Legal Basis for Deciding Cases of Criminal Acts of Sexual Violence against Minors

Hariyanto*, Abdul Rokhim & Diyan Isnaeni
Master of Law Study Program, Islamic University of Malang, Indonesia

*Corresponding Email: hariyantounisma@gmail.com

Abstract
This research aims to describe the legal basis for deciding cases of criminal acts of sexual violence against minors. This research uses normative legal research methods. Normative legal research methods are used to analyze and evaluate statutory regulations, legal documents, and other legal literature. This method aims to understand, interpret, and provide insight into applicable legal norms. The research results show that the legal basis for deciding cases of criminal acts of sexual violence against minors is as follows: 1) Law Number 35 of 2014 concerning Child Protection; 2) Law Number 23 of 2002 concerning Child Protection; 3) Law Number 17 of 2016 concerning the Determination of Government Regulations in place of Law Number 2 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law; 4) Law Number 11 of 2012 concerning the Juvenile Criminal Justice System; 5) Law Number 21 of 2007 concerning Eradication of the Crime of Human Trafficking. Apart from this law, there are also government regulations, regional regulations, and other regulations which also regulate child protection and sexual violence against minors in Indonesia.

Keywords: Sexual Violence; Criminal Law; Minors; Castration Law.

INTRODUCTION

The legal basis for deciding cases of criminal sexual violence against minors can vary depending on the legal system of a particular country. However, many countries have similar legal frameworks to protect children from sexual violence. The Convention on the Rights of the Child is an international agreement that grants special rights to children (Hoffman & Stern, 2020). Article 34 of the Convention on the Rights of the Child (CRC) states that state parties must protect children from sexual exploitation and abuse (Vandenhole et al., 2019).

Every country has criminal laws that prohibit sexual violence, including against minors (Belur & Singh, 2015; Ilyasa, 2021). Articles regulating rape, sexual harassment, and similar criminal acts can become a legal basis. Many countries have specific laws aimed at protecting children’s rights, including protection from sexual violence. This kind of law usually provides a strong legal basis for law enforcement against perpetrators of sexual violence against children (Aidy & Sanaky, 2022). Such laws can provide special protection to children who are victims of sexual violence. This may include the provision of assistance, identity protection, and special justice procedures. Apart from the Convention on the Rights of the Child (CRC), other international guidelines such as the Istanbul Guidelines can guide on handling cases of sexual violence, including against children (Topa & Półtorak, 2021).

These crimes against children are carried out by perpetrators using various methods. Some use methods to persuade the victim by giving money, buying something the victim wants, or deliberately inviting the perpetrator to play together, and then the perpetrator commits violence against him. Using these methods, the perpetrator then commits his crime in a place that is considered safe. Of the many cases, most of the incidents of violence were experienced by children in the perpetrator’s home or residence.

The modus operandi you mentioned are several forms of approaches used by perpetrators of crimes against children (Leclerc et al., 2005; Leclerc et al., 2009; Kloess et al., 2017). Sexual crimes against children can involve a variety of manipulative tactics to get close to the victim. In many jurisdictions, such actions may be covered by child protection laws and related criminal laws (Cukovic-Bagic et al., 2013). Giving money, gifts, or certain promises to children can be used as a tool to seduce or coerce them into unwanted sexual acts. In some cases, this may be considered a form of exploitation or harassment.

Many jurisdictions have child protection laws that prohibit the sexual exploitation of children, including when perpetrators use certain means such as giving money or gifts to children to influence their behavior (Dubowitz, 2017; Gies et al., 2020). Acts of violence or coercion, including acts involving rape, are strictly punished under the criminal laws of many countries (Schomburg & Peterson, 2007). Rape or sexual violence against minors can be subject to serious criminal sanctions. Some jurisdictions have laws that provide special protections to children who are victims of crime, including identity protection and court procedures tailored to protect the interests of children. Prevention and education efforts for children, parents, and the general public are also an important part of the response to crimes against children (Arthur, 2005; Gershoff & Bitensky, 2007). This can include child safety training, recognition of signs of abuse, and promotion of awareness in the community.

