

Thread and Challenge of Juvenile Criminal Law in the Digital Era

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Abstract. The current digital era has penetrated various subjects and various aspects of life, including children. In Indonesia, children now freely explore the digital world and even their have own devices, such as hand phones and laptops. The digital world for children is indeed used to support education, but if it is not properly supervised, children can actually be involved in cybercrime. Cybercrime which often involves children is sexual violence such as online child exploitation, child grooming and so on. Because cybercrimes against children in this digital era are online or in other words do not actually occur, law enforcement will experience various challenges. Apart from that, threats to juvenile criminal law also occur when children frequently become perpetrators of criminal acts on an ongoing basis. Thus, it is important to carry out research related to "Threads and Challenges of Juvenile Criminal Law in the Digital Era". This research aims to describe the challenges and threats of juvenile criminal law in the digital era. Thus, it is hoped that this research will provide legal ideas for juvenile criminal law in Indonesia in facing legal challenges and threats in the digital era.

Keywords: Challenge, Juvenile Criminal Law, Digital, Thread.

1 Introduction

Children are believed and blessed by an All-powerful God who too has nobility and worth as total human beings. Children are the shoots, potential, and successors of the youthful era to the standards of the nation's battle, have a vital part and uncommon characteristics that ensure the proceeded presence of the country and state within the future.[1] Children are raised in an era of quickly evolving science and technology, from TVs to smartphones, desktops, and other electronic touchscreen tablets with a variety of applications. The "Alpha Age" relates to a group of youngsters who grew up in the technical or digital era and are considerably different from earlier generations. They concentrate nearly all of their spare moment working with technological devices.[2] This can be seen in Figure 1 below:

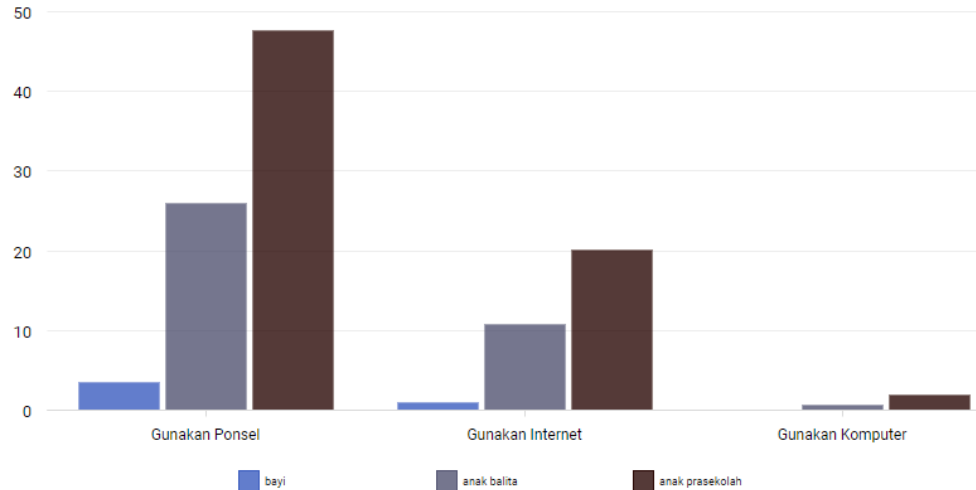


Fig 1. Percentage of Information Technology Use in Early Childhood (2020) [3]

According to Figure 1, upwards of 29% of preschoolers throughout Indonesia utilized mobile phones in the previous three months of 2020. In particular, newborns below accounted for 3.5%, babies 1-4 years old accounted for 25.9%, and preschool-age kids 5-6 years old accounted for 47.7%. Furthermore, up to 12% of youngsters this age use the internet. Preschool children had the highest proportion (20.1%), followed by toddlers (10.7%) and newborns (0.9%). Meanwhile, over the same time span, barely 0-1% of kids under the age of utilized computers.[4] Then more specific data regarding the age of children who use the internet can be seen in Figure 2 below:

