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By Universitas Muhammadiyah Sidoarjo

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Criminal Accountability for Perpetrators of Distributing Child Pornography Content on Social Media

Rohatul Maliha, rohatlmaliha.0909@gmail.com (*)

Program Pascasarjana, Magister Hukum, Universitas Islam Malang, Indonesia

Rahmatul Hidayati, rahmatulhidayati@unisma.ac.id

Program Pascasarjana, Magister Hukum, Universitas Islam Malang, Indonesia

Budi Parmono, budiparmono67@gmail.com

Program Pascasarjana, Magister Hukum, Universitas Islam Malang, Indonesia

(*) Corresponding author

Abstract

General Background: The rapid development of information and communication technology has facilitated the spread of criminal activities in digital environments, including the distribution of child pornography on social media platforms. **Specific Background:** Children, as rights-bearing legal subjects requiring special protection, are increasingly exposed to sexual exploitation within open and anonymous online spaces, raising significant legal concerns in Indonesia. **Knowledge Gap:** Although multiple legal instruments regulate this crime, there remains limited clarity regarding the practical implementation and coordination of these regulations in addressing accountability. **Aims:** This study aims to analyze the existing legal frameworks and examine the forms of criminal accountability for perpetrators distributing child pornography content on social media. **Results:** Using a normative juridical method with statutory and conceptual approaches, the findings indicate that Indonesia's legal provisions are normatively comprehensive and have been strengthened through various laws and regulations; however, enforcement faces persistent challenges, including difficulties in digital evidence collection, perpetrator tracking, and inter-agency coordination. **Novelty:** The study provides an integrated examination of multiple legal instruments alongside practical enforcement barriers in the digital context. **Implications:** Strengthening law enforcement capacity and improving regulatory synergy are necessary to ensure effective and just child protection in digital spaces.

Highlights:

- Legal provisions addressing the issue are comprehensive and increasingly reinforced.
- Practical challenges arise in evidence handling, perpetrator identification, and institutional coordination.
- Strengthened enforcement capacity and regulatory alignment are required for improved child protection.

Keywords: Criminal Accountability, Child Pornography, Social Media.

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Introduction

The development of information and communication technology has brought about significant changes in societal interaction patterns. Social media not only functions as a communication tool and an information exchange platform, but also as a new space for the emergence of various forms of crimes, including sexual offenses against children [1]. One of the increasingly concerning forms of crime is the spread of child pornography content through social media. This phenomenon has serious consequences as it not only violates legal and moral norms, but also threatens the fundamental rights of children as legal subjects who are entitled to special protection from the state [2].

In legal terms, children are positioned as individuals who have not yet achieved physical and psychological maturity, making them vulnerable to various forms of exploitation, including sexual exploitation in the digital space. The distribution of child pornography content not only causes psychological suffering for the victims but also has the potential to lead to repeated victimization due to the nature of digital content, which can be easily copied, disseminated, and is difficult to permanently delete [3]. This situation is further aggravated by the anonymous and cross-border nature of social media, making it difficult to monitor and enforce the law [4].

In Indonesia's legal system, the state has established various legal instruments to punish those responsible for distributing child pornography content. Law Number 44 of 2008 on Pornography explicitly prohibits any form of production and distribution of pornography involving children [5]. This provision is reinforced by Law Number 35 of 2014 on Child Protection, which affirms that sexual exploitation of children is a serious crime. Additionally, Law Number 19 of 2016 on Electronic Information and Transactions provides the legal basis for taking action against the spread of pornography content via electronic media.

With the increase in sexual crimes in the digital space, the state also enacted Law Number 12 of 2022 on Sexual Violence Crimes as an effort to strengthen legal protection for victims, including children. Furthermore, the issuance of Government Regulation Number 17 of 2025 on the Governance of Electronic Systems in Child Protection emphasizes the responsibility of electronic system providers to create a safe digital space for children [6]. However, in practice, the effectiveness of these regulations still faces various challenges, particularly in the aspects of law enforcement and supervision of digital platforms [7].

This issue highlights the gap between the comprehensively established legal norms and the realities of law enforcement on the ground. Obstacles in digital evidence presentation, limitations in tracking perpetrators' identities, and weak coordination among law enforcement agencies have resulted in the failure to fully optimize criminal accountability for perpetrators. This situation underscores the need for stronger regulations to be coupled with an increase in the capacity of law enforcement agencies so that child protection in the digital space can be effectively and justly realized.

