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Criminal Liability for Child Grooming in the Indonesian Criminal Law System: Normative Gaps and the Need for Harmonization

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Abstrak

Artikel ini mengkaji pertanggungjawaban pidana atas child grooming yang berlangsung secara langsung maupun melalui sarana elektronik dalam hukum pidana Indonesia setelah berlakunya KUHP 2023 pada Januari 2026. Penelitian hukum normatif ini menggunakan pendekatan perundang-undangan, konseptual, dan kasus untuk membandingkan unsur tindak pidana dalam Undang-Undang Perlindungan Anak, Undang-Undang TPKS, Undang-Undang Pornografi, UU ITE, dan KUHP. Kajian menunjukkan bahwa tindakan bujukan, penguntitan seksual elektronik, dan pelibatan anak dalam pornografi dapat dijangkau oleh ketentuan tertentu, sehingga tidak tepat menyebut seluruh proses grooming sebagai kekosongan hukum. Persoalan utamanya adalah ketiadaan delik mandiri yang dirumuskan secara pasti untuk rangkaian manipulasi terarah dengan maksud seksual ketika unsur delik yang ada belum terpenuhi. Perbandingan putusan digunakan secara terbatas untuk menunjukkan cara pengadilan memandang relasi kuasa dan klaim persetujuan anak, bukan sebagai bukti bahwa seluruh tahapan grooming telah dipidana. Artikel ini mengusulkan delik formil yang dibatasi oleh unsur maksud seksual spesifik, pola perilaku objektif, dan standar pembuktian, disertai pengaman terhadap kriminalisasi komunikasi yang wajar.

Kata Kunci: child grooming; pertanggungjawaban pidana; delik formil; perlindungan anak; harmonisasi hukum

Abstract

This article examines criminal liability for in-person and technology-mediated child grooming under Indonesian criminal law following the implementation of the 2023 Criminal Code in January 2026. Using normative legal research with statutory, conceptual, and case approaches, it compares the elements of offences under the Child Protection Law, the Sexual Violence Crimes Law, the Pornography Law, the Electronic Information and Transactions framework, and the Criminal Code. The study finds that certain forms of solicitation, electronic sexual stalking, and involvement of children in pornography can already fall within existing offences; therefore, it is inaccurate to classify every preparatory stage of grooming as a legal vacuum. The narrower problem is the absence of a precisely defined, autonomous offence addressing a targeted, sexually motivated pattern of manipulation when no existing offence is established. Selected judicial decisions illuminate the treatment of power imbalance and purported child consent without proving that courts already criminalize the entire grooming process. The article proposes a carefully delimited

conduct-based offence, requiring specific sexual intent, objectively demonstrable conduct, and rigorous evidentiary safeguards to avoid penalizing ordinary social interaction.

Keywords: *child grooming; criminal liability; legal harmonization; child protection; electronic sexual violence*

INTRODUCTION

The protection of children from sexual violence is not merely an aspiration of public policy. It is grounded in Indonesia's international commitments and constitutional order. Article 34 of the Convention on the Rights of the Child requires States Parties to protect children against sexual exploitation and sexual abuse, while Article 28B(2) of the Indonesian Constitution guarantees children's rights to survival, growth, development, and protection against violence and discrimination. The Child Protection Law translates these commitments into duties of prevention and prohibitions on particular acts. Yet the relationship between a preventive duty and a criminal offence must remain legally precise: a broad duty to protect children does not itself authorize punishment for conduct not defined as criminal. A rigorous analysis must therefore distinguish the protective mandate from the elements of each offence. [1]

Child sexual grooming is generally described as a process in which an individual creates opportunities for sexual abuse by manipulating a child, the child's social environment, or both. The influential framework proposed by Craven, Brown, and Gilchrist identifies self-grooming, grooming of the environment and significant others, and grooming of the child. This threefold typology identifies targets of manipulation; it should not be mistaken for a fixed chronological list of stages that every perpetrator necessarily follows. By contrast, contemporary empirical studies examine observable behaviours, including the creation of access, secrecy, trust, desensitization, isolation, and gradual sexualization of communications. These conceptual distinctions matter because legislation cannot simply criminalize an imprecise psychological label. [2]

Digital environments expand the practical opportunities for grooming. Social networks, messaging services, multiplayer games, and other interactive platforms allow persistent communication across places and times, potentially obscuring an adult's identity and reducing ordinary safeguards. A study conducted by Anggraeny and colleagues in Indonesia described accessibility, relationship building, manipulation, sexual content, and risk management as relevant components of an offender's modus operandi. That empirical study relied on a particular correctional setting and cannot establish the national frequency or uniformity of these patterns. Nevertheless, it supplies a useful vocabulary for investigating how seemingly ordinary communications may be connected to an unlawful sexual objective. [3]

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[1] United Nations, Convention on the Rights of the Child, adopted November 20, 1989, 1577 U.N.T.S. 3.

[2] Samantha Craven, Sarah Brown, and Elizabeth Gilchrist, "Sexual Grooming of Children: Review of Literature and Theoretical Considerations," *Journal of Sexual Aggression* 12, no. 3 (2006): 287–99, https://doi.org/10.1080/13552600601069414.

