



## Juridical Analysis of a Criminal Offense Involving Sexual Intercourse with a Child

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**Abstract:** This study aims to analyze the juridical aspects of criminal offenses involving sexual intercourse with a child, particularly within the framework of Indonesian criminal law. The objective is to understand the legal foundations, application of statutory provisions, and legal consequences imposed on perpetrators. The research employs a normative juridical method with statutory and case approaches, focusing on the analysis of legal norms and court decisions to assess how these laws are implemented in practice. The findings reveal that such offenses are governed by the Indonesian Penal Code (KUHP) and Law No. 35 of 2014 on Child Protection. In practice, challenges include inconsistencies in sentencing, evidentiary barriers, and the psychological vulnerability of victims. This study underscores the need for a firmer and more consistent application of the law to ensure justice and deterrence. The novelty of this research lies in its critical examination of judicial reasoning in selected verdicts, exposing gaps and disparities in legal interpretation and sentencing. This analysis contributes to the discourse on child protection by offering legal insights that promote uniformity and fairness in handling such cases. In conclusion, the study recommends reforms in judicial practices, the implementation of child-friendly legal procedures, and stronger enforcement of sentencing guidelines to better safeguard children's rights.

**Keywords:** Child Protection; Criminal Law; Sexual Offense; Juridical Analysis; Legal Reform.

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## 1. Introduction

Pancasila and the 1945 Constitution serve as the foundation for the Republic of Indonesia, with laws based on legal principles used to govern the behavior of its citizens. The state emphasizes that everyone, without exception, must respect and follow the law, as it upholds the rule of law. The ultimate goal is to ensure peace, prosperity, and safety for all citizens and the nation.

However, the rapid socioeconomic development has contributed to an increase in criminal activities. Sexual crimes such as rape, sexual intercourse, and acts of indecency, which are morality-based offenses, have led to widespread societal unrest and concern. Many people, especially parents, are alarmed by the growing prevalence of these moral crimes.<sup>1</sup>

Children, as the future generation, have distinct needs due to their ongoing mental and physical development. All aspects of children's rights civil, political, economic, social, and cultural must be protected by law. Every individual, including children, is entitled to equal protection under the law (Law No. 39 of 1999). Taking legal action against violations or breaches committed by legal entities through judicial processes, arbitration, or other dispute resolution methods is a key component of law enforcement, which broadly encompasses efforts to apply and enforce the law. More specifically, when discussing the criminal justice system, which involves the work of police, prosecutors, lawyers, and courts, we are referring to the procedures aimed at preventing and penalizing violations of laws and regulations.<sup>2</sup>

Laws often include provisions specifically designed to address the unique needs of children, recognizing their distinct status as human beings, whether they are victims or offenders. Child sexual abuse has become an increasing concern, as recent media reports have highlighted. Sadly, some children who experience sexual violence themselves later go on to commit similar offenses, often with the involvement of their peers. Therefore, legal protections are not only intended for children who are victims, but also extend to those who are involved in criminal behavior, or child offenders.<sup>3</sup>

Individuals who are not yet capable of making independent decisions, such as children living with their parents or guardians, have specific legal needs. In modern society, sexual molestation is a crime that frequently affects minors. As an act that blatantly violates moral values and decency, molestation is profoundly disturbing. The offenders in such cases may be adults targeting minors or even minors targeting adults. The occurrence of moral crimes, including sexual relations between minors, has risen along with other forms of crime as society has progressed. This behavior causes significant concern, especially among parents. Given that victims of sexual assault, whether committed by adults or other children, do not physically resemble adults, the disturbing increase in such cases only heightens the worry. This type of criminal activity threatens the nation's goals and undermines the moral foundation of future generations. One contributing factor to the behavioral issues or criminal acts by sexual assault perpetrators is the rapid growth of technology and the spread of globalization, particularly in the fields of information and communication. Additionally,

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<sup>1</sup> Tongat, T., Nugrono, B., & Wibowo, S. S. (2022). A juridical review of the criminal offense of sexual intercourse with violence against children. *Al-Manhaj: Journal of Law and Islamic Social Institutions*, 4(2), 298

<sup>2</sup> Laia, F. (2023). A juridical review of sentencing for perpetrators of child sexual intercourse crimes. *Journal of the Arrow of Justice*, 2(1), 71

