

Age Verification Regulation in Social Media Platform Usage: Preventive Measures Against Online Child Sexual Violence

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ABSTRACT

The escalation of internet use in various age groups has resulted in an increase in the number of social media users from year to year, until at the beginning of 2023 there were 212.9 million internet users and 167 million social media users, equivalent to 60.4% of the total population, it is also known that around 87% of children in Indonesia have been introduced to social media before turning 13 years old. With easy access to the internet, perpetrators of sexual violence are increasingly adapting to exploit children's vulnerability, thus changing the dimensions of sexual violence that are increasingly directed at children. This phenomenon has made several developed countries adapt by implementing various approaches to prevent children from becoming victims of sexual violence in cyberspace. This research aims to obtain a complete picture of sexual violence against children facilitated by social media platforms, and find alternative policies to limit access to protect children from a series of vulnerabilities that can result in sexual violence in cyberspace. The research method used in this research is normative juridical. The results of the study found that if today's easy access to social media has made children more vulnerable to becoming victims of sexual violence in cyberspace, prevention with a criminal law and telematics approach should be carried out to prevent children from perpetrators of sexual violence. Indonesia has actually taken a proactive policy with the enactment of the Personal Data Protection Law, but it has not regulated provisions related to age limits and rules that require strict application of age verification for children accessing social media.

Keywords: age verification; child sexual violence; social media.

INTRODUCTION

Currently, technological advancements have created a new landscape for internet users, with the ease of access and various facilities leading to an increase in both the number of internet users and the duration of their usage. Globally, the number of internet users has been increasing year by year, a trend also observed in Indonesia. This can be seen in reports published by Hootsuite, indicating a 15.5% increase in social media users, totaling more than 27 million users, from January 2020 to January 2021, and a 6.3% increase, totaling more than 10 million users, from January 2020 to January 2021.¹ Subsequently, from 2021 to 2022, social media users in Indonesia increased by 21 million, or 12.6%, reaching 191.4 million.² As of early 2023, there were 212.9 million internet users and 167 million social media users, equivalent to 60.4% of the total population.³ This trend has been supported by the widespread availability of smartphones, making it easier for children to access social

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¹ Simon Kemp, "Digital 2021: Indonesia", Kepios, <<https://datareportal.com/reports/digital-2021-indonesia>> accessed on 27 January 2023.

² Simon Kemp, "Digital 2022: Indonesia", Kepios, <<https://datareportal.com/reports/digital-2022-indonesia>> accessed on 27 January 2023.

³ Simon Kemp, "Digital 2023: Indonesia" Kepios, 9, <<https://datareportal.com/reports/digital-2023-indonesia>> accessed on 11 January 2024.

media.⁴ In Indonesia, the dependency on the internet among adolescents aged 12 to 19 has increased to 19.3%.⁵ Deslandes and Coutinho explain this phenomenon as hyper-connectivity, a condition that leads to excessive exposure and gradually erodes personal boundaries, such as frequent exchange of text messages, photos, audio, and online meetings.⁶ This situation is particularly prevalent among female students, in line with research by Caponnetto, which found that female students nowadays prefer using mobile phones to access social media and messaging apps like WhatsApp.⁷

Such circumstances have also been exploited by perpetrators to locate and gain access to victims. Social media platforms and messaging applications have been widely used by many sexual offenders to engage in various modes of exploitation, and sexual harassment against children. For example, they may coerce victims into engaging in online sexual activities such as sending explicit photos and requesting victims to expose themselves via webcam.⁸ The interaction between the sexual harassment and underage children has become a focal point research and regulations concerning child sexual violence. The internet has led to a shift in the dimension of child sexual exploitation towards online Child Sexual Abuse Material (“**CSAM**”), which over time has resulted in the escalation of sexual content abuse, targeting increasingly younger victims.⁹ Furthermore, unrestricted access has led to a cultural shift within social media, compelling platforms to make efforts to combat inappropriate content or violations of their policies.¹⁰ The increased utilization of the internet in daily life has also been attributed to the pandemic outbreak two years ago. The Office for Democratic Institutions and Human Rights (“**ODIHR**”) and the United Nations (“**UN**”) Women noted in their report that the Covid-19 pandemic has significantly increased the vulnerability of women and girls to sexual violence.¹¹

Furthermore, according to a report released by SIMFONI PPA (Online Information System for the Protection of Women and Children) of the Ministry of Women's Empowerment and Child

⁴ Meltem Kürtüncü, Tülay Kuzlu Ayyıldız, and Aylin Kurt, “An Examination of Smartphone Addiction and Loneliness among High School Students According to Various Variables: A Sample from Turkey,” *Perspectives in Psychiatric Care*, Vol 57, No. 2, 2021, 941–47, DOI: <https://doi.org/10.1111/PPC.12639>.

⁵ Asror. Dwi Putri Iftihar. “*Pandemi Covid-19 Membuat Anak Lebih Kecanduan Internet*”. KETIKUNPAD, <<https://ketik.unpad.ac.id/posts/2123/pandemi-covid-19-membuat-anak-lebih-kecanduan-internet>>, diakses tanggal 17 September 2022.

⁶ Suely Ferreira Deslandes and Tiago Coutinho, “The Intensive Use of the Internet by Children and Adolescents in the Context of COVID-19 and the Risks for Self-Inflicted Violence,” *Ciencia & Saude Coletiva*, Vol. 25, No. 1, 2020, 2479–86, DOI: <https://doi.org/10.1590/1413-81232020256.1.11472020>.

⁷ Pasquale Caponnetto et al., “Smartphone Addiction across the Lifetime during Italian Lockdown for COVID-19,” *Journal of Addictive Diseases*, Vol. 39, No. 4, 2021, 441–49, DOI: <https://doi.org/10.1080/10550887.2021.1889751>.

⁸ Juliane A. Kloess, Catherine E. Hamilton-Giachritsis, and Anthony R. Beech, “Offense Processes of Online Sexual Grooming and Abuse of Children Via Internet Communication Platforms,” *Sexual Abuse: Journal of Research and Treatment*, Vol. 31, No. 1, 2019, 73–96, DOI: <https://doi.org/10.1177/1079063217720927>.

