
LEGAL PROTECTION OF CHILD VICTIMS OF PEDOPHILIA**(Case Study: 375/Pid.Sus/2021/PN Skt)**

Muhammad Dafa Pristian Naufal¹, Bambang Sukoco²¹ Muhammadiyah University of Surakarta (c100190106@student.ums.ac.id)² Muhammadiyah University of Surakarta (bs180@ums.ac.id)

ABSTRACT

The crime of pedophilia is a form of sexual deviation that uses minors as sexual objects. The formulation of the problem in this study, How is the Legal Protection of Child Victims of Pedophilia Criminal Acts according to Legislation?, How does Islamic Law view the crime of Pedophilia?, What are the judges' legal considerations as a form of Protection of Pedophilia? Child Victims of Pedophilia in case Number 375/Pid.Sus/2021/PN Skt. The research methods used in this research include juridical normative legal research methods. Data collection for this research includes library research and interviews. The results of data analysis are carried out in a qualitative descriptive manner and draw conclusions in an inductive manner. The results of this study will be decided in case verdict Number: 375/Pid.Sus/2021/PN Skt. The defendant in this case has violated Article 81 paragraph (2) in conjunction with Article 76 D of Law Number 17 of 2016 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. The role of the family, school, or community is needed by providing religious values for children and socialization about the impact of pedophilia. For law enforcement officials, in handling pedophilia cases, it must be resolved thoroughly and fairly, both fair to the perpetrators, and fair to the victims of pedophilia.

Keywords: pedophilia, legal protection, legal considerations

INTRODUCTION

Criminal act *pedophilia* is a form of sexual abuse in which minors are used as objects for sexual conduct. The victims of this criminal act of pedophilia are children, by means of sexual deviation, and the behavior of the perpetrators of pedophilia is more serious than just adultery. On the other hand, children must not be treated arbitrarily or inhumanely by anyone or any party. Children are considered vulnerable to acts of violence and abuse and must be cared for, cared for and educated as far as possible so that they can grow and develop in a healthy and normal manner. Of course, this should ensure that no generations are lost in the future. (lost generation) (Abu Huraerah, Violence Against Children: 2006).

Legal protection is protection of human rights that are violated by other people and this protection is provided to the community so that the community can enjoy all the rights granted by law or for other purposes. Legal protection is a variety of legal efforts that must be provided by law enforcement officials. A sense of security, both physically and mentally, from various disturbances or threats from various parties. According to Setiono, legal protection is an action or effort to protect society from the arbitrary actions of authorities that are contrary to the rule of law and to create order and tranquility so that humans can enjoy human dignity. (Setiono, Rule of Law: 2004).

According to Muchsin, legal protection is an activity to protect individuals by harmonizing the relationship between values or principles implicit in attitudes and behavior in creating order in social life with national and state capabilities. Efforts to protect children must start early so that they can participate optimally in the development of the country and its development. The duty of every family is to protect children from the threat of crime, and the state is obliged to protect children's fair rights according to the law. A nation in the development and management of its home must be able to form and foster a system of independence and personality.

It is not only positive law that regulates and prohibits criminal acts *pedophilia*, Islamic law also prohibits criminal acts of *pedophilia*. According to Islamic law, sanctions obtained by perpetrators of criminal acts can be in the form of *ta'zir*. Because, the criminal act of *pedophilia* is a matter where the act is an act that exceeds the act of adultery. *Ta'zir* sanctions are sanctions whose punishment cannot be lighter than *hudud* sanctions.

Because, the victim of a crime *pedophilia* these are children, by way of sexual deviance, and the behavior of these pedophiles is worse than just adultery. Such pedophilic acts can be linked to the *Liwath* sanctions controversy (homosexual acts). This is in accordance with the hadith narrated by Ibn Abbas *radhiyallahu'anhum*, *Rasulullah Shallallahu'alaihi Wa Sallam*.

Meaning: "anyone you meet has committed a crime from the people of the Prophet Lot, and killed the person who did it or was healed."