<sup>3</sup> Nurlaela, N., Myranika, A., & Hafidati, P. (2024). *Juridical analysis of sanctions for the criminal offense of sexual intercourse where both the perpetrator and victim are minors*. *Jurnal Pemandhu*, 5(1), 54.

children are more vulnerable to negative situations and harmful influences when they lack sufficient attention, love, and supervision from their parents.<sup>4</sup>

The concerning rise in sexual violence against minors shows no signs of slowing down. Data from the Ministry of Women's Empowerment and Child Protection (KemenPPPA) reveals a significant increase in reported cases of child sexual assault, which reached 8,730 incidents in 2021, compared to previous years. Despite the enactment of Child Protection Law 35 of 2014, which aimed to reduce such crimes, they remain prevalent.

According to a study by the Indonesian Child Protection Commission (KPAI), over 60% of Indonesian children have been exposed to pornography, with some admitting to being influenced by it to engage in similar behaviors. This exposure increases the likelihood of children becoming victims themselves or displaying aggressive behavior, which can lead to sexual abuse occurring among peers. In response, the Indonesian government has introduced several laws designed to prevent sexual assault against minors. Notably, Law 23 of 2002, an amendment to Law 35 of 2014, plays a key role in child protection. According to Article 1, paragraph 1 of this law, anyone under the age of eighteen is entitled to protection from all forms of violence, including sexual abuse. Furthermore, Article 76E imposes severe criminal penalties for sexual offenses against children.<sup>5</sup>

Under Article 183 of the Indonesian Criminal Procedure Code (KUHAP), the prosecution is required to provide credible evidence to prove that the offender engaged in sexual intercourse with a minor. Judges bear a significant responsibility in ensuring that justice is served for the victim, the offender, and society as a whole. Their task is to uphold the principles of a fair, swift, and cost-effective trial process.

## 2. Method

This research employs a normative juridical approach, which incorporates theoretical frameworks, guiding principles, and relevant statutes. To present the findings in a structured, logical, and clear way, the study uses descriptive qualitative data analysis. Secondary data is gathered through a literature review of legal documents. Deductive reasoning is applied, where broad concepts are used to reach more specific conclusions.

## 3. Analysis and Discussion

### 3.1 Law Enforcement and Legal Protection Against the Criminal Act of Sexual Intercourse with a Minor

Article 1, point 2 of Law Number 35 of 2014 on Child Protection defines legal protection for children as: *“Child protection is the process of ensuring and safeguarding children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity, and be protected from violence and discrimination.”*

Article 1, point 15 of the same law defines exceptional protection as the state's provision of special protection for children. *“A form of protection provided to children under specific*

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<sup>4</sup> Ramadan, F., Prasetyawati, S. E., & Ramadhan, S. (2024). *Juridical review of the criminal liability of perpetrators in child sexual intercourse cases (Case Study of Decision No. 338/PID.SUS/2022/PN KLA)*. SAKOLA: Journal of Sains Cooperative Learning and Law, 1(2), 665.

<sup>5</sup> Karmilia, R., & Kurniawansyah, D. (2022). *Penal System Policies in Legal Protection Efforts for Children as Perpetrators of Criminal Acts*. *Journal of Juridische Analyse*, 1(1)

*conditions and situations to ensure their safety from threats that may endanger their lives and well-being, as well as their ability to grow and develop.”<sup>6</sup>*

Social and cultural factors influence how society perceives and handles sexual cases, which has often been linked to the criminal offense of sexual intercourse throughout Indonesia's legal history. Several challenges hinder the effective implementation of laws in this area, with the most significant being the societal pressure victims face to remain silent about these incidents. Social stigma, widespread ignorance about the law within the community, and fears of the court system often obstruct efficient law enforcement.<sup>7</sup>

Legal protection for children aims to safeguard their overall well-being and the fundamental freedoms and rights they possess. No individual or organization has the authority to take away or ignore the inherent rights that every child is born with. The Charter of the United Nations, the Declaration of Human Rights, the International Labour Organization's Declaration of Philadelphia on the Rights of the Child, and the United Nations Convention on the Rights of the Child all emphasize the intrinsic value and dignity of every child. In cases of violence against children, whether physical, psychological, sexual, or neglect in areas such as health, education, or general welfare, there are specific procedures for issuing protective orders or interim protection. As stated in Article 69, paragraphs (1) and (2) of Law Number 23 of 2002 on Child Protection, any individual who is aware of, or has been subjected to, such violence is encouraged to report it to the local authorities.<sup>8</sup>

The impact of sexual abuse on children's development and their potential for future success is profound and damaging. To prevent such crimes, offenders are subjected to severe penalties, such as imprisonment, chemical castration, electronic monitoring, and public disclosure of their identities, as outlined in Law Number 35 of 2014, amended by Law Number 17 of 2016. These enhanced punishments are intended to act as a deterrent for similar offenses in the future.

