



JURIDICAL ANALYSIS OF THE QUALIFICATION AND RECONSTRUCTION OF CRIMINAL LIABILITY FOR CYBER CHILD GROOMING IN INDONESIA

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ABSTRACT

Cyber child grooming is a form of modern sexual crime that develops along with the advancement of information technology, particularly through social media, messaging applications, and online games. This crime is carried out through a gradual approach to build emotional relationships, gain children's trust, and lead to sexual exploitation. This study aims to analyze the juridical qualification of cyber child grooming in Indonesian legislation and to formulate the construction of criminal liability for perpetrators based on sentencing theory oriented toward child protection. The research method used is normative legal research with statutory, conceptual, and comparative approaches. The results show that Indonesian positive law has not explicitly regulated cyber child grooming as an independent criminal offense. Its regulation is still scattered in the New Criminal Code, the Child Protection Law, the Electronic Information and Transactions Law, and the Sexual Violence Crime Law. This condition creates normative ambiguity, regulatory fragmentation, and legal uncertainty, especially at the early stage of grooming which mainly involves psychological manipulation. Perpetrators can still be held criminally responsible because they fulfill the elements of fault in the form of intent (*dolus*), unlawful acts, capacity for responsibility, and the absence of justification or excuse. Based on Article 51 of the New Criminal Code, punishment must be directed toward preventive, rehabilitative, and restorative purposes by placing child protection as the main priority. Therefore, national criminal law reform is needed to specifically regulate cyber child grooming as an independent offense in order to provide optimal legal protection for children in the digital space.

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1. INTRODUCTION

Children are legal subjects who possess human rights that must be protected by the state, particularly the right to live, grow, and develop, as well as to receive protection from all forms of violence and exploitation. Children's rights are a specific part that cannot be separated from human rights, which must be guaranteed, respected, and protected by the state, family, and society. Children are not merely beneficiaries of the legal system; rather, they are legal subjects who possess rights from the moment they are born, and even have the right to protection from the womb. Children, as a vulnerable group, have rights that must be guaranteed to ensure their healthy physical, psychological, and social development. The guaranty of protection for children is constitutionally affirmed in Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Although various regulations have been issued, such as Law Number 35 of 2014 on Child Protection as an

amendment to Law Number 23 of 2002, cases of violence and exploitation against children still occur frequently, including sexual violence, child labor, child trafficking, and exploitation in the digital world.

Considering that children are viewed as special subjects in the law, the legislation must include various specific provisions regarding children, namely the specifics of legal treatment toward children both as victims and as perpetrators, from the judicial process to the imposition of sanctions and their correctional institutions. The development of information and communication technology has brought significant changes to the patterns of life in society, including in children's social interactions. The advancement of digital technology has given rise to a new form of crime known as cybercrime, which involves criminal activities conducted using computers, computer networks, or the internet, utilizing technology to carry out illegal activities by targeting victims and exploiting vulnerabilities in digital systems. One type of cybercrime is cyber child grooming, which is the process of approaching children thru digital media for the purpose of sexual exploitation.

According to the National Society for the Prevention of Cruelty to Children (NSPCC), child grooming is an effort made by someone to build a relationship, trust, and emotional connection with a child or teenager so that the child can be manipulated, exploited, and abused. The perpetrator usually exploits various digital platforms commonly used by children, such as social media, messaging apps, and online games. In carrying out their actions, the perpetrators often disguise themselves as peers or trustworthy individuals, making the victims feel comfortable and unaware that they are being manipulated. The process of child grooming is usually carried out gradually, starting from a casual introduction and eventually leading to sexual conversations or requests for personal content from the victim. The National Commission for Child Protection stated that the practice of child grooming is becoming more rampant and making the digital space a new locus for crimes against children. Based on data from the online information system for the protection of women and children (simfoni PPA), during the period from January to June 2024, there were 7,842 cases of violence against children, with 5,552 female child victims and 1,930 male child victims. The phenomenon of child grooming is increasing, and the legal regulations in Indonesia have not yet explicitly addressed this crime.

In several countries, there are legal regulations that specifically criminalize child grooming, including actions carried out thru digital media. One example is Australia, which has explicitly regulated the crime of child grooming in the Criminal Code Act 1995 (Australia). In that regulation, specifically in section 474.27, it is stipulated that anyone who uses communication methods such as the internet, social media, or other digital platforms to approach, build relationships, or gain the trust of minors with the intention of engaging in sexual activities can be prosecuted. Looking at this regulation, it has shown that the law in Australia not only penalizes perpetrators when sexual exploitation has occurred, but can also penalize them at the early stage of approaching or manipulating a child, known as grooming. With this, the existing criminal law in Australia has provided more preventive protection for children from the potential of sexual crimes in the digital space.

