

Criminal Responsibility of Children in Crimes of Child Sexual Violence: A Study of Decision Number XX/PID.Sus-Anak/2025/PN TJK

ABSTRACT

This study aims to analyze the criminal liability of a juvenile offender in a child sexual violence case and the judge's legal considerations in Decision Number XX/Pid.Sus-Anak/2025/PN Tjk. The research employed normative juridical and empirical approaches. Data were collected through library research and field research. The results indicate that the imposition of criminal liability on the juvenile offender in Decision Number XX/Pid.Sus-Anak/2025/PN Tjk was in accordance with the applicable laws and regulations. The defendant was found guilty of violating Article 81 paragraph (2) in conjunction with Article 76D of Law Number 17 of 2016 concerning Child Protection and was sentenced to two years of imprisonment accompanied by job training. Although diversion was not applicable because the statutory requirements were not fulfilled, the court upheld the principle of the best interests of the child by emphasizing guidance and rehabilitation. The judge's decision was based on juridical considerations, including the facts presented at trial, evidence, and applicable legal provisions, as well as non-juridical considerations, including the child's age, psychological condition, family background, remorse, and the impact of the offense on the victim.

Keyword: Criminal Liability, Juvenile Offender, Child Sexual Violence, Juvenile Criminal Justice System

INTRODUCTION

Indonesia, as a nation governed by the rule of law, upholds the principle of equality before the law, meaning that every citizen has equal standing before the law without any discrimination. This principle also applies to children, whether they are victims, witnesses, or perpetrators of crimes. Considering that children are a vulnerable group and are still growing and developing, the state provides legal protection through various laws and regulations, including Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 39 of 1999 concerning Human Rights, and Law Number 35 of 2014 concerning

Amendments to Law Number 23 of 2002 concerning Child Protection. Through these regulations, the juvenile criminal justice system is directed to prioritize the best interests of children by emphasizing development, rehabilitation, and restorative justice.

Children, as the nation's future generation, have the right to protection, care, and an environment that supports their optimal growth and development. However, as social life develops, children not only have the potential to become victims of crime but can also come into conflict with the law as perpetrators. This phenomenon demonstrates that the issue of children in conflict with the law is a complex one, involving legal, social, psychological, and environmental aspects. Therefore, its treatment cannot be equated with that of adult criminals.

One form of crime that is of serious concern is sexual violence against children. This crime has a significant impact, not only on the victim's physical condition but also on the child's psychological, social, and future development. In practice, perpetrators of sexual violence against children are not always adults; they can also be children. This situation creates a dilemma in law enforcement: on the one hand, perpetrators must be held accountable for their actions, while on the other, their status as children requires legal protection in accordance with the principles of the Juvenile Criminal Justice System.

The increasing involvement of children in crime is influenced by various factors, including weak family supervision, the influence of their social environment, the development of information technology, poor moral education, and a limited understanding of legal and social values. These factors can encourage deviant behavior that leads to criminal acts. Therefore, combating juvenile delinquency is not only carried out through law enforcement, but also through prevention efforts, guidance, and strengthening the roles of families, schools, and the community.

In applying criminal responsibility to children, judges are required to consider not only legal aspects such as the fulfillment of the elements of the crime and valid evidence, but also non-legal aspects, such as the child's age, psychological condition, family background, social environment, level of

remorse, and the child's potential for guidance and improvement. These considerations are crucial to ensure that decisions are not solely oriented toward retribution but also reflect the goals of punishment in the Juvenile Criminal Justice System, namely guidance, rehabilitation, and social reintegration.

Based on this description, research on the criminal responsibility of children as perpetrators of sexual violence against children is important. This study examines the application of criminal responsibility and the judge's considerations in Decision Number XX/Pid.Sus-Anak/2025/PN Tjk to determine the decision's compliance with statutory provisions and the principles of protection and the best interests of children in the Indonesian juvenile criminal justice system.