In recent times, *pedophilia* crimes have occurred again in Indonesia, and the number of *pedophilia* crime cases continues to increase every year. Meanwhile, the perpetrator of *pedophilia* is an educator, Islamic boarding school owner, there are also people who are unknown to the victim who abuse minors. According to the Ministry of Women's Empowerment and Child Protection, in 2021 there were 11,922 incidents of violence against children recorded in the online information system for the protection of women and children (symphony). (<https://nasional.kompas.com/read/2022/03/24/15034051/kementerian-pppa-11952-kas-kekerasan-terhadap-anak-terjadi-sepanjang-2021>).

The Minister of Women's Empowerment and Child Protection said in this data that the most common form of violence experienced by children was sexual violence with a total of 7,004 cases. (Seto Mulyadi, *The Fate of Children in Indonesia Today*, Kompas: 2011). The Indonesian Legal Foundation (YAPHI) Yekti Angudi *Piadeging Surakarta City* noted that the number of sexual harassment in *Surakarta City* increased by more than 20% during the *Covid-19* pandemic.

A comparison of data on sexual harassment cases in 2020 and 2021 shows that cases of the UPT Integrated Services for Women and Children (PTPAS) in *Surakarta City* continue to increase. PT Integrated Services for Women and Children (PTPAS) *Surakarta City* in 2020 recorded several cases of physical, psychological, sexual violence and neglect of sexual violence, sexual abuse, domestic violence (KDRT), theft, dating violence, and cases of bullying.

As a result, there were several cases recorded by PT Integrated Services for Women and Children, *Surakarta City* (PTPAS), including 6 cases of sexual violence, abuse involving 1 woman and 5 children (<https://mettanews.id/kas-pelecehan-sexual-dan-kekerasan-pada-perempuan-di-solo-meningkat-apa-sebabnya/>).

Like the case that occurred in *Surakarta City*, where a pedophile perpetrator was the owner of a restaurant in *Surakarta*, with the initials HDC (30), a resident of *Banyuanyar Laweyan Banjarsari Surakarta*. This is in accordance with the Decision of the *Surakarta City District Court* with Decision Number 375/Pid.Sus/2021/PN Skt.

In the case I studied, it was determined that the perpetrator of the crime was a pedophile. Hal was legally and conclusively convicted of the crime of "intentionally defrauding, perpetrating a series of lies, or enticing a child to have sex with him or another person" namely an 18-year-old girl. In this incident, the perpetrator was a male owner of a restaurant in *Surakarta* who had committed sexual relations between a husband and wife who were legally married.

With the actions carried out by the defendant, the defendant was caught in several layers of articles, namely: Article 81 paragraph (2) *juncto* Article 76D of Republic of Indonesia Law Number 17 of 2016 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Republic of Indonesia Law Number 23 of 2002 concerning Child Protection. Apart from that, the defendant was also caught in Article 89 paragraph (2) in conjunction with Article 76J paragraph (2) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, with a prison sentence of 5 (five) years minus during the period of arrest and detention

that the defendant has served with the order that the defendant remain in detention and a fine of Rp. 10,000,000.00 (ten million rupiah) water subsidy 3 (three) months in prison.

With the explanation of the problem based on the previous background description, the author has an interest in the study of LEGAL PROTECTION OF CHILD VICTIMS PEDOPHILIA (Case Study: 375/Pid.Sus/2021/PN Skt). The problem formulation is based on the previous background description, namely: (1) What is the legal protection for child victims of criminal acts of pedophilia according to statutory regulations? (2) How does Islamic law view the crime of pedophilia? (3) What are the judge's legal considerations as a form of protection for child victims of pedophilia in case number 375/Pid.Sus/2021/PN Skt. ?

RESEARCH METHODS

The author in conducting a research study used normative juridical research methods. Juridical normative research is used to obtain valid or accurate data. The function of the normative juridical research method is that the researcher wants to study and obtain accurate data related to the mechanism for establishing Law 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, and also Law Number 17 of 2016 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection (Peter Mahmud Marzuki, Op.Cit.).

