta Anak Indonesia Kecanduan Pornografi”,
<https://rri.co.id/daerah/824614/kpai-5-5-juta-anak-indonesia-kecanduan-pornografi>, 12 January 2025, 11.10 WIB