



CRIMINAL LIABILITY IN ACTS OF SEXUAL ABUSE COMMITTED BY CHILDREN

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Article Info	Abstract
Article History Received: 2025-05-05 Revised: 2025-05-06 Published: 2025-30-07 Keywords: <i>Criminal Liability, Molestation, Juvenile Criminal Justice System</i>	Child molestation is a complex issue involving legal, psychological, and social aspects. The juvenile justice system in Indonesia aims not only to punish but also to educate and rehabilitate child perpetrators. Through normative juridical methods and case approaches, this journal concludes that criminal responsibility for child perpetrators of sexual abuse has its own specificities compared to adult perpetrators, as regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. This journal examines the form of criminal responsibility for children who commit acts of sexual abuse by emphasizing a restorative approach and protection of children's rights. Law enforcement must adhere to the principles of the best interests of the child, rehabilitation, and social reintegration. Indonesian law provides a clear framework through the Juvenile Criminal Justice System Act, which primarily aims to protect children's rights, provide education, and provide rehabilitation.

I. INTRODUCTION

A child is an individual in a developmental stage. Generally, a child is an individual undergoing physical, mental, social, and legal development and is still dependent on their parents or guardians in various aspects of their life. Age restrictions are typically used as a legal indicator (generally under 18 years of age).

A child is someone who is not yet an adult and is still in the development stage, both physically and mentally, and needs guidance and protection from adults.¹

Children are individuals who are in a period of growth and development, during which time they require special attention, especially in terms of education and legal protection.²

Meanwhile, Law Number 35 of 2014 concerning Child Protection explains that a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb.

Childhood is a time of identity discovery. Children are often easily influenced by various factors, such as their environment, friends, and social circles. A negative environment can

influence children to adopt the lifestyles and behaviors of those around them. Similarly, peer pressure or the wrong social circle can lead a child to missteps. Issues affecting children are always a cause for concern, especially when children are the victims and the perpetrators are also children.

Child molestation is a complex issue in the criminal justice system. It requires a different approach than adult perpetrators, considering the principles of child protection and restorative justice. Child molestation presents a legal dilemma. On the one hand, it is considered a sexual crime that violates the victim's rights. On the other hand, the perpetrator is still a child, requiring special legal protection.

Immoral crimes such as child molestation committed by children against children are regulated in Article 76 E of Law Jo Article 82 Paragraph (1) of Law No. 35 of 2014 concerning Child Protection. The high level of sexual crimes currently occurs due to the weak psychological condition of a child caused by several factors, one of which is internet media such as social media which is one of the biggest causes of immoral

¹Soerjono Soekanto, *Sociology: An Introduction*, RajaGrafindo Persada, Jakarta, 2002, p. 13.

²Tuarita and Montolalu, *Introduction to Child Law in Indonesia*, Pustaka Sinar Harapan, Jakarta, 2005, p. 20.

crimes committed by children. The ease of accessing pornographic films without parental supervision tends to result in children fantasizing and being unable to control themselves and not being able to see that what they are doing is a crime that violates norms of decency.

Modern developments and technological advances have also influenced children's behavior in social life. Children, who should be protected, are instead becoming perpetrators of various crimes, one of which is sexual abuse. This raises concerns in society because it concerns moral and legal values. Sexual abuse committed by children not only harms the victims but also reflects a degradation of values and weak supervision of children.

Criminal liability for crimes committed by children is a type of crime that has very serious consequences for both the victim and the child involved. In law, sexual abuse refers to a sexual crime committed by one person against another without their consent. To protect children and provide legal certainty for crimes committed against them, Indonesian law regulates acts of child abuse.

Legally, children who commit crimes can still be held criminally responsible, but there are differences in the treatment of children and adults in the legal process. Indonesia's juvenile justice system emphasizes restorative justice and diversion approaches to ensure the protection and guidance of both children and perpetrators.

The main problem that arises is what form of criminal responsibility should be taken against children who commit acts of sexual abuse and how the legal process should be carried out so as to prioritize the principle of child protection, and how the judicial system should deal with this matter in a proportional and just manner.