⁹ Michael Salter and Tyson Whitten, “A Comparative Content Analysis of Pre-Internet and Contemporary Child Sexual Abuse Material,” *Deviant Behavior*, 2021, 1–15, DOI: <https://doi.org/10.1080/01639625.2021.1967707>.

¹⁰ Greyson K. Young, “How Much Is Too Much: The Difficulties of Social Media Content Moderation,” *Information and Communications Technology Law*, Vol. 31, No. 1, 2022, 1–16, DOI: <https://doi.org/10.1080/13600834.2021.1905593>.

¹¹ United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) and OSCE Office for Democratic Institutions and Human Rights (ODIHR), *Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic*, New York: 2020.

Protection of the Republic of Indonesia (*Kementerian Pemberdayaan Perempuan dan Perlindungan Anak Republik Indonesia* or “**KemenPPPA**”), between the early months of 2022 and the present, there have been 3,105 cases of sexual violence out of 7,006 reported cases of violence, with 31.4% of the victims being children aged 13 to 17 years old.¹² Another study conducted by Barnardo found that 297 out of 720 children were victims of sexual violence exploited by more than one perpetrator.¹³ In line with this, Marigo J. Stathis & Maria M. Marinakis concluded that child pornography constitutes a significant part of internet-facilitated sexual violations, with over 50% of the perpetrators also committing sexual violence.¹⁴

Recent data has also revealed an increase in the risk of children becoming victims of sexual exploitation in the online space. Children are now more frequently exposed to situations containing elements of seduction, deception, and coercion, often leading to their involvement in the prostitution industry.¹⁵ The secrecy surrounding child sex trafficking means that the actual number of victims may be much higher than reported. Furthermore, there is a significant threat to children related to the production of CSAM. Perpetrators often coerce children into creating CSAM themselves, which is then used as blackmail to force victims to engage in similar acts repeatedly.¹⁶ This concern has also been acknowledged at the international level, as reported by the National Center for Missing and Exploited Children (“**NCMEC**”), which has received 16 million reports containing over 60 million CSAM contents from various social media platforms including Facebook and Google.¹⁷

The ease with which children can establish communication on social media further facilitates sexual offenders in deploying various methods to ensnare children. In line with this, Greene-Colozzi, Winters, Blasko, and Jeglic in their research also revealed that the boundaries between sexual offenders and children are becoming increasingly blurred. This vulnerability is exacerbated by the ease of interacting both online and physically, including arranging meetings with strangers known through social media.¹⁸ Greijer highlights in his writing the increasing concerns regarding commercial sexual exploitation of children.¹⁹ This often takes the form of sexual violence perpetrated by organized groups, exploiting the vulnerability of children as sexual objects. Although many studies focus on child pornography violations on the internet, including access, possession, distribution, or

¹² KPPPA RI, “Data Kasus Kekerasan Perempuan dan Anak di Indonesia”, SIMFONI-PPA, <<https://kekerasan.kemenpppa.go.id/ringkasan>> accessed on 2 September 2022.

¹³ Fox. Carron and Gunes Kalkan, “Barnardo’s Survey on Online Grooming”, Barnardos, <<https://www.bl.uk/collection-items/barnardos-online-grooming-survey-2016>> accessed on 10 September 2022.

¹⁴ Marigo J. Stathis and Maria M. Marinakis, “Shadows into Light: The Potential Investigative Utility of Voice Analysis with Two Types of Online Child-Sex Predators,” *Journal of Child Sexual Abuse*, Vol. 31, No. 1, 2020, 51–72, DOI: <https://doi.org/10.1080/10538712.2019.1697780>.

¹⁵ Joan A. Reid and Shayne Jones, “Exploited Vulnerability: Legal and Psychological Perspectives on Child Sex Trafficking Victims,” *Victims & Offenders*, Vol. 6, No. 2, 2011, 207–31, DOI: <https://doi.org/10.1080/15564886.2011.557327>.

¹⁶ Tony Krone et al., “Child Sexual Abuse Material in Child-Centred Institutions: Situational Crime Prevention Approaches,” *Journal of Sexual Aggression*, Vol. 26, No. 1, 2020, 91–110, DOI: <https://doi.org/10.1080/13552600.2019.1705925>.

¹⁷ National Center for Missing and Exploited Children, “2019 Reports by Electronic Service Providers (ESP)” (National Center for Missing and Exploited Children, 2020).

¹⁸ Emily A. Greene-Colozzi et al., “Experiences and Perceptions of Online Sexual Solicitation and Grooming of Minors: A Retrospective Report,” *Journal of Child Sexual Abuse*, Vol. 29, No. 7, 2020, DOI: <https://www.tandfonline.com/doi/full/10.1080/10538712.2020.1801938>.

¹⁹ Susanna Greijer and Jaap Doek, *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*, CPAT International, Bangkok: 2016.

production of explicit sexual material involving children, there is still limited research examining the use of internet communication platforms for the purpose of meeting and interacting with children for sexual exploitation.²⁰

The facts indicating that children's vulnerabilities have increased alongside the rise in internet usage, particularly social media, have led to a preference for policies to regulate user behavior. The abundance of rules prohibiting and threatening sexual violence behaviors has been deemed insufficient in preventing the emergence of victims.²¹ Similar concerns have also arisen in India, where the extensive exploration of social media by young children has instilled fear in parents regarding its safety. There's anxiety about online predators luring children to meet in person for sexual activities, abduction, or worse.²²

Technology should ideally be able to restrict certain undesirable behaviors, where website designs can prevent users from engaging in specific activities such as accessing certain content or even viewing specific user accounts.²³ It should even be able to prevent someone from accessing certain platforms due to established limitations, with the intention of protecting users from receiving inappropriate materials or engaging in sexual activities. Changes in the use of technology for social needs can indeed have significant implications for the balance of existing policies. Technology, especially in the context of social media, provides new opportunities for criminals to commit offenses in a more efficient, convenient, and less risky manner. This reflects how technological advancements can be exploited for undesirable purposes.

