

LAW ENFORCEMENT TOWARD CHILDREN AS VICTIMS OF PORNOGRAPHIC CRIMES WITHIN THE FAMILY SPHERE

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Abstract

This article aims to examine the extent to which legal enforcement mechanisms protect children who are victims of pornographic crimes within the family context. It highlights the gaps in current legal responses to intra-familial pornography-related offenses involving minors and proposes a child-sensitive legal model to address these challenges. Such offenses become particularly complex when they occur within the family structure, as they involve intricate power dynamics, emotional bonds, and legal relationships. The article analyzes the enforcement of laws concerning children as victims of pornography-related crimes within familial settings. This study employs a normative juridical method with a statute and case study approach. The findings reveal that, despite the existence of a robust legal framework, the enforcement of laws against perpetrators who disseminate pornographic content still faces significant challenges—ranging from legal and technological constraints to cultural attitudes within society. Accordingly, enhanced synergy among law enforcement agencies, state institutions, and civil society is crucial in fostering a safe and healthy digital environment, especially for children who are vulnerable to such crimes.

Keywords: Pornography, Law Enforcement, Children

Abstrak

Penulisan artikel ini bertujuan untuk mengetahui sejauh mana penegakan hukum terhadap menyoroti kesenjangan mekanisme penegakan hukum dalam kejahatan pornografi dalam rumah tangga yang melibatkan anak dan mengusulkan model hukum yang peka terhadap anak untuk mengatasinya. Kejahatan ini menjadi lebih kompleks jika terjadi dalam lingkup keluarga, karena menyangkut relasi kuasa, emosional, dan hukum yang erat. Artikel ini bertujuan untuk menganalisis penegakan hukum terhadap anak sebagai korban tindak pidana pornografi dalam lingkup keluarga. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan dan studi kasus. Hasil kajian menunjukkan bahwa meskipun telah terdapat dasar hukum yang cukup kuat, penegakan hukum terhadap pelaku penyebaran konten pornografi masih menghadapi berbagai tantangan, baik dari aspek hukum, teknologi, maupun budaya masyarakat. Oleh karena itu, sinergi antara aparat penegak hukum, lembaga negara, serta masyarakat sipil sangat diperlukan untuk menciptakan ruang digital yang aman dan sehat.

Kata Kunci: Pornografi, Penegakan Hukum, Anak

INTRODUCTION

The advancement of information and communication technologies has fundamentally transformed human interactions, transactions, and access to information. However, this progress has also brought about various negative consequences, one of which is the increasing prevalence of pornographic content dissemination via digital media. The widespread circulation of pornography not only violates societal moral norms but also poses a significant threat to public morality, particularly among younger generations. The internet, while offering numerous benefits, is frequently exploited for criminal activities, including the distribution of pornographic materials. As Adami Chazawi (Chazawi 2005) notes, one of the detrimental effects of internet usage is the ease with which individuals can disseminate pornographic content online.

The growing use of the internet not only facilitates the pursuit of legitimate interests but also leads to numerous harms. Cybercrimes have become rampant in Indonesia, including defamation, cyber network disruption (hacking), and the distribution of morally offensive materials such as pornographic images and videos. In the current Indonesian Penal Code (KUHP), the terms "pornografi" (pornography) and "pornoaksi" (pornographic acts) are no longer used to describe such behaviors, but are instead subsumed under the broader category of "crimes against morality" (*delik kesusilaan*). Generally, "pornography" refers to texts, images, or other materials that are sexually explicit or incite sexual arousal, while "pornoaksi" involves acts that violate moral decency or are sexually obscene. Consequently, both terms are considered integral components of moral crimes, as discussed by Atmadi (Atmadi 1985).

In Indonesia, criminal acts involving the dissemination of pornographic content are regulated under Law No. 1 of 2024, which amends Law No. 11 of 2008 concerning Electronic Information and Transactions, and Law No. 44 of 2008 on Pornography. Despite the existence of these legal foundations, the effectiveness of law enforcement remains a concern, particularly due to the evolving nature of technology, low levels of digital literacy among the public, and limitations in the capacity of law enforcement personnel.

