

Analysis of the Ambon District Court Decision Regarding the Crime of Grooming a Minor: A Case Study of Decision No. 426/Pid.Sus/2022/PN Amb

Muftafiatun Nisa Mujaddid Naya 

Islamic Criminal Law Study Program Faculty Of Sharia, UIN Abdul Muthalib Sagadji, Ambon
Jl. Dr. H. Tarmizi Taher Jalan Kebun Cengkeh, Batu Merah, Kec. Sirimau, Kota Ambon, Maluku 97128

E-mail Correspondence Author: [*nisamjd30@gmail.com](mailto:nisamjd30@gmail.com) 

Article Info	ABSTRACT
Article history: Received: April 10, 2026 Revised: May 20, 2026 Accepted: June 15, 2026 Keywords: Child Molestation, Child Protection, Minimum Sentence.	<i>This research aims to analyze the reasoning behind the panel of judges' decision to impose the minimum criminal sentence on the perpetrator of child molestation, involving four child victims, and to assess whether Decision Number 426/Pid.Sus/2022/PN.Amb adequately reflects legal protection for children as victims of criminal offenses, particularly molestation. The research examines the relevance of the absolute theory of punishment and the legal protection theory for children, with a legal basis grounded in Law No. 17 of 2016 in conjunction with Law No. 35 of 2014 on Child Protection. The research method used is a qualitative approach, employing normative-empirical legal research (applied law research), which analyzes the implementation of positive legal provisions (statutory law) and written documents in action (factually) concerning specific legal events occurring in society. Data were obtained through literature review, case documents from the Ambon District Court, and interviews with related parties involved in the issuance of the decision. The results of the study indicate that the judges' rationale for imposing the minimum sentence aligns with the charged article, namely Article 82 paragraph (1) of Law No. 17 of 2016 in conjunction with Law No. 35 of 2014 on Child Protection, and does not violate applicable legal provisions. The defendant's subjective circumstances and the absence of aggravating factors contributed to the imposition of the minimum five-year sentence. However, the decision is considered not to fully reflect the protection of child victims, as it fails to prioritize the principle of the best interest of the child in its judgment.</i>

 <https://doi.org/10.30598/pustakahukumv1i1pp09-20>



This article is an open access article distributed under the terms and conditions of the [Creative Commons Attribution-ShareAlike 4.0 International License](#).

1. INTRODUCTION

Recently, Indonesia has been faced with a disturbing phenomenon in society. This phenomenon is a crime against morality classified as a serious crime. The crime referred to in this study is sexual abuse, particularly targeting minors. This type of crime has caused public unrest because it is classified as a serious violation with serious physical, psychological, and emotional impacts on the victims. From January to June 2024, 7,842 cases of violence involving children were recorded. Of these, girls were the most vulnerable group, with 5,552 victims, while boys were recorded at 1,930. Disturbingly, sexual violence continues to be the most common form of violence experienced by children, and this pattern has persisted from 2019 to 2024. This fact indicates that children still face serious threats to their safety and human rights, especially in environments that should provide protection [1]. As for the initial observation data from the research obtained from the Ambon District Court, it was recorded that from 2013 to 2025 April there were 557 special criminal cases (Pid.Sus) regarding child protection the victims are children. Since the last 5 years, cases regarding child protection have been tried in the Ambon District Court, as many as 284 cases that have a registration number in the Ambon District Court. Among them, in 2020 there were 55 cases regarding child protection. In 2021 there were 63 cases that were tried in the Ambon District Court and experienced an increase in the number of cases entered in the previous year. In 2022 there was a decrease to 54 cases entered. Then in 2023 and 2024 there were cases entered with the same number of 50 cases being tried, while in 2025 from January to April there were 12 cases entered that will be tried regarding child protection.

