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Review

Children's Privacy in the Digital World: A Review of the Law on the Use of Technology Child

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Abstract: In article 16 of the United Nations Convention (UN), or the United Nations Convention on the Rights of the Child (UNCRC), which is usually called the Convention on the Rights of the Child, outlines the right of every child to privacy and protection against violations of privacy related to the home, family, communication, and their good name. Children's privacy, especially when it comes to personal data, requires strict boundaries. Current digital developments influence children's parenting and thinking patterns with potential negative impacts. Children can be targets of abuse in the digital world. Children's personal data is often used until they become independent. This research, using normative legal methods, aims to analyze regulations related to the protection of children's personal data in the digital era. Therefore, updates are needed in the laws and regulations governing children's personal data to safeguard their privacy rights in accordance with the UNCRC.

Keywords: children's privacy; digital world; children's privacy in the digital world

1. Introduction

The advancement of the internet has brought major changes and significant benefits for various groups, including children. However, internet use also carries great risks for them. Children today are very exposed to the internet in various aspects of their lives, ranging from education, communication, entertainment, and so on. The Internet has become an integral part of their lives, although their understanding of the concept of "privacy" may not be fully mature, and their knowledge of digital literacy regarding online data privacy is also limited. The presence of artificial intelligence and a variety of internet websites encourage children's participation in various services that facilitate their activities and learning. However, when accessing internet services, children are at risk of cyber threats such as cybercrime and cyberbullying. Many children unknowingly leave their digital footprints on various platforms. Therefore, the role of parents is very important in providing a general understanding of the digital world and its potential risks, as well as in monitoring their children's online activities to protect their privacy rights.

With the rapid growth of the internet and increasing participation of children, it is important to ensure the protection of children's privacy rights through concrete regulations (Ayush Verma, 2020). The right to privacy is a fundamental right and is inherent in every individual without exception (Greenleaf G., 2019). Universally, children are considered individuals under 18 years of age, in accordance with Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2003 concerning Child Protection. There are a number of internationally important laws that protect children's right to privacy, such as Article 16 of the UN Convention on the Rights of the Child, which affirms every child's right to privacy and protection against violations of privacy regarding their family, home, communications and reputation. The right to privacy is also implicit in Article 17 of the Universal Declaration of Human Rights, which recognizes individuals' right to privacy regarding their personal data.

Indonesia also has a legal framework that protects children's privacy rights, such as Law no. 39 of 1999 concerning Human Rights and Law no. 23 of 2002 concerning Child Protection. However, the

protection of children's personal data in a digital context still requires improvement through stronger regulations. Currently, there is a risk of misuse of children's personal data in the digital realm which needs to be addressed seriously, such as the case of misuse of children's data by YouTube. Therefore, stricter and clearer regulations regarding the protection of children's personal data are needed in the bill. This includes the application of sanctions and criminal threats for violations involving children's personal data. The right to privacy is a right that must be respected and protected, and it is the state's responsibility to ensure this.

2. Research Methods

This research adopts a qualitative approach with normative legal methodology to carefully and systematically explore regulations related to the protection of children's digital personal data. In this research process, various primary and secondary legal sources will be thoroughly analyzed, including but not limited to relevant draft legislation and court decisions. The main data which is the main focus of this research will discuss in detail the concept of protecting children's digital personal data according to the laws in force in Indonesia. Next, a comprehensive comparison will be carried out with national laws and regulations in Indonesia. In addition, additional data will be obtained from various trusted sources such as publications, journals and references that can be accessed via the internet, which are related to the concept of protecting children's digital personal data.

3. Results And Discussion

3.1. Theoretical Foundations of Children's Privacy

The explanation of privacy cannot be described with ease, the description relates to the right to freedom of thought or conscience, the right to be alone, the right to control one's body and the right to protect one's personal reputation. Each individual and community offers a different perspective on this concept. There are several sources of thought that view privacy as a condition or state of being free from attention, supervision, interference, or unreasonable decisions by other parties/the public (Rai, 2020). Privacy is a non-absolute right where a person has the right to keep his personal information secret from the public if he is not authorized to do so (Suryaningsih & Muhammad, 2020).

One aspect of state protection for children is legal protection. According to Harjono, "legal protection is protection by using legal means or protection provided by law, aimed at protecting certain interests, namely by turning the interests that need to be protected into a legal right", which can be interpreted as legal protection is protection based on law and statute. Legal protection for children means seeking legal protection for children's freedom, human rights and interests that include children. On this basis, the scope of the law towards children includes:

- 1) Protection of children's freedom;
- 2) Protection of children's rights; and
- 3) Legal protection of all children's interests related to well-being

Legal protection for children has a fairly wide reach. In several documents and international meetings it appears that the need for legal protection for children covers several aspects, such as:

- 1) Protection of the basic rights and freedom of children;
- 2) Child protection in the judicial process;
- 3) Protection of children's welfare (in the family, education and social environment);
- 4) Protection of children in the case of detention and deprivation of liberty;
- 5) Protection of children from all forms of exploitation (slavery, child trafficking, prostitution, pornography, drug trafficking/abuse, using children to commit crimes and so on);
- 6) Protection against street children;
- 7) Protection of children from the consequences of war/armed conflict;
- 8) Protection of children against acts of violence

According to Burns H. Weston, the problem of violations of children's rights is caused by two reasons: "first, the fact that societies everywhere require the application of different values to ensure

individual and collective happiness. Second, the need for individual and collective well-being is often ignored, leading to exploitation, oppression, repression and other forms of deprivation.

