

Right to Be Forgotten for Child Victims of Electronic Sexual Violence

Rahmatiah Irwan, Aulya Nisa, Anggun Retno Wardani, Agrita Permata Sari,
Azzura Fathanul Umara, Rivana Tesalonika Taroreh

Faculty of Law, Gadjah Mada University, Yogyakarta, Indonesia
rahmatiahirwan@mail.ugm.ac.id

Abstract

This study examines the implementation of the Right to Be Forgotten (RTBF) as a substantive legal protection mechanism for child victims of electronic-based sexual violence (EBSV) in Indonesia. The persistence of sexually explicit digital content has intensified re-victimization, placing children at continuous psychological, social, and structural risk. Although RTBF has been normatively recognized through the Law on Sexual Violence Crimes, the Electronic Information and Transactions Law, the Child Protection Law, and the Personal Data Protection Law, its practical enforcement remains fragmented, slow, and largely procedural. This research employs a normative juridical method using statutory, conceptual, and case approaches, complemented by a radical victimology perspective to assess whether existing regulations genuinely prioritize the best interests of the child. The findings reveal that RTBF has not yet been positioned as a victim's substantive right but rather as a formal legal option dependent on lengthy judicial procedures, technical ambiguities, and inconsistent institutional coordination. Such conditions result in structural victimization, where the state's delayed response perpetuates digital harm and undermines victims' recovery. This study argues for urgent operational legal reforms, including the establishment of a rapid administrative content removal mechanism, mandatory compliance obligations for digital platforms with enforceable sanctions, and integrated multi-sector coordination among law enforcement agencies, communication authorities, and child protection institutions. The novelty of this research lies in integrating radical victimology with digital rights analysis to reconceptualize RTBF as a child-centered, recovery-oriented legal instrument essential for breaking the cycle of digital re-victimization in the contemporary technological landscape.

Keywords: Children; Electronic-Based Sexual Violence; Legal Protection; Right to be Forgotten; Victimology

1. INTRODUCTION

Gender-based violence is a contemporary issue that is gaining more public attention as the number of cases increases, especially those affecting women and children. PPA Symphony data confirms that more than 80% of victims of violence are women, and sexual violence has consistently been the most dominant form of violence in the past five years.¹ This data shows that sexual violence is still a serious problem that continues to recur from year to year. Sexual violence is understood as coercion or manipulation of a person to engage in sexual activity without consent.²

The development of digital technology that occurred then expanded this crime pattern through the emergence of Electronic-Based Sexual Violence (KSBE). Children are the most vulnerable group because of their position in power relations, limited digital literacy, and the long-term

¹ Simfoni PPA, *Statistik* 2024.

² Fact Sheet National Sexual Resource Center, "What is Sexual Violence."

impact they bear due to the spread of sexually charged content. Victimology anticipates that this violence is seen as a form of power relations that cause physical, psychological, and social harm.³

The permanence of digital footprints is the main problem in KSBE. Once sexual content is spread, victims are vulnerable to repeated victimization because digital footprints are difficult to control, remove, and can reappear at any time. The increasing cases of KSBE are still difficult to handle, considering the Indonesian legal framework that has not been able to respond comprehensively to the needs of victims, even though there are regulations that contain this KSBE. Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) has classified 21 types of sexual violence crimes, including electronic-based sexual violence.⁴ The implementation of the TPKS Law is an important step in strengthening law enforcement against perpetrators while providing a normative basis for victim protection. However, a dilemma arises when the norms contained in the TPKS Law do not fully accommodate the needs of victims of sexual violence.⁵ Meanwhile, the ITE Law and its amendments have the potential to cause re-victimization and even criminalization.⁶ In addition, there is an overlap in provisions between the TPKS Law and a number of other legal instruments, including the Criminal Code (KUHP) of 2023 and Law Number 23 of 2002 concerning Child Protection. This overlapping arrangement confirms that the protection of victims of electronic sexual violence does not yet have a fully consistent and victim-oriented legal framework. The overlap and inconsistency between these norms show that there is a regulatory gap, especially related to the mechanism for the removal of digital content that has not been clearly regulated and has not been oriented to the needs of KSBE victims, even though this RTBF is important for victims in terms of recovery and also protects victims from victimization.

Right to Be Forgotten emerged as an important instrument that needs to be studied more deeply.⁷ RTBF provides an opportunity for victims to demand the deletion of digital information related to their victimization experience, thus potentially providing more comprehensive protection for child victims of electronic-based sexual violence.⁸ This instrument also reflects the demand for legal mechanisms that are adaptive to the development of digital technology, which has become a new medium for sexual crimes. The regulation of RTBF in the current Indonesian legal framework is limited to the ITE Law, which is not directly connected to the protection of KSBE victims and does not have a victimology perspective, and has not applied the principle of best

³ Rock, *Theoretical Perspective on Victimisation*, 34.

⁴ Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual (TPKS), § 4.

⁵ Awas KBGO, "Setengah Hati perlindungan Hukum Korban Kekerasan Seksual Berbasis Elektronik dalam UU TPKS."

⁶ Perempuan, "Kertas Kebijakan Saran dan Masukan Komnas Perempuan terhadap RUU Perubahan Kedua Atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik."

⁷ Rosen, "The Right to Be Forgotten," 88–92.

⁸ Livingstone dan Bulger, "A Global Research Agenda for Children's Rights in the Digital Age," 317–335.

interest if the child. This condition is an important point in this study, namely the concept of RTBF, the urgency of implementing RTBF, and the role of the state in RTBF.

