

Legal Considerations Regarding Child As Victim Of Abuse Decision Sexual On Verdict Number 9/Jn/2023/ Ms.Tkn

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Abstract

The studies aim to explain how the judge's considerations decide the punishment of 72 months imprisonment for the accused in decision Number 9/JN/2023/ MS.Tkn. and how the judge's considerations are based on the theory of Justice and aspects of Child Protection. This research use type of study with a method approach normative and *library research*. The materials law in study shared become two namely material Primary law includes decisions court Number 9/JN/2023/ MS.Tkn, Law Child Protection, Qanun and materials law secondary includes; publication books, journals, articles law, thesis, dissertation, related with abuse sexual in children. Data collection techniques are carried out with the method to study decision Number 9/JN/2023/ MS.Tkn with access to the Directory site Decision Supreme Court using the keyword “ harassment” sexual ” and legal writing others. Data analysis techniques used are descriptive analytic use do analysis to Decision Court Sharia Takengon Number 9/JN/2023/ MS.Tkn. Research results show that the judge's consideration to dropping the punishment prison of 72 months for the Defendant based on the testimony of witnesses and the fulfillment of elements Article 47 of Aceh Qanun Number 6 of 2014. Considerations If seen from glasses, Justice procedural is Already fulfilled, but Not yet fully reflect Justice substantive for the victims. In line with the matter, That aspect of protecting children for the victims is also not yet fully fulfilled. The judge did not consider the history of the past crimes defendant, and the judge did not prioritise recovery impact psychological towards victims such as rehabilitation or restitution. The judge only focuses on the criminalisation of the perpetrator without the existence affirmation mechanism of protection and recovery child as a victim.

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1. Introduction

The emergence of crime as a social phenomenon can due to a number of aspects in life society, such as as it is economic, political, social culture and so on.¹ Crime against the child is one of the problems that remain and need attention. Of course, the crimes committed are

¹ Healthy Maruli T. Situmeang, *Textbook of Criminology* (Depok: PT Rajawali The world Heritage , 2021),

very serious and have a negative impact on the victim; in other words, they can be very detrimental, disturbing comfort, loss of Spirit life, trust self, and the peace of mind of the victim.

Speaking about crime reported by the Central Statistics Agency that the registration data Indonesian National Police took notes during the period 2018–2020 number of incidents of crime or crime in Indonesia tends to decrease. The number of incident crimes (*total crime*) in 2018 was 294,281 incidents. This figure decreased become there were 269,324 incidents in 2019, and in 2020, there were 247,218 incidents. Temporary, level reporting to police (*police report rate*) every year Still relatively low. In the 2019-2020 period, the percentage of Indonesian people who experienced incident crime and then reported it to the police was No more than 25 per cent. In 2020, the percentage increased by 23.46 per cent, a slight experience improvement compared to 2019 (22.19 per cent).² Reflecting on the data presented by the Central Statistics Agency naturally, We conclude that there are Still Lots of cases of unsolved crimes known by the party police and not a close possibility that the number of crimes Can just be tall from the numbers that have been known.

Based on data published on the official website System Online Information for the Protection of Women and Children (SIMFONI-PPA), in Indonesia is a form of violence sexual assault in 2024, 20,505 cases of as much as 57% violence sexual experienced by children with range age 6-17 years. Then, following the data released from DPPPA Aceh (Department of Empowerment of Protection of Women and Children), as of January-July 2023, there were 394 cases of violence against children with crime violence and sexual dominance at the level first. In 2022, the number of violence to children in Aceh reached 773 cases, with almost half of it being violence sexual. In 2021, the number of cases of violence to children in Aceh reached 816 cases. A quarter of them are violent sexual. Meanwhile, in 2020, one-third more of the 671 total cases of violence against children were sexual.³ This data shows that case sexual violence in children, of course, tends tall.⁴