Pornography and pornographic acts have profound negative effects on the behavioral development of young people, with children and women often being

both victims and, in some cases, perpetrators. Article 1, clause 1 of Law No. 44 of 2008 defines pornography as: "Pictures, sketches, illustrations, photographs, writings, sounds, voices, moving images, animations, cartoons, conversations, gestures, or other forms of messages delivered through various communication media or public performances that contain obscenity or sexual exploitation which contravenes moral norms in society."

Legal protections for children as victims of cyber-based pornography are further provided in Article 67B(1) of Law No. 35 of 2014, which amends Law No. 23 of 2002 on Child Protection. It states that: "Special protection for children who are victims of pornography, as referred to in Article 59(2)(f), shall be carried out through efforts in rehabilitation, assistance, as well as social, physical, and mental recovery." Additionally, children who fall victim to pornography are entitled to restitution. Article 71D of the same law stipulates: "Every child victim as referred to in Article 59(2) points b, d, f, h, i, and j shall have the right to seek restitution through a court process, which is the responsibility of the perpetrator."

Pornography thus emerges as a critical national issue in the era of globalization. Its pervasive development not only affects the social fabric of society but is increasingly normalized in the digital realm. Amid ongoing efforts to combat pornography-related crimes, debates have surfaced regarding the legislative framework, particularly following the enactment of Law No. 44 of 2008 on Pornography.

This study addresses the following research questions: (1) How is law enforcement implemented in cases where children are victims of pornographic crimes within the family? and (2) What are the challenges faced in enforcing laws in such contexts?. The primary objective of this research is to explore the conceptual and foundational principles of legal enforcement concerning children as victims of pornographic crimes within familial settings, and to identify the barriers to effective enforcement.

This research is vital as it provides in-depth insights into the legal protection of children as victims of pornographic crimes in the family domain. Such understanding is essential for developing alternative legal solutions, especially

considering how easily internet-based crimes can now be committed in an age of rapid technological advancement.

RESEARCH METHODS

This study employs a qualitative descriptive analysis method, aiming to systematically explain and elaborate on the core issues discussed in this article. The type of research applied is library research, which focuses on the systematic study of literature, including foundational texts, scholarly articles, and academic journals. These sources serve as the primary references for the core subject matter of this study, namely the enforcement of legal protections for children as victims of pornographic crimes within the family context (Marzuki 2013).

The data obtained from these sources were processed through an editing and classification stage, wherein the collected information was reviewed for relevance and accuracy, and then organized into thematic categories. Following this, the data were analyzed by correlating them with relevant legal theories and normative frameworks. This approach enables a comprehensive understanding of the research problem and allows the study to provide substantiated answers to the legal questions surrounding the enforcement of protection for children as victims of pornography within familial settings.

DISCUSSION/RESULTS AND DISCUSSION

Law Enforcement Toward Children as Victims of Pornographic Crimes Within the Family Context

The widespread and rapidly evolving dissemination of pornographic content presents an urgent challenge for law enforcement authorities. This calls for firm and consistent enforcement of the law, which, in its essence, refers to the implementation of legal norms by law enforcement officers and relevant actors in accordance with their respective jurisdictions and legal mandates. Criminal law enforcement is a comprehensive process that begins with investigation, arrest, and detention, proceeds through prosecution and trial, and culminates in the correctional treatment of convicted offenders (Djubaedah 2004).

In the digital era, the accessibility and pervasive use of the internet have significantly facilitated the circulation of pornographic materials. This technological convenience must be carefully considered by both the government and law enforcement institutions, given the legal implications it entails. Despite

the positive contributions of the internet, it also poses considerable risks to public welfare—one of which is the proliferation of pornographic offenses. Pornography, even prior to the internet age, was already a complex and controversial issue. The advent of the internet has only intensified its dissemination, making legal intervention even more pressing.