However, chemical castration as an additional penalty is only applicable in cases where a court decision has become final (*inkracht van gewijsde*) and does not apply to juvenile offenders. The cases of AM in Banjarmasin and Muh Aris in Mojokerto serve as examples of the use of chemical castration in conjunction with a primary prison sentence.

Sexual offenses are criminalized in many legal systems globally, including in Indonesia, to protect the mental and physical well-being of individuals, particularly children and women. These laws are deeply rooted in societal norms that regard sexual offenses as serious violations of moral, religious, and social standards. Over time, the language and practices surrounding Indonesia's laws on sexual offenses have evolved. Initially, Indonesia's Criminal Code (KUHP), inherited from the Dutch colonial period, served as the legal foundation for

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<sup>6</sup> Mevia, E. C. D., Wibowo, G. D., Purwanti, D., Putri, R. M., Faqh, N., & Isanaeni, A. D. (2025). *A Juridical Analysis of Criminal Sanctions Against Children as Perpetrators of Sexual Violence According to Law Number 35 of 2014*. *Kultura: Journal of Law, Social, and Humanities*, 3(1), 77.

<sup>7</sup> Setiawan, E. B., et al. (2022). *The Indonesian Criminal Law System's Progression in Sexual Assaults Regulation*. *Volksgeist: Journal of Legal and Constitutional Studies*, 5(2), 161–177.

<sup>8</sup> Sianipar, E. M. T., Wasliyati, L., & Prasetyasari, C. (2024). *A Juridical Analysis of Child Sexual Intercourse Crimes to Realize Legal Protection for Victims*. *Zona Keadilan: Undergraduate Law Program, University of Batam*, 14(1), 3

addressing sexual crimes. Articles 285–290 of the KUHP cover offenses related to forced sexual intercourse, sexual violence, and crimes involving minors.<sup>9</sup>

### 3.2. Criminal Act Of Sexual Intercourse

In criminal law theory, there are several terms used to describe an illegal act: *perbuatan pidana*, *peristiwa pidana*, and *delik*. The term *tindak pidana* translates to "accountable wrongdoing" in Indonesian, which corresponds to the Dutch term *strafbaar feit* (meaning "delict" or "crime" in English). The phrase *strafbaar feit* refers to a criminal act or offense within the context of criminal law.

Professor Mulyatno introduced this term in his work on criminal procedural law. If accurate, the body of laws that regulate the processes for resolving criminal cases is collectively referred to as criminal procedure law. This includes activities such as receiving reports and complaints, conducting investigations and inquiries, prosecuting cases, attending court hearings, obtaining a decision from the court, and carrying out the execution of criminal sentences.<sup>10</sup>

The need to protect marginalized communities, including women and children, has prompted periodic updates to Indonesia's laws regarding the criminal offense of sexual intercourse. Law 23 on Child Protection, enacted in 2002, aimed to enhance safeguards for children against sexual offenses and other crimes. In 2014, this law was revised through Law No. 35, which escalated the penalties for individuals committing sexual offenses against minors. In response to the rising incidents of sexual abuse involving minors in Indonesia, the Government issued Regulation in Lieu of Law Number 1 of 2016, which was ratified by Law Number 17 of 2016.

The age of legal competence to engage in sexual activity and the legal concept of "consent" are closely connected in the context of the offense of sexual intercourse. According to the Child Protection Law, minors in Indonesia are not legally capable of giving valid consent for sexual acts. Therefore, engaging in sexual relations with a minor, even if it involves consent, is still considered a crime. This reflects Indonesia's commitment to preventing the sexual exploitation of minors in any form.