Research on the Right to Be Forgotten in Indonesia has been conducted with a variety of approaches, but most of it still focuses on regulatory aspects. The research conducted by Putri and Lidwina (2024) analyzed the increase in cases of electronic-based sexual violence by emphasizing the weaknesses of national legal instruments, including the TPKS Law, the ITE Law, the Criminal Code, the Pornography Law, and the Child Protection Law. This study highlights the need to remove sexual content as a protection effort for victims.⁹ The study in this research is still limited to regulatory analysis and has not specifically discussed the Right to Be Forgotten (RTBF) mechanism as an instrument for victim protection. Research conducted by Fadillah (2023) examines the Right to Be Forgotten (RTBF) in personal data protection and freedom of expression in Indonesia. The study also analyzes comprehensive regulations regarding the PDP Law and the ITE Law, as well as discussions about RTBF as part of the right to privacy.¹⁰ However, this study is still general because it does not link RTBF to specific cases, unlike the author's study, which focuses on child victims of electronic-based sexual violence. Another study by Bonita (2023) highlights the fulfillment of the Right to Be Forgotten (RTBF) for victims of electronic-based sexual violence after the enactment of the TPKS Law. This research maps state actors and identifies obstacles to implementation, including structural, substantive, and legal cultural aspects.¹¹ His research focuses on the institutional and policy dimensions of the law, without delving deeper into the position of victims in the framework of victimology or victim-centered justice perspectives.

From this review, it appears that previous studies on electronic-based sexual violence have mostly examined aspects of regulation, harmonization of norms, and the role of state institutions. For example, the studies focus on the ITE Law, the Pornography Law, the Child Protection Law, and the TPKS Law, with an emphasis on the need for regulatory harmonization and the role of state institutions in protecting victims. This approach is important for understanding normative maps and institutional frameworks, but tends to be limited to positive formal legal aspects.

Although these studies have made important contributions to regulatory and policy mapping, there are limitations that positive legal analysis is still limited. This limitation creates a research gap, namely the absence of studies that specifically discuss the implementation of the right to be forgotten (RTBF) as an instrument of legal protection for child victims of electronic-based sexual violence. In fact, the losses experienced by victims are not only physical and

⁹ Zaltina dan Inge Nurtjahyo, "Right to be Forgotten as a Legal Protection for The Victims of Electronic Sexual Violence Cases."

¹⁰ Adkiras, "Right To Be Forgotten Sebagai Upaya Pemulihan Korban Kekerasan Seksual Berbasis Elektronik (KSBE)," 9.

¹¹ Clarisa dan Rindam Floranti, "ight to be Forgotten sebagai Hak Korban Kekerasan Seksual Berbasis Elektronik dalam Undang-Undang Tindak Pidana Kekerasan Seksual."

psychological, but also related to their digital existence, which is often a source of repeated victimization or re-victimization. This condition requires an analysis that not only reviews legal norms, but also links them to the real needs of the victim.

Based on the description above, this research is important because it presents a new perspective through the integration of normative analysis (the TPKS Law, the ITE Law, and the PDP Law) with a radical victim-oriented approach to victimhood. The novelty of this research lies in the placement of children at the center of critical analysis and assessment of the state's responsibility in ensuring the fulfillment of land and land rights (RTBF). Therefore, this study aims to analyze the application of the Right to be Forgotten in legal protection for child victims of electronic-based sexual violence, as well as examine the extent to which regulations and the role of the state are able to accommodate the needs of victim protection.

2. METHOD

This research is a juridical-normative research, utilizing several types of approaches that are commonly used in legal research. The first approach is the statute approach by examining laws and regulations relevant to the issues raised, namely the TPKS Law, the ITE Law, the PDP Law, the Criminal Code, and the Child Protection Law. This approach is important because RTBF and the protection of child victims of electronic-based sexual violence are issues related to the existing legal framework and mechanisms. The second approach is a conceptual approach that is used to explore key concepts such as the right to be forgotten, digital victimization, the principle of the best interest of the child, and victim protection. This approach is relevant because such concepts are not always explicitly described in regulations and therefore require doctrinal references, victimology literature, and legal theory. The third approach is a case approach which examines the decisions or practices of implementing RTBF and handling KSBE both at the national and international levels to see how the norms work in practice and what the constraints.

The data used are secondary data collected through literature studies consisting of primary legal materials, including laws and regulations such as the TPKS Law, the ITE Law, the Criminal Code, and the Child Protection Law, and secondary legal materials, including literature, scientific journals, and reports from related agencies. Data analysis is carried out qualitatively, with the first few stages identifying relevant norms. Second, interpret the rules using grammatical, systematic, and theological methods. Third, constructing the relationship between norms to see the existing conformity and incompatibility. Fourth, conducting a critical analysis using a radical victimology perspective. This research positions radical victimology theory as an analytical framework to understand the protection of the Right to Be Forgotten not only from a normative point of view, but from the perspective of the victim's experience, power relations, and social structures that allow for repeated victimization. This theory allows researchers to examine whether RTBF arrangements are already oriented towards the recovery of victims and place the interests of the child as a priority, in accordance with the principle of the best interests

of the child. This study establishes the parameters for evaluating the effectiveness of RTBF, including the violation of norms regarding the right to delete content for victims, procedures that can be followed by children and companions, the authority of institutions to execute content removal, speed and certainty of mechanisms in stopping digital victimization, victim protection orientation and conformity with the principles of the best interests for children.

This research is limited to the analysis of regulations that are directly related to child victims of electronic-based sexual violence, namely the TPKS Law, the ITE Law, the PDPD Law, the Child Protection Law, and related articles in the Criminal Code. This restriction is enforced because these regulations are the most relevant legal instruments in regulating the right to deletion of data, protection from electronic-based sexual violence, children's relationship with digital space, and the state's obligation to ensure the recovery of victims.

