

## FROM TRUST TO BETRAYAL: CHILD GROOMING IN INDONESIA'S LEGAL FRAMEWORK

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### Abstract

*This study explores the gaps in Indonesia's legal system regarding child grooming. Through a normative legal research methodology, this study examines both national and international legal approaches to child grooming, highlighting how Indonesia's current legal provisions inadequately capture the complex and manipulative nature of the crime. The paper also underscores the influence of cultural norms and religious beliefs that obscure the recognition of grooming as a serious form of child exploitation. By comparing Indonesia's laws with those of countries like the United Kingdom, Australia, and the United States. This study emphasizes the need for legal reform in Indonesia to explicitly criminalize child grooming and enhance child protection efforts. The findings reveal a significant need for clearer definitions, preventive measures, and legal accountability to safeguard children from exploitation under the guise of familial consent or cultural practices.*

*Keywords: Child grooming; Indonesia; Legal framework.*

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### Abstrak

Penelitian ini mengeksplorasi kesenjangan dalam sistem hukum Indonesia mengenai *child grooming*. Melalui metodologi penelitian hukum normatif, penelitian ini menyoroti bagaimana ketentuan hukum di Indonesia saat ini tidak cukup menggambarkan sifat kejahatan yang kompleks dan manipulatif tersebut. penelitian ini juga menggarisbawahi pengaruh norma-norma budaya dan keyakinan agama yang mengaburkan *child grooming* sebagai bentuk eksploitasi anak yang serius. Perbandingan aturan juga dilakukan antara Indonesia dan negara lain, seperti Inggris, Australia, dan Amerika Serikat, penelitian ini menekankan perlunya reformasi hukum di Indonesia untuk secara eksplisit mengkriminalisasi *child grooming* dan meningkatkan upaya perlindungan anak. Temuan-temuan ini mengungkapkan adanya kebutuhan yang signifikan terhadap definisi yang lebih jelas, langkah-langkah pencegahan, dan akuntabilitas hukum untuk melindungi anak-anak dari eksploitasi keluarga atau praktik budaya.

*Kata Kunci: Grooming terhadap Anak; Indonesia; Kerangka hukum.*

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## INTRODUCTION

"A soulmate will certainly meet its destiny." This is perhaps one of the most common phrases in Indonesia when discussing relationships. Once a couple forms, they often adopt the belief that their relationship is destined and blessed, positioning themselves against the world. This mindset stems from societal expectations in Indonesia, where women, upon reaching a certain age, are expected to marry. If a woman remains unmarried past that age, she is frequently labeled as "*too old*." Rarely does society question key aspects of marriage preparation, such as emotional maturity, financial stability, problem-solving skills, or significant age differences between partners. However, if the male partner is considerably older, this disparity is seldom scrutinized. Consequently, marriages with large age gaps, sometimes involving minors, are still seen in Indonesia.

Due to this mindset, child grooming remains a largely unfamiliar concept in Indonesia. Although sexual assault is recognized as a crime, especially when it occurs outside the family, there is often little concern within families when it comes to certain cases. In fact, we still hear of instances where families agree to marry their underage children to adults, simply because marriage is viewed as a legitimate course of action. As long as parental consent is provided, the law does not explicitly prohibit such marriages, leaving room for potential exploitation under the guise of legality. For instance, one of the most infamous child grooming cases in Indonesia involves a man named SP<sup>1</sup>, a wealthy businessman and religious figure. His case first drew national attention in 2008 when he married an underage girl, sparking outrage across the country. He, then in his 40s, married a 12-year-old girl, which led to public outcry and legal proceedings. Despite being criticized for child exploitation, he defended the marriage under religious and cultural grounds, arguing that it was permissible under Islamic law with parental consent. This case reflects ongoing issues with child grooming in Indonesia, where cultural and religious practices sometimes clash with child protection laws, leaving vulnerable children at risk. Another case that indicates confusion between destiny and forbidden fruit is a notable case from Manado involving a 41-year-old woman named M who married a 16-year-old boy named K. Their marriage sparked controversy due to the significant age difference and the fact that K is still considered a minor under Indonesian law. M was close friends with K's mother, and their relationship developed after M's initial fiancé called off their wedding. She sought emotional support from K's mother, which ultimately led to a romantic relationship with K.<sup>2</sup>

Based on the preceding discussion, the question for this research is: **What are the gaps in Indonesia's legal framework concerning child grooming?** This question addresses the specific legal loopholes that allow child marriages to occur with parental consent and how these loopholes relate to broader issues of child protection, especially child grooming issues.