An important difficulty arises from the temporal sequence of behaviour. At one end are conduct and harms clearly recognized by criminal law: coercive sexual acts, indecent acts against children, electronic transmission of sexual material in prohibited circumstances, and child pornography. At the other end are innocent and constitutionally ordinary activities, such as communicating with young relatives, offering educational support, or giving age-appropriate attention. Between those poles are targeted actions that may create dependency, isolate a child from support networks, cultivate secrecy, or prepare exploitation. Whether the intermediate conduct is punishable depends not on whether an observer retrospectively labels it grooming, but on demonstrable statutory elements, the perpetrator's state of mind, and the applicable law at the relevant time.

Scholarly literature supports caution about collapsing all preparatory behaviour into a single category. Research among adult survivors reports a range of grooming behaviours and underlines their importance for prevention, detection, and investigation. A systematic review published in 2026 likewise identifies adaptive, individualized strategies among offenders in online contexts. [4] Neither study means that every act of attention, companionship, or secret communication is criminal; intent, context, patterns, and the child's vulnerability must be examined together. In legal analysis, these findings are best treated as evidence that clarifies possible factual indicators, not as substitutes for statutory prohibitions. [5]

Indonesia has enacted several overlapping legal instruments. The Child Protection Law prohibits particular forms of coercion, deception, persuasion, sexual abuse, and exploitation. Law No. 12 of 2022 on Crimes of Sexual Violence includes offences involving electronic sexual violence and connects other sexual offences to special victim-protection and procedural rules. The Pornography Law criminalizes involvement of children and certain efforts to induce them to use pornography products or services. The new Criminal Code, Law No. 1 of 2023, entered into force on 2 January 2026 and recognizes sexual intercourse with a child as an offence even where coercion is not the defining element. These provisions differ in their acts, mental elements, evidentiary thresholds, and commencement dates. [6]

An especially important temporal problem concerns the Electronic Information and Transactions Law (ITE Law). Law No. 1 of 2024 reformulated Article 27(1) concerning electronic material violating public decency and Article 45(1) concerning its penalty. However, Article II(1) of the same amendment expressly specified that listed provisions—including Articles 27(1) and 45(1)—

[3] Kurnia Dewi Anggraeny et al., "Cyber Child Grooming on Social Media: Understanding the Factors and Finding the Modus Operandi," *International Journal of Law and Politics Studies* 5, no. 1 (2023): 180–88, https://doi.org/10.32996/ijlps.2023.5.1.21.

[4] Carly Porcelli, Flora Anderson, and Juliane A. Kloess, "Unraveling the Complexities of Offender Strategies as Part of Online Sexual Grooming and Technology-Assisted Child Sexual Abuse: A Systematic Review," *Trauma, Violence, & Abuse* (2026), https://doi.org/10.1177/15248380251411261.

[5] Georgia M. Winters et al., "The Prevalence of Sexual Grooming Behaviors among Survivors of Childhood Sexual Abuse," *Child Abuse & Neglect* 154 (2024): 106842, https://doi.org/10.1016/j.chiabu.2024.106842.

[6] Republic of Indonesia, Law No. 1 of 2023 on the Criminal Code, arts. 1, 17, 18, and 473.

would remain operative only until Law No. 1 of 2023 on the Criminal Code came into effect. An account of the law applicable in October 2026 therefore cannot present that provision as an unchanged, freestanding criminal-law basis without addressing its sunset clause, transitional rules, and the date of the alleged acts. For conduct before January 2026, the relevant earlier version may remain pertinent under temporal criminal-law analysis; for later acts the new Code and surviving special offences must be examined. [7]

Earlier Indonesian research identified difficulties in prosecuting online grooming through the Child Protection Law because that legislation does not expressly name grooming as an autonomous crime. The debate has since developed. Comparative studies consider distinct offences in overseas jurisdictions, while recent work calls for stronger protection in Indonesian digital environments. The current contribution is deliberately narrower than a sweeping assertion that grooming is entirely unregulated. It builds an element-by-element matrix identifying what criminal law already covers, when coverage begins, which facts must be proved, and what limited residual area may justify a new offence. [8]

The central questions are therefore: first, how do existing Indonesian criminal provisions apply to successive phases of in-person and online child grooming in 2026; second, what do selected criminal decisions legitimately show about manipulation and relationships of power; and third, how might an independent offence be drafted consistently with legality, necessity, proportionality, and protection against arbitrary prosecution? The argument advanced here is that a new narrowly framed conduct-based offence may be defensible, provided criminal liability is anchored in the proven sexual purpose of a pattern of objectively specified conduct and does not depend on psychological speculation or post hoc characterization of harmless communication.

RESEARCH METHOD

This is normative legal research using statutory, conceptual, and case-based approaches. The statutory inquiry compares the Indonesian Constitution, Law No. 35 of 2014 amending the Child Protection Law, Law No. 12 of 2022 on Crimes of Sexual Violence, Law No. 44 of 2008 on Pornography, Law No. 1 of 2024 amending the ITE Law, and Law No. 1 of 2023 on the Criminal Code. The analysis treats each enactment as an independent legal text and distinguishes contemporary law from provisions applicable to earlier conduct. It applies grammatical, systematic, and purposive interpretation while respecting the prohibition on extending criminal offences by analogy.

