# Legal Review of Child Grooming as A Crime of Sexual Violence in Indonesia

### Luh Putu Vera Astri Pujayanti<sup>1</sup>, Sopian<sup>2</sup>, Herlina Sulaiman<sup>3</sup>, Sahrul<sup>4</sup>, Misno<sup>5</sup>

<sup>1</sup> Institut Pemerintahan Dalam Negeri, Kampus NTB dan <u>veraastri62@gmail.com</u>
<sup>2</sup> Institut Agama Islam Nusantara Batang Hari dan <u>sopiyanjmb614@gmail.com</u>
<sup>3</sup> Universitas Ichsan Sidenreng Rappang dan <u>herlina.sulaiman.hs@gmail.com</u>
<sup>4</sup> Sekolah Tinggi Ilmu Hukum (STIH) Sultan Adam dan <u>sahrul@stihsa-bjm.ac.id</u>
<sup>5</sup> Institut Agama Islam Sahid (INAIS) Bogor dan <u>drmisnomei@gmail.com</u>

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# ABSTRAK

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Sexual Violence, Children, Law Number 35 of 2014 Fenomena kekerasan seksual menjadi isu yang semakin hangat diperbincangkan di Indonesia. Kekerasan seksual dapat terjadi pada siapa saja, baik perempuan maupun laki-laki, namun mayoritas korbannya adalah perempuan. Anak merupakan kelompok yang sangat rentan terhadap kekerasan seksual karena anak selalu diposisikan lemah atau tidak berdaya dan memiliki ketergantungan yang tinggi pada orang dewasa di sekitarnya. Hal inilah yang membuat anak tidak berdaya ketika diancam untuk tidak menceritakan apa yang terjadi. Hampir di setiap kasus yang terungkap, pelakunya adalah orang-orang yang dekat dengan korban. Salah satu kekerasan seksual yang terjadi pada anak adalah maraknya fenomena child grooming yang terjadi di Indonesia dan merupakan bentuk kejahatan baru. Child grooming di Indonesia atau disebut juga kejahatan eksploitasi seksual terhadap anak dengan menggunakan media sosial semakin meningkat karena permintaan pasar seks global yang semakin besar. Penelitian ini menggunakan penelitian normatif yang bersifat deskriptif analitis melalui Pendekatan Statuta, teknik melalui studi sumber data/pengumpulan data dilakukan dengan kepustakaan (data sekunder). Hasil penelitian ini menunjukkan bahwa child grooming merupakan praktik yang dilakukan oleh orang dewasa untuk menarik perhatian dan memanipulasi anak di bawah umur untuk tujuan seksual atau kejahatan lainnya. Di Indonesia, pengasuhan anak telah dijadikan tindak pidana kekerasan terhadap anak berdasarkan Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak.

#### ABSTRACT

The phenomenon of sexual violence is an issue that is increasingly being discussed in Indonesia. Sexual violence can happen to anyone, both women and men, but most victims are women. Children are a group that is very vulnerable to sexual violence because children are always positioned as weak or powerless and have a high dependence on the adults around them. This is what makes children helpless when threatened not to tell what happened. In almost every case uncovered, the perpetrators are people close to the victims. One of the sexual violence that occurs in children is the rise of the child grooming phenomenon in Indonesia, a new form of crime. Child grooming in Indonesia, or sexual exploitation crimes against children using social media, is increasing because the demand for the global sex market is getting bigger. This research uses normative research, which is analytical descriptive through a Statute Approach, techniques through data source studies/data collection carried out by literature (secondary data). The results of this study indicate that child grooming is a practice carried out by adults to attract attention and manipulate minors for sexual purposes or other crimes. In Indonesia, grooming children has been made a crime of violence against children based on Law Number 35 of 2014 concerning Child Protection.

