

## Law Enforcement Against Perpetrators of Pedophilia Crimes in the Indonesia Legal System

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### ABSTRACT

Despite existing regulations concerning sexual violence against children, the reality shows that crimes of sexual violence towards children continue to rise. The method used in this study is normative law with an approach to statutory regulations and case studies. Laws No. 35/2014 and No. 1/2016 establish severe punishments for pedophilia offenders. There has been a significant increase in cases of sexual violence against children, highlighting the need for legal reform that aligns with societal values and emphasizes prevention through education and improved welfare. Child protection must include broad social support, with a multifaceted approach to the factors causing pedophilia and strengthening social control. Effective policies must integrate prevention, support, and capacity building for the future development of child victims, creating a safer environment and supporting the recovery of children.

## **INTRODUCTION**

The crime of pedophilia in Indonesia, which has been a major concern over the last decade, is a serious crime and a violation of human rights that has a deep psychological impact on the victims. Although there are regulations in place as in Law Number 23 of 2002, amended by Law Number 35 of 2014 (hereafter referred to as Law No. 35/2014), law enforcement still faces challenges in implementation. Law Number 17 of 2016 (hereafter referred to as Law No. 35/2014) has strengthened the laws against child sexual crimes in Indonesia, including pedophilia, with penalties of up to 15 years in prison and a maximum fine of IDR 5 billion. However, criticisms have emerged regarding the effectiveness of this law, such as issues in establishing sufficiently severe sanctions for repeat sexual crime cases, and in providing comprehensive protection for victims, including confidentiality, psychological support, and restitution (Rahmawati et al., 2017). Additionally, problems in law enforcement include issues of coordination among law enforcement agencies often hindering case management, slowing justice, and increasing the risk of trauma for the victims (Saragih & Zarzani, 2023).

Human sexual behavior is the result of interactions among complex factors, including interpersonal relationships, environmental influences, and culture (Kusumastuti, 2015). Among deviant sexual behaviors, pedophilia is a paraphilia where an individual seeks sexual satisfaction through sexual activity with prepubescent children (Arini, 2021; Kusumastuti, 2015). Children who are victims of this sexual crime should receive specialized protection and legal services (Hasibuan et al., 2022). In the legal practice in Indonesia, prior to the enactment of child protection laws, perpetrators of sexual crimes against children were often tried under the Criminal Code Article 292 in conjunction with Article 64, with a maximum penalty of 5 years, which many considered insufficient to deter offenders. Article 287 of the Criminal Code provides a maximum sanction of 9 years, but without a complaint, prosecution is not undertaken, creating weaknesses in the existing legal system, as victims often do not report crimes due to threats or shame (Mahardika et al., 2020).

In September 2021, the South Sumatra Regional Police arrested an Islamic boarding school teacher in Ogan Ilir Regency on charges of committing a criminal act of molestation against 12 of his underage students (Indonesia, n.d.). In February 2023, the community in Jambi was shocked by a pedophilia case involving a woman named xxx, who molested 17 children. This case attracted attention because of the perpetrator's unusual method, where the victim was asked to hold the perpetrator's breasts and watch his sexual activity. Apart from the case in Jambi, there were also similar cases in South Jakarta and South Sumatra which also caused a stir. In South Jakarta, an English tutor with the initials F molested 14 children around his residence in Lenteng Agung, Jagakarsa (Rahyuni, n.d.)

## THEORETICAL REVIEW

### Law Enforcement

According to Muladi, law enforcement involves efforts to uphold legal norms and the underlying values. Law enforcers must understand the 'spirit of the law' of the regulations being enforced, which is related to the dynamics in the legislative process. This emphasizes the importance of a deep understanding of the context and objectives behind existing laws for effective enforcement (Ansori, 2017). Furthermore, according to Jimly Asshiddiqie, law enforcement is the process of applying legal norms as guidelines for behavior in interactions and legal relationships within society and the state, so that these norms function effectively in everyday life (Asshiddiqie, 2016).