3. RESULTS AND DISCUSSION

3.1 Concept of the Right to Be Forgotten

Globally, the most prominent normative influence on the development of the Right to Be Forgotten (RTBF) comes from the European Union's General Data Protection Regulation (GDPR). Article 17 of the GDPR expressly states, "The data subject has the right to obtain the deletion of personal data relating to him from the data controller without undue delay, and the data controller is obliged to delete the personal data without undue delay."¹² Article 17 of the GDPR expressly regulates the right to data erasure.¹³ In addition, a 2014 ruling of the European Court of Justice (CJEU) in the case of *Google Spain v. Gonzalez* stated that Mr. Gonzalez was a Spanish citizen who filed a complaint with the Spanish information regulator in 2010. The reason for Mr. Gonzalez's complaint is that when an internet user entered his name into the Google search engine, the user was shown a link to a Spanish newspaper page from 1998 that referred to the foreclosure proceedings against him for the recovery of certain debts. Mr. Gonzalez requested that the personal data relating to him be deleted or concealed as the legal proceedings against him had been fully completed and therefore the reference to him was now considered prejudicial.¹⁴ This ruling is important because it confirms the obligation of search engines to remove links that contain personal information that is no longer relevant, even if the information was originally legally published. Therefore, this ruling is an important milestone in RTBF's recognition and has a major influence on global standards.

Similar practices are starting to be seen in India. Some court rulings have upheld the right to be forgotten as a consequence of the right to privacy. For example, the Orissa High Court in the

¹² GDPR, "Everything you need to know about the right to be forgotten."

¹³ Yudiana dan Dewi Rosadi, "The Urgency of Doxing on Social Media Regulation and the Implementation of Right to Be Forgotten on Related Content for the Optimization of Data Privacy Protection in Indonesia," 29.

¹⁴ Kohl, *the Right To Be Forgotten in Data Protection Law and Two Western Cultures of Privacy*.

state of Odisha,¹⁵ and the Kerala High Court. Both ruled that victims of sexual assault have the right to have certain online information deleted (in the first case, images that are deemed inappropriate in the form of videos and photos uploaded, and in the second case, identity information in the verdict). In 2021, the Delhi High Court issued an order to block the results of the verdict search uploaded online related to the indictment that had acquitted the applicant.¹⁶ To date, India still lacks a comprehensive legislative framework governing the right to be forgotten, although the proposed legislation in the form of the Personal Data Protection Bill, which was first introduced in 2019, contains provisions that codify this right.¹⁷ However, the implementation of RTBF faces several challenges, such as the absence of clear standards on how and when data should be deleted, which can cause uncertainty for victims, and domestic laws often have limitations in applying transnational laws, making it difficult to remove posted content.¹⁸ Therefore, the implementation of RTBF requires a proportional testing mechanism to maintain a balance between individual and public interests.

From a philosophical perspective, RTBF is not only about the protection of personal data but also the restoration of human dignity in the digital era. This right is closely related to the principle of non-revitalization, which is one of the goals of contemporary victimology.¹⁹ In criminal law, RTBF expands the protection paradigm that focuses more on the perpetrator to a paradigm that favors the victim.²⁰ This is in line with the idea of radical victimology, which demands that the state take full responsibility for the protection of victims, including through mechanisms for the removal of harmful digital content. In other words, RTBF can be understood as a bridge between the right to privacy and the state's obligation to ensure the protection of victims in the digital realm.²¹

Overall, RTBF is a modern legal instrument that has shifted from privacy to comprehensive protection in the digital era. Its normative foundations are based on the principles of human dignity, the right to self-protection, and the prohibition of revitalization; its operationalization demands a fast, transparent, and proportionate institutional design; its effectiveness depends on cross-jurisdictional and technological collaboration; and its legitimacy is supported by a strict public interest test. In Indonesia, partial regulation needs to be improved through clear definitions, emergency administrative channels for content targeting children and victims of sexual violence, and uniform technical standards for electronic system operators. With this strengthening, the state can more effectively carry out its obligations to respect, protect, and

¹⁵ G. S. Bajpai dan Ivneet Kaur Walia, "Need For Implementing The 'Right To Be Forgotten' In India," *Journal of the Indian Law Institute* 65, no. 1 (2023): 106–25.

¹⁶ Mozika, "Integrating the Right to be Forgotten in the Indian Legal Framework in the Light of Experiences from the European Union."

¹⁷ Gupta dan Naithani, "Right to be forgotten in case of search engines: Emerging trends in India as compared to the EU."

¹⁸ Nguyen ngoc anh, "The Right To Be Forgotten As A Remedy For Image-Based Sexual Abuse Practices And Challenges With A Focus On European Data Protection Law."

¹⁹ Faisal, "Balancing between Right to Be Forgotten and Right to Freedom of Expression in Spent Criminal Convictions."

²⁰ Stoddart, "Lost in translation: Transposing the right to be forgotten from different legal systems."

²¹ Takala dan Aromaa, "Victimology."

fulfill human rights in facing the challenge of digital data permanence, while ensuring that the digital space does not become an endless arena for revitalization.

3.2 Conceptual Framework of the Right to Be Forgotten for the Protection of Children of KSBE Victims

The Right to Be Forgotten (RTBF) was born out of the need to protect individuals in a borderless, tracked, and elusive digital space. At a conceptual level, RTBF is often understood as the right of data subjects to demand the deletion or disconnection of personal information from cyberspace when such information is no longer relevant, inaccurate, unlawful, or disproportionately detrimental to their dignity. This definition is closely related to the right to privacy, reputation, and honor, while also touching on an existential dimension: a person's ability to break free from the attachment to the digital past that continues to haunt their social life in the present. From a human rights perspective, RTBF correlates with protection from arbitrary interference with honor and private life; in the Indonesian context, although the term "right to be forgotten" is not explicitly mentioned, its foundation can be taken from the constitutional guarantee of self-protection and human dignity as stated in Article 28G paragraph (1) of the 1945 Constitution.²² Thus, RTBF can be read as a modern evolution of privacy rights that adapts to the typical characteristics of the digital ecosystem in the form of speed of deployment, unlimited storage, and cross-jurisdictional connectivity.

