

## Basic Analysis of Judges' Considerations in Deciding on Criminal Cases Against Children as Perpetrators of Indecent Acts (Study of Decision Number 1/Pid.Sus-Anak/2019/PN.Tbn)

Nailul Asyfiya' Munifatil Hidayah<sup>1)</sup> & Siti Ummu Adillah<sup>2)</sup>

<sup>1)</sup> Master of Notary, Faculty of Law, Universitas Islam Sultan Agung, Semarang, Indonesia, E-mail: [nailulasyfiya@gmail.com](mailto:nailulasyfiya@gmail.com)

<sup>2)</sup> Master of Notary, Faculty of Law, Universitas Islam Sultan Agung, Semarang, Indonesia, E-mail: [Sitiummuadillah@unissula.ac.id](mailto:Sitiummuadillah@unissula.ac.id)

**Abstract.** *Children are a gift from God that must be appreciated. In Islam, children are distinguished between those who have not reached puberty and those who have reached puberty. Globalization and technological advances bring positive and negative impacts. The negative impact that can occur, especially on children, is that children can easily access content containing pornography. This can make children curious and potentially become perpetrators of sexual abuse, as happened at the Tuban District Court. The purpose of this research is to find out and analyze the judge's considerations in deciding criminal cases against children as perpetrators of indecent acts in decision Number 1/Pid.Sus-Anak/2019/PN.Tbn and to know and analyze the application of criminal sanctions against children as perpetrators of indecent acts in decision Number 1/Pid.Sus-Anak/2019/PN.Tbn. The approach method uses normative juridical. The research specification used is descriptive analysis. Primary data collection method with observation and interviews. While secondary data with literature study and document study. The analysis method uses qualitative analysis method. The results of the research and discussion, namely the judge's considerations in deciding the crime of child molestation in decision number 1/Pid.Sus-Anak/2019/PN.Tbn look at the public prosecutor's indictment, the public prosecutor's demands, witness statements, expert statements, the defendant's statements and based on evidence. The judge's considerations related to the main sentence are again seen as a fair sentence for the child. One of the things that reduces the sentence in the judge's decision is the aggravating circumstances and mitigating circumstances and the application of criminal sanctions against children as perpetrators of indecent assault in decision number 1/Pid.Sus-Anak/2019/PN.Tbn according to positive law, the imposition of a sentence of 6 months in prison does not appear to be in accordance with Article 285*

*of the Criminal Code and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.*

**Keywords:** Children; Consideratio; Judge.

## 1. Introduction

Children are a priceless gift from God Almighty and their existence must be appreciated. In the context of Indonesia, children are the successors of the ideals of a nation's struggle.<sup>1</sup>Every child born has its own characteristics and specialties. In society, children are considered as the bearers of happiness and warmth in the family.<sup>2</sup>Children in Islam are distinguished between children who are not yet puberty (still young) and children who have reached puberty. However, in substance, Islam emphasizes that children are offspring obtained as a result of marriage between a husband and wife. This is important to note because children from couples who are not bound by marriage will have different consequences in the process of education, treatment, law, and so on.<sup>3</sup>

The current era of globalization that is increasingly advanced is changing the face of the world, especially advances in technology that not only bring positive impacts but also negative impacts. Positive impacts will always provide convenience for someone to access anything on the internet and in an instant also get the latest information from all over the world.<sup>4</sup>Meanwhile, the negative impacts that can occur especially on children are that children can easily access and view content or information containing pornography or pornoaction, either intentionally or unintentionally, which should not be suitable for children to watch because there are no restrictions or filters from the government. The consequences of these negative impacts can disrupt the child's condition and result in the child's high curiosity so that they want to try and in the end the child becomes the perpetrator of a criminal act of indecency.<sup>5</sup>

---

<sup>1</sup>Fiska Ananda, 'Implementation of Diversion as an Effort to Protect Children Who Commit Crimes', *Jurnal Daulat Hukum*, Vol. 1. No. 1 (2018), p. 77, url:<https://jurnal.unissula.ac.id/index.php/RH/article/view/2566/1923>, accessed on December 07, 2024.

<sup>2</sup>Herman Leonard Gulo, 'Judge's Considerations in Sentencing Children as Perpetrators of Indecent Acts (Study of Decision Number 3/Pid.Sus-Anak/2022/Pn.Gst).', *Jurnal Panah Keadilan*, Vol. 3. No. 1 (2024), p. 60, url:<https://jurnal.uniraya.ac.id/index.php/PanahKeadilan/article/view/1585/1112>, accessed on September 09, 2024.

