

Juridical Review of The Regulation of Criminal Acts Against Child Abuse

Accompanied by Acts of Violence

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Abstract

Child protection is a very important issue because children are the next generation of the nation and the implementers of future development. In Indonesia, child protection aims to ensure children's rights to live, grow, and develop optimally in accordance with human dignity. However, despite increased protection efforts, cases of crimes against children, such as molestation accompanied by violence, have also increased. These crimes have a significant impact on victims, violate human rights, and damage children's dignity and mental health. The Indonesian government has passed Law No. 35 of 2014 concerning Child Protection to provide legal clarity and legal certainty in handling cases of child molestation. This law includes the process of investigation, prosecution, and examination in court. The main issue discussed was how criminal liability for the perpetrators of molestation of minors was accompanied by violence, as well as the basis for the judge's consideration in the case, especially in the study of decision number 83/Pid.sus/2021/PN Sgl.

Keywords:

Jurisprudence Action, Child Abuse, Accompanied by Violence

1. BACKGROUND

The conversation about children and child protection will never stop throughout the history of life, because children are the next generation of the nation and the successors of development, that is, the generation that is prepared as the subject, and the implementer of sustainable development and the holder of control over the future of a country, including Indonesia. Protecting Indonesian children means protecting the potential of human resources and the development of Indonesian people as a whole.¹

Child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop and participate optimally in accordance with the dignity and dignity of humanity. The increase in protection of children carried out by the State, government, society, family and parents is in contrast to the increase in criminal acts against minors. Even today, many criminal acts are committed against children, where the perpetrators are friends around them.

¹ Nashriana, *Criminal Law Protection for Children in Indonesia*, Rajawali Pers, Jakarta, 2012, p. 1

The crime of molesting minors accompanied by violence is a type of crime that has a great impact on the victim, because the occurrence of the crime violates human rights and can damage human dignity. Especially intellect, soul and heredity. Cases of sexual abuse accompanied by violence are currently rampant in Indonesia, where minors are often victims. This is because children have not been able to protect themselves from various threats that come to them. The crime of obscenity is regulated in the Criminal Code (KUHP) in chapter XIV concerning Morality book II starting from Articles 289-298 of the Criminal Code which is categorized as a crime of morality.² The occurrence of criminal acts of molesting minors accompanied by violence that often occurs in children is certainly very troubling to the community, especially for parents who have minors. They certainly imagine the consequences of these crimes that can damage their children's expectations. On the other hand, justice is a fundamental principle in a society that guarantees that every individual gets fair and equal treatment in the eyes of the law.³ Therefore, the perpetrators must be sentenced in accordance with applicable regulations and of course provide a sense of justice. Criminal acts that are declared prohibited for the perpetrator, both according to laws and regulations and applicable laws and regulations in society.⁴

According to data from the Ministry of Women's Empowerment and Child Protection (KemenPPPA), there were 797 children who were victims of sexual abuse and violence throughout January 2022. This number is equivalent to 9.13 percent of the total number of children victims of sexual violence in 2021 which reached 8,730, Based on data from the Ministry of PPPA, the number of children victims of sexual abuse and violence throughout 2019 to 2021 has increased. In 2019, the number of children victims of sexual violence reached 6,454, then increased to 6,980 in 2020. Furthermore, from 2020 to 2021 there was an increase of 25.07 percent to 8,730.⁵

Indonesia is a legal country that is obliged to protect the welfare of its citizens from threats that endanger Indonesian citizens so that harmony in society can be realized.⁶ Every act that violates the provisions of the law, both by the perpetrator and government officials if they meet the classification of criminal provisions, must certainly be acted upon. The government's seriousness in eradicating perpetrators who commit abuse of minors accompanied by violence can be seen in Law No. 35 of 2014 concerning Child Protection which provides more legal clarity and legal certainty to

² Gultom, Maidin, *Legal Protection of Children and Women*, Refika Aditama, Bandung, 2012, p. 5

³ Aspan, Henry, *The Effectiveness of Access to Justice for Marginalized Communities*, Journal of Community Service

Multi Disciplinary Society, Vol. 2 No. 1 (January, 2024), 86.