### Legal Protection

Legal protection is a series of efforts carried out by individuals, government institutions, and private entities to secure, control, and fulfill the well-being of life in accordance with human rights (Harahap, 2016). Legal protection for children includes guarantees of security, tranquility, welfare, and peace for the present and the future. This protection is not only sourced from legal instruments but also involves the role of the community, environment, culture, and guarantees of a better future (Said, 2018).

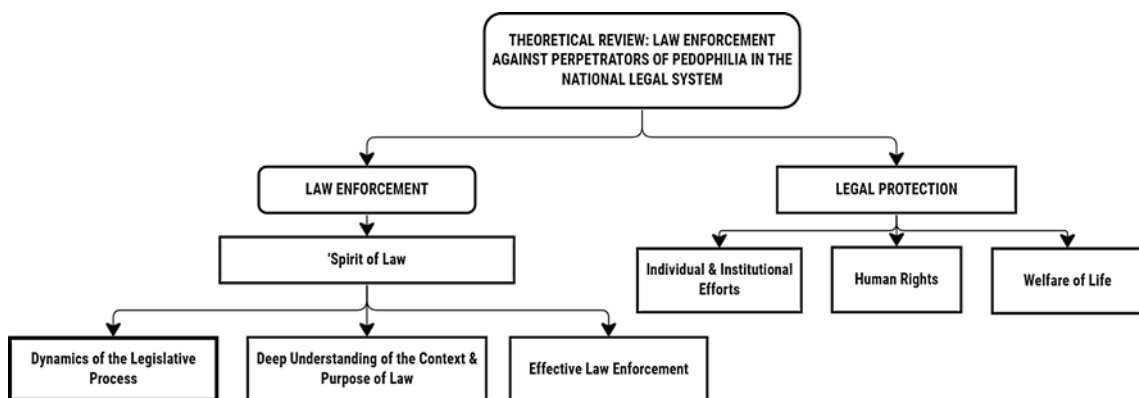


Figure 1. Conceptual Framework

Law enforcement is not just about applying rules, but also understanding the background and purpose of those rules, including in cases of child sexual abuse crimes. Legal protection for children includes guarantees of security, tranquility, welfare, and peace for the present and the future. This protection does not only depend on legal instruments, but also involves the role of society, environment, culture, and efforts to create a better future.

## **METHODOLOGY**

The research methodology used in this study is normative law with a legislative regulation approach and a case approach. Normative law research focuses on the formal legal analysis through legislative regulations, doctrines, and legal principles. Data collection was conducted through an in-depth literature study on legislative regulations and cases. Data analysis used qualitative methods for in-depth interpretation and comparative methods to compare with international practices, reinforced by triangulation techniques and peer review for validation. The study also established specific boundaries related to the scope and period of research, emphasizing the importance of ethics in managing sensitive information and the use of data. The goal is to produce a comprehensive and detailed understanding of the dynamics of law enforcement against pedophilia in Indonesia, integrating legal aspects with social realities.

## **RESULTS AND DISCUSSION**

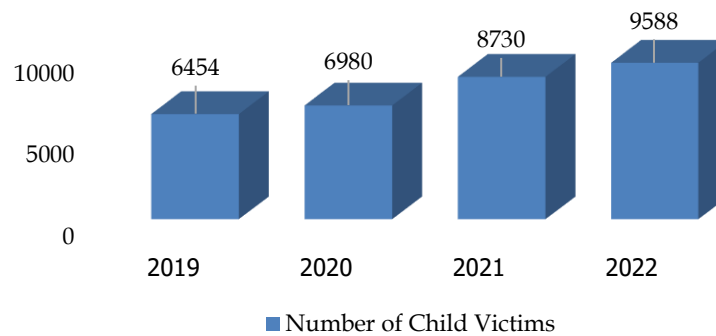
### **Legal Construction of Pedophilia Crimes Against Children in Indonesia**