In Indonesian law, the normative basis of RTBF can be traced through Article 26 paragraph (3) of the Electronic Information and Transaction Law. The article states that everyone has the right to apply for the deletion of electronic information that is considered irrelevant. Although the term "right to be forgotten" is not explicitly mentioned, the provision is clearly in line with RTBF. The problem arises because the ITE Law and its amendments do not explain in detail what is meant by "irrelevant".²³ As a result, the application of this article often depends on the interpretation of law enforcement officials and digital platform providers. In fact, the Ministry of Communication and Information's plan to issue a ministerial regulation on RTBF in 2018 was never realized, leaving a vacuum at the technical level.²⁴ This condition, of course, has implications for weak protection for individuals, especially victims of electronic-based crime, which requires the rapid removal of harmful content.

In the context of protecting child victims of electronic-based sexual harassment, RTBF has special relevance. The digital space stores content permanently, thus creating a risk of repeated victimization, which is a situation where children continue to experience psychological and social losses due to the redistribution of sexual content that targets them. The permanence of this

²² Zuhrotul Ulla, "Prinsip Pengaturan Right to be Forgotten pada Korban Cyber Pornography Berdasarkan Pasal 26 UU ITE di Indonesia," 20–21.

²³ Triyanti dkk., "Legal Gaps in Personal Data Protection: Reforming Indonesia's Population Administration Law."

²⁴ Yuspin dkk., "The Regulations of the Supervisory Officer Personal Data Protection-Based Accountability Principle."

digital footprint causes an emotional burden in the form of shame, fear of social stigma, and threats to long-term psychological development. Therefore, this RTBF is not just data, but is a mechanism for restoring children's psychological and social integrity.

From the perspective of victimology, especially radical victimology, RTBF is understood as an instrument that requires the state to take active responsibility in eliminating the source of the victim's suffering. Radical victimology emphasizes that victimization does not only occur as a result of the perpetrator's actions, but also because of the failure of legal and social structures in preventing or stopping losses. In the context of electronic-based sexual violence, the failure of the state to provide a fast and effective mechanism for the removal of content is a form of revictimization. Thus, RTBF is positioned as a normative tool to correct the power imbalance between victims and digital platforms while ensuring that the state is present in removing recurring sources of victimization. Radical victimization criticizes *victim blaming* for gender-based crimes and sexual violence, and violence against children is part of it.²⁵

RTBF has a fundamental connection with the principle of the best interests of children. This principle requires the state to make the safety, dignity, and development of children the main consideration in every action. In the digital ecosystem, this principle means that the state is obliged to ensure that public access to content related to children, especially that smell of sexual violence, is completely removed. RTBF is a means that directly contributes to this protection, as it cuts off exposure to traumatic content, protects children's identities, and allows children to build a future without being overshadowed by the digital footprint that damages them.

In practice and doctrine, it is important to distinguish the three main modes that are often brought together under the umbrella of RTBF. The first is deletion from the source, i.e., destroying the data on the original platform that stores or processes it. The second is delisting or de-indexing by search engines, which stops the reach of a particular link through a person's name search without having to destroy the content at the source. The third is broader de-reference, including aggregator de-reference, cache, and derived copy, thus reducing the dispersed digital footprint. This distinction is important because responsible actors, interest tests, and standards of proof differ: data controllers at content sources face delisting regimes, while search service providers face delisting regimes that demand an intense balance between the public's interest in information and the individual's interest in privacy.

Thus, RTBF in the context of protecting child victims of KSBE is a modern legal instrument that connects the protection of privacy, respect for human dignity, the principle of the best interests of children, and the prevention of digital exploitation. This concept expands the role of the state from just processing perpetrators to ensuring the recovery of victims through mandatory digital

²⁵ Wolhuter et.al, *Victimology, Victimisation, and Victims' Rights*, 26–27.

footprint control. For this reason, Indonesia needs regulatory and technical strengthening so that RTBF can be effectively implemented as an integral part of child protection in the digital space.

3.3 The Urgency of Implementing the Right to Be Forgotten for the Protection of Child Victims of KSBE in Indonesia

Electronic-based sexual violence (KES) in Indonesia is an increasingly worrying phenomenon because it not only causes physical and psychological suffering, but also leaves digital traces that are difficult to erase. It is this digital footprint that distinguishes KES from conventional forms of sexual violence, as sexually charged content can last for an indefinite period of time, can be reshared, and is widely accessible to the public. In this case, the Right to Be Forgotten is an urgent need as an instrument for victim recovery. However, Indonesia's legal framework, which is formalistic and slow, has not been able to provide responsive protection. The urgency of implementing RTBF can be analyzed through 4 dimensions:

3.3.1 Psychological Dimension

Victims continue to experience new trauma every time the content reappears in the digital space. This condition is often a source of re-victimization, where victims, especially children who are vulnerable groups, become victims of sexual violence.²⁶ Therefore, the Right to Be Forgotten (RTBF) is an important legal instrument to provide more comprehensive legal protection. However, Indonesia's legal framework has not fully accommodated these needs, so victims often face structural barriers when seeking justice.

The urgency of implementing RTBF can be understood by examining several concrete cases. One of the cases that can illustrate the urgency of implementing RTBF is Decision No. 9/Pid.Sus/2020/PN Yyk, where the perpetrator disseminated recordings of intimate relations with the victim through social media after their relationship deteriorated. The sexually charged content then spread to various platforms, including WhatsApp, and caused deep suffering for victims.²⁷ The victim actually wants the content removed, but his desire is hampered by a lengthy and convoluted legal procedure. Even if the perpetrator has been criminally sentenced, the content is difficult to remove quickly. As a result, victims continue to experience various impacts in the form of psychological trauma, shame, damage to social reputation, as well as obstacles to education and access to employment. This case clearly shows that the absence of an effective RTBF mechanism prolongs the suffering of victims and hinders their recovery process.