⁴ Marlina, *Juvenile Criminal Justice in Indonesia*, Refika Aditama, Bandung, 2020, p. 4

⁵ <https://nasional.kompas.com/read/2022/03/04/17062911/kemenpppa-797-anak-jadi-korban-kekerasan-seksual-sepanjang-januari-2022>. Accessed June 19, 2024

⁶ Aspan, Henry, et al, *Efforts to Counter Fraudulent Acts in Police Admissions at the Tanah Karo Police*, 498.

law enforcement for the crime of molesting minors accompanied by violence which includes investigation, prosecution, and examination at court hearings.

The existence of Law No. 35 of 2014 concerning Child Protection has legal force in terms of law enforcement. One example of a case that the author researched, namely starting on the day, date and time mentioned above, the defendant came to Sella's child and witness Adystian Alias Tian Bin Hermanto who was sitting on the swing, suddenly the defendant immediately took out a knife measuring 29 cm long with a greenish-gray plastic handle and then brandished and attached to the neck of the witness Tian, then the defendant said "mane hp e, don't have to do various things", then the witness Tian replied "tu agik in the bag", then the defendant took a small suitcase belonging to Sella's child which was on the ground then opened it and then took 1 (one) unit of purple realme 5 mobile phone with IMEI 1 861835041085819 IMEI 2 861835041085801 belonging to Sella's child and 1 (one) unit of black VIVO Y81 mobile phone with IMEI 1 861565048680193 IMEI 2 861565048680185 belonging to witness Tian, after that the defendant asked for money from witness Tian, then witness Tian replied "dak de duit", but the defendant immediately took the wallet from the back pocket of witness Tian's pants then the defendant checked the contents of the wallet and returned it again to witness Tian while saying "kere geh ikak ne", then the defendant tied the hands of Sella's child and witness Tian using a plastic rope, then witness Tian said "bang my fiancé don't be in ape-ape" hearing that the defendant immediately hit and kicked the witness Tian, then the defendant took Sella's child to the bushes, then Sella's child was laid down but Sella's child rebelled by saying "bang don't bang me agik virgin", then the defendant said "Silence la don't die ka" while holding a knife earlier, and finally Sella's child resigned out of fear, then the defendant opened the pants and underwear worn by Sella's child to the ankles, then the defendant opened the pants he was wearing and took out his genitals then the defendant kissed Sella's child on the lips then the defendant took the black plastic on the ground then the black plastic was wrapped on his genitals after that the defendant wanted to insert his genitals into Sella's child's genitals until it hit him, but finally the defendant did not put his genitals into Sella's child's genitals, then the defendant untied the rope on Sella's child's hand and immediately left, and as a result of the defendant's actions, Sella's child became traumatized and scared. That based on the Citation of the Birth Certificate Number: 2576/TH 2003 signed by the Head of the Population and Civil Registration Office of Ogan Komering Ulu Regency in Baturaja Martapura on August 30, 2003, Sella Ferzadani was born, so that currently Sella's child is still a minor.

2. PROBLEM FORMULATION



Based on the background description, the author formulates the problem "how is criminal responsibility for the perpetrators of child abuse accompanied by violence? (Study of Decision Number 83/Pid.sus/2021/PN Sgl)? and what is the basis for the judge's consideration in criminal cases against perpetrators of molestation of minors accompanied by violence (Study of Decision Number 83/Pid.sus/2021/PN Sgl)?

3. RESEARCH METHODS

The type of method used in writing this journal is a normative juridical legal research method that collects data from legal and literature studies, namely methods or methods used in legal research that are carried out by researching existing literature materials. This research was carried out by tracing or studying and analyzing literature materials and also approaches to the applicable legislation in the case to answer the problems in the Decision Study No. 83/Pid.Sus/2021/PN Sg.

4. THEORETICAL FOUNDATIONS

a. Definition of Criminal Acts

The term criminal act comes from a term known in Dutch criminal law, namely "strafbaar feit". There is no official explanation of what strafbaar feit means⁷. However, several experts provide an understanding of the meaning of strafbaar feit, including Vos who formulates that strafbaar feit is a human behavior that is criminally threatened by laws and regulations. Meanwhile, Moeljatno uses the term criminal act which is defined as an act that is prohibited by a prohibition legal rule which is accompanied by a threat (sanction) in the form of a certain crime, for anyone who violates the prohibition. In addition, criminal acts are also interpreted as a basic basis in sentencing a person who has committed a criminal act on the basis of a person's responsibility for the act he has committed, but before that regarding the prohibition and threat of an act, namely regarding the criminal act itself, namely based on the principle of legality.⁸

b. Crime of Obscenity

Violations according to R. Soesilo are any type of act that violates politeness and decency or can also be a heinous act that is classified as an environment of lust such as groping the genitals, kissing, groping the boobs and so on.⁹ While molestation by (Moeljatno, 2013) is said to be "As all

⁷ 4 P.A.F. Lamintang, Basics of Indonesian Criminal Law, Bandung: PT. Citra Aditya, page 76.