However, in Indonesia, the existing regulations are still scattered across various related regulations, such as Law Number 35 of 2014 concerning Child Protection, an amendment to Law Number 23 of 2002, Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, and Law Number 12 of 2022 concerning Sexual Violence Crimes. However, there are no regulations that specifically qualify cyber child grooming as a separate criminal offense. This condition is also reflected in law enforcement practices in Indonesia. One example can be seen in the South Jakarta District Court Decision Number 392/Pid.Sus/2021/PN JKT.SEL, where the perpetrator used the Hago application to get to know the victim, who was still underage, then continued communication thru WhatsApp until persuading the victim to engage in a sex video call and send content with moral implications. Although the series of actions showed the characteristics of cyber child grooming, namely building relationships, gaining trust, and manipulating the victim thru digital media before the occurrence of sexual exploitation, the panel of judges did not qualify the actions as cyber child grooming crimes. Law enforcement in the case was still based on the provisions of the Electronic Information and Transactions Law regarding the distribution or transmission of electronic information that violates decency. This decision shows that judicial practice in Indonesia still uses criminal provisions scattered across various regulations to ensnare perpetrators, as there is no explicit regulation criminalizing cyber child grooming as a separate offense.

This creates a problem in determining the qualification of the act, which has the potential to cause legal uncertainty in the enforcement of the law against the perpetrator. According to Sudikno Mertokusumo, legal certainty is a guaranty that the law can be enforced, that those entitled by law can obtain their rights, and that decisions can be implemented. However, if it cannot be enforced, other issues will also arise in the aspect of criminal liability. In practice, perpetrators of cyber child grooming are often difficult to prosecute because their actions are still at the stage of approach or communication, and thus do not yet meet the elements of a specific criminal offense. Meanwhile, in the context of grooming, the approach process itself is part of the crime. This condition shows that the concept of criminal liability in Indonesian positive law has not yet fully been able to address modern crimes that are digital-based and non-conventional in nature. Based on the research titled "Legal

Analysis of Child Grooming as a Form of Child Sexual Exploitation in the Digital Space" conducted by Ketut Arya Amanta Wiguna, I Putu Edi Rusmana, Ni Nyoman Juwita Arswati, and Ni Gusti Agung Ayu Mas Tri Wulandari (2025), it is known that the legal framework in Indonesia, which includes the ITE Law, the Pornography Law, and the Child Protection Law, has essentially provided a legal basis for prosecuting perpetrators of child sexual exploitation in the digital space.

However, the regulation is still partial and does not specifically address child grooming as a standalone crime, so all stages of the grooming process before sexual exploitation are often not optimally covered by the existing legal provisions. By examining several previous studies, it shows that there are weaknesses in the legal regulations related to child grooming in Indonesia. Research on child protection in online-based sexual crimes concludes that the existing regulations are still partial and unable to accommodate the development of digital crime methods. Additionally, regarding criminal liability in cybercrime, it emphasizes that the conventional criminal law approach still focuses on the outcome (result-oriented), rather than the process (conduct-oriented), making it difficult to address crimes like grooming that occur gradually. This shows that the absence of specific criminalization of child grooming leads to weak legal protection for children as victims.

Based on this, there is a need for a reconstruction of criminal liability for cyber child grooming perpetrators to be more adaptive to the development of crime in the digital era. This reconstruction needs to be based on a penal theory oriented toward child protection, not only as a repressive effort but also as a preventive one. Thus, criminal law is expected to provide optimal protection for children and address the increasingly complex challenges of digital crime. Based on the aforementioned description, this research is important to analyze the juridical qualification of cyber child grooming in Indonesian criminal law and to formulate a reconstruction of criminal liability for the perpetrators, in order to strengthen legal protection for children in the digital era.

2. RESEARCH METHODS

This research is normative legal research that examines law as a prescriptive written norm, with the aim of finding the conformity between legal norms and applicable legal principles. This method was chosen because the research focuses on the juridical qualification and construction of criminal liability for cyber child grooming perpetrators within the Indonesian legal system. The approaches used include the statute approach, the conceptual approach, and the comparative approach. The statute approach is conducted by examining Law Number 35 of 2014 on Child Protection, Law Number 1 of 2024 on Electronic Information and Transactions, Law Number 12 of 2022 on Sexual Violence Crimes, and Law Number 1 of 2023 on the New Criminal Code. The conceptual approach is used to analyze theories of criminal liability, the theory of fault, and the theory of punishment oriented toward child protection, while the comparative approach is used to compare the regulation of cyber child grooming in Indonesia with the Criminal Code Act 1995 of Australia, specifically Section 474.27.

