

POSITIVE LEGAL PERSPECTIVES IN THE USE OF INFORMATION TECHNOLOGY BY CHILDREN IN THE DIGITAL AGE

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Abstract

Children and teenagers today are one of the generations of the internet. It can be seen today among teenagers and even children who are very fluent in using the internet, this is because the amount of information obtained from the internet and even the information obtained can match the information provided by television. Mass media, namely in the form of television and the internet, is considered an agent or producer of culture that is able to provide various kinds of information and can be easily received by the public. The latest emerging trend suggests that very young children of age (toddlers and pre-schoolers), have been using internet-connected devices, especially with tablets and smartphones. This has resulted in an increase in the number of very young children who have access to the internet. The purpose of this writing is to inventory the provisions of the legislation governing the use of information technology by children.

The writing method used in this article is normative juridical, namely research that emphasizes secondary data as the main data supported by field data. The research specifications used are descriptive analytical, then a qualitative juridical analysis is carried out.

The provisions of laws and regulations that regulate or contain a legal protection against the use of information technology by children are still in general and there are also no specific rules aimed at providing legal protection to these children. Regulations related to legal protection of children from the use of information technology are Law Number 40 of 1999 concerning the Press, Law Number 17 of 2016 concerning Government Determination in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law, Law Number 32 of 2002 concerning Broadcasting, Law Number 44 of 2008 concerning Pornography and Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2018 concerning Information and Electronic Transactions. Given that the provisions on the use of information by children still generally need to look at other regulations, it is better to harmonize regulations regarding the use of information technology by children.

Keywords : child, information technology, child protection

Introduction

Computers and the internet are two things that cannot be separated from daily life from both parents and children. (Dewi, 2013) Children and teenagers today are one of the generations of the internet. It can be seen today among teenagers and even children who are very fluent in using the internet, this is because the amount of information obtained from the internet and even the information obtained can match the information provided by television. Mass media, namely in the form of television and the internet, is considered as an agent or producer of culture that is able to provide various kinds of information and can be easily received by the public. (Sanjaya, 2012) The development of life in society and technological advances that have been today have indirectly triggered the development and diversity in criminal behavior in society. The crime itself can happen to anyone, not only for adults but also for children and if we also pay attention to the

information in the electronic media, cases of children who are faced with or facing the law continue to increase. Protection of children in our constitution is expressly stated that the Indonesian state guarantees the right to survival, growth and development and guarantees the protection of the child from violence and discrimination. Every child also has dignity and dignity that must be upheld as well and every child born must get his rights even if the child does not ask. This is also in accordance with the Convention on the Rights of the Child which has been ratified by the Government of Indonesia through Presidential Decree Number 36 of 1990 which argues about the general principles in child protection, which consist of non-discrimination, survival, the best interests of the child and the child's growth and development and respect also the participation of the child. (Saraswaty, 2019)

The advancement of Information and Communication Technology (ICT) and its use in various spheres of life marked the change of human civilization towards an information society. The Internet is an ICT product that makes it easy for everyone to obtain and disseminate information quickly, cheaply and reach a very large area. The use of the Internet not only has a positive impact, but also a negative impact, especially from harmful content that contains elements of violence and pornography.

In pornography, the victims are usually children. Pornography is also very widespread today in various forms that can also be easily obtained by children. For example, in everyday life in the form of playstation games, short messages or sms.

In Indonesia, in 2020, out of 266.91 million Indonesians, internet users were 198.71 million people or around 73.7% of whom were children. Children who like to access the internet then access content on the internet digitally, they are consumers of information technology so that children must get legal protection as consumers as contained in Law No. 8 of 1999 concerning Consumer Protection Article 1 Number 1, namely: "Consumer protection is any effort that guarantees legal certainty to provide protection to consumers". Child consumers in this case are not only protected by the Consumer Protection Law, children also have the right to get educational shows, children's rights are contained in Law No. 23 of 2002 concerning Child Protection in article 1 number 12, namely "Children's rights are part of human rights that must be guaranteed, protected and fulfilled by parents, family, society, government and country."

Current developments show that very young children of age (toddlers and pre-schoolers), have used internet-connected devices, especially with tablets and smartphones. This has resulted in an increase in the number of very young children having access to the internet, (Holloway, 2013) So that the purpose of writing this article is to find statutory provisions governing the use of information technology by children.

Method

The writing method used in this article is normative juridical, namely research that emphasizes secondary data as the main data supported by field data. The research specifications used are descriptive analytical, then a qualitative juridical analysis is carried out.

