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STATE AND DIGITAL SOCIETY

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STATE AND DIGITAL SOCIETY

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PREFACE

According to its vision, Lampung University is going to be the best 10 (ten) Universities in Indonesia. It also becomes a World Class University.

Over the last two years, FISIP Unila has seriously developed global-minded atmosphere to improve its research and publications and also teaching and learning based on e-learning and virtual classes.

This International Conference is basically part of FISIP Unila's contribution to realize the university's vision. Therefore, our faculty has fully been trying to compete at both national and regional levels.

Related especially to the theme about State and Digital Society, in the perspective of social and political science, the use of IT or digitization is simply a tool to convey something, helping the implementation public service, business, political functions, and so on.

But, in Indonesia, there are still a number of weaknesses in utilizing IT or digitalization.

The attitude of public criticism in social networks can not yet become a real social movement, nor can change the substance of policies that are not in line with public aspirations.

Even though e-procurement, e-budgeting, e-planning, in governmental services have been officially implemented, but the implementation is still inconsistent. So that, it still opens up various opportunities for corruption and illegal taxes.

Besides that, the use of government's websites cannot be a source of information for the public, which are characterized by the strength of old government. Utilizing IT in the process of public policy and political communication tend to be influenced by the dynamics of the existing political environment.

Technology platform can be used to perpetuate existing power relations that are very paradoxical with the characteristics of the ICT which are inclusive and egalitarian. For example, although many politicians who have a twitter accounts, they generally just use the accounts as an advertising board rather than as a media of communication.

Hopefully, what we are doing today can be beneficial for Indonesia's progress in facing the era of digitalization.

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CHILDREN'S RIGHT TO INTERNET DEVICES: A SOCIAL APPROACH ON INDONESIAN POLICY

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ABSTRACT

Internet devices are familiar tools for the children nowadays; obviously some of them have understood to operate such kind of tools. Indonesian Internet Service Provider Association shows that 16.68 percent users are children between 13-18 years old. Its situation is not just turning out in Indonesia, Ofcom Research Organization also release in 2017; half parents in United Kingdom knew less the Internet than their children. Kids with 3-4 years old, 21 percent already had a tablet, and 40 percent they use for games. Next, 8-11 years old had 39 percent for smartphones and 90 percent they practiced for games.

It cannot be denied that interconnection networking is clearly useful in every aspect of life and it is right for people to accessing technology. However, it brings some negatives effect, especially for children. Games addiction, hate speech, dangerous websites, pornography and porno-action are some bad effect, which can be entering by them.

This study explored the pattern of Children's right to Internet devices and examined how Indonesian policy ruled and give protection for children. These descriptive-analytic studies were conducted one international guideline by ITU, five Indonesian regulations and its Ministerial Decree. Result showed that using Internet devices is one of rights for children, though protection from negative effect from the Internet is obligation for the government and parents. It suggested that Government should compile the guidelines for the parents and children on utilizing the Internet devices.

Keyword; Internet devices, children, protection

INTRODUCTION

It is an ironic situation, when technologies that we think making our task easier turn out to bring a new threat for our children. Easily accesses of the Internet, adult or children could use and share their location by utilizing the software and games. Consequently, Internet provides the facilities

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for criminals to exploit the kids and their privacies. The millennia, especially children around the world spend time more for Internet than in their real life. Moreover, in some countries 15-year-old children can use the Internet just like adults.⁸ Ofcom Research in England describes about the habits of using digital devices by children; 3-4 years old as much as 21% already have a tablet, 96% watch TV subscribe for about 15 hours a week, 41% also watch TV using other digital devices, 40% is used to play games about 6 hours a week, and 71% of them use tablets to go online. Furthermore, children aged 8-11 years, 39% had a smartphone and 52% had a tablet, 95% watched TV subscribed for 14 hours a week, 81% used to play games for 10 hours a week, 94% to go online for 13 hours 30 minutes a week, 23% have social media and 81% are used to watching Youtube. Based on that fact, digital devices have a necessity and become habits.⁹

