

Law Enforcement in the Protection of Children Victims of Online Child Grooming Cyberspace during the Covid-19 Pandemic

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Zulfa Rahmanati^{1*}, Djoko Priyono², Nita Anisatul Azizah³

^{1,2}Universitas Diponegoro, Semarang, Indonesia

³Universitas Islam Indonesia, Yogyakarta, Indonesia

Corresponding email: *zulfa@gmail.com

Abstract

Information-based technology is one form of the era that is always there and provides benefits, namely facilitating the activities of all levels of society, including children. Internet or cyberspace is another name for information-based technology, the reach of the internet itself is wide, and therefore even minors can access it. Child grooming is a type of crime that is either the result of the expansion of cyber-crime grooming or an approach to deception. The mode used by the perpetrator in carrying out grooming is by starting to build a relationship with the victim, then creating the victim's trust in the perpetrator, the birth of the victim's trust in the perpetrator because of the emotional relationship that exists between the victim and the perpetrator. This study wants to analyze how the practice of sexual crimes during the covid -19 pandemic in Indonesia and how the role of the ITE Law in protecting children as victims of crime during the covid-19 pandemic. The method used by the author is juridical-normative. The results obtained are that the practice of child grooming crimes during the COVID-19 pandemic in Indonesia tends to increase, this is due to the intensity of using gadgets on children more than before the pandemic, and this is due to the government's policy, namely distance learning.

Keyword: Cyberspace; Covid-19; Online Child Grooming; law enforcement

1. Introduction

Information-based technology is one form of the era that is always there and provides benefits, namely facilitating the activities of all levels of society, including children. Internet or cyberspace is another name for information-based technology, the reach of the internet itself is wide, and therefore even minors can access it. The benefits of technological advances that are felt during the COVID-19 pandemic are that various applications have sprung up to help people's activities, where during this pandemic, people are limited in their movements to reduce the spread of the Covid-19 virus. This pandemic makes children often need more time to use wires when compared to before the covid -19 outbreak. Because children are required to go to school through the distance learning policy set by the government, it aims to protect children from exposure to the COVID-19 virus. 19.

According to Mieke Komar Kantaatmadja, the advantage of the internet itself is that it can provide information quickly so that children are helped to obtain the information they are looking for, on the other hand the internet provides us with a situation that no longer has a space and time separator. Pandemic (M.K.Kantaatmadja, 2002). The wide reach of the internet allows children to explore all kinds of information they want to find. The other side of the internet in addition to providing a positive influence for its users can also have a negative impact, especially children, this is because children are a vulnerable group to exposure to crime in the world because children do not yet have an understanding and mental maturity and children are still dependent on other people. - People around him.

Childcare is a new form of cybercrime in Indonesia. Perpetrators of this type of crime take advantage of the pandemic situation for actions that occur, this is because children have a relatively longer intensity of use of gadgets than before the pandemic. Child grooming is a type of crime that is either the result of the expansion of cyber-crime grooming or an approach to deception. The mode used by the perpetrator in carrying out grooming is by starting to build a relationship with the victim, then creating the victim's trust in the perpetrator, the birth of the victim's trust in the perpetrator because of the emotional relationship that exists between the victim and the perpetrator. The victim is already in his control, the perpetrator can easily deceive the victim by manipulating, exploiting, and committing when the child is a victim (Andaru, 2021). This type of crime is increasingly prevalent during the pandemic, this is due to the implementation of a distance learning policy so that children tend to use more devices than before the COVID-19 outbreak.

Based on the background of the problem described above, the author aims to analyze how the practice of sexual crimes during the COVID -19 pandemic in Indonesia and the role of the ITE Law in protecting children as victims of crime during the COVID-19 pandemic.