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<sup>1</sup> Candra Setia Budi, "Fakta Syekh Puji Nikahi Anak 7 Tahun, Dilaporkan Ke Polisi Dan Membantah," *Kompas.Com* (Jakarta, April 3, 2020), accessed October 12, 2024, <https://regional.kompas.com/read/2020/04/03/06415861/fakta-syekh-puji-nikahi-anak-7-tahun-dilaporkan-ke-polisi-hingga-membantah?page=all>.

<sup>2</sup> Sarah Yeoh, "41yo Indonesian Woman Marries 16yo Boy, Says She Doesn't Mind The Age Difference," *Weirdkaya*, last modified August 4, 2023, accessed October 12, 2024, <https://weirdkaya.com/41yo-indonesian-woman-marries-16yo-boy/>.

## METHOD

This study utilizes normative legal research methodology, focusing on analyzing laws, regulations, legal literature, and relevant legal doctrines. The research adopts three approaches: the statutory approach, the comparative approach, and the conceptual approach.<sup>3</sup> The data sources are derived from secondary data, encompassing both primary and secondary legal materials. Secondary legal materials include textbooks, research studies, and academic publications from legal scholars, such as journals and articles. Primary legal materials, such as laws and regulations, support the analysis. Data collection was conducted through a literature review involving the systematic collection, examination, and analysis of primary, secondary, and tertiary legal materials. The data was subsequently analyzed qualitatively and presented in a systematic and prescriptive manner to facilitate the formulation of conclusions.<sup>4</sup>

## RESULT AND DISCUSSION

### 1. *Understanding Child Grooming: Definition, Stages, and Impacts*

Child grooming is a sexual crime in which a potential abuser manipulates and gains a child's trust for the purpose of sexual exploitation.<sup>5</sup> According to the literature, grooming can be categorized into three forms: self-grooming, grooming the environment and significant others, and grooming the child directly. The process typically involves both psychological and physical manipulation. Perpetrators first establish a relationship with the child, creating a sense of trust and affection. Over time, they gradually violate boundaries, transforming the trust into a means of engaging in sexual or physical interactions.<sup>6</sup> Perpetrators may also manipulate important individuals in the child's life—such as parents, siblings, other relatives, caregivers, and community members—to facilitate or sustain the abuse.<sup>7</sup> Psychological grooming is particularly damaging, as it conditions the child to remain silent about the abuse through tactics like isolation, instilling a sense of guilt, offering bribes, or issuing threats.<sup>8</sup>

McAlinden defines grooming as encompassing various manipulative and controlling tactics used against a vulnerable individual across different interpersonal and social contexts. The goal is to establish trust or normalize sexually harmful behavior, ultimately aiming for exploitation or preventing

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<sup>3</sup> Peter Mahmud Marzuki, *Penelitian Hukum, Edisi Revisi.*, 8th ed. (Jakarta: Kencana Prenada Media Group, 2013).

<sup>4</sup> Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat. Ed. 1*, 1st ed. (Jakarta: Rajawali Pers, 2014).

<sup>5</sup> Alisdair A. Gillespie, "Child Protection on the Internet Challenges for Criminal Law," *Child and Family Law Quarterly* 14, no. 4 (June 17, 2002): 411–425.

<sup>6</sup> Aisha K Gill and Karen Harrison, "Child Grooming and Sexual Exploitation: Are South Asian Men the UK Media's New Folk Devils?," *International Journal for Crime, Justice and Social Democracy* 4, no. 2 (July 1, 2015): 34–49.

<sup>7</sup> Professor Patrick O'Leary, Emma Koh, and Andrew Dare, *Grooming and Child Sexual Abuse in Institutional Contexts* (Sydney, 2017), accessed October 12, 2024, <https://www.icmec.org/wp-content/uploads/2018/04/Research-Report-Grooming-and-child-sexual-abuse-in-institutional-contexts-Prevention.pdf>.