A different situation can be seen in the Depok District Court Decision Number 113/Pdt.P/2020/PN.Dpk. In this case, an applicant requested the removal of Google search results that associated his name with unproven allegations of immorality. The court granted the

²⁶ Zaltina dan Inge Nurtjahyo, "Right to be Forgotten as a Legal Protection for The Victims of Electronic Sexual Violence Cases."

²⁷ Putusan Nomor 9/Pid.Sus/2020/PN Yyk.

request and ordered Google Indonesia to remove the search results.²⁸ Although this case is not directly related to sexual violence, it does show that the RTBF mechanism can be relevant in protecting a person's reputation and good name. However, the route taken at the Depok District Court is civil and relatively simpler compared to the urgent needs of victims of electronic-based sexual violence, especially children, which are urgent and cannot wait for a long formalistic process. This comparison shows that victims of KSBE are in a more difficult position as they have to grapple with slow criminal procedures, while their need for recovery is immediate.

3.3.2 Legal Dimension

The two decisions above confirm that the urgency of RTBF in Indonesia is still faced with a partial legal framework. Article 26 paragraph (3) of the Electronic Information and Transaction Law (ITE Law) has indeed provided space for requests for the deletion of electronic information, and the Personal Data Protection Law strengthens the privacy rights of individuals.²⁹ However, its implementation still requires a court decision as a condition for repatriation. This slow mechanism clearly does not suit the needs of victims of electronic-based sexual violence, especially children who need immediate action to avoid ongoing trauma.³⁰ In other words, there is a real gap between positive legal norms and the real needs of victims.

From a victimization perspective, the condition of children who are victims of electronic-based sexual violence, who are constantly exposed to digital recordings, can be categorized as a form of secondary victimization. They are not only victims of crime, but also suffer additional as a result of the unresponsive legal system.³¹ This is where radical victimology theory finds its relevance. This theory was born as a critique of traditional victimology, which emphasizes that the suffering of victims is not solely due to the perpetrator, but also to the social structures and institutions of the state that fail to provide protection.³² Therefore, the state cannot simply get away with it; failure to create an effective legal mechanism can be considered a form of structural victimization.

When applied to the Right to Be Forgotten, radical victimology asserts that the state has full responsibility for ensuring the protection of child victims of electronic-based sexual violence from repeated victimization. If the legal system only places the victim as the object of the criminal justice process, without providing a quick instrument to remove sexually charged content, then the state actually prolongs the victim's suffering.³³ States need to actively establish derivative legal mechanisms that allow for the removal of content quickly, simply, and in favor

²⁸ Algamar Deckri dan Ampri, "Hak Untuk Dilupakan: Penghapusan Jejak Digital Sebagai Perlindungan Selebriti Anak dari Bahaya Deepfake," 29.

²⁹ Januarita dkk., "Guardians of data: TruMe Life's continuous quest for data protection."

³⁰ Sulistyono dkk., "Execution of the Right to Be Forgotten in Indonesia: The Urgency of the Requirements for the Determination and Establishment of the Assessment Body," 1–15.

³¹ Kurniangsih dkk., "Sexual Exploitation of Children in the Digital Age in the Victimology Perspective."

³² Turvey dan Coronado, "Victimology: A Brief History with an Introduction to Forensic Victimology."

³³ Bowland dan Schumann, "Perceptions of People Radicalised Online: Examining the Victim–Perpetrator Nexus."

of victims without waiting for protracted court proceedings.³⁴ The urgency of RTBF is also even clearer when placed within the framework of human rights protection. The Convention on the Rights of the Child (KHA), which Indonesia has ratified, affirms the child's right to the protection of privacy, honour, and reputation. As a state party, Indonesia is obliged to respect, protect, and fulfill these rights.³⁵ The absence of an effective RTBF mechanism shows a gap in the fulfillment of state obligations in the field of human rights. Therefore, the RTBF is not just a technical instrument, but part of Indonesia's juridical responsibility as a state of law. In the framework of radical victimology, this is a form of structural victimization because the state fails to provide mechanisms that are adaptive to the dynamics of digital technology.

Given the complexity above, the implementation of RTBF in Indonesia cannot be postponed any longer. First, RTBF provides a more comprehensive recovery path for child victims of electronic-based sexual violence because it not only punishes the perpetrator but also removes digital traces that prolong the victim's suffering. Second, RTBF strengthens the victim-oriented paradigm of criminal law, in line with radical victimology theories that place victims at the center of attention. Third, RTBF is part of the state's obligation to ensure the protection of children's rights as affirmed by the Convention on the Rights of the Child and the Child Protection Law.

3.3.1 Social Dimension

Children who should have been rehabilitated actually experience social stigma because immoral content continues to circulate in the digital world. This situation is clearly contrary to the principle of the best interests of the child, which should be the main guideline in child protection. The Right to Be Forgotten is closely related to human dignity. Children who are victims of online sexual violence who have no control over the removal of sexually charged digital content are essentially losing their rights to their identity and future. They are socially shamed, lose their sense of security, and are tied to trauma that can actually end.³⁶ The radical perspective of victimology emphasizes that the restoration of the dignity of victims should not be limited by legal formalities.

Furthermore, the nature of digital permanence strengthens the urgency of implementing RTBF. Unlike conventional forms of violence, electronic-based sexual violence leaves digital records that can be accessed indefinitely and can be redistributed at any time. This condition makes the

³⁴ Peña-Castillo dan Cortes-Perez, "Truth, Memory, Therapeutical, and Social Justice: Towards a Victimology About Victims, for Victims and Along with Victims of Femi[ni]cide."