Pedophilia is a psychiatric disorder in which an adult or older adolescent experiences a primary or exclusive sexual attraction to prepubescent children (Lailiyah, 2023). The impact of sexual violence perpetrated by pedophiles against children is long-term and severe, including depression, post-traumatic stress disorder (called PTSD), and profound anxiety (Kolaitis, 2017). Pedophilia can be categorized into several types: First, Exclusive Pedophilia (Fixated), which describes individuals who are attracted only to children and not to adults (Groth & Birnbaum, 1978). Second, Non-Exclusive Pedophilia (Regressed) includes attractions to both children and adults (Johnston & Johnston, 1997). Third, Cross-Sex Pedophilia, where male perpetrators typically establish apparently non-coercive relationships with young girls starting from friendship (Sukri & Murdiana, 2023). Fourth, Same-Sex Pedophilia, which involves children of the same sex without sexual attraction to adults of the opposite sex (Cohen & Galynker, 2002). Lastly, although rarer (Lailiyah, 2023), Female Pedophilia also exists and is often unreported due to social stigma and maternal perceptions (Seto, 2012).

Pedophilia must be considered an extraordinary crime given the profound and diverse impacts it has on the victims (Lailiyah, 2023). Finkelhor and Browne (Finkelhor & Browne, 1985) have identified four main types of trauma caused by sexual violence against children: betrayal, where a child's basic trust in adults is shattered (Hazzard, 1993); traumatic sexualization, which can lead to sexual relationship aversion and long-term trust issues (Selvi et al., 2011); powerlessness, which brings about feelings of weakness and ineffectiveness; and stigmatization, which often results in guilt, shame, and self-image disturbance (Coffey et al., 1996). These effects include widespread emotional disturbances such as nightmares, phobias, anxiety, and self-destructive behaviors like drug and alcohol use. These impacts demonstrate how destructive the act of pedophilia is, justifying the need for it to be classified as an extraordinary crime (Lailiyah, 2023).

Law No. 35/2014 enacts severe penalties for pedophiles, including various punishments depending on the type of crime (Hermana, 2017). Article 81 states that perpetrators of intercourse with minors involving violence, threat, or manipulation, shall be sentenced to prison for three to fifteen years and fined between IDR 60,000,000 to IDR 300,000,000. Article 82 prescribes similar penalties for perpetrators of indecent acts, while Article 88 specifically deals with cases of sexual or economic exploitation of children, with up to ten years in prison and a fine up to IDR 200,000,000. Through this law, the state strives to protect children from sexual and economic exploitation, providing a legal framework to prosecute and punish perpetrators decisively (Sianturi & Lie, 2023). Law No. 35/2014 in Indonesia strengthens protection for children against all forms of violence and discrimination. These amendments expand the definitions of violence and child protection across various aspects such as physical, emotional, social, and sexual, as well as against exploitation and neglect. However, the high incidence of sexual violence against children indicates that the law has not been fully effective. Therefore, through Law No. 1/2016, Articles 81A and 82A were added, focusing on strengthening legal actions against perpetrators of child sexual violence, including the imposition of castration punishment for repeat offenders, in response to public concerns about the long-term physical and psychological impacts of sexual violence (Maryani, 2017).

Regarding the criminal sanctions of castration as per Article 81 of Law No. 1/2016, there remains debate about the effectiveness of chemical castration as a sanction for sexual crimes against children. The temporary nature of chemical castration, along with its side effects, has led to disagreements among some parties about its use. The application of chemical castration sanctions is also considered by many as a violation of human rights and contrary to the principles of humanity that currently underpin criminal law. These principles support that criminal law should advance social welfare, not torture, considering that law must respect the rights of every individual (Saefullahnur, 2023). According to data from the Deputy for Child Protection at the Ministry of Women Empowerment and Child Protection in Indonesia, there has been a significant increase in cases of violence against children. From January to July 2020, a total of 4,116 cases of child violence were recorded, with 2,556 of them being cases of sexual violence. Further data in 2021 indicates that from January 1 to March 16, there were already 426 cases of sexual violence out of a total of 1,008 cases of violence against women and children. This situation indicates that cases of violence against women and children are often more numerous than reported, resembling the iceberg phenomenon where many cases remain hidden and unexposed (Winriadirahman, 2021).