<sup>8</sup> Samantha Craven, Sarah Brown, and Elizabeth Gilchrist, "Sexual Grooming of Children: Review of Literature and Theoretical Considerations," *Journal of Sexual Aggression* 12, no. 3 (November 2006): 287–299, accessed October 12, 2024, <https://www.tandfonline.com/doi/abs/10.1080/13552600601069414>.

disclosure.<sup>9</sup> Grooming is a method of manipulation and preparation aimed at a child or a vulnerable adult for the purpose of abuse or exploitation. The objective of grooming is to build trust and establish an emotional bond with the target before ultimately taking advantage of them.<sup>10</sup> While anyone can fall victim to a perpetrator's manipulation, child grooming is particularly insidious due to the inherent vulnerability of children. It exploits their innocence and trust, making them more susceptible to manipulation. Children often lack the experience and knowledge to recognize the red flags of grooming, which can lead to prolonged abuse and psychological harm.

That situation underscores the urgent need for awareness and education to protect children from such predatory behavior. Child grooming is a recognized category of child sexual abuse.<sup>11</sup> In general, sexual grooming is a nonviolent strategy employed by sexual offenders to entice victims by gradually building trust through actions that may seem ordinary but are ultimately intended to betray and harm the child, all while ensuring that the abuse remains undisclosed.<sup>12</sup> Sexual grooming is considered a core component of child sexual abuse.<sup>13</sup>

Child grooming typically follows six stages,<sup>14</sup> starting with the perpetrator selecting a victim. They then work to earn the trust of both the child and their caregivers, often by meeting the child's needs with gifts or affection. Gradually, the perpetrator isolates the child, creating situations where they can be alone together. The relationship is eventually sexualized, with the perpetrator maintaining control. While the process may begin with nonsexual behavior to establish trust, it ultimately escalates to more abusive actions.<sup>15</sup> However, grooming patterns are not uniform and can vary based on factors such as the characteristics of the perpetrator and victim, the circumstances, and the use of technology.<sup>16</sup>

Grooming has profound and enduring effects on children's well-being. The emotional, psychological, and physical repercussions can extend into adulthood.<sup>17</sup> While all forms of grooming

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<sup>9</sup> Anne-Marie McAlinden, "Grooming" and the Sexual Abuse of Children (Oxford University Press, 2012), accessed October 12, 2024, <https://pure.qub.ac.uk/en/publications/grooming-and-the-sexual-abuse-of-children-institutional-internet->.

<sup>10</sup> Anonymous, "How Did This Happen to Me?," *Survivor Connections*, last modified December 9, 2023, accessed October 12, 2024, <https://survivorconnections.org/how-did-this-happen-to-me/>.

<sup>11</sup> Leah E. Kaylor et al., "An Analysis of Child Sexual Grooming Legislation in the United States," *Psychology, Crime & Law* 29, no. 9 (October 21, 2023): 982–1000.

<sup>12</sup> Jason Spraitz, Kendra N Bowen, and Louisa Strange, "Proposing a Behavioral Taxonomy of Priest Sexual Grooming," *International Journal for Crime, Justice and Social Democracy* 7, no. 1 (March 1, 2018): 30–43.

<sup>13</sup> Georgia M. Winters and Elizabeth L. Jeglic, "The Sexual Grooming Scale – Victim Version: The Development and Pilot Testing of a Measure to Assess the Nature and Extent of Child Sexual Grooming," *Victims & Offenders* 17, no. 6 (August 18, 2022): 919–940.

<sup>14</sup> Maryland Coalition Against Sexual Assault, "The 6 Stages of Grooming: Preventing Child Sexual Abuse," *Maryland Coalition Against Sexual Assault*, November 2023, accessed October 12, 2024, [https://mcasa.org/assets/files/Stages\\_of\\_Grooming\\_Fact\\_Sheet\\_11.2023.pdf](https://mcasa.org/assets/files/Stages_of_Grooming_Fact_Sheet_11.2023.pdf).