³⁵ Kravchuk, "Privacy as a New Component of 'the Best Interests of the Child' in the New Digital Environment," 6–26.

³⁶ Knipschild dkk., "From Digital Harm to Recovery: A Multidisciplinary Framework for First Aid after Online Sexual Abuse [Del daño digital a la recuperación: un marco multidisciplinario para los primeros auxilios tras el abuso sexual en línea]."

suffering of the victim's child never really end.³⁷ As long as the content is still there, psychological trauma and social stigma will continue to haunt us.³⁸

Therefore, the urgency of implementing RTBF in protecting child victims of electronic-based sexual violence in Indonesia is non-negotiable. The state needs to go beyond a formalistic approach that relies on court rulings as a condition for content removal. Instead, a fast, simple, and victim-oriented administrative mechanism needs to be formulated. Without these steps, child victims of sexual violence will continue to be trapped in a cycle of re-victimization that robs them of their dignity, future, and human rights. Radical victimology theory clearly states that victim protection is not just a complement to the law, but the core of substantive justice that the state must realize in the digital age.

3.4 The Role of the State in the Implementation of the Right to Be Forgotten

3.4.1 State Efforts to Fulfill the Right to Be Forgotten under the Existing Regulatory Framework

The state's efforts in fulfilling the right to be forgotten (RTBF) have actually been reflected in a number of national legal instruments. Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) expressly gives the central government the authority to delete or terminate access to information and electronic documents containing TPKS, as stipulated in Article 46, which stipulates that the central government has the authority to delete or terminate access to information and electronic documents containing TPKS. In addition, Article 47 stipulates that in the public interest, the prosecutor may submit a request to the chief justice to give an order to the ministry in charge of affairs related to communication and informatics to delete information and electronic documents containing TPKS, which is meant by deletion herein, including reducing and announcing a ban on posting with the aim of disseminating it. The rights of victims are also affirmed in Article 68, letter g, which regulates the right to the removal of sexually charged content for the KSBE case. Article 70, paragraph 2, letter l, which in the article regulates the right to delete sexually explicit content for KSBE.

Another relevant legal instrument is Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions. Article 26, paragraphs 3 and 4 stipulate that the deletion of irrelevant information and electronic documents at the request of the person concerned based on a court determination must be carried out by the electronic system operator by providing a deletion mechanism in accordance with the provisions of laws and regulations. In addition, Article 40 paragraph 2 letters a and b stipulate that the government is obliged to prevent the dissemination and use of information and electronic

³⁷ Tanaya dan Windya N., "Child Sexual Abuse and Exploitation through Livestreaming in Indonesia: Unequal Power Relations at the Root of Child Victimization," 89–105.

³⁸ Zaltina dan Inge Nurtjahyo, "Right to be Forgotten as a Legal Protection for The Victims of Electronic Sexual Violence Cases."

documents that have prohibited content in accordance with the provisions of laws and regulations, in line with this, the government is authorized to terminate access including blocking, closing, and deleting information and documents that have unlawful content and ordering related parties in the electronic system.

Further protection is provided by Law No. 27 of 2022 concerning Personal Data Protection. Article 8 stipulates that the subject of personal data has the right to delete personal data about themselves in accordance with the provisions of laws and regulations. This is strengthened by the provisions of Article 16 paragraph 1 letter f, which regulates the processing of personal data, including deletion and destruction, and Article 16 paragraph 2 letter g, which regulates that personal data can be deleted after the storage period ends or based on the request of the personal data subject. Article 43, paragraph 1 stipulates that personal data obtained unlawfully, at the request of the personal data subject, must be deleted by the personal data controller. Articles 45 and 48 stipulate that the deletion of data must be notified to the subject of personal data by the controller of personal data.

Not only laws, but also implementing regulations in the form of government regulations. Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions. Article 15, paragraphs 1 and 2 stipulate that the operator of the electronic system is obliged to delete irrelevant electronic information and documents at the request of the person concerned, which includes the deletion and deletion from the search list. Article 16, paragraph 1 regulates the deletion of electronic information and documents that are obtained and processed without the consent of the owner, have been withdrawn by the owner, obtained from unlawful acts, or that result in losses to the owner. On the other hand, Government Regulation Number 27 of 2024 concerning coordination and monitoring of the implementation of prevention and handling of victims of trafficking in Article 12 paragraph 3 letter g regulates the monitoring of the implementation of the handling of victims of trafficking in the fulfillment of the right to the removal of sexually charged content for KSBE. This provision is important because in the case of sexual violence in the digital space, victims not only experience physical or psychological suffering, but also experience re-victimization due to the dissemination of sexually charged content without consent. Such content can spread quickly, be difficult to control, and cause repeated trauma for the victim. Therefore, this regulation emphasizes that the state is obliged to ensure that there is a real mechanism to remove or remove such content from the digital space.³⁹

From a legal perspective, the entire regulation shows two main things, namely First, the expansion of the dimension of victim protection - victims' rights are not only limited to rehabilitation or physical-psychological recovery, but also include protection in cyberspace.

³⁹ Safenet, "Kertas Kebijakan Mengenai Urgensi Pengaturan Penghapusan Konten Kekerasan Seksual Berbasis Elektronik."

Second, it is the responsibility of the state and the digital platform provider - the state must ensure that there are legal and technical instruments in place for the content to be removed, while the platform providers are obliged to cooperate in implementing the removal. Thus, this regulation reflects legal developments that are adaptive to the digital era. The removal of sexually charged content is a form of concrete healing for the victim, because without this guarantee, trauma can continue to recur. However, the biggest challenge lies in its implementation, namely how the state, law enforcement officials, and digital service providers work together quickly, effectively, and across jurisdictions if the content is spread abroad.