The Indonesian government has taken a definitive stance against the distribution of pornographic content, as articulated in its legal framework. Law No. 1 of 2024, which amends Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law), explicitly prohibits the electronic distribution of pornographic content. Article 27 paragraph (1) of the ITE Law stipulates: “Every person is prohibited from intentionally and without right distributing and/or transmitting and/or making accessible Electronic Information and/or Electronic Documents that contain content in violation of decency.”

The essential elements of this provision are as follows (Tampubolon 2003) :

- **Subjective Element: “Every person”** refers to any individual who is legally capable of bearing criminal responsibility. This includes any individual proven to have committed the crime of disseminating obscene or pornographic content.
- **“Intentionally”** implies deliberate intent and awareness of one’s actions and the resulting consequences. This element is intrinsically linked to a person’s mental attitude or *mens rea* regarding the prohibited act, particularly in relation to the offense outlined in Article 27(1) of the ITE Law.

Objective Element: “Without right” signifies an unlawful act. The phrase denotes conduct that lacks legal justification or authorization, which directly infringes upon the rights and privacy of others. In the context of criminal offenses, this element must be present to establish the unlawful nature of the act. It encompasses actions performed without the proper authority or entitlement and therefore constitutes a violation of legal norms. Furthermore, the prohibited acts under Article 27(1) are classified into three main categories:

1. **Distributing:** This refers to sending or sharing electronic information and/or documents containing obscene material to multiple recipients or audiences via electronic systems.
2. **Transmitting:** This refers to sending such information or documents to a specific individual or party through electronic means.
3. **Making Accessible:** This encompasses any act, other than distributing or transmitting, that enables electronic information and/or documents containing pornographic content to be accessed or discovered by other parties or the general public.

Law No. 1 of 2024, concerning the Second Amendment to Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law), does not stand alone in regulating digital pornography offenses. Rather, it complements existing legislative frameworks, particularly Law No. 44 of 2008 on Pornography and relevant provisions within the Indonesian Penal Code (KUHP) that address decency and obscene conduct.

In practice, the dissemination of pornographic content through electronic media manifests in various forms (Sunarso 2009), including:

- a) The circulation of obscene videos or images via social media, chat groups (such as WhatsApp or Telegram), and adult websites;
- b) Live-streaming pornographic acts for monetary gain;
- c) Distribution of content via anonymous accounts or platforms hosted on foreign servers;
- d) The use of technologies such as deepfakes to create false pornographic content, constituting digital sexual abuse.

This phenomenon positions digital pornography as a transnational cybercrime complex, borderless, and difficult to control (Winarni 2016). The legal process for prosecuting internet-based pornography offenses generally involves several key stages (Soekanto 2011) :

a. Investigation and Inquiry

Cybercrime units within the Indonesian National Police monitor digital activity, receive community reports, and trace perpetrators. However, this process frequently encounters obstacles such as:

- a) The use of anonymous or fake identities;
- b) Data storage or server locations based overseas;
- c) Difficulty in obtaining admissible electronic evidence.

b. Prosecution

Prosecutors are tasked with proving in court that the perpetrator has fulfilled the criminal elements stipulated in both Law No. 1 of 2024 and Law No. 44 of 2008. Nevertheless, many prosecutors report challenges related to the insufficiency or poor quality of digital evidence, particularly in cases lacking robust digital forensic support.

c. Judicial Decision

While some perpetrators have been successfully prosecuted and sentenced for disseminating pornographic content, others have received lenient sanctions—or have been acquitted—due to weak evidence concerning mens rea (intent) or the defendant's identity.

Children, as part of a vulnerable demographic, occupy a protected status within Indonesia's legal system. Article 59 of Law No. 35 of 2014 on Child Protection stipulates that the state, government, and civil society institutions are obligated to provide special protection to children who are victims of sexual exploitation and pornography. Legal protection extends beyond the imposition of criminal sanctions on perpetrators and encompasses the physical, psychological, and social recovery of child victims.