Discussion

Nowadays, everyone including children can very easily access anything via mobile phones, plus television shows nowadays tend to be free. Without realizing it, children get the content freely, there is no strict supervision from parents. Especially for content that contains immorality and acts of violence, it is feared that children are of the view that what they see is normal in life, so that children will imitate these actions.

In particular, there are no laws and regulations that also regulate in full the regulation of child protection from harmful content due to the existence of information technology through electronic media. The regulation of the use of information technology by children is still spread in several laws and regulations. However, in the scattered laws and regulations, it is generally regulated that both press institutions and broadcasters have an obligation to comply with applicable laws and regulations. Laws and regulations that also have a relationship with the legal protection of children from harmful content from electronic media, among others: (Yusuf, 1999)

- a. Law Number 40 of 1999 concerning the Press
- b. Law Number 23 of 2002 on Child Protection
- c. Law Number 32 of 2002 on Broadcasting
- d. Law Number 44 of 2008 on Pornography

Article 16 paragraph (1) of Law Number 32 of 2002 concerning Broadcasting (hereinafter referred to as the Broadcasting Law) states that broadcasting through television is carried out by private broadcasters, namely broadcasters whose commercial *sifanya* is in the form of an Indonesian legal entity, which also in its business field only provides television or radio broadcasting services. From the arrangement, it can be understood that if you are going to do broadcasting business, it must be in the form of a legal entity as well, which is recognized by Indonesian law, for example, such as a PT, foundation or cooperative.

Regarding the content of broadcasts or content carried out by television or other electronic media, especially for children, it must be carried out in accordance with the provisions that have been stipulated in the Broadcasting Law, as in Article 36 paragraph (3) of the Broadcasting Law states that the content of broadcasts must provide protection and empowerment to special audiences, namely children and adolescents by broadcasting the agenda at the right time and broadcasters must include and/or mention Audience classification according to the content of the broadcast.

The Broadcasting Law provides its own arrangements, and it also does not specifically prohibit harmful shows for children. However, there are also certain independent institutions that also have the authority to make regulations and also regulate broadcasting matters. The institution in question is the Indonesian Broadcasting Commission or KPI, both at the central and regional levels. The function of the KPI itself is to collect aspirations and represent the interests of the community towards broadcasting. KPI also has the authority to compile regulations and establish codes of conduct regarding broadcasting, provide sanctions for violations in regulations and also broadcasting code of conduct and also standards of broadcast programs. In addition, KPI collaborates with the government, the public and broadcasters. KPI also has its duties and obligations, namely ensuring the public to get correct and decent information that is also in accordance with human rights, and researching, following up on complaints, objections and also criticisms as well as forms of public appreciation in the implementation of broadcasting.

Based on Article 7 and Article 8 of the Broadcasting Law, KPI is an institution that has the authority to supervise the broadcast content of broadcasting institutions in Indonesia, especially television. Therefore, the public also has the opportunity to directly monitor television content that is also harmful to children and furthermore it reports related matters to KPIs so that they can be processed and followed up. Especially in the era of globalization like today, a lot of content in electronic media contains deviant elements where when children watch or see it they will imitate what they see and of course it is not good for the child.

In addition, one of the uses of information technology from electronic media is the presence of

advertising broadcasts. Article 46 of the Broadcasting Law divides advertising broadcasts into two, namely commercial advertising broadcasts and service advertising broadcasts. In commercial broadcasts, one of the points mentioned that in broadcasting advertisements broadcast on broadcast agendas for children, it is mandatory to follow the standards of children's broadcasts..

Law Number 40 of 1999 concerning the Press (hereinafter referred to as the Press Law) regulates the release of advertisements contained in Article 13 stating that advertising companies are prohibited from loading advertisements:

- a. Which results in degrading the dignity of a religion or provoking harmony of life between religious people and also contrary to the sense of decency of society.
- b. Liquor, psychotropics, narcotics and also other addictive substances that are also based on the provisions of existing laws and regulations.
- c. The use of cigarettes or demonstrations of the form of cigarettes.

This article does not clearly state the prohibition of advertising that is harmful or bad for children, but it is stated that advertising should not result in conflict with a sense of decency in society, for example acts of violence in advertising. The acts of violence contained in the advertisement are very dangerous for young children, because the child has a tendency to imitate these actions. (Putra, 2021)

Based on Law Number 44 of 2008 concerning Pornography (hereinafter referred to as the Pornography Law). Article 1 number 1 of the Pornography Law, the definition of pornography is images, sketches, illustrations, photos, writings, sounds, moving images, animations, cartoons, conversations, gestures or other forms of messages through various forms of communication media and/or public performances, which contain obscenity or sexual exploitation that violates the norms of decency in society. The process of spreading pornography has become very facilitated by the internet and social media.