Enforcement of the law in Aceh is different compared to area others in Indonesia, considering the autonomous status specifically given to Aceh makes the area. This law itself contains Islamic law, namely Qanun Jinayat. Regarding violent sexual abuse of children set up in the Aceh Qanun, everyone who on purpose do Crime Abuse Sexual as meant in Article 46 regarding children, is threatened with '*Uqubat Ta'zir* a maximum of 90 whips (nine tens) times or a maximum fine of 900 (nine hundred) grams of gold pure or imprisonment for a maximum of 90 (nine twenty) months.⁵ More carry on explained that Every person who on purpose crime Rape people who had his mahram relationship with him was threatened with '*Uqubat Ta'zir* lashes at least 150 (one hundred and fifty) times, at most 200 (two hundred) times or a fine of at least 1,500 (one thousand five hundred) grams of gold pure, maximum 2,000 (two thousand) grams of gold pure or minimum imprisonment of 150 (one hundred and fifty) months, maximum imprisonment of 200 (two hundred) months.⁶

In response to the data that has been presented above, can We say that sexual violence in children still and will need attention from Us all? Violence and sexual abuse in children Keep repeatedly happening. Considering the child is the successor nation, and the future of a nation is also placed on generations nation said. The reality is, in the midst of idealistic Sharia law is

² Statistics Crime 2021, Central Bureau of Statistics 2021, accessed on October 15 , 2023
<https://www.bps.go.id/publication/2021/12/15/8d1bc84d2055e99feed39986/statistik-kriminal-2021.html>

³Empowerment Service Protection of Women and Children in Aceh, 2023, accessed on October 15 , 2023
<https://dinaspppa.acehprov.go.id/berita/kategori/kekerasan-terhadap-anak/jumlah-kasus-dan-bentuk-kekerasan-terhadap-anak-januari-juli-2023>

⁴Sugeng Dwi Haryanto, 'Professional Crimes Causing Criminal Disparities in Judges' Decisions on Drug Abuse Cases', *MAGISTRA Law Review*, 2.02 (2021), 111.

⁵Aceh Qanun Number 6 of 2014 concerning Jinayat Law , Article 47

⁶Aceh Qanun Number 6 of 2014 concerning Jinayat Law , Article 49

applied in Aceh until the moment. This issue is also not yet. Can Lots help minimise the occurrence of case violence against children? These are not things that can attempted by one or two people. But requires the involvement of all society. Based on a review of existing literature, the research identifies a number of gaps; the research previously more focused on aspects of the law criminal in cases of abuse of sexual children lacks an integrated study perspective of Islamic law (*maqashid sharia*) with system justice children in Indonesia, and the lack of analysis deep about the effectiveness of Qanun Jinayat in give protection holistic to victim child. *Novelty* combines analysis of law positive, Islamic law, and the theory of Justice in One study about the protection child in court sharia.

2. Method

Study This use type of study qualitative with method approach to legal normative and *library research*. Materials law in study This shared become two namely material Primary law includes decisions court Number 9/JN/2023/MS.Tkn, Child Protection Law, Qanun and materials law secondary includes publication books, journals, articles law, thesis, dissertation, related to sexual abuse in children. Data collection techniques are carried out with the method to study decision Number 9/JN/2023/ MS.Tkn with access to the Directory site Decision Supreme Court using the keyword “ harassment” sexual ” and legal writing others. Data analysis techniques used are descriptive analytic use do analysis to Decision Court Sharia Takengon Number 9/JN/2023/MS.Tkn.