⁸ I Gusty Ngurah B, et al. *Juridical Review of the Crime of Child Abuse*, Journal of Legal Analogy, Vol.3 No.3, 2021.

⁹ R. Soesilo. The Criminal Code (KUHP) and its comments are complete article by article. Bogor: Politeia, 1991.

acts that violate morals or heinous acts related to lust for their sex". The definition revealed by Moeljatno focuses more on acts committed by people based on their sexual desires, where directly or indirectly it is an act that violates morality and can be punished.

Based on Article 289 of the Criminal Code, the violation can be interpreted as the condition *"Whoever with violence or threat of violence forces someone to commit or allow an obscene act to be committed, is threatened with committing an act that attacks the honor of decency, is threatened with a maximum prison sentence of nine years."*

The crime of molestation is part of the crime of morality. Crime is a mistake that is considered by the government as detrimental and torturous to the community that violates the rules of criminal law. Crimes against morality in general cause concern or anxiety, especially for parents about their daughters because in addition to threatening the safety of women's children, obscene acts and rape can also affect the process of growth towards early sexual maturity.

c. Definition of Children

Based on Article 1 paragraph (2) it states that "a child is not yet 21 (twenty-one) years old and has never been married". Every child has special rights apart from the inherent rights in him based on Human Rights. In articles 4 to 18 of Law Number 35 of 2014 concerning amendments to Law No. 23 of 2002 concerning Child Protection, children have rights inherent in them, one of which is "Every child while in the care of parents, guardians, or any other party who is responsible for caregivers, is entitled to protection from treatment: Discrimination, Exploitation, both economic and sexual, Neglect, Cruelty, violence, and persecution, Injustice and other mistreatment".

d. Juridical Basis for the Crime of Child Abuse

The Juridical Basis for the Crime of Child Abuse is regulated in Law of the Republic of Indonesia Number 35 of 2014 Article 76E where it is explained that "Every Person is prohibited from committing violence or threats of violence, coercing, committing deception, committing a series of lies, or persuading a child to commit or allow obscene acts to be committed". In addition, the molestation of minors is also regulated in Article 290 paragraph (2 and (3), Article 293, Article 294 paragraph (1), and Article 295 of the Criminal Code.

e. Crime of Theft with Violence

According to Mansour Faqih, the word "violence" is part of the word "violence" in English, although the two have different concepts. The word "violence" is interpreted as an attack or invasion (assault) on a person's physical or psychological mental integrity.¹⁰ Violence is any act of using body energy that is not light. Body power is physical strength. The use of violence is manifested in hitting with hands only, hitting with weapons, slipping, binding, restraining, and so on.¹¹

In criminal law, we know that there is theft. Theft is the act of taking someone else's property unlawfully to own. Criminal Code (KUHP), Article 362 reads: *"Whoever takes a thing, which is the same as the intention of owning the goods against the right, punishable by theft with imprisonment for a maximum of five years or a maximum fine of Rp. 900,000."*

In addition to ordinary theft, the Criminal Code also regulates theft with violence. Theft with violence is a criminal act of theft committed with physical violence or the threat of violence to take other people's belongings. This action is regulated in Article 365 of the Criminal Code and can be subject to a maximum of 9 years in prison. The elements of theft with violence in Article 365 of the Criminal Code are theft that is preempted, accompanied, or followed by violence, violence is committed with the intention of achieving the purpose of theft, violence is carried out to prepare or facilitate theft and violence is carried out to escape or so that the stolen goods remain in the hands of the perpetrator