It is important to strictly enforce the law and provide support for victims so that they can receive protection, recovery, and justice. Punishments against perpetrators who commit crimes against children must be in line with applicable law and imposed
to provide justice to the victim. Criminal sexual assault of a minor is a serious crime and is prohibited by law in many jurisdictions. The law regulating criminal acts of sexual violence against children aims to protect children from exploitation and provide strict punishments to perpetrators (Henry & Powell, 2016; Geovani et al., 2021).

Many laws set an age limit below which a person is considered a minor. This age limit varies in different jurisdictions but generally ranges from 16 to 18 years. Crimes of sexual violence against children can include various forms, including rape, sexual harassment, molestation, or other sexual acts involving minors without their consent (Mathews & Collin-Vézina, 2019).

Many countries have child protection laws that specifically prohibit the sexual exploitation of children. These laws often provide harsher sentences for perpetrators of sexual violence against children. Perpetrators of sexual violence against children are usually threatened with serious criminal penalties (Prakoso & Mardijono, 2023). These penalties may include imprisonment, fines, or other penalties as required by local law. Criticism of the government regarding sexual violence against minors can vary and stem from various aspects, including policy, law enforcement, preventive approaches, and support for victims. Criticism is often directed at the effectiveness of law enforcement against perpetrators of sexual violence against children. If law enforcement is weak, perpetrators may feel free from punishment and may repeat crimes.

Criticism can arise regarding the lack of support and rehabilitation services for victims of child sexual abuse. Mental health service facilities and psychological support may be considered inadequate.

Some critics may highlight the need for changes in policies and laws that are stronger or better suited to protecting children from sexual violence. This may involve updating laws or increasing sanctions for perpetrators of sexual crimes against children. Criticism can arise when children’s rights, such as the right to be protected from violence, are not fully guaranteed. The continuation of sexual violence against minors can be considered a failure to protect children’s rights.

The government can be criticized for its lack of community involvement and participation in efforts to prevent and overcome sexual violence against children (Hayati et al., 2014; Afrianty, 2018). This involves a lack of effective outreach and education campaigns. Criticism can also arise regarding the government’s transparency and accountability in responding to and handling cases of child sexual violence. Openness and accountability in the process of law enforcement and providing sanctions are important in ensuring justice.

It is important to remember that responses to such criticism can involve improving policies, improving inter-agency coordination, strengthening justice systems, and increasing support for victims. Increasing public awareness and participation is also key in efforts to combat sexual violence against minors.

Weak law enforcement regarding sexual violence against minors can be a serious challenge in protecting children from the risk of sexual violence (Wismayanti et al., 2021). A lack of awareness in society about child sexual violence and children’s rights can result in minimal reports of cases of violence and a lack of public pressure to enforce the law.
The social stigma associated with sexual violence and the fear of victims or their families to report these cases can hinder the law enforcement process. Some law enforcement agencies may not have adequate training in handling cases of sexual violence against children. This may impact their ability to investigate and prosecute perpetrators. The existence of legal obstacles or gaps in certain laws in responding to and taking action against child sexual violence can provide opportunities for perpetrators to avoid accountability.

Compiling sufficient evidence to support a sexual violence case can be difficult, especially when the perpetrator or victim cannot provide sufficient evidence or when the violence occurs in situations that are difficult to monitor. A lack of support and protection for victims can discourage them from reporting violence or cooperating with legal proceedings. Inadequate protection and support can result in victims feeling threatened and unsafe.