Results and Discussion

A. Judge's Consideration in Deciding Punishment 72 Months in Prison for Defendant in Decision Number 9/JN/2023/ MS.Tkn

Based on facts at trial at verdict Number 9/JN/2023/ MS.Tkn writer can explain that the Defendant has abused Sexual Abuse Towards the Child who happens to be at the time together with the seven victim children is his student myself. Of course. This story is a very sad and unfortunate thing; remember background behind the professional Defendant is a teacher who should teach things Good rather than backward with do things that are not polite to children. In his demands, the Prosecutor Prosecutor General demanded the Defendant a Single charge of violation of Article 47 of Aceh Qanun Number 6 of 2014 concerning Jinayat Law. Furthermore, the Prosecutor General demanded Defendant with a criminal prison of 80 (eight) twenty) months with a reduced while the Defendant is a prisoner while. The Defendant, through Advisor The law conveys defence, in essence, No agree and feel the object with the sentence sought by the Prosecutor General. Against application relief, the sentence proposed by the Judge's Legal Counsel decided To make consideration law in the fall verdict. In line with the matter, the judge also agreed with The Prosecutor General that the punishment that will be dropped is in the form of punishment prison only; the judge does not agree with the amount that is for 80 (eight) twenty) months.

The most important element for those who do crime abuse sexual to children based on provision Article 1 number 27 of Aceh Qanun No. 6 of 2014 concerning Jinayat Law Abuse Sexual is action immoral or action deliberate perversion done by someone in front general or towards others as a good victim man and also Woman without the willingness of the victim. Then, based on the facts are there in the trial. The judge opined that " the element do Crime Abuse Sexual Against Children” has been fulfilled in a way valid and convincing according to law. With fulfilment third element from Article 47 of Aceh Qanun Number 6 of 2014 concerning Jinayat Law, so Defendant must state has proven in a way valid and convincing to act criminally as with a Single indictment by the Prosecutor General that has done Crime Abuse Sexual Towards Children.⁷

⁷ Decision Number 9/JN/2023/ MS.Tkn, page 37

The terms and conditions stipulated in Article 47 of Aceh Qanun Number 6 of 2014 state that " Any person who with on purpose do Crime Abuse Sexual as meant in Article 46 regarding the child, threatened with ' *Uqubat Ta'zir* a maximum of 90 whips (nine tens) times or a maximum fine of 900 (nine hundred) grams of gold pure or imprisonment for a maximum of 90 (nine twenty) months ". In other words, the violation of Article 47 of Aceh Qanun Number 6 of 2014 can threaten a maximum of 90 months in prison. A little shifting to the demands submitted by the Prosecutor General in decision Number 9/JN/2023/ MS.Tkn is a punishment of 80 months in prison. Then, deep to judge Case No. 9/JN/2023/ MS.Tkn, The Judge decided the punishment of 72 months in prison for Perpetrator sexual abuse towards Children. So, it is comparable with what has been presented. Can the writer say that demands filed by the Prosecutor General are more light than those regulated by Qanun himself, and the sentence imposed by the judge is still more light from the Claims by the Plaintiff General?⁸

The independence of judges contextually has 3 (three) essences in carrying out power judiciary, namely :⁹

1. The judge is only subject to law and Justice.
2. No no one can influence or direct the decision that the judge will hand down.
3. No. There is a consequence to personal judge in operating duties and judicial functions.

According to the Constitution Power Judiciary, the judge's consideration is thoughts or judge's opinion in to drop a decision based on things found in the trial that can lighten up or burdensome verdict on the perpetrator. The judge is a personification institution of Justice, so in the making or deciding on a case, sued Not only For their intellectual ability but also must have high morals and integrity, in line with the matter. It is hoped that the judge can reflect a sense of Justice, guarantee certainty in the law, and give benefit to the public.¹⁰

For achievement certainty, the law must be enforced, so that arises the motto " even though the sky will collapse, the law must still enforced" (*fiat justitia shaky coelum*). Enforcement law must also notice its usefulness for society because the law is made for society. Therefore, implementation and enforcement of the law must benefit society, and don't until happen implementation and enforcement law harm society, which ultimately will cause unrest. Implementation and enforcement of the law must also reach Justice; regulation law is not identical to Justice; therefore, regulations that are of a nature general and binding to everyone, implementation must consider various existing facts and circumstances in every case.¹¹

As In the Qanun, the punishment imposed by the judge is not bound by demands filed by the Prosecutor General. As it is said in Aceh Qanun, Number 13 of 2013 Article 178 paragraph (3) of the Jinayat Procedure Qanun, " The deliberations carried out by the Judge must be based on letter charges and everything something that becomes fact in examination at trial".¹² More carry on in Article 178 paragraph (6-7) says, " Uqubat is dropped may not enough or more from amount requested The Prosecutor General in Claims Uqubat ". " The panel of judges may drop type different punishments than requested by the Prosecutor General If Uqubat crime the nature alternative. This information means that the judge has the independence and freedom to drop different punishments with what the prosecutor is demanding in general.