<sup>3</sup>As'aril Muhajir, *Educational Science: Contextual Perspective* (Yogyakarta: Ar-Ruzz Media, 2017), p. 113.

<sup>4</sup>Renna Prisdawati, 'Implementation of Criminal Sanctions Against Child Perpetrators of Indecent Acts', *Indonesian Journal of Criminal Law and Criminology (IJCLC)*, Vol. 1. No. 2 (2020), p. 170, url:<https://journal.umy.ac.id/index.php/ijclc/article/view/9609>, accessed on September 09, 2024.

<sup>5</sup>Ibid.

Molestation is a behavior that is very contrary to moral values, decency and is very reprehensible. Molestation can affect anyone, whether the perpetrator is an adult and the victim is a child, or the perpetrator is a child and the victim is a child.<sup>6</sup>This is certainly very concerning, because the impact of the actions carried out by the child can affect the child's future, especially the victim's future. Children's behavior related to molestation is not enough to be seen as ordinary naughtiness.<sup>7</sup>Children who commit indecent acts can be caused by several factors, including a great sense of curiosity, technological developments that spread unlimited information such as access to pornography and pornoaction on social media, free association, lack of attention and guidance from parents, family and the environment. Factors that cause juvenile delinquency so that children are trapped in criminal cases and eventually have to face the law are also caused by a lack of parental attention, circumstances that require children to meet their living needs, or even a search for identity.<sup>8</sup>

Children who are in conflict with the law, in other words, children who are in conflict with the law need legal protection.<sup>9</sup>Legal protection is by providing a guarantee of safety, security from the form of personal danger of the protected person, namely the child as a suspect or victim of a crime. One proof that the state guarantees legal protection for children as perpetrators is contained in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System within the scope of its justice. While the proof that the state guarantees legal protection for children as victims is the existence of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.<sup>10</sup>So, every child in their growth and development period has the right to obtain fulfillment of their inherent rights and receive legal protection. The parties who must provide protection and guidance to children are parents, family, society, and government.

---

<sup>6</sup> Dirwansyah et al., 'Criminal Accountability in Criminal Acts of Indecent Acts Committed by Children (Analysis of Court Decision Number 6/Pid.Sus.Anak/2018/PT.Mdn)', *Jurnal Warta Dharmawangsa*, Vol. 15. No. 2 (2021), p. 185, url: <https://journal.dharmawangsa.ac.id/index.php/juwarta/article/view/1210/1022>, accessed on 09 September 2024.

<sup>7</sup> Gisella Cindy Syafitri et al., 'Legal Review of Judges' Considerations in Criminal Acts of Child Molestation', *Sumbang 12 Journal*, Vol. 1. No. 2 (2023), p. 59, url: <https://jurnal.umsb.ac.id/index.php/smb12lj/article/view/4074>, accessed September 10, 2024.

<sup>8</sup> Dony Pribadi, 'Protection of Children in Conflict with the Law', *Jurnal Hukum Volkgeist*, Vol. 3. No. 1 (2018), p. 14, url: <https://www.jurnal-umbuton.ac.id/index.php/Volkgeist/article/view/110>, accessed September 15, 2024.

<sup>9</sup> Ariyunus Zai, 'Legal Protection for Children in Conflict with the Law in the Juvenile Justice System', *Mercatoria Journal*, Vol. 4. No. 2 (2011), p. 90, url: <https://ojs.uma.ac.id/index.php/mercatoria/article/view/610>, accessed September 15, 2024.

<sup>10</sup> Anna Priscilla Meilita, 'Basic Considerations of Judges in Deciding on Cases of Indecent Acts Committed by Children (Study at Kepanjen District Court)' (University of Brawijaya Malang, 2013), p. 3, url: <https://hukum.studentjournal.ub.ac.id/index.php/hukum/article/view/158/151>, accessed September 17, 2024.