5. DISCUSSION

1. How to Criminal Liability for Child Molesters (Study of Decision Number 83/Pid.sus/2021/PN Sgl)

1. Case Chronology

On Monday, July 13, 2020 at around 15.30 WIB, located at Tikus Beach, Rebo Village, Sungai Liat District, Bangka Regency, Bangka Belitung Islands Province, the defendant came to Sella's child and witness Adystian Alias Tian Bin Hermanto who was sitting on a swing, suddenly the defendant immediately took out a knife measuring 29 cm long with a greenish-gray plastic handle and then brandished and attached to the neck of the witness Tian, then the defendant said "mane hp e, don't have to do things", then the witness Tian replied "tu agik in the bag". Furthermore, the defendant took a small suitcase belonging to Sella's child which was on the ground then opened it and then took 1 (one) unit of purple realme 5 mobile phone with IMEI 1 861835041085819 IMEI 2

¹⁰ Abdul Wahid and Muhammad Irfan, 2001, Protection for Victims of Sexual Violence: Advocacy for Women's Human Rights, Bandung, Refika Aditama, p. 31.

¹¹ H.A.K Moch Anwar, 1989, Special Section Criminal Law (Criminal Code Book II), Cet. 5, Bandung, Citra Aditya Bakti, p. 25.

861835041085801 belonging to Sella's child and 1 (one) unit of black VIVO Y81 mobile phone with IMEI 1 861565048680193 IMEI 2 861565048680185 belonging to witness Tian, after which the defendant asked for money from witness Tian, then witness Tian replied "dak de duit", but the defendant immediately took the wallet from the back pocket of witness Tian's pants then the defendant checked the contents of the wallet and returned it to the witness Tian while saying "kere geh ikak ne".

The defendant tied the hands of Sella's child and witness Tian using a plastic rope, then witness Tian said "bang my fiancé don't be in ape-ape" hearing that the defendant immediately hit and kicked witness Tian, then the defendant took Sella's child to the bushes, then Sella's child was laid down but Sella's child rebelled by saying "bang don't bang me agik virgin", then the defendant said "Silence la pun tak tak ka" while holding a knife earlier, and finally Sella's child was resigned out of fear.

Then the defendant opened the pants and underwear worn by Sella's child up to the ankles, then the defendant opened the pants she was wearing and took out her genitals then the defendant kissed Sella's child on the lips then the defendant took the black plastic on the ground then the black plastic was wrapped around her genitals after that the defendant was about to insert her genitals into Sella's child's genitals until it hit her, but finally the defendant did not put his genitals into Sella's child's genitals, then the defendant untied the rope on Sella's child's hand and immediately left, and as a result of the defendant's actions, Sella's child became traumatized and scared.

2. Demands

In the case, the Public Prosecutor demanded Zulfikar Harison Peba alias Fikar Bin Suparman with charges of the crime of "molestation of minors and theft with violence" against Sella's child. Based on Article 82 Paragraph 1 Jo Article Paragraph 76E of Law of the Republic of Indonesia Number 35 of 2014 Jo. Law of the Republic of Indonesia Number 17 of 2016 concerning the Determination of Perpu Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law and Article 365 paragraph (1) of the Criminal Code, with a prison sentence of 6 (six) years and a fine of Rp.1,000,000,- (one million rupiah) Subsidy 3 (three) months.

3. Basis for Judge's Consideration

A. Legal Basis

The legal basis used by the Judge in giving a decision is:

- a. Article 82 Paragraph 1 Jo Article 76E of Law of the Republic of Indonesia Number 35 of 2014 Jo Law of the Republic of Indonesia Number 17 of 2016 concerning Child Protection.
- b. Article 365 paragraph (1) of the Criminal Code regarding theft with violence.

B. Case Elements

- a. Element One: "Everyone"

Based on Article 1 number 17 of Law Number 17 of 2016, "Everyone" includes individuals or corporations. The defendant, Zulfikar Harison Peba alias Fikar Bin Suparman, has been examined and proven according to the identity listed and declared criminally responsible.

- b. Second Element: "Committing violence or threats of violence, coercion, deception, lying, or persuading a child to commit an obscene act"

Violence includes acts of physical force that result in physical, psychological, or sexual suffering. In this case, the defendant committed violence and threats with weapons, as well as obscene acts against Sella's child.

- c. Third Element: "Taking goods belonging to others with the intention of unlawfully possessing"

The defendant took two cell phones belonging to Sella's child and witness Tian violently. This retrieval was carried out without permission and with the threat of using a knife.

- d. Fourth Element: "What is precedes, accompanied or followed by violence or threat of violence"

The defendant used a knife to scare and tie the victim's hands before taking the victim's belongings.