2. Research methods

The method used by the author is juridical-normative, the approach used to analyze the use of the statute approach which is used as the basis for this research is legal regulations relating to the issues discussed. The legal material used is the legal material used to support this research is a literature study in which there are two kinds of legal materials, namely primary legal materials and secondary legal materials. The primary legal material used is Law No. 11 of 2008 concerning ITE and Amendments to Law No. 19 of 2016 and Law No. 17 of 2018 concerning Child Protection, while the secondary legal materials used are books and scientific journals related to research topics.

3. Results and Discussion

Bad Practices in Child Care during the Covid-19 Pandemic in Indonesia

The practice of sexual exploitation of children is defined as all activities involving children, both male and female, with the aim of obtaining personal benefits, whether for money, pleasure or profit due to coercion by adults, individuals, or groups related to sexual relations. ECPAT (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) divides the types of exploitation of children in cyberspace into five types (Purandari, 2019):

Grooming online for sexual purposes

This type of exploitation is the process of establishing a relationship with a child as a victim through the use of the internet. The practice of this type of crime is carried out by manipulating, baiting, or inciting children to engage in sexual activities.

1. sexy

The process by which a child sends intensely explicit pornographic content or sexually explicit images of himself that are usually sent to friends or girlfriends. The form of content that is sent can be in the form of videos or photos of semi-nude sexual activities.

2. Sexual blackmail

Extortion of children by using images so that the person gets the desired imbalance in the form of money or sex imbalance or other benefits under the threat of spreading the material without the consent of the victim, namely the child.

3. Live broadcast of sexual behavior in children

This type of practice is carried out on children by forcing children to carry out sexual activities in front of the camera and live activities, the audience who see this activity are those who have become paid customers.

4. Child sexual abuse materials (CSAM)

Everything that is done through any means where children are involved in real or explicitly simulated activities to engage in sexual activity with the main purpose being sexual itself. Of course, this CSAM payload contains exploitation of children. In this study, the authors focus more on discussing the types of purposes for exploitation of online grooming children.

Child care crimes, namely sexual and sexual violence. Sexual violence can be carried out to reach a wide range where sexual activity is not carried out without any actions carried out by the perpetrator in an unnatural way, not liked by the victim or isolating the victim from their sexual needs. While choosing an act that is not harmful and the act is not liked by the victim where the act is sexual. Acts that fall into the category of sexual spectacle include coercion to perform sexual acts, actions related to aspects that lead to victims, all of these actions are conveyed either directly or indirectly (Hoemzah, 2010).

Based on the above, grooming is a criminal act of sexual crime, this is because these types of sex are carried out directly and can be enjoyed directly by the perpetrator. The modus operandi of child grooming is a form of development of sexual crimes in general, where the modus operandi of child grooming is to use social media such as Instagram, line, telegram and other online chat applications. Through social media taking an emotional approach, after the relationship between the perpetrator and the victim is established, the perpetrator can easily achieve his main goal, namely the power of the victim by pressing the victim to obey the perpetrator's wishes. The targets of the perpetrators are children who have bad relations with their parents and other than that, the introverted character of the child is much easier for the perpetrator to deceive in their actions (Suendra and Mulyawati, 2020).

Sexual crimes against children are crimes that need to be resolved thoroughly, because the issue of crimes against children is not only an issue at the national level but has long been an important issue in the global environment. Sexual crimes against children are closely related to power relations where the perpetrator has the power to deceive the victim. The power relations that occur in this type of crime are guardians or parents, teachers, and perpetrators who have higher authority than the child. The scope of this crime is when a child becomes a victim by a parent or guardian or a person with more power, beatings by a partner, sexual abuse by bartering food for sex, and sexual exploitation carried out in cyberspace. In general, UNICEF state that children as victims of sexual crimes, whether committed in general or online in particular, do not realize that they are

victims, this is due to children's limitations on digital information. The impact of sexual crimes is the same as the impact of sexual crimes in general, namely the victim gets physical and psychological impacts.