In reality, child molestation is no longer just a theory in the courtroom, but has become a real social phenomenon in society. Numerous cases have emerged demonstrating the involvement of children in immoral acts, whether due to environmental influences, promiscuity, or a lack of self-control. This situation raises issues that impact not only the victims but also the perpetrators, who are still children and require protection and guidance. These cases are of particular concern because they involve complex psychological, social, and legal aspects.

One concrete example of this case is reflected in the Kabanjahe District Court Decision Number 1/Pid.Sus-Anak/2024/PN Kbj. In this case, a child with the initials J was found guilty of

committing the crime of molestation against a minor girl. This crime was committed repeatedly using trickery and persuasion, until the victim finally complied with the perpetrator's wishes. As a result of this act, the victim suffered psychological trauma and physical injuries as stated in the *Visum et Repertum*. This case reflects the fact that sexual crimes involving children as perpetrators can occur in a systematic form and are full of elements of manipulation, and have serious impacts on the victim.

Through this ruling, the court decided to sentence the child perpetrator to imprisonment, along with remedial measures at a Special Child Rehabilitation Institution (LPKA) and job training. This decision demonstrates that although the juvenile criminal justice system prioritizes the principles of rehabilitative and protective measures, in cases of serious crimes such as sexual abuse, the legal system still upholds justice by sentencing the perpetrator. This ruling provides a clear illustration of how the juvenile criminal justice system strives to balance the protection of the rights of child perpetrators with the demands of justice for victims and society.

Based on the description above, the author is interested in researching this problem in the form of a journal with the title "Criminal Responsibility in Criminal Acts of Indecent Acts Committed by Children".

II. RESEARCH METHODS

The research method used in this study is a normative juridical method, with a legislative approach and case studies. Data were obtained from legal literature, court decisions, and relevant legal documents. The case approach was conducted by examining court decisions related to child molestation to analyze legal considerations and their relevance to the principles of restorative justice.

III. RESULTS AND DISCUSSION

A. Forms of Criminal Responsibility for Child Molestation Perpetrators

The form of criminal responsibility for children in conflict with the law is regulated in the law on the juvenile criminal justice system which aims to provide legal certainty in the criminal sentencing process.

Abdul Rahman Maulana Siregar emphasized that criminal justice resolution should not rely

solely on a rigid and repressive formal litigation approach, but rather allow for solutions based on local values and customary wisdom. He believes that conflict resolution through customary law, which prioritizes propriety, harmony, and harmony, can provide more balanced and educational justice and is more appropriate for children who commit crimes because it maintains social balance and restores relationships within the community.³

This is in line with the principles of the juvenile criminal justice system which aims to provide protection and education for children, not just punishment.

Criminal responsibility is a subjective aspect of a crime, which shows whether the perpetrator can be punished based on his mental attitude and ability to be responsible for his actions.⁴

Criminal responsibility is the appropriateness of imposing a penalty on a perpetrator for committing an unlawful act and being held responsible for that act consciously.⁵

Children who commit crimes are held accountable through a justice system that takes into account the best interests of the child, so that it is educational rather than repressive.⁶

According to criminal law doctrine, criminal responsibility requires the perpetrator's capacity to take responsibility and culpability. In children, this capacity is assessed based on age and maturity of thought. Therefore, regulations regarding juvenile criminal liability are different from those for adults.

Criminal accountability for children in the Indonesian justice system must always prioritize the principle of child protection, both as perpetrators and victims. Ismaidar emphasized that the legal approach to children must prioritize the principles of fostering and the child's best interests, so that the judicial process is more educational and restorative, rather than solely repressive.⁷ This shows that even if a child commits a crime, the state is obliged to provide special treatment in accordance with the provisions of the Child Criminal Justice System Law Number 11 of 2012.

Article 71 of the Juvenile Criminal Justice System Law regulates the types of criminal penalties for children, namely:

- The main penalties are warnings, internal/institutional guidance, job training, community service and imprisonment.
- Additional punishment in the form of compensation

In practice, judges can impose sanctions in the form of criminal penalties or disciplinary action. One example is the case of a child as the perpetrator of a child molestation crime in the Kabanjahe District Court Decision Number 1/Pid.Sus-Anak/2024/PN Kbj.