Children are a trust and a gift from God Almighty that must be safeguarded and protected. Every child is innately endowed with the values of dignity, honor, and human rights that must be respected. Children's rights are an inseparable part of human rights, as guaranteed by the 1945 Constitution of the Republic of Indonesia. Children play a strategic role as the next generation, expected to carry on the ideals of their families, communities, and nations. Therefore, children require appropriate guidance and support to enable them to fulfill their obligations and obtain basic rights and adequate living needs. Responsibility in providing protection and guidance Care for children is not only in the hands of parents, but is also a shared responsibility of the family, society and even the state [2]. Various regulations in Indonesia have guaranteed the protection of children's rights constitutionally and legally. These guarantees are stated in Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, and are reinforced by various laws and regulations such as Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, Law Number 39 of 1999 concerning Human Rights, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, and Law Number 12 of 2022 concerning Crimes of Sexual Violence. In addition, Indonesia has also ratified the Convention on the Rights of the Child (CRC) through Presidential Decree Number 36 of 1990, and issued Government Regulation Number 78 of 2021 which regulates special protection for children. The legal provisions governing the crime of indecent assault are regulated in the Criminal Code (KUHP), specifically in Chapter XIV of Book Two which covers crimes against morality, starting from Article 281 to Article 296 which is categorized as a crime against morality. The provisions that explicitly regulate the crime of indecent assault in the KUHP can be found in Article 294 paragraphs (1) and (2), Article 295 paragraph 1) and (2), as well as Article 296. These articles contain criminal sanctions for indecent acts, especially if committed against minors or by parties who have a relationship of power or trust with the victim. The legal basis that guarantees the fulfillment of children's rights is presented as a shield or protector for children, who are inherently a vulnerable and vulnerable

group. Various crimes that victimize children certainly require special handling. Certainly, various efforts have been made to combat crime, although in reality, it is very difficult to eradicate completely because crime always evolves in line with societal developments. A form of crime that disturbs society is the crime of sexual abuse. Sexual abuse is an act committed by someone driven by sexual desire to engage in activities that arouse lust and thus lead to self-gratification [3]. The crime of obscenity is discussed in CHAPTER XIV of the Criminal Code concerning crimes against decency, which indirectly means violating the rules of decency. The rules of decency are norms that emerge from the human conscience which determine which actions are good and which actions are not good. the rules of decency are aimed at humans in order to form good personal morals for human perfection (Insane Kamil) and prohibit humans committing evil acts or acts that are contrary to human conscience, such as killing, committing adultery and stealing [4].

Child molestation is a serious public concern and fear. Perpetrators who target or victimize children, particularly minors aged 7 to 9, disregard the victim's status, rank, education, position, or age, or even gender. Cases like these not only cause profound trauma for the victims but also challenge law enforcement and justice. The main legal basis for enforcing child protection, which is stated in Law Number 17 of 2016 concerning the Determination of Government Regulation in Lieu of Law (Perppu) Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 in conjunction with Law Number 35 of 2014 concerning Child Protection, is presented to emphasize the role of the state in providing special protection for children from various forms of violence, exploitation, discrimination and neglect. In fact, cases of sexual abuse experienced by minors by adults often occur in Indonesia, such as the case used as a reference or focus of research in this thesis, namely the Ambon District Court Decision, with case registration number 426/Pid.Sus/2022/PN Amb. The defendant with the initials AS is a grandfather of a colleague of the victims of sexual abuse. The defendant is suspected of committing the crime of sexual abuse against 4 underage girls, specifically in Bere-bere, Batu Merah Village, Sirimau District, Ambon City. Based on this suspicion, the defendant AS was charged by the public prosecutor with a single charge of Article 82 paragraph (1) of Law No. 17 of 2016 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law in conjunction with Article 76D of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection in conjunction with Article 64 paragraph (1) of the Criminal Code [5]. The defendant AS was charged with Article 82 paragraph (1) of Law Number 17 of 2016 concerning the Determination of Government Regulation in Lieu of Law (Perppu) Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 in conjunction with Law Number 35 of 2014 concerning Child Protection, which reads: "Any person who violates the provisions as referred to in Article 76E shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of IDR 5,000,000,000.00 (five billion rupiah)."

Legally, the verdict handed down by the judge does not deviate from the articles of the indictment presented by the public prosecutor, but there are contradictions in the purpose of the sentence. The imposition of a five-year sentence and a fine of Rp. 500,000,000.00, with a subsidiary sentence of six months, raises doubts about whether decision No. 426/Pid.Sus/2022/PN Amb has provided maximum protection for children as victims of sexual abuse.

2. METHOD

In writing this thesis, the type of research used is normative-empirical legal research (applied law research). Normative-empirical legal research is a type of applied research that aims to examine the implementation of positive legal provisions (statutory regulations) and written legal documents factually (in action) regarding certain legal events that occur in society. This study aims to determine whether the results of the application of the law in the assessment of legal events in concreto are carried out to determine the conformity of the implementation of a legal event with the provisions in the legislation. Thus, this aims to assess whether legal norms have been implemented properly and whether the interested parties have succeeded in obtaining their legal rights or objectives [6]. The research approach used in writing this thesis is a qualitative research approach. Qualitative research is a type of research that analyzes data, but the data in question consists of verbs, not numbers. According to Syaodih Sukmadinata, qualitative research is a type of research that aims to describe and analyze a phenomena, events, social activities, attitudes, beliefs, perceptions, and thoughts of individuals and groups in depth [7]-[8].

