

# Criminal Responsibility of Child Cyber Grooming Perpetrators as a Form of Child Sexual Abuse on Social Media

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## Keywords

Child Cyber Grooming, Children, SocialMedia

## ABSTRACT

*Human rights are the most important part of the rule of law. Every individual must respect and uphold the human rights of other individuals regardless of age. Human rights are meant not only in the real world but also in cyberspace. The development of technology has a negative impact, namely the birth of crimes that utilize technology, one of which is sexual crimes against children, namely child cyber grooming. **Method:** This study uses normative juridical research type. In this study, the formulation of the problem is whether child cyber grooming is a sexual crime in the digital era. And what is the criminal liability for perpetrators of child cyber grooming? **Result:** Child cyber grooming is a sexual crime against children using technology. This is because in its implementation it uses things that contain elements of sexuality. Perpetrators of child cyber grooming can be charged using the Pornography Law and the ITE Law.*

## INTRODUCTION

Indonesia as a state of law means that everything must be guided by a rule that applies to respect and uphold the human rights of each individual (Ridwan et al., 2021). Human rights referred to in this case include cyberspace. Along with the development of technological advancements, various kinds of social media emerged (Permadi & Bahri, 2022). Social media is one of the means that utilizes technological advances to communicate and find out all information in parts of the world (Carr & Hayes, 2015). However, if social media is not used properly, the pleasure it presents will be a bad thing. One of the negative impacts caused by technological advances is crime in cyberspace. One of these crimes is the sexual abuse of children or what is referred to as child cyber grooming (Whittle et al., 2013). Sexual harassment is an emergency problem currently faced by humans due to technological advances (Jatmiko et al., 2020). Sexual harassment is a form of sexual behavior that is not desired by the object, a request to perform sexual acts, either verbally, or physically where the place of occurrence can be in a public space (Kartika & Najemi, 2020). According to the National Society for the Prevention of Cruelty to Children (NSPCC), child grooming is defined as an attempt by a person, or in this case the perpetrator to build a relationship, trust, and emotional connection with a child or adolescent that they can manipulate, exploit, and abuse them (Dilla & Ufran, 2023).

Based on records from the Indonesian Child Protection Commission (KPAI), there are 859 cases of child grooming in Indonesia. This is one proof that in Indonesia cases of violence against children are one of the issues that must receive more attention from the government (Lewoleba & Fahrozi, 2020). As is known, children are the nation's assets that will become the next generation and determine the nation's future (Kiswanto & Mashdurohatun, 2021). This means that in 2045 which is a year that is

echoed as the year of Golden Indonesia, it will be run by children who are currently aged 5-11 years whereas in 2045 they will be aged 30-36 years (productive age).

In general, sexual harassment is divided into 5 forms. First, physical abuse which is harassment through unwanted touching by the victim of a sexual nature such as kissing, patting, hugging, pinching, stroking, massaging the nape of the neck, gluing the body, or other physical touch. Second, verbal harassment is harassment by commenting or saying something unwanted about someone's personal life or body parts, or appearance, including jokes and sexually charged comments (Herbenick et al., 2019). Third, non-verbal abuse or acts using sexual body language, repeated whirring, lustful body gaze, gestures with fingers, lip licking, or others. Fourth, visual harassment is harassment carried out by showing photos, posters, cartoon images, screensavers, or others that have sexual content (Yosep et al., 2023). Fifth, psychological harassment is harassment carried out by making unwanted requests or invitations, such as unwanted dating invitations, insults, or insults of a sexual nature (Istiadah et al., 2020).

In Indonesia, relevant regulations related to child cyber grooming include Law Number 44 of 2008 concerning Pornography, Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Transaction Information, and Law Number 35 of 2014 concerning Child Protection. Related to acceptable sanctions for perpetrators of child grooming or in this case sexual abuse of children specifically regulated in the Child Protection Law and the Pornography Law. However, the Child Protection Law has not specifically regulated Child Cyber Grooming. This is because the Law is also limited to the understanding of obscene acts, which according to our Criminal Code obscene acts are all acts that violate decency related to physical.

Based on this background description, the author can formulate the following problems: (1) Is child cyber grooming a sexual crime in the digital age? (2) What is the criminal liability for perpetrators of child cyber grooming?

## **METHODS**

The type of research used is normative juridical. This research is legal research conducted by examining literature materials referred to as secondary data. This study is intended to determine the classification of social media categorized as child cyber grooming and the responsibility of perpetrators.

This research data is sourced from secondary data where this secondary data consists of primary, secondary, and tertiary legal materials. Primary legal material is the main material that will be used as a guideline in answering the formulation of problems in this study. The primary legal material is supported by secondary legal material which is supporting legal material or provides an explanation of primary legal material (Benuf & Azhar, 2020). Secondary legal materials in this case are journals, articles, research results and others relevant to the topic discussed. Primary and secondary legal materials will be clarified with tertiary legal materials such as magazines, data from the internet, and others.

## **RESULTS**

### **A. Child Cyber Grooming as Child Sexual Abuse In The Digital Age**

As it is known that social media is a means for anyone to communicate and express everything. The ease of interacting and sharing information means that everyone can see and know it without an age limit. Social media is one of the accesses to sexual crimes that can be seen in the form of pictures, videos, and so on. Children also unwittingly become victims of Child Cyber Grooming if the perpetrator carries out his actions on social media. Child Cyber Grooming in Indonesia itself is a new phenomenon in the world of crime. To capture as many victims as possible, perpetrators use various methods and variations as follows:

#### **1. Manipulation**

The manipulation in question in this case aims to increase the power and control of the perpetrator over the victim and increase the victim's dependence on the perpetrator such as giving praise to make the victim feel special (Reynolds et al., 2020). This way of manipulation is done so that the victim feels loved and cared for. So that the perpetrator can control the victim by intimidating him so that the victim feels afraid of the perpetrator.