Digital devices and Internet are often misused which can violate the privacy right of children. Collecting children's personal data is considered normal in business, additionally; it could influence their close friend and families to enroll.¹⁰ Application or technology companies could track the location of children using GPS installed in their digital devices, retrieve and manipulate children using a database of user habits in using their digital devices like the Facebook case. Other threats are cyber bullying games bullying; those are not something new in digital community. Online Bullying is a crime in a wider range of children, bullying is not only people who can be seen or can be recognized, but also the perpetrators use anonymous and maybe people who have never been met. Ofcom survey showed 568 children in United Kingdom on aged 8-15 years, 32% of children had experienced cyber bullying.¹¹

In addition, content in cyberspace often contains elements of violence, suicide, discrimination, pornography and gambling. These contents are indirectly providing stimulants to the child's brain and giving doctrine such kind of actions are natural and ordinary things. Obviously, it is a big mistake; parents should be aware and responsible to maintain their progress and their mind. We also have to keep away our generation from negative effect of internet devices.¹²

INDONESIAN STRATEGIES: CHILDREN AND THE INTERNET

Article 4 of the Convention on the Rights of the Child (CROC) states that "Governments have a responsibility to take all available measures to ensure that the rights of children are respected, protected and fulfilled."¹³ The Convention recognizes the need for special guarantees and care for children before and after their birth. Thus, government has an obligation to take all necessary steps to ensure that the minimum standards set by the conventions in their sovereignty. The

⁸ UNICEF. (2017). The State of The World's Children. p. 1.

⁹ Ofcom. (2017). Children and Parents : Media Use and Attitudes Report. p.2.

¹⁰ Mau, Klein dan Reisch. (2014). Consumer Socialization, Buying Decisions, and Consumer Behaviour in Children: Introduction to the Special Issue. *Journal of Consumer Policy*, Vol 37, Issue 2. P.10.

¹¹ *Ibid.* p.176.

¹² *Op.cit.* p.72.

¹³ United Nations Convention on The Rights of The Child, November 20, 1989.

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government should help families to protect children's rights and create an environment where they can develop and reach their potential. Child protection rights are also affirmed in Article 16 paragraph (2) of the 1989 United Nations Convention on the Rights of the Child CROC which; "no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honor and reputation and the child has the right to the protection of the law against such interference or attacks". Therefore, government has to build all facilities to support the prevention of negative effect of the Internet.

International Telecommunication Union (ITU) also provides the guidelines for digital community to how create health Internet environment. ITU create Guidelines for Children on Child Online Protection. It contains smart rules for community to gather protecting smart generation from negative Internet. The guidelines also create strategies for the group of age to maintain their steps to support the protection.

More binding agreements are outlined in the International Covenant on Civil Political Rights (Covenant of Civil) as stipulated in Article 17. Also in the Article 11 American Convention on Human Rights (ACHR) that states:¹⁴

1. Everyone has the right to have his honor respected and his dignity recognized.
2. No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.
3. Everyone has the right to the protection of the law against such interference.

These matters also concern the European, Article 8 European Convention on Human Rights that state:

1. Everyone has the right to respect for his private and family life, his home correspondence
2. There shall be no interference b a public authority with the exercise of this right expect such as is an accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of he country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom others.

The right of privacy also has been regulated in Article 5 of American Declaration of The Rights and Duties of Man, that state:¹⁵ "Every person has the right to the protection of the law against abusive attacks upon his honor, his reputation, and his private and family life".

Indonesia already ratified the human rights convention and declaration but did not regulate the children privacy protection specifically. Moreover, Indonesia ruled the children protection act number 35 of 2014. It states that Indonesia guarantee the prosperity of every citizen including the protection of children rights which is part of human rights. And every child is entitled to survival,

¹⁴ Article 11 American Convention on Human Rights

¹⁵ Article 5, American Declaration of The Rights and Duties of Man

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grow and develop also permitted to protect from violence and discrimination as fit as Indonesian Constitution.¹⁶

Section 15 Article 1, which states "special protection is a form of protection that received by children in a certain situation and condition to get guarantee of security against threats that endanger themselves and the soul in its growth". Section 2 Article 59 also determine about special protection is needed when,