RESEARCH METHOD

This research uses a normative and empirical juridical approach. The normative juridical approach is carried out through a literature study by examining legal principles, expert theories, and laws and regulations related to the research problem. Meanwhile, the empirical juridical approach is carried out through field research to obtain data regarding the application of criminal liability for children as perpetrators of sexual violence against children. The data sources used in this research are secondary data obtained through document studies and literature studies, including laws and regulations, law books, scientific journals, research results, theses, and various literature relevant to the main problem. This data is used as a theoretical and juridical basis in analyzing criminal liability for children and the basis for judges' considerations in decisions that are the object of research.

RESULT AND DISCUSSION

Based on an interview with the Tanjung Karang District Court Judge, the application of criminal responsibility to children in Decision Number XX/Pid.Sus-Anak/2025/PN Tjk complies with applicable law. The child was declared capable of being held accountable for his or her actions because he or she fulfilled the elements of guilt, had the ability to understand the nature and consequences of his or her actions, and found no justification or excuse that could eliminate criminal responsibility. This assessment was conducted through a comprehensive examination, taking into account the child's age, witness testimony, expert testimony, and the Community Research Report from the Community Guidance Officer.

Criminal responsibility for children fundamentally differs from that for adults. Although children can be held accountable for their crimes, the application of the law must still take into account the child's psychological condition, level of intellectual maturity, family background, and social environment. Therefore, the juvenile criminal justice system is not solely oriented toward proving the elements of a crime, but also prioritizes the protection of children's rights and fostering efforts to improve their behavior and return to their role in society.

From a criminal law perspective, the application of criminal responsibility in this decision fulfills the principle of "no punishment without fault." This principle dictates that a person can only be punished if there is a legally justifiable error. Based on the facts of the trial, the child was deemed to possess the capacity for responsibility (*toerekeningsvatbaarheid*), meaning he or she is able to understand the meaning of his or her actions, understand the consequences, and have the ability to determine his or her own will in accordance with applicable legal norms. Therefore, there is sufficient legal basis for the judge to declare the child criminally responsible.

The form of criminal responsibility imposed is a two-year prison sentence with job training. According to the author, this combination of sentences demonstrates that the judge did not solely apply the concept of retributive justice

but rather emphasized the educational, preventive, and rehabilitative goals of modern punishment. Job training is provided as a means of fostering the child to acquire skills that can be used after serving his or her sentence, thus giving them the opportunity to reintegrate into society and reducing the likelihood of reoffending.

The failure to implement diversion in this case also complies with the provisions of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Diversion can only be implemented in cases that meet the requirements stipulated in the law, while the crime committed by the child in this case carries a penalty exceeding the limit permitted for diversion. Therefore, resolving the case through criminal justice mechanisms is a legal consequence that must be taken, without diminishing the judge's obligation to continue protecting the child's rights.

Although diversion cannot be implemented, the judge still applies the principle of the best interests of the child in issuing the verdict. This is reflected in the sentence not being imposed to the maximum and the provision of a development program through job training. In addition to considering the severity of the offense, the judge also takes into account the child's age, psychological condition, the defendant's remorse, family background, and the child's potential for self-improvement. These considerations demonstrate that sentencing children is carried out individually according to the characteristics and needs of each child.

Based on this description, the author argues that the criminal responsibility for children in Decision Number XX/Pid.Sus-Anak/2025/PN Tjk reflects a balance between legal certainty, justice, and expediency. On the one hand, the decision maintains legal accountability for actions committed by children as a form of victim protection and law enforcement. On the other hand, the judge prioritizes the objectives of the Juvenile Criminal Justice System through a developmental, rehabilitation, and social reintegration approach. Therefore, the decision not only meets the legal aspects but also reflects the values of child protection as mandated by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

In addition to analyzing the form of criminal responsibility imposed on children, this study also examines the judge's considerations in issuing Decision Number XX/Pid.Sus-Anak/2025/PN Tjk. The judge's considerations are a crucial element in the sentencing process because they serve as the basis for determining the type and severity of the punishment to be imposed on the perpetrator. In this case, the judge not only relied on applicable legal provisions but also considered the child's individual circumstances to ensure that the decision met the objectives of the juvenile criminal justice system.