Method

This type of research uses a normative juridical method, which is a research method This research employs a normative juridical approach, a legal research method that focuses on the study of written legal norms and legal doctrines related to the criminal accountability of perpetrators distributing child pornography content on social media. This method was chosen because the issue being examined is normative, pertaining to the regulation of positive law and the construction of criminal responsibility within the Indonesian legal system [8]. The main focus of the research is directed at the analysis of the relevant legal provisions, criminal law principles, and child protection principles within the context of cybercrime. This normative juridical research aims to examine to what extent the existing legal regulations provide a solid basis for the effective criminal accountability of perpetrators distributing child pornography content via social media. Additionally, the research seeks to assess the consistency and synchronization of the various laws regulating child pornography crimes, particularly in the face of the dynamic development of information technology [9].

The approach used in this research includes the statute approach, conceptual approach, and case approach. The statute approach is used to examine the relevant legal provisions, including Law Number 44 of 2008 on Pornography, Law Number 35 of 2014 on Child Protection, Law Number 19 of 2016 on Information and Electronic Transactions, Law Number 12 of 2022 on Sexual Violence Crimes, and Government Regulation Number 17 of 2025 on the Governance of Electronic Systems in Child Protection. The conceptual approach is employed to understand the concepts of criminal accountability, child protection, and cybercrime from a criminal law perspective [10]. Meanwhile, the case approach is used to analyze court decisions related to the criminal act of distributing child pornography content on social media.

The object of study in this research includes the legal norms regulating child pornography crimes, criminal law doctrines, and the practice of law enforcement through court decisions. The primary legal materials consist of regulations and court rulings, while secondary legal materials include law textbooks, scholarly journals, and previous research findings. Tertiary legal materials include legal dictionaries and legal encyclopedias [11]. Although this research does not use an empirical approach, the social aspects and technological developments are considered the context for understanding the characteristics of child pornography crimes on social media. This is important to ensure that the normative analysis remains relevant to the legal realities and challenges of law enforcement in the digital age [12]. Through this normative juridical approach, this research is expected to provide a systematic and prescriptive analysis of the criminal responsibility of perpetrators distributing child pornography content on social media. The results of this research are expected to serve as an academic reference and provide consideration for policymakers and law enforcement officials in strengthening child protection in the digital space [13].

Results and Discussion

A. Legal Framework and Criminal Accountability Construction for Perpetrators of Child Pornography Distribution on Social Media

The legal framework regarding the criminal responsibility of perpetrators distributing child pornography content on social media within the Indonesian legal system is built through a series of sectoral and complementary legal instruments. Normatively, the state positions child pornography crimes as a serious violation of children's human rights, which demands special protection. This is reflected in Law Number 44 of 2008 on Pornography, which explicitly prohibits any form of production, distribution, and dissemination of pornography involving children. This prohibition is not only repressive but also reflects the moral and legal political stance of the state in protecting the dignity of children [14]. This provision is further strengthened by Law Number 35 of 2014 on Child Protection, which affirms that sexual exploitation of children, including through digital media, constitutes a criminal offense that threatens the best interests of the child. In the context of cyberspace, Law Number 19 of 2016 on Information and Electronic Transactions provides the legal basis for prosecuting the distribution of child pornography content through electronic systems [15]. Thus, the normative construction of Indonesia's criminal law shows an expansion of the locus delicti into the digital space, without undermining the fundamental principles of criminal law [16].

From the perspective of criminal accountability, perpetrators of child pornography content distribution can be held accountable as long as the elements of unlawful conduct, fault (either in the form of intent or negligence), and the capacity for responsibility are fulfilled. In this case, social media is positioned as a means or tool for the crime (*instrumentum delicti*), while the focus of responsibility remains directed at the legal subject who knowingly distributes or facilitates the spread of such content. This construction aligns with the principle of *geen straf zonder schuld*, which emphasizes that punishment can only be imposed when the perpetrator is at fault [17]. A recent development in criminal law politics is the enactment of Law Number 12 of 2022 on Sexual Violence Crimes (UU TPKS). This law expands the paradigm of legal protection by positioning child sexual exploitation as a violation of human dignity, rather than merely a violation of decency [18]. This approach reinforces a victim-centered perspective in criminal law and strengthens the normative legitimacy of criminal accountability for perpetrators distributing child pornography content on social media [19].