Children must receive protection so that they do not experience losses, whether mental, physical or social.<sup>11</sup>

Several facts on the ground can be evidence that the number of criminal acts of indecency committed by children is quite high, one of which is in the Tuban District Court. In the Directory of Decisions of the Supreme Court of the Republic of Indonesia, there are 46 cases of juvenile justice in conflict with the law (ABH) from 2015-2023.<sup>12</sup>In response to the increasing cases of child molestation, it is important to continue to evaluate and improve the existing legal system and policies. The safety and welfare of children must be a top priority for society and the government. With joint efforts from various parties, including law, education, and the general public, it is hoped that this can reduce and prevent criminal acts of child molestation that are detrimental to children in the future.<sup>13</sup>

A total of 46 cases of Juvenile Justice above, the researcher will examine one case that caught the researcher's attention, namely decision Number 1/Pid.Sus-Anak/2019/PN.Tbn in 2019 concerning the crime of indecent assault committed by a child. Where the sentencing in the case according to the researcher was too light, the judge should have been wiser in deciding the case and in accordance with the applicable principles, because as a law enforcer, the judge has the main task in the judicial field, namely receiving, examining, deciding, and resolving every case submitted to him.

## **2. Research Methods**

The approach method uses normative juridical. The research specification used is descriptive analysis. The primary data collection method is by direct observation at the Tuban District Court and interviews with judges or clerks of the Tuban District Court to obtain information about various matters related to criminal acts of indecent acts committed by children. While the secondary data collection method is by literature study and document study, the data obtained from the Tuban District Court is the report of the verdict on the ABH (Children in Conflict with the Law) juvenile court case. The analysis method uses a qualitative analysis method.

---

<sup>11</sup> Maidin Gultom, *Legal Protection for Children and Women* (Bandung: Refika Aditama, 2012), p. 69.

<sup>12</sup><https://bangunan3.mahkamahagung.go.id/direktori/index/pengadilan/pn-tuban/detik/peradilan-anak-abh-1.html>, accessed September 17, 2024.

<sup>13</sup> Immaculata Anindya Karisa, 'Analysis of Judge's Considerations in Sentencing Criminal Acts of Child Molestation (Case Study of Klaten District Court Decision Number: 35/Pid.Sus.Anak/2014.PN.KIn)', *Verstek Journal: Procedural Law Section*, Sebelas Maret University, Vol. 8. No. 1 (2020), p. 158, url: <https://jurnal.uns.ac.id/verstek/article/view/39623>, accessed September 20, 2024.

### **3. Results and Discussion**

#### **3.1. Judge's Consideration in Deciding Criminal Cases Against Children as Perpetrators of Indecent Acts in Decision Number 1/Pid.Sus-Anak/2019/PN.Tbn**

The case studied by the researcher at the Tuban District Court was registered with the number 1/Pid.Sus-Anak/2019/PN.Tbn which was decided on Monday, January 28, 2019, by Perela De Esperanza, SH. as a Judge at the Tuban District Court, and pronounced in an open trial for the public on the same day and date, assisted by Sugeng Agung Siswoyo, SH., MH. Substitute Clerk at the Tuban District Court, and attended by Ninik Indah W., SH. Public Prosecutor and the Child accompanied by his Legal Counsel, and Parents, and attended by the Community Guidance.

This crime occurred on Thursday, August 31, 2018, at around 22.00 WIB. Located in Dusun Jarum RT. 02 RW. 18, Prunggahan Kulon Village, Semanding District, Tuban Regency, which is still included in the jurisdiction of the Tuban District Court, with violence or threats of violence forced a woman to have sex with a man outside of marriage. Initially, the defendant (D) aged 13 years watched a 5-minute pornographic video at the perpetrator's house, after which the perpetrator intended to go to the house of the witness and victim (W) who was still the defendant's (D) cousin. Upon arriving at the victim's (W) house, the defendant (D) went straight to the witness/victim's (W) room and saw the witness/victim (W) sleeping, then the defendant (D) woke the witness/victim (W) by calling "mbak mbak mbak" while holding the soles of the witness/victim's (W) feet. then the witness/victim (W) woke up and was shocked, then the defendant (D) threatened the witness/victim (W) with the words "Miss, you're not a jerk, you're not a jerk", then the witness/victim (W) felt scared and immediately took off her clothes.

Next, the defendant (D) had sexual intercourse with the witness/victim (W) twice, after which the defendant (D) tidied up his pants and said goodbye to the witness/victim (W) while threatening "don't be rude to me", after which the defendant (D) went home. As a result of the defendant's (D) actions, the witness/victim (W) suffered a wound to her hymen.