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#### Corresponding Author:

Name: Sopian Institution: Institut Agama Islam Nusantara Batang Hari Email: <u>sopiyanjmb614@gmail.com</u>

### 1. INTRODUCTION

The phenomenon of sexual violence is an issue that is increasingly being discussed in Indonesia. Sexual violence can happen to anyone, both women and men, but most victims are women. Sexual violence has various forms, such as rape, sexual harassment, sexual exploitation, and human trafficking for sexual purposes. The phenomenon of sexual violence in Indonesia has multiple causative factors, such as socio-cultural conditions, gender inequality, less stringent laws, and minimal awareness of victims' rights. One of the factors causing sexual violence in Indonesia is socio-cultural conditions. The patriarchal culture that is still strong in Indonesia makes women vulnerable to experiencing sexual violence. The mindset that views women as sexual objects often justifies acts of sexual violence as something commonplace. In addition, the stigma that judges victims of sexual violence and the lack of support from the community also make victims reluctant to report what happened to them. Gender inequality is also one of the factors causing sexual violence in Indonesia. Women often do not have the same opportunities as men, such as access to education and decent jobs. Perpetrators of sexual violence often use this inequality to deceive victims who feel they have no choice but to escape a difficult situation.

Children are a group that is very vulnerable to sexual violence because children are always positioned as weak or powerless and have a high dependence on the adults around them. This is what makes children helpless when threatened not to tell what happened. In almost every uncovered case, the perpetrator is someone close to the victim. Not a few perpetrators are people who have domination over victims, such as parents and teachers. No specific characteristic or personality type can be identified from a perpetrator of sexual violence against children. In other words, anyone can become a perpetrator of sexual violence against children or a pedophile. The ability of the perpetrator to control the victim, either by deception or threats and violence, makes it difficult to avoid this

crime. All cases of sexual violence against children were only revealed after the incident occurred, and not a few had fatal consequences.<sup>1</sup>

Indonesia even has a Child Protection Law and various other regulations related to child protection issues which have articles normatively guarantee efforts to fulfill children's rights. But in fact, the existing rules do not have a positive impact on children in Indonesia because sexual violence continues to occur in children, which causes the child's psychology to become disturbed so that the child experiences severe trauma, which causes mental disturbance in the child's process. its growth and development.<sup>2</sup>

One of the sexual violence that occurs in children is the emergence of the child grooming phenomenon that has happened in Indonesia and is a new form of crime. Child grooming in Indonesia, or the crime of sexual exploitation of children using social media, is increasing because the demand for the global sex market is expanding. Big This crime is prohibited by any law around the world because it violates rights and can negatively impact children's development, so child protection must be considered. Child grooming is a process of approaching children to persuade them to be willing to engage in sexual activity. The perpetrator uses a variety of techniques to access and control the victim. This process requires the offender's access, time, and interpersonal skills. If child grooming is done correctly, the victim will unconsciously 'cooperate' with the perpetrator easily. The more proficient the offender's skills are in selecting and seducing vulnerable victims, the more successful the child grooming will be. The skills of the perpetrator include how to choose victims, identify and know the needs of victims, and the time needed by the perpetrator to approach the victim and seduce and control the victim.<sup>3</sup> From this explanation, this study aims to determine the legal review of child grooming as a crime of sexual violence in Indonesia.

### 2. LITERATURE REVIEW

Sexual violence is a universal crime. These crimes can be found worldwide, at every level of society, regardless of age or gender.<sup>4</sup> Child sexual abuse is a form of child abuse in which an adult or older youth uses a child for sexual stimulation. Forms of child sexual abuse include asking or pressuring a child to engage in sexual activity (regardless of the outcome), providing indecent exposure of the genitals to a child, displaying child pornography, having sexual relations with children, physical contact with the child's genitals (except in specific non-sexual contexts such as medical examinations), viewing a child's genitals without physical connection (except in non-sexual contexts such as medical examinations), or using a child to produce child pornography. Child sexual abuse has received public attention in recent decades and has been one of the most high-profile crimes since the 1970s. Sexual abuse of children and child abuse has increasingly been recognized as highly damaging to children and, thus, unacceptable to society. While sexual abuse of children by adults has been present throughout history and has become a significant public concern today.<sup>5</sup>

Acts of sexual violence are acts that are very detrimental and violate human rights. It is one of the many crimes for a person's dignity and is a form of discrimination that must be eliminated so that it does not quickly occur. It is also apparent that it has been explained in Law no. 12 of 2022.