3. RESULTS AND DISCUSSION

3.1. The Panel of Judges' Reasons for Imposing the Minimum Sentence to the Perpetrator of the Crime of Child Molestation

Case Position : The case under investigation is a criminal act that falls under the category of crimes against morality as stipulated in Article 294 paragraph (1) of the Criminal Code (KUHP) Book II. The defendant in this case is Anthon Souhuwat (AS), an elderly man who is a neighbor and grandfather of the victims' playmates. The defendant is an entrepreneur and resides in the Berebere area, Batu Meja Village, Sirimau District. On the day and date The incident occurred between June 2022 and July 2022 at approximately 3:00 PM WIT, or at least at another time in 2022, in the defendant's yard in Bere-bere, Batu Meja Village, Sirimau District, Ambon City, or at least within the jurisdiction of the Ambon District Court, which has the authority to try criminal acts of violence or threats of violence, coercion, deception, a series of lies, or persuasion against children, namely the victim's child, I Dewa Ayu Sidem Prita Athalia alias Ayu, aged 9 (nine), the victim's child, Gresya Tolosang alias Eca, aged 8 (eight), the victim's child, Belva Carisse Benetta Jesayas alias Eva, aged 7 (seven), and the victim's child, Marel Silahoy alias Marel, aged 8 (eight), to commit or allow indecent acts to be committed, and these acts are considered ongoing. **Indictment :** Defendant Anthon Souhuwat (AS) is suspected of committing crimes of violence and threats of violence against four minors: Gresya Tolosang alias Eca, 8 years old; Belva Carisse Eva, 7 years old; Marel Silahoy alias Marel, 8 years old; and I Dewa Ayu alias Ayu, 9 years old. The incidents occurred between June and July 2022 in the defendant's yard. The acts began when the children wanted to play with the defendant's grandchildren in the defendant's yard. The defendant lifted and touched the children's sensitive body parts in an inappropriate manner. In several incidents, the defendant invited children into the room and committed indecent acts, including groping the victims' genitals, and the defendant also gave money to the children several times after committing these acts. However, the results of the medical examination (Visum et Repertum) conducted, there were no signs of violence on the four child victims of the indecent acts. The four child victims are still classified as children as evidenced by copies of birth certificates presented during the examination. The defendant's actions are as regulated and subject to criminal penalties in Article 76D of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002

concerning Child Protection in conjunction with Article 82 paragraph (1) of Law No. 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law No. 1 of 2016 concerning the Second Amendment to Law No. 23 of 2002 concerning Child Protection to become a Law in conjunction with Article 64 paragraph (1) of the Criminal Code. Public Prosecutor's Demands : Declaring that the defendant ANTHON SOUHUWAT has been legally and convincingly proven guilty of violating Article 82 paragraph (1) of Law No. 17 of 2016 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law No. 23 of 2002 concerning Child Protection into Law in conjunction with Article 76D of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection in conjunction with Article 64 paragraph (1) of the Criminal Code, Therefore, the sentence is imposed with a prison sentence of 9 (nine) years, minus the period of arrest and detention already served, and a fine of Rp. 500,000,000 (five hundred million rupiah), subsidiary to 6 (six) months imprisonment, Declaring that the defendant remain in custody, Declaring that the evidence in the form of 1 (one) black motorcycle tire, Race Tire sport 76 brand and a blue nylon rope 19.20m (nineteen point twenty meters) long was confiscated for destruction. Supreme Court of the Republic of Indonesia, Ordering the defendant to pay court costs of Rp. 2,000 (two thousand rupiah).