Children can become victims or perpetrators of exploitation in 3 (three) places where violence occurs, namely the family environment, school environment and community environment. Child exploitation perpetrators can also be divided into 3 (three). First; parents, family or close family members. Monday; education personnel, especially teachers and people in the school environment. The third day; but a foreigner. This means children are at risk of exploitation at home and at school. An environment that knows these children quite closely. This means that perpetrators of child exploitation are more likely to come from groups close to children.

3.2. Development of Digital Technology and Children

Advances in information technology have changed social behavior and human civilization globally into a modern Internet-based society. Computer crime is very disturbing and attracts the attention of various groups in the form of computer crime in the field of ethics. The most frequently exposed ethical cyber crimes are cyber pornography (especially child pornography) and cyber sex. The government with its legal instruments has not been able to compensate for criminal techniques carried out using computer technology, especially the internet (Rahardjo, 2002: 213). One of the issues that has emerged recently is sexual violence against children that has emerged online. Sexual crimes against children are committed through social networks. This practice has led to the systematic exploitation of children. Children are exploited for commercial sex, and online sexual violence against children is part of the rapid growth of the Internet. This technology exposes children to violence by sending or placing images of children that are sexually explicit or contain sexual elements, and often children are persuaded/forced to have sex through technology.

Cases of sexual violence are carried out by getting to know each other through social networks and of course by arranging meetings between victims and perpetrators who are basically unknown to other people, including their parents, so that they experience sexual violence and are believed to be cybercriminals. Over the years, online sexual crimes against children have increased with various types of crimes such as online prostitution, online child pornography, child kidnapping and child sexual abuse. Nowadays, children can easily access social networks, especially social networks such as Instagram and Tik Tok, through facilities provided by their parents without any supervision or restrictions on their use. In reality, parents are busy working and think that if they provide facilities, their children will study well. Although a child, depending on their nature, still has thinking abilities that are not good enough to distinguish between good and bad. Cyberspace is now the gateway to expanding traffic. Timeline/FYP (For Your Page) and various types of messaging features can also be a tool for perpetrators to commit online sex crimes against children.

3.3. Legal and Regulatory Framework for Children's Privacy

In protecting and respecting children's rights, the Republic of Indonesia has provided legal protection so that a child's life can run well and properly, this includes Article 4 of Law Number 23 of 2002 concerning Child Protection, that: "Every child has the right to live, grow, develop and participate fairly in accordance with human dignity, as well as receive protection from violence and discrimination" (Law No. 23 of 2002 concerning Child Protection, 2015). Article 6 Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection, states that: "Every child also has the right to worship according to his religion, think and express according to his level of intelligence and age under the guidance of parents or guardians" (RI Law No. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection, 2014). Article 10 of Law Number 23 of 2002 concerning Child Protection, states that: "Every child has the right to express and have his opinion heard, receive, seek and provide information according to his level of intelligence and age for the sake of his development in accordance with the values of decency and propriety" (Law No. 23 of 2002 concerning Child Protection," 2015). In fact, the government has guaranteed legal protection for all forms of crime in the digital world by implementing the law regarding information and electronic transactions, Law No. 19 of 2016, which is an amendment to Law No. 11 of 2008.

Countries that guarantee the protection of personal/personal data include the United States, known as *Children's Online Privacy Protection Rule (COPPA)* and the European Union known as *General Data Protection Regulation (GDPR)* and *Information Commissioner's Office (ICO)* applicable in the United Kingdom. The similarity between the three countries in implementing regulations for the protection of children's personal data is that all regulations regarding the protection of children's personal data and information are regulated by providing clear information regarding the processing of personal data written in clear language that can be understood by children. This can be found in the articles that categorize the rights of personal data subjects regarding children. At the ICO, several things that need to be considered in protecting children's personal information include children's needs, transparency in data usage, minimum data usage, data exchange, location, parental control, behavioral engineering technology to help children behave appropriately, as well as media or children's games that are integrated in an integrated manner. online with the internet (Information Commissioner's Office, 2018). Then Article 6 of GDPR explains the processing of children's data, where the data is based on legal interests in personal data or information. Then in GDPR article 8 it is explained that the processing of children's personal data is legal in law if they are 16 years old. If you are under 16 years old, the processing of personal data is legal under the law if you have the consent of the person in charge of the child. In contrast to COPPA which is characterized by detailed and detailed regulations regarding the protection of personal/private data. COPPA was last revised in 2019 which revised the explanation regarding parental consent, information, requirements, and limitations of responsibility in the doctrine *safe harbor*. The United States Federation Trade Commission, which has revised COPPA, has succeeded in imposing a fine of 170 million dollars on Google and YouTube for violating and misusing children's privacy data.