The conceptual approach distinguishes grooming as a behavioural category from criminal liability as a legal classification. It examines the mental element of sexual purpose; objectively observable preparatory actions; the evidentiary significance of secrecy, deception, and abuse of power; and the boundary between non-punishable preparation, criminal attempt, and completed offences. The study draws selectively on criminological and comparative scholarship but does not treat

[7] Republic of Indonesia, Law No. 1 of 2024 amending the Electronic Information and Transactions Law, arts. 27(1), 45(1), and art. II(1) (transitional expiry upon implementation of the 2023 Criminal Code).

[8] Nadia Rezkina Dilla and Ufran, "Efektivitas Penanggulangan Tindak Pidana Child Grooming di Indonesia," *Indonesia Berdaya* 4, no. 1 (2023): 383–88, https://doi.org/10.47679/ib.2023427.

foreign legislation as binding authority in Indonesia. Legislative proposals are assessed against the principles of *lex certa*, proportionality, and the prohibition on punishing a person merely for a suspected disposition. [9]

The case approach has an expressly limited role. The discussion uses Supreme Court Decision No. 1114 K/Pid.Sus/2011 to illustrate rejection of purported agreement or romantic relationships as grounds for diminishing child protection, and Decision No. 5642 K/Pid.Sus/2022 to examine abuse of educational authority in a serious child sexual-violence case. These decisions concern offences legally established in those proceedings; neither is represented as establishing child grooming as an autonomous offence. A further decision cited in the source draft, No. 392/Pid.Sus/2021/PN.Jkt.Sel, is not used for specific asserted facts or *ratio decidendi* here because a reliable full-text judgment was not available for independent verification. No new factual fieldwork, interviews, or statistical investigation was undertaken. [10]

The analytical procedure consists of five steps: identifying an offence's precise action element; identifying the relevant intention or knowledge; determining the stage at which the offence is complete; comparing the evidence normally required; and locating any residual harmful conduct not already punishable under those norms. The findings are then tested against draft-offence safeguards. Sources are not multiplied merely to increase the bibliography: material propositions are tied to a legal provision, a documented judicial decision, or specific research. Accordingly, this article makes a doctrinal and prescriptive claim, not a statistical claim regarding the incidence or prevalence of grooming in Indonesia.

RESULTS AND DISCUSSION

A. The Distinctive Structure of Grooming and the Threshold for Criminal Liability

The expression child grooming describes a pattern rather than a single physical act. It may include selecting a child, establishing apparently safe communication, establishing dependence, reducing oversight, introducing inappropriate themes, and eventually pursuing sexual gratification or exploitation. The process may be prolonged or rapid, and not every case displays every possible step. As Craven, Brown, and Gilchrist emphasize, grooming may also be directed at adults or institutions surrounding the child. An offender's apparent credibility may be strengthened through a respected educational role, family connections, religious authority, or the technological affordances of a platform. Such circumstances may explain how access was obtained, but they do not automatically prove every statutory element of a sexual offence. [11]

Two distinctions are central to the criminal-law inquiry. The first is between psychological manipulation and a legally defined prohibited act. A person may exhibit troubling behaviour that warrants safeguarding, monitoring, or

[9] Leah E. Kaylor et al., "An Analysis of Child Sexual Grooming Legislation in the United States," *Psychology, Crime & Law* 29, no. 9 (2023): 982–1000, https://doi.org/10.1080/1068316X.2022.2043313.

[10] Supreme Court of the Republic of Indonesia, Decision No. 1114 K/Pid.Sus/2011.

[11] Samantha Craven, "Sexual Grooming of Children."

administrative intervention without the evidentiary predicates for criminal conviction. Conversely, persuasion directed at a legally prohibited sexual objective may itself satisfy a conduct-based prohibition even when the anticipated abuse does not ultimately occur. The second distinction is between the offender's possible eventual objective and provable intent at the time of the conduct. An accusation cannot rest on the assumption that gifts or friendship with a child necessarily reveal a sexual purpose; that purpose must be inferred from reliable communications, repeated patterns, circumstances, or corroborative acts and tested in adversarial proceedings.

The same distinction matters for analytical labels. “Psychological grooming,” “online grooming,” and “sexual solicitation” may overlap in particular cases, but they are not interchangeable legal concepts. Solicitation emphasizes an approach directed toward an identifiable prohibited objective; grooming may include a broader sequence of conditioning acts and the manipulation of surrounding adults. Online grooming identifies the medium rather than a distinct legal act. A statutory definition should therefore describe conduct and prohibited purpose separately, so investigators do not classify an interaction as criminal simply because it occurred on a social-media platform or because an adult and a child exchanged multiple messages. A useful taxonomy is informative only if each category has a legally relevant evidentiary consequence.