The approach to safeguarding children from online sexual violence is indeed crucial and must be undertaken with care. The interaction among users, technology, and law creates evolving norms in line with changes in law and technology. Social media, which has transformed communication, also evolves daily. Online exploitation is akin to real-world crimes, including perpetrators and consequences. The Lex Informatica approach, as proposed by Reidenberg, utilizes technological architecture to regulate the flow of information and require or prohibit certain actions on technology platforms. This refers to how technical standards can be manipulated to control behavior within a system. Thus, regulations are established to prevent certain user actions and can even be used to penalize deviant behavior. In line with this, Yu Hyo Eun and Lee Chang Han also suggest enforcing effective laws to prevent future instances of sexual violence.²⁴ Therefore, the author intends to

²⁰Juliane A. Kloess, Catherine E. Hamilton-Giachritsis, and Anthony R. Beech, "Offense Processes of Online Sexual Grooming and Abuse of Children Via Internet Communication Platforms," *Sexual Abuse: Journal of Research and Treatment*, Vol. 31, No. 1, 2020, 73–96, DOI: <https://doi.org/10.1177/1079063217720927>.

²¹Sayid Muhammad Rifki Noval et al., "De-Eskalasi Perdagangan dan Eksploitasi Anak Secara Daring di Era Pandemi Covid-19 dalam Optik Hukum Telematika," *SANKSI*, Vol. 1, No. 1, 2022.

²²Vivek Tripathi, "Youth Violence and Social Media," *Journal of Social Sciences*, Vol. 52, No. 1, 2017, 1–7, DOI: <https://doi.org/10.1080/09718923.2017.1352614>.

²³Julie E. Cohen, "How (Not) to Write a Privacy Law," Knight First Amendment Institute at Columbia University, <<https://knightcolumbia.org/content/how-not-to-write-a-privacy-law>>, accessed on 2 December 2022.

²⁴Hyo Eun Yu and Chang Han Lee, "Determinants of Responses to Cyber Sexual Harassment and Sexual Violence Victimization," *Korean Association of Victimology*, Vol. 28, No. 3, 2020, 31–57, DOI: <https://doi.org/10.36220/kjv.2020.28.3.31>.

examine how criminal law and telematics approaches contribute to efforts in preventing online sexual violence? Furthermore, the author aims to explore how stricter age verification regulations on social media platforms can help prevent online sexual violence?

METHODS

The research method used in this study is juridical-normative with a statutory approach, comparative approach, and conceptual approach. The data source utilized in this research is secondary. Secondary data is collected through literature review, utilizing primary and secondary legal materials. Data analysis is conducted descriptively-qualitatively. The specification of this research employs analytical-descriptive methods.

DISCUSSION

Criminal Law and Telematics Approach in Preventing Sexual Violence in Cyberspace

Children and women often become victims of crimes, including sexual violence. Therefore, the quality of protection for women should have the same level of protection as that for adults and men, as fundamentally everyone holds an equal position under the law.²⁵ Sexual violence is defined in the Academic Draft of the Criminal Law on Sexual Violence as any act, whether physical or non-physical, directed towards the body or reproductive functions of an individual, forcibly through threats, deceit, or persuasion, with or without specific intent to gain benefit, resulting in physical, psychological, sexual suffering, and economic losses.

Violence, according to Romli Atmasasmita, is complementary to the form of crime itself.²⁶ Violence refers to unlawful behavior, whether in the form of threats or actual actions resulting in physical harm or property damage. Nata then defines human sexuality into two categories:²⁷ a) moral sexuality, which is healthy and good, and b) immoral sexuality, which is sick and evil. Furthermore, sexual violence is defined as a violation of human rights, namely a crime against human dignity and a form of discrimination that must be eradicated in Law No. 12 of 2022. The term "violence" originates from the English term "sexual hardness", which translates to violence, unpleasantness, and lack of freedom.²⁸ Meanwhile, the notion of violence against children is closely related to the term "abuse", which is translated as violence, persecution, torture, or cruelty.²⁹

In fact, sexual violence predominantly occurs against women and children. Vulnerability of women as victims can be classified into several types of crimes, including sexual violence such as harassment, rape, and even murder.³⁰ Furthermore, forms of sexual violence against children can be

²⁵ Ahmad Jamaludin and Yuyut Prayuti, "Model Pencegahan Kejahatan Seksual di Lembaga Pendidikan Pesantren," *Res Nullius Law Journal*, Vol. 4, No. 2, 2022, 161–69, DOI: <https://doi.org/10.34010/rnlj.v4i2.6861>.

²⁶ Romli Atasasmita, *Teori dan Kapita Selekta Kriminologi*, Refika Aditama, Bandung: 2005, pp. 63-64.

²⁷ Roma Fera Nata, "Tinjauan Kriminologis Kejahatan Seksual Terhadap Anak dalam Lingkungan Keluarga", Skripsi, Makassar, Universitas Hasanuddin, 2017.

²⁸ John M. Echols and Hassan Shadily, *Kamus Inggris Indonesia*, Gramedia Pustaka Utama, Jakarta: 1997, p. 517.

²⁹ Ni Swandari, Anak Dewi, and Luh Suryani, "Tinjauan Teoritis Psikologi Terhadap Anak yang Menjadi Korban Kekerasan Seksual," *Jurnal Konstruksi Hukum* Vol.3, 2022, 184–90.

³⁰ Ahmad Jamaludin, "Perlindungan Hukum Anak Korban Kekerasan Seksual," *JCIC: Jurnal CIC Lembaga Riset dan Konsultan Sosial* Vol. 3, No. 2, 2021, 1–10.

grouped according to their deviant nature, as follows:³¹ a) for sexual objectification purposes such as hypersexuality; b) for profit to provide for the family; c) for sexual pleasure seeking emotional warmth outside the home through excessive sexual behavior. Moreover, Yanit explains forms of violence against children such as:³² a) Physical violence; b) Sexual violence; c) Psychological violence; and d) Economic violence or exploitation. In line with this, acts of violence in Law Number 35 of 2014 concerning Child Protection can be classified into physical violence, psychological violence, and sexual violence. Subsequently, the National Commission on Violence against Women outlines forms of sexual violence including:³³ a) Rape; b) Sexual intimidation; c) Sexual harassment; d) Sexual exploitation; e) Trafficking in Women for Sexual Purposes; f) Forcing prostitution; and g) Sexual slavery.