<sup>15</sup> Safe Child Program, "Understanding Grooming," *Safechild.Org*, last modified 2022, accessed October 12, 2024, <https://safechild.org/understanding-grooming/>.

<sup>16</sup> Georgia M. Winters, Elizabeth L. Jeglic, and Leah E. Kaylor, "Validation of the Sexual Grooming Model of Child Sexual Abusers," *Journal of Child Sexual Abuse* 29, no. 7 (October 2, 2020): 855–875.

<sup>17</sup> Molly R. Wolf and Doyle K. Pruitt, "Grooming Hurts Too: The Effects of Types of Perpetrator Grooming on Trauma Symptoms in Adult Survivors of Child Sexual Abuse," *Journal of Child Sexual Abuse* 28, no. 3 (April 3, 2019): 345–359.

impact the severity of trauma symptoms in adult survivors of child sexual abuse, the methods that employ threatening or violent tactics are particularly likely to result in harmful effects. Specifically, threatening or violent grooming significantly predicts higher levels of anxiety, depression, sleep disturbances, dissociative issues, and overall trauma symptoms in survivors of child sexual abuse (CSA). One possible explanation for this correlation is that the fear of harm directed at a child—especially from a familiar and often trusted adult upon whom they depend—can be as terrifying as the abusive act itself. This fear is likely exacerbated by the impressionability, vulnerability, and dependent nature of childhood.<sup>18</sup>

Child grooming as a criminal act remains relatively unfamiliar in Indonesia. While child sexual abuse is acknowledged, the specific concept of grooming—where perpetrators manipulate and build trust with children over time for the purpose of exploitation—may not be as well understood or legally defined. Many cases of grooming might be masked by cultural, social, and religious norms, such as child marriage, making it more difficult to identify and address grooming as a distinct crime.<sup>19</sup>

Indonesia's Child Protection Act does not specifically define child grooming. However, the country has its own child protection law, Law Number 35 of 2014, which addresses various forms of child abuse. According to Articles 76D and 76E of this law, it is prohibited for anyone to use violence or threats to force a child into sexual activity, either with the offender or another person. Additionally, the law forbids acts of violence, coercion, deception, or manipulation to persuade a child to engage in or permit obscene acts. Offenders convicted of sexual abuse against children can face up to 15 years in prison. From this, we can infer that while the articles mentioned in the law hint at grooming behavior, they fall short of clearly defining or addressing it as a distinct crime. Key aspects of grooming, such as the gradual manipulation and trust-building process, are not fully covered. Therefore, it is essential for Indonesia to pay closer attention to this issue and consider explicitly criminalizing child grooming through more comprehensive legal provisions.

While the existing laws in Indonesia, such as Law Number 35 of 2014 on Child Protection, do touch upon behaviors associated with grooming, they do not fully capture the complexity of the grooming process. Grooming often involves a gradual, non-violent manipulation of trust, which may not be adequately addressed by the current legal framework that focuses more on overt acts of violence, coercion, or deception. Given the subtle and manipulative nature of grooming, it would be beneficial for Indonesia to introduce more specific laws that explicitly criminalize this behavior, ensuring that all stages of the grooming process are recognized and addressed. Raising awareness and expanding legal definitions to cover grooming as a standalone crime would strengthen child protection efforts in the country.

Many countries have recognized the seriousness of child grooming and implemented specific legal provisions to address this crime. In contrast, we lag behind in addressing this issue comprehensively. Various nations have acknowledged the need to criminalize child grooming as a distinct offense, focusing not only on physical abuse but also on the manipulative behaviors used to exploit children. For instance, the United Kingdom's Sexual Offences Act 2003 criminalizes child

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<sup>18</sup> J. D Ford and C. A Courtois, *Treatment of Complex Trauma A Sequenced, Relationship-Based Approach* (The Guilford Publication, 2012).