Indonesian practice illustrates why context is essential. Anggraeny and co-authors describe how digital grooming can combine access to a child, cultivation of a relationship, manipulation, sexual content, and risk management. Their research is helpful in showing how a perpetrator may use electronic communication to reduce resistance while concealing conduct from guardians. Yet it derives from a limited research setting and should not be transformed into a mandatory five-stage model. A sound legal rule must be flexible enough to identify different objective tactics but definite enough to distinguish deliberate sexual preparation from benign interaction. [12]

Survivor research underscores the seriousness of manipulation that may precede direct sexual harm. Winters and colleagues investigated reported grooming behaviours among a sample of adults who experienced childhood sexual abuse. Those data may assist investigators in recognizing signals that previously appeared innocuous in isolation. Their significance is preventive and evidentiary rather than determinative. A frequency reported in a retrospective sample does not itself establish the guilt of a particular accused person, and a retrospective pattern must not displace the presumption of innocence or the criminal standard of proof. The correct approach is to use behavioural evidence as context whose probative value depends on its link to an element of the offence. [13]

The online environment creates a further challenge: a significant portion of grooming communications may remain private, disappear through ephemeral messaging, or occur across multiple devices. Screenshots may be selective, pseudonymous accounts may be incorrectly attributed, and apparently intimate language may reflect complex age-related or family contexts. Investigators should

[12] Kurnia Dewi Anggraeny et al., “Cyber Child Grooming on Social Media.”

[13] Georgia M. Winters et al., “The Prevalence of Sexual Grooming Behaviors among Survivors of Childhood Sexual Abuse.”

therefore preserve original communication records, document collection methods, seek corroboration of account ownership, and establish the identity and age of those involved. Sexual intention is seldom proven by a single formulaic phrase; it is more credibly assessed through the chronology and totality of objectively established conduct. These requirements are compatible with a child-sensitive approach because reliable proof and careful interviewing reduce the risk of repeated victimization.

At a conceptual level, criminal responsibility requires an identifiable prohibited act and fault attributable to a person who can be held responsible. A model that criminalized mere emotional closeness would be vulnerable to uncertainty and arbitrary application; a model limited to completed rape or sexual abuse would, on the other hand, disregard forms of criminal preparation already specifically prohibited by existing laws. The relevant question is therefore how far existing positive law already moves the moment of intervention forward. The language of the applicable provision is decisive. If a statute prohibits persuading a child toward a specified sexual activity, proof of the proscribed persuasion may be legally material even before a further offence occurs. If an offence requires production, dissemination, or physical sexual conduct, an earlier nonsexual conversation does not become that completed offence by analogy.

The case law cited in the source manuscript supplies a complementary but narrower insight. In Supreme Court Decision No. 1114 K/Pid.Sus/2011, the appellate treatment of a purported relationship and prospects of marriage was criticized because a child's protection cannot be weakened by relying on supposedly voluntary intimacy with a substantially older offender. The decision is not authority for a general proposition that all emotionally unequal relationships constitute completed grooming offences. [14] Rather, it shows how a court may evaluate age, authority, and a claimed relationship when assessing or sentencing conduct already alleged to be unlawful. Since the case predates the amendments discussed here, the applicable statutory regime must also be distinguished from contemporary legislation. [15]

The proceedings associated with Supreme Court Decision No. 5642 K/Pid.Sus/2022 are particularly relevant to institutional power imbalances. In that serious child sexual-violence case, the position of the offender as an educator and the vulnerability of students help explain how opportunity and control can operate through an institution. However, the case concerned proven sexual crimes and the resulting penalties. The judicial response does not establish that every preceding act of trust-building had independently constituted a punishable criminal offence. What it supports is the need to treat abuse of authority as a legally significant circumstance and to provide effective protective systems within educational environments. [16]

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[14] Yura P. Yudhistira, "Child Grooming dan Tafsir Suka sama Suka Perkara Kekerasan Seksual Anak," *Marinews Mahkamah Agung, February* 4, 2026, https://marinews.mahkamahagung.go.id/artikel/child-grooming-dalam-perkara-kekerasan-seksual-anak-0PE.

[15] Republic of Indonesia, Law No. 23 of 2002 on Child Protection, as subsequently amended.

[16] Supreme Court of the Republic of Indonesia, Decision No. 5642 K/Pid.Sus/2022 (Herry Wirawan case), December 8, 2022.

The source manuscript also referred to alleged patterns in a publicized memoir and to criminal allegations reported in the media. Such materials may be illustrative of the language through which the public understands grooming, but they must not be recast as judicial findings. Statements of survivors have their own importance, while reportage on suspects must respect the presumption of innocence. Because the present study is doctrinal, it does not attempt to establish individual criminal liability in reported cases without verified court records. Official annual documentation of violence should similarly not be taken as a measure of grooming unless that behaviour was coded as a distinct category. [17] This methodological discipline makes the legal argument stronger: legislative reform must be justified by identifiable doctrinal gaps and protective needs, not by collapsing allegation, media narrative, and proven fact.

The practical consequence is a graduated understanding of intervention. Child protection agencies and schools may act preventively upon concerning patterns, consistent with their safeguarding duties, even when proof of a criminal offence is not yet established. Investigators may intervene where a specific existing solicitation, stalking, threat, or exploitation offence has been committed. Legislators may consider extending criminal liability to an additional narrowly defined course of conduct only if a genuine residual gap remains. This graduated model avoids the false binary that Indonesian law must either punish every manipulative approach or wait passively until a child has been sexually assaulted.