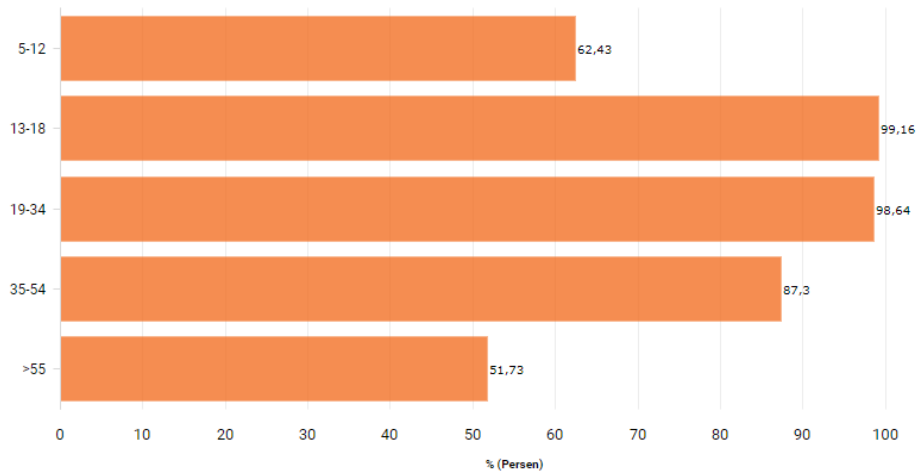


Figure 2. Internet Penetration in Indonesia Based on Age (2022) [5]

Figure 2 shows statistics collected by the Indonesian Organization for Internet Service Companies or APJII which recently released the "2022 Internet User Profile" report. Within the report, APJII uncovered that Indonesia's web infiltration will reach 77.02% in 2021-2022. Based on age, the highest internet infiltration is within the 13-18 long time age bunch. Nearly all (99.16%) of this age gather are associated to the web. Children matured 5-12 a long time have web infiltration of 62.43%. The age gathers 55 a long time and over has the most reduced entrance with 51,73%. [6] The data above shows that children have played a role in development in the digital era. This cannot be separated from the need for technology in the digital era in the development of children's growth and development in various aspects.

Utilizing the web by means of contraptions does have a positive effect on children's considering designs, specifically making a difference in children control their playing speed, creating methodologies in diversions, and offering assistance in progressing children's right brain capacities. But behind these preferences can also have a negative affect on children's advancement capacities. [7] The tall infiltration of web clients opens up openings for the development of internet-based wrongdoings within the advanced period. Children are more at chance of getting to be culprits or casualties of crimes on the web within the computerized time. [8] Almost uncontrolled use of the internet causes various crimes or what is called cybercrime. [9] There are types of cybercrime that often involve children, such as sexual exploitation, cyberbullying, child grooming, sextortion, sexting, cyber pornography, and so on. [10] The existence of various crimes in the digital era involving children has become a threat to the enforcement of juvenile criminal law in Indonesia. This is because children can easily become victims and even perpetrators of various types of cybercrime. So, the criminal law for children must be able to accommodate it as fairly as possible.

The existence of various crimes in the digital era is not only a threat, but also a challenge in juvenile criminal law. As is known, juvenile criminal law is based on Regulation 11 in 2012 regarding the Mechanism of Juvenile Criminal Justice (SPPA Law). [11] It can be said that these regulations have been in place for quite some time, namely before the internet and technology

dominated children as they do today. Meanwhile, when cybercrime occurs, people currently tend to use Indonesia Regulation 19 in 2016 regarding revision of Regulation 11 in 2008 Regarding Electronic Communication and Information (ITE Law).[12] Thus, challenges arise for the SPPA Law in enforcing cybercrime involving children in the digital era. So, there is a need for research related to analyzing the threats and challenges of criminal law for children in the digital era. This research aims to describe the challenges and threats of juvenile criminal law in the digital era. Thus, it is hoped that this research will provide legal ideas for juvenile criminal law in Indonesia in facing legal challenges and threats in the digital era.

This investigate is regulating legitimate inquire about utilizing writing ponder. The sort of information utilized in this inquire about is auxiliary information, which was obtained through a list of literature related to the research. The type of legal material (source) is the legal library used as a reference for writing in this research, which is obtained from primary legal materials that have binding force in society, such as constitutions, laws, government regulations, and so on. The data collection tool used to conduct research is the use of document study of provisions related to research. The data analysis method used is qualitative, this research can be approached from two angles, namely the statutory approach and the conceptual approach.