**Figure.2 Sexual Violence Against Children.**

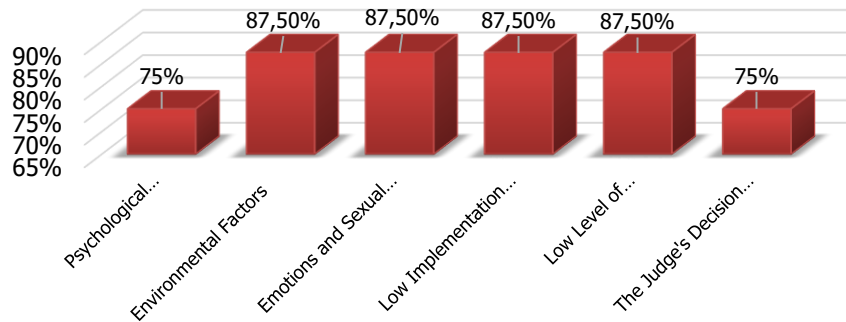
*Source: Article KemenPPA: 797 anak jadi korban kekerasan seksual*

Victims of sexual violence, especially children, often suffer severe trauma that requires one to three years for rehabilitation, and often complete recovery is not fully achievable. The handling of pedophilia cases must be comprehensive, including long-term counseling and therapy, not only for the victims but also for the families who play a crucial role in the healing process (Hasibuan, 2021a). Community support without stigma is also important. However, a major challenge in rehabilitation is the high cost, with around 40 counseling and therapy sessions needed. Currently, there is inadequate financial support from the government or Social Security Administering Body (called *BPJS*), although there is limited assistance from Witness and Victim Protection Agency (called *LPSK*) for the costs of medical examinations related to evidence collection (Winriadirahman, 2021). Although there are laws regarding child protection, their implementation in providing material and psychological protection to child victims is still not optimal, especially in the judicial process that does not consider the psychological safety of the child. Therefore, a reformulation of the laws is necessary to strengthen the psychological protection of child victims more effectively (Yustiningsih, 2020).

The construction of criminal law policies in Indonesia as described by Syaiful Asmi (Hasibuan, 2021b) still retains some provisions from the Dutch Colonial era, requiring reformulation to better align with the values currently prevailing in Indonesian society. This reform must prioritize prevention, through strengthening mental health with moral and religious education and improving community welfare. It is also crucial to secure the future of child victims of violence by providing social guarantees including health, education, and economic empowerment. This will help child victims overcome directionlessness and obstacles in achieving their dreams, ensuring the protection of children's rights, and indirectly supporting the sustainability and progress of the nation.

## Unraveling the Root Causes and Criminal Policies for Countering the Crime of Pedophilia through Cyber Prevention

The exact causes of pedophilia remain unclear, particularly because this psychological issue has only recently received more attention in research. The difficulty in determining the causes is also related to the variation in individual characteristics and different backgrounds. Many experts suspect that socio-psychological factors, rather than biological ones, play a role in driving pedophilic behavior. Factors such as problematic family backgrounds and experiences of abuse at a young age are often mentioned, although these cases are not numerous, making it difficult to draw definitive conclusions about the causes of pedophilia (Liwa et al., 2020). As an illustration related to the factors causing the crime of pedophilia, the research conducted by Daniel Babu and Stefanus Palaka (Babu & Palaka, 2023) shows that the factors causing the crime of pedophilia in the Rote Ndao Police area are as follows:

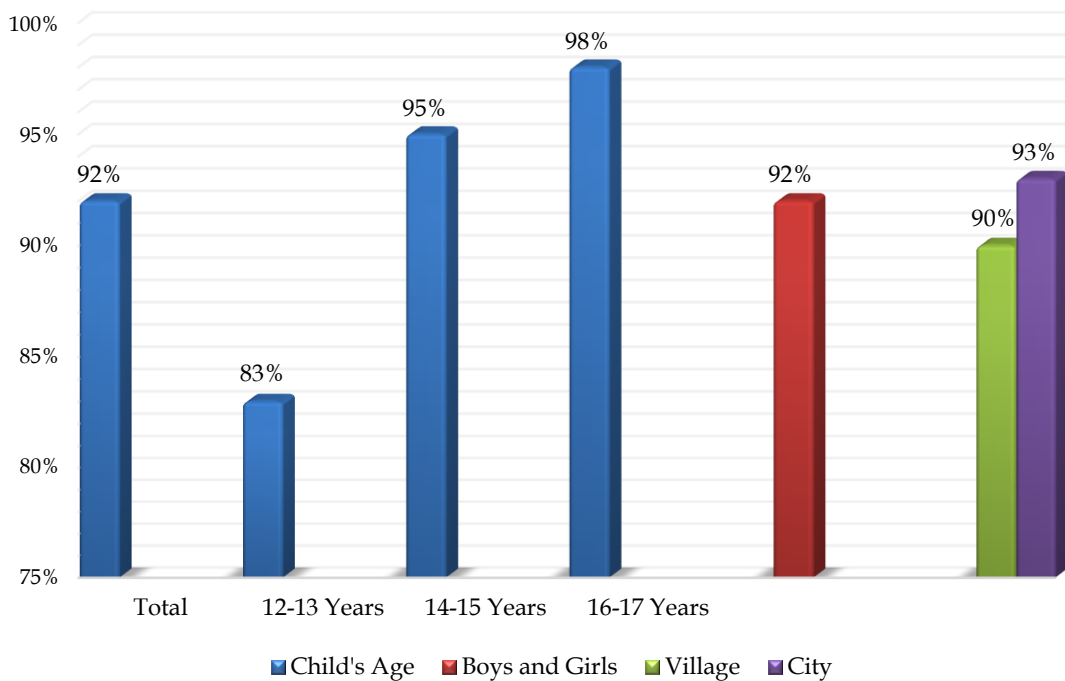


**Figure.3 Factors Causing the Crime of Pedophilia**

Source: Rote, Unstar. (2023). D, Babu Faktor-Faktor Penyebab Tindak Pidana Kejahatan Pedofilia Di Kepolisian Rote Ndao. *Jurnal Ilmiah Unstar Rote*, 1(2).  
<https://doi.org/10.1234/jiur.V1i2.20>

Based on the data, it is evident that environmental factors, emotional states, and sexual urges, along with the low practice of religious norms and community control, are dominant factors in cases of pedophilia. Psychological disturbances and injustices in legal decisions are also considered major contributors. To address pedophilia, a multi-faceted approach is required that not only focuses on the psychological treatment of the perpetrator but also on improving the social environment, enhancing social control, religious value education, and justice in the judicial system. Further analysis reveals that the root of these factors is the influence from external sources on the perpetrator's self-control. One cause that has not yet received attention from the government or researchers is the impact of pornographic content on social media.

The high presence of pornographic content in Indonesia through social media aligns with data revealed by the National Center for Missing & Exploited Children (NCMEC), highlighting the high prevalence and diversity of child pornography crime victims in Indonesia. Indonesia faces a serious challenge in the issue of child pornography, with astonishing findings of 5,566,015 cases over four years, placing the country fourth internationally and second in ASEAN. These cases involve victims from various backgrounds, including children with disabilities, and students from early childhood education to high school (Kautsar Widya Prabowo, 2024). The data revealed by the National Center for Missing & Exploited Children (NCMEC) in 2023 aligns with the Internet Penetration Rate of 2020 Among Children Aged 12–17 Years as disclosed by ECPAT, INTERPOL, and UNICEF (ECPAT, INTERPOL, 2022) in 2022 in its report, *Disrupting Harm in Indonesia: Evidence of online sexual exploitation and abuse of children*. Global Partnership to End Violence Against Children, as illustrated in the following graph:



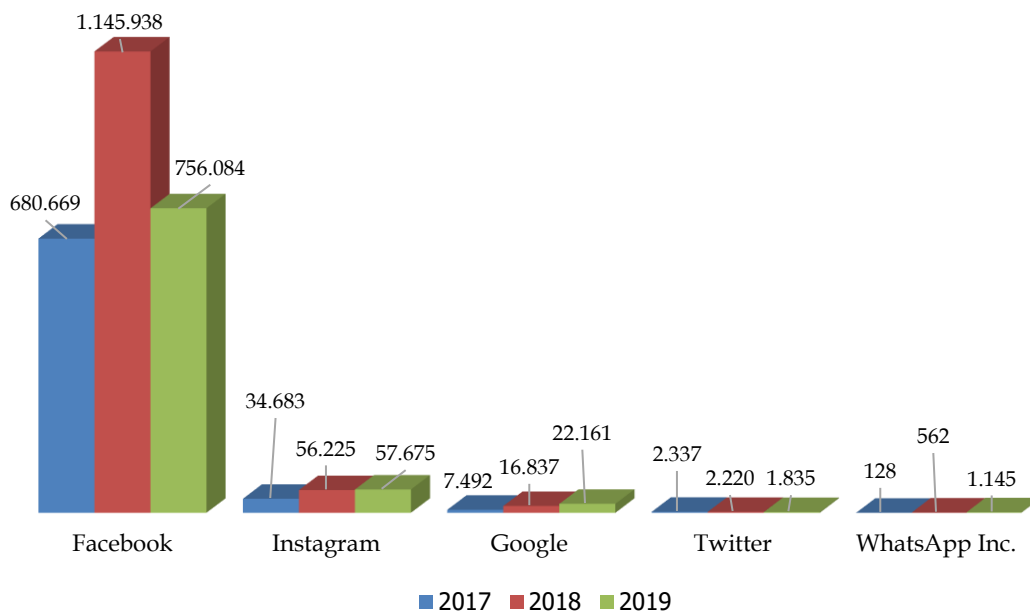
**Figure.4 Internet Penetration Rate 2020 Among Children Aged 12-17 Years**

*Source: ECPAT, INTERPOL dan UNICEF. (2022). Disrupting Harm di Indonesia:*

The table shows a high level of internet penetration among children in Indonesia, with an average usage reaching 92% among children aged 12-17 years. The usage differences based on age are quite significant, starting from 83% at ages 12-13 and sharply increasing to 95% at ages 14-15, and peaking at 98% at ages 16-17. This indicates a correlation between high levels of internet access and the prevalence of child pornography cases. Easier access to the internet among teenagers can lead to an increased risk of exposure to pornographic content. This is reinforced by data showing that children from urban areas have slightly higher internet access (93%) compared to those in rural areas (90%). In the context of Indonesia, which ranks high internationally and within the ASEAN region in



child pornography cases, this data strengthens the argument that increased internet access without adequate supervision and education can raise the risk of children's involvement in pornography, whether as victims or as users who inadvertently encounter pornographic material. This underscores the need for stronger interventions in internet education and online child protection in Indonesia.



**Graph 4. Cybertips on Suspected Child Sexual Exploitation in Indonesia, According to Reports From Electronic Service Providers (Top Five Electronic Service Providers)**

*Source: ECPAT, INTERPOL dan UNICEF. (2022).*

The CyberTips report on child sexual exploitation in Indonesia indicates a trend of using social media platforms and electronic services for exploitation. Facebook recorded the highest number of reports, peaking in 2018, while Instagram and Google have shown an increasing trend in reports year over year. Twitter has shown a decrease, and WhatsApp saw a significant increase in 2019. These findings underscore the need for joint efforts between social media services and law enforcement to address this issue and protect children in cyberspace. This situation indicates a problem with the normative order in law enforcement in Indonesia, which faces challenges in understanding and handling cyber pornography cases due to unclear definitions and regulations. Law enforcement agencies tend to act based on conventional methods that have not adapted to the dynamics of pornography in cyberspace. The Indonesian Pornography Law does not provide a specific definition of pornography, leaving broad interpretation and legal loopholes. In the Electronic Information and Transactions (Called ITE) Law, pornography is generally discussed in the context of "content that violates decency," but there is no detailed explanation about cyber pornography. The Broadcasting Law regulates decency in advertising broadcasts and broadcasting principles that respect norms of decency and religion. However, overall, there is no comprehensive regulation regarding cyber pornography, including the

privacy rights of victims related to protection from irrelevant or harmful content on the internet (Putri & Tantimin, 2022).