⁸ Headlong Moerad, Formation of Law Through Decision Court In Case Criminal (Bandung: Alumni, 2005).

⁹ Ahmad Rifai, Discovery of Law by Judges in Progressive Law Perspective , Jakarta: *Sinar Grafika*, 2010, pp. 105-106

¹⁰ Henry Arianto, " The Role of Judges in Effort Law Enforcement in Indonesia," *Lex Jurnalica* 9, no. 3 (2012): 131-163.

¹¹ Risni Ristiawati, "Judicial Freedom in Law Enforcement Reviewed from the Perspective of Islamic Law," *Banua Law Review* 2, no. 1 (2020): 62-92.

¹² Aceh Qanun and Number 7 of 2013 concerning, "Jinayat Procedural Law," *Aceh* 1, no. 2 (2013): شماره 8; ص 99-117,

Independence of the Court judges Sharia besides set up in the Power Act The judiciary is also regulated in Law Number 11 of 2006 concerning The Aceh government stated that Justice Islamic law in Aceh is part of the system justice national in environment religious trials carried out by an independent Sharia Court from influence party wherever. Terms This shows that Justice must be free from intervention party wherever including in to drop Uqubat and types Uqubat to perpetrator violation.¹³ With so, Judges can drop verdicts taller or lower from demands of The Prosecutor General, like what happened to the results decision made by the judge in verdict Number 9/JN/2023/ MS.Tkn.¹⁴ Things that the judge must consider are as follows:

- a. Error maker
- b. Motives and goals he did act criminal
- c. How to do act criminal
- d. Attitude inner maker
- e. Life history and circumstances social economy maker
- f. Attitude and action maker after acting criminal
- g. Influence criminal towards the future maker
- h. Public Views on Act Crimes Committed,
- i. Influence act criminal towards the victim or victim's family
- j. Action criminal done with planning

Based on the above, it is necessary to notice relevant things in a way legally noticed to drop a criminal; the Author will try to hook with the facts at trial as attached to Decision Number 9/JN/2023/MS.Tkn. It is known that, in a way, the valid and convincing Defendant has sexual abuse 7 Child Victims with the status of his students. Testimony from the parents and children of the victims also showed that the Defendant launched his action with the same motive, that is, to request the seventh child victim to write well, but when the victim's child showed his writing to the Defendant, the Defendant to order child victim for standing beside him quibble that the seventh writing the victim's child No neat. At the same time, hold the genitals from seventh the victim's child. The Defendant does action with awareness, fully remembering the incident. It does not only happen once or twice. Of course. This issue is an act that is not in line with the values of Sharia adhered to by the Acehnese people.

Furthermore, regarding the history of life, Defendant, in principle, explained that Defendant Once was involved in an act criminal that was suspicious rape of a woman in 2003, but No until through the court settlement process Because he had to make peace in the village. As far as the analysis Author, the judge does not consider the part. This information is what, though matter said, according to The Judge Writer should Not ignore fact in consideration. With existence information, It means show There is a pattern of the same and repeated crimes. Remember history alleged perpetrators do act criminal rape of women. Later days, the abuse was sexual in children with the motive namely requesting the seventh child victim for write will. Still, when the victim's child showed his writing to the Defendant, the Defendant ordered the child victim to stand beside him and quibble that the seventh writing of the victim's child was not neat. At the same time, hold the genitals from seventh the victim's child. Seeing matter This, then, already duly matters. This issue is under consideration Because the historical perpetrator can used To evaluate the possibility level of the crime that will done in the future. Plus the fact, the allegations made against the perpetrator in the past were only completed with just making peace in the village. No, until to stage court moreover Again sanctions imposed so that effect deterrent For do no mistake whatsoever delivered. Past mistakes can added as a

¹³ Strengthening Implementation Authority Court Sharia In Completion Case Criminal In Aceh.” 2019. In *Proceedings of the Seminar*. Center for Research and Development of Law and Justice Supreme Court of the Republic of Indonesia.