According to Article 14 paragraph 2 of the Judicial Power Regulations, every judge is required to provide consideration or a calm feeling towards the case being examined in deliberation, and such consideration or feeling becomes an important part in decision making. There are two types of judge's considerations in decision Number 1/Pid.Sus-Anak/2019/PN.Tbn, namely legal considerations and non-legal considerations.

- a. Legal Considerations
  - 1) Public Prosecutor's Indictment

In case Number 1/Pid.Sus-Anak/2019/PN.Tbn regarding this indecent assault, the defendant was charged with a single charge. As regulated in Article 285 of the Criminal Code.

## 2) Public Prosecutor's Demands

The indictment in case Number 1/Pid.Sus-Anak/2019/PN.Tbn containing the criminal charges was read out after the evidentiary process in the criminal trial had been completed. The criminal charges filed by the Public Prosecutor are in essence as follows:

- a. Declaring the defendant as a child (D) guilty of committing the crime of "Rape" as regulated in Article 285 of the Criminal Code;
- b. Sentencing the child defendant (D) to 9 (nine) months imprisonment minus the time the defendant has been in detention with the order that the defendant remain in detention;
- c. Stating that the evidence in the form of one pair of white women's underwear, one pair of purple shorts, one brown robe with a striped pattern, one pair of brown women's underwear, one pair of blue shorts be returned to the witness/victim (W);
- d. Determine that the child defendant, if found guilty and sentenced to a criminal penalty, must pay court costs of Rp. 5,000 (five thousand rupiah).

## 3) Witness Statement

In case Number 1/Pid.Sus-Anak/2019/PN.Tbn the Public Prosecutor presented witnesses to prove his charges, including:

- a) Witness and victim (W)
- b) M1 bin S1
- c) SK binti K
- d) M2 bin S2

The four witnesses under oath basically stated that the defendant (D) raped or had sexual intercourse with (W) which occurred on Thursday, August 31, 2018 at around 22.00 WIB in the bedroom of the witness/victim (W)'s house. The witness/victim (W) had been threatened by the defendant (D) by being killed if she did not comply with the defendant's (D) wishes. Regarding the statements of the witnesses, the defendant (D) gave an opinion that he did not object and confirmed it. The defendant (D) also did not present mitigating witnesses (a de charge).

## 4) Expert Witness Statement

In case Number 1/Pid.Sus-Anak/2019/PN.Tbn as stated in the Visum et Repertum letter Number: 357/2232/414.103.001/2018, dated September 3, 2018, made and signed by Dr. Slamet Soeprijadi, Sp.Og, a doctor on duty at the dr. Koesma Tuban Regional Hospital, that the witness/victim (W) suffered a wound to the hymen caused by friction with a blunt object.

#### 5) Defendant's Statement

The defendant (D) in court has given a statement which in essence is, on Thursday, August 31, 2018 at around 22.00 WIB at the house of the witness/victim (W) there was a rape committed by the defendant (D) against the witness/victim (W). The defendant (D) has known the witness/victim (W) for a long time because he is his own cousin who is still related. The defendant (D) has raped or had sexual intercourse with the witness/victim (W) once at the house of the witness/victim (W). Before committing the rape against the witness/victim (W), the defendant (D) made a threat by saying "mbak sampean meneng ae tak bojoni, nek gak gelem tak pateni" (Miss, just keep quiet and don't invite me to have sexual intercourse, if you don't want to I'll kill you).

The intent and purpose of (D) in committing rape with (W) was to follow (D)'s own desires after seeing a pornographic video that (D) watched on (D's) cellphone. When committing rape against (W), (W) did not put up any resistance and did not rebel because (D) had threatened to kill him. (D) regretted his actions.

#### 6) Evidence Tools

The evidence in this child molestation case includes sworn witness statements that were revealed in court. The public prosecutor presented four witnesses, namely the victim as witness/victim (W), M1 bin S1, SK binti K, and M2 bin S2, and from the four witnesses, there was a correspondence between the statements given. The correspondence between the statements of the witnesses is important to make it easier for the judge to assess the truth of the testimony in his considerations. The assessment of the truth of the statements of the witnesses is not only seen in the correspondence between the statements of one witness and another, but also seen in the correspondence between the statements of the witnesses and other evidence. This can lead us to the second piece of evidence revealed in court, namely the evidence of the Visum Et Repertum letter.