1. Case Position

In this decision, Child J is a child who was accused of committing a crime of indecent assault in which sexual relations occurred due to a dating relationship. Initially, on a day and date that can no longer be remembered in August 2023 at around 20.00 WIB, Child J invited the victim's child to have dinner at a cafe then Child J picked up the victim's child at the intersection of the victim's child's house but in the middle of the trip, Child J did not take the victim's child to the cafe but to Child J's boarding house located in Tigabinanga Village, Tigabinanga District, Karo Regency on the grounds that his head hurt so he didn't eat then when he arrived at Child J's boarding house, the victim's child was invited into the room but the victim's child refused so Child J said "it's cold there let's go to the room", so the victim's child obeyed Child J's words.

Then in the boarding room, Child J hugged the victim's child, kissed her cheek then groped her body and squeezed the victim's breasts then the victim's child said "what are you doing, I don't want to." Then Child J said, "come on min just a moment... I love you... I love you... I'll be your soulmate later.. I won't turn away from you." to which Child J said he wouldn't turn away and would marry the victim's child so that the victim's child was persuaded to follow Child J's wishes then Child J opened his pants and underwear and pressed down on the victim's child then Child J directed his erect penis into the victim's child's vagina so that the victim's child felt pain then after

³Siregar, AR, & Siregar, MA (2019). Settlement of Criminal Acts with Customary Criminal Offenses in North Padang Lawas Regency. *Responsive Law Journal*, 138-139.

⁴Barda Nawawi Arief, *Anthology of Criminal Law Policy*, Citra Aditya Bakti, Bandung, 2002, p. 45.

⁵Sudarto, *Criminal Law I*, Sudarto Foundation, Semarang, 1986, p. 112.

⁶Barda Nawawi Arief, *Anthology of Criminal Law Policy*, Citra Aditya Bakti, Bandung, 2001, p. 127.

⁷ Ismaidar, & Rahmayanti. (2024). *Legal Study of Children Who Are Victims of Crime Persecution*. *Dharma Agung Journal*, 431-439.

Child J's penis entered the victim's vagina then Child J moved his buttocks up and down for about 5 (five) minutes and released his sperm beside the bed.

That sexual intercourse between Child J and the victim's child had been carried out repeatedly, the last time on Saturday, February 10, 2024 at around 20.00 WIB, by Child J groping the victim's child's body, then kissing the cheeks and lips and squeezing the victim's child's breasts, then Child J opened his pants and the victim's pants, then inserted his erect penis into the victim's child's vagina and released his sperm.

That due to the actions of Child J, the victim child suffered a torn wound in the hymen at 3, 7 and 11 o'clock which did not reach the base and a torn wound in the hymen at 6 o'clock which reached the base with the conclusion that the hymen was not intubated according to the Visum et Repertum Number: 440/RSU/VER/14/2024 dated March 18, 2024 in the name of M which was made and signed by Dr. Morel Sembiring, Sp. OG, the examining doctor at Kabanjahe General Hospital who conducted the examination on March 13, 2024.

2. Indictment

Based on the Public Prosecutor's Indictment No. Reg Perk: PDM-02/L.2.19/Eku.2/03/2024, the defendant was legally and convincingly accused of committing a criminal act against morality, namely by deliberately carrying out deception, a series of lies or persuading a child (namely Child Victim Witness M) to have sexual intercourse with the Defendant, as regulated and threatened with criminal penalties in the provisions of Article 82 paragraph (1) of Law Number 35 of 2014 concerning Amendments to Law of the Republic of Indonesia Number 23 of 2002 in conjunction with Law of the Republic of Indonesia Number 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection to Become Law in conjunction with Law Number 11 of 2012 concerning the Child Criminal Justice System.