The Panel of Judges' Decision : The verdict in case No. 426/Pid.Sus/2022/PN Amb, involving defendant Anthon Souhuwat, was read out on Monday, February 20, 2023, in an open hearing. The verdict included, among other things: Declaring that the Defendant ANTHON SOUHUAT has been legally and convincingly proven guilty of committing the crime of "Indecent Act against a Minor" as stated in the sole indictment of the public prosecutor; Sentencing the Defendant ANTHON OUHUWAT to 5 (five) years imprisonment and a fine of Rp. 500,000,000 (five hundred million rupiah) with the provision that if the fine is not paid it will be replaced with 6 months imprisonment; Determine that the period of detention that the Defendant has served is deducted in full from the sentence imposed; Ordering the Defendant to remain in custody; Ordered the evidence in the form of: - 1 (one) black motorcycle tire, Race Tire sport 76 brand and a blue nylon rope 19.20m (nineteen point twenty meters) long to be confiscated and destroyed; Ordering the Defendant to pay court costs of Rp. 5,000.00 (five thousand rupiah). Thus it was decided in the deliberation session of the Panel of Judges of the Ambon District Court, on Monday, February 20, 2023 by us, Martha Maitimu, S.H., as Chief Judge, Lutfi Alzagladi, S.H, and Nova Salmon, S.H. each as Member Judges, which was pronounced in an open session for the public on that day and date by the Chief Judge accompanied by the Member Judges, assisted by Halijah, S.H. Substitute Clerk at the Ambon District Court and attended by Selvia G.A. Hattu, SH.MH, Public Prosecutor and the Defendant accompanied by his Legal Counsel

3.2. The Author's Analysis in Decision Number 426/Pid.Sus/2022/PN.Amb regarding the minimum sentence imposed by the panel of judges on the defendant

According to the absolute theory of punishment (Vergeldings Theorien), a person who commits a crime deserves and should receive an appropriate sanction or punishment. This theory was developed by Immanuel Kant. According to this theory, the basis for sentencing is based on the criminal's actions or mistakes [9]. The absolute theory teaches that the basis of punishment lies in the crime itself; punishment should be considered "retribution or recompense" (vergelding) for the perpetrator. This theory is presented with the aim of creating a deterrent effect for the perpetrator. In line with this theory, the author believes that the absolute punishment theory in the case of child

molestation with four victims raises various questions regarding whether or not the deterrent effect has been achieved for the perpetrator. This is because the minimum sentence received by the perpetrator gives the impression that the judge is more biased towards the perpetrator's condition or circumstances, citing his age. In the author's opinion, it is legitimate for the judge to impose a sentence above the minimum sentence, as the judge has full authority over the decision. The theory of absolute punishment indirectly explains that crimes committed by someone must be met with appropriate retribution to prevent similar incidents. Therefore, the theory of absolute punishment in The application of criminal Decision Number 426/Pid.Sus/2022/PN.Amb as a preventive measure and deterrent effect is questionable. After conducting research, the author can formulate several reasons why judges avoid minimum sentences for defendants:

Formal legal certainty is stipulated in Article 82 paragraph (1) of Law Number 35 of 2014 in conjunction with Law Number 17 of 2016 concerning Child Protection, which is also used as the basis for indictments and prosecutions against perpetrators of child molestation. The article reads as follows: "Any person who violates the provisions referred to in Article 76E shall be subject to imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of IDR 5,000,000,000 (five billion rupiah)." In an interview with the Ambon District Court Judge, Mr. Dedy Lean Sahusilawane, S.H., MH, he said that this decision did not violate existing formal law because the criminal threat imposed on the defendant was not less than the minimum sentence stated [10]. The author questioned why the verdict, instead of following the prosecutor's demand of 9 years, was 5 years. According to the informant, this was related to the humanitarian aspects, the facts of the trial, and the judge's state of mind. He added that the Visum et Repertum (Visum et Repertum) is often a crucial aspect in sexual violence cases, as judges' decisions rarely consider the psychological impact on victims, focusing instead on what is seen and not what is implied. Based on the response of an informant who is also a judge at the Ambon District Court, the author found an implicit finding in decision number 426/Pid.Sus/2022/PN.Amb concerning the Visum et Repertum in child molestation cases. The question is whether a negative verdict would impact the verdict. VeR stands for Visum et Repertum, a document resulting from a medical examination typically conducted by a forensic doctor and used as documentary evidence in criminal cases, particularly in cases of physical and sexual violence. VeR is not the only form of evidence, as Article 184 paragraph (1) of the Criminal Procedure Code states, "Valid evidence is: a. witness testimony, b. expert testimony, c. letters, d. clues, e. testimony from the defendant." [11]. Article 183 of the Criminal Procedure Code states, "A judge may not impose a sentence on a person unless, based on at least two valid pieces of evidence, he or she is convinced that a crime has actually occurred and that the defendant is guilty of committing it." So, even if the VeR does not show any signs of violence or injuries (negative), the judge can still decide the case based on a combination of other evidence, for example the defendant's confession, consistent victim testimony, witnesses eyes, digital recordings (in the form of chats, voice recordings, videos, etc.) and clues from evidence.

