

Violation of Children's Privacy Rights in The Use of Information Technology According to International and National Law

Febilita Wulan Sari

Faculty of Law, Universitas Komputer Indonesia
Email: febilita.wulan.sari@email.unikom.ac.id

Abstract. The development of the era of information technology and media at this time has a major impact, one of which is the violation of children's privacy rights. This study aims to find the legal aspects of children's privacy rights in the use of digital technology in the realm of international law and national law and how it is applied in Indonesia. The study conducted by the author is descriptive analytical with a normative juridical approach. It can be seen that international law has various provisions in the form of hard law and soft law that regulates the protection of children's rights, including the Convention on the Rights of the Child. Children's privacy rights in the use of information technology have not been implemented optimally because the law does not yet cover the protection of children's privacy. The data obtained from the use of information technology is sometimes misused or transferred to other parties who do not have the authority. The need to adopt various international provisions, both hard law and soft law, into national provisions that are in accordance with the needs of the Indonesian people. Encouraging the renewal of national provisions regarding the protection of children's privacy data considering the development of the current digital era which makes children's privacy data vulnerable.

Keywords: privacy, children's rights, violation.

1. Introduction

The use of the internet does not only have a positive impact, but also carries a big risk for its users, where in the current developments this does not affect only adults but also children.

When things related to children's personal data are spread out in the digital world, there is a high potential for violations of children's rights and even children have the potential to become victims of various forms of crime in cyberspace. This is because every child's activities, habits and tendencies of the child can be stored and used by certain parties, including abusing them. [1] The right to privacy of children is one of the human rights that should be respected and protected. Privacy must be respected and protected because: [2]

1. In building relationships with other people, a person must cover some of his personal life so that he can maintain his position at a certain level.

2. Someone in his life needs time to be able to realize (solitude) so that privacy is needed by someone
3. Privacy is a right that stands alone and does not depend on other rights, but this right will be lost if the person publishes private things to the public.
4. Privacy includes a person's right to have domestic relations including how a person fosters marriage, fosters his family and other people may not know personal relationships.

At present, there are several studies on the protection of privacy, including research from Ilene R Berson and Michael J Berson about "Children and Their Digital Dossiers: Lessons in Privacy Rights in the Digital Age" The research is aimed at finding out the protection of children's privacy in a digital age and discusses connections between online privacy, cyber-identity, and self-protection in a democratic society.[3] the studies mentioned above, it is only devoted to the study of privacy data protection in democratic society, and so far there has been no explanation of legal protection on the children privacy rights in relation to the legal system in Indonesia.

2. METHOD

In this study, researchers used the following methods:

1. Approach Method

The approach method used is a normative juridical approach, which is a study that emphasizes research on library material or secondary data, which includes: [6]

- a. Primary legal materials, namely legislation, international conventions, international customary law, principles of international law, decisions of the International Court of Justice, and doctrines that apply in the law of privacy.
- b. Secondary legal materials, namely materials that can help analyze and understand primary legal materials, such as research results, scientific works in the form of books, journals, papers and other literature whose substance is relevant to this research.
- c. Tertiary legal material, which is material that provides information about primary and secondary legal materials, such as legal dictionaries (*Black's Law Dictionary*).

This research examines and examines secondary data relating to privacy data protection , and at this stage grammatical interpretation is carried out, namely interpreting the words of the relevant legislation, systematic interpretation of the law by linking one law with the law other laws, authentic legal interpretation that can be done by looking at the explanations of the legislators themselves.

2. Research Specifications

The research carried out is analytical descriptive, which describes national and international legal instruments associated with legal theories and their practice related to the object of research. [7] The description concerns the facts systematically in the form of secondary data on primary legal material, namely the law, secondary data of secondary legal material, namely the opinions of experts (doctrine) relating to the implementation of privacy protection of social media users , as well as secondary data on legal material. tertiary like legal dictionary.

3. Data collection technique

In this study data collection techniques were carried out in two stages, namely:

- a. Library research (*library research*), in this case the researchers conducted a study of secondary data primary legal materials in the form of legislation, as well as other related regulations. In addition, it also examines secondary data of secondary legal material in the form of scientific works of experts in the field of law and is supported by research on secondary data on tertiary legal materials.
- b. The field research (*field research*), in this case only as supporting data in research to support and complement the study of literature, by conducting a structured interview (*guided interviews*) with relevant parties.

4. Data Analysis

All data obtained analyzed on a juridical qualitative . In thing this analysis do with pay attention hierarchy regulation legislation for regulation legislation of the no contradictory with regulation Other legislation and achieved it certainty law .

5. Location Research

The location of the study was carried out in several places, including: Indonesian Computer Library, and several *websites* in the internet system.

3. Result and Discussion

A. The Legal Aspects of Children's Privacy Rights

Privacy is a "contemporary" concept. [3] According to a journal released by Harvard Law School, Privacy is a normative concept that has deep roots in philosophical, legal, sociological, political, and economic traditions. Early principled discussions of privacy go back to Aristotle's distinction between the public and private spheres of life. [4]

In a journal written by Ari Ezra Waldman entitled Privacy as Trust: Sharing Personal Information in a Networked World, he quotes the opinion of a sociologist named Alan P. Bates, defining the concept of privacy as "a person's feeling that others should be excluded from something that is of concern to him" [5]

Based on a report from UNICEF in 2017, it was recorded that 5 (five) million children's profiles and accounts in the digital world had been stolen using internet-based theft. [6]

One of the studies related to the right to privacy is regulated in international human rights law. These provisions are contained in the Universal Declaration of Human Rights (UDHR) article 12, the International Covenant on Civil and Political Rights (ICCPR) article 17, and specifically the personal protection of children, contained in the Convention on the Rights of the Child (CRC) article 16.

Basically, there is no difference regarding the definition and rights that are owned and the processing of personal data along with the protection principles attached to children and adults. It's just that there is an important addition in terms of children's rights, namely the principle of the best interests of the child contained in the Convention on the Rights of the Child.

B. Implementation in Indonesia Legal System

Until now, Indonesia does not have a law that regulates the processing of children's personal data. Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions which is the reference for the use of digital technology also does not specifically regulate how to process children's personal data which is part of privacy protection.

Then the next challenge is the difficulty of reporting cases of misuse of children's personal data in Indonesia.

4. Conclusion

Currently, there is no legal regulation that provides special protection related to children's privacy rights, both in the Child Protection Act and the Electronic Transaction Information Law, so there is no legal mechanism that guarantees the protection of children's privacy rights in Indonesia.

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