The severity of the penalty for sexual intercourse offenses depends on factors such as the offender's age, the relationship between the victim and the perpetrator, and the specifics of the act. In some cases, punishments for sexual conduct involving minors, even if not forced, can be very harsh. The use of forensic examinations and *visum et repertum* to gather evidence of sexual acts or violence has also strengthened law enforcement's efforts. To ensure the proper and effective handling of legal proceedings, Indonesia's criminal justice system involves multiple stakeholders, including child protection organizations, legal counsel, public prosecutors, and the police.<sup>11</sup>

When either the offender or the victim is a youngster, it becomes far more difficult to apply the law in instances of sexual intercourse between children. Restorative justice, which emphasises rehabilitation above punishment alone, is applied by Indonesian law in situations

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<sup>9</sup> Evelyn Blackwood, "Regulation of Sexuality in Indonesian Discourse: Normative Gender, Criminal Law and Shifting Strategies of Control," *Culture, Health & Sexuality* 9, no. 3 (May 1, 2007): 293–307,

<sup>10</sup> Efendi, J. (2016). *Popular Dictionary of Legal Terms*. Jakarta: Prenadamedia Group.

<sup>11</sup> Noviardi, J., Fitriati, F., & Bakir, H. (2021). The Application of Criminal Elements in Child Sexual Intercourse Cases Disseminated via Social Media During Investigation. *Unes Journal of Swara Justisia*, 5(3), 259–266.

where the perpetrator is a minor. The notion of *ultimum remedium*, as introduced by Law Number 11 of 2012 respecting the Juvenile Criminal Justice System (SPPA), states that incarceration should be reserved for cases involving juvenile offenders as a last option. The adoption of this idea is driven by a desire to protect the future of juvenile offenders and save them the additional trauma that comes with jail.<sup>12</sup>

Sexual intercourse is a crime in Indonesia, and the penalties for this crime are case-specific. Offenders may be sentenced to jail terms between five and fifteen years under the Indonesian Penal Code (KUHP), with the exact length of time spent behind bars depending on the gravity of the offence and any mitigating factors. Offenders in positions of power or responsibility over the victim, such as parents, guardians, or instructors, are subject to heavier punishments under the law in instances of sexual abuse against children.

According to the Child Protection Law, violators face harsh penalties including jail time and hefty fines. When it comes to civil law, victims of sexual assault, particularly minors, have a right to compensation or reparation. This encompasses financial support for the victim's medical care, therapy, and other forms of emotional and mental distress. Punishing the offender and providing safety and healing for the victim are two goals of criminal sanctions and reparations. The emphasis in Indonesian law on both punishing the perpetrator and rehabilitating the victim is a reflection of the holistic approach taken by the country when dealing with sexual offence cases.<sup>13</sup>

### 3.3. Legal Protection for Child Victims of Criminal Acts

Legal protection is primarily concerned with the well-being of children. In a broad sense, child welfare is a way of life and a means of subsistence that guarantees a kid's healthy physical, mental, and social development. It is just as crucial to provide legal protection for juvenile offenders as it is for victims of crime.<sup>14</sup>

The goals and concepts of Child Protection Law Number 23 of 2002 form the basis of child protection. According to Article 2, the Republic of Indonesia Constitution from 1945 and Pancasila, along with the Convention on the Rights of the Child's basic principles, must provide the basis for child protection measures. The right to life, survival, and development, as well as nondiscrimination and respect for the child's viewpoints, are among these values.<sup>15</sup>

Also, as stated in Article 3 of Child Protection Law No. 23 of 2002:

*"Child protection aims to ensure the fulfillment of children's rights so that they can live, grow, develop, and participate optimally in accordance with their human dignity, while also being protected from violence and discrimination, in order to create a prosperous, morally upright, and high-quality generation of Indonesian children."*<sup>16</sup>

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<sup>12</sup> Mutiarani, S., & Subekti. (2022). Rehabilitation of Child Offenders in Sexual Intercourse Crimes at Bhina Putera Juvenile Rehabilitation Foundation. *Recidive: Journal of Criminal Law and Crime Prevention*, 11(1), 100–106.

<sup>13</sup> Widadi, S., & Zainuddin, C. (2024). Child-Perpetrated Sexual Intercourse Crimes: Legal Enforcement Analysis Based on the *Ultimum Remedium* Principle. *Legalite: Journal of Legislation and Islamic Criminal Law*, 9(2), 191.