Table 1. Legal Framework and Criminal Accountability Construction for Perpetrators of Child Pornography Distribution on Social Media

Aspect	Legal Basis	Regulation Substance	Relevance to Criminal Accountability
Prohibition of Child Pornography	Law No. 44 of 2008	Prohibits the production, distribution, and dissemination of child pornography	Provides the basis for criminalizing the act
Child Protection	Law No. 35 of 2014	Sexual exploitation of children as a serious crime	Strengthens the position of the child as a victim
Electronic Media	Law No. 19 of 2016	Distribution of prohibited content through electronic systems	Addresses crimes on social media
Sexual Violence	Law No. 12 of 2022	Sexual exploitation as a violation of human dignity	A victim-centered approach in criminal law
Element of Fault	Criminal Law Principles	Perpetrator's intent or negligence	Determines whether the perpetrator can be punished

Thus, normatively, Indonesia's criminal law framework has established a relatively comprehensive construction of criminal accountability for perpetrators of child pornography content distribution on social media. The challenge moving forward lies not in the absence of norms, but in the consistency of enforcement and the synchronization of regulations, so that criminal law can truly function as an instrument for protecting children in the digital space [20].

B. The Distribution of Child Pornography Content in Digital Communities: The "Incest Fantasy" Phenomenon on Social Media

Although the legal framework has been relatively comprehensively established normatively, law enforcement against the crime of distributing child pornography content on social media still faces various structural, institutional, and technological challenges. The complexity of cybercrime means that the presence of strong legal norms does not always correlate with the effectiveness of their implementation in the field. In this context, the digital space presents unique characteristics that require a different approach to law enforcement compared to conventional crimes. One of the main challenges lies in the aspect of digital evidence. Child pornography crimes on social media are often carried out through anonymous accounts, false identities, virtual private networks (VPNs), and the use of cross-jurisdictional platforms with servers located outside of Indonesia's legal territory. This situation makes it difficult for law enforcement to trace the identity of the perpetrators accurately and link them to the criminal acts committed.

Proving cybercrimes requires electronic evidence that is legally valid and can be accounted for in court, while Indonesia's

criminal procedural law is still fundamentally rooted in conventional proof paradigms [4]. As a result, it is not uncommon for there to be difficulties in establishing a causal relationship between the legal subject and the act of distributing child pornography content. In addition to the technical difficulties in evidence, law enforcement challenges also arise from the disharmony in the application of regulations. The existence of various laws regulating similar aspects, such as the Law on Pornography, the Law on Information and Electronic Transactions, the Law on Child Protection, and the Law on Sexual Violence Crimes, creates room for different interpretations of criminal elements among law enforcement officers. These differences may relate to the determination of the articles used, the construction of the crime, and the identification of the responsible legal subject. This situation could lead to legal uncertainty and weaken the consistency of criminal law enforcement against perpetrators.

The next challenge concerns the limitations in human resources and law enforcement infrastructure. Handling child pornography crimes in the digital space requires specialized competence in information technology, digital forensics, and a deep understanding of cybercrime patterns. However, not all law enforcement officers possess the technical capacity to handle these cases. The limitations in digital forensic laboratory facilities, the lack of continuous training, and the technological access disparities between urban centers and rural areas further undermine the effectiveness of law enforcement (Putri, 2024). In the context of child protection, this situation is problematic because the state has a constitutional obligation to provide maximum protection for children as a vulnerable group.

In addition, law enforcement against child pornography on social media also faces the issue of cross-border jurisdiction. Digital crimes are transnational in nature, meaning that perpetrators, victims, and electronic system providers are often located in different legal jurisdictions. One phenomenon that complicates the enforcement of laws against the spread of child pornography content on social media is the emergence of closed online communities that systematically normalize and facilitate deviant sexual fantasies, including what is known as “incest fantasy.” These communities generally operate through closed groups on social media platforms such as Facebook, Telegram, or other instant messaging apps, with membership mechanisms based on invitations and trust among members. This pattern makes the community relatively difficult to detect, both by law enforcement authorities and by the content moderation systems of digital platforms.

In practice, “incest fantasy” communities do not merely serve as spaces for imaginary discourse; they have evolved into mediums for distributing child pornography content. The dissemination of videos, images, or sexual narratives exploiting familial relationships is often cloaked under the guise of freedom of expression or simply fantasy. However, when such content involves visual or audio representations of children—whether real or digitally manipulated—these actions fulfill the elements of child pornography offenses as regulated in Law No. 44 of 2008 on Pornography and Law No. 35 of 2014 on Child Protection. To understand this phenomenon systematically, the dynamics of “incest fantasy” communities can be analyzed through the digital crime process flow as presented in the following contingency table.