The next piece of evidence revealed at the trial in this case was the defendant's statement. The defendant in his statement confirmed the statements of all witnesses present at the trial. The defendant, however, felt guilty and regretted his actions. The defendant's statement showed that he had admitted to the indecent acts committed by the defendant against the victim, which was then referred to as an admission of the crime charged against him. The defendant through his legal counsel during the examination at the trial did not present any witnesses, letters, or evidence that could mitigate the charges against him.

The correspondences obtained from the evidence can be used by the judge in forming indicative evidence, because the indication is basically the result of the judge's own thinking based on the evidence. The judge forms the indication based on the correspondences of the facts that have been revealed in court, sorting and assessing which facts are correct and can strengthen the judge's belief in making considerations.

b. Non-Legal Considerations

1) As a result of the defendant's actions

The defendant's actions in decision number 1/Pid.Sus-Anak/2019/PN.Tbn certainly have consequences for themselves or others. In addition to having a bad impact on the defendant's family and the victim, it also has an adverse effect on the wider community. The resulting consequences are the judge's consideration in making a decision.

2) Aggravating and mitigating factors

When deciding how to proceed in a case involving indecent assault, Tuban District Court judges consider both aggravating and mitigating circumstances.

a) Factors that aggravate the punishment

b) ReasonThe aggravating factor in decision number 1/Pid.Sus-Anak/2019/PN.Tbn is that the defendant's (D) actions caused trauma to the witness/victim (W) and these actions harmed the witness/victim (W).

c) Factors that mitigate punishment

The following are mitigating factors in decision number 1/Pid.Sus-Anak/2019/PN.Tbn:

1. The child/defendant (D) was polite in court, honest and regretted his actions.
2. The child/defendant (D) has never been convicted.
3. According to the research results from the Class II Bojonegoro Correctional Center, the child/defendant (D) committed the act due to a lack of parental supervision.
4. The child/defendant (D) likes to watch pornographic films on YouTube via his cellphone and the house is always quiet, but the child/defendant (D) regrets his actions.

Taking into account Article 285 of the Criminal Code, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and Law Number 8 of 1981



concerning Criminal Procedure Law and other relevant laws and regulations, the Panel of Judges adjudicated:

- a. Declaring the child/defendant (D) above, legally and convincingly proven guilty of committing the crime of "rape";
- b. Sentencing the child/defendant to imprisonment for 6 (six) months;
- c. Determine that the period of detention that the child/defendant has served is reduced in full from the sentence imposed;
- d. Determine that the child/defendant remains in detention;
- e. Determine that the evidence in the form of one pair of white women's underwear, one pair of purple shorts, one brown robe with a striped pattern, one pair of brown women's underwear, one pair of blue shorts, be returned to the witness/victim (W);
- f. Charge the child/defendant to pay court costs of Rp. 5,000 (Five Thousand Rupiah).

From the perspective of achieving the goal of legal certainty, the goal of legal certainty basically comes from the fact that the law exists and is enforced with the intention of achieving the basic legal goals (justice and benefit). In decision number 1/Pid.Sus-Anak/2019/PN.Tbn the judge declared the defendant guilty, deciding that the defendant had been proven guilty legally and convincingly of committing the crime of rape as stated in the Single Indictment of the Public Prosecutor. The judge also sentenced the defendant to 6 months in prison.

According to the researcher, the panel of judges did not prioritize the goal of legal certainty in reviewing this case. This can be seen from the decision taken by the judge which seems to have weaknesses. The prosecutor demanded a sentence of 9 months, but the judge only sentenced him to 6 months and there was no special training for the child as the defendant. Legal certainty is the most important thing and must be enforced for a minimum of 5 years to ensure the achievement of criminal benefits, including deterrent effects and benefits for society to achieve its goals.

The lack of strong legal certainty can have a significant impact on other factors, such as efforts to achieve justice and impartiality. If a judge cannot set a clear boundary between the minimum and maximum limits of legal certainty, then it is impossible to make a fair and wise decision. However, the judge remains responsible for considering aggravating or mitigating circumstances. The reason for the judge's consideration in giving the defendant a 6-month sentence is only intended to provide a label that forcing and threatening the victim to commit indecent acts is wrong.