<sup>19</sup> Le Roux, E., and Palm, S. *What Lies Beneath? Tackling The Roots Of Religious Resistance To Ending Child Marriage*. (Research Report. Girls Not Brides. 2018). accessed November 25, 2024, <https://www.girlsnotbrides.es/documents/889/W11839-SU-Theology-Report.pdf>

grooming under Section 15.<sup>20</sup> This provision makes it illegal for an adult to communicate with a child under 16 with the intent to commit a sexual offense, whether the grooming occurs in person or online. The UK's law also acknowledges the gradual manipulation involved in grooming, making it punishable even before physical abuse takes place. Similarly, Australia<sup>21</sup> addresses grooming in its **Criminal Code Act 1995**. Section 474.26(1) prohibits the use of communication devices to groom children under 16 for sexual purposes. Australia's law goes further by targeting situations where grooming has not yet been completed, aiming to prevent abuse before it escalates into physical exploitation.

In the United States<sup>22</sup>, the PROTECT Act 2003 criminalizes child grooming at the federal level, making it an offense to groom minors for sexual exploitation, including through online communication. Additionally, many U.S. states, such as California and Florida, have enacted their own laws targeting grooming, particularly online grooming. Canada<sup>23</sup> also has specific provisions targeting child grooming. Under Section 172.1 of the Criminal Code of Canada, it is illegal to lure a child through communication with the intent of committing sexual exploitation. This law applies to both online and in-person grooming, with the goal of preventing sexual offenses against minors. Ireland's Criminal Law (Sexual Offences) Act 2017<sup>24</sup> similarly criminalizes grooming, particularly online. It targets communication with minors under 17 for the purpose of sexual exploitation, recognizing the gradual nature of grooming and acting as a preventive measure before abuse occurs. New Zealand<sup>25</sup> addresses grooming under its Crimes Act 1961, with Section 131B prohibiting the use of electronic communication to groom children under 16 for sexual exploitation. The law applies to both in-person and online grooming, acknowledging the evolving nature of the crime.

At the European level<sup>26</sup>, the European Union Directive 2011/93/EU mandates member states to criminalize grooming. Many EU countries, including France, Germany, and Spain, have integrated specific provisions into their criminal codes, ensuring a coordinated effort to combat child exploitation across Europe. All of those legal frameworks not only penalize physical abuse but also target the manipulative behavior that precedes such acts. By addressing not only the physical abuse but also the manipulative behaviors that precede it, these countries demonstrate a proactive approach in combating child grooming, setting a standard that highlights the urgent need for similar legal reforms elsewhere.

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<sup>20</sup> UK Legislative, "Sexual Offences Act 2003," 2003, accessed October 12, 2024, <https://www.legislation.gov.uk/ukpga/2003/42/notes/division/5/1/15#:~:text=Section%2015%20makes%20it%20an,a%20relevant%20offence%20against%20that>.

<sup>21</sup> Australian Institute of Criminology, *Online Child Grooming Laws* (Australia, 2008), accessed October 12, 2024, <https://www.aic.gov.au/sites/default/files/2020-05/htcb017.pdf>.

<sup>22</sup> American Legislative, "S.151 - PROTECT Act ,108th Congress (2003-2004)," accessed October 12, 2024, S.151 - PROTECT Act 108th Congress (2003-2004).

<sup>23</sup> Canada Criminal Code, "Criminal Code (R.S.C., 1985, c. C-46)," accessed October 12, 2024, <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-172.1.html>.

<sup>24</sup> Irish Statute Book, "Criminal Law (Sexual Offences) Act 2017," last modified 2017, accessed October 12, 2024, <https://www.irishstatutebook.ie/eli/2017/act/2/enacted/en/html>.

<sup>25</sup> New Zealand Legislation, "Crimes Act 1961," *Parliamentary Counsel Office*, accessed October 12, 2024, <https://www.legislation.govt.nz/act/public/1961/0043/latest/DLM329200.html>.

<sup>26</sup> European Commission, Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND THE COUNCIL on Combating Child Sexual Abuse and Sexual Exploitation and Child Sexual Abuse Material, and Replacing Council Framework Decision 2004/68/JHA (Recast) (Strasbourg, June 2, 2024), accessed October 12, 2024, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A52024SC0033>.