3. Public Prosecutor's Demands

The Public Prosecutor requested that the Panel of Judges at the Kabanjahe District Court who examined and tried this case decide:

1. Declaring that Child J has been legally and convincingly proven guilty of committing the crime of "Intentionally carrying out deception, a series of lies or persuading a child to have sexual

intercourse", in violation of Article 81 paragraph (2) of Law Number 35 of 2014 concerning Amendments to Law of the Republic of Indonesia Number 23 of 2002 in conjunction with Law of the Republic of Indonesia Number 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 to Become Law, as indicted by the Public Prosecutor;

2. Imposing a sentence in the form of imprisonment for 3 (three) years minus the period of detention already served;
3. Imposing a criminal sentence of job training in lieu of a fine for 4 (four) months.
4. Stating the evidence in the form of:
 - 1 (one) unit of black Realme brand cellphone.

Seized for destruction.

- 1 (one) piece of black and white striped t-shirt.
- 1 (one) pair of blue jeans.

Returned to its rightful owner, namely the victim's child, M.

5. Ordering the child to pay court costs of Rp. 2,000 (two thousand rupiah).

4. Judge's Consideration

1. The judge considered that the elements of the crime as charged by the Public Prosecutor were legally and convincingly proven according to the law based on the statements of witnesses, expert statements, the defendant's statement and other evidence at trial.
2. The judge noted that the child admitted his actions as charged.
3. The judge considered that the purpose of giving punishment to the child was for education and development, not revenge and therefore imposed a punishment of development in a Special Child Development Institution (LPKA) for a certain period.
4. The child behaved politely during the trial, is still a minor and has a long future ahead of him, admits and regrets his actions and the child has never been punished before.

5. Verdict

After reviewing the available evidence and legal considerations, before imposing a sentence, the judge first considers the things that can be used as a basis for removing the sentence, where in this case based on legal facts there are no things that can be used as a reason for forgiveness and justification as a reason for removing the sentence and the defendant according to the law is considered capable of being responsible for his actions. Before imposing a sentence, the judge will first consider things that can be aggravating and mitigating.

1. Declaring that Child J, as mentioned above, has been legally and convincingly proven guilty of committing a criminal act by deliberately deceiving and persuading the child to have sexual intercourse with him as stated in the primary charge;
2. Sentencing Child J to 3 (three) years imprisonment in the Medan Special Child Development Institution (LPKA) and 6 (six) months job training at the Tanjung Morawa Deli Serdang Children and Youth Social Institution (PSAR);
3. Determining that the child remains detained;
4. Determining that the length of the period of arrest and detention that the child has served is deducted in full from the sentence imposed.
5. Stating the evidence in the form of:

- 1 (one) unit of black Realme brand cellphone.

Destroyed.

- 1 (one) piece of black and white striped t-shirt.
- 1 (one) pair of blue jeans.

Returned to its rightful owner, namely the victim's child, M.

6. Ordering the child to pay court costs of Rp. 2,000 (two thousand rupiah).

Children who commit crimes can still be held criminally responsible, as stipulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. However, the form of accountability is specific and different from that for adults. This accountability takes into account the child's age, psychological maturity, and best interests.

In the case of Child J, District Court Decision No. 1/Pid.Sus-Anak/2024/PN Kbj demonstrates that criminal liability for child molestation

perpetrators includes not only imprisonment but also educational job training. This aligns with the principles of juvenile criminal law, which emphasizes development rather than retribution.

In addition, the justice system prioritizes the following forms of accountability:

- Principal penalties, which can be in the form of warnings, guidance, job training, community service or imprisonment.
- Additional penalties, such as payment of compensation or fulfillment of other obligations that are intended to correct the consequences of the child's actions.
- Actions, in the form of returning to parents, foster care in institutions, community services, rehabilitation or therapy.

In practice, judges often consider mitigating factors such as the perpetrator's remorse, the child's age, and potential for improvement. For example, in the decision above, the judge considered that the sanction was not intended to retaliate but to educate.

In accordance with the principle of ultimum remedium, criminal punishment is a last resort. However, if diversion is unsuccessful, as in cases involving a sentence of more than 7 (seven) years, the sentence will still be imposed with special considerations.

Thus, the form of criminal responsibility for child molestation perpetrators in Indonesia can be concluded as:

- Prison sentence in a Special Child Correctional Institution (LPKA), not an adult correctional institution
- Criminal Work Training or Guidance as a form of social rehabilitation
- Diversion is attempted first before sentencing
- Implementation of punishment must take into account child development and social reintegration efforts.