The legal materials used consist of primary legal materials. Primary legal materials include the 1945 Constitution Article 28B paragraph (2), provisions in the Child Protection Law, the ITE Law, the TPKS Law, and the New Criminal Code related to moral offenses, child protection, and electronic-based sexual violence. Meanwhile, secondary legal materials consist of criminal law books, scientific journals, and previous research findings. The technique for collecting legal materials is carried out thru library research, which involves identifying and classifying various legal materials from legislation, legal textbooks, and scientific journals related to the research problem.

3. RESULT AND ANALYSIS

The juridical qualification of cyber child grooming crimes in Indonesian legislation

According to the National Society for the Prevention of Cruelty to Children (NSPCC), child grooming is an effort made by someone to build a relationship of trust and emotional connection with a child or teenager so that they can be manipulated. The term "grooming" was first used in the context of sexual exploitation of children by psychologists and criminologists in the 1980s and 1990s. One of the reasons the term "grooming" emerged initially came from the work of David Finkelhor (1984), a criminologist who studied the relationship between sexual predators and children. In his book titled "A Sourcebook on Child Sexual Abuse," Finkelhor explains how a sexual predator manipulates children by building trust and closeness before ultimately committing abuse.

Then, in the following year, 1995, A.L. Wolak, D. Finkelhor, and M.S. Mitchell conducted a study on child sexual abuse, and in their research, they mentioned that "grooming" is part of the plan used by perpetrators to approach and conquer children for sexual exploitation. Cyber crime is a new form of crime resulting from advancements in information technology. With the advancement of technology, legal systems worldwide, including Indonesia's legal system, face a phenomenon often referred to as "law lags behind technology," where regulations often lag behind the speed of technological innovation, which, with the rapid flow of technological progress, negatively impacts children. Because at this time some children are required to master technology, along with this, many parents still do not supervise their children. When children use technology, this becomes one of the causes of children misusing Internet technology, making them victims of sexual exploitation thru the Internet network, often referred to as cyber child grooming.

Behind the grandeur of digital transformation that can ease a person's life lies a hidden dark intent, which is often overlooked. The digital world, with all its sophistication, is not a neutral space; it not only creates connectivity, efficiency, and innovation but also opens wide gaps for crime, exploitation, and manipulation on an unprecedented scale. Cyber child grooming is a form of modern sexual crime that has developed alongside advancements in information technology. Conceptually, grooming refers to the process carried out by the perpetrator to build an emotional relationship with the child aimed at gaining trust, which is ultimately exploited for sexual exploitation. In the cyber context, this process is carried out thru digital media such as online games. Cyber child grooming has a more complex character because it does not always involve direct physical contact.

The perpetrator uses the digital space of online games for the approach process, where the perpetrator will create an emotional closeness face-to-face. In many cases, the victims do not realize that they are being manipulated by the perpetrator. This shows that cyber grooming is a crime that is both psychological and sexual in nature. The elements present in cyber child grooming include: the perpetrator with malicious intent (*mens rea*), the presence of minors as victims, digital media such as online games as a means, and the goal of sexual exploitation. There are six common factors that underlie the occurrence of child grooming, namely:

- a. **Manipulation**
The perpetrator uses manipulation techniques such as giving compliments to the victim to make them feel special or using intimidation to make the victim scared and compliant. 2. **Accessibility** With the existence of the internet, it allows the perpetrator to interact with the victim without face-to-face contact, making it difficult for the victim to know the perpetrator's identity. This makes many parents neglect their children's online activities.
- b. **Rapport Building**
The perpetrator can adjust their communication style to make the victim feel comfortable, allowing the perpetrator to gather information about the victim's interests and situation.
- c. **Sexual Context**
The perpetrator often initiates sexual relationships by using vulgar language, flirting, sending pornographic images, or introducing the victim to pornography.
- d. **Risk Assessment**
The perpetrator conducts a risk assessment of the victim before and during online child grooming, which includes aspects of the victim's individual characteristics, the internet, and the surrounding environment. The perpetrator can manage these risks in three ways:
 - 1) The perpetrator uses specific technology and logistics, such as using different devices and IP addresses.
 - 2) The perpetrator avoids direct communication in public spaces, opting to use personal email or mobile phones instead.
 - 3) The perpetrator chooses meeting locations far from the victim's environment. But not all perpetrators use risk management, as some believe their actions are not wrong.
- e. **Deception**
Perpetrators sometimes disguise themselves as peers to approach victims, but many victims are actually aware that they are talking to an adult yet continue the interaction until they can meet the perpetrator in person.

In the context of online games, the characteristics of grooming become increasingly complex, as online games facilitate real-time interaction spaces that allow perpetrators to communicate directly with victims. In addition, the presence of anonymity features allows the perpetrator to hide their true identity. This complicates the process of identification and law enforcement. The lack of supervision on the platform can increase the chances of grooming occurring. Here are some examples of cyber child grooming cases that have occurred in Indonesia.