According to data described by Seto (Seto et al., 2006), pornography content has a correlated effect on the occurrence of pedophilia crimes. This is based on perpetrators of child pornography showing greater sexual arousal towards children compared to other groups, indicating a strong diagnostic relationship between child pornography offenses and pedophilia (Seto et al., 2006). Therefore, based on the data of pornography on social media in Indonesia connected with the high use of the internet by children and the low supervision of children in Indonesia, a criminal policy for the prevention of pedophilia crimes based on cyber prevention is necessary. Criminal policies are regulated through legislation that is not only based on norms and legal systematics but also involves factual analysis such as sociology, history, and comparative law. This is an element of broader social policy, with the primary goal of improving societal welfare. Criminal politics, as an integral part of criminal policy, is a rational and structured effort to address crime, holistically becoming part of the state's law enforcement and social policy efforts to create a safer and more prosperous society (Silaen & Siregar, 2020).

Protecting children, both as victims and perpetrators, is crucial to support child development in a conducive environment. This includes creating space for healthy psychological growth, as well as the development of motor, affective, and volitional aspects (Sutantiyo & Nurcahyono, 2023). The integration between criminal, social, and development policies is key in crime prevention (Ravena & SH, 2017). Hoefnagels (Satria, 2020) suggests three prevention methods: the application of criminal law, prevention without punishment, and influencing public views on crime and punishment (Pakpahan et al., 2023). Criminal policy aims to formulate more effective criminal legislation to protect the public and ultimately improve welfare. Legal protection for children is designed to secure their freedom and fundamental rights, including welfare (Megayati, 2021). John Rawls in his theory of justice suggests two main principles. First, the principle of equal rights and opportunities should be granted to every individual. Second, the restructuring of socio-economic inequalities to fairly benefit everyone, especially the most disadvantaged children in society. This principle aims to reduce disparities in achieving welfare and equality in income distribution and social recognition (Muliani et al., 2023).

Therefore, criminal law policy in protecting children as victims of pedophilia must prioritize efforts to prevent violence against children as described by Syaiful Asmi, that prevention must include strengthening mental health through moral and religious education and enhancing societal welfare. It is also crucial to provide a future guarantee for child victims through social support such as access to healthcare, adequate education, and economic empowerment, which can help children build a better future (Hasibuan, 2021b). Effective criminal law policy in protecting child victims of pedophilia must include a combination of prevention through education and welfare enhancement, as well as strong future guarantees through health, education, and economic support. By integrating this approach, a safer environment for children can be created and support the full recovery of children who are victims.

### **CONCLUSIONS AND RECOMMENDATIONS**

Laws No. 35/2014 and No. 1/2016 establish severe punishments for perpetrators of pedophilia, including imprisonment and fines that vary depending on the type of crime. Data shows a significant increase in cases of sexual violence against children, indicating that many cases go unreported and describing the situation as the tip of the iceberg. Legal reform is needed to align with current societal values, focusing on prevention through moral and religious education, as well as improving welfare. Child protection should include comprehensive social support to rehabilitate and secure the future of children who are victims of violence. Environmental, emotional, and social norms are identified as major drivers of pedophilia, requiring a multifaceted approach that not only treats but also amends the social environment and strengthens social control. The exploitation of children through social media highlights the need for policy adaptation and law enforcement methods to address new challenges such as online pornography, ensuring child protection in cyberspace. Effective policies must integrate prevention, support, and capacity building for the future development of victimized children, creating a safer environment and supporting child recovery.

### **FURTHER STUDY**

This study has specific limitations, particularly regarding the effectiveness of legislative regulations in preventing acts of pornography. Therefore, further research on this matter is necessary.

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