The existence of corruption and abuse of power in the law enforcement system can hamper the justice process and subject perpetrators to undue protection. Lack of coordination and collaboration between law enforcement agencies, social institutions, and other related parties can hinder the effective handling of cases of child sexual violence. To improve law enforcement regarding sexual violence against minors, joint efforts are needed between the government, law enforcement agencies, non-governmental organizations, and the community. Active community involvement, increasing awareness, training for law enforcers, improving the victim protection system, as well as changes and stricter enforcement of laws can be key steps in overcoming weak law enforcement related to child sexual violence.

Apart from law enforcement, many countries also focus on prevention and education efforts. This can include public awareness campaigns, training to identify signs of abuse, and resources for children and parents. The crime of sexual violence against minors is a serious violation of the rights and safety of children. Strong law enforcement, victim protection, and prevention efforts are integral to the response to such crimes. Therefore, this research aims to describe the legal basis for deciding cases of criminal acts of sexual violence against minors.

RESEARCH METHODS

The research method used in this research is the normative legal method. Normative legal research methods are an approach used to analyze and evaluate statutory regulations, legal documents, and other legal literature (Sudjana, 2021). This method aims to understand, interpret, and provide insight into applicable legal norms. Normative legal research methods prioritize text analysis and applicable legal norms (Datu, 2018). In general, this research does not involve collecting empirical data like empirical legal research methods. This method is very suitable for use in the context of normative analysis, statutory interpretation, and development of legal theory. Normative legal research methods do not involve the collection and analysis of empirical data as in empirical legal research (Putra & Ahyani, 2022). This method focuses more on analyzing legal texts and existing norms. However, even though it does not involve empirical data analysis, normative legal research still requires an analytical process to produce an in-depth understanding of the legal norms being studied. The author analyzes legal principles that may be the basis for the norms being researched. Consider how these legal principles can influence the interpretation and application of legal norms, especially regarding criminal acts of sexual violence against minors.

RESULTS AND DISCUSSION
Punishment for Perpetrators of Sexual Violence against Children

Sexual violence against minors is a serious crime involving harmful sexual acts against children. This covers a wide range of acts including rape, sexual harassment, sexual exploitation, and any form of sexual activity involving minors who are unable to provide valid consent (Laird et al., 2023).

Including rape, sexual harassment, obscenity, child pornography, sexual exploitation, and other sexual acts that harm children. Minors are deemed incapable of giving valid consent to sexual activity. Therefore, any form of sexual activity with minors is considered sexual violence.

Sexual violence can have serious psychological impacts on victims, including trauma, anxiety, depression, eating disorders, sleep disorders, and other psychological problems (Dworkin, 2020). Preventing sexual violence against children involves efforts to increase public awareness, educate children and parents about child protection, and implement policies and laws that protect children's rights.

Perpetrators of sexual violence against minors may face legal and criminal action by applicable laws in a jurisdiction. The law usually provides serious sanctions for perpetrators of sexual crimes against children (Sulbadana & Purnamasari, 2020). Victims of sexual violence need psychological support and assistance. Rehabilitation programs can also help offenders overcome their criminal behavior.

It is important to report the incident to the police or competent authorities so that legal action can be taken and the victim can receive the necessary protection and assistance. Sexual violence against minors is a violation of human rights and receives special emphasis in child protection laws. Eradicating sexual violence against children requires cooperation between the community, government, child protection agencies, and law enforcement agencies.

Talking about the current case, namely the case of sexual violence against children committed by a religious teacher at an Islamic boarding school or Islamic boarding school educational institution, until now it turns out that sexual violence against children is still happening.

Moreover, it is a very unfortunate, it is very embarrassing, and barbaric act in my opinion, why is it because a religious teacher does something like that, rapes or molests his students, so from the information circulating that we have received, it turns out that this has been done for a long time, to the point that students are raped or sexually assaulted. that's until she gives birth. This is truly extraordinary, and truly embarrassing for the profession of a religious teacher and also educational institutions such as Islamic boarding schools or churches, which are education to guide, grow, or educate children to become moral people who have good morals based on religious law, namely Islam. This is very unfortunate, and also from the comments that I saw, in the comments column of information broadcasts related to cases of religious teachers who raped and molested their students or their students, many people commented that the perpetrators should be punished as severely as possible.