The factors behind the widespread practice of child grooming during the pandemic are (Andaru, 2021): relatively higher percentage of smartphone use compared to before the pandemic

1. the lack of knowledge about sex in children where in our country still considers sex education a taboo subject to talk about this causes children to lack knowledge about sex and in the end, they find out for themselves
2. knowledge of parents or guardians is low, and teachers related to crimes of childcare, the dual role of parents, namely as parents and teachers during the pandemic because the implementation of distance learning makes parents overwhelmed in monitoring children
3. structural factors that place children in a vulnerable position due to the condition of children who are more vulnerable when compared to adults and environmental influences such as the circulation of pornographic content in cyberspace.

Parents and society in general need to know the basic events of online crime to prevent this crime from happening to children, the principles are as follows (Wahyuni et al, 2021):

1) Manipulation

The practice used by giving praise to the victim to increase the strength, control, and dependence of the victim on the perpetrator. In this way, the victim feels privileged to be loved, and feels cared for by the perpetrator.

2) accessibility

technology makes it easier for perpetrators to carry out their criminal practices. The wide reach of the internet allows perpetrators to interact with victims without having to reveal their identities, so it is not surprising that they use anonymous identities in carrying out their actions. On the other hand, parents are more wary of strangers who interact directly with their children than indirect interactions using the internet.

3) Report Generation

Relationship building skills are important for principals to have. When the victim starts to feel comfortable, the perpetrator will find out more about the situation around the victim and the victim can easily ask the victim to hide their relationship so that no one knows.

4) Sexual Context

In carrying out the action, the perpetrator interacts by using pornographic spices. In the conversation, the perpetrators discussed conversations that smelled, seduced the victim, until the perpetrator sent pornographic photos and videos to the victim. There is nothing else that the perpetrator does so that the initial goal of being able to have sex can be realized.

5) Risky task

A risk assessment is carried out by the perpetrator against the victim before and during online child grooming activities. The following are some of the aspects carried out by the perpetrators in their actions:

- a) Assessment of the victim's personality
- b) The technology used to perform the action, some hardware used with different storage methods and IP addresses.
- c) This practice is carried out in cyberspace; therefore, the perpetrators choose to use email or cellphones

to approach the victim.

- d) The victim's environment, the meaning here is that the opportunity to meet the victim tends to be carried out in a place far from the victim's environment where he lives and socializes.

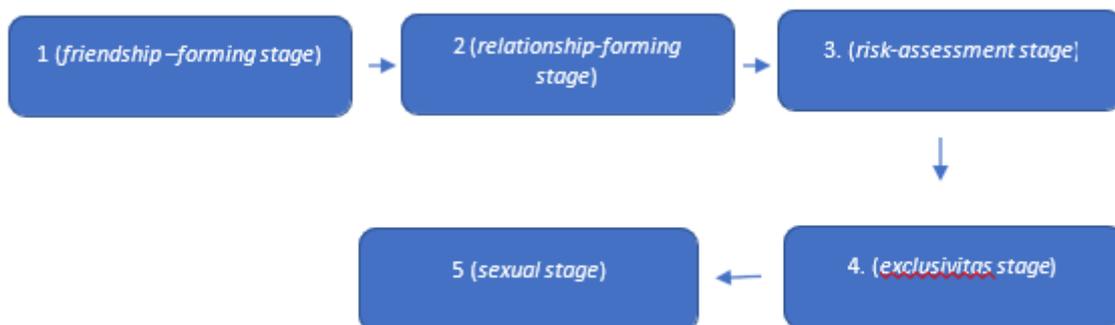
However, the assessment is not all perpetrators apply this because they are based that there is nothing wrong with what they are doing so it is not necessary.

6) Fraud

There are two methods used by the perpetrator to approach the victim:

- a) The perpetrator pretended to be a friend of the victim. Based on existing research, there are 5% of perpetrators who use this method.
- b) The victim realized that the perpetrator was an adult, and they told the victim that they wanted to establish a special relationship with the victim. Most of the sex is done directly and is done outside the environment where the victim lives and socializes.