2 Discussion

2.1 Threats of Juvenile Criminal Law in The Digital Era

The digital era is a period where the majority of people use digital systems in their daily lives. The development of digital technology is beginning characteristic of digital era. The digital era now become a part of people's lives, especially the younger generation, indeed change life patterns. Including learning patterns and information dissemination patterns using cellphones or computers on an internet basis.[13]

Basically, the existence of technology has a positive impact on children, such as the easier of learning method, developing problem-solving skills, and developing skills to lead technology in the future.[14] However, apart from these positive impacts, there are also negative impacts from the use of technology for children, such as: causing addiction, decreasing face-to-face interactions, vulnerable to wrong/incorrect information, involved in or becoming victims of crime, decreasing ethics, decreasing intellectual intelligence, and the emergence of various health problems.[15] Regarding the impact of children being involved in or becoming victims of crime, this is because in the digital era tend to utilize technology, where various new types of crime have also emerged in the digital era. The types of cybercrime that often involve children include sexual exploitation, cyberbullying, child grooming, sextortion, sexting, and cyber pornography.[16] These types of crimes will be explained in Table 1 below:

Table 1. Types of Cybercrime Involving Children

No	Types of Cybercrime	Explanation of Involvement with Children
1.	Online Sexual Exploitation	Sexual exploitation of children has increased by using online systems. Judging from its definition, online child sexual exploitation is a form of child sexual exploitation which can take the form of pressure, or manipulation as the creation or production of content containing sexual content for children to utilize network or internet facilities. In cases of online child sexual exploitation, the most important thing is the use of the Internet as a facility for the continuation of sexual exploitation of children. This means that Internet Sexual Exploitation can take the form of enticement, unlawful solicitation, or illegally exposing minors to sexual behavior. The terminology or terms regarding "Sexual assault of kids on the internet" is an expansion of the term "child sexual exploitation." [17] Currently in the grip of the Covid-19 era, dozens of children have become victims of online sexual exploitation. [18]
2.	Cyberbullying	Cyberbullying is a term used when a child or teenager receives unpleasant treatment such as being insulted, threatened, humiliated, tortured, or becomes a target for bullying by other children or teenagers using Internet technology, interactive digital technology or mobile technology. If adults get involved, it is no longer called cyberbullying but is called cyber harassment or cyber stalking. Cyberbullying is usually not just a one-time communication but occurs repeatedly, unless it is a death threat or a serious threat to someone's safety. There are 3 types of cyberbullying methods, namely direct attacks (messages sent directly to children), posted and public attacks which are designed to embarrass the target by posting or distributing embarrassing information or images to the public, and cyberbullying by proxy (using other people to help harass the victim, whether with the other person's knowledge or not). [19]
3.	Child Grooming	Child grooming is the process of approaching children with the aim of persuading them to be willing to engage in sexual activity. Perpetrators use a variety of techniques to access and control victims. This process requires access, time, and the perpetrator's interpersonal skills. If child grooming is done well, the victim will unconsciously 'cooperate' easily with the perpetrator. The more skilled the perpetrator is in selecting and seducing vulnerable victims, the more successful child grooming is carried out. The perpetrator's skills include how to choose victims, identifying and knowing the victim's needs, the time needed for the perpetrator to approach the victim, seducing and controlling the victim. In carrying out their actions, child grooming perpetrators often use online game applications to get victims who are still underage. [20]

4.	Sexting	Sexting is a form of online sexual interaction. This interaction is carried out by the child intensely sending sexually explicit messages or images that show the sexual side of himself. The images or videos sent can include displays (semi-nude), erotic, and/or sexual activity and are usually shared with girlfriends or close friends. Sexting refers to the act of sending or receiving sexual images, photos, messages, and videos via cell phone or other electronic media. Sexting can have several negative impacts on children, one of which is that it can cause sexual misconduct.[21]
5.	Sextortion	Sextortion is defined as the abuse of power to gain sexual advantage. Generally, this is requested by extortionists as a reward for the public service process targeting the health sector as well as the education sector which occurs at almost all levels of education. Sextortion is also called blackmailing a child with the help of images of that person (made by themselves) in exchange for sex, money or other benefits from that person under the threat of distributing the material without the consent of the person depicted (for example sending images on social media).[22] The impact of sextortion will trap the victim in prolonged psychological pressure. Victims will excessively worry and be traumatized. Apart from that, there is a perception that the victim is blaming which makes the victim lose trust in the surrounding environment. So, what happens is that instead of reporting, they choose to remain silent, keeping to themselves haunted by various kinds of fears and worries. It doesn't stop there, the possibility of revictimization (being a victim repeatedly) will really make the victim feel endless fear. If sextortion occurs, it should not be the victim who is blamed but the focus should be on the abuser's actions.[23]
6.	Cyber Pornography	Cyberpornography is a criminal act that is included in pornography crimes that occur on online networks or cyberspace, cyber activities that can be said to be criminal acts. In other words, cyberpornography is the activity of loading, accessing, abusing and disseminating pornographic content. Cyberpornography crimes that often occur are the distribution of pornographic videos, participation in pornographic groups, then the process of establishing communication with children via the internet with the aim of luring, manipulating or inciting the child to engage in sexual activity.[24]