Juridical normative legal research is often used to formulate what is written in the law (law in book), and the law is planned to be used in rules or norms so that humans can behave appropriately (Jhonny Ibrahim, 2003). Legal sources or data used by the author are primary legal sources in the form of statutory regulations, official monographs, court decisions and official state documents, secondary sources are legal books, legal journals with basic principles (Legal Principles), legal experts or doctrine, legal research findings, legal dictionaries, and legal encyclopedias. Interviews with legal experts to convey legal opinions on a case or legal phenomenon can be interpreted as secondary legal data, but their scientific competence must be seen and they are not involved in the case so that the opinion given is objective. The third source is a non-legal source consisting of non-legal textbooks related to research, such as political books, economic books, census data, company history records, word dictionaries, and general encyclopedias. Non-legal data is important because it supports the legal data analysis process.

RESULTS AND DISCUSSION

Pedophilia is a mental disorder in a person that involves sexual attraction to an object or sexual activity that is not common, and is carried out continuously. Meanwhile, for perpetrators of sexual crimes against children, it is an act of crime and a moral defect that must be handled seriously, and the act is not carried out continuously, but is only carried out once in a lifetime.

The crime of pedophilia is an inhumane crime, especially if the victim is a girl. Because, the people closest to the victim who were supposed to protect minors, actually became pedophiles by sexually assaulting children. In cases of pedophilia, the perpetrator cannot use the excuse of having his sentence abolished. Because, this pedophile perpetrator does not suffer from a mental disorder, but rather, he suffers from a sexual disorder.

This was proven during an investigation carried out by the Police with the help of a psychological specialist. *Pedophilia* cannot be used as a basis for forgiveness as regulated in Article 44 of the Criminal Code. Because pedophilia is a sexual disorder, not a mental disability.

1. Regulation of criminal acts of pedophilia according to criminal law.

a. Criminal Code

- (1) Article 287 paragraph (1) "(1) Any person who has sexual intercourse with a woman outside of marriage, even though he knows or should reasonably suspect that she is not yet fifteen years old, or if it is not generally clear, that it is not yet the time for her to be married, is threatened with imprisonment for a maximum nine years."
- (2) Article 289 "Any person who, by force or threat of violence, forces someone to commit or allows an obscene act to be committed, is threatened for committing an act that attacks the honor of morality, with a maximum imprisonment of nine years."
- (3) Article 290 "Perished by a maximum imprisonment of seven years:
 1. Whoever commits an obscene act with a person, even though he knows that the person is unconscious or incapacitated;
 2. Whoever commits an obscene act with a person even though he knows or should reasonably suspect that in general he is not yet fifteen years old or, if the age is not clear, the person concerned is not yet ready to get married;
 3. Any person who persuades a person whom he knows or should reasonably suspect is not yet fifteen years of age or, if the age in question is not clear, is not yet ripe for marriage, to commit or allow obscene acts to be committed, or to have sexual intercourse outside of marriage with another person.
- (4) Article 292 "An adult who commits an obscene act with someone of the same sex, whom he knows or should reasonably suspect is not an adult, is threatened with imprisonment for a maximum of five years."
- (5) Article 415 "Submitted to a maximum imprisonment of nine years, every person who;
 1. Committing obscene acts with someone who is known to be unconscious or incapacitated; or
 2. Committing obscene acts with someone known or suspected to be a child.
- (6) Article 293 paragraph (1) "(1) Whoever, by giving or promising money or goods, misuses the carrier arising from a relationship of circumstances, or by deliberate misdirection moves a minor and of good behavior to commit or allow obscene acts to be committed with him, even though regarding his immaturity, whether this is known or should reasonably be suspected, is punishable by a maximum imprisonment of five years."

b. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection

- I. Article 82 paragraph (1) in conjunction with Article 76E, which reads: "Any person who violates the provisions as intended 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)".
- II. Article 59 paragraphs (1) and (2), which reads:
 - (1) The Government, Regional Government and other State Institutions are obliged and responsible to provide special protection to children.
 - (2) Special Protection for Children as intended in paragraph (1) is given to:
 - 1) Child in emergency situation.
 - 2) Children who violate the law.
 - 3) Children from minority and isolated groups.
 - 4) Children who are economically and/or sexually exploited.
 - 5) Children who are victims of abuse of narcotics, alcohol, psychotropic substances and other addictive substances.
 - 6) Children who are victims of pornography.