There are even those who hope that the perpetrator will be sentenced to death and that the perpetrator will also be given action in the form of chemical castration. Then what are the appropriate sanctions or punishments to be given to religious teachers who commit sexual violence in the form of rape or molestation of their students (Afandi & Ma’ruf, 2021), because the victims of rape and molestation are still children, the sanctions for religious teachers who commit rape and molestation can be subject to sanctions. Then there will also be an announcement of the identity of...
the perpetrator, so the identity of the perpetrator of sexual violence against children will be made public, the perpetrator will be announced, then action will take the form of chemical castration and the installation of an electronic detection device. This means that religious teachers who commit sexual violence against children will first see what they did.

If a teacher commits sexual violence in the form of rape and the victim is more than one person, even to the point where someone has given birth then the religious teacher can be subject to sanctions based on Article 81 paragraph 1 in conjunction with Article 76 D of Law Number 17 of 2016 concerning criminal sanctions in the form of imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp. 5,000,000,000,- (five billion rupiah) (Daming, 2020; Sihotang et al., 2022).

Then, because the religious teacher who committed rape and sexual immorality was a teacher educator, based on Article 81 paragraph (3) in conjunction with Article 76 D, the penalty was increased by 1/3 (one-third) of the criminal threat given, namely a penalty of 15 (fifteen) years plus 1/3 (one third) to 20 (twenty) years. This is a criminal threat because the religious teacher is an educator, so the criminal threat is increased by 1/3 (one-third).

Apart from that, there was more than one victim of this rape, my friends, that's what I'm saying. I hope this case will be a lesson for us as parents to continue to supervise our children and educational institutions, including Islamic boarding schools, to be more vigilant, and continue to supervise everyone, both teachers or educators, educational staff, and people within the scope of educational institutions so that things like this do not happen again to law enforcers, hopefully, this can provide a sense of justice to the victim so that the perpetrator of the rape of the student or child is truly given an appropriate and severe punishment so that it has a deterrent effect on other perpetrators.

Imposing heavy penalties for perpetrators of sexual violence, especially by imposing a castration sentence, is not the right solution (Sudewo & Abdurrahman, 2020). But according to the author, what's wrong with trying to apply harsher punishments to perpetrators of sexual crimes, especially those accompanied by violence that results in the death of the victim, even though in several countries that apply the castration penalty, data shows that "rape" has not decreased significantly, but according to The author states that this is not a reference for not implementing the castration penalty.

Moreover, looking at the trend of rape cases which are increasing day by day, severe punishments should be imposed on the perpetrators of rape. Just look at the case in Bengkulu which has not yet been resolved, there has been another rape incident in Tangerang which was accompanied by murder, and the perpetrator was "allegedly" committed by a child whose initials are RA is 15 (fifteen) years old and is still in junior high school against the victim on behalf of EP (19) in the PT Employees’ Mess. Polita Global Mandiri, Thursday evening, was assisted by two friends named Dayat and Bogel. Seeing the barbaric behavior of the perpetrators makes us emotional and angry. How could it not be, after the victim was raped, then (sorry) the victim’s genitals were stabbed with the handle of a hoe, and almost half of it entered the victim’s genitals.

Perpetrators of crimes like this deserve to be punished as severely as possible, including being sentenced to "death", although, on the one hand, the imposition of the death penalty is still a polemic because it is considered to violate human rights, especially since the death penalty is not permitted by our criminal law system. But have we ever thought about the human rights of the victims, including the human rights of the families left behind?
On the other hand, the perpetrators of sexual crimes (rape) in some cases are children, such as in the incident above, even the sadism of the perpetrators who are still children is what in the SPPA Law is called "children in conflict with the law which emphasizes resolution by restorative justice approach" beyond adult sadism. The question is whether it is "appropriate" for perpetrators of crimes of sexual violence whose perpetrators are children to be resolved using a "Restorative Justice" approach, this is a thought for all of us, especially the Government and the DPR as institutions mandated by the state to make regulations, to review back to the SPPA Law, because in the author's view, on the one hand, the SPPA Law provides too much special treatment to children as perpetrators, while the Child Protection Law wants to provide maximum protection to children who are victims, especially victims of sexual violence, with the most severe punishments.