<sup>14</sup> Gultom, M. (2010). *Legal Protection for Children* (2nd ed.). Bandung: P.T. Refika Aditama.

<sup>15</sup> Article 2 of Law Number 23 of 2002 on Child Protection

<sup>16</sup> Article 3 of Law Number 23 of 2002 on Child Protection

The Child Protection Law (No. 23 of 2002) sets out specific protections for children who are victims of abuse or neglect, as outlined in Article 69. To ensure these children receive the appropriate safeguards, as mentioned in Article 59, the following measures are implemented:

- a. Public education on laws that protect children from abuse;
- b. Monitoring, reporting, and penalizing offenders.<sup>17</sup>

The Indonesian Child Protection Commission (KPAI) was established by the government to ensure the safety of children in Indonesia, in accordance with Law Number 23 of 2002 on Child Protection. The creation of the independent KPAI to improve the effectiveness of child protection services is mandated by Article 74 of this law.

Additionally, Article 76 of Law Number 23 of 2002 outlines the following responsibilities for the KPAI:

1. Ensuring that all child protection laws and regulations are adhered to, collecting relevant data and information, addressing public complaints, and overseeing the implementation of child protection measures.
2. Reporting, advising, and consulting with the President on matters related to child protection.<sup>18</sup>

### **Criminal Law Policy on Child Sexual Offenses in Current Times**

In the following sections of several laws, you can find regulations that control different aspects, especially those that pertain to the rights of children who have been victims of crime:

- a. Law Number 1 of 2023 on the Criminal Code (KUHP).

Many parts of this statute that were meant to safeguard victims, particularly minors, have been abolished. It revoked certain provisions of Law 13 of 2006, namely Articles 37, 38, 39, and 41; Law 31 of 2014, which addressed the Protection of Witnesses and Victims, subsequently amended this law. Additionally, it nullified Law No. 17 of 2016, which created Government Regulation in Place of Law No. 1 of 2016 on the Second Amendment to Law No. 23 of 2002 on Child Protection, and Law No. 35 of 2014, which dealt with Amendments to Law No. 23 of 2002 on Child Protection (Article 81, Paragraph (1)).

Regarding judges' roles in sentencing, Law No. 1 of 2023 on the Criminal Code makes a number of important amendments. According to Article 71, a judge may decide to impose a fine instead of a prison sentence for a crime that carries a sentence of less than five years if, after taking into account the goals of sentencing and the sentencing guidelines outlined in Articles 51-54, the judge concludes that imprisonment is unnecessary.

- b. Law Number 12 of 2022 on Sexual Violence Crimes

Victims of sexual intercourse who were minors were not considered victims of sexual violence until Law No. 12 of 2022 on Sexual Violence Crimes replaced Law No. 35 of 2014 on Child Protection, which classified them as juveniles involved in legal disputes. This differentiation

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<sup>17</sup> Article 69 of Law Number 23 of 2002 on Child Protection

<sup>18</sup> Article 76 of Law Number 23 of 2002 on Child Protection

meant that the protection offered to children affected by sexual crimes was distinct from that given to children affected by sexual intercourse offences.<sup>19</sup>

Tragically, sexual assault against children is all too common and poses serious risks to their lives, health, and development, as well as to society's stability, safety, and harmony. To ensure that the provisions of Law Number 35 of 2014, which amends Law Number 23 of 2002 on Child Protection, are enforced, the government has established Government Regulation Number 70 of 2020, which details the protocols for chemical castration, electronic monitoring device installation, rehabilitation, and the disclosure of perpetrators' identities in cases of sexual violence against children. Later, in 2016, Law 17 was passed to replace Law 1 of 2016, which dealt with the Second Amendment to Law 23 of 2002 on Child Protection, and to create government regulations instead.<sup>20</sup>

### **3.4. Criminal Offense of Sexual Intercourse with a Minor According to Law Number 35 of 2014 on Amendments to Law Number 23 of 2002 on Child Protection**

Any human being, even a developing foetus, who is less than eighteen years old is considered a kid under the kid Protection Law. Molestation and other forms of sexual contact with children are addressed under multiple provisions of the Child Protection Law. According to Article 81, paragraph (1) of the Child Protection Law, those who disobey the rules laid out in Article 76D are subject to a fine of up to Rp 5,000,000,000 (five billion rupiah) and a prison sentence of at least 5 (five) years and no more than 15 (fifteen) years. Intentionally coercing a minor into sexual intercourse through the use of physical force or threats of physical force is a crime punishable by law according to this article. Causing the victim to lose consciousness or render them powerless also constitutes coercion.