B. Harmonization of Criminal Provisions and the Remaining Normative Gap

The Child Protection Law provides the first layer of analysis. Article 76E prohibits violence, threats, coercion, deception, a series of lies, or persuasion directed at causing a child to commit or submit to an indecent act. Article 82 provides the connected penal consequence. The drafting therefore contains verbs referring to coercive and deceptive means; it would be inaccurate to describe the statute as addressing only conduct following physical contact in every imaginable case. Nevertheless, the prohibited persuasion is linked to the specific statutory purpose involving an indecent act. A persistent attempt to create trust without a demonstrable connection to that objective cannot be assumed to meet Article 76E simply because observers characterize it as grooming. [18]

Article 76I, which deals with exploitation of children, adds protection when the conduct enters the realm of sexual exploitation. Article 54 imposes particular safeguarding obligations in educational settings and recognizes the need to protect children from physical, psychological, and sexual violence. These are important complementary norms. Yet Article 54 is not itself a self-contained criminal offence for every instance of manipulative social conduct. Read systematically, the Child Protection Law creates a continuum of duties and offences: protective obligations arise broadly, while criminal penalties attach to conduct satisfying the distinct statutory definitions. Treating them as interchangeable would weaken legality and risk overcriminalization.

[17] Komnas Perempuan, CATAHU 2025: Annual Record of Violence against Women, released 2026.

[18] Republic of Indonesia, Law No. 35 of 2014 amending Law No. 23 of 2002 on Child Protection, arts. 54, 76D, 76E, 76I, 81, and 82.

The Sexual Violence Crimes Law, Law No. 12 of 2022, supplies an additional layer. Article 4 distinguishes conduct criminalized directly by that statute from sexual offences established under other legislation but integrated into its victim-protection and procedural framework. Article 14 prohibits specified forms of electronic sexual violence, including non-consensual sexual recording, targeted transmission of sexual material, and sexual-purpose electronic stalking or tracking. These elements may engage at a stage before physical contact with a child, depending on what actually occurs and can be proved. The provision is not a general crime of psychological influence, and a nonsexual text conversation does not fall within it solely because a sexual intention is subsequently alleged. [19]

Article 14 is significant for online grooming because conduct that appears preparatory in an overall narrative may already be criminal when it constitutes sexual-purpose electronic stalking or prohibited transmission. The offence's particular elements must be kept separate from the broader conceptual label. Likewise, the evidentiary and victim-support mechanisms under the Sexual Violence Crimes Law can protect a child whose underlying offence is charged under another statute without creating a new autonomous grooming offence. Such procedural harmonization should be welcomed, but it cannot replace substantive legislative clarity about what conduct is forbidden. A criminal statute cannot be made more extensive simply by referring to the protective objectives of another statute.

The Pornography Law provides a particularly instructive counterexample to the claim that Indonesian law invariably waits for completed exploitation. Article 12 expressly addresses conduct such as inviting, persuading, exploiting, abusing authority over, or compelling children in connection with the use of pornographic products or services. Its wording approaches a conduct-based prohibition and may be engaged before a child is used as the subject of a pornographic work. Articles 4 and 11, by contrast, address substantive pornography-related acts and involvement of children, with penalties specified elsewhere in the statute. The legal inquiry should therefore distinguish prospective persuasion into pornography-related activity from already completed production, provision, or involvement. [20]

This distinction is crucial for legislative efficiency. If an adult's conduct already satisfies Article 12, the enforcement question is how to investigate and prove that offence, not whether to relabel it under a new statute. A residual gap remains only where a targeted pattern of sexually motivated manipulation does not satisfy the statutory connection to pornographic products or services, an indecent act, electronic sexual stalking, or another already proscribed act. A new offence drafted too broadly would generate overlapping offences and uncertainty as to charging. A new offence drafted narrowly could instead operate as a residual prohibition, preserving more serious sexual offences when their complete elements can be established.

The Criminal Code effective from 2 January 2026 requires a fresh temporal and doctrinal analysis. Article 473(2)(b) includes sexual intercourse with a child

[19] Republic of Indonesia, Law No. 12 of 2022 on Crimes of Sexual Violence, arts. 4 and 14.

[20] Republic of Indonesia, Law No. 44 of 2008 on Pornography, arts. 4, 11, 12, 15, 16, 29, 37, and 38.

within the rape provision. Article 473(2)(d) separately addresses intercourse with a person with a mental or intellectual disability under specified conditions, including exploitation of authority or deception. The latter provision demonstrates that the legislature recognizes particular forms of manipulation in sexual-offence contexts, but it concerns a defined victim group and a defined principal sexual act. Its terms cannot be extended by analogy to all manipulative interactions involving children; the criminal legality principle forbids such extrapolation. The proper relevance of Article 473(2)(d) is comparative and legislative, not a substitute for an applicable offence. [21]

The temporal status of the ITE Law deserves special attention. As amended in 2024, Article 27(1) required a prohibited electronic decency-related communication for public knowledge, with its corresponding penalty in Article 45(1). Article II(1) of Law No. 1 of 2024 set an express endpoint tied to commencement of the new Criminal Code. These provisions therefore cannot be cited in October 2026 as if they continued in identical form independently of the new Code. For incidents committed before the Criminal Code's commencement, the offence applicable at the relevant time and any transitional or more-favourable-law issues require analysis. For later conduct, investigators must locate an operative provision in the current Code or another continuing special law. This issue is not a merely editorial correction: it can determine the legal basis of a charge. [22]

The residual uncertainty can be expressed as a legally testable question. Does a documented series of acts directed at a particular child, undertaken with an identifiable intention of future sexual abuse, cross the threshold of any present offence where the person has not yet requested pornographic acts, stalked for a sexual purpose through electronic systems, coerced an indecent act, or begun a punishable attempt? Where the answer is no, a tailored offence could add preventive capacity. If the sexual purpose itself cannot be established, however, the absence of a criminal conviction reflects an indispensable safeguard rather than necessarily a defect in the law.