<sup>&</sup>lt;sup>1</sup> Ivo Noviana, "Kekerasan Seksual Terhadap Anak: Dampak Dan Penanganannya," Sosio Informa: Kajian Permasalahan Sosial Dan Usaha Kesejahteraan Sosial 1, no. 1 (2015).

<sup>&</sup>lt;sup>2</sup> Anastasia Hana Sitompul, "Kajian Hukum Tentang Tindak Kekerasan Seksual Terhadap Anak Di Indonesia," *Lex Crimen* 4, no. 1 (2015).

<sup>&</sup>lt;sup>3</sup> Imara Pramesti Normalita Andaru, "Cyber Child Grooming Sebagai Bentuk Kekerasan Berbasis Gender Online Di Era Pandemi," *Jurnal Wanita dan Keluarga* 2, no. 1 (2021): 41–51.

<sup>&</sup>lt;sup>4</sup> Sri Hennyati Ermaya Sari Bayu Ningsih, "Kekerasan Seksual Pada Anak Di Kabupaten Karawang," *Jurnal Bidan* 4, no. 2 (2018): 267040.

<sup>&</sup>lt;sup>5</sup> Sri Wahyuni, "Perilaku Pelecehan Seksual Dan Pencegahan Secara Dini Terhadap Anak," *Jurnal Raudhah* 4, no. 2 (2016).

Related to Article 1(1) of Law Number 12 of 2022 (TPKS Law), the crime of sexual violence is an act that falls into the category of sexual violence. It is governed by law and is not governed by this law. Previously, the term sexual violence in the academic text of the TPKS Law included three types of sexual violence that could be standardized in applicable laws and regulations.<sup>6</sup>

Sexual harassment behavior is a disgraceful act that can be measured by a violation of rules or norms rooted in socio-cultural values as a system of code of conduct and guidelines for the actions of citizens, which can involve religious norms, decency, and decency and law. In an article entitled "Sexual Violence: Myths and Realities," Ratna Batara Munti stated that the crime of sexual harassment was not regulated in the Criminal Code; not even a single article mentions the words sexual harassment or sexual violence, only there is the term obscene act held in Article 289 to Article 296 of the Criminal Code. At the same time, the act of obscenity itself can be interpreted as a behavior that is not following a sense of decency or heinous behavior that is carried out solely because it fulfills lust that cannot be controlled. The formulation contained in the Criminal Code, broadly speaking, the classification of sexual violence is divided into adultery, intercourse, obscenity, and pornography. Regarding sexual violence or sexual harassment, it is not regulated in the Criminal Code. The Criminal Code only regulates Crimes Against Decency.

This crime against decency is regulated in CHAPTER XVI Book II of the Criminal Code, namely as follows: a). crimes resulting from open violations of public character (Article 281); b). pornography crime (Article 282); c). pornography crimes against children (Article 283); d). pornography crimes when carrying out their livelihood (Article 283b); e). the crime of adultery (Article 284); f). the crime of committing rape to have intercourse (Article 285); g). the crime of having sex while unconscious and helpless without getting married (Article 286); h). the crime of having sex with a girl (Article 287); i). the crime of having sex with a woman who is not old enough to marry, causing minor or even severe injuries (Article 288); j). the crime of rape commits fornication or behavior that attacks the honor of decency (Article 289); k). the crime of committing obscenity against a person who is unconscious and not old enough to marry (Article 290); l). If the crimes in Articles 286, 287, 289, and 290 results in serious injury (Article 291); m). the crime of committing obscenity against children of the same sex (Article 292); n). the crime of encouraging people to commit indecency with people who are not old enough (Article 293); o). the crime of obscenity with children (Article 294); p). the crime of making it easier to commit indecency for children (Article 295); q). the crime of facilitating obscenity as a livelihood or habit (Article 296); r). the crime of buying and selling both women and men who are not old enough (Article 297); s). the crime of making a source of work from obscene activities others carry out (Article 298). Not only related to criminal law, but the occurrence of sexual violence also violates the human rights of victims. The Indonesian legal system guarantees the human rights of every citizen. It was listed in the 1945 Constitution of the Unitary State of the Republic of Indonesia in Articles 28A-28J. In Article 28A, it is explained that everyone has the right to live and has the right to defend his life and existence.