- a. The South Kalimantan Regional Police arrested a perpetrator of child sexual violence thru an online game on April 15, 2025. A perpetrator, GCB (21 years old), was involved with a female victim (15 years old) whom he met thru the online game Mobile Legends. The perpetrator initially offered to help boost the victim's rank, which led the victim to provide their account and password. The trust given by the victim to the perpetrator was misused by the perpetrator, who threatened the victim to send lewd photos, and even spread the content on social media. This act caused psychological trauma to the victim, and the perpetrator was subject to the provisions of the Electronic Information and Transactions Law. This case shows that interactions in games can develop into forms of manipulation and digital sexual exploitation.
- b. The West Java Police arrested an online game sexual harassment perpetrator on May 2, 2024 In Tasikmalaya, a perpetrator YPS (27 years old) approached minors thru the online game Mobile Legends. After establishing communication, the perpetrator moved the interaction to the WhatsApp application to avoid surveillance. In the communication, the perpetrator asked the victim to send nude photos and videos and to send pornographic content to the victim, accompanied by threats if the victim refused. This act was

then reported by the victim's parents, and the perpetrator was charged under the provisions of the Electronic Information and Transactions Law, the Child Protection Law, and the Sexual Violence Crime Law.

- c. **Cyber Child Grooming and Sextortion Case thru Roblox Game by a Predator from Balikpapan on July 17, 2025** A man with the initials AMZ, a resident of Balikpapan, East Kalimantan, was arrested for allegedly being a cross-border child predator after grooming and committing sexual extortion (sextortion) against a 15-year-old girl in Sweden. AMZ first met the victim thru the online game Roblox, then gradually built a relationship thru various digital platforms, including social media, to lure the victim into sexual conversations and activities. After obtaining recordings or evidence of these conversations, AMZ then threatened to spread them if the victim did not comply with his demands, including asking for money or forcing the victim to send additional sexual content.

This case was uncovered after the victim's mother reported the incident to the police thru official channels, including the International Relations Division of the police, which enabled the East Kalimantan Police Cyber Team to conduct digital tracking and ultimately identify and arrest AMZ in Balikpapan. AMZ was then taken to the East Kalimantan Police Headquarters further investigation and legal proceedings, with strong suspicions of violating laws related to child protection and sexual crimes thru electronic media, as well as to prevent the further spread of content that could harm the victim.

In criminal law, the legal qualification of an act is very important to determine what actions can be punished or not. In this case, cyber child grooming is often considered as part of the preparatory stages leading to more serious sexual offenses. Because at the initial stage, the perpetrator has not yet committed direct acts of exploitation. In criminal acts, an action can be categorized as such if it meets the elements of *actus reus* (the act) and *mens rea* (the guilty mind). In cyber child grooming, both elements of *actus reus* (the act) are present, where the perpetrator actively engages in manipulative, systematic communication aimed at gaining the victim's trust, leading the victim to isolate themselves from their social environment. Meanwhile, the element of *mens rea* is reflected in the perpetrator's ultimate goal, which is directed toward sexual exploitation, such as requesting obscene photos or videos, inviting meetings with sexual motives, or making threats to coerce the victim. Therefore, even tho no actual exploitation has occurred at the initial stage, the direction and pattern of the perpetrator's actions have shown an intention to commit sexual crimes.

Here are some regulations that are often used as alternatives to ensnare cyber child grooming perpetrators:

- a. **Law Number 35 of 2014 on Child Protection amending Law Number 23 of 2002 on Child Protection.** Article 76E states, "Everyone is prohibited from committing violence or threats of violence, coercing, deceiving, lying in a series, or persuading a child to commit or allow to be committed immoral acts." This is further reinforced by criminal sanctions in Article 82 paragraph (1), which regulates prison sentences for offenders, stating, "Anyone who violates the provisions as referred to in Article 76E shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of up to Rp5,000,000,000.00 (five billion rupiah)." When related to cyber child grooming, the elements of "persuasion," "deception," and "a series of lies" in Article 76E align with the grooming approach patterns. However, this norm is still more oriented toward the end result in the form of immoral acts, rather than the process of grooming that occurs in the digital space.
- b. **Law Number 1 of 2024 on Electronic Information and Transactions amending Law Number 1 of 2008 on Electronic Information and Transactions.** Article 27 paragraph (1) states, "Every person intentionally and without right broadcasts, displays, distributes, transmits, and makes accessible electronic information and electronic documents that contain immoral content for public knowledge." In the context of cyber child grooming, this article can be applied if the perpetrator has sent sexual content, such as obscene messages, images, or videos to the victim. However, at the initial stage of grooming, which is still in the form of ordinary communication (without any elements that violate decency), this provision cannot yet be applied.
- c. **Law Number 12 of 2022 concerning Sexual Violence Crimes.** Article 5 states, "Anyone who commits non-physical sexual acts directed at the body, sexual desires, and reproductive organs with the intent to demean a person's dignity and honor based on their sexuality and morality shall be punished for non-physical sexual harassment, with a maximum prison sentence of 9 (nine) months and a maximum fine of Rp10,000,000.00 (ten million rupiah). Article 14 paragraph (1) states, "Anyone who unlawfully: a. records and takes or screenshots sexual content without the consent of the person being recorded or depicted. b. transmits electronic information and documents containing sexual content without the recipient's consent directed at sexual desires. c. stalks and tracks using an electronic system against the person being objectified in electronic document information for sexual purposes." Punished for committing electronic-based sexual violence, with a maximum prison sentence of 4 (four) years and a fine of up to Rp200,000,000.00 (two hundred million rupiah).