## 2. *Indonesia's Legal Framework on Child Grooming: The Loophole in Laws, Beliefs, and Culture*

Child Grooming and the cultural practices that allow it to persist remain prevalent.<sup>27</sup> Predators manipulate everyone—family, friends, colleagues, and strangers—across all classes, cultures, and communities. They may first try to get closer to the family, initiating a cycle of entrapment. This process often begins with building trust and forming a relationship between the perpetrator, the victim, and sometimes even the victim's family.<sup>28</sup> Grooming, in particular, is still not well understood, especially in Indonesia. In Indonesia, child grooming is often narrowly understood as sexual abuse, but this overlooks the broader and more insidious nature of the crime. Child grooming isn't just about sexual exploitation; it can also involve manipulation in relationships that may appear "normal" on the surface, such as marriage or courtship, particularly when there is a significant age gap. In many cases, this type of relationship is normalized due to cultural practices or societal acceptance of early marriage, which can mask the predatory nature of grooming. This creates a dangerous environment where exploitation is dismissed as fate or tradition, allowing abusers to operate without scrutiny and diminishing the importance of the child's autonomy and consent in these situations. Recognizing these relationships as grooming, regardless of whether sexual abuse is involved, is essential for protecting vulnerable children.

Numerous cases of child marriage involving adults continue to occur, often justified by cultural and religious beliefs. For instance, a case of child marriage that has gained widespread attention involves the marriage of a junior high school student to a religious teacher, arranged by the girl's parents. NK, a student, was forced into marriage with a religious teacher from her school. Despite being a top-performing student, NK was married off by her parents just days after her 15th birthday. Though NK expressed a desire to continue her education, her parents insisted on her immediate marriage. Eventually, she complied with her parents' wishes but only under the condition that she would still be allowed to attend school. Unfortunately, after the marriage, NK felt embarrassed and ashamed, which led her to avoid going to school altogether.<sup>29</sup> This case highlights the issue of forced marriages involving minors, which is still prevalent in Indonesia. It also demonstrates the significant social and emotional consequences for young girls forced into marriages at such a critical stage in their education and personal development.

There are still numerous cases that have drawn attention to the concerning of normalization of such relationships. In this case, the community's acceptance, along with familial approval, obscures the potential for manipulation and exploitation inherent in significant age disparities. The lack of awareness about child grooming and its implications can lead to harmful situations being perceived as culturally acceptable, ultimately endangering the physical and psychological well-being of minors. This highlights the urgent need for comprehensive education and legal reform to address the complexities surrounding

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<sup>27</sup> Afrooz Kaviani Johnson, "Grooming and Child Sexual Abuse in Organizational Settings—an Expanded Role for International Human Rights Law," *Journal of Human Rights Practice* 16, no. 1 (May 28, 2024): 355–373.

<sup>28</sup> Center on Violence Against Women and Children Rutgers University School of Social Work, *Evaluating the State of Predatory Alienation in New Jersey Final Report* (New Jersey, 2017), accessed October 12, 2024, <https://socialwork.rutgers.edu/sites/default/files/2022-05/predatory-alienation-final-report.pdf>.

<sup>29</sup> M Fadli, "6 Kasus Pernikahan Anak Di Bawah Umur Dengan Orang Dewasa Yang Paling Heboh," *NEWS*, last modified October 11, 2021, accessed October 12, 2024, <https://news.indozone.id/news/911563310/6-kasus-pernikahan-anak-di-bawah-umur-dengan-orang-dewasa-yang-paling-heboh>.

child grooming and to protect vulnerable individuals from exploitation under the guise of cultural practices.

Child marriage involving a significant age gap between a child and an adult can indeed be seen as "*evil in disguise*." Such marriages often exploit the inherent power imbalance between a young, vulnerable child and a mature adult. In many cases, it is framed as a culturally acceptable practice or even as an act of care or protection. However, beneath the surface, these marriages often involve coercion, lack of informed consent, and significant emotional and psychological harm to the child. Grooming can be disguised as a "*relationship*" or "*courtship*," making it harder for communities to recognize it as a form of exploitation. The societal normalization of such marriages, particularly when they involve religious or cultural justifications, further obscures the harm being done. The child's autonomy and developmental needs are often sidelined, and the relationship is framed in ways that ignore the significant power differential between the adult and child. This, in effect, is a form of predation hidden behind the facade of marriage or a legitimate partnership, perpetuating a cycle of exploitation under the guise of tradition.<sup>30</sup>