Furthermore, Article 28B paragraph (2) explains that every child has the right to survival, growth, and development and has the right to protection from violence and discrimination. A child should receive protection of dignity in the surrounding environment so that he can grow and develop physically and psychologically. Then in Article 28G, it is explained that every human being has the right to protection for themselves, honor, family, honor and dignity, and has the right to feel safe and protected from threats of fear to do something or not do something, which is a human right. Then it is emphasized again in Article 28I paragraph (1) that the right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be

<sup>&</sup>lt;sup>6</sup> Ujang Badru Jaman and Agung Zulfikri, "Peran Serta Masyarakat Dalam Pencegahan Kekerasan Seksual Dihubungkan Dengan UU No. 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual," *Jurnal Hukum dan HAM Wara Sains* 1, no. 01 (2022): 1–7.

enslaved, the right to be recognized as an individual before the law, and the right not to be prosecuted based on retroactive law are human rights that cannot be reduced under any circumstances. It can be seen from the various articles above that the Indonesian legal system is against violence, including sexual violence.<sup>7</sup>

Cyber child grooming is carried out in various types, duration, and intensities depending on the characteristics and behavior of each actor. Among the multiple ways and variations of doing online child grooming, six general things underlie cyber child grooming, which is as follows: <sup>8</sup>

- 1. Manipulation Cyber child grooming involves some form of manipulation. The perpetrator against the victim can do various types of manipulation. Different manipulation techniques are used to increase the perpetrator's power and control over the victim and increase the victim's dependence on the perpetrator, such as praising to make the victim feel special until the victim becomes interested and oblivious. This manipulation is done so that the victim feels loved and cared for. On the other hand, the perpetrator can control the victim by intimidating them so that the victim feels afraid of the perpetrator and does not dare to report it.
- 2. Accessibility Ease of access to interact with victims is one of the factors in online child grooming. Perpetrators can access victims via the internet without having to meet face-to-face or reveal they are true identities. It can even retrieve the child's information data; the worst part is that the perpetrator can control the victim only by using a cell phone or gadget. Parents are the warier of people who interact directly with children in the real world. Still, they are unaware of online interactions and are less involved in their child's online life. According to research, 20% of children who use social networks say they have talked to strangers online, and 20% are 9 to 12 years old. The perpetrator uses internet technology to interact with the victim in one or two directions through chat rooms, blogs, social media, forums, or bulletins.
- 3. Rapport Building As part of building a relationship, the perpetrator adjusts his behavior and communication style so that the victim is comfortable talking with the perpetrator, who then commits the crime. In addition, the perpetrator finds out the interests and circumstances around the victim, what is liked or what makes the victim attractive, and how the environment around the victim is so that when the victim is off guard, the perpetrator will start his actions. So that other people do not know the actions taken by the perpetrator and the victim, the perpetrator usually asks the victim to keep their relationship a secret.
- 4. Sexual Context Sexual intercourse is the aim of online child grooming. When and how the sexual relationship begins depends on each actor. The perpetrator will start gradually so that the victim will not suspect anything. Initiating sexual relations can be done in various ways, such as talking dirty, seducing the victim, sending pornographic images, or connecting to pornographic matters.
- 5. Risk Assessment Risk assessment of the victim is carried out before and during online child grooming. Risk assessment is seen from several aspects: individual victims and factors related to the internet and the surrounding environment. In addition, the perpetrator performs risk management. There are three ways that actors do in risk management, namely:

<sup>&</sup>lt;sup>7</sup> Rosania Paradiaz and Eko Soponyono, "Perlindungan Hukum Terhadap Korban Pelecehan Seksual," *Jurnal Pembangunan Hukum Indonesia* 4, no. 1 (2022): 61–72.