Apart from the principles above, it is also necessary to know the types of criminals and how the stages of grooming occur. There are three types of grooming crimes, namely the first type of attraction where the perpetrator wants a relationship with the child. The second type is that the groomer has adapted where the perpetrator has a desire to satisfy his sexual desire by seeing the victim as an adult. The third is hypersexual where the perpetrator has a very big desire for his sexual needs for child pornography content and has a significant relationship with each other (HardiYanti, 2021). The following is a schematic of the stages of grooming according to O'Connell:



The first to the second stages are the fundamental stages in criminal acts where at this stage various kinds of children are used as targets of information and of course the child is monitored by the perpetrator to determine the weak points possessed by the child. After feeling that enough information has been collected, the next step is to consider risk, here the perpetrator considers whether there is a possibility to detect it and also whether the conversation between the perpetrator and the victim can be kept confidential. If there is a sense of security, the perpetrator enters a more intimate and deep stage, namely the exclusivity stage, at this stage the perpetrator will make the relationship between him and the victim more exclusive, so the child can feel safe and comfortable in

his presence. After the victim feels comfortable with the perpetrator, the peak stage is the sexual stage, this is where the perpetrator's goal is achieved where the perpetrator commits and exploits the victim either directly or through online conversations.

ECPAT Indonesia (end child prostitution, child pornography, & trafficking of children for sexual purpose) in its final 2020 record stated that they conducted a re-survey of cybercrime in which children were victims of 1203 respondents. There were 112 children who confirmed that they received bad messages, there were 66 children who received messages in the form of pictures or videos that made them feel uncomfortable, 27 received pornographic images or videos, 24 children were invited to do live video streaming to talk about inappropriate things, 23 children said bad things about them were uploaded without knowledge, and there were 16 children who were sent links with pornographic content (Indonesia, 2020). The Role of the ITE Law in Protecting Children as Victims of Child Care Accidents during the Covid-19 Pandemic

So far, the state has not specifically regulated regarding legal protection, namely there is no lex specialist rule that regulates child crimes grooming in Indonesia, considering the impact it causes, namely mental and psychological damage to children and their families. Currently, the law governing the crime of child grooming is contained in Article 27 paragraph (1) of Law No. 19 of 2016 concerning amendments to the Law of the Republic of Indonesia No. 11 of 2008 concerning Information and Electronic Transactions. Meanwhile, the criminal responsibility for child grooming is contained in Law No. 21 of 2007 concerning Eradication of the Crime of Trafficking in Persons, Law of the Republic of Indonesia No. 44 of 2008 concerning Pornography, and Law of the Republic of Indonesia Number 17 of 2016 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 Laws. - Law on the Second Amendment to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection in conjunction with Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection.

The POLRI said that from 2015-2019 it showed a fluctuating number, where in 2015 there were approximately 300 cases and in 2019 there were 236 cases with a case rate of 50% of sexual crimes against children. The obstacle faced by the Police in uncovering this case is that the perpetrators carry out their actions using direct message (DM) with their victims, besides that the eastern culture is still thick where sexual issues are considered taboo so that parents whose children become victims of this case settlement outside of legal channels. Or resolving this case itself even though this case is already included in the category of a criminal act.

Indonesia needs to look to America in the resolution of child grooming cases, which in handling cases are much better than Indonesia. The case that occurred in the United States began in April 2017, a girl who lives in Sydney was reported by her parents. A month after it was reported, the girl was found with Sean Prince, where Prince prepared the child for approximately six months on social media Snap chat by exploiting the anxiety and family problems that the child had in the end Prince exploited and to the child. In May 2017 Prince was arrested and sentenced to ten years in prison for his actions. In solving this case the US police protected with various law enforcement agencies from various jurisdictions the New South Wales Police, Australian Federal Police, INTERPOL, Homeland Security and the New York Department.