Table 2. Analytical Framework of "Incest Fantasy" Communities in the Distribution of Child Pornography on Social Media

Stage Process	Factual Phenomenon	Legal Implications	Law Enforcement Obstacles
Community Formation	Closed groups based on invitations and trust	Does not yet meet the elements of a crime	Difficult to detect from the outset
Fantasy Normalization	Incest fantasies are considered acceptable	Efforts to obscure the boundaries of criminal acts	Criminal elements not clearly visible
Content Distribution	Distribution of child pornography videos/images	Meets the elements of child pornography	Identifying the main perpetrator
Digital Anonymity	Fake accounts, VPNs, temporary messages	Makes it difficult to prove fault	Digital traces disappear quickly
Administrator's Role	Allowing or facilitating content	Complicit in criminal acts	Proof of administrator's mens rea
Weak Moderation	Moderation based on user reports	Does not align with the TUNAS Regulation	Content circulates for a long time
Repeated Victimization	Content copied and redistributed	Ongoing violations	Victim protection not optimal

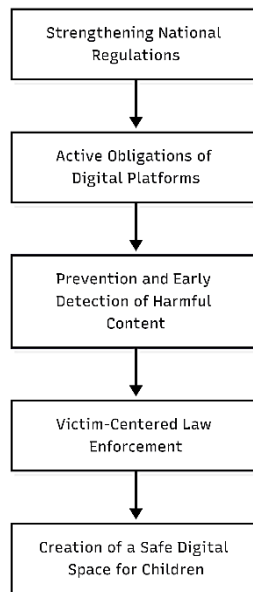
Each stage demonstrates the causal relationship between digital social dynamics, legal implications, and the concrete barriers to law enforcement. This analysis reveals that child pornography crimes in the digital space are not incidental but occur as a systematic socio-technological process. Therefore, law enforcement cannot merely focus on repressive measures after the crime has occurred; it must be directed from the early stages of community formation through active monitoring of digital platforms, as mandated in Government Regulation Number 17 of 2025 on the Governance of Electronic Systems in Child Protection (PP TUNAS). Thus, the existence of “incest fantasy” communities underscores that the challenges of law enforcement in the digital space stem not only from technical and legal aspects but also from the formation of online subcultures that normalize child sexual exploitation. This situation reinforces the urgency of a comprehensive, integrative legal approach focused on child protection as the paramount interest that must be guaranteed by the state.

C. Strengthening Child Protection and the Future Direction of Legal Policy

The development of national law reflects a shift in the paradigm of criminal law policy in protecting children from digital-based sexual crimes. While child protection previously focused on a repressive approach through the criminalization of offenders, the current direction of Indonesian legal policy is moving toward a more comprehensive and preventive approach. This shift is a response to the characteristics of digital crimes, which are rapid, massive, anonymous, and cross-border, thus making them difficult to effectively address solely through conventional law enforcement mechanisms. This change in policy direction is clearly reflected in the issuance of Government Regulation Number 17 of 2025 on the Governance of Electronic Systems in Child Protection (PP TUNAS). This regulation emphasizes the responsibility of the state and electronic system providers in creating a safe digital space for children. PP TUNAS shifts the role of digital platforms from being merely neutral intermediaries to legal subjects with an active obligation to prevent, detect, and address content involving child sexual exploitation. This approach demonstrates the adaptive development of national legal politics in response to the realities of cybercrime [2].

Furthermore, the future direction of legal policy is also influenced by the implementation of the National Criminal Code (KUHP) based on Law Number 1 of 2023, which will become effective in 2026 [21]. The National Criminal Code introduces a new paradigm for Indonesian criminal law, emphasizing a balance between legal certainty, justice, and utility, while strengthening the position of victims in the criminal justice system. In the context of child pornography offenses, the implementation of the National Criminal Code requires careful synchronization with sectoral laws such as the Child Protection Law, the Sexual Violence Crimes Law (UU TPKS), and the Information and Electronic Transactions Law (UU ITE) to avoid normative conflicts or legal loopholes in law enforcement practice [22]. Conceptually, the direction of child protection policy in the digital space can be illustrated through the following policy flow:

Table 3. Konseptual Arah Kebijakan Hukum Perlindungan Anak di Ruang Digital



The diagram illustrates that child protection no longer relies solely on enforcement after a crime has occurred, but rather begins with strengthening regulations and prevention from the outset through the active involvement of electronic system providers. To further clarify this legal policy direction, the following table presents the policy stages.