According to Table 1, one of the consequences from the digital era is the emergence of threats to children. This is because technological developments in the digital era have given rise to various new types of crimes with technological aspects. This new type of crime has involved children as perpetrators and as victims as described in Table 1. There are various crime cases in the digital era that have involved children, such as cases of sexual exploitation of children in 2021.

Police have detained 75 persons on an online bribery scam employing on MiChat program, involving 18 minor girls, at two hotels in West Jakarta. Two pimps duped, charmed, and lured the females with money with the intent of selling to other philanderers for their own benefit. According to Yusri Yunus, Head of Public Relations of Polda Metro Jaya Kombes, the mode of crime began via a MiChat app account used by both of the smugglers for offering clients for philanderers as a charge in 300,000 to 500,000 Rupiah. In addition, smugglers benefit as much as ten percent on every deal, while the traffickers receive an

amount from fifty thousand to a hundred thousand Rupiah, whereas the remaining amount is provided to the subject in exchange for prostitutes.[25]

Cases of online pornography against children also occurred in March 2023. The National Police Law Enforcement Agency's (Bareskrim) of Department of Digital Crime (Ditpid Siber) arrested three perpetrators of criminal acts of pornography against children in a number of areas on the island of Java. The three suspects arrested had the initials JA (28), FR (26), FH (24). The three suspects committed criminal acts, namely distributing content that violates decency and/or producing pornography electronically and/or the offense of juvenile assault sexually. The perpetrators sold child pornography and not perpetrators of child sexual abuse. The suspect allegedly made a profit of approximately IDR 5 million by selling pornographic content. [26]

Aside from that, cyberbullying incidences occur frequently in Indonesia. According to the findings of a study conducted on 3,077 middle and high school students aged 13-18 in 34 Indonesian provinces by the Center for Digital Society (CfDS) in August 2021 titled Teenager-Related Cyberbullying Case in Indonesia. According to the findings, 1,895 students (45.35%) confessed to being sufferers, whereas 1,182 students (38.41%) admitted to being perpetrators. WhatsApp, Instagram, and Facebook are frequently used platforms for cyberbullying incidents. [27] These cases are just a few examples of various other crime cases in this digital era involving children. This has become a threat in Indonesian juvenile criminal law to enforce laws that are as fair as possible.

2.2 Challenges of Juvenile Criminal Law in the Digital Era

The existence of various crimes in the digital era is not only a threat, but also a challenge in juvenile criminal law. As is known, juvenile criminal law is based on the SPPA Law. It can be said that these regulations have been in place for quite some time, namely before the internet and technology dominated children as they do today. Apart from that, as far as its development goes, the SPPA Law still has several weaknesses. For example, the supporting regulations for the SPPA Law have not yet been completed. Based on the SPPA Law, the Government is required to produce six materials in the form of Government Regulations and two materials in the form of Presidential Regulations. However, until now not all supporting regulations are available. The Indonesian government has recently completed the main content of the Government's Enforcement (PP No. 65 of 2015 regarding Instructions over Applying Diversion and Dealing with Youth below a certain age of twelve years old) and the Presidential Rules regarding Instruction over Law Enforcement Authorities (The Regulation of President of the Republic of Indonesia No. 175 of 2014 regarding Integrating Training and Education to Legal Enforcement and Associated Parties Concerning Juvenile Criminology). The supporting regulations for the SPPA Law that are not yet available can be seen in Table 2 below. [28]