In addition, the crime of encouraging sexual intercourse between a minor and another person through dishonesty, repeated lies, or manipulation is punishable by law according to Article 81, paragraph (2) of the Child Protection Law. Coercing a kid into sexual actions through the use of such deceitful techniques is criminalised in this article.

Furthermore, it is stated in Article 82 of the Child Protection Law that offenders may be fined up to Rp 5,000,000,000 (five billion rupiah) and sentenced to imprisonment for a minimum of five years and a maximum of fifteen years for violations of Article 76E. Intentional acts of child molestation involving force, threats of violence, dishonesty, lying, or persuasion to urge or permit a child to conduct or suffer molestation are defined in Article 82.

The main difference between Article 82, which deals with molestation offences, and Article 81, which deals with sexual intercourse with a minor, is that the former is more narrowly focused. Having sexual relations with a minor is considered a molestation offence.

### **3.5. Judge's Considerations in Verdict Number 6/Pid.Sus-Anak/2022/PN.Bul**

A judge is an official with the power to decide cases who is chosen by the state (Article 1, paragraph 8) of the Criminal Procedure Code (KUHAP) in Law Number 8 of 1981. As someone who is responsible for upholding justice and the law, the judge must investigate,

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<sup>19</sup> Yano, Mario. (2019). *Understanding Legal Certainty Through the Construction of Legal Positivism Reasoning*. Jurnal Crepido, Vol. 01 No. 01, July 2019.

<sup>20</sup> Usman, Ali. (2023). *Chemical Castration Sanctions for Child Predators*. Retrieved from [bpsdm.kemendiknas.go.id](https://bpsdm.kemendiknas.go.id)

adhere to, and comprehend the societal legal principles. Hence, the legal system ensures the function and authority of judges.

It is up to the judge to decide if the defendant is guilty of the crime. The judge has to look at the evidence to figure out if the criminal is guilty. Judgement is based on both the law and the judge's personal values since a judge will not make a decision until he or she has received and reviewed the case. No matter how the judge frames the case, he or she must take everything into account. The judge still has to look at the whole case, even if the prosecution can't prove it. On the other hand, the court has an obligation to investigate the case further if the defendant raises a defence that could cast doubt on the guilt.

Judges in Indonesia are required to follow the rules laid down in their code of ethics. A judge's actions in the courtroom must be consistent with justice and the standards of criminal procedure. It is against the law for a judge to express favouritism or bias towards either side of the dispute. Throughout the trial, the judge must speak and act with grace, firmness, and knowledge. Judges are expected to uphold the court's dignity and seriousness by conducting themselves in an authoritative and respectful manner, taking their examinations seriously, and relentlessly seeking justice and truth.<sup>21</sup>

In light of the facts offered at trial, the judge is required by Article 183 of the Indonesian Criminal Procedure Code (KUHAP) to determine the child's guilt or innocence and the appropriateness of the punishment. According to Article 183 of the KUHAP, a judge cannot punish a person for a crime unless he or she is persuaded, by at least two pieces of evidence, that the defendant committed the crime. Article 184 of the Indonesian Criminal Code (KUHP) lists many forms of evidence, such as comments made by the defendant, documents, hints, expert testimony, and facts that are already known and do not require further proof.<sup>22</sup>

The judge's responsibility does not stop with rendering a decision; it also includes seeing to it that the decision is carried out as ordered. A fair, speedy, and inexpensive trial should be the goal of every criminal case, and judges have a responsibility to help individuals seeking justice overcome any hurdles in the way. A judge's primary responsibility is to determine the truthfulness of the allegations made against the parties. Judges are obligated to review and rule on each case that comes before them.<sup>23</sup>

Judges always consider the public prosecutor's indictment and the evidence presented during the trial, including witness testimony, the defendant's statements, physical evidence, and both the subjective and objective elements that could lead to a conviction, regardless of whether the case involves a minor or an adult. To ensure fairness, the final decision must be based on sound reasoning. The following factors were taken into account by the judge.