Table 4. Stages of Legal Policy Direction for Child Protection in Digital Spaces

Policy Stage	Focus of Regulation	Main Legal Instruments	Protection Orientation
Regulatory Stage	Establishment of norms and legal obligations	Child Protection Law, Sexual Violence Crimes Law, PP TUNAS	Systemic prevention
Preventive Stage	Content moderation and supervision	PP TUNAS, Information and Electronic Transactions Law (UU ITE)	Early child protection
Repressive Stage	Criminalization of offenders	Pornography Law, National Criminal Code (Law No. 1 of 2023)	Deterrence and justice
Coordinative Stage	Cross-sectoral synergy	National child protection policy	Effectiveness of law enforcement
Educational Stage	Increasing legal awareness	Digital literacy programs	Sustainable protection

The table demonstrates that the direction of legal policy for child protection in digital spaces is built progressively and layer by layer. The regulatory stage functions as the normative foundation that establishes legal obligations for all stakeholders. The preventive stage emphasizes the active role of digital platforms in preventing the spread of child pornography content before it causes broader harm. The repressive stage remains necessary as a last resort to impose criminal sanctions on perpetrators. Furthermore, the coordinative stage is crucial to ensure synchronization between law enforcement agencies and relevant sectors, while the educational stage plays a role in building public legal awareness as part of a sustainable child protection system. With this policy framework, child protection in digital spaces is no longer reactive but integrated within a comprehensive legal structure. Thus, the effectiveness of criminal accountability for perpetrators of child pornography distribution on social media can only be realized if supported by synergy between responsive regulations, strong preventive policies, and consistent law enforcement. The future direction of legal policy must ensure that the digital space does not become a free zone for exploitation but rather a safe, just environment that upholds the best interests of children.

Conclusion

Based on the discussions outlined, it can be concluded that the distribution of child pornography content on social media constitutes a serious crime that demands an adaptive and comprehensive legal response. The characteristics of digital crime, such as its speed, anonymity, and cross-border nature, make children an extremely vulnerable group to sexual exploitation in the digital space. Therefore, criminal accountability for perpetrators cannot be understood narrowly as merely a matter of punishment, but must be placed within the framework of child protection as a legal subject with constitutional rights to safety and human dignity. Normatively, Indonesia's legal system has established a relatively adequate regulatory framework to address the issue of child pornography content distribution. These regulations are spread across various legal instruments, including the Pornography Law, the Child Protection Law, the Information and Electronic Transactions Law, and the Sexual Violence Crimes Law. The presence of Government Regulation No. 17 of 2025 on the Governance of Electronic Systems in Child Protection (PP TUNAS) further strengthens the direction of legal policy, which not only emphasizes a repressive approach but also a preventive one by involving the active role of electronic system providers. This demonstrates that, normatively, the state has responded to the development of digital-based sexual crimes by strengthening regulations that are oriented towards the best interests of the child.

However, the discussion also reveals that the effectiveness of criminal accountability for perpetrators still faces various challenges in law enforcement practice. Obstacles such as digital evidence issues, limited cyber forensics capacity, differing interpretations among law enforcement officers, and the complexity of cross-border jurisdiction are factors that may weaken the implementation of the law. These challenges become even more complex with the emergence of closed online communities that normalize deviant sexual fantasies, including the communities known as "incest fantasy." The existence of such communities demonstrates that child pornography crimes are no longer individual but have evolved into organized, closed digital subcultures that are difficult to detect, thus increasing the risk of the spread of illicit content and repeated victimization of children. This phenomenon highlights the gap between the comprehensive legal norms that have been designed and the social realities in the digital space. While positive law has criminalized every form of child pornography distribution, the practical application of law enforcement mechanisms and digital platform monitoring has not fully responded to the dynamics of closed online communities that facilitate child sexual exploitation. In this context, criminal accountability is not only relevant to individuals directly involved in distributing the content but also to those who consciously facilitate, allow, or sustain the digital spaces used for the distribution of child pornography content.

The future direction of legal policy shows a paradigm shift toward a more integrated child protection system. The implementation of the National Criminal Code (KUHP) based on Law No. 1 of 2023, which will come into effect in 2026, requires careful synchronization with sectoral laws to avoid normative conflicts. In addition, strengthening law enforcement capacity, utilizing digital forensics technology, and optimizing the active obligations of electronic system providers as regulated in PP TUNAS are crucial prerequisites for effective law enforcement. Thus, criminal accountability for perpetrators of child pornography content distribution on social media will only be effective if supported by synergy between responsive regulations, consistent law enforcement, and the active involvement of all stakeholders. A comprehensive and sustainable legal approach is key to ensuring that the digital space does not become a breeding ground for child sexual exploitation subcultures but rather an environment that is safe, just, and dignified for children's development.

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