Society's response to sexual violence against minors can vary depending on various factors, including culture, social values, education, and the level of public awareness (Shaluhiyah & Ford, 2014). Society generally condemns acts of sexual violence against minors and can place a strong stigma on perpetrators. The suffering of children who are victims of sexual violence also receives empathy and sympathy.

Cases of sexual violence against minors can increase public awareness about the seriousness of this problem. Outreach and education campaigns are often needed to provide information about the impacts of sexual violence and how to protect children. Society tends to reject perpetrators of sexual violence, especially if the perpetrator is an individual known in the community. Acceptance of perpetrators of sexual crimes against children is usually low. The community can provide emotional and physical support for victims of sexual violence. This involves trying to understand and help the victim overcome the psychological and physical impacts of the crime.

Community expectations of law enforcement and the justice system to take firm action against perpetrators of sexual violence against minors (Febriandi et al., 2021). This trust requires continuity in efforts to prevent and handle these cases. Communities that are actively involved in supporting child prevention and protection efforts can create a safer environment. This involves community involvement in education, training, and advocacy programs.

Communities that are more aware of children's rights and human values tend to reject cultures or norms that support or trivialize sexual violence against children. Communities can be involved in social movements and advocacy to fight for children's rights and increase their protection. Non-governmental organizations and individuals can play a major role in building awareness and changing policy.

Changes in society's attitudes and actions toward sexual violence against minors require joint efforts from various parties, including the government, educational institutions, community organizations, and individuals. Awareness, education, and advocacy are key to building safer communities and supporting child protection.

**Criminal Threats in the Child Protection Law**

Criminal threats in the Child Protection Law, especially the articles on sexual harassment and sexual violence (the Child Protection Law states "committing violence to force a child to have sexual intercourse), where the minimum criminal threat and the maximum criminal threat are all the same, both harassment and sexual violence (rape).
So, according to the author, if this is the case, it means that the law considers sexual harassment to be the same as rape, even though it is not, because sexual harassment is the act of someone who abuses a child, whether a girl or a boy, by hugging him, kissing him, or holding his body parts is considered taboo, perpetrators of sexual harassment are threatened with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years.

The question is whether it is fair that perpetrators of sexual harassment who only touch the body parts of a girl or boy are threatened with a minimum prison sentence of 5 (five) years, while perpetrators of sexual violence (rape) against children are also only threatened with a minimum prison sentence of 5 (five) years. Because it is possible that the perpetrator of the crime used "perverted logic" instead of just sexual harassment being punished with a minimum of 5 (five) years in prison, it would be better if I raped him and the sentence would also be a minimum of 5 (five) years in prison, as well as 1 (one) or 2 (two) who were harassed. The criminal threat is the same, and the criminal threat for 1 (one) or 2 (two) people who are raped is also the same. Because our criminal system cannot impose imprisonment beyond 20 (twenty) years.

One of the protections for children is protection from acts of violence, whether physical violence, psychological violence, sexual crimes, or neglect. Then what is the legal process, considering that from the information circulating the perpetrator of child molestation is still 16 years old, or still in the category of a child?

When the perpetrator of sexual abuse is still a child, the legal process is different from that of an adult, the legal process for children who commit a criminal act of sexual abuse, the legal process uses the provisions regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Where some of the substance of this law includes regulating the rights of children, regulating diversion efforts with a restorative justice approach, then also regulating the terms and conditions of detention of children, for an explanation of diversion, regarding the conditions for detention of children, can be seen in videos that I have uploaded before.