A practical illustration exposes the line. Suppose an adult repeatedly contacts a child online, encourages the child to hide a friendship, and sends gifts. Those circumstances justify safeguarding scrutiny, but standing alone they may remain equivocal. If authenticated communications subsequently show a request for sexual images or a targeted attempt to arrange abuse, the conduct may fall under an existing substantive offence, depending on the applicable statute and time. If the communications instead reveal an organized series of manipulative acts unmistakably directed at facilitating a sexual crime, yet without reaching a present statutory element, that narrowly defined situation supplies the strongest argument for an autonomous grooming offence. The illustration is hypothetical and is not presented as a factual reconstruction of any of the judgments analyzed here. The proposed reform must distinguish the gap between harmful targeted preparation and innocent interaction without relying on unreviewable psychological impressions.

[21] Republic of Indonesia, Law No. 1 of 2023 on the Criminal Code.

[22] Republic of Indonesia, Law No. 1 of 2024 amending the Electronic Information and Transactions Law.

The analysis must also avoid anachronism. A judgment issued before the commencement of Law No. 1 of 2023 cannot be described as applying that new Criminal Code; nor can a later legal reform be used to recharacterize conduct retrospectively without a relevant legal basis. A comparison across time should identify the charge actually brought, the law then operative, the material facts established by the judgment, and any subsequent statute proposed as a normative comparator. This discipline is particularly important where legal commentary reproduces case summaries without page-specific judicial reasoning. It protects the doctrinal argument against the temptation to treat a later desirable policy as though it were an existing judicial holding.

Recent Indonesian scholarship provides a basis for developing that distinction. Studies concerning cybercrime risks to children and comparative protection against cyber grooming argue for attention to digital-platform features, evidence, and more tailored legal norms. Their recommendations differ, including whether to amend the Child Protection Law or adopt a distinct offence. The present analysis draws from the common insight—existing statutes are fragmented—but proposes an element-based, time-sensitive method rather than a categorical statement that all grooming is outside criminal law. The technological form of communication should affect evidence and potentially aggravation, not be treated as the sole basis for criminality when comparable manipulation occurs in person. [23]

The following matrix identifies the core distinctions. It is analytical, not a replacement for the authoritative wording of the relevant provisions; statutes must be consulted in full and applied according to the date of the alleged conduct.

Table 1. Coverage and limits of Indonesian legislation

Legal basis	Conduct that may be covered	Material limit for grooming analysis
Child Protection Law, art. 76E	Deception, repeated lies, or persuasion connected to a child undertaking or submitting to an indecent act	General trust-building without the statutory sexual objective is not enough
Child Protection Law, art. 76I	Sexual or economic exploitation involving a child	A distinct exploitation-related act must be established
Sexual Violence Crimes Law, art. 14	Specified electronic sexual recording, transmission, or sexual-purpose stalking/tracking	Ordinary nonsexual messaging is not automatically covered
Pornography Law, art. 12	Inviting, persuading, or abusing authority regarding a child's use of pornography products/services	The pornography connection is necessary

[23] Yusrizal et al., "Navigating the Digital Dilemma: Protecting Indonesian Children from Cybercrime," *Kanun: Jurnal Ilmu Hukum* 27, no. 2 (2025): 398–426, https://doi.org/10.24815/kanun.v27i2.45738.

Legal basis	Conduct that may be covered	Material limit for grooming analysis
Pornography Law, arts. 4 and 11	Production, distribution, or involvement of children in pornography	Underlying pornographic conduct must be established
Criminal Code, art. 473(2)	Defined sexual intercourse offences, including intercourse with a child	Does not create a general pre-contact grooming offence
ITE Law 2024, arts. 27(1), 45(1)	Historical prohibition concerning electronic decency-related material for public knowledge	Sunset clause in art. II(1) requires temporal analysis after 2 January 2026

This matrix also illustrates why the general assertion that "all five laws are purely result-oriented" is too broad. Article 12 of the Pornography Law, elements of Article 76E of the Child Protection Law, and particular electronic conduct under Article 14 of the Sexual Violence Crimes Law can regulate acts occurring before the ultimate exploitation envisaged by a perpetrator. The more defensible conclusion is that these norms reach discrete forms of preparation or abuse but do not express a single autonomous offence encompassing a repeated, sexually directed course of manipulation beyond their specific subject matter.

That gap should not be described as an unlimited *rechtsvacuum*. The term is useful only if linked to defined conduct: repeated targeted manipulation with demonstrable sexual purpose which has not yet crossed an existing offence's elements. Some alleged conduct may instead amount to a punishable attempt under the current Criminal Code if the legal requirements for attempt, including the beginning of execution, are met. Preparatory communications will not always meet that threshold. This is precisely why the architecture of an independent offence requires a carefully chosen completion point. It must be early enough to protect children but not so early that it punishes a person's anticipated future disposition rather than unlawful acts.