The provisions in Article 5 and Article 14 paragraph (1) indicate that the TPKS Law has accommodated the development of sexual crimes in the digital space, making it more relevant in qualifying cyber child grooming compared to other laws. However, the TPKS Law still does not explicitly mention the term "grooming," so legal interpretation is still needed to categorize such actions as non-physical sexual harassment or electronic-based sexual violence. Then, there is no article that explicitly states that the perpetrator must be an adult and the victim must be a minor, nor is there any element that integrates electronic communication with elements of psychological manipulation.

- d. The Criminal Code. Article 413 of the New Criminal Code states, "Anyone who engages in sexual intercourse with someone whom they know to be a member of their immediate family shall be punished with imprisonment for a maximum of 10 (ten) years." Article 413 of the New Criminal Code addresses sexual intercourse as the main offense, which is punishable under certain conditions. This provision is then related to Articles 414 and 415 of the New Criminal Code, which function as further regulations, either in the form of aggravating circumstances or special conditions, such as when the act is committed against a child, within the nuclear family, or in a power relationship.

If related to cyber child grooming, the provisions in Articles 413, 414, and 415 still have limitations because they are all oriented toward the occurrence of sexual acts as the end result, whether in the form of intercourse or other forms of sexual offenses. Meanwhile, cyber child grooming actually occurs at the initial stage in the form of psychological manipulation and relationship building thru digital media such as online games, which has not yet been explicitly regulated in the New Criminal Code. Additionally, there are no specific provisions that accommodate the use of electronic systems as a means of making sexual approaches to children. Therefore, the application of the New Criminal Code in cyber child grooming must still be combined with other regulations such as the Child Protection Law and the TPKS Law.

Based on the existing regulations above, there is no norm that explicitly categorizes cyber child grooming as a separate criminal offense. This can create a lack of clarity in the norms, leading to legal uncertainty and weak protection for child victims. Cyber child grooming can be classified as a formal offense because the act is considered complete when the perpetrator engages in manipulative communication. In addition, this crime also falls under the category of offenses against child morality. Looking at its form, grooming is a continuous act because it is carried out gradually and systematically.

In this case, if related to the application of legal principles, which are an important foundation in criminal law, according to Zainal Arifin and Eddy O.S. Hiariej, legal principles are norms based on societal realities and values chosen as guidelines for communal life. Furthermore, according to Satjipto Rahardjo, who stated that principles are not concrete legal norms because legal principles are the soul of the legal norms themselves. If the legal principle is said to be the soul of legal norms or legal regulations because it is the foundation or ratio legis of legal arrangements. Based on this, if connected with cyber child grooming thru the principle of *Lex specialis Derogat Legi Generali*, which states that specific laws override general laws. In this context, the crime of cyber child grooming has several regulations that can potentially be used, namely