- 7) Children with HIV/AIDS.
 - 8) Children who are victims of physical and/or psychological violence.
 - 9) Children who are victims of kidnapping, sales and/or human trafficking.
 - 10) Victims of child abuse.
 - 11) Child victim of terror network.
- III. Article 59 paragraph (1) is carried out through several efforts contained in Article 59A, which reads:
- a) Rapid treatment, including physical, psychological and social treatment and/or rehabilitation, as well as prevention of disease and other health disorders.
 - b) Psychosocial support during treatment until recovery.
 - c) Providing social assistance for underprivileged children.
 - d) Providing protection and assistance in all judicial processes.

c. Law Number 31 of 2014 concerning Protection of Witnesses and Victims

Article 1 number 8: "All efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and/or victims must be carried out by LPSK in accordance with the provisions of this Law."

Article 39: "Any person who causes a witness and/or victim or their family to lose their job because the witness or victim gave true testimony in a judicial process, shall be sentenced to imprisonment for a minimum of 2 (two) years and a maximum of 7 (seven) years as well as a fine maximum Rp. 5000,000,000.00 (five hundred million rupiah)."

Article 5 paragraph (1):

(1) Witnesses and Victims have the right:

- a. obtain protection for the security of his person, family and property, and be free from threats relating to the testimony he will, is giving or has given;
- b. participate in the process of selecting and determining forms of security protection and support;
- c. provide information without pressure;
- d. get a translator;
- e. free from ensnaring questions;
- f. receive information regarding case developments;
- g. obtain information regarding court decisions;
- h. receive information in the event that the convict is released;
- i. identity kept secret;
- j. get a new identity;
- k. obtain temporary residence;
- l. get a new residence;
- m. obtain reimbursement for transportation costs according to needs;
- n. obtain legal advice;
- o. obtain temporary living expenses assistance until the protection period expires; and/or
- p. receive assistance

Article 5 paragraph (2):

- (2) The rights as intended in paragraph (1) are given to Witnesses and/or Victims of criminal acts in certain cases in accordance with the LPSK Decision.

Article 5 paragraph (3):

- (3) Apart from witnesses and/or victims, the rights given in certain cases as intended in paragraph (2), can be given to witnesses, perpetrators, reporters and experts, including people who can provide information related to a criminal case even though they have not heard it. himself, he did not see it himself, and did not experience it himself, as long as the person's statement is related to a criminal act."

e. Convention on the Rights of the Child 20 November 1989

Article 34: "The state has an obligation to protect children from all forms of sexual exploitation and sexual abuse. To this end, States Parties in particular shall take all appropriate national, bilateral and multilateral measures to prevent:

- a. Enticing or forcing a child to engage in unlawful sexual activity.
- b. Exploitative use of children for prostitution or other illegal sexual activities.
- c. Exploitation of children in pornographic performances and materials."

f. Author's Analysis

In the author's opinion regarding the analysis of criminal cases of pedophilia,

The judge's decision felt very light compared to the prosecutor's demands, namely:

- (a) Single charge with threat of punishment imprisonment for 5 (five) years reduced by the period of arrest and detention that the defendant has served with the order that the defendant remain in detention and a fine of Rp. 10,000,000.00 (ten million rupiah) air subsidies for 3 (three) months in prison, which is regulated in Article 81 paragraph (2) in conjunction with Article 76 D UURI Number 17 of 2016 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Republic of Indonesia Law Number 23 of 2002 concerning Child Protection.

In the author's opinion, the sentence handed down by the judge to the defendant was very light compared to the sentence stipulated in Article 81 paragraph (2) Jo Article 76 D UURI Number 17 of 2016 concerning Child Protection. It has been explained that the punishment received by the perpetrator of the crime of pedophilia is only punishable by imprisonment for 2 (two) years and a fine of IDR 10,000,000.00 (ten million rupiah) with the provision that if the fine is not paid, it will be replaced by imprisonment for 1 (one month).