My dear friends, when a child conflicts with the law, or a child is a perpetrator of a criminal act, as in this case a child is a perpetrator of sexual abuse, then in the judicial process, the child has rights, including freedom from torture, punishment or other cruel, inhumane treatment., as well as lowering his rank and dignity, apart from that he also has the right not to have his identity published. So when the perpetrator of sexual abuse or the victim of sexual abuse is still a child, the identity of the child, the victim’s child, must be kept secret in reporting in print or electronic media. This is regulated in Article 19 paragraph (1) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

Every person who publishes the identity of a child as a perpetrator of a criminal act, or a child as a victim of a criminal act, is subject to Article 97 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Perpetrators who publish the child’s identity can be punished with imprisonment for a maximum of 5 (five) years and a fine of a maximum of IDR. 500,000,000,- (five hundred million rupiah).

So, based on the illustration above, according to the author, it is time for our punishment system to be changed, no longer using minimum and maximum standards because this is contrary to the values of justice, but looks at it proportionally.

**Castration Punishment**

The law of castration is no longer foreign to society. In general, castration law
is a type of punishment intended for perpetrators of violence and sexual crimes, both for women who are still children and adults (Rais et al., 2018). In implementing the castration law, the perpetrator will be sentenced to a medical procedure to remove the penis and testicles, or external male sex organs. When it first appeared, castration law had existed in Europe since the Middle Ages until now all countries have implemented it.

Based on the Big Indonesian Dictionary or KBBI, castration is removing the testicular glands in male animals or cutting the ovaries in female animals. The next explanation is that castration can also be carried out on humans. Castration can also be interpreted as spaying a person, this is related to stopping the production of semen because the testicular glands are removed.

In Islam, the law of castration is also referred to as al-ikhsha`, which means the cutting of 2 (two) Dakar fruit/seeds "alkhushyatain", which can be accompanied by cutting off the penis "Dakar". So castration can only involve cutting the testicles. Castration has the aim of erasing or eliminating the sense of sexual intercourse and at the same time making a person sterile.

In England, since 1940 the crime of castration has been established (van der Meer, 2014). Castration, which is implemented in England, aims to reduce the number of violence in cases of sexual crime. Procedures for carrying out chemical castration, in an integrated manner between law enforcement and parties who are health experts. The implementation of chemical castration has a strong and valid legal basis so it has been implemented from the start (Puteri et al., 2020). In this case, the judge and prosecutor must consider the executor's right to chemical castration. The doctors used are doctors from the Police or TNI (Indonesian National Army).

According to the UN policy, human rights aim at building human goals, not only as a means of defending public aspirations. This development must be followed by authorized institutions and is related to human rights in dealing with cases of violations that frequently occur. Explanation of Article 5: Children are included in a group that is subject to crime and are equated with the elderly, pregnant women, and the poor.

This article stipulates that everyone can access special facilities and treatment to obtain the opportunity to achieve social justice. The castration law was imposed on perpetrators who were victims of child rape. If it is linked to human rights, the castration law violates human rights principles and the principles of Indonesian democracy.

Castration will result in the loss of a human's right to continue their offspring as regulated in the 1945 Constitution and is contrary to the Criminal Code (Yuningsih et al., 2020). Apart from that, the castration penalty is considered less effective in having a deterrent effect on perpetrators and other people in society. Article 10 of the Criminal Code states that there is no additional crime in the form of chemical castration that directly affects physical health, so chemical castration is not regulated in the Criminal Code regarding forms of crime. However, chemical castration is more regulated in the child protection law, as an additional crime.

Soon, perpetrators of sexual violence against children will receive additional punishment, namely castration, because currently sexual violence against children is considered an "emergency", so the government and child watchdog institutions consider that there should be an additional punishment in the form of "castration" as practiced in many countries.