- a. The Criminal Code as *lex generalis*, because it regulates crimes in general, including morality. The *lex generalis* in the Criminal Code serves as the main basis for determining whether an act can be classified as a crime. In cyber child grooming, the New Criminal Code provides a general foundation thru the regulation of moral offenses found in articles 413, 414, and 415. Article 413 regulates sexual intercourse as the main offense, while articles 414 and 415 regulate aggravating circumstances and special conditions, such as when the act is committed against a child, within a family context, or involves a power relationship. However, the New Criminal Code remains general because it is more oriented toward the occurrence of sexual acts as the final result, rather than the process of approach, psychological manipulation, and relationship building that are the main characteristics of cyber child grooming. Therefore, the New Criminal Code functions as a general basis (*lex generalis*) that, in its application, needs to be supported by more specific regulations.
- b. The Child Protection Law as a *lex specialis* specifically regulates the protection of children as victims, because it specifically provides legal protection to children as subjects vulnerable to becoming victims of sexual crimes, including in the digital space. The legal basis is found in Article 76E, which prohibits anyone from committing violence, threats of violence, deceit, a series of lies, or persuading a child to commit or allow lewd acts. The elements of "persuasion," "deceit," and "a series of lies" are highly relevant to the pattern of cyber child grooming, as perpetrators generally build an emotional relationship first to gain the victim's trust. This provision is reinforced by Article 82 paragraph (1), which imposes a minimum prison sentence of 5 years and a maximum of 15 years, along with a fine. Because it explicitly states that children are the main victims, the Child Protection Law is more appropriate to apply compared to the Criminal Code in cases of grooming against children.
- c. The Electronic Information and Transactions Law as a *lex specialis* that regulates the use of electronic media, because it regulates the use of electronic media as a means of committing crimes. In cases of cyber child grooming, the interaction between the perpetrator and the victim is generally conducted thru social media, messaging applications, online games, or other digital platforms. The legal basis is found in Article 27 paragraph (1), which prohibits any person from intentionally and without right broadcasting, displaying, distributing, transmitting, and/or making accessible electronic information or electronic documents that contain immoral content. This provision can be applied if the perpetrator has sent obscene messages, images, videos, or other sexual content to the victim. However, at the initial stage of grooming, which still

involves ordinary communication without any indecent content, this article cannot be optimally applied. Therefore, the ITE Law is more effective in prosecuting the use of electronic media after there is actual sexual content.

- d. The Sexual Violence Crime Law as a *lex specialis* that regulates forms of sexual violence, including non-physical and electronic-based.

because it specifically regulates various forms of modern sexual violence, including non-physical and electronic-based sexual violence, which are highly relevant to cyber child grooming. The legal basis is found in Article 5, which regulates non-physical sexual harassment in the form of sexual acts directed at a person's body, sexual desires, or reproductive organs with the intent to demean their dignity and honor based on their sexuality and morality.

Additionally, Article 14 paragraph (1) regulates electronic-based sexual violence, such as recording sexual content without consent, transmitting unwanted sexual content, and stalking or tracking thru electronic systems for sexual purposes. This provision shows that the TPKS Law is more responsive to the development of sexual crimes in the digital space. Although it has not yet explicitly mentioned the term "grooming," the substance of the TPKS Law most closely resembles the characteristics of cyber child grooming, making it the most relevant legal basis in law enforcement practice.

Therefore, in the application of this principle in cyber child grooming cases, it should be implemented by placing the most specific law as the main basis. Thus, the Child Protection Law becomes a priority because it directly regulates the subject of the victim, namely the child. Furthermore, the Law on Sexual Violence Crimes can be used because it addresses non-physical and electronic-based sexual violence, which has a character closely related to cyber grooming. Meanwhile, the Electronic Information and Transactions Law serve as a complement to cover aspects of electronic media use, and the Criminal Code is used as a last resort if there are no regulations in the Special Law.

Thus, the application of the principle of *lex specialis derogat legi generali* in cyber child grooming cases has not yet been implemented optimally. This is due to the absence of regulations that explicitly categorize cyber child grooming as a standalone criminal offense. Which ultimately means that each law only regulates certain aspects of the act, resulting in its regulation being scattered across various legislative provisions. There is nothing entirely specific in one clear norm.

The construction of criminal liability for grooming perpetrators viewed from the theory of punishment oriented toward child protection.

Criminal liability is a mechanism to determine whether someone can be held accountable for the criminal act they have committed. In criminal law, a person can only be sentenced if they meet the elements of criminal liability, namely the existence of an unlawful act (*actus reus*), the presence of fault (*culpa*), the ability to be held responsible (*liability*), and the absence of any exculpatory or justificatory reasons. According to Simons, the elements of a criminal act are actions performed by humans that are against the law, punishable by law, and carried out by someone who is capable of being held responsible. Criminal liability is deemed not to arise if the person committing the crime does not possess any fault.

In the context of child grooming, the element of wrongdoing generally takes the form of intent (*dolus*) and negligence (*culpa*), where the perpetrator consciously and deliberately uses online gaming platforms as a means to approach children. The stages of the grooming process are carried out gradually thru features available in online games such as chat, voice chat, or friend systems. The perpetrator will continuously approach the victim until the victim feels close and special to them. Once the perpetrator feels they have won the victim's heart, they will easily initiate intimate conversations with the victim until eventually persuading the victim to send intimate parts of themselves in the form of videos or images.