C. A Narrowly Defined Autonomous Offence and Safeguards against Overcriminalization

The normative objective of reform should be to protect children before abuse occurs without displacing the criminal-law guarantees owed to the accused. The proposed offence must be conduct-based, not status-based or based on the vague concept of an "inappropriate relationship." Its core would be a deliberate course of directed conduct by an adult toward an identifiable child, coupled with the specific purpose of facilitating a sexual offence or sexual exploitation and manifested through specified objectively verifiable acts. Repetition is relevant because repeated manipulation more reliably distinguishes deliberate conditioning from isolated ambiguous conduct. The proposed law should state its application to both online and offline settings without requiring proof of a completed sexual assault. [24]

[24] Leah E. Kaylor et al., "An Analysis of Child Sexual Grooming Legislation in the United States."

The test for necessity should be made explicit before any bill is introduced. The legislature should identify a concrete example of conduct whose dangerous sexual purpose can be proved but which is not covered by existing solicitation, pornography, electronic sexual-violence, attempt, or other offences. It should then ask whether enhanced protective measures, better evidentiary practice, or amendments to a narrowly related offence would adequately address that conduct. The answer cannot be inferred simply from the absence of the English expression child grooming in an existing Act. Criminal legislation requires an identified protective deficit and a reason why the least restrictive effective legal response is inadequate. A documented necessity assessment would also help courts interpret the law in a way consistent with legality and proportionality.

The first constituent element is the offender's status and knowledge. The proposed principal offence would apply to a legally adult person who knows, or is proved to have the requisite culpable awareness, that the targeted individual is a child. Whether the adult threshold should be defined expressly or by reference to the generally applicable criminal-law definitions must be decided by the legislature, rather than left to prosecutorial conjecture. Knowledge can be assessed through available communications, disclosures, context, or records. The offence should not simply equate all age-differential interactions or relationships with criminality.

The second element is an external act or course of acts directed at the particular child. Candidate statutory verbs include deliberately deceiving a child about the perpetrator's identity or purpose, requesting secrecy from parents or guardians for the purposes of concealment, isolating the child from protective relationships, using a position of authority to create dependency, or repeatedly soliciting communications in circumstances demonstrably connected to anticipated sexual activity. Legislators should specify that the prohibited acts must form a targeted pattern or be accompanied by objectively identifiable indicators of sexual preparation. A generic gift, friendly conversation, educational mentorship, or affectionate familial contact should not be sufficient in isolation.

The third element is specific sexual intent. It is not enough for the prosecution to show that the adult behaved strangely or that a relationship appears emotionally asymmetric. Proof must establish a purpose to facilitate a defined sexual offence, sexual exploitation, or involvement of the child in prohibited sexual material. Objective indicators may include requests for secrecy paired with sexualized messages, escalating invitations to perform sexual acts, threatening disclosure of intimate information, identifiable plans to meet for sexual activity, or other independently corroborated preparations. Contextual circumstantial evidence is permissible, but the verdict must articulate why the combination of facts meets the statutory mental element beyond reasonable doubt. An analysis that bypasses this element would risk punishing “suspicious character” rather than proven wrongdoing.

The fourth element is the completion point. A formal or conduct offence may be complete when the specified manipulative acts are undertaken with the required purpose, even if sexual abuse does not later take place. This brings intervention earlier, but it should not erase the distinction between concern and guilt. The law should explicitly exclude mere internal intention or unacted-upon

fantasy; it should require an outward act of the type defined in the statute. The crime's completion should also be distinguished from attempt liability under the Criminal Code, thereby avoiding inconsistent thresholds of commencement and double counting of preparatory conduct.

Fifth, legislators should settle the relationship between the proposed offence and existing laws. Where the same conduct constitutes Article 12 of the Pornography Law or an offence under the Child Protection Law, clearly stated principles on charging and concurrence are necessary. If the targeted child was subsequently sexually abused, prosecutors may need to prioritize the more serious offence and apply rules on multiple offences without duplicative punishment for the same factual wrong. The proposal should be written as a residual, complementary measure rather than as a universal charge to be added automatically in every child sexual-abuse case.

Sixth, evidentiary protections are indispensable. A criminal complaint about online grooming may rely heavily on chat histories, direct messages, images, platform records, witness testimony, and expert evaluation of manipulation. Investigators should preserve originals and metadata, identify the collection chain, document access and device control, and distinguish a perpetrator-controlled account from a compromised or impersonated account. Screenshots alone may obscure the surrounding conversation. Investigative protocols should consider how to validate authenticity, sequence messages, and contextualize language without exposing the child's private information unnecessarily. [25]

Child-sensitive procedure matters as much as evidence integrity. Interviews should avoid repeated leading questions, preserve the child's dignity, and make use of appropriate professional support. The child's apparent agreement cannot validate a prohibited sexual act where legislation denies such a defence, but prosecutors must still prove the acts charged and the offender's required intent. Privacy restrictions on records and public court reporting should prevent disclosure of identifying information. Safeguarding systems must permit immediate protective measures when risk is credible while preserving a distinct criminal threshold for conviction.