<sup>&</sup>lt;sup>8</sup> Andaru, "Cyber Child Grooming Sebagai Bentuk Kekerasan Berbasis Gender Online Di Era Pandemi."

- a. They are related to the technology used and the logistics associated with the actor. Perpetrators take various ways to avoid being easily traced or recognized by people, for example, using multiple hardware, different IP addresses, and various storage methods.
- b. Perpetrators refrain from communicating with victims publicly and use personal email or cell phones.
- c. The perpetrator met the victim by meeting far from the victim's environment. However, research says that all actors do not use risk management because they think they have done nothing wrong, so there is nothing to hide.

Deception In online child grooming, sometimes perpetrators disguise themselves as peers or young people. Research notes that 5% of perpetrators disguise themselves as young people when communicating with victims. Most of the perpetrators tell the victim that they are adults who want to build a special relationship with the victim. Most of the victims met the perpetrators face to face and had sex. So, it can be concluded that most victims know that they communicate with adults and take risks interacting with the perpetrators.

# 3. METHODOLOGY

This study uses normative analytical research using a Statute Approach. The Statute Approach examines all laws and regulations related to the legal issues being handled. Likewise, according to Soerjo and H. Abdurahman, the research examines the laws and rules that apply or are applied to a particular legal issue. Techniques through the study of data sources/data collection are carried out by the literature (secondary data). Legal Materials. Secondary data means that the data collected comes from second-hand or other available sources before the research was carried out. Secondary data is obtained from primary materials: such as laws and regulations related to research topics. At the same time, secondary materials are obtained from books, research journals, and tertiary materials, namely information materials about primary legal materials and secondary legal materials such as information through online media. The data is inventoried, classified, and compiled comprehensively through Law Number 13 of 2006 manual and electronic searches.<sup>9</sup>

## 4. DISCUSSION

Child grooming or child grooming is a practice by adults to gain attention, build trust, and manipulate minors for sexual purposes or other crimes. Grooming practices can occur online or offline and can harm children, including psychological trauma, depression, and impaired self-esteem. In Indonesia, child grooming has become a severe problem in recent years. Recently, the Indonesian government issued Law Number 35 of 2014 concerning Child Protection which stipulates grooming as a crime of violence against children.

According to the law, grooming is the practice of adults to build trust, gain an advantage, and prepare children for sexual acts or other crimes. Grooming can occur through verbal or non-verbal communication and involve using social media or other technologies. In this law, acts of grooming, considered as violence against children, can be subject to criminal penalties with a minimum prison sentence of 3 years, a maximum of 15 years, and a minimum fine of Rp. Sixty million and a maximum of Rp. 300 million.

In addition, the law also confirms that an adult who grooms a child can be considered guilty without any honest or committed sexual act against the child. This aims to prevent the practice of grooming before sexual acts or other crimes occur. However, even though child grooming has been made into a criminal act of violence against children in Indonesia, its implementation is still not

<sup>&</sup>lt;sup>9</sup> Diana Yusyanti, "Perlindungan Hukum Terhadap Anak Korban Dari Pelaku Tindak Pidana Kekerasan Seksual," *Jurnal Penelitian Hukum De Jure* 20, no. 4 (2020): 619–636.

optimal. Some challenges include the lack of public awareness and weak law enforcement in dealing with child grooming cases. To overcome this problem, efforts from all parties are needed, including the government, law enforcement agencies, education, and society. Education to parents and children about the dangers of grooming and how to report it is also essential to prevent this practice.