A verdict can be harsh if the elements are met and there are reasons for aggravation, for example in the case of the crime of molestation against a minor, namely the child as the victim provides consistent testimony, in the decision number 426 / Pid.Sus / 2022 / PN.Amb the victim's testimony was declared consistent from Eca, Eva, Marel, and Ayu. The perpetrator is a close person/educator, the perpetrator, namely the defendant Anthon Souhuwat, is a close person to the victims, namely a neighbor and grandfather of a colleague of the victims. The defendant also admitted all accusations from the victims and admitted to having committed the crime of molestation. The age

and trauma of the victim can be aggravating considerations, in this case the age and trauma of the victim were ignored in the verdict, even though it was stated in the statements of witnesses or the victim's mother regarding the victims' psychological trauma. A negative VeR should not have much influence on the verdict because not all forms of sexual violence have physical injuries, child victims often experience physical injuries in the form of threats and late post-mortem examinations can make the results invalid. The subjective condition of the defendant, namely that the defendant behaved politely during the trial, the defendant admitted and regretted his actions, and when the defense note (plea) was read, the defendant's legal advisor essentially requested that the defendant be given the lightest possible sentence on the grounds that the defendant behaved politely during the trial, and the defendant is elderly, and the defendant has been forgiven by the parents of the victim's children. The absence of specific aggravating factors led the judge to impose the minimum sentence. This factor, in turn, meant that if defendant Anthon Souhuwat had a prior criminal record, the panel of judges could have increased the sentence. In fact, the implications of Decision Number 426/Pid.Sus/2022/PN.Amb impact child protection. The various considerations used by the judge as the basis for imposing the minimum sentence on the defendant, in the author's opinion, do not provide a deterrent effect. The judge appears to be biased toward the perpetrator for several reasons deemed irrelevant to the violation of the rights of vulnerable groups, namely children. Furthermore, there is no in-depth assessment of the child's psychological trauma, rehabilitation needs, or social recovery from societal stigma, which should be the primary focus in cases of sexual violence in the form of child molestation. The imposition of the minimum sentence has the potential to ignore the value of justice for the victim and does not reflect the comprehensive objectives of criminal punishment, namely to protect society, prevent crime, and provide justice to victims [12]. The judge's tendency to impose minimum sentences makes the writer curious about this. Even though the panel of judges has decided on case Number 426/Pid.Sus/2022/PN Amb with a sentence of five years in prison, the author feels that the amount of this sentence does not reflect the provision of maximum legal protection for children as victims of sexual violence, because it is still within the minimum limit determined by law.

Article 82 paragraph (1) of Law Number 35 of 2014 concerning Child Protection states that the minimum prison sentence is 5 (five) years and the maximum is 15 (fifteen) years, accompanied by a fine. Thus, the judge has discretion (discretion) in determining the weight of the sentence. However, in practice, many judges prefer to impose minimum sentences, including in this decision. There are a number of possible reasons why judges tend to decide on the minimum limit: Legal Construction and the Absence of Aggravating Reasons: In this decision, the panel of judges found no significant aggravating reasons to raise the sentence above the minimum. However, considering the victim's status as a child and the perpetrator's close relationship, there are indications of a power relationship and betrayal of trust, A formalistic legal approach: Some judges still employ a juridical approach that is overly focused on physical evidence (especially post-mortem examinations) and formal procedures. This results in many sexual violence cases not being handled from a victim-centered perspective, but rather based solely on the fulfillment of the normative elements of the crime, The lack of consideration of the victim's psychological context in this case. Although the victim was a child who had experienced trauma, there was no in-depth psychological investigation or assessment to serve as a basis for a heavier sentence. The judge did not elaborate on the victim's psychological impact in his deliberations, which could have served as a basis for imposing a heavier sentence, In the absence of a maximum demand from the prosecutor,

the public prosecutor in this case did not demand a maximum penalty. This also influences the judge in making decisions, because judges generally will not award more than required, except in special circumstances. If the prosecutor's demands are light or moderate, then the potential for imposing a maximum penalty is small. The principle of *ultimum remedium* and proportional sentencing: Some judges apply the principle of *ultimum remedium* (punishment as a last resort) and caution in sentencing, especially when the perpetrator is a first-time offender. While this is important, in cases of child sexual abuse, the principle of victim protection should take precedence over rehabilitative considerations for the perpetrator. This situation demonstrates an imbalance in the orientation of the criminal justice system, which should place greater emphasis on restoring the rights and justice for child victims, particularly in cases involving sexual violence. Sentences that are too lenient or even just the minimum threshold are feared to weaken the deterrent effect on perpetrators, undermine public trust in the justice system, and disregard the value of substantive justice, particularly for victims who suffer long-term consequences.