It is important for policymakers and legislators to develop integrated approaches to protect children from all violations of dignity and sexual integrity, as well as to monitor, act, prevent, and respond to new forms of sexual violence.³⁴ In criminal law, the theory of general prevention is known as "de leer van de psychologische dwang" or the doctrine of psychological coercion, where threats should deter individuals from intending to commit offenses.³⁵ A pragmatic view suggests that crime will persist regardless of preventive functions through legislation.³⁶ Duff further notes that the burden of refraining from criminalizing offenses might be greater than the cost of calling individuals to account for trivial matters; therefore, the preventive function of criminal law must be part of the legislative purpose.³⁷ Feinberg and Moore also argue that criminal law should deter crime; criminal regulations or prohibitions may be necessary to prevent serious violations or harm to others,³⁸ and there may be no equally effective alternative.³⁹ Mill explains that the only legitimate purpose for which power can be rightfully exercised over any member of society against their will is to prevent harm to others.⁴⁰ Hoskins generally suggests that punishment can help reduce crime by deterring, incapacitating, or reforming potential offenders.⁴¹

³¹ Mastur Mastur, Syamsuddin Pasamai, and Abdul Agis, "Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual," *Journal of Lex Philosophy (JLP)* Vol.1, 2020, 137–50.

³² Wiwin Mawarni, Rahmatul Hidayati, and Abdul Rokhim, "Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual Menurut Hukum Positif di Indonesia (Analisis Putusan Nomor 320/Pid.Sus/2022/PN.Kpn)," *JURNAL MERCATORIA* Vol. 16, 2023, 13–30.

³³ Komnas Perempuan, *15 Bentuk Kekerasan Seksual: Sebuah Pengenalan*, Komisi Nasional Perempuan, Jakarta Pusat: 2013, p. 79.

³⁴ Edy Ikhsan and Rosmalinda, "Should Children Be Victims of Their Future? (Reflections on the Implementation of Child Rights through Legal Terms)," *Central Asia and the Caucasus*, Vol. 23, No. 1, 2022, 577–92, DOI: <https://doi.org/10.37178/CA-C.23.1.051>.

³⁵ Tina Asmarawati, *Pidana dan Pemidanaan dalam Sistem Hukum di Indonesia (Hukum Penitensier)*, Deepublish, Sleman: 2014).

³⁶ R. A. Duff, *Perversions and Subversions of Criminal Law*, in *The Boundaries of the Criminal Law*, Oxford University Press, Oxford: 2010, p. 98.

³⁷ *Ibid.*

³⁸ Joel Feinberg, *Harm to Others*, Oxford University Press, New York: 1984, p. 234.

³⁹ Joel Feinberg, *The Moral Limits of the Criminal Law*, Oxford University Press, New York: 1984, p. 176.

⁴⁰ John Stuart Mill, *On Liberty*, Parker & Son, London: 1993, p. 171.

⁴¹ Z. Hoskins, "Collateral Restrictions," in *The New Philosophy of Criminal Law*, Rowman Littlefield Intl, London: 2016, pp. 249–65.

A similar approach should also be taken to protect children from sexual predators in the online space. The dynamic interaction among users, technology, and law leads to evolving norms alongside changes in law and technology.⁴² Documented since the 1990s, the internet continues to encourage users to behave according to recommendation systems to display posts that users may be interested in based on their personal preferences.⁴³ Furthermore, Trachtman explains that because technology brings happiness, there is a tendency to claim that the changes observed in sovereignty, states, jurisdictions, and law are caused by the virtual world.⁴⁴ According to Trachtman, this phenomenon necessitates the design of more substantial institutional solutions, such as enhancing cooperation among national, regional, and international regulators to govern the internet. Therefore, given the current conditions, Lex Informatica is built upon standards and principles for reasons:⁴⁵ a) it can prohibit unwanted activities through designed systems; b) it can influence user behavior through self-monitoring and feedback; c) it can analyze user activities to help parties achieve regulatory goals more quickly; d) it improves the audit of platform activities.

Changes in the use of technology for social needs can disrupt the balance of existing policies. The utilization of technology by criminals translates into generating new opportunities or methods to commit offenses more affordably and easily, with a lower risk of potential capture.⁴⁶ In line with this, Boyd explains that the environment can influence accessibility.⁴⁷ Social media, as an environment, differs from physical public spaces, meaning online content can persist longer and be seen by more users than physical interactions.⁴⁸

Social media, unquestionably, has changed the way we communicate; in fact, the social media landscape changes every day. Exploitation in the virtual world is no different from other crimes because the perpetrators and consequences of these crimes exist in the real world. Therefore, Reidenberg utilizes lex informatica as a technological architecture to regulate the flow of information and require or prohibit certain actions on technology platforms.⁴⁹ For example, in terms of supervision and monitoring, telematics technology enables more effective monitoring of online activities. By using advanced algorithms, social media platforms and internet services can detect suspicious behavior or inappropriate content related to child sexual exploitation. Subsequently, implementing filters to screen harmful content and blocking websites or applications associated with

⁴²Jasmine E. McNealy, "An Ecological Approach to Data Governance," *SSRN Electronic Journal*, 2021, DOI: <https://doi.org/10.2139/SSRN.4164112>.

⁴³Z. Hoskins, "Collateral Restrictions," in *The New Philosophy of Criminal Law*, Rowman Littlefield Intl, London: 2016, pp. 249–65.

⁴⁴Joel P. Trachtman, "Cyberspace, Modernism, Jurisdiction and Sovereignty," *Indiana Journal of Global Legal Studies*, Vol. 5, No. 2, 1998.

⁴⁵Abbey Stemler, "Regulation 2.0: The Marriage of New Governance and Lex Informatica," *SSRN Electronic Journal*, 2016, DOI: <https://doi.org/10.2139/SSRN.2746229>.