Reflecting on the comparison of the two cases above, it is very clear that there are differences in the imposition of crimes by countries that have rules for punishing child grooming perpetrators and countries that do not yet have special regulations regarding child grooming crimes. In this study, the author focuses more on

Article 45 paragraph (1) in conjunction with Article 27 paragraph (1) of Law No. 19 of 2016 concerning amendments to the Law of the Republic of Indonesia No. 11 of 2008 concerning Information and Transactions. Because this type of crime uses the internet as a tool to carry out criminal acts, the perpetrators are charged with the ITE law, the role of this law is very important where Indonesia does not specifically regulate child care because of this ITE Law to protect children's rights from crimes in Indonesia. Virtual world. The crime of grooming can be subject to Article 45 with a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR. 1,000,000,000.00,- (one billion rupiah) is caused by a violation of Article 27 paragraph (1) of the ITE Law which reads (Law Number 19, 2016):

“Everyone intentionally and without rights distributes and/or transmits and/or accesses Electronic Information and/or electronic documents that have content that violates decency .”

The weighting of sanctions is carried out if the victim is a child, this affirmation is contained in 52 paragraph (1) which states:

"In the event that the criminal act as referred to in Article 27 paragraph”

(1) concerns decency or sexual exploitation of a child, the weight of one third of the principal crime is imposed."

Based on the sound of Article 27 paragraph (1) of the ITE Law, there are four important elements that the groomer in carrying out his action does not have a strong legal reason that what the perpetrator has done violates applicable rules and abuses pornographic content.

Not sure the first is not "deliberately", the perpetrator in the action is carried out with full awareness and carried out with intention, the perpetrator commits a criminal practice with a strong intention is in carrying out his crime to formulate a strategy with a calm feeling in an inner atmosphere that allows thinking. Second, "without rights", it means that the perpetrator carried out the crime without the consent of the victim and the perpetrator, of course, this act is an unlawful act. Third, “distributing and/or transmitting and/or making electronic information and/or electronic documents accessible”, what is meant by distributing and transmitting is sending documents and/or information via the internet to the general public using an electronic system so that documents and/or information can be accessed. "That's what a lot of people say. The fourth element is "violating decency", this last element, the substance in question contains things that smell like decency which displays the eroticism of the victim's body, and this action certainly violates the norms of decency that live in society.

The birth of the ITE Law To protect children from new types of crime will run optimally if there is collaboration between the government, parents, schools, and the community, if this collaboration can run optimally then the number of child care crimes will decrease. Meanwhile, prevention efforts can be carried out by intensifying positive internet, considering that the government has the obligation to block, control, supervise, and also coordinate with various parties both domestically and abroad in preventing criminal acts in which the government's obligations at the beginning of Article 18 of the Law -Law No. 44 of 2008 concerning Pornography. In addition, prevention efforts are carried out by expanding education based on Information and Communication technology both within the family, school, and the environment where the child lives.

4. Conclusion

Based on the discussion that has been described above, it can be concluded that the practice of child grooming crimes during the COVID-19 pandemic in Indonesia tends to increase, this is due to the intensity of using gadgets in children more than before the pandemic. This is due to the government's policy, namely distance learning. There are 5 stages of perpetrators carrying out the practice of child care crimes starting with friendship formation (friendship formation stage), the second is relationship formation (relationship formation stage), third risk consideration (risk assessment stage), fourth exclusivity (exclusivity stage), and the last is the sexual stage. (Sexual stage).

So far, the state has not specifically regulated regarding legal protection, namely there is no law specialist rule that regulates child crimes grooming in Indonesia, because this type of crime uses the internet as a tool to carry out its criminal actions, the perpetrators are charged with the ITE law, the role of this law is very important where Indonesia does not regulate related to this because the ITE Law is to protect children's rights from the snare of crime in cyberspace. The birth of the ITE Law To protect children from new types of crime will run optimally if there is collaboration between the government, parents, schools, and the community, if this collaboration can run optimally then the number of child care crimes will decrease.

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