In the grooming process, there is a gradual development of malicious intent, starting from the approach, psychological manipulation, and leading to exploitation. Therefore, even tho no direct sexual act has occurred, from the perspective of the theory of fault, the actions taken have indeed fulfilled the elements of fault due to the intention and knowledge directed toward the goal of exploitation. The theory of criminal liability differs from the theory of fault. If the theory of fault emphasizes the presence of elements of *dolus* or *culpa*, then the theory of criminal liability emphasizes whether or not the perpetrator can be held legally accountable for their actions. A person can only be punished if it has been proven that they committed an unlawful act, have fault, are capable of being held responsible, and there are no justifying or excusing reasons. In cases of cyber child grooming, the perpetrators are generally adults who consciously understand the consequences of their actions and have a clear intention to sexually exploit children. With this, the perpetrator has the capacity to be held accountable and cannot hide behind the excuse that their actions are merely ordinary communication. Although there has not yet been any direct sexual intercourse or molestation, the planned psychological manipulation and sexual approach have shown a deep connection between the perpetrator and their actions, thus criminal responsibility can still be imposed.

Regulations related to cyber child grooming in Indonesia are currently spread across several legislative frameworks, namely the New Criminal Code Law No. 1 of 2003 articles 413, 414, 415, then Law No. 35 of 2014 on Child Protection articles 72E and 82, followed by Law No. 19 of 2014 article 27 paragraph (1) and article 45, and Law No. 12 of 2022 on Sexual Violence Crimes.

Indonesian positive law has not yet explicitly regulated cyber child grooming, including that which is conducted thru online games. The existing regulations are still scattered across several legislative frameworks, namely the Criminal Code (KUHP), the Child Protection Law, the Electronic Information and Transactions Law (ITE), and the Sexual Violence Crime Law (TPKS). These existing regulations have limitations, namely:

- a. Result-oriented Criminal law still emphasizes the occurrence of primary criminal acts, such as molestation, sexual intercourse, or sexual exploitation. in the context of grooming, this causes the law to be reactive. Because it only works after real harm has occurred. In fact, at the initial stage of grooming, the child is already in a vulnerable condition due to psychological manipulation. Seeing this condition creates a gap in protection during the early phase (pre-offence stage) b. Not yet recognizing grooming as a separate offense. The lack of explicit regulations regarding grooming causes actions of approach and manipulation thru online games to not be optimally prosecuted. This creates a legal gap because dangerous actions cannot be classified as criminal offenses until they reach the stage of exploitation.
- b. Fragmentation of regulations. The existing regulations regarding sexual crimes against children are scattered across various laws, and these regulations have not been organized into a systematic and coherent framework, resulting in inconsistencies in their implementation. This condition causes differences in focus, scope, and approach among the regulations, which ultimately leads to uncertainty in their implementation. This condition also leads to overlapping norms or regulatory gaps.
- c. Limitations in digital evidence Proving cases of cyber child grooming poses serious challenges, especially due to the use of anonymous accounts or fake identities, and the digital conversation evidence that can be easily deleted. This condition causes the evidence to be suboptimal and potentially weakens the accountability of the perpetrator.

Based on the theory of punishment in the New Penal Code, the objectives of punishment have been explicitly formulated in Article 51 of the New Penal Code, reflecting a more modern approach. Punishment is no longer merely retribution, but has several main objectives based on Article 51 of the New Penal Code, namely:

- a. Preventing the commission of criminal acts by upholding legal norms for the protection and welfare of society
- b. Reintegrating convicts into society thru guidance and mentoring to become good and useful individuals
- c. Resolving conflicts caused by criminal acts, restoring balance, and bringing a sense of security and peace to the community
- d. Fostering a sense of remorse and freeing convicts from feelings of guilt

With this, the purpose of sentencing is to socialize the convicted and provide the negative effects arising from imprisonment (prisonization). The focus on conflict resolution and restoration will also align with restorative justice, which views crime not only as a violation against the state but also as a wound to the victim and the community that needs healing. In the context of cyber child grooming, the primary goal of preventive punishment in the New Criminal Code becomes paramount. This is because grooming is a hidden crime, carried out gradually, and often does not immediately result in physical consequences. The manipulation process carried out by the perpetrator from the beginning already leads to the potential for sexual exploitation, so law enforcement should not wait until more severe consequences occur. Therefore, criminalization must be directed at preventing the occurrence of crimes from the early stages as a form of protection for children.

Prevention of cyber child grooming should not only be carried out after the crime has occurred, but it should also start before the crime takes place. Prevention before the occurrence of a crime (preventive) is carried out thru digital literacy education for children, increased parental supervision of children's activities in online games, strengthening the role of schools in providing understanding of the dangers of digital sexual exploitation, and monitoring online game platforms to ensure they have effective reporting and child protection systems. These efforts are important because grooming generally starts with seemingly harmless ordinary communication, making early detection crucial to prevent sexual exploitation. Meanwhile, prevention after the occurrence of a crime (repressive and rehabilitative) is carried out thru law enforcement against the perpetrator, proportional sentencing, legal assistance to the victim, psychological recovery, protection of the victim's identity, and social rehabilitation so that the victim can return to living a normal life. In addition, guidance for the perpetrator is also necessary to prevent them from repeating their actions in the future.