3.3 Reflection of maximum protection for children as victims of crime

Based on the author's in-depth analysis of decision number 426/Pid.Sus/2022/PN.Amb, there are several findings that do not reflect maximum protection for children as victims of criminal acts, including: There is no consideration of psychological recovery or rehabilitation for victims, even though this is regulated in Article 59A of Law No. 35 of 2014 concerning Child Protection [13]. The judge's considerations were more directed at the defendant's condition, such as whether the defendant was polite and whether the defendant admitted and regretted his actions [14]. An additional penalty in the form of announcing the defendant's identity was not imposed, even though in Article 82 paragraph (5) of Law Number 17 of 2016 concerning Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection. This is permitted as a form of deterrent effect and protection for the community [15]. Article 18 paragraph (1) of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System clearly states the rights of children as victims to be accompanied by legal counsel [16].

The principles of child protection are not only contained in national law, but also in the Convention on the Rights of the Child (CRC) which Indonesia has ratified through Presidential Decree Number 36 of 1990. Some of the main principles of child protection include [17]: The Principle of the Best Interest of the Child, This principle requires all legal decisions concerning children to consider the best impact on the child's growth and development. In this case, the imposition of minimum sentences does not represent the side of child victims, the Principle of Non-Discrimination and the Right to Grow and Develop. Victims have the right to access to justice, protection, and recovery. Decisions that only contain criminal penalties without any direction for victim recovery create the impression that the legal system has not fully sided with the victim, Restorative Justice, The restorative justice approach is important for handling child cases, both as perpetrators and victims. In this decision, there is no application of this principle, either in the form of recommendations for victim rehabilitation or further protection mechanisms.

3.3.1 Conformity of Decision Number 426/Pid.Sus/2022/PN.Amb with Supreme Court Regulation (PERMA) Number 3 of 2017

Supreme Court Regulation Number 3 of 2017 is an important guideline for judges in adjudicating cases involving women or vulnerable groups, including children who are victims of sexual crimes [18]. Although this Regulation explicitly mentions "women," the Supreme Court in various outreach programs emphasized that the principles therein also apply to child victims of sexual violence, considering the position of children as vulnerable parties and unequal in power compared to the perpetrator. Ambon District Court Decision Number 426/Pid.Sus/2022/PN Amb imposed a minimum sentence on a defendant found guilty of committing indecent acts against a minor. Based on the results of the study, it was found that the judge's considerations did not fully reflect the principles of victim-based justice as stipulated in Supreme Court Regulation No. 3 of 2017, namely: Failure to Consider the Power Relations and Vulnerability of the Victim (Article 5 Paragraph (2) PERMA No. 3 of 2017) In this case, the victim is a child who is vulnerable in terms of age, psychologically, and socially. The defendant is an adult who is much more dominant in terms of power. However, in the judge's considerations, there was no emphasis on the imbalance in power relations, but rather more on mitigating aspects of the defendant, such as politeness and an admission of guilt. In fact, Article 5 paragraph (2) PERMA No. 3 of 2017 requires the judge to consider the victim's vulnerability and the imbalance in power relations as a basis for issuing a fair and victim-friendly decision. Not Using a Victim-Based Approach (Article 8 Paragraph (2) PERMA No. 3 of 2017), This decision does not show any victim-based approach. There was no order for rehabilitation, restitution, or further form of protection for the victim. In fact, this approach is important to ensure that substantive justice is truly present for the victim, not just punishment for the perpetrator. The absence of this approach indicates that the protection of the victim's rights has not been a primary concern in the judge's considerations, which is contrary to the spirit or Principle of this PERMA, Not Encouraging the Restoration of Victims' Rights, Article 6 of PERMA No. 3 of 2017 states that judges must avoid considerations that blame the victim and must consider the restoration of the victim's rights. In this decision, there is no statement or ruling that leads to the restoration of the victim's rights such as counseling, psychological rehabilitation, or social recovery. This shows that the decision has not fully sided with the best interests of the child, as is the main principle in Law No. 35 of 2014 in conjunction with Law No. 17 of 2016 concerning Child Protection and PERMA No. 3 of 2017.