In Indonesia, as with many other places, recognizing these marriages for what they are is critical for protecting children's rights and well-being. It is necessary to challenge these cultural norms that equate child marriage with a "normal" relationship and instead recognize the grooming and manipulation that is often at play. Child marriage is a multifaceted issue influenced by various factors such as poverty, geographical location, limited access to education, gender inequality, social conflicts, disasters, insufficient access to services and comprehensive reproductive health information, as well as social norms that perpetuate certain gender stereotypes (e.g., the expectation for women to marry young) and cultural interpretations, including religious beliefs and local traditions.<sup>31</sup> Child marriage in Indonesia is closely linked to the duality of existing regulations, specifically Law No. 1 of 1974 on Marriage and Law No. 35 of 2014, which amended Law No. 23 of 2003 on Child Protection. Advocacy efforts for raising the legal marital age, based on the Constitutional Court's decision in December 2018, were driven by the inconsistency between the Marriage Law and the Child Protection Law. On September 16, 2019, the Indonesian Parliament approved the revision of Article 7a of the Marriage Law, which established the minimum marriage age for both women and men at 19 years. While the revision of Article 7a is intended to promote a culture of ideal marriage norms, Law No. 16 of 2019, which raises the minimum marriage age, does not automatically prevent child marriages. The law still allows for marriage dispensations if the couple does not meet the minimum age requirement. Furthermore, discussions around child marriage have highlighted the possibility of marriages going unregistered if the legal age is not met. This highlights the issue that both cultural and legal perspectives have failed to adequately protect children's rights to consent in choosing whether or not to marry. Despite legal frameworks, the allowance of marriage dispensations and cultural practices surrounding child marriage undermine

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<sup>30</sup> Plan International ECPAT International, Thematic Report: Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage (Bangkok, October 2015), accessed November 25, 2024, [https://plan-international.org/uploads/2022/01/child\\_marriage\\_and\\_csec\\_thematic\\_report\\_plan\\_international\\_and\\_ecpat.pdf](https://plan-international.org/uploads/2022/01/child_marriage_and_csec_thematic_report_plan_international_and_ecpat.pdf).

<sup>31</sup> THE NATIONAL DEVELOPMENT PLANNING AGENCY, *NATIONAL STRATEGY ON THE PREVENTION OF CHILD MARRIAGE* (Jakarta, January 2020), accessed October 12, 2024, <https://www.unicef.org/indonesia/sites/unicef.org/indonesia/files/2020-06/National-Strategy-on-Child-Marriage-Prevention-2020.pdf>.



children's ability to make informed, independent decisions about their own lives. Consequently, these approaches fall short in safeguarding children's right to consent. Typically, Children below a certain age are generally considered incapable of giving consent due to their insufficient cognitive and volitional abilities. It is believed that they lack a full understanding of what consent entails and the implications of what they might be agreeing to. Furthermore, it is assumed they do not possess the necessary independence of will to make informed choices. The age of consent is designed to be a reliable benchmark for determining whether an individual has adequately developed the cognitive and volitional skills required for making thoughtful decisions.<sup>32</sup>

Child grooming is a process where an adult manipulates a child, often through trust-building and emotional bonding, with the intent of later exploiting the child for sexual or emotional purposes. One key element is that children are not developmentally capable of giving consent in the same way adults can. This is due to their lack of emotional, psychological, and cognitive maturity, making them more vulnerable to manipulation. In the case of child grooming, the child's ability to fully understand the implications of their relationship with the adult is compromised. The adult typically uses this vulnerability to exploit the child. Even if the child appears to "consent" to the relationship or to specific actions, legally and ethically, it is not recognized as informed consent because the child lacks the maturity and experience to make such decisions independently. The role of concern or consent from the child is largely irrelevant in these cases because the law and child protection systems are designed to recognize that a child's capacity to give informed consent is severely limited. This is why child grooming and similar practices are criminalized in many countries, regardless of the child's or even the family's approval of the relationship. These laws exist to safeguard children from manipulation and exploitation by adults.