The sanctions received by the defendant from the judge's verdict are very clear. These sanctions are considered very light when compared to the demands of the public prosecutor. This can be seen from several mitigating factors on the part of the perpetrator himself, such as:

- The defendant frankly admitted his actions;
- The defendant regretted his actions;
- The defendant has never been convicted;
- That there is peace between the Defendant's family and the victim's child's family;
- That the Defendant's family has provided compensation/compensation to the family of the victim's child;
- That the Defendant as head of the family has dependent children and wife who must be provided for by the Defendant;

While we cannot eliminate things that can harm the perpetrator, they can cause unrest in society because they have an impact on destroying the future of the victim's children.

2. Islamic Legal Views Regarding the Crime of Pedophilia

Jarimah is the name for criminal law in Islam. Jarimah is categorized into several types and categories according to prominent aspects. In general, scholars categorize the jarimah according to the severity and lightness of the punishment and the strictness of the punishment stated in the Al-Qur'an or Hadith.

Pedophilia is an act prohibited by religion, which can be understood as an act to satisfy an adult's sexual desire for a minor. Pedophilia is usually carried out by people aged 40 years. Pedophiles are defined as people who have experienced sexual abuse or people with mental disorders such as heterosexuals who are more exotic in children (Jalaludin, 2004).

Fornication can be categorized into two types, *yesnowadulterer muhshan* (already married) and *ghairu muhshan* (still a virgin). These 2 types of adultery have their own punishments for the perpetrators.

a. The definition of muhshan is someone who has been married and has fulfilled the following requirements:

- (a) Mukallaf, mature and sensible
- (b) Independently, if a male slave or female slave commits adultery, then these two slaves are not considered muhshan. This is based on the words of Allah Subhanahu wa Ta'ala regarding female slaves in Surah An-Nisa 25:

Surat An-Nisa Ayat 25

وَمَنْ لَّمْ يَسْتِطِعْ مِنْكُمْ طَوْلًا أَنْ يَنْكِحَ الْمُحْصَنَاتِ الْمُؤْمِنَاتِ فَمَنْ مَّا مَلَكَتْ أَيْمَانُكُمْ مِّنْ فَتَيَاتِكُمُ الْمُؤْمِنَاتِ ۚ وَاللَّهُ
أَعْلَمُ بِإِيمَانِكُمْ ۚ بَعْضُكُم مِّنْ بَعْضٍ ۚ فَاَنْكِحُوهُنَّ بِإِذْنِ أَهْلِهِنَّ وَأَثْوَهُنَّ أَجُورَهُنَّ بِالْمَعْرُوفِ مُحْصَنَاتٍ غَيْرِ
مُسْفُحَاتٍ وَلَا مُتَّخِذَاتِ أَخْدَانٍ ۚ فَإِذَا أُحْصِنَ فَإِنَّهُنَّ بِفَحْشَاةٍ فَعَلِيَّهِنَّ نِصْفُ مَا عَلَى الْمُحْصَنَاتِ مِنَ الْعَذَابِ ۚ
ذَلِكَ لِمَنْ خَشِيَ الْعَنَتَ مِنْكُمْ ۚ وَأَنْ تَصْبِرُوا خَيْرٌ لَّكُمْ ۗ وَاللَّهُ غَفُورٌ رَّحِيمٌ

Arab-Latin: Wa mal lam yastati' mingkum taulan ay yangkihal-muhsanatil-mu`minati fa mimmā malakat aimānukum min fatayātikumul-mu`mināt, wallāhu a'lamu bi`imānikum, ba'dukum mim ba'd, fangkiyuhunna bi`izni ahlihinna wa athwuhunna ujurahunna bil-ma'rufi muhsanatin gaira musafihatiw wa la muttakhizati akhdān, fa izā uḥsinna fa in ataina bifāḥisyatin fa 'alahinna nisfu mā 'alal-muhsanati minal-'azāb, žālika liman khasiyal-'anata mingkum, wa an taṣbiru khairul lakum, wallāhu gafurur raḥim