¹⁴ Muladi , Chapter Select System Justice Criminal Law (Semarang: Diponegoro University, 1995).

factor To distinguish between the actors, which, of¹⁵ course, will influence the amount of the verdict that will be dropped.

Moreover, the attitude and action defendant, in respond testimony by the Child Victim, tends to deny and refuse testimony from the Victim's Child and only confess testimony from the victim's parents, who are known to be is an Adult. Proof testimony of children under age is one of the factors important in the process of inspection up to the court process because, with proof of verdict, Defendant is determined and only through proof an action criminal can drop punishment, criminal.¹⁶ More carry on Article 185 of the Criminal Procedure Code also explains that information witnesses who are not sworn in a matter are children aged not enough from 15 years and not yet Once Marry No is tool evidence, but if information from the witness own conformity with information sworn witness other so information This can made into addition tool proof or instructions. Then, in the matter, This rejection of testimony to testimony given child victim who was committed Defendant is not proper behaviour. With existing trend of rejecting testimony from the victim's child shows No existence of genuine regret and guilt from the Defendant Because the Defendant did not confess to the mistake that has been made. Besides that, refusing testimony of children in the case, This is a victim without valid reasons, also shows a sense of disapproval of responsible Answered by si The accused and not an ethical thing.

The Defendant, who has a background in the profession as a teacher, human resources educator, and teacher, instead teach and exemplifies good things to children as a generation nation, in fact, does matter on the contrary, which does not reflect good manners. Of course impact of action acts crimes committed by the Defendant, Not only to the victim. Victim-based information experts in court explain that The seven victim children showed reaction emotions like sadness, anxiety, anger, loss of interest In pleasure, and restlessness, overshadowed by a possible fear that will affect the future. Reaction physical also shows the existence of disturbance in sleep, improvement alertness, heart pounding, and decreased lust eat. And this is a condition of somebody experiencing acute stress or *Acute Stress Disorder* (ASD). So is the impact on the public around, causing distrust of the environmental school, including institutions and people involved in it. Where the environmental school should become a place for parents who want to entrust their sons to draw science, society will feel anxious and afraid, creating pressure social to institution education in question. Of course, This is not an ideal situation, and the Education sector is Not fine just Because experiencing degradation. The impact caused Enough to touch all layers of society.

So, based on what has been described above, according to the writer in his considerations Panel of Judges against the Defendant Crime Abuse Sexual should be sentenced punishment prison in accordance with the amount demand demanded by the Prosecutor General is 80 months or even amount maximum specified in the Qanun Jinayat that is for 90 months. Considering the impact caused to the Child Victims enough, It is concerning that the seven child victims experienced fear, anxiety and stress. Then should in his, consideration The panel of judges can also follow consider the history of past crimes Defendant, where the Defendant Once ensnared in an act criminal that was suspicious rape of a woman in 2003. Another fact is The Defendant has a background behind their profession as a power teacher, so the impact of the act of committing natural will bring a negative reaction and decrease trust from the public to all layers involved in the education sector; of course, This is the very detrimental thing for many people.

¹⁵ Artidjo Alkostar, "The Need for Responsiveness in Criminal Procedure Law Treatment and the Basis for Consideration of Sentencing and Judicial Immunity," *National Working Meeting Paper*, 2011, 7–8.

¹⁶ Arya Permana Aji and M Hum, "Legal Analysis of the Testimony of Minors in the Perspective of Criminal Procedure Law" 12, no. 2 (2022): 46–56.