Seventh, proportionality demands differentiated punishment. A non-contact targeted preparation offence should not automatically carry a penalty indistinguishable from repeated sexual assault. Aggravating factors may include abuse of an institutional or familial position of trust, threats, persistent evasion of protective measures, use of coercive electronic surveillance, or exploitation of heightened vulnerability. Mitigating and sentencing factors should be defined consistently with the general criminal-law framework. Legislators should avoid mechanical assumptions that every online communication is inherently more culpable than analogous face-to-face conduct; the relevant aggravation is the perpetrator's exploitation of technology, authority, or vulnerability.

Indonesian scholarship also reports vulnerabilities associated with children's curiosity and use of social media, which makes safe and age-appropriate prevention essential. [26] A limited comparison with other legal systems is

[25] Yusrizal et al., "Navigating the Digital Dilemma."

[26] Salsabila Amilda et al., "Perlindungan Hukum terhadap Anak Korban Child Grooming Akibat Keingintahuan yang Salah dalam Penggunaan Media Sosial," *Cendekia: Jurnal Hukum, Sosial*

informative. Kaylor and co-authors review anti-grooming provisions in the United States and show how legislatures may criminalize preparatory acts, while also identifying difficulties in defining the relationship between psychological research and legal drafting. Australian approaches discussed in recent Indonesian comparative scholarship similarly provide examples of the value of criminalizing deliberately sexual approaches to children. Neither system should be transplanted mechanically: Indonesian law has its own constitutional commitments, general criminal-law rules, offence classifications, and statutory terminology. The useful comparative lesson is methodological—draft the prohibited conduct and intention with precision, rather than simply import the word grooming. [27]

The following illustration offers possible legislative wording rather than a claim about law already in force: "An adult who, with the purpose of facilitating a criminal sexual act or sexual exploitation of a child, intentionally undertakes a repeated course of deception, coercive isolation, abuse of authority, or sexually directed solicitation toward a person known to be a child, whether directly or through an electronic system, commits the offence of targeted sexual grooming, even if the anticipated sexual act has not occurred." A supplementary clause should require objectively verifiable acts demonstrating the specified purpose and should prevent conviction solely on the basis of a relationship, gift, or communication unrelated to that purpose.

Further drafting is required before such text could be enacted. Terms such as "coercive isolation" and "sexually directed solicitation" should receive limited statutory definitions; the law should identify the connection with other child-protection offences; rules should govern evidentiary preservation and confidentiality; and constitutional review should consider freedom of communication, privacy, and equality before the law. A more expansive criminal prohibition might superficially appear protective but could create opportunities for arbitrary investigation and weaken public trust. The quality of protection depends on enforceability and precision as well as severity.

Finally, reform cannot consist of criminalization alone. Prevention requires age-appropriate digital literacy, effective reporting routes, institutional safeguarding protocols, parental support, and professional training. Educational and religious organizations should apply transparent child-protection standards to teachers and other trusted adults. Platforms should provide appropriate mechanisms for identifying and escalating harmful contacts while respecting lawful communication and data-protection obligations. The objective is a coordinated system in which early risk detection can trigger proportionate protective action, and criminal prosecution occurs when the legal elements and evidence permit it. [28]

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dan Humaniora 3, no. 1 (2025): 918–28, https://doi.org/10.70193/cendekia.v3i1.173.

[27] Puja Aqdamuyasyaro Permata Sari and Pudji Astuti, "Perlindungan Hukum terhadap Korban Cyber Child Grooming di Indonesia dan Australia," *Indonesian Journal of Contemporary Law* 3, no. 2 (2026): 1–43.

[28] Febriyana Nur Aziza Sagita Sari, "Urgensi Hukum Pengaturan Tindak Pidana Child Grooming di Media Sosial dalam Perspektif Hukum," *IPMHI Law Journal* 5, no. 4 (2026): 1261–86, https://doi.org/10.15294/ipmhi.v5i4.47841.

CONCLUSION

This study concludes that Indonesian criminal law does not entirely disregard conduct preceding the sexual abuse of children. Some forms of inducement, electronic sexual stalking or transmission, and pornography-related persuasion may be independently punishable under existing statutes. Other provisions reach subsequent sexual assault or exploitation. Nevertheless, these rules do not expressly form a unified autonomous offence concerning a repeated, demonstrably sexually motivated pattern of manipulation in the residual circumstances where no existing offence has been established. The distinction is essential for doctrinal accuracy and for the legality principle.

The 2026 implementation of the new Criminal Code further requires care when relying on earlier electronic-information offences. Article II(1) of Law No. 1 of 2024 expressly limited the duration of Articles 27(1) and 45(1) until the new Code commenced; the applicable criminal provision must therefore be identified with reference to the date and nature of the conduct. Judicial decisions involving sexual violence against children show the importance of age, purported consent, and abuses of authority, but cannot be treated as decisions recognizing grooming itself as an independently completed offence.

A defensible legislative response would define a residual formal offence through identifiable targeted acts, the offender's knowledge that the victim is a child, a specifically proven sexual purpose, and evidentiary safeguards. Its integration with existing offences must avoid duplicate punishment and ensure proportionality. Alongside this reform, child-sensitive investigative procedure, electronic evidence preservation, institutional safeguarding, and preventive education remain necessary. The ultimate objective is not to criminalize every troubling relationship, but to close a precise protective gap without sacrificing legal certainty or the rights of children and accused persons.

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