## **2. Accessibility**

Ease of access to interact with victims is one of the factors in the occurrence of child cyber grooming. In this case, with this convenience, the perpetrator can freely and freely access the victim without having to reveal his real identity. In the real world, parents are more wary of people interacting directly with their children. But often they are negligent by not supervising children in playing social media.

## **3. Rapport Building**

In this way, the perpetrator makes adjustments to behavior and communication style to make the victim comfortable talking to the perpetrator. In addition, the perpetrator finds out the interests and circumstances surrounding his victim. So that the actions committed by the perpetrator with the victim are not known by others, the perpetrator usually asks the victim to keep their relationship secret.

## **4. Sexual Context**

Sexual intercourse is the main goal of the perpetrator. In general, if chemistry has been established with the victim, the perpetrator will invite the victim to meet until finally, he can start sexual relations carried out with various kinds such as talking dirty, seducing the victim, sending pornographic images, or linking into pornographic things.

## **5. Risk Assessment**

Risk assessment is seen from several aspects, namely individual victims, and factors related to the internet and the surrounding environment. In addition, perpetrators carry out risk management. There are three ways that actors do risk management, such as: (a) Relating to the technology used and logistics related to the perpetrator. (b) The perpetrator refrains from communicating with the victim in public spaces and chooses the use of personal email or mobile phones. (c) The perpetrator meets with the victim by conducting a meeting away from the victim's environment.

## **6. Deception**

Most perpetrators tell victims that they are adults who want to build a special relationship with the victim. Most victims meet the perpetrator in person and have sex. So it can be concluded that most victims are aware they are communicating with adults and taking risks to interact with the perpetrator. Based on this explanation, it can be known that child cyber grooming is a sexual crime against children by utilizing technological advances.

## **B. Criminal Liability for Perpetrators Of Child Cyber Grooming**

Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (hereinafter referred to as the Child Protection Law) is a guideline for all actions related to children including child cyber grooming. The act of child cyber grooming is certainly contrary to the purpose of the establishment of the child protection law. In the Law, there is an article that regulates sexual crimes, namely, article 76E which reads: "Everyone is prohibited from committing violence or threats of violence, coercing, deceit, committing a series of lies, or inducing children to commit or allow obscene acts to be done". The provisions of the article are only limited to obscene acts, where this obscene according to the legal dictionary is, lascivious acts and or intercourse with someone who is considered to damage decency. So that if it is related to the act of child cyber grooming, it certainly does not meet the elements contained in article 76 E, and the element of misuse of social media is also not contained in the article.

In criminal law, children are legal subjects who are one of the subjects that get special attention, as evidenced by the birth of Law No. 23 of 2002 concerning Child Protection. In addition, the act of Child Cyber Grooming is not only the subject of the victim who is regulated regarding his protection by law, the act has also contradicted Law No. 19 of 2016 amending Law No. 11 of 2008 concerning Electronic Information and Transactions.

In the provisions of Law Number 19 of 2016 concerning Electronic Information and Transactions, there is no term pornography but regulates content that violates decency, namely a set of electronic data

that has been processed and has meaning or can be understood by people who can understand it. Referring to Law Number 19 of 2016 concerning ITE, based on the provisions of Article 45 Paragraph (1) it is also regulated regarding the punishment of perpetrators of sexual harassment including perpetrators of child grooming which is classified as an act concerning decency in Article 27 Paragraph (1) 41 of the ITE Law. The provisions of Article 45 paragraph (1) are stated, it reads: "Any person who fulfills the elements as referred to in Article 27 paragraphs (1), (2), (3), and paragraph (4), shall be sentenced to imprisonment for a maximum of 6 (six years and/or a maximum fine of Rp.1,000,000,000.00 (one billion rupiah)".

As a criminal liability for perpetrators, the articles that can be imposed on perpetrators of Child Cyber Grooming are the ITE Law and the Pornography Law. First, Article 45 paragraph (1) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions reads: "(1) Any person who intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have content that violates decency as referred to in Article 27 paragraph (1) shall be punished with a maximum imprisonment of 6 (six) year and/or a maximum fine of Rp1,000,000,000.00 (one billion rupiahs)".

Article 29 of Law Number 44 of 2008 concerning Pornography, reads: "Any person who produces, makes, reproduces, duplicates, distributes, broadcasts, imports, exports, offers, trades, rents, or provides pornography as referred to in Article 4 paragraph (1) shall be punished with a prison sentence of not less than 6 (six) months and a maximum of 12 (twelve) years and/or a fine of at least Rp250,000,000, 00 (two hundred and fifty million rupiah) and a maximum of Rp6,000,000,000.00 (six billion rupiahs).

## CONCLUSION

Based on this description, it can be concluded that Child Cyber Grooming is one of the sexual crimes against children that utilizes technological advances. Article 76E of the Child Protection Law is not an article that can be charged against perpetrators of child cyber grooming. This is because the article is only limited to obscene acts where these obscene acts are all actions that violate decency related to physical. So that the laws that can ensnare child cyber grooming perpetrators are the ITE Law and the Pornography Law.

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