The defendant is facing a single charge under Article 81, paragraphs (1) and (3), in connection with Article 76D of Law Number 35 of 2014, which amended Law Number 23 of 2002 on Child Protection. The elements of this charge include:

1. The term "any person."

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<sup>21</sup> Ismail, Nam Rumkel; Nurmala; Syafari, Tri. (2021). *Disparity in Criminal Sanctions in Cases of Sexual Intercourse with Minors at Soa-Sio District Court*. *Hermeneutika*, Vol. 5 No. 2, pp. 348.

<sup>22</sup> Amin, R. (2020). *Law of Evidence in Criminal and Civil Cases*. Deepublish.

<sup>23</sup> Law of the Republic of Indonesia Number 48 of 2009 on Judicial Power. Sinar Grafika, Jakarta, 2004.

2. The use of physical force or threats of physical force to compel a minor to engage in sexual relations with the offender or another individual.
3. The offense must have been committed by parents, guardians, family members, caregivers, teachers, school staff, child protection officers, or a group of people acting together.

Trial evidence, including the visum et repertum, witness testimony, and the mental health status of the victim and the defendant, led to the conviction that the defendant had engaged in sexual intercourse with a minor. Factors that might have helped or hurt the defendant were among those that the judge took into account.

Based on the results of the medical examination, which support the claims made by the victim in the victim's behalf in the Visum Et Repertum No. xxx/xx.xx/VII/2022, dated July 18, 2022, we can say the following: In sum:

- a. Bruises on the neck from blunt force impact.
- b. Tear in the hymen due to blunt force impact.

Given that the facts presented during the trial satisfy the elements of the indictment, and based on these considerations, the defendant's actions fulfill all the requirements of the single charge, no additional charges were pursued. The panel determined, beyond a reasonable doubt, that the defendant committed the crime of "*Intentionally using violence or threats of violence to force a child to engage in sexual intercourse with them, and employing deceit, lies, or persuasion to convince the child to engage in sexual intercourse.*"

Taking into account that the presiding judges failed to identify any reasons to absolve the defendant of guilt throughout the trial, nor did they find any reasons to justify the defendant's actions that would render them lawful.

Following a review of the trial's evidence, it was concluded that:

It is imperative that the Public Prosecutor receives one pair of blue pants so they can be utilised in the ongoing processes involving this kid case.

Considering that, in imposing a sentence on the defendant, the panel first considered both aggravating and mitigating circumstances:

**Aggravating circumstances:**

- a. The victim's future has been irrevocably impacted by the defendant's actions.
- b. The victim is experiencing feelings of shame and trauma.
- c. The actions of the defendant have caused widespread distress among others

**Mitigating circumstances:**

- a. The defendant exhibited courtesy and good conduct throughout the trial.
- b. The defendant recognizes their wrongdoing and commits to making changes.
- c. The defendant has no prior criminal convictions.
- d. Being still young, the defendant has the potential to change their behavior.

Despite the fact that the elements of the indictment presented by the public prosecutor were satisfied, the recommended sentence was determined to be incompatible with the legal minimum penalty. A sentence of four years in jail was sought by the prosecutor, falling short of the mandatory minimum of five years. The offender was sentenced to one year and six months in prison, with the option of work training and periodic supervision as a means of rehabilitation, by the judge.<sup>24</sup>

#### 4. Conclusion

Articles 76D and 81 of Law Number 35 of 2014 regulate the enforcement of laws related to the criminal offense of sexual intercourse with minors. This law also includes specific provisions for offenders who are minors themselves.

In case No. 6/Pid.Sus-Anak/2022/PN, the verdict, while the elements of the charges were fulfilled, it was shown that the Public Prosecutor's demand was flawed, as it did not align with the minimum statutory punishment required by law. For the sake of justice and to ensure maximum deterrence, it is essential that the prosecutorial process is carried out with thoroughness.

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<sup>24</sup> Ansiska, S.; Tahir, M. R.; Radjak, K. D.; Ali, G. A. (2024). *Legal Review of the Criminal Act of Sexual Intercourse Against a Minor Based on Verdict Number 6/Pid.Sus-Anak/2022/PN.Bul: A Juridical Perspective*. The Factum Law Review Journal, pp. 1-8.

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