1. The children in emergency situation
2. The children that facing the law
3. The children from minority and isolation group
4. The children who are exploited economically and/or sexually
5. The children who become the victim of narcotics abuse, alcohol, drugs, and other addictive substance
6. The children who become the pornography victim
7. The children with HIV/AIDS
8. The children of kidnaping, trafficking, and or sale victim
9. The Children of physical and or physic abuse
10. The Children of sexual violence
11. The children of terrorism community victim
12. Children with disability
13. The children of treatment and neglect victims
14. The children with deviant social behavior, and
15. The children that become stigmatization from labeling related to parents condition

The special protection for the children that has been exploited economically and/or sexual referred to in point d section 2 article 59 performed with:

1. Dissemination and/or socialization about the provision in the act which related with the children protection that been exploited economically and/or sexual
2. Monitoring, reporting and sanction
3. Involvement of various companies, unions, non-governmental organizations, and society in the refined exploitation to children economically and/or sexual

Application companies also have a wide actor for child protection. They should make the application have a limitation or restriction access with age verification or other international standard. Section 6 article 72 Act number 35 of 2014 on children rights protection, describe that the role of the business world performed with:

1. The policy of a child-bearing company
2. The product shown for the child must be safe
3. Contribute to the child's rights through corporate social responsibilities.

The Children Rights Protection act has already regulated moreover it still did not regulate specifically or mention about the children private information protection. Thus we have to see in

¹⁶ Section 2 Article 1, Act number 35 of 2014 about Children Protection

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the act number 19 of 2016 about the amendment of Act number 11 of 2008 about the information and electronic transaction. In the Article 26 states:

1. Except as otherwise provided by laws and regulations, the use of any information through electronic media concerning the personal data of a person shall be made with the consent of the Personal concerned
2. Any person whose rights are violated as referred to in paragraph (1) may be field liability for damages arising under this act.
3. Each electronic system Provider shall remove Electronic Information and/or Documents Irrelevant electronics that are under his control at the request of the person concerned according to the court's decision
4. Each Electronic System Provider shall provide the information deletion mechanism that has irrelevant according to the provision of the Acts
5. The Provision about the information and electronic document deletion procedure as mentioned in Government rules.

Every act that against the law with accessing electronic system that intend to get information/electronic document with by violating the security system is considered a crime under Act number 11 of 2008 of the IT law that is:

1. Any person intentionally and without right or against the law accessing Computer and/or other people's Electronic System in any way. Shall punished to a maximum imprisonment of 6 years and/or a maximum fine of 600.000.000.00 (six hundreds million rupiah)
2. Any person intentionally and without rights or against the law accessing computer and/or electronic system with any ways with intention to get electronic information system and/or electronic document. Shall be punished with imprisonment for a maximum of 7 years and/r a maximum fine of 700.000.000 (seven hundreds million rupiah)
3. Any person intentionally and without rights or against the law accessing computer and/or electronic system in anyways by against the law, bypassing, or penetrate security system. Shall be punished with imprisonment of not more than 8 years and/or a maximum fine of 800.000.000.00 (eight hundred million rupiah)

With regard to the protection of personal data in the form of Electronic Documents or Electronic Information, Article 32 of the Act number 11 of 2008 provides for the prohibition of any person for interference (altering, adding, reducing, transmitting, destructing, removing, transferring, concealing) the form of electronic Documents or Electronic Information without rights and in a way against the law. The Threat of punishment for such acts is regulated in Article 48 of the ITE Law. Generally, Indonesian ITE rules have already managed about our rights also how the State protects it but it didn't specifically adjust about children protection in digital world. In fact children rights are not the same as the adults. The Children didn't understand about law enforcement and how to know when they are in danger. Therefore, government has to be concern to make a new regulation about the children protection in digital world including their private information in digital world.

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CONCLUDING REMARKS

The children privacy is in the dangerous situation, when almost every apps companies require personal information to the children. According to the any law either Indonesian law or International law, the children below 18 years old are still not law subject; moreover they can not agree in any term. the companies has to make restriction requirement to the customer especially children when deal with the application.

Finally companies government and stakeholders have to formulate the safeguard for the children privacy in digital world. National law and international law are still not give a detail safe guard for children protection to their privacy. The international law has only give general situation on children protection. Additionally indonesian government should take big action which ruled guidelines for children, parents and telecommunication policy on internet utilization.

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