Efforts to fulfill the Right to Be Forgotten (RTBF) through various laws and regulations in Indonesia show the state's intention to protect victims of electronic-based sexual violence as a whole. However, a more critical analysis reveals a gap between positive legal norms and their implementation practices. For example, the TPKS Law and the ITE Law provide authority and mechanisms for the removal of content, but formalistic procedures often make it difficult for victims, especially children, to immediately access the protection they need. In practice, the involvement of law enforcement and digital platform providers does not always run effectively or consistently, so that sexually charged content can remain circulating, prolonging trauma and revitalization. Some provisions, such as the obligation to remove "irrelevant" in the ITE Law, are still ambiguous depending on the interpretation of the authorities, so they have the potential to create procedural obstacles. This evaluation shows that although the regulation provides a legal basis for the RTBF, without a fast, responsive, and victim-friendly administrative mechanism, its implementation can actually slow down the recovery of the victims and create an ineffective bureaucratic impression. Therefore, in addition to law enforcement, it is necessary to strengthen cross-agency coordination, clear technical guidelines, and proactive monitoring of implementation so that RTBF can function in real terms as an instrument for the protection of child victims of KSBE in the digital era.

3.4.2 Lack of State Role in RTBF Fulfillment

Indonesia has indeed adopted a number of regulations related to the Right to Be Forgotten (RTBF). However, the implementation is still far from adequate. The obstacles that arise at the implementation level show the weak role of the state in providing effective protection, especially for child victims of electronic-based sexual violence. In fact, the main goal of RTBF is to provide a sense of security to victims by reducing the burden of sexually charged content that is widely circulated in the digital space. The right to be forgotten should be an instrument that provides an opportunity for victims to recover their good name, dignity, and social life. In fact, the fulfillment of RTBF in Indonesia is still limited to normative idealism, not yet touching the real needs of victims who have to face prolonged re-victimization.⁴⁰

⁴⁰ APIK, "Pemenuhan Right to be Forgotten sebagai upaya pemulihan Korban Kekerasan Seksual Berbasis Elektronik."

The first problem is related to institutions, the absence of clear implementation regulations. Although Articles 46, 47, and 55 of Law Number 12 of 2022 concerning the Crime of Sexual Violence have opened up space for mechanisms to remove or cut off access to sexually charged content, until now, the government has not issued the implementing regulations mandated by the law.⁴¹ This vacuum creates regulatory loopholes that are detrimental to victims. In the absence of simple and easily accessible standard procedures, content removal is often carried out on an ad hoc basis, depending on the discretion of law enforcement officials or Kominfo's decisions. This situation leaves victims trapped in legal uncertainty, while the trauma continues as sexually charged content continues to circulate on various digital platforms.

The second procedural problem lies in the legal mechanism that is too formalistic. Both the PKS Law and the ITE Law still require permission from the court or the prosecutor's office to remove content. The lengthy, bureaucratic, and time-consuming legal process is not in line with the immediate needs of victims. In the case of sexual violence, the slightest delay can expand the chances of redistributing content, increase the number of parties accessing it, and deepen the victim's trauma. In fact, in some cases, police officers rejected the victim's report due to a lack of evidence. This makes the content undeleteable immediately. As a result, RTBF often stops at a symbolic level, rather than as an instrument of substantive protection that can be perceived by the victim.⁴²

Digital technical problems and government technical limitations also exacerbate the weak fulfillment of RTBF. The instrument used by Kominfo is still limited to geographical blocking, which blocks access to content only in Indonesian territory.⁴³ With this mechanism, content cannot be accessed from within the country, but remains available abroad and can be easily re-entered via cross-border channels. This pattern only creates the illusion of protection, as the victim's digital footprint remains and can be reused at any time. The permanence of this digital data shows that the state has not been able to provide comprehensive protection for victims, so that RTBF has not been achieved substantially.

Policy problems and conceptual obstacles are also important issues. Article 26 paragraph (3) of the Electronic Information and Transaction Law does give everyone the right to request the removal of irrelevant information, but there is no explanation of what is meant by the phrase "irrelevant". This ambiguity opens up space for various interpretations, both by law enforcement officials, courts, and electronic system operators.⁴⁴ Meanwhile, the Personal Data Protection Law seeks to strengthen RTBF as part of the right to privacy, but without a strict sanction mechanism

⁴¹ Januar Rizki, "Empat Permasalahan Aturan Right to be Forgotten."

⁴² Ismaya et.al, *Materi Ajar Peningkatan Kapasitas Advokat terkait Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual*, 71.

⁴³ Alayk R, "Mengulik Right to be Forgotten di Indonesia."

⁴⁴ Ajiputera dan Susetyo, "Implementasi Pengaturan Hak Untuk Dilupakan Melalui Sistem Penghapusan Data Pribadi dan/atau Dokumen Elektronik Menurut Perspektif Hukum Positif di Indonesia," 8052.

for non-compliant electronic system operators. As a result, legal certainty is difficult to realize. The Personal Data Protection Law does strengthen RTBF as part of the right to privacy, but it still does not have a strict sanction mechanism for non-compliant electronic system operators. Without legal certainty and a clear sanction mechanism, victims are again in a vulnerable position.

In academic practice and policy, there is also a debate about RTBF's potential clash with press freedom and freedom of expression. Some are concerned that the RTBF could be used as a "rubber article" to remove important information for the public.⁴⁵ These concerns are relevant, but in the context of protecting children of victims of sexual violence based on electronics, the RTBF should be placed as an instrument of victim protection, not as a threat to press freedom. The main problem lies not in the concept of RTBF, but in the absence of clear, transparent, and victim-oriented technical regulations. The state should be able to balance the public interest with the interests of the victim through a proportionate, fair, and child-friendly legal mechanism.