Based on the results of the interview with the Ambon District Court Judge, regarding Decision Number 426/Pid.Sus/2022/PN.Amb, whether it has reflected maximum protection for children as victims or not, he answered that the reflection of the protection of children as victims in a decision is intended to create a deterrent effect for the perpetrator, so in the context of whether it is in accordance with maximum protection, it must be proven by data on cases entered into court whether they are increasing or decreasing every year, he also added that the one who should judge is the public, because every decision issued is considered to be in accordance with applicable regulations [19]. Regarding the psychological impact on the victim in this case, was it considered? Child victims of crime, especially sexual abuse, undoubtedly experience profound trauma. However, trials rarely consider the psychological impact on the victim; judges focus more on the victim's physical aspects [20].

3.3.2 . Children as victims must be accompanied by legal counsel in court.

In the Indonesian legal system, children who are victims of criminal acts have the right to receive special protection, including the right to be accompanied by legal counsel

from the investigation stage until the end of the judicial process. This provision is in line with the principle of protecting children as vulnerable legal subjects who are not yet fully legally competent. Article 18 paragraph (1) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System expressly states that: "Child victims and/or witnesses have the right to receive assistance from parents/guardians and/or other companions, including legal counsel, and/or professional social workers during the judicial process." In addition, Law Number 31 of 2014 concerning the Protection of Witnesses and Victims also expands the scope of the rights of child victims, including the right to protection from psychological threats and pressure, legal and psychological assistance, adequate information about the legal process being undertaken, and rehabilitation or recovery. In practice, legal assistance for child victims is not only procedural, but also becomes part of the state's obligation to ensure that children receive justice without additional trauma. Legal counsel plays a crucial role in representing children's interests in the legal process, ensuring that their rights are not neglected during trials, and ensuring that questions and examinations are not intimidating. However, in reality, many juvenile criminal justice processes, including cases of sexual violence, do not actively involve legal counsel for the child victims. This presents a significant implementation challenge in legal protection for children and reflects the need to strengthen regulations and enforce children's rights in the criminal justice system. This is linked to the theory of legal protection for children, which is normatively derived from the Convention on the Rights of the Child, as well as Law Number 35 of 2014 concerning Child Protection, which views children as individuals who are physically, mentally, and socially vulnerable and therefore require special protection from the state, family, and society to guarantee their rights so they can grow and develop optimally. Therefore, in decision No. 426/Pid.Sus/2022/PN.Amb, the reflection of maximum child protection has not been fulfilled.

4. CONCLUSION

Based on the results of research and analysis of the Ambon District Court Decision Number 426/Pid.Sus/2022/PN Amb, the following conclusions can be drawn: The Panel of Judges' Reasons for Imposing a Minimum Sentence on the Defendant were due to considering the factors of advanced age, confession of the act, and the results of the post-mortem which did not show signs of physical violence. These considerations show the dominance of mitigating aspects for the Defendant, without paying close attention to the psychological impact on the four child victims who experienced sexual abuse. Specifically, the judge's reasons for imposing a minimum sentence include the existence of formal legal certainty as stated in Article 82 paragraph (1) of Law No. 35 of 2014 in conjunction with Law No. 17 of 2016 concerning Child Protection which is used as the basis for the indictment and demands, the subjective condition of the Defendant including being polite, admitting his actions, and the legal advisor requesting that the Defendant receive the lightest possible sentence on the grounds that the Defendant has been forgiven by the parents of the victims. And finally, there are no specific aggravating factors. This shows that the application of Article 82 paragraph (1) of Law No. 17 of 2016 in conjunction with Article 76D of Law No. 35 of 2014 does not fully reflect justice for child victims. Legal protection for children as victims of criminal acts in this decision has not been optimally implemented. Children as victims are not accompanied by legal counsel, and the traumatic impact is not a primary consideration in the process of evidence or sentencing. In fact, based on the principle of the best interests of the child, the justice system should side with the protection of child victims as a whole.

Acknowledgments

The authors sincerely thank the Cybercrime Unit (Sub-Directorate V Cyber) of the Maluku Regional Police (Polda Maluku) for granting permission to conduct this research and for providing valuable information during the interview process. The authors also express their appreciation to all research participants who voluntarily shared their knowledge and professional experience, which significantly contributed to the completion of this study.