Pornographic crimes occurring within family settings differ significantly from other forms of sexual exploitation. Several complex factors impede effective law enforcement in such contexts (Fajaruddin 2014), including:

1. **Power and emotional relations:** Perpetrators are often parents, siblings, or relatives who hold authority or emotional bonds with the child, rendering disclosure extremely difficult.
2. **Social stigma and familial pressure:** Victims are often coerced into silence under the pretext of protecting the family's honor.
3. **Lack of witnesses and evidence:** The private nature of familial environments makes it challenging to obtain conventional forms of proof.

In cases where the perpetrator is a family member, enhanced sentencing applies in accordance with Article 82(4) of the Child Protection Law. Although Indonesia

currently lacks a comprehensive Family Law, family-related legal norms are dispersed across various statutes, including the Marriage Law, the Child Protection Law, and the Compilation of Islamic Law (KHI). Within this fragmented legal framework, family law can serve to:

- a) Revoke custody rights from the offending parent or guardian;
- b) Enable legal interventions in dysfunctional family settings;
- c) Mandate supervisory or rehabilitative measures within the household.

It is anticipated that the proposed Family Law Bill, currently under deliberation by the Indonesian House of Representatives (DPR RI), will introduce clearer mechanisms for safeguarding children involved in intra-familial legal conflicts.

Challenges in Law Enforcement for Child Victims of Pornographic Crimes within the Family Context

An ideal child protection system should be comprehensive and integrated, encompassing preventive, responsive, rehabilitative, and monitoring phases. The first stage (prevention) requires active participation from the state, society, schools, and families in educating children about their rights and the dangers of violence, exploitation, and mistreatment. Awareness campaigns and educational programs must be conducted systematically, using age-appropriate approaches across formal and informal platforms. Parents and educators should be equipped with child-friendly parenting skills and the ability to identify early signs of violence or developmental disturbances.

Upon detecting indications of child rights violations, the system must promptly shift to early detection and intervention. In this phase, community members and authorities such as teachers, neighborhood leaders (RT/RW), or health workers are expected to report suspected violations to relevant agencies such as P2TP2A (Integrated Service Center for the Empowerment of Women and Children), the Social Affairs Office, or the Indonesian Child Protection Commission (KPAI). Once a report is received, professionals (social workers, psychologists, and legal counselors) will intervene to ensure the child's safety and conduct a comprehensive needs assessment.

If it is established that the child is a victim of violence or other forms of abuse, the protection system enters the response and case management phase. At this stage, the prosecution of the perpetrator becomes a legal priority. Simultaneously, emergency protection measures (such as placement in a safe house) may be necessary. The child will also receive medical services, psychological support, and free legal aid. These services should ideally be integrated into a child-centered multidisciplinary system.

Once the child's condition stabilizes, a rehabilitation and reintegration process is implemented. This involves psychosocial therapy to aid trauma recovery, followed by assisted reintegration into their social environment whether at school or within the family. This process must be gradual and carefully monitored by social workers and relevant institutions. Additionally, family members or guardians should receive counseling to create a safe and supportive environment for the child's growth.

The final phase in an ideal child protection framework is continuous monitoring and evaluation. The government, along with independent bodies such as KPAI and the Ombudsman, should regularly assess child conditions, policy implementation, and the performance of service institutions. This ensures that child protection efforts are sustainable, not merely reactive, and adaptive to evolving social dynamics. Ultimately, a child protection system must prioritize the best interests of the child, with a preventive, responsive, rehabilitative, and participatory approach.