The term castration commonly called castration is a surgical procedure or the use of chemicals that aims to eliminate the
The form of castration so that it becomes an example for others not to try to commit this crime. It is the hope of the author and all of us that with the recent rise in cases of sexual violence (rape) that the PERPU on Castration will be signed by President Jokowi as soon as possible.

The practice of castration as a punishment in the context of criminal justice in Indonesia is controversial and has received criticism from various parties. Castration is not explicitly regulated in Indonesian law as a form of criminal punishment. Those who support castration as punishment argue that this action can be a very harsh form of punishment and can prevent sexual offenders from repeating their crimes. Some people argue that perpetrators of sexual crimes, especially those directed against children, should receive harsh sentences as a form of justice and protection for society.

The practice of castration is often considered a violation of human rights (HAM) because it can be considered a form of inhuman treatment and degrading human dignity. Several studies show that castration is not always effective in preventing sexual offenders from reoffending. In contrast, more holistic treatments such as rehabilitation and psychological approaches are often considered more effective. Human rights advocates argue that castration is an unwarranted form of punishment and violates basic principles of justice and human dignity. They view it as an inhumane act.

The risk of subjective and discriminatory judgments in the application of castration may arise, and this may result in injustice in the criminal justice system. It should be remembered that the issue of criminal punishment, especially controversial ones such as castration, can be influenced by cultural values, ethics, and legal views prevailing in society. Governments and relevant agencies need to consider the profound
impacts and implications before considering or adopting such practices. In addition, it is important to find solutions that are in line with human rights principles and fair criminal law.

### Legal Action for Underage Perpetrators in cases of sexual harassment

In November 2022, there was a case of sexual harassment against two elementary school students in Jalan Damai, North Cipete, South Jakarta. The perpetrator with the initials D, who is still 15 years old, was arrested by the South Jakarta Police. The perpetrator's age is still a minor, so further examination with the investigative team was carried out with assistance. Cases of sexual harassment by underage perpetrators also occurred in September 2021. The Karangasem Police Criminal and Investigation Unit (Satreskrim) succeeded in apprehending the perpetrator of sexual harassment, who was still 13 years old with the initials IKA.

Meanwhile, in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it is explained in Article 1 Paragraph 3, that a child is a child who is 12 years old, but not yet 18 years old, who is suspected of committing a criminal act (Ariani, 2014).

Responding to cases of sexual harassment where the perpetrator was a minor, Yapina Widyawati as a Child Psychologist revealed the reasons that could make a minor commit this act. Sexual harassment can occur due to several things, such as a lack of knowledge about sexuality, environmental influences, and social media. Several factors can influence minors to commit sexual harassment, including having seen similar incidents, modeling (imitating), lack of understanding about sexuality, and lack of parental supervision. Parents have a role in instilling sex education in children. Parents are the closest people to children. Sexuality education for children, which begins with correct perceptions from parents, is important for children so that they can filter the information they receive from outside.

Strong connection, parents are the closest people to children, parents are the first who should introduce children to themselves, their physical changes, puberty, and also morality about sexuality. Acts of sexual harassment can hurt the psychological and mental side. The impact of sexual harassment is not only received by the victim but also by the perpetrator. Based on the psychological side, there is the possibility of thoughts or behavior that are not appropriate for their age, considering that the perpetrator of sexual harassment is still a minor. This incident can have an impact of trauma and guilt on the perpetrator.

Even though they are still minors, children who have committed crimes also receive punishment for their mistakes. Law of the Republic of Indonesia Number 3 of 1997 concerning Children's Courts regulates the regulation of children’s courts as executors of judicial power within the General Courts (Wati, 2017).

In this law, the age limit for delinquent children (children who have committed criminal acts) that can be submitted to the Juvenile Court is at least 8 years but they have not reached the age of 18 years and have never been married. This law has 68 articles out of a total of 8 chapters.