Protection of children from the influence of pornography is mandated in Article 15 of the Pornography Law which states that everyone is obliged to protect children from the influence of pornography and prevent children's access to pornographic information. This obligation is the duty of the Government, social institutions, educational institutions, religious institutions, families, and/or the community to provide guidance, assistance, and social recovery, physical and mental health for every child who is a victim or perpetrator of pornography as stated in Article 16 of the Pornography Law.

The role of the government in protecting children from influence and preventing children's access to pornographic information as stated in Article 18 of the Pornography Law is to do so.:

- a. Termination of networks for the manufacture and dissemination of pornographic products or pornographic services, including blocking pornography over the internet.
- b. Supervise the creation, dissemination and use of pornography.
- c. Cooperating and coordinating with various parties, both from within and from abroad, in preventing the manufacture, dissemination, and use of pornography.

In addition to the government, the community also needs to play a role in protecting children from influence and preventing children's access to pornographic information, namely contained in Article 18 of the Pornography Law which is carried out by means of :

- a. Reporting violations of this Act.
- b. Bringing a representative lawsuit to the court.

- c. Disseminate laws and regulations governing pornography.
- d. Providing guidance to the community on the dangers and effects of pornography.

There is also a criminal threat to any person who involves a child in activities and/or as an object of pornography where the threat is plus 1/3 of the maximum criminal threat, as stated in Article 37 of the Pornography Law.

Globalization and the development of science and technology, especially information and communication technology have contributed to the increasing creation, dissemination and use of information containing elements of violence and pornography that have a bad influence on the morals and noble personality of the Indonesian nation so as to threaten the life and social order of Indonesian society. The development of this information in the community has also resulted in an increase in immorality and obscenity so that it is necessary to protect children from the influence of information containing elements of violence and pornography for the future of the Indonesian nation.

The influence of pornography is due to the fact that information technology contributes greatly to the improvement of human welfare, progress and civilization. (Ramli, 2004) Along with the progress and development of science and technology in human civilization, it also applies to the development of information technology crimes. Information technology crimes that are very troubling and receive attention from various circles in the form of information technology crimes in the field of decency.

One of the crimes of decency is the occurrence of sexual abuse of children. One form of child sexual abuse is asking or pressuring a child to engage in sexual activity (regardless of the outcome) through writing, images and videos. Provide indecent exposure to child pornography, or use children to produce child pornography.

Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2018 concerning Electronic Information and Transactions (hereinafter referred to as the ITE Law) contained in Article 27 Paragraph (1) states that everyone intentionally and without the right to distribute and/or transmit and/or make accessible Electronic Information and/or Electronic Documents that are not the rights of children.

Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection (hereinafter referred to as the Witness and Victim Protection Law) defines a victim as stated in Article 1 number 3 of the Witness and Victim Protection Law stating that a victim is someone who experiences physical, mental, or economic loss caused by a criminal act. Legal protection for child victims of moral crimes may include forms of protection that are abstract (indirect) or concrete (direct). Abstract protection is basically a form of protection that can only be enjoyed or felt emotionally (psychically), such as a sense of satisfaction (satisfaction). Meanwhile, concrete protection is basically a form of protection that can be enjoyed in real terms, such as giving in the form of a material or nonmaterial nature. Material grants can be in the form of compensation or restitution, differentiation of living or education costs. The provision of nonmaterial protection can be in the form of exemption from threats, from reporting that degrades the dignity of humanity.

Legal protection for child victims of sexual crimes in abstract form, among others, is regulated in the Criminal Code. The formulation of criminal acts of decency in the Criminal Code that can be used as a basis for ensnaring perpetrators of either copulation or obscenity is regulated in Chapter XIV Article 281, Article 282, Article 283, Article 287, Article 288, Article 289, Article

293, Article 294, Article 295, and Article 296 of the Criminal Code.

Law Number 17 of 2016 concerning Government Determination in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law (hereinafter referred to as the Child Protection Law) also regulates the protection of children from the influence of pornography contained in Article 59 of the Child Protection Law which states that the Government, Local Governments and other state institutions are obliged and responsible for providing special protection to the child in emergency situations, Children facing the law, Children from minority and isolated groups, economically and/or sexually exploited children, children who are victims of abuse of narcotics, alcohol, psychotropics, and other addictive substances, Children who are victims of pornography, children with HIV/AIDS, children victims of kidnapping, sales, and/or trafficking, children victims of physical and/or psychic violence, children victims of sexual crimes, Children victims of terrorism networks, Children with Disabilities, Children victims of mistreatment and neglect, Children with deviant social behavior; and Children who are victims of stigmatization from labeling related to their Parents' condition.