Indonesia needs to make a game changer about the age of children to get married and about the consent of a child. In other words, Indonesia needs to undertake significant reforms concerning the minimum legal age for marriage and the recognition of children's consent in such matters. While recent amendments to the Marriage Law have raised the minimum marriage age to 19 for both boys and girls, exceptions still exist, allowing marriages at younger ages with parental or judicial consent. This creates a loophole that perpetuates child marriage, often under the guise of tradition, cultural practices, or economic necessity. Moreover, the issue of consent is critical. Children, especially those from vulnerable or underprivileged backgrounds, may not fully understand the implications of marriage, let alone be in a position to give informed consent. The power dynamics between children and adults—often shaped by cultural and familial pressures—undermine genuine consent. To truly protect children, Indonesia must enforce stricter regulations that eliminate exceptions and focus on empowering children with education and awareness about their rights so they can make informed decisions about their future.

Based on records from the Indonesian Child Protection Commission (KPAI), there are 859 cases of child grooming in Indonesia.<sup>33</sup> This is proof that in Indonesia, cases of violence against children are

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<sup>32</sup> Pratap Sharan, "Philosophy of Childhood and Its Implications for the Age of Consent," *Journal of Indian Association for Child and Adolescent Mental Health* 19, no. 1 (January 17, 2023): 9–13.

<sup>33</sup> Ali Johardi Wirogioto, "Criminal Responsibility of Child Cyber Grooming Perpetrators as a Form of Child Sexual Abuse on Social Media," *International Journal of Social Service and Research* 3, no. 5 (May 13, 2023): 1137–1141.

one of the issues that must receive more attention from the government.<sup>34</sup> Another pressing issue in Indonesia is Child grooming, particularly online-cyber grooming. In 2021, SAFENet recorded 677 complaints related to cyber grooming, which included various forms of online abuse, such as non-consensual intimate content, threats, and sexual harassment. Perpetrators often employ deceptive tactics, luring victims through fake endorsements or job opportunities. This underscores the urgent need for enhanced awareness and protective measures to combat the online exploitation of minors.<sup>35</sup> Indonesia urgently needs to take decisive action to address this issue and prioritize efforts to combat child grooming effectively.

## CONCLUSION

The issue of child grooming in Indonesia is deeply intertwined with cultural, religious, and legal factors. While child protection laws exist, such as Law No. 35 of 2014, they fail to fully address the gradual, manipulative nature of grooming as a standalone crime. Child marriage, particularly involving significant age gaps between minors and adults, continues to be accepted under certain cultural and religious pretexts, which obscures the recognition of grooming as a serious crime. This study reveals that Indonesia's legal framework still provides loopholes, particularly with the allowance of marriage dispensations, which prevent a comprehensive approach to child protection. In contrast, countries like the UK, Australia, and the US have taken proactive steps to criminalize grooming, recognizing the manipulation involved even before physical abuse occurs. To enhance child protection in Indonesia, it is essential to explicitly criminalize child grooming and introduce specific legal provisions that address the full grooming process, from trust-building to exploitation. This will require reforms to the Child Protection Act, awareness campaigns, and educational efforts to ensure that grooming is recognized for the predatory behavior it is, regardless of cultural or religious contexts. By aligning with international best practices and addressing the cultural acceptance of child marriage, Indonesia can take meaningful steps toward closing the legal gaps and ensuring the safety and well-being of its children.

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<sup>34</sup> Kayus Kayowuan Lewoleba and Muhammad Helmi Fahrozi, "Studi Faktor-Faktor Terjadinya Tindak Kekerasan Seksual Pada Anak-Anak," *Esensi Hukum* 2, no. 1 (July 27, 2020): 27–48.

<sup>35</sup> A. Ryan Sanjaya et al., Laporan Situasi Hak-Hak Digital Indonesia 2021: Pandemi Memang Terkendali, Tapi Represi Digital Terus Berlanjut (Denpasar, February 2022), accessed October 12, 2024, <https://awaskbgo.id/wp-content/uploads/2022/03/Laporan-Situasi-Hak-Digital-2021-Part-KBGO.pdf>.

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