

# CHAPTER I

## INTRODUCTION

### A. Background of the Problems

A nation's wealth is not limited to the economical and natural resources it owns but also in the quality of its children and youth. It is them who shapes and create a future of a nation. A child now, will grow into an adult tomorrow, who will take the role as the nation's leader and activist in the future.<sup>1</sup>

A child in which includes every human being below the age of eighteen years old unless stated otherwise under the law applicable towards the child,<sup>2</sup> is the future of the next generation and must be protected until they are legal of age as it is every nation's duty to protect the youth who will serves as the future of a nation. As such, a child is entitled many rights in order to ensure they can grow and develop mentally and emotionally.

Thorough history, children have been exploited and maltreated, with evidence showing child abuse has existed even in prehistoric period. Children are often considered as family property and in ancient times

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<sup>1</sup> "Essay on Children – The Future of Tomorrow," accessed May 17, 2018, <http://www.shareyouressays.com/essays/essay-on-children-the-future-of-tomorrow/83823>.

<sup>2</sup> United Nations, "Convention on the Rights of the Child," accessed May 13, 2018, <http://www.unhcr.org/uk/4d9474b49.pdf>.

could be sold, mutilated or killed by their own family. Many religions also used child sacrifice to please and appease the gods.<sup>3</sup>

With the continuous development in this 21<sup>st</sup> century, many new technologies have been developed. However, with the new technologies, new problems also arise in regards of protecting the children. The Internet or initially called ARPANET (Advanced Research Projects Agency's Wide Area Network) was a program developed in the 1960s by the US Department of Defense for connecting business and government laboratories in matters of military research which then expanded worldwide and gaining the name internet.<sup>4</sup>

In this modern life, internet has become an integral part of the daily life where most children are easily exposed to the internet since young age in which plays a role in the development of the children. This then also leave the children increasingly vulnerable in several aspects, including towards new type of sexual exploitation or child pornography.

In Indonesia, this has become an increasing problem. Indonesia Child Online Protection or shorten as ID-COP, a cooperation between several competent institutes working to protect the safety of children towards any forms of harm from the internet, claims online prostitution through social media of underage men or women in Indonesia are increasingly common where the violators did not even try to hide the act. Marie Laurie, head of

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<sup>3</sup> "Child Abuse - The Canadian Encyclopedia," accessed May 16, 2018, <http://www.thecanadianencyclopedia.ca/en/article/child-abuse/>.

<sup>4</sup> Business Dictionary, "What Is the Internet? Definition and Meaning - BusinessDictionary.Com," accessed May 13, 2018, <http://www.businessdictionary.com/definition/internet.html>.

Online Children Sexual Exploitation at ECPAT International suggest that the number will continue to grow as Indonesia is ranked number two in the largest social media user after India, and as the number of users grows, so will crimes. KPPPA (*Kementrian Pemberdayaan Perempuan dan Perlindungan Anak*) also produces the data where 14,5% out of 1 million tweets in *twitter* contains child pornography. These tweets are open for public and can be accessed by anyone. KPPPA also receives information from the Cyber Crime unit of Indonesian Police Force that there are twenty five thousand IP addresses that uploads and downloads child sexual contents daily.<sup>5</sup>

And in 2017, the Indonesian public has been enraged by the exposure of an online pedophile group inside a certain social media named ‘Official Loli Candy 18+’ which host around a staggering amount of over 7,000 members. Indonesian police claims they have found around 400 videos and 100 photos that contain child pornography.<sup>6</sup> Again, this serves as a reminder of the vulnerability of children.

As the number of internet users continues to grow each day, it is a growing concern that the number of children subjected child pornography may grows as well. This means this issue has to be controlled and solved as soon as possible. While Indonesian officials continue to battle the matter, it is proven to be difficult as internet is so wide and easily

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<sup>5</sup> Junito Drias, “Ancaman Eksploitasi Seksual Anak Online - Kampanye Penghapusan Kekerasan Terhadap Anak,” accessed May 13, 2018, <http://kampanyepkta.org/ancaman-eksploitasi-seksual-anak-online/>.

<sup>6</sup> BBC, “Empat Jam Dalam Grup Pedofil Candy Di Facebook - BBC News Indonesia,” accessed May 13, 2018, <http://www.bbc.com/indonesia/trensosial-39336094>.

accessible by anyone. And as an effort to protect the children, Indonesia has also made multiple national laws as well as signing international conventions in order to protect and regulates this matter. Some of the conventions signed by Indonesia are the United Nations' Convention on the Rights of The Child as well as the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

Thus, based on the above problem, researcher has decided to research a thesis with the topic **“LEGAL STUDY ON THE PROTECTION OF CHILDREN AGAINST CHILD PORNOGRAPHY IN INDONESIA”**

#### **B. Formulation of the Problems**

Based on the background of the problems as listed above, the researcher formulates the research problems as follows:

1. What are the legal protections provided by the Optional Protocol of United Nations' Convention on The Right of a Child regarding child pornography that has been included in Indonesian Law no. 35 of 2014 concerning child protection and Indonesian Law no. 44 of 2008 concerning Pornography?
2. Has the Indonesian Law no. 35 of 2014 concerning child protection and Indonesian Law no. 44 of 2008 concerning Pornography fulfilled the mandates of the Optional Protocol of United Nations' Convention on The Right of a Child regarding child pornography?

3. Does the Indonesian Law no 35 of 2014 concerning child protection and Indonesian Law no. 44 of 2008 concerning Pornography provide optimal protection for children from child pornography?

### **C. Research Objectives and Benefits**

Based on the formulation of the problems above, objectives of the research are as follows:

1. To analyze whether the legal protections provided by the Optional Protocol of United Nations' Convention on The Right of a Child regarding child pornography has been included in Indonesian Law no. 35 of 2014 concerning child protection and Indonesian Law no. 44 of 2008 concerning Pornography.
2. To analyze whether the Indonesian Law no. 35 of 2014 concerning child protection and Indonesian Law no. 44 of 2008 concerning Pornography has fulfilled the mandates of the Optional Protocol of United Nations' Convention on The Right of a Child regarding child pornography.
3. To analyze whether the Indonesian Law no 35 of 2014 concerning child protection and Indonesian Law no. 44 of 2008 concerning Pornography has provide optimal protection for children from child pornography.

The result of this research is expected to have the benefits:

1. For the Government (*Komisi Perlindungan Anak Indonesia/ KPAI, Komisi Pemberdayaan Perempuan dan Perlindungan Anak/ KPPPA, Kementrian Komunikasi dan Informatika/ Kominfo*)

To strengthen and strategize clearly how to protect children and preventing them from falling victim to child pornography

2. For social media providers

To monitor their platform and update their policy in uploading child sexual materials by their users.

3. For school or universities

To educate the children in sex education and internet safety as well as what are sex crimes and illegal acts like child pornography

4. For Parents

To be educated more in regards of internet safety and uses for the children as well as monitoring their child's usage of electronic gadgets as well as their activity in social media in order to prevent them in falling victim to child pornography.

5. For Children

To be educated more about sex education as well as child predators.

6. For Academician

To understand more about the urgency in matter of child pornography and help to reduce it.