The lack of the role of the state in fulfilling the RTBF can be understood through the lens of radical victimology. In contrast to traditional victimology that only places the victim in an individual relationship with the perpetrator, radical victimology emphasizes that the suffering of the victim also stems from the social structure and institutions of the state. With this perspective, the state's failure to provide a prompt and effective legal mechanism is a form of structural victimization. Child victims of electronic-based sexual violence end up being "double victims" because, first, from the perpetrators who disseminate the content, and second, from a country that allows suffering to drag on due to slow and procedural laws.⁴⁶ The concept of structural victimization asserts that the state cannot hide behind procedural reasons and technical limitations. Instead, the state is obliged to actively build a legal framework that is truly on the side of the victim. Radical victimization theory places the state as a central actor that must take full responsibility for stopping the cycle of victimization, not prolonging it.

Compared to other jurisdictions, the weakness of the state's role in Indonesia is increasingly evident. The European Union, through the General Data Protection Regulation (GDPR), expressly regulates the RTBF in Article 17, which requires data controllers to delete personal information without delay. This mechanism does not require lengthy litigation, so victims can obtain recovery. India, although it does not yet have a comprehensive legal framework, has produced court rulings that recognize the right of victims of sexual violence to remove personal information from the digital space. This comparison shows that there is room for states to adopt faster and more pro-victim administrative mechanisms.

⁴⁵ Yofira et.al, "Urgensi Pengaturan Penghapusan Konten Kekerasan Seksual Berbasis Elektronik yang Berpihak Pada Pemenuhan Hak Korban."

⁴⁶ Herode, "Cyber Crime Vis-À-Vis Violation of Massive Human Rights and Legislative Efficacy in India," 64-79. <https://heinonline.org/HOL/Halaman?koleksi=jurnal&handle=hein.journals/ijlj11&id=919>

From a human rights perspective, the lack of implementation of RTBF in Indonesia can be seen as a violation of international obligations. The Convention on the Rights of the Child (KHA) affirms the child's right to privacy, reputation, and reputational protection. As a state party, Indonesia is obliged to respect, protect, and fulfill these rights. The absence of an effective RTBF mechanism indicates a violation of the state's obligation to protect children. Thus, the weak role of the state is not only an institutional or regulatory issue, but also concerns social justice and constitutional obligations.

Seeing these various weaknesses, the need to harmonize the rules becomes very urgent. First, the definition of sexually charged content in the context of KSBE needs to be clarified to avoid multiple interpretations. Second, the procedure for removing content needs to be simplified by giving administrative authority to certain institutions to order removal, without having to wait for a court decision. Third, supervision of the implementation of RTBF needs to be strengthened with strict sanctions for electronic system operators who do not comply. Fourth, it is necessary to establish a multisectoral coordinating body involving law enforcement officials, Communication and Informatics, child protection institutions, and civil society organizations to ensure the fulfillment of victims' rights.⁴⁷ Therefore, RTBF is currently seen as part of the victims' human rights to legal protection and the restoration of dignity. The state should not delay its implementation just because it is worried that it will clash with press freedom or freedom of expression. The principle of the best interests of children, as affirmed in the Convention on the Rights of the Child (KHA), must be the main guideline in every child protection policy, including in the digital space.⁴⁸

Thus, the lack of state role in fulfilling the RTBF is not only a matter of technical weaknesses or overlapping regulations, but this failure must be understood as a form of structural victimization that hinders the fulfillment of substantive justice for children of KSBE victims.⁴⁹ From the perspective of radical victimology, the state's failure to provide a prompt and effective mechanism can be read as a form of human rights violation. Children who are victims of electronic-based sexual violence are not only harmed by the perpetrators but also by the legal system that fails to protect them. Therefore, strengthening regulations, harmonizing rules, and procedural reform are an urgent agenda so that RTBF can function as a substantive and pro-child legal protection instrument.

4. CONCLUSION

This study concludes that the implementation of the Right to Be Forgotten (RTBF) for child victims of electronic-based sexual violence in Indonesia has not yet functioned as an effective

⁴⁷ Ajiputera dan Susetyo, "Implementasi Pengaturan Hak Untuk Dilupakan Melalui Sistem Penghapusan Data Pribadi dan/atau Dokumen Elektronik Menurut Perspektif Hukum Positif di Indonesia."

⁴⁸ Sibanda, "Towards a More Effective and Coordinated Response by the African Union on Children's Privacy Online in Africa [Vers une réponse plus efficace et coordonnée de l'Union africaine sur la vie privée des enfants sur internet en Afrique."]

⁴⁹ Hidayat Muhtar, "Perluasan Kewenangan Komisi Penyiaran Indonesia terhadap Pengawasan Media Digital," 128.

substantive protection mechanism, but remains constrained within formalistic and procedural legal frameworks. Despite the existence of multiple regulations recognizing RTBF across child protection, sexual violence, electronic information, and personal data protection laws, their fragmented enforcement, lengthy judicial processes, and lack of clear technical guidelines have resulted in persistent digital re-victimization. The findings demonstrate that the state's response tends to prioritize legal formality over the urgent recovery needs of child victims, thereby perpetuating structural victimization in the digital sphere. This research affirms that RTBF must be reconceptualized as an immediate, child-centered right grounded in the best interests of the child, rather than as a discretionary legal remedy. Accordingly, this study recommends the establishment of a swift administrative content removal mechanism, binding obligations for digital platforms accompanied by effective sanctions, and integrated coordination among law enforcement agencies, communication authorities, and child protection institutions. The novelty of this research lies in its integration of radical victimology with digital rights discourse, offering a recovery-oriented legal framework that positions RTBF as a strategic instrument to restore dignity, prevent recurring harm, and ensure meaningful protection for child victims within an increasingly digitized society.

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