This form of accountability is corrective and aims to reform the child's behavior so that it can be accepted in society, so that the child can have a better future after undergoing the legal process.

Criminal accountability for children is carried out specifically using a restorative juvenile justice system approach and does not solely use criminal

sanctions, but rather places more emphasis on guidance and protection.

B. Implementation of the Juvenile Criminal Justice System

Juvenile criminal justice aims to protect children's rights, prioritize development and rehabilitation, and emphasize restorative justice and diversion. Diversion is the process of resolving cases involving children in conflict with the law, moving them from the criminal justice process to a process outside the courts. The juvenile criminal justice system in Indonesia is regulated by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

However, because sexual abuse generally carries a penalty of over seven years, diversion is often not possible. Consequently, children must still go through the legal process, but in a child-friendly environment and with correctional sanctions such as juvenile detention, rehabilitation, or special child development institutions (LPKA).

Through the analysis of the case of Decision Number 1/Pid.Sus-Anak/2024/PN Kbj, the Child was charged with the crime of indecent assault with a criminal threat of more than 7 (seven) years so that diversion cannot be applied. This shows that the judge limits the use of diversion only to minor crimes. In this case, Article 82 paragraph (1) threatens with a maximum sentence of 15 (fifteen) years in prison and also diversion cannot be applied so that the criminal justice system continues.

The decision shows that the trial process is carried out by paying attention to the provisions of the juvenile court, including that the judge who examines is a juvenile judge, the trial process must be child-friendly with the examination process carried out with a psychological approach and not causing pressure on the child, the child's right to receive legal assistance, social assistance and psychology remains guaranteed and the child's identity is kept confidential for the benefit of the child in accordance with Article 19 of the Child Criminal Justice System Law.

In this decision, although the judge sentenced the child to three years in a Special Child Development Institution and six months of job training, a developmental approach remained part of the sanctions imposed. The implementation of the juvenile criminal justice system also reflects the principle of *ultimum remedium*, where imprisonment is considered a last resort. Alternative sanctions such as training,

counseling, and community service should be prioritized whenever possible.

The implementation of the Juvenile Criminal Justice System in Indonesia prioritizes the principles of child protection and guidance. In its implementation, this system is regulated by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which emphasizes a different judicial process than the adult justice system. Essentially, children in conflict with the law must receive special treatment, from the investigation and prosecution to the trial. Children's rights remain a priority, such as the right to receive parental or guardian support, legal assistance, and a child-friendly trial process. This aims to prevent the legal process from causing further psychological trauma for children in conflict with the law.

Furthermore, the implementation of this system is also reflected in the application of diversion as an alternative case resolution. Diversion is intended to resolve juvenile cases within the formal criminal justice system, as long as they meet the requirements of statutory provisions. However, as stated in Kabanjahe District Court Decision Number 1/Pid.Sus-Anak/2024/PN Kbj, diversion cannot be applied if the crime committed by the juvenile is punishable by imprisonment for more than 7 years, such as indecent assault. In this case, even if diversion is not implemented, the justice system is still implemented with due regard for the principles of restorative justice and the child's future. Juvenile judges are required to consider the child's age, psychological condition, and potential for child development when making decisions.

The implementation of this system is also evident in the application of criminal penalties and correctional measures, such as imprisonment in a Special Child Correctional Institution (LPKA) and job training in social institutions. The verdict against Child J in this case demonstrates that the judge combined imprisonment with job training as a form of correctional action. This aligns with the principle of *ultimum remedium*, where imprisonment is not the primary objective but rather a last resort if diversion is not feasible. Children are also guaranteed the right to confidentiality and to receive psychological and educational services during the correctional period. Thus, the juvenile criminal justice system in Indonesia is implemented not only for punishment but also as a means of guidance, protection, and reintegration of children into society after completing their sentences.

C. Obstacles and Solutions in the Implementation of Criminal Responsibility for Child Molestation Perpetrators

One of the main obstacles in implementing criminal accountability for children is the lack of understanding among law enforcement officials regarding the restorative justice approach. Although the Juvenile Criminal Justice System Law mandates the application of restorative justice principles, many law enforcement officials, from police and prosecutors to judges, still do not fully understand and optimally apply them. This often results in the juvenile justice process, which should prioritize development and protection, becoming trapped in a pattern of punishment alone without regard for the principles of juvenile justice.