According to researchers, judges in imposing sanctions not only consider the defendant's side but must also consider the losses from the victim's side, namely how much impact the victim suffered, where this is related to aggravating circumstances. The aggravating circumstances for the defendant in this case are that the defendant's actions caused trauma and losses to the victim, the defendant and the victim are still related, the defendant should have protected the victim, the defendant threatened to kill the victim if she did not comply with his wishes, and the defendant's actions were carried out only to fulfill his desires after watching a pornographic video. According to researchers, this should also be taken into account by the judge to aggravate the defendant's sentence. The actions committed by the defendant not only damaged the victim's mental state, but could also threaten the victim's future. In addition, as a result of this incident, the victim's family also felt ashamed because the incident had become a family disgrace.

At least the judge sentenced the defendant to more than 6 months and there was special training for children by considering the factors that aggravate the defendant's sentence, namely the losses and trauma faced by the victim because of the defendant's actions. Meanwhile, the defendant's actions were only because he wanted to follow his lust, and this would not have happened if the defendant had not threatened to kill the victim to engage in sexual activity or indecent acts.

### **3.2. Implementation of Sanctions Criminal Law Against Children as Perpetrators of Indecent Acts in Decision Number 1/Pid.Sus-Anak/2019/PN.Tbn**

Judging from the decision number 1/Pid.Sus-Anak/2019/PN.Tbn, the defendant was charged with a single charge. The form of a single indictment does not contain the words "or" which gives the judge the option to apply one of the charges filed. When a single charge results in a criminal sentence, all charges must be examined first. Based on the findings of this investigation, the judge can then sentence the defendant immediately if the charges are proven true.

The judge has the freedom to make any decision he likes. However, the judge's freedom remains limited because the decision must be supported by the judge's conviction, which is based on reliable evidence. The judge also considers whether evidence has appeared before the legal facts that would prove the defendant guilty or not of the crime the public prosecutor has accused them of.

The Tuban District Court Decision Number 1/Pid.Sus-Anak/2019/PN.Tbn was made based on the judge's conviction. The evidence used to support the judge's conviction included the defendant's statement, witness statements, and physical items such as one pair of white women's underwear, one pair of purple shorts, one pair of brown striped robes, one pair of brown women's underwear, and one pair of blue shorts. Based on the legal facts obtained, the judge believed that the defendant had committed a criminal act of molestation against the victim. The judge's decision sentenced the defendant to 6 months in prison.

In sentencing, the judge must also look at the criminology and victimology aspects between the defendant and the victim, where in terms of the perpetrator's criminology, law enforcement against perpetrators of sexual abuse crimes basically has the purpose of punishment, namely to improve themselves, to make people deterred and no longer repeat other crimes. While in terms of the victim's victimology, the victim can experience losses, psychological trauma, shame and so on.

The application of criminal sanctions against defendants who committed the crime of indecent assault in decision number 1/Pid.Sus-Anak/2019/PN.Tbn is not yet appropriate considering the severity of the sentence imposed. The sanctions do not meet the punishment stipulated in Article 285 of the Criminal Code, especially with a maximum prison sentence of twelve years. Meanwhile, the form of sanctions imposed on children based on Article 82 paragraph (1) of Law Number 11 of 2012 concerning the Child Criminal Justice System includes:

1. Withdrawal to parents/guardians;
2. Surrender to someone;
3. Treatment in a mental hospital;
4. Treatment at LPKS;
5. Obligation to participate in formal education and/or training held by the government or private bodies;
6. Revocation of driver's license;
7. Correction due to criminal acts.

In the sentence handed down by the panel of judges at the Tuban District Court, decision number 1/Pid.Sus-Anak/2019/PN.Tbn, the imposition of punishment was only 6 months in prison and there was no special training for children. This certainly still cannot overcome the burden of punishment imposed on the defendant as the perpetrator of the crime of indecent assault.