Artinya: Dan barangsiapa diantara kamu (orang merdeka) yang tidak cukup perbelanjaannya untuk mengawini wanita merdeka lagi beriman, ia boleh mengawini wanita yang beriman, dari budak-budak yang kamu miliki. Allah mengetahui keimananmu; sebahagian kamu adalah dari sebahagian yang lain, karena itu kawinilah mereka dengan seizin tuan mereka, dan berilah maskawin mereka menurut yang patut, sedang merekapun wanita-wanita yang memelihara diri, bukan pezina dan bukan (pula) wanita yang mengambil laki-laki lain sebagai piaraannya, dan apabila mereka telah menjaga diri dengan kawin, kemudian mereka melakukan perbuatan yang keji (zina), maka atas mereka separo hukuman dari hukuman wanita-wanita merdeka yang bersuami. (Kebolehan mengawini budak) itu, adalah bagi orang-orang yang takut kepada kemasyakatan menjaga diri (dari perbuatan zina) di antara kamu, dan kesabaran itu lebih baik bagimu. Dan Allah Maha Pengampun lagi Maha Penyayang.

b. Sanctions for Adulterers Ghairu Muhshan (Virgin or Virgin)

Several Ulama agree on the punishment given to the perpetrator of adultery, Ghairul Muhshan. The punishment received by the perpetrators of Ghairul Muhshan's adultery was one hundred (100) lashes. This punishment is in accordance with the words of Allah Subhanahu wa ta'ala Surah An-Nur verse 2

Surat An-Nur Ayat 2

الزَّانِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ
وَالْيَوْمِ الْآخِرِ ۗ وَلْيَشْهَدْ عَذَابَهُمَا طَائِفَةٌ مِّنَ الْمُؤْمِنِينَ

Arab-Latin: Az-zāniyatu waz-zānī fajlidu kulla wāḥidim min-humā mi`ata jaldatiw wa lā ta`khuḏkum bihimā ra`fatun fi dīnillāhi ing kuntum tu`minūna billāhi wal-yaumul-ākhir, walyasy-had`azābahumā tā`ifatun minal-mu`minin

Artinya: Perempuan yang berzina dan laki-laki yang berzina, maka deralah tiap-tiap seorang dari keduanya seratus dali dera, dan janganlah belas kasihan kepada keduanya mencegah kamu untuk (menjalankan) agama Allah, jika kamu beriman kepada Allah, dan hari akhirat, dan hendaklah (pelaksanaan) hukuman mereka disaksikan oleh sekumpulan orang-orang yang beriman.

c. Sanctions for Muhshan Adulterers (Already Married)

Some of the opinions of scholars from the generation of friends that there are Salaf and Imams who are famous except for some Khawarij and Mu'tazilah circles is that there is no difference of opinion regarding the punishment for perpetrators of Muhshan adultery. The punishment received by the perpetrator of Muhshan adultery is stoning with stones until he dies.

Change bin ash-Shamit Radhiyallahu anhu narrated the words of the Messenger of Allah regarding the punishment of adultery perpetrators Muhshan, saying:

Meaning: "Take it from me, take it from me! Allah has made for them a way out. (If he commits adultery) a boy and a girl (then the hadd) are whipped a hundred times and exiled for a year. (If they

commit adultery) two married people (then the hadd) are flogged a hundred times and stoned.”

d. Sanctions for committing adultery with the mahram

Muslims have an agreement that if someone commits adultery with their mahram, they will receive a flogging. There are differences of opinion regarding the nature of punishment, which consists of two, namely:

The first opinion is that the punishment for committing adultery with a mahram is the same as the punishment for committing adultery with someone who is not a mahram, and there is no difference in the application of the sanctions. This is in accordance with the opinion of the Abu Hanifah, Malik, ash-Shafi'i and Ahmad schools, which is one of the two narrations.

The second opinion is that the punishment for committing adultery with the mahram is to be killed. This opinion comes from *madhhab* Ahmad, Ishaq and groups of hadith experts. They have an argument with the hadith of Ibn Abbas Radhiyallahu anhu, Rasulullah said:

Meaning: "Whoever has sex with a woman who is his mahrom, then kill her." (Narrated by Ibnu Majah, no. 2564 in the book Hudud).

3. Judge's Legal Considerations in Making Decisions in Case Number: 375/Pid.Sus/2021/PN Skt.

The judge's decision is final in terms of investigation and trial. These judges make a decision based on:

1. Determine what happened and whether or not the accuser actually committed the act of which he is accused.
2. A decision about whether a crime is criminal, innocent or punishable.
3. A guilty verdict can result in actual punishment for the crime.