Based on research and interviews with the Tanjung Karang District Court judge, the judge's considerations were based on both legal and non-legal aspects. Legal considerations included the facts revealed during the trial, valid evidence, witness testimony, expert testimony, the child's confession, and provisions in the Criminal Procedure Code and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Furthermore, the judge used the Community Research Report (Litmas) prepared by the Community Guidance Officer as a crucial basis for assessing the child's social, psychological, and family environment before rendering a decision.

In addition to legal aspects, judges also consider various non-legal factors, such as the child's age, psychological condition, family background, social environment, level of remorse, and the impact on the victim. According to the author, these considerations demonstrate that judges are not solely focused on proving the elements of the crime but also on the characteristics and needs of the child as the perpetrator. This approach reflects the application of the principle of individualized punishment, namely, that punishment is tailored to the individual circumstances of the perpetrator so that the goals of development and rehabilitation can be optimally achieved.

Furthermore, judges apply the principle of the best interests of the child in their decisions. Although the crime is considered serious enough to prevent diversion, the sentence imposed is not the maximum sentence and is accompanied by job training as a form of development. This policy demonstrates that sentencing children is not solely aimed at inflicting suffering as a consequence of their actions, but also provides opportunities for children to

improve themselves, develop skills, and prepare for reintegration into society after serving their sentence.

According to the author, the judge's considerations in these decisions reflect the proportional use of judicial discretion. Judges not only apply formal legal provisions but also balance the interests of law enforcement, victim protection, and the protection of the rights of children as perpetrators. Therefore, the decisions rendered not only fulfill the aspect of legal certainty through the application of statutory regulations, but also embody the values of justice and expediency as stated by Gustav Radbruch.

Based on this overall analysis, the author argues that the judge's reasoning in Decision Number XX/Pid.Sus-Anak/2025/PN Tjk complies with statutory provisions and the principles of the Juvenile Criminal Justice System. The considerations, which integrate legal, sociological, and psychological aspects, demonstrate that the judge focuses not only on the criminal act committed but also on the child's future as an individual with opportunities for development. Therefore, the decision reflects a balance between victim protection, law enforcement, and the fulfillment of the rights of children as perpetrators of criminal acts.

CONCLUSION

Based on the research findings, the application of criminal liability to children as perpetrators of sexual violence against children in Decision Number XX/Pid.Sus-Anak/2025/PN Tjk complies with applicable laws and regulations, particularly Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Children are deemed capable of being held accountable for their actions because they have fulfilled the elements of guilt, possess the capacity to take responsibility, and have no justification or excuse that would eliminate criminal liability. The imposition of imprisonment accompanied by job training demonstrates that the juvenile criminal justice system is not solely oriented

toward retribution but also prioritizes development, rehabilitation, and social reintegration as an effort to realize the best interests of the child.

The judge's considerations in issuing a decision are based on a balance between legal and non-legal aspects. From a legal perspective, the judge bases his decision on the facts of the trial, valid evidence, witness testimony, expert testimony, the defendant's confession, and applicable legal provisions. Meanwhile, from a non-legal perspective, the judge considered the child's age, psychological condition, family background, social environment, level of remorse, and the Community Research Report (Litmas). These considerations demonstrate that the judge applied a comprehensive approach, while still considering the characteristics of the child as a perpetrator of the crime, without neglecting victim protection and the objectives of law enforcement.

Therefore, Decision Number XX/Pid.Sus-Anak/2025/PN Tjk reflects the application of the principles of the Juvenile Criminal Justice System through a balance between legal certainty, justice, and expediency. This decision not only provides legal accountability for the child's actions but also prioritizes a child-centered approach to fostering and protecting their rights as part of rehabilitation and social reintegration efforts. Therefore, the application of criminal accountability and the judge's rationale in this case can be considered to align with the objectives of the juvenile criminal justice system in Indonesia.

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