B. Judge's Considerations in Decision Number 9/JN/2023/ MS.Tkn Based on Theory Justice

When humans live side by side, they all Certainly own the goals and desires of each person who wants to achieve. These are necessary things and are not always interpreted in bad meaning . Remember, every individual is created with a sense of ego, desire, and desire, which is attached to oneself each of them. But that will become a problem when in life socialise existence friction that ultimately brings them to the point called conflict or dispute. Already been confirmed every individual wants a road to go out or a solution that does not harm rights them. In a condition like this is it mark justice is highly considered and questioned, especially when settlement problems track litigation (court).

Until the moment, This Topic about Justice is Still lots and warm For is talked about well in circles practical and also theory. Considering Justice is something very abstract and concerning a definite feeling will different in each individual. In settlement track court, Where control over A decision lies with the judge, so in practice, when the public feels a solution to the conflict they not enough to protect their rights, then the community will feel that the institution's deep court matter This faced by a less Judge fair, impressed stiff and slow, even only based on procedures. In other words, in the process of interpreting A phenomenon, the law that is then implemented in a legislation judges consider as funnel Constitution Because too based on formal-procedural Justice so that in a way No The Judge immediately dismissed Justice substantive.

Speak about Justice procedural and Justice substantive are two things that are not Can be separated; two matter This each other related dams are important pillars in activity formulation decisions by the judge. Justice procedural in accordance with juxtaposed terms to him, namely" procedure ", has meaning that enforcement law Already walks with Good when in accordance with what is poured in writing/ text regulation legislation. Substantive Justice is related to Justice with the Contents court's decision to examine, try and decide a case justice that not only sticks to what is written in existing sentences in regulation legislation but also cares about Community response and moral values adopted public locally. This principle means the law is capable of recognising the desired public and has a commitment to the achievement of Justice alone. Martitah, in The book *Court Constitution Legislature to Positive Legislature*, says "justice" is substantive, difficult to do Because difficult to measure and not There are criteria book determine What Justice substantive, Justice That nature relative and relative Because depends on view subjective, different with sound laws that emphasise element certainty."¹⁷

Based on the Exposure theory, the Author will limit the discussion theory of Justice to Justice procedural and Justice substantive with reasons and considerations theory. This theory means that substantive Justice is remembered Alone more widely than procedural Justice, which not only sticks to the rules of written legislation but also pays attention to moral values that are lived and embraced in public matters. This regulation is in line with Decision Number 9/JN/2023/ MS.Tkn, which has a legal area in Aceh. Considering that Aceh is a region that implements implementation of the Qanun Jinayat matter, This is a guidelines settlement act for the crime that occurred. This verse can ensured by Qanun itself, leaving from values that are embraced and believed in Acehnese society so that Decision Number 9/JN/2023/ MS.Tkn own correlation with Justice substantive.

Moreover, in decision Number 9/JN/2023/ MS.Tkn based on the indictment from The Prosecutor In general, the judge considered one element contained in Article 47 of Aceh Qanun Number 6 of 2014: namely Element Every Person, that the Defendant is subject to existing laws in Aceh Province that can requested be accountable on the actions he did. Elements with intentionally are elements that are subjective and inherent in intention or will the perpetrator

¹⁷ Rahmat Muhajir Nugroho and Agus Setiadi, *The Paradigm of Substantive Justice in the Formulation of New Norms* (Yogyakarta: CV. Global Press, 2018).

(*in the case* of Defendant) where the intention or will the is is a real situation be aware and also be aware of the consequences that arise from his actions. The judge opined that Defendant has to wish to do action and also must understand will consequence of his actions proven with Defendant in a way aware of ordering the seven children of the victims to write a will. Still, when the victim's child showed his writing to the Defendant, the Defendant ordered the victim's child to stand beside him, quibbling that the writing of the seven victim children was not neat while holding the genitals from the seventh victim's child. Then, The Judge is of the opinion that the " element with intentionally " has been fulfilled in a way valid and convincing according to law.¹⁸ Lastly, the most important element furthermore is Element Do Crime Abuse Sexual Against Children. Based on the facts in the trial and also the testimony from the witnesses present , so Defendant must have proven in a way valid and convincing to act criminally as with a Single indictment by the Prosecutor General that is has do Crime Abuse Sexual Towards Children.