Funding Information

The authors state that no external funding was received for this research.

Author Contributions Statement

First Author: Conceptualization, methodology, investigation, data curation, formal analysis, writing original draft, and visualization. **Second Author:** Supervision, methodology, validation, writing review and editing. **Third Author:** Resources, project administration, validation, and writing review and editing. All authors discussed the findings, reviewed the manuscript critically, approved the final version of the manuscript, and agreed to be accountable for all aspects of the work.

Conflict of Interest Statement

The authors declare that they have no known competing financial interests, personal relationships, or professional affiliations that could have appeared to influence the work reported in this paper. The authors state no conflict of interest.

Informed Consent

Written informed consent was obtained from all individuals who voluntarily participated in this study prior to data collection. All participants were informed about the purpose of the research, the voluntary nature of their participation, and the confidentiality of the information they provided.

Ethical Approval

The research involving human participants was conducted in accordance with applicable national regulations and institutional ethical principles. Participation in this study was voluntary, and confidentiality and anonymity were maintained throughout the research process. Formal permission to conduct the research was obtained from the Cybercrime Unit (Sub-Directorate V Cyber) of the Maluku Regional Police.

Data Availability

The data supporting the findings of this study are available from the corresponding author upon reasonable request. The data are not publicly available because they contain information that could compromise the privacy and confidentiality of the research participants and law enforcement investigations.

Declaration of Generative AI and AI-assisted Technologies

Generative AI tools were used solely for language refinement and formatting of the manuscript. The study design, data collection, analysis, interpretation of results, and conclusions were conducted entirely by the authors. The authors take full responsibility for the scientific content of this manuscript.

REFERENCES

- [1] <https://kemenpppa.go.id/page/view/NTI4NA>. Accessed Wednesday, June 11, 2025, at 3:33 a.m. WIT
- [2] Nela Oktavia and Siti Nurkhalizah, "Implementation of Democratic Values in Islam to Build Student Character in the Millennial Era," *Amartha Education Journal* 1, no. 1 (2022), p.11.
- [3] Ony Rosifany, "Legal Provisions for Criminal Acts of Child Molestation According to the Child Protection Law," *Legalitas* 5, no. 2 (2021), p. 91
- [4] Mohdar Yanlua, *Legal Studies* (Yogyakarta: Karya Media, 2014), p. 25
- [5] Decision Number 426/Pid.Sus/2022/PN Ambon.
- [6] Abdulkadir Muhammad, *Law and Legal Research*, CitraAditya Bakti, Bandung, 2004, p. 53.
- [7] Nana Syaodih Sukmadinata, *Educational Research Methods* (Bandung; PT Remaja Rosdakarya, 2012), p. 23
- [8] Sahal, M. S. (2026). Development of a Robust Shrinkage Empirical-Bayes P-Chart for Heterogeneous Proportion Data. *Stationer: Journal of Statistical Innovations and Applications*, 1(1), 57-66.
- [9] E.Y. Kanter and S.R. Sianturi, *Principles of Criminal Law in Indonesia and Their Application*, (Jakarta: Alumni AHMPHTM, 1982), p. 59
- [10] Interview with Mr. Dedy L. Sahusilawane, Judge at the Ambon District Court. Ambon, Friday, April 25, 2025, 4:08 PM WIT
- [11] Criminal Procedure Code (KUHAP).
- [12] Muladi and Barda Nawawi Arief, *Criminal Theories and Policies*. (Bandung: 2010), p. 23.
- [13] *Amendments to the Child Protection Law*, (East Jakarta: Sinar Grafik, 2023), p. 22
- [14] Decision Number 426/Pid.Sus/2022/PN Ambon, Ambon District Court, 2023, p. 19.
- [15] Law Number 17 of 2016 concerning Child Protection.
- [16] Law Number 11 of 2012 concerning the Criminal Justice System.
- [17] Presidential Decree Number 36 of 1990 concerning Ratification of the Convention on the Rights of the Child.
- [18] Supreme Court Regulation Number 3 of 2017.
- [19] Interview with Mr. Dedy L. Sahusilawane, Judge at the Ambon District Court. Ambon, Friday, April 25, 2025, 4:40 PM WIT.
- [20] Afrianto Rifqi and Hamonangan August, "Legal Analysis of the Criminal Act of Child Molestation (Criminal Decision Number 989/Pid.Sus/2022/PN.Bdg)," *Citizenship Journal* 6, no. 3 (2022). pp. 6351–6352.