In addition, the government must increase law enforcement efforts to ensure that perpetrators of child grooming are dealt with firmly and fairly. More resources and funds should be allocated to improve the monitoring and supervision of child grooming practices and increase public awareness about the dangers of grooming and child protection.

Overall, grooming children is a harmful practice and must be eradicated. By making grooming a crime of violence against children in Indonesia, it is hoped that the government and society can work together to prevent and overcome this practice and protect Indonesian children from this grave danger.

In Indonesia itself, in 2019, there has been a lot of talk about cases that have a modus operandi, namely by seducing underage children through social media to make video calls or make video recordings in which the child is asked to do things related to sexual activity to satisfy the perpetrator's sexual desire. After making the recording or video call, the perpetrator distributes the recording to friends or sells it to other people. Paying attention to the phenomenon, the author wants to analyze more deeply whether legal policies, specifically criminal law, have regulated sexual crimes in the form of child grooming crimes. This is intended so that legal protection for victims is guaranteed and perpetrators can also be punished according to the crimes they have committed. Based on the above background, the authors formulate the problem, namely, what is meant by the corruption of child grooming and the legal policy against the crime of child grooming.

Child Cyber Grooming is a sexual crime committed against children utilizing social media. The perpetrators of crimes are generally adult men. The rapid development of technology affects people's lives, especially in Indonesia. This situation has resulted in a more significant potential for Child Cyber Grooming because of the use of social media not only by members of the public who are adults. However, children have also used this media on an unlimited scale.<sup>10</sup> This crime is committed in various ways, and the perpetrator uses social media to approach the victim to achieve the expected goals, in this case, related to sex; The perpetrator disguises himself as someone known to the victim so that it is easier to approach; The perpetrator came the victim by seducing and teasing with the aim that the victim would become interested in the perpetrator, so that it would be easier to be instigated in any way, especially in social matters; The perpetrator uses the proceeds from the crime that has been obtained for his satisfaction or disseminates things that can be detrimental to the victim.

Child Cyber Grooming is based on the perpetrator's thirst for sex or sexual disorder caused by factors that influence it, and those factors come from within and elements that come from outside. Internal factors include the state of the perpetrators who have common knowledge of social media, which results in perpetrators abusing it, and personal characteristics of perpetrators who are introverted or cannot socialize or communicate with life around them. External energy factors influence the perpetrator's life, so the life around them significantly influences the perpetrator's personality to imitate. The impact of Child Cyber Grooming on children occurs when children become victims of Child Cyber Grooming, which affects psychology. If the child has experienced this incident, they will be traumatized and afraid of meeting new people. The child will feel threatened so that the child cannot tell other people quickly that the child is a victim of Child Cyber Grooming. Child Cyber Grooming Legal Efforts, children are included as legal subjects in legal continuity, especially public law. The existence of a child is a person whose rights must be protected, including the right to security, safety, and the right to grow and develop. In criminal law, children

<sup>&</sup>lt;sup>10</sup> Anjeli Holivia and Teguh Suratman, "Child Cyber Grooming Sebagai Bentuk Modus Baru Cyber Space Crimes," *Bhirawa Law Journal* 2, no. 1 (2021): 1–13.

are legal subjects who are one of the subjects that receive special attention. Today's Police efforts against Child Cyber Grooming should try to handle this case in a preventive and repressive manner. Preventive efforts are efforts made to prevent Child Cyber Groming from occurring in various ways, one of which is by outreach to the community. Repressive efforts are efforts made when this case occurs by following up on the subject following applicable laws and regulations.

# 5. CONCLUSION

Child grooming is a practice by adults to attract attention and manipulate minors for sexual purposes or other crimes. In Indonesia, grooming children has been made a crime of violence against children based on Law Number 35 of 2014 concerning Child Protection. Perpetrators of child grooming can be subject to criminal penalties of at least three years, a maximum of 15 years, and a minimum fine of Rp. Sixty million and a maximum of Rp. 300 million. However, its implementation is still not optimal, and efforts are needed from all parties to prevent this practice, including the government, law enforcement agencies, education, and society.

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