⁴⁶Orin S Kerr, "An Equilibrium-Adjustment Theory of the Fourth Amendment," *Harvard Law Review*, Vol. 125, No. 2, 2011, 476–542.

⁴⁷Boyd. Danah, "It's Complicated: The Social Lives of Networked Teens", Yale University Press, <<https://www.microsoft.com/en-us/research/publication/its-complicated-the-social-lives-of-networked-teens/>> accessed on 14 December 2022.

⁴⁸*Ibid.*

⁴⁹Joel R. Reidenberg, "Governing Networks and Rule-Making in Cyberspace," *Emory Law Journal*, No. 45 (1996), DOI: <https://heinonline.org/HOL/Page?handle=hein.journals/emlj45&id=921&div=&collection=>.

sexual violence can be done as efforts to help protect children. This technology can be developed to automatically detect and prevent access to inappropriate material. Finally, implementing strict privacy policies and data protection technology to safeguard children's personal information on the internet, including the use of encryption and data anonymization techniques.

The approach of criminal law and telematics in preventing sexual violence in cyberspace, especially against children, involves the integration of strict criminal law with the application of information and communication technology. This concept is developed regarding how technical standards can be manipulated to control behavior within a system. In other words, Lex Informatica also relates to the idea that the capabilities of technology and the rules governing system usage can regulate behavior to protect users. Therefore, regulations are constructed to prevent certain user actions and even to penalize deviant behavior.⁵⁰

Implementation of Stricter Age Verification on Social Media Platforms

The internet has been known to exacerbate the severity of behaviors or bad habits such as online victimization, inappropriate sexual behavior online, and online isolation.⁵¹ Cliff Roberson and Elena Azaola even found that rebellion, boredom, legal ignorance, influence of online friendships, anonymity factors, power relations between perpetrator and victim, and ease of access are driving factors for someone to commit crimes.⁵² Furthermore, anonymity, amplification, and the difficulty of erasing digital footprints and publications will worsen the impact of sexual violence committed in cyberspace, as perpetrators often use the convenience provided by cyberspace to harass someone.⁵³

In early 2023, there were 212.9 million internet users and 167 million social media users, equivalent to 60.4% of the total population in Indonesia.⁵⁴ A report revealed that 87% of children in Indonesia had interacted with social media before the age of 13. Among children from low-income households, 92% of them were already familiar with social media at an early age.⁵⁵ Interestingly, Indonesian children on average start to become acquainted with social media at the age of 7. Furthermore, out of the 92% of children from low-income families, 54% of them had already been using social media before the age of 6. This report also highlights the vulnerability of children to online sexual violence, exacerbated by the high number of underage social media users in Indonesia.

⁵⁰ *Ibid.*

⁵¹ Kimberly J. Mitchell, David Finkelhor, and Kathryn A. Becker-Blease, "Linking Youth Internet and Conventional Problems: Findings from a Clinical Perspective," *Journal of Aggression, Maltreatment and Trauma*, Vol. 15, No. 2, 2007, 39–58, DOI: https://doi.org/10.1300/J146v15n02_03.

⁵² Cliff Roberson and Elena Azaola, *Juvenile Delinquency: Why Do Youths Commit Crime?* Rowman & Littlefield, Maryland: 2020, p. 93.

⁵³ Mary Anne Franks, "Unwilling Avatars: Idealism and Discrimination in Cyberspace," *Columbia Journal of Gender and Law*, Vol. 20, No. 2, 2011, DOI: <https://doi.org/10.7916/CJGL.V20I2.2621>.

⁵⁴ Simon Kemp, "Digital 2023: Indonesia", Kepios, <<https://datareportal.com/reports/digital-2023-indonesia>> accessed on 11 January 2024.

⁵⁵ Ihfa Firdausya, "Survei: 87% Anak Indonesia Main Medsos sebelum 13 Tahun," *Media Indonesia*, April 16, 2021 <https://mediaindonesia.com/humaniora/398511/survei-87-anak-indonesia-main-medsos-sebelum-13-tahun>.

In one report, it was found that around 87% of children in Indonesia had been introduced to social media before reaching the age of 13. Moreover, as many as 92% of children from low-income households were introduced to social media at an earlier age. Additionally, data from the report also indicates that Indonesian children, on average, become familiar with social media at the age of 7. Out of the 92% of children coming from low-income families, 54% of them were introduced to social media before the age of 6. The report further underscores the vulnerability of children to sexual violence in cyberspace, given the high number of underage social media users in Indonesia.

In essence, the Convention on the Rights of the Child has promised to change the quality of life for children by guaranteeing that they can grow up healthy, with protection of their rights, their voices heard, and avoiding discriminatory treatment. In this regard, the Indonesian Government in 1990 acknowledged the Convention on the Rights of the Child, with the consequence that Indonesia is obliged to protect, respect, and fulfill the rights of children, with children as rights holders. The principle of the best interests of the child has been part of positive law since the ratification of the Convention on the Rights of the Child.⁵⁶ Article 3 of the Convention on the Rights of the Child states that the best interests of the child must be a primary consideration in all actions involving children, whether undertaken by government or private social welfare institutions, courts, government agencies, or legislative bodies. Furthermore, the best interests of the child are also explained in the Explanation of Article 2 of Law No. 11 of 2012 regarding the Juvenile Justice System, stating that the best interests of the child require that all decisions be made considering the child's survival and development.

The principle of the best interests of the child must result in legal protection focused on fulfilling the happiness and rights of children. Essentially, child protection endeavors to prevent and respond to situations that are detrimental to any violation of children's rights.⁵⁷ In the Explanation of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, it is explained that Child Protection is based on the principles of non-discrimination, the best interests of the child, respect for the views of the child, the right to life, growth, and development. In fact, the urgency of protecting children's rights is partly motivated by their vulnerability to sexual violence.⁵⁸

The accessibility of the online space has enabled perpetrators of sexual violence to have the ability and opportunity to circumvent existing barriers. For instance, sexual grooming involves approaches aimed at desensitizing children, stimulating sexual curiosity, eroding resistance, normalizing sexual activities, and validating sexual relationships between adults and children.⁵⁹ Additionally, one of the factors contributing to children's vulnerability in the online space is the prevalence of internet sites with negative content, as evidenced by the blocking of 2,624,750 sites

⁵⁶ Zesty Wulan Ayu Widhi Prameswari, "Ratifikasi Konvensi Tentang Hak-Hak Anak dalam Sistem Peraturan Perundang-Undangan di Indonesia," *Yuridika*, Vol. 32, No. 1, 2017, 167–88.