Article 23 paragraph (1) explains the main penalties and additional penalties imposed on delinquent children and paragraph (2) states the main penalties in the form of imprisonment, imprisonment, fines, or supervision penalties. Apart from the main punishment already mentioned, in paragraph (3) for Naughty Children additional punishment can also be imposed in the form of confiscation of certain items and/or payment of compensation.

Article 26 paragraph (1) states that the prison sentence that can be imposed on
delinquent children is a maximum of \( \frac{1}{2} \) (one-half) of the maximum prison sentence for adults. Based on Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection, the sanction for adults who rape minors is imprisonment for 5-15 years with a maximum fine of 5 billion rupiah. This means that minors will receive a maximum prison sentence of 7.5 years (Nasution, 2019).

Sanctions are given to deter perpetrators and not repeat their mistakes. However, if a child is given sanctions that do not make him understand his mistakes, it is feared that this could hinder the fulfillment of developmental tasks or cause new problems. Good sanctions, when the perpetrator is aware of what he has done is wrong, and understands that it is detrimental to himself and others, then he knows and understands various things related to sexuality so that he can control himself and not repeat the mistake in the future. That it is better if punishment. This is accompanied by regular counseling and behavioral guidance so that the child can understand his wrong behavior. Minimal impact of trauma, and can behave by personal development and societal demands and norms.

Pancasila, as the basic philosophy and ideology of the Indonesian state (Hasudungan & Abidin, 2020), does not specifically discuss sexual violence against minors. Pancasila provides a foundation of basic values which include belief in the Almighty God, just and civilized humanity, Indonesian unity, democracy led by wisdom in deliberation/representation, and social justice for all Indonesian people. This value emphasizes fair and humane treatment of every individual, regardless of status, age, or gender. Sexual violence against minors can be considered a violation of this humanitarian principle.

The principle of unity teaches the importance of solidarity and togetherness in achieving common prosperity. Sexual violence against minors can be seen as a threat to the unity and harmony of society. This value emphasizes the importance of social justice for all citizens. In the context of sexual violence against minors, social justice can be interpreted as an effort to protect children’s rights and provide equal protection to all children.

This value reflects faith in God Almighty. In the context of sexual violence against children, moral and ethical values based on faith can shape society’s attitudes and behavior in fighting this crime. It is important to remember that the interpretation and application of Pancasila values can vary depending on the viewpoint and interpretation of each individual or group. Even though Pancasila does not directly describe sexual violence against minors, these basic values can form a moral and ethical basis for condemning and opposing such acts to create a just and civilized society. In addition, policies and laws in Indonesia also reflect efforts to protect children from sexual violence.

CONCLUSION

Criminal acts of sexual violence can include non-physical sexual harassment, physical sexual harassment, forced contraception, forced sterilization, forced marriage, sexual torture, sexual exploitation, sexual slavery, and electronic-based sexual violence. Apart from that, sexual violence also includes, among other things, rape, obscene acts, sexual intercourse, obscene acts, and/or sexual exploitation of children, and so on. Law Number 35 of 2014 regulates various criminal threats for perpetrators of criminal acts whose victims are children or people under 18 years of age. "Neglect, discrimination, exploitation of children, child trafficking, involvement of children in drugs, sexual intercourse, sexual abuse are regulated in such a way by adding criminal sanctions which are expressly regulated in Law Number 35 of 2014." Then it was further refined with Law Number 17 of
2016 which regulates the legal consequences for perpetrators who commit crimes of sexual violence against children repeatedly, with more than one victim, resulting in health problems and permanent disabilities. We know this law as the Castration Law. In the case of the rapists of 13 students in Bandung, the convict Herry Wirawan was sentenced to death. Then Roby Hitipeuw was sentenced to life imprisonment in the case of molestation and rape of his five biological children and two grandchildren in Ambon.

REFERENCES
Herianto, Abdul Rokhim & Diyan Isnaeni, Legal Basis for Deciding Cases of Criminal Acts of Sexual Violence against Minors

https://doi.org/10.20961/shes.v3i2.46219