#### **4. Conclusion**

Based on the results of the research and discussion, it can be concluded that the judge's considerations in deciding the crime of indecent assault committed by a child in decision number 1/Pid.Sus-Anak/2019/PN.Tbn look at the public prosecutor's indictment, the public prosecutor's demands, witness statements, expert statements, the defendant's statements and evidence. The judge's considerations related to the main sentence are again seen as a fair sentence for the child. One of the things that reduces the sentence in the judge's decision is aggravating circumstances and mitigating circumstances. Then for the application of criminal sanctions against children as perpetrators of indecent assault in

decision number 1/Pid.Sus-Anak/2019/PN.Tbn according to positive law, the imposition of a sentence of 6 months in prison does not seem to be in accordance with Article 285 of the Criminal Code and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

## 5. References

### Journals:

Anna Priscilla Meilita, 'Dasar Pertimbangan Hakim Dalam Memutus Perkara Tindak Pidana Pencabulan Yang Dilakukan Oleh Anak (Studi Di Pengadilan Negeri Kepanjen)' (Universitas Brawijaya Malang, 2013), hlm. 3, url: <https://hukum.studentjournal.ub.ac.id/index.php/hukum/article/view/158/151>

Ariyunus Zai, 'Perlindungan Hukum Terhadap Anak Yang Berhadapan Dengan Hukum Dalam Sistem Peradilan Anak', *Jurnal Mercatoria*, Vol. 4. No. 2 (2011), p. 90, url: <https://ojs.uma.ac.id/index.php/mercatoria/article/view/610>

Dirwansyah Dkk, 'Pertanggungjawaban Pidana Dalam Tindak Pidana Pencabulan Yang Dilakukan Oleh Anak (Analisa Putusan Pengadilan Nomor 6/Pid.Sus.Anak/2018/PT.Mdn)', *Jurnal Warta Dharmawangsa*, Vol. 15. No. 2 (2021), p. 185, url: <https://journal.dharmawangsa.ac.id/index.php/juwarta/article/view/1210/1022>

Dony Pribadi, 'Perlindungan Terhadap Anak Berhadapan Dengan Hukum', *Jurnal Hukum Volkgeist*, Vol. 3. No. 1 (2018), p. 14, url: <https://www.jurnal-umbuton.ac.id/index.php/Volkgeist/article/view/110>

Fiska Ananda, 'Penerapan Diversi Sebagai Upaya Perlindungan Hukum Terhadap Anak Pelaku Tindak Pidana', *Jurnal Daulat Hukum*, Vol. 1. No. 1 (2018), p. 77, url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/2566/1923>

Gisella Cindy Syafitri Dkk, 'Tinjauan Yuridis Pertimbangan Hakim Dalam Tindak Pidana Pencabulan Yang Dilakukan Anak', *Sumbang 12 Journal*, Vol. 1. No. 2 (2023), p. 59, url: <https://jurnal.umsb.ac.id/index.php/smb12lj/article/view/4074>

Herman Leonard Gulo, 'Pertimbangan Hakim Dalam Penjatuhan Pidana Terhadap Anak Sebagai Pelakutindak Pidana Perbuatan Cabul (Studi Putusan Nomor 3/Pid.Sus-Anak/2022/Pn.Gst).', *Jurnal Panah Keadilan*, Vol. 3. No. 1 (2024), p. 60, url: <https://jurnal.uniraya.ac.id/index.php/PanahKeadilan/article/view/1585/1112>

Immaculata Anindya Karisa, 'Analisis Pertimbangan Hakim Dalam Penjatuhan Pidana Terhadap Tindak Pidana Pencabulan Oleh Anak (Studi Kasus Putusan Pengadilan Negeri Klaten Nomor: 35/Pid.Sus.Anak/2014.PN.Kln)', *Jurnal Verstek: Bagian Hukum Acara Universitas Sebelas Maret*, Vol. 8. No. 1 (2020), p. 158, url: <https://jurnal.uns.ac.id/verstek/article/view/39623>

Renna Prisdawati, 'Penerapan Sanksi Pidana Terhadap Anak Pelaku Tindak Pidana Pencabulan', *Indonesian Journal of Criminal Law and Criminology (IJCLC)*, Vol. 1. No. 2 (2020), p. 170, url: <https://journal.umy.ac.id/index.php/ijclc/article/view/9609>

**Book:**

As'aril Muhajir, *Ilmu Pendidikan Perspektif Kontekstual* (Yogyakarta: Ar-Ruzz Media, 2017).

Maidin Gultom, *Perlindungan Hukum Terhadap Anak Dan Perempuan* (Bandung: Refika Aditama, 2012).

**Regulation:**

Law Number 23 of 2002 concerning Child Protection.

Law Number 48 of 2009 concerning Judicial Power.

Law Number 11 of 2012 concerning the Juvenile Justice System.

Law Number 35 of 2014 concerning Child Protection.

**Etc:**

<https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/pn-tuban/kategori/peradilan-anak-abh-1.html>