⁵⁷ Rini Fitriani, "Peranan Penyelenggara Perlindungan Anak dalam Melindungi dan Memenuhi Hak-Hak Anak," *Jurnal Hukum Samudra Keadilan*, Vol. 11, No. 2, 2016.

⁵⁸ Amrina Achmad, "Dualisme Penerapan Hukum bagi Pelaku Kekerasan Seksual Terhadap Anak," *LITIGASI* Vol.20, 2020, 267–90.

⁵⁹ Angelique Grosskopf, "Online Interactions Involving Suspected Paedophiles Who Engage Male Childre," *Trends & Issues in Crime and Criminal Justice* (Australian Government: Australian Institute of Criminology, December 2010).

from August 2018 to September 2021, with 1,536,346 originating from websites and 1,088,404 from social media, predominantly containing pornographic content.⁶⁰ The Indonesian Government through the Ministry of Communication and Information Technology (Kemkominfo) has presumably fulfilled its function to protect children from exposure to negative content. Reflecting on this situation, Lizzie O'Shea notes that digital technology binds us to the places where we engage with the world and has psychological effects as social interactions and content consumption increasingly occur online.⁶¹

Recently, Indonesians have become increasingly aware of the crime of "sexual grooming" which has become a serious social issue.⁶² The term appears frequently in news reports. One alarming case occurred in early 2022 in Bandung City, where two girls were sold online for sexual exploitation at a rate of 700,000 Rupiah per date.⁶³ A similar case occurred in Surabaya, where a 15-year-old girl was sold by her neighbor for the same purpose through the MiChat app.⁶⁴ These criminals also use the internet to find and exploit children online, such as the case in West Jakarta in 2019, where a man conducted "child sexual grooming" through online games.⁶⁵ The Indonesian National Police noted that sexual crimes facilitated by technology fluctuated from 2015 to 2018. In 2015, more than 300 cases were recorded, while as of August 2019, there have been 236 such cases. The report shows that the use of direct messages or private conversation rooms makes it difficult to resolve cases, with a resolution rate of only 50 percent.⁶⁶ Apart from that, the perpetrators generally take advantage of economically struggling families while luring parents in exchange for exploiting children such as live-streaming sexual abuse of children, the situation is also happening in countries in Southeast Asia and some parents even consider online sexual exploitation to be harmless to children because there is no physical interaction in it.⁶⁷

The vulnerability is exacerbated by research results from Murfiah Dewi Wulandari et al., which show that elementary school children aged 10-11 years have low abilities to narrate and report

⁶⁰Intan Rakhmayanti Dewi, "2,6 Juta Konten Negatif Diblokir Kominfo, Setengahnya Ternyata Pornografi," SINDONEWS.com, <<https://tekno.sindonews.com/read/548282/207/26-juta-konten-negatif-diblokir-kominfo-setengahnya-ternyata-pornografi-1632323353>> accessed on 26 April 2023.

⁶¹Lizzie O'Shea, *Future Histories: What Ada Lovelace, Tom Paine, and the Paris Commune Can Teach Us about Digital Technology*, Verso London: 2019, p. 37.

⁶²Siti Parhani, "Apa Itu Child Grooming dan Mengapa ini Kekerasan Seksual," MAGDALENE, January 8, 2021, <https://magdalene.co/story/apa-pun-alasannya-grooming-adalah-kekerasan-seksual>.

⁶³Indra Kurniawan, "Kasus Perdagangan Manusia di Bandung Terungkap, Tersangka Merupakan Mahasiswi," PRFM News, January 2022, <https://prfmnews.pikiran-rakyat.com/bandung-raya/pr-133591394/kasus-perdagangan-manusia-di-bandung-terungkap-tersangka-merupakan-mahasiswi>.

⁶⁴Ghinan Salman, "Prostitusi di Rusunawa Surabaya, Tersangka Ajari Korban Download Aplikasi Kencan untuk Cari Pelanggan," KOMPAS.com, 2022, <https://surabaya.kompas.com/read/2022/02/03/114700978/prostitusi-di-rusunawa-surabaya-tersangka-ajari-korban-download-aplikasi?page=all#page2>.

⁶⁵Mei Amelia Rahmat, "Polisi Tangkap Pelaku Child Grooming via Aplikasi Game Online," detikNews, July 29, 2019, <https://news.detik.com/berita/d-4643687/polisi-tangkap-pelaku-child-grooming-via-aplikasi-game-online>.

⁶⁶Sabik Aji Taufan, "236 Kasus Child Grooming Terjadi Sepanjang 2019," Jawa Pos, August 3, 2019, <https://www.jawapos.com/nasional/hukum-kriminal/03/08/2019/236-kasus-child-grooming-terjadi-sepanjang-2019/>.