C. Judge's Considerations

In terms of giving a verdict against the defendant Zulfikar Harison Peba alias Fikar Bin Suparman, the Judge considered the incriminating matters of the defendant, namely that the defendant was legally proven to have committed a criminal act according to the indictment and the incident caused fear and trauma to the victim. In addition, the Judge also considered

the mitigating factor for the defendant, namely the defendant regretted his actions and promised not to repeat them.

D. Verdict

Based on the available evidence and the testimony of witnesses, the Judge stated that the defendant, Zulfikar Harison Pebi Alias Fikar Bin Suparman, had been legally and convincingly proven guilty of committing the crime of "molestation of minors and theft with violence", so that the Judge sentenced the defendant therefore to imprisonment for 5 (five) years and a fine of Rp. 1,000,000,- (One Million Rupiah) with the provision that if the fine is not paid, it will be replaced with imprisonment for 2 (two) months.

E. Case Analysis

1. Claim Analysis

A cumulative indictment is a form of indictment in which the defendant is charged with several criminal acts, each of which stands alone and is applied simultaneously. In this case, the defendant is faced with cumulative charges for committing two different types of criminal acts: molestation of minors and theft by violence.

- a. **Primary Indictment:** Article 82 paragraph (1) Jo. Article 76E of Law No. 35 of 2014 concerning Child Protection which regulates the crime of child molestation with a threat of imprisonment between 5 to 15 years and a maximum fine of Rp5,000,000,000.00.
- b. **Subsidiary Charges:** If the primary charge is not proven, the defendant is charged under Section 76E of the same law, focusing on the prohibition of obscene acts against children.
- c. **Second Charge:** Article 365 paragraph (1) of the Criminal Code concerning theft with violence that threatens a maximum prison sentence of five years or a fine.

The defendant is faced with a cumulative charge because the criminal act committed consists of two different types of acts, each with separate legal provisions. Child molestation and violent theft are two criminal offenses regulated in separate laws, so the public prosecutor drafted a cumulative indictment to cover all of the defendant's acts.

2. Claims Analysis

A requisitor is a document prepared by the public prosecutor after the examination is completed, containing criminal charges against the defendant based on the available evidence.

The content of the demand is According to Article 182 paragraph 1 letter a of the Criminal Procedure Code, the demand is submitted after the examination is completed. In this case, the public prosecutor charged the defendant with imprisonment for 6 years and a fine of Rp1,000,000 (a subsidy of 3 months of imprisonment). This charge is in line with the limitations in the law and does not exceed the maximum limit of punishment stipulated in the articles charged.

3. Analysis of Judges' Considerations

Ratio decidendi is a legal reason used by judges to decide cases. Judges' considerations can be divided into Juridical and Sociological Considerations as follows:

Juridical Considerations contain:

- a. **Witness Statement:** In this case, the victim's sworn witness statement and evidence are used as the basis for the judge's consideration.
- b. **Expert Testimony:** There is no expert testimony in this case.
- c. **Defendant's Statement:** The defendant admitted his actions, which became the subject of the judge's consideration.
- d. **Evidence:** Relevant evidence is used to prove a crime.
- e. **Mitigating and Aggravating Matters:** The judge considers mitigating (the defendant's remorse) and aggravating (trauma to the victim).

Sociological Considerations:

- a. Background of the Defendant, **the** defendant has a criminal record that aggravates the situation.
- b. As a result of the Defendant's actions, the defendant's actions caused trauma and social impact on the victim and the community.

4. Analysis of the Verdict

The Judge's Decision in Decision Number 83/Pid.sus/2021/PN.Sgl, the judge decided:

- a. The defendant was found guilty of the crime of molesting a minor and theft with violence.
- b. Punishment: Imprisonment for 5 years and a fine of IDR 1,000,000 (a subsidy of 2 months of imprisonment if the fine is not paid).

Review of the Verdict:

- a. Compatibility of Punishment with 5 years imprisonment and fines imposed in accordance with the provisions of the applicable article.
- b. Fines and Subsidies The imposition of fines with the provision of subsidies is in accordance with Article 30 paragraph (2) of the Criminal Code if the fine is not paid.

This decision considers all relevant legal and social aspects, as well as in accordance with applicable laws. Overall, the judge's decision is considered to be in accordance with the regulations and reflects fair consideration based on the evidence and facts of the case.