Article 67A of the Child Protection Law also regulates the protection of children from the influence of pornography, stating that everyone is obliged to protect children from the influence of pornography and prevent children's access to information containing pornographic elements. There is also a special protection for children who are victims of pornography listed in Article 67B of the Child Protection Law which states that special protection for children who are victims of pornography is carried out through efforts to foster, assist, and restore social, physical and mental health.

In Indonesia, the legal rules governing the protection of children as victims of commercial sexual exploitation are contained in Law Number 34 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection and contained in Law of the Republic of Indonesia Number 31 of 2014 concerning amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims. Both rules can be seen that against child victims of criminal acts (commercial sexual exploitation through social media), legal protection is carried out through:

- a. Rehabilitation efforts.
- b. Efforts to protect against identity reporting through the mass media and to avoid labeling.
- c. Provision of safety guarantees.
- d. Receive assistance or advocacy during the case process and after.
- e. Providing accessibility to be able to obtain information on the development of the case.

In Article 27 paragraph (1) of the ITE Law which states that everyone intentionally and without the right to distribute and/or transmit and/or make accessible Electronic Information and/or Electronic Documents that have content that violates decency. Then the criminal provisions against people who violate decency contained in Article 45 of the ITE Law state that everyone who meets the elements as referred to in Article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4) shall be sentenced to a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah). The crime of decency against children may be subject to punishment as in Article 52 of the ITE Law which states that in the case of a criminal act as referred to in Article 27 paragraph (1) concerning decency or sexual exploitation of children, one-third of the main crime is subject to.

The regulated criminal provisions have been deliberately formed by the framers of the Act with

a view to providing protection against immoral acts or Ontruchte handelingen and against behaviors both in the form of words and in the form of acts that offend morals because they are contrary to people's views on decisions in the field of sexual life.

In addition to pornography, the existence of this information technology is also possible for threats of violence or frightening in electronic media to occur often against children or the perpetrator is a child. Article 29 of the ITE Law regulates the threat of violence which states that everyone intentionally and without the right to send electronic information and/or electronic documents containing threats of violence or frightening personally directed. The criminal provisions for such behavior are contained in Article 45B which states that any person who intentionally and without the right to send electronic information and/or electronic documents containing threats of violence or frightening personally directed as referred to in Article 29 shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp. 750,000,000.00 (seven hundred and fifty million rupiah).

There is also the role of the government in terms of preventing content or information from the internet that violates the law, as stated in Article 40 of the ITE Law paragraph (2a) and paragraph (2b). Article 40 paragraph (2a) of the ITE Law states that the government is obliged to prevent the dissemination and use of electronic information and/or electronic documents that have prohibited content in accordance with the provisions of laws and regulations. Furthermore, Article 40 paragraph (2b) states that in carrying out prevention as referred to in paragraph (2a), the government is authorized to terminate access and/or order electronic system operators to cut off access to electronic information and/or electronic documents that have unlawful content.

Legal protection for children due to the dissemination of harmful information containing elements of violence and pornography for children on the internet and social media is an issue that needs to be considered. With regard to morals, at this time we have entered a new era, namely the era of globalization and modernization, with the passage of this new era, there are actually changes in society both in economic, social and cultural. These changes are caused by the globalization process as an inevitable effect of the development of information technology, so that it can damage the morale of a person, especially children who have not been able to filter the correct information. Therefore, the existence of the Pornography Law is one of them to realize and maintain the order of people's lives that are ethical, have noble personalities, uphold the values of the One True God, and respect the dignity and dignity of humanity. Meanwhile, what is related to the interests of children is to provide legal certainty and protection for citizens from pornography.

In this regard, the government is obliged to prevent the creation, dissemination, and use of information containing elements of violence and pornography. Children can access easily via the Internet or social media, here the role of the government, society and families to prevent dissemination should be carried out optimally by disconnecting networks including blocking the internet, filtering materials that contain elements of violence and pornography and supervising their dissemination, such as in internet cafes that are visited by many children and parents provide electronic device facilities such as gadgets or mobile phones that are always under surveillance.

Conclusion

The provisions of laws and regulations that regulate or contain a legal protection against the use of information technology by children are still in general and there are also no specific rules aimed at providing legal protection to these children. Regulations related to the legal protection

of children from the use of information technology are Law Number 40 of 1999 concerning the Press, Law Number 17 of 2016 concerning Government Determination in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law, Law Number 32 of 2002 concerning Distribution, Law Number 44 of 2008 concerning Pornography, Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2018 concerning Electronic Information and Transactions and the Criminal Code. Given that the provisions on the use of information by children still generally need to look at other regulations, it is better to make unification of regulations regarding the use of information technology by children.

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