It has also been stated in Article 8 paragraph (1) of Legislation Number 48 of 2009 concerning Judicial Power, namely:

"Every person who is suspected of being arrested, detained, charged, or brought to court must be deemed innocent before a court decision can prove his guilt and have permanent legal force."

Judicial power is also regulated in Article 195 of the Criminal Code, namely: "A court decision is only valid and has legal force if it is pronounced before a court session which is open to the public."

The basic theory that judges consider in making decisions is that the judge's decision is good and correct so that the decision can be tested with four basic criteria questions in the form of:

1. Is my decision correct?
2. Are you honest in your decisions?
3. Is it fair to the parties?
4. Was my decision worthwhile?

According to Moeljatno, the stages of a judge's decision making in a criminal case are carried out through several stages:

1. Stages of analyzing criminal acts

When the judge examines whether the defendant is proven to have committed a criminal act or not, the priority being the social aspect, regarding whether or not the criminal act is included in the formulation of criminal law.

2. Stages of analyzing criminal liability.

If the defendant is proven guilty of committing a crime and there is evidence of a violation of certain articles, the judge will consider whether or not the defendant can be held responsible for his actions.

3. Stages of criminal determination

The judge will sentence everyone provision the specified article or law is fulfilled. With this sentence, it was clear to him that the perpetrator was called the defendant.

CONCLUSION

The legal protection policy provided to girls as victims of pedophilia has been well formulated and provides guidance to legislators, application policies and implementation of criminal law. Meanwhile, legal protection can be received by victims of criminal acts of pedophilia, among others; legal assistance, guidance and rehabilitation with the aim of restoring the victim's psychology, protecting the rights of the victim, as well as compensating the victim for losses.

The legal basis for the judge's considerations in handing down decisions in cases of criminal acts of pedophilia against girls, among others; Legislation Number 48 of 2009 concerning Judicial Power, Article 222 of the Criminal Procedure Code, Article 289 of the Criminal Code, Article 290 paragraph (2) of the Criminal Code, Article 290 paragraph (3) of the Criminal Code, Article 292 of the Criminal Code, Article 293 paragraph (1) of the Criminal Code, Article 294 paragraph (1) of the Criminal Code, Article 81 paragraph (2) in conjunction with Article 76 D of Law Number 17 of 2016 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, Article 82 paragraph (1) in conjunction with Article 76 E of the Law Number 17 of 2016 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, Article 89 paragraph (2) in conjunction with Article 76 J paragraph (2) Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, Things that can aggravate or mitigate the crime of pedophilia.

In Islam, women are treated special, and have a position that is misleading and not humiliating. In Islam, women receive full maintenance of their rights and protect them from harassment and loss of honor. So, Islam really glorifies women, because the Islamic religion knows that women are the basis of a good society

The Jinayah punishment that the perpetrator deserves *pedophilia* with female victims, this was done by stoning, whipping, and exile from the place where the perpetrator was born.

REFERENCES

1. Supardi Sawatri S. (2005). Anthology of Psychosexual Disorder Cases. Bandung: PT. Refika Aditama.
2. Mohamad, A. (2005). The twists and turns of deviant sex. What's the solution? Yogyakarta: Darussalam Offset.
3. Yuwono, ID (2015). Application of the Law in Cases of Sexual Violence Against Children. Yogyakarta: Pustaka Yustisia.
4. Soekanto, S. (1983). Law enforcement. Bandung: Bina Cipta.
5. Peter, M. (2005). Legal Research. Jakarta: Kencana
6. ____, 2015, Second Book, Application of Legal Theory in Thesis and Dissertation Research, PT. RajaGrafindo Persada, Jakarta.
7. Soekanto, Soerjono, 1986, Introduction to Legal Research, UI Press, Jakarta.
8. ____, 1986, Sociology, An Introduction, Rajawali Press, Jakarta.
9. ____, and Sri Mamudji, 1995, Normative Legal Research A Brief Overview, Raja Grafindo, Jakarta.