⁶⁷Kaila Williams and Roberto Potter, "A Comparative Description of Relationships among Traffickers and Victims: Sex Trafficking Cases in the Ninth Judicial Circuit of Florida, 2016-2019," *Journal of Human Trafficking*, 1–13, DOI: <https://doi.org/10.1080/23322705.2021.1936856>.

instances of sexual violence.⁶⁸ Other sources indicate that as many as 93% of 33,000 individuals in Canada have hinted at not reporting their experiences of child sexual violence to the police, a condition that raises concerns as it indicates that only a small fraction of such criminal activities are detected and reported.⁶⁹ Thus, the escalation in internet usage has led to changes in adolescent behavior, such as hiding their usage and increasing sexual activities, while young people often fail to recognize or acknowledge the potential for abuse and avoid law enforcement.⁷⁰ Therefore, concerns about sexual violence in cyberspace have led most countries to establish a minimum age of 13 for accessing social media platforms, in line with the Children's Online Privacy Protection Act (COPPA) and the General Data Protection Regulation (GDPR) of the European Union, which determine 13 as the minimum age for children to consent to the processing of personal data.⁷¹ However, recently, experts have proposed raising the age limit to keep pace with advancements in the modern era, based on the argument that the internet experience has significantly evolved compared to the 1990s.⁷²

The situation is further validated by Thorn and Benenson Strategy Group, where their report indicates that 27% of boys aged 9 to 12 have used dating apps, which should only be accessible and used by adults.⁷³ In line with this, Cameron Giles noted that online dating apps have attracted more attention due to the inherent risks of sexual motivations and desires of its users.⁷⁴ This suggests that age restrictions are still not sufficiently effective in preventing children from accessing social media, as noted in a study conducted by Tomasz Huk, where 71.97% of 157 children aged 10 to 12 in Poland admitted to having Facebook accounts created by manipulating identities to attract other users, even though they were aware of the age restrictions they were violating.⁷⁵ With this situation, Al-Samarraie highlights the weakness of age restrictions as one way to control access to social media, as underage users can still access social media with the help of relatives, friends, or even by falsifying their age.⁷⁶

The age verification system that is currently available has been deemed ineffective to the extent that children can have access to social media content that is not in accordance with their needs, thus making protection measures will never work properly because it is not adjusted to the

⁶⁸Murfiah Dewi Wulandari et al., "Children's Knowledge and Skills Related to Self-Protection from Sexual Abuse in Central Java Indonesia," *Journal of Child Sexual Abuse*, Vol. 29, No. 5, 2020, 499–512, DOI: <https://doi.org/10.1080/10538712.2019.1703231>.

⁶⁹Lea Tufford and Barbara Lee, "Relationship Repair Strategies When Reporting Child Abuse and Neglect," *Child and Adolescent Social Work Journal*, Vol. 37, No. 3, 2020, 235–49, DOI: <https://doi.org/10.1007/s10560-020-00656-6>.

⁷⁰Helen C. Whittle, Catherine E. Hamilton-Giachritsis, and Anthony R. Beech, "A Comparison of Victim and Offender Perspectives of Grooming and Sexual Abuse," *Deviant Behavior*, Vol. 36, No. 7, 2015, 539–64, DOI: <https://doi.org/10.1080/01639625.2014.944074>.

⁷¹Maggie Brennan and Andy Phippen, *Child Protection and Safeguarding Technologies Appropriate or Excessive 'Solutions' to Social Problems?*, Routledge, New York: 2021, p. 82.

⁷²Katie Canales, "Silicon Valley Says Kids over the Age of 13 Can Handle the Big, Bad World of Social Media. Experts Say That's the Result of a 'problematic' 1990s Internet Law," INSIDER, <<https://www.businessinsider.com/why-you-must-be-13-facebook-instagram-problematic-law-coppa-2022-1>> accessed on 29 December 2022.

⁷³Thorn and Benenson Strategy Group, "Responding to Online Threats: Minors' Perspectives on Disclosing, Reporting, and Blocking. Findings from 2020 Quantitative Research among 9–17 Year Olds", Thorn, 2021.

⁷⁴Cameron Giles, "Digital Disclosure: HIV Status, Mobile Dating Application Design and Legal Responsibility," *Information and Communications Technology Law*, Vol. 30, No. 1, 2021, 35–53, DOI: <https://doi.org/10.1080/13600834.2020.1807119>.

⁷⁵Tomasz Huk, "Use of Facebook by Children Aged 10 – 12. Presence in Social Media despite the Prohibition," *New Educational Review*, Vol. 46, No. 4, 2016, 17–28, DOI: <https://doi.org/10.15804/TNER.2016.46.4.01>.

⁷⁶Hosam Al-Samarraie et al., "Young Users' Social Media Addiction: Causes, Consequences and Preventions," *Information Technology and People*, Vol. 35, No. 7, 2021, DOI: <https://doi.org/10.1108/ITP-11-2020-0753>.

actual age.⁷⁷ For example, the social media platform Facebook has facilitated perpetrators of sexual violence by exploring relationships such as friendship to gain trust and comfort to connect to ensnare potential victims.⁷⁸ In line with that, as a report from Thorn and Benenson Strategy Group noted that 21% of 609 girls had experienced sexual interactions on Instagram, this fact makes Instagram one of the media platforms that has the highest percentage of sexual interactions between minors and adults.⁷⁹ Therefore, social media such as Instagram and Facebook and sites that provide random video chat rooms such as Omegle are still the favorite platforms of perpetrators in search of their victims, who often use sweet-talk strategies, namely throwing compliments, flattery, love and affection when communicating with children to get compliance in order to abuse them.⁸⁰

In 2020, France introduced an age verification system for accessing pornography sites, aiming to ensure that minors do not have access to pornographic content.⁸¹ Similarly, Germany has also adopted a similar approach regarding age verification, wherein adult-specific sites failed to implement age checks, allowing children to access them.⁸² However, to date, age verification methods are still dominated by age certification that has not been properly verified. This is done merely by entering the date of birth to confirm that the site visitor is an adult. This simplistic method has been adopted by social media platforms and even pornographic sites, posing higher risks for children.

Social media platforms such as Instagram, Facebook, and YouTube have set the minimum age for accessing their platforms at 13 years old. However, age verification is only done through self-declaration, which is not adequately verified.⁸³ In its discourse, Indonesia, through the Draft Personal Data Protection Bill, will also impose age restrictions and parental consent for children under the age of 17 when registering for social media accounts.⁸⁴ However, when enacted into Law Number 27 of 2022, the Personal Data Protection Law only requires parental and/or guardian consent for the processing of children's personal data. In fact, the parental consent used by some platforms may not

⁷⁷ Meurens, *et al.*, *Op.Cit.*, p. 18.