Table 2. Supporting Regulations for the SPPA Law

No	Article in the SPPA Law	Supporting Regulations	Status
1.	Articles 15	Government regulations regarding guidelines for implementing the diversion process, procedures and coordination for the implementation of diversion.	Available
2.	Articles 21 (6)	Official legislation governing decision-making standards and methods, along with academic instruction, and mentoring activities, apply if a child below a certain age of twelve commits or is suspected of conducting an illegal act.	Available
3.	Articles 25 (2)	Government regulations regarding guidelines for registering cases of children and child victims	Not Available
4.	Articles 71 (5)	Government regulations regarding the form and procedures for criminal penalties.	Not Available
5.	Articles 82 (4)	Government regulations regarding actions that can be imposed on children.	Not Available
6.	Articles 94 (4)	Government regulations regarding procedures for implementing coordination, monitoring, evaluation and reporting.	Not Available
7.	Articles 90 (2)	Presidential regulation regarding the implementation of the rights of child victims and child witnesses.	Not Available
8.	Articles 92 (4)	Presidential regulation regarding the implementation of education and training for law enforcers and related parties in an integrated manner.	Available

Apart from the implementation of implementing regulations which are not yet optimal, one of the problems is worrying the minimum number of new institutions to replace places where children are arrested and detained. Until now, LPAS and LPKS are not widely available throughout Indonesia. Only a few regions at the provincial level are starting to have LPAS. However, the condition of LPAS is almost the same, so there are not many LPKS in every district. As a result, law enforcement officers are often confused about where the child in question will be placed.[29] Meanwhile, the number of children imprisoned tends to increase every year.

The spirit of the SPPA Law to give second chances to youth who have run afoul of regulations has not been realized. The fact, up to now thousands of children have been detained, tried and imprisoned because of various cases. As data from the Institute for Criminal Justice Reform (ICJR) states, as many as 1,518 children were imprisoned in Special Children's Placement Institutions (LPKA) as of June 2021 since the previous year. This data has increased since as of July 2020, ICJR recorded that 1,211 children were imprisoned.[30] This clearly contradicts the SPPA Law's goal of diversion restorative justice, which is not to inflict criminal sanctions on children who have committed criminal offenses, but rather to guide children.[31]

As if the SPPA Law as the front guard in the juvenile criminal justice system were not enough, other challenges also arise from the ITE Regulation. This is because when cybercrime occurs, they tend to use the ITE Regulation, but it becomes to be so implementation law and the provisions of the ITE Regulation still have pros and cons. One of the weaknesses in the ITE Regulation is that the ITE Regulation does not provide an explanation of what is meant by "violating morality" in Article 27 (1).[32] Then, in relation to defamation via ITE facilities, Article 27 (3) does not distinguish between aggravating factors and mitigating factors. As a result, the possibility of criminal prosecution does not apply to all instances of contempt.[33] In the ITE Law, since it was first passed in 2008 until now it is still in effect, apparently there are still several things that need to be reviewed and revised.[34] Thus, the existence of these various weaknesses will become a challenge for law enforcement officials in resolving problems involving children who have disputes with regulations in the age of digital devices.

The Indonesian Internet User Services Association (APJI) revealed the results of its survey of child internet users. Survey results show that 76.4% of children are unsafe on the internet. This is because the internet or information technology is a potential instrument in criminal acts. This shows the need to immediately improve the legal sector in the field of protecting children as victims of cybercrime in Indonesia. Regarding this phenomenon, it is necessary to formulate a criminal law policy as an effort to protect against the development of the use of cyber media, requiring a very in-depth study, regarding philosophical, juridical, sociological, and so on aspects. Information technology is now very strategic and has a broad impact on human life activities, therefore the protection of child victims of cybercrime must be a serious concern for the government, with appropriate measures to protect children from cybercrime. [35]

3 Conclusions

In the digital era, children tend to take advantage of technology, which means that various new types of crime also emerge in the digital era. The types of crimes in the digital era that often involve children are sexual exploitation, cyberbullying, child grooming, sextortion, sexting and cyber pornography. These crimes are just a few examples of various other crimes in the digital era involving children. This has become a threat in Indonesian juvenile criminal law to enforce laws that are as fair as possible. The existence of various crimes in the digital era is not only a threat, but also a challenge in juvenile criminal law. This is because the legal basis for handling crime cases in the digital era involving children is the SPPA Law and the ITE Law, while these two regulations have several weaknesses in their implementation. So, it is necessary to formulate criminal law policies as an effort to protect children from developments in the use of technology in the digital era.

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