Thus, the punishment of grooming perpetrators is not only aimed at penalizing them but also at protecting the child as the victim and preventing the recurrence of similar crimes in the future. If linked to the theory of fault and the theory of punishment in the New Criminal Code, the construction of criminal liability for grooming perpetrators can be formulated more clearly, namely, first, the perpetrator can still be held accountable because

they have intent (*dolus*) and the ability to be responsible, even tho the act is still in its early stages. Second, sentencing is directed toward a preventive goal, which is to prevent further sexual exploitation of children. Third, sentencing also contains a rehabilitative aspect aimed at preventing the perpetrator from repeating their actions, without disregarding the interests of the victim. Fourth, criminal law must acknowledge that the psychological impact on the child is a legitimate form of harm, thus it can be used as a basis for sentencing.

Although child grooming has not yet been explicitly regulated, its regulation can be analyzed within the framework of victim protection and criminal accountability thru several laws, namely Law Number 1 of 2023 on the Criminal Code, Law Number 35 of 2014 on Child Protection, Law Number 1 of 2024 on Electronic Information and Transactions, and Law Number 12 of 2022 on Sexual Violence Crimes. The four regulations complement each other because cyber child grooming is a crime that involves elements of decency, child protection, the use of electronic media, and non-physical sexual violence.

- a. **The New Criminal Code (KUHP Baru)** In the New Criminal Code, the regulation regarding moral offenses is found in the Chapter on Moral Offenses, specifically Articles 413, 414, and 415. Article 413 regulates sexual intercourse as the main offense, while Articles 414 and 415 regulate aggravating circumstances and special conditions such as when committed against a child, family member, or in a position of power. In the context of grooming, this provision indicates that criminal law recognizes the need for protection of children as victims of sexual crimes. However, the New Criminal Code is still oriented toward the end result in the form of intercourse or lewd acts, rather than the process of approach and psychological manipulation that is the main characteristic of grooming. Therefore, the New Criminal Code functions as a *lex generalis* that requires support from other, more specific rules.
- b. **Child Protection Law.** The Child Protection Law has the most relevant provision in Article 76E, which states that everyone is prohibited from committing violence, threats of violence, deceit, a series of lies, or persuading a child to commit or allow to be committed immoral acts. This provision is reinforced by Article 82 paragraph (1), which stipulates a minimum prison sentence of 5 years and a maximum of 15 years, as well as a fine of up to Rp5 billion. In the context of cyber child grooming, the elements of "persuasion," "deception," and "a series of lies" are very much in line with the perpetrator's approach of first building an emotional relationship before committing sexual exploitation. Therefore, the Child Protection Law serves as the strongest legal basis for prosecuting grooming perpetrators against children. Based on the weaknesses of the regulation, where Article 76E is still oriented toward the final result in the form of lewd acts and has not yet reached the initial stages of grooming that are process-oriented, a reconstruction of the norm is needed thru the addition of a new clause that explicitly formulates cyber child grooming as a separate offense, with the following formulation:

Article 76E paragraph (2): "Any adult who intentionally uses electronic systems, including but not limited to social media, messaging applications, and online games, to gradually and systematically approach with the aim of building a relationship of trust or emotional closeness with a child, in order to direct the child to sexual activities or sexual exploitation, shall be punished for committing the crime of cyber child grooming."

With the addition of this norm, there will be an expansion of criminal threats in Article 82, so the new clause will also be included within the scope of the regulated criminal sanctions, considering a separate aggravation if the grooming process is carried out thru electronic systems, given the nature of this crime which is more difficult to detect and has the potential to reach victims on a larger scale.

4. CONCLUSION

Indonesian positive law does not yet regulate cyber child grooming as an independent criminal offense. Its legal qualification is currently based on several regulations, including the New Criminal Code, the Child Protection Law, the TPKS Law, and the ITE Law. However, these regulations only cover certain aspects of grooming, resulting in fragmented regulations, unclear norms, and legal uncertainty, particularly regarding the early stage of psychological manipulation. Nevertheless, perpetrators can still be held criminally liable because their actions may fulfill the elements of criminal liability, including unlawful acts, intent (*dolus*), the ability to be held accountable, and the absence of justifications or excuses. Law enforcement can currently use a combination of the existing regulations. In accordance with Article 51 of the New Criminal Code, punishment should emphasize prevention, rehabilitation, and restoration, with child protection as the main priority. Therefore, criminal law needs to be reconstructed by explicitly recognizing cyber child grooming as an independent offense. This would provide greater legal certainty and enable child protection to begin at the grooming stage, rather than only after sexual exploitation has occurred.

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