⁷⁸ Mary K. Twis, Lynzee Kirschner, and Don Greenwood, "Trafficked by a Friend: A Qualitative Analysis of Adolescent Trafficking Victims' Archival Case Files," *Child and Adolescent Social Work Journal*, Vol. 38, No. 6, 2020, 611–20, DOI: <https://doi.org/10.1007/S10560-020-00662-8>.

⁷⁹ Thorn and Benenson Strategy Group, *Loc. Cit.*

⁸⁰ Malin Joleby et al., "Offender Strategies for Engaging Children in Online Sexual Activity," *Child Abuse and Neglect*, Vol. 120, No. 1, 2021, DOI: <https://doi.org/10.1016/J.CHIABU.2021.105214>.

⁸¹ Braun, Elisa and Laura Wildemann Kane, "France to Introduce Controversial Age Verification System for Adult Websites", POLITICO, <<https://www.politico.eu/article/france-to-introduce-controversial-age-verification-system-for-adult-pornography-websites/>> accessed on 28 December 2022.

⁸² Matt Burgess, "Germany Is About to Block One of the Biggest Porn Sites", WIRED, <<https://www.wired.com/story/germany-porn-sites-age-checks/>> accessed on 17 January 2023.

⁸³ Nathalie Meurens et al., *Child Safety by Design That Works against Online Sexual Exploitation of Children*, Down to Zero Alliance, Netherlands: 2022, p. 24.

⁸⁴ Haryanti Puspa Sari, "RUU PDP, Muncul Usulan Batas 17 Tahun Untuk Pakai Medsos," KOMPAS, <<https://nasional.kompas.com/read/2020/11/20/13493591/ruu-pdp-muncul-usulan-batas-17-tahun-untuk-pakai-medsos?page=all>> accessed on 3 January 2023.

necessarily be effective.⁸⁵ Some parents even want their children to have access to social media and are likely to assist them in circumventing age restrictions.⁸⁶

Regarding the technical aspects of regulation, consideration can be given to the policies implemented in Japan, as seen in the Tinder dating application, which has already introduced stricter age verification mechanisms. These mechanisms require users to prove they are at least 18 years old through documentation such as a driver's license, passport, or health identification card.⁸⁷ Furthermore, implementing a stricter age verification system can serve as a proactive measure in preventing or limiting access to and dissemination of CSAM available on the internet.⁸⁸ Therefore, completing and verifying user identities should ideally become a security standard as a prerequisite for accessing social media platforms.⁸⁹

Apart from facilitating perpetrators to coordinate their activities globally, the internet has also been used as a means of sexual violence against children and advertising prostitution, making sexual exploitation and sex trafficking one of the fastest growing criminal industries in cyberspace.⁹⁰ The report also supports other research that shows that perpetrators have successfully adapted and even expanded the use of the internet to facilitate sexual violence,⁹¹ so with this series of facts Indonesia actually needs to regulate the standardization of the minimum age and require the application of strict age verification in accessing social media to protect children from a series of vulnerabilities that can lead to sexual violence in cyberspace.

CLOSING

The advancement of technology has opened up new opportunities for crimes such as child sexual exploitation on social media, necessitating the integration of criminal law and information technology to regulate behavior and protect users, especially children, through approaches like 'lex informatica' such as effective monitoring and privacy protection. The ease of access to social media has also made children more vulnerable to becoming victims of sexual violence in the online space. Despite the ongoing high number of cases of sexual violence against children, it has been indicated that prohibitions and threats against sexual violence have not been effective enough to prevent the

⁸⁵ Simone van der Hof and Sanne Ouburg, "Methods for Obtaining Parental Consent and Maintaining Children Rights", Center for Law and Digital Technologies (eLaw), 2021,

⁸⁶ Svetlana Smirnova, Sonia Livingstone, and Mariya Stoilova, "Understanding of User Needs and Problems: A Rapid Evidence Review of Age Assurance and Parental Controls," Monograph, euConsent, 2021,

⁸⁷ Tinder, "Age Verify to Chat with Matches", <<https://www.help.tinder.com/hc/en-us/articles/360041821872-Age-verify-to-chat-with-matches>> accessed on 11 August 2022.

⁸⁸ T. J. McIntyre, *Internet Censorship in the United Kingdom: National Schemes and European Norms*, in *Law, Policy and the Internet*, Hart Publishing, Oxford: 2018.

⁸⁹ Sorin Adam Matei, Franck Rebillard, and Fabrice Rochelandet, *Introduction: New Paradigms of Media Regulation in a Transatlantic Perspective*, in *Digital and Social Media Regulation: A Comparative Perspective of the US and Europe*, ed. Sorin Adam Matei, Franck Rebillard, and Fabrice Rochelandet, Springer International Publishing, New York: 2021; Sorin Adam Matei et al., *Instead of Conclusions: Short and Long-Term Scenarios for Media Regulation*, in *Digital and Social Media Regulation: A Comparative Perspective of the US and Europe*, ed. Sorin Adam Matei, Franck Rebillard, and Fabrice Rochelandet, Palgrave Macmillan Cham, London: 2021, p. 189.

⁹⁰ Siddhartha Sarkar, *Technology-Driven Sex Trafficking How Do Traffickers, Clients, and Victims Use It?*, A.C.College of Commerce Jalpaiguri: 2021, DOI: <https://doi.org/10.13140/RG.2.2.22994.07364>.

⁹¹ Tatiana R. Ringenberg et al., "A Scoping Review of Child Grooming Strategies: Pre- and Post-Internet," *Child Abuse & Neglect*, Vol. 123, No. 16, 2022, DOI: <https://doi.org/10.1016/J.CHIABU.2021.105392>.

emergence of victims. Therefore, effective age verification and regulation of social media access are crucial to protect children from sexual violence perpetrated in the online space. However, until now, regulations that are more oriented towards regulating social media platform users have been more commonly chosen. The recently enacted Personal Data Protection Act only regulates that parental consent is required to process children's personal data, but it does not establish age limits or rules mandating strict age verification for children to access social media. Therefore, Indonesia essentially needs to regulate the standardization of minimum age requirements and implement age verification with identity proof for using social media to protect children from a range of vulnerabilities that could result in sexual violence in the online space.

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