2. What is the basis for the judge's consideration in criminal cases against perpetrators of molestation of minors (Study of Decision Number 83/Pid.sus/2021/PN Sgl)

Judge's consideration is a crucial process where the panel of judges evaluates all elements of the case to reach a fair and lawful decision. This process includes an in-depth analysis of various aspects of the case at hand, with the main goal of creating legal certainty, justice, and benefits for all parties involved.

1. Juridical Considerations

- a. Consideration of the Indictment

The panel of judges began its deliberations by reviewing the indictment filed by the Public Prosecutor. In this case, the judge will consider whether the charges filed meet the applicable legal provisions.

Cumulative Charges : The defendant was charged with two different criminal acts: molestation of minors (Article 82 paragraph (1) Jo. Article 76E of Law No. 35 of 2014 concerning Child Protection) and theft with violence (Article 365 paragraph (1) of the Criminal Code). The judge must ensure that the cumulative indictment is in accordance with the provisions of the law and that each of the defendant's actions can be linked to these articles.

b. Consideration of Claims

The judge also considered the charges filed by the Public Prosecutor. The letter of demand is an important basis in determining the punishment to be imposed. In this case, the judge must evaluate whether the charges are in accordance with the facts revealed during the trial and whether the charges are within the legal limits established by the law.

3. Sociological Considerations

a. Aspects of the Defendant's Behavior

Behaving Well During the Trial The judge will assess whether the defendant showed a good attitude during the trial process, which could be a mitigating factor.

Openness and Remorse Whether the defendant admitted his actions clearly and showed deep remorse for the actions taken, and promised not to repeat them in the future.

b. Consequences of the Defendant's Actions

The judge also considered the social impact of the defendant's actions. These include:

Trauma and Losses for Victims as a consideration of the psychological and physical impact on the victim, as well as the losses caused by criminal acts.

5. COVER

a. Conclusion

Based on the description and discussion in the previous chapters, the following conclusions can be drawn:

1. Criminal Liability for Perpetrators of Abuse of Minors Accompanied by Violence Study of Decision Number 83/Pid.sus/2021/PN.Sgl, based on Article 82 Paragraph (1) Jo Article 76E of Law of the Republic of Indonesia Number 35 of 2014 Jo. Law of the Republic of Indonesia Number 17 of 2016 concerning the Stipulation of Perpu Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection clearly states that every Person is prohibited from committing violence or threats of violence or persuading children to commit obscene acts, This law is the basis for providing protection for children who have committed crimes. For each person or in this case, the defendant Zulfikar Harison Peba will receive a minimum prison sentence of 5

(five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp5,000,000,000.00 (five billion rupiah) as the basis for the decision to sanction the defendant.

2. Basis for Judge's Consideration in Imposing Punishment on Perpetrators of Molestation of Minors Accompanied by Violence Study of Decision Number 83/Pid.sus/2021/PN.Sgl, based on the chronology of the case of the defendant Zulfikar Harison Peba, the panel of judges considered the articles demanded by the public prosecutor, namely Article 82 Paragraph (1) Jo Article 76E of Law of the Republic of Indonesia Number 35 of 2014 Jo. Law of the Republic of Indonesia Number 17 of 2016 concerning the Stipulation of Perpu Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child protection by looking at the elements contained in the article is associated with the chronology of the defendant's case. Because the defendant committed the crime of molestation against children which was carried out by coercion and threatening the victim. The judge considered the article and sentenced the defendant therefore with a prison sentence of 5 (five) years and a fine of Rp. 1,000,000 (One Million Rupiah) with the provision that if the fine is not paid, it will be replaced with a prison sentence for 2 (two) months. From the decision given, the Panel of Judges has seen from the content of the sanction article 82 Paragraph (1) of the Child Protection Law and considered the defendant's behavior during the trial.

b. Suggestion

1. Criminal Liability for Perpetrators of Abuse of Minors Accompanied by Violence is given severe punishment so that it can have a deterrent effect on the perpetrators and there is no longer an opportunity for immoral crimes like this. The author suggests to law enforcement in reviewing a case that they are expected to be able to carefully consider juridical and non-juridical considerations.
2. The Judge should impose the maximum penalty on the Defendant who commits the crime of molesting a child with violence. Judges must really look at all aspects based on legal certainty, usefulness and legal justice, so that true justice can be achieved and can be felt by all parties. Considering the negative impact on the psychology of the child who is the victim.

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