In Indonesia, guarantees of special protection regarding children's personal/digital data are currently not regulated in writing or clearly in statutory regulations. Therefore, many crimes are committed carelessly by parties who do not want to be responsible for the use or misuse of children's personal data online for personal or collective interests, which can cause harm to child victims. Children, both mentally, physically and socially, are considered to lack the capacity to be independent. Therefore, previous generations have an obligation to guarantee, maintain and protect children's rights. These obligations must be fulfilled by the parties responsible for their maintenance, under the supervision and direction of the State concerned.

3.4. *Children's Privacy Protection Practices*

In social life children are considered immature in their growth and development and still need supervision and help from people old. Children are also easily attracted by strangers and they are also good at imitating without understanding whether it is a commendable action or not. Ignorance is the cause that causes children to take wrong steps or take the wrong path, fall into things that have a negative impact or impact for his future. Information about the child, including his or her identity, location, photos, audio recordings and other information about the child, included in the scope of protection of children's personal data. There is a risk of violation of children's rights when children's personal data is shared on social networks, a child can become victims of cybercrime.

This possibility arises because every child's activity and habit can be seen by many parties so that the child's personal data can be misused by irresponsible parties. This is the starting point for digital crimes against children, especially those targeting personal data. The general interpretation of the Child Protection Law explains that the state, society and families all have a responsibility to ensure that children Not yet have the necessary physical, psychological and social capacities and protect their interests children. every child has the right to freedom based on the law, so families and society have an obligation to protect children. In addition, the state and government are also obliged to respect the rights of children without discrimination.

3.5. *Recent Challenges and Changes*

Children are essentially the responsibility of their parents so that a child can be considered completely the property of his parents until he can make his own choices. In Indonesian laws and

regulations, Article 25 paragraphs 1 and 2 of the Personal Data Protection Law Number 27 of 2022 (PDP Law), clearly states that in paragraph (1), the processing of personal data is made specifically. In paragraph (2), regulations regarding the processing of children's personal data as intended in paragraph (1) must obtain the consent of the child's parents and/or guardians in accordance with the provisions of statutory regulations. (Law No. 27 of 2022 concerning Personal Data Protection).

However, the Personal Data Law does not explicitly regulate the protection of personal data, especially children. As a result, many parties are irresponsible in the use of children's personal information, especially in the use and misuse of children's confidential data in the digital world. Additionally, social media platforms do not protect children's personal information from being used without the child's or guardian's consent, and children's personal information may be used for activities that harm children. Children's photos, recordings, videos and hashtags are often shared by others or shared without the permission of the child, parent or guardian, and social networks do not yet have secure security systems to protect this information. In practice, national laws do not guarantee protection for the use of information the child.

The next problem that arises is parents who deliberately share pictures, videos or recordings of their children without thinking about the long-term impact on the child. On the other hand, parents have full access to their children and can take advantage of them without them realizing it. Therefore, social media platforms must have limits so that parents do not abuse them in providing their children's personal data.

4. Conclusions & Recommendations

The importance of children's personal data in the context of their development and future highlights the need for strong policies to protect such data from misuse and inappropriate responsibility. In addition to the government's role in developing appropriate regulations, cooperation with social media platforms is needed to regulate social media use involving children, with the aim of minimizing potential problems that may arise due to the distribution of children's personal data on these platforms. The impact of this discussion is an emphasis on the importance of privacy of children's personal data, as well as the need for greater attention to children's rights. While digital technology continues to develop, parental or guardian supervision is still necessary to create a safe digital environment for children. However, this discussion only covers these aspects. Therefore, our suggestion is to re-evaluate the Information and Electronic Transactions Law (UU ITE), especially in terms of protecting children's personal data. Considering the importance of children's rights that need to be protected, it is necessary to consider revising or changing the articles of the ITE Law relating to children's personal data if necessary.

There needs to be a review by the DPR and the President as soon as possible so that changes can be made to the Child Protection Law and/or the ITE Law by including a chapter that specifically regulates the protection/guaranteeing the protection of children including personal data and not forgetting to include criminal sanctions, fines. or compensation for misuse of children's personal data without the permission or consent of the child and parents/household guardians. Currently, the Ministry of Information and Communications and the Ministry of PPPA must ensure and develop general legal regulations regarding the protection and handling of violations of children's personal information on the Internet. Apart from that, training or education for parents is also considered necessary to protect children from the distribution or disclosure of personal data which could be misused by irresponsible parties. The role of the Ministry of Social Affairs is also believed to be necessary to ensure the recovery and rehabilitation of children who are victims and their personal data who have experienced abuse, because some of them may experience trauma, injury or even psychosocial disorders due to threats from the digital world.

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