Key Challenges in Enforcing the Law for Child Victims of Pornographic Crimes within the Family

1. Complexity of Familial Relationships

One of the major obstacles in prosecuting intra-familial pornographic crimes is the fact that perpetrators are often parents, siblings, or other close relatives. The power dynamics and emotional dependencies within families can instill fear or confusion in victims, discouraging them from reporting the abuse. Moreover, other family members may conceal the offense to preserve the family's reputation. Consequently, legal

proceedings are often obstructed from the outset due to unreported or withdrawn complaints. (Siregar 2020)

2. **Limited or Difficult-to-Obtain Evidence**

Pornographic crimes within the family are typically conducted in secrecy and private settings. Technical challenges include the scarcity of external witnesses and the rapid deletion or concealment of pornographic content. These factors hinder law enforcement from securing digital evidence—such as images or videos—critical to prosecuting child pornography cases.

3. **Child Powerlessness within the Legal System**

Although laws exist to protect children, in practice, children are often not regarded as reliable witnesses. Victims frequently endure **revictimization**, being retraumatized by legal processes that are not child-sensitive.

4. **Weak Interagency Coordination**

Addressing child pornography within the family demands synergy among multiple stakeholders: police, prosecutors, the Witness and Victim Protection Agency (LPSK), KPAI, psychologists, and social workers. However, coordination gaps often result in victims being caught in bureaucratic deadlocks, compromising the effectiveness of their protection.

5. **Low Public Awareness and Education**

Many individuals, including family members, are unaware that exposing children to adult content constitutes **sexual violence**, and that remaining silent about intra-familial abuse is itself a legal violation. The cultural norm of "keeping family matters private" poses a significant barrier to legal enforcement in domestic settings (Mulyanti 2013).

6. **Insufficient Rehabilitation and Recovery Facilities**

Post-legal processes, victims require:

- a) Long-term psychological rehabilitation,
- b) Protection of their identity and placement in a safe environment,
- c) Family counseling or separation from the perpetrator, if necessary.

7. Unprepared Law Enforcement Personnel

Some investigators, prosecutors, or judges lack training in child protection principles. As a result, legal approaches often prioritize formal procedure over the victim's well-being and psychological recovery.

CONCLUSION

The enforcement of law in cases involving child victims of pornographic crimes within the family setting presents complex and multidimensional challenges. Although statutory frameworks such as the Child Protection Act, the Pornography Act, and the Electronic Information and Transactions Act (ITE Law) provide firm legal sanctions against perpetrators, the practical implementation remains fraught with significant obstacles. Key impediments include the close familial relationship between victim and perpetrator, societal stigma, the child's fear of reporting, evidentiary limitations, and a general lack of awareness and sensitivity among law enforcement personnel.

Accordingly, a holistic and child-sensitive legal approach is imperative—one that not only prioritizes the prosecution of offenders but also ensures the comprehensive protection and restoration of the victim's rights. The State must take proactive measures to strengthen inter-agency coordination, enhance the capacity of law enforcement and judicial actors, establish integrated rehabilitation centers, and expedite the ratification of a Family Law Act that provides a solid legal foundation for regulating familial relationships, ensuring protection, and enabling state intervention in dysfunctional family environments.

In realizing a child's right to life, growth, and development in a safe environment free from sexual exploitation, several strategic reforms are essential. Law enforcement agencies must be equipped with continuous training programs that cover child-friendly legal procedures, victim-sensitive interviewing techniques, and best practices in handling digital-based sexual violence cases within families.

Equally crucial is the establishment of integrated service centers for child victims of sexual violence, which offer coordinated and sustainable support across medical, psychological, legal, and social domains. Furthermore, institutional coordination must be intensified—both at the national and local levels—among

key stakeholders including the Indonesian Child Protection Commission (KPAI), the Witness and Victim Protection Agency (LPSK), the police, the prosecutor's office, the Ministry of Social Affairs, and child protection organizations, to ensure the delivery of maximum protection and the effective enforcement of legal mechanisms.

Only through such a comprehensive and rights-based framework can the legal system fully realize its duty to safeguard the best interests of the child and uphold their dignity in the face of intra-familial pornographic exploitation.

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