A possible solution is to increase training and provision for all law enforcement officers regarding juvenile law and the implementation of restorative justice. This training must be ongoing and practice-based, so that officers truly understand the importance of special treatment for children in conflict with the law. With this training, it is hoped that law enforcement officers will change their mindset and become more oriented towards child protection and development.

Another obstacle is the lack of rehabilitation facilities and specialized child-centered development institutions in various regions. This limited availability results in children who should be receiving support not receiving adequate services, and are often placed in institutions that are inappropriate for their needs. This situation has the potential to negatively impact children's development, as they are deprived of the psychological support, education, and guidance they deserve.

The solution to this problem is for the government to increase the number of Special Child Development Institutions (LPKA) throughout Indonesia. Furthermore, existing facilities must be staffed with professionals in education, psychology, and religious studies to ensure optimal development. LPKA that meet standards will be suitable places for children in conflict with the law, enabling them to undergo proper rehabilitation and be reintegrated into society.

Social stigma against juvenile offenders also poses a serious obstacle to their social reintegration. After undergoing rehab, juveniles often face discrimination, shunning, and even

ostracization from their communities. This negative stigma not only harms children psychologically but can also lead them to re-offend due to a loss of self-confidence and motivation to improve themselves.

To address this, a structured social integration program is needed that actively involves the community and families. Public education campaigns on children's rights and the importance of providing second chances should be intensified. Furthermore, children who have completed their detention period need special support so they can re-adapt to their social environment without experiencing discrimination.

The lack of family and community involvement in educating and supervising children is a major factor leading children to become involved in sexual abuse. Many families neglect their children's development and social interactions, and some lack the capacity to provide adequate moral education and supervision. Broken homes, poor communication, and weak parental control are root causes that require serious attention.

The solution is to strengthen the role of the family as the primary unit for children's education and development. Parenting programs, family education, and parenting training must be enhanced so that parents better understand the importance of their role in their children's lives. Furthermore, the community must also be involved in social oversight by establishing child-care communities that serve as a forum for social control over child development in their communities.

IV. CONCLUSIONS AND RECOMMENDATIONS

Based on the discussion presented, it can be concluded that criminal liability for child perpetrators of sexual abuse has specific characteristics that differ from the criminal liability for adults. The Indonesian legal system provides for different treatment of children, with an emphasis on the development, protection, and future of children. Children can still be held criminally accountable, but the implementation must take into account the child's age, maturity of thinking, and level of legal awareness. The form of accountability applied, both primary and additional penalties, is aimed at educating, fostering, and restoring the child's condition, so that children are not only punished but also given the opportunity to improve themselves.

The implementation of the Juvenile Criminal Justice System in cases of sexual assault demonstrates that the principle of restorative justice is the primary foundation, although in certain crimes, such as sexual assault, which carries a sentence of more than 7 years, restorative justice cannot be applied. Nevertheless, the judicial process must still be conducted in a child-friendly manner, taking into account children's rights at every stage of the legal process, including guarantees of legal assistance, social assistance, and the imposition of sanctions that are more oriented towards guidance in Special Child Development Institutions (LPKA) or job training. Judges also have a crucial role in ensuring that the goal of this justice system is not merely punishment, but rather the recovery and social reintegration of children into society.

However, in practice, the application of criminal responsibility to child molesters still faces various obstacles, ranging from a lack of understanding of the principles of restorative justice among law enforcement officials, limited facilities for child development and rehabilitation, to the social stigma attached to child perpetrators of crimes. Furthermore, the weak role of the family and parental supervision are often factors that cause children to fall into crime. Therefore, various solutions are needed, such as increasing the capacity of law enforcement officials through training, developing child development and rehabilitation facilities, strengthening the role of families in education and supervision, and educating the public to eliminate the stigma against child perpetrators. Synergy between the legal system, families, society, and the state is crucial for the juvenile criminal justice system to be truly oriented towards the protection, development, and future of children.

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