Then, in the results, the verdict reads: Declares: Defendant proven in a way legitimate do Crime of "Harassment" Sexual to "Children" as charged in Single Charge of Violation Article 47 of Aceh Qanun Number 6 of 2014 concerning Jinayat Law.

1. Punish Defendant with Uqubat prison for 72 months reduced prison term Defendant is at in prisoners, with order Defendant still is at in prisoner.
2. State goods proof in the form of :
 - a. 7 (seven) pieces of skirt scout colour chocolate old ;
 - b. 7 (seven) Scout uniforms colour chocolate old ;
 - c. 1 (one) piece of trousers Long colour cloth plain black ;
 - d. 1 (one) piece of shirt bxxxk colour chocolate ;

Returned to Children of Victim 1, Victim 2, Victim 3, Victim 4, Victim 5, Victim 6, and Victim 7 Punish Defendant For pay cost case amounting to Rp. 2,000;- (two thousand rupiah).

Moreover, the former writer will try To analyse decision Number 9/JN/2023/ MS.Tkn to hook through the implementation justice procedural. In consider In his considerations, the judge based it on Article 47 of Aceh Qanun Number 6 of 2014, which states, " Any person who with on purpose do Crime Abuse Sexual against Children, threatened with uqubat Ta'zir A maximum of 90 lashes or a maximum fine of 900 (nine hundred) grams of gold pure or imprisonment for a maximum of 90 (nine twenty) months.¹⁹ The judge also examines and scrutinises tools and evidence presented at trial so that One one by one element from Article 47 of the Aceh Qanun has been fulfilled, namely Elements Every Person, Element with Intentionally; Element Do Crime Abuse Sexual towards the next Child Defendant can state has proven in a way valid and convincing do act criminal as charged with indictment single by the claimant general that has do Crime Abuse Sexual Against Children. The judge also looks to consider argumentation from the second split party Good Legal Advisor (Defendant) and Prosecutor The Prosecutor General (Child Victim). Proven with existence subtraction, the punishment given to the Defendant in this matter is what I feel is the object with the amount of imprisonment charged by the Prosecutor General, that is, from 80 months to 72 months. The election of *Uqubat Ta'zir* was dropped in confinement prison in accordance with what was charged by the Prosecutor General in the accusation.

The judge's decision is visible. No notice history life The Defendant who, in principle to explain, Defendant Once involved in an act criminal that is suspicion rape to a woman in 2003, but No until through the court settlement process Because has made peace in the village. According to the Author, the judge should not ignore facts in consideration. With existence information, It means show There is a pattern of the same and repeated crimes; remember

¹⁸ Decision Number 9/JN/2023/ MS.Tkn , page 35

¹⁹ Aceh Qanun Number 6 of 2014 concerning Jinayat Law" p. 15 (nd).

history, alleged perpetrators do act criminally rape women and later day do abuse sexual in children with the motive namely request a seventh child victim for write well, but when the victim's child shows his writing to Defendant, Defendant to order child victim for standing beside him quibble that the seventh writing the victim's child No neat. At the same time, hold the genitals from seventh the victim's child. Seeing matter This, then, already duly matters. This issue is under consideration Because the historical perpetrator can used to evaluate the possibility level of the crime that will done in the future. Plus the fact, the allegations made against the perpetrator in the past were only completed with just making peace in the village. No, until to stage court moreover Again sanctions imposed so that effect deterrent For do no mistake whatsoever delivered. Past mistakes can added as a factor To distinguish between the actors, which, of course,²⁰ will influence the amount of the verdict that will be dropped.

Speak about giving punishment regarding case violence and sexual abuse of children in Aceh, can see the provisions formally that punishment maximum set in the Constitution More Child Protection heavy than specified in Qanun. However, responsiveness A rule is not only seen by weighting the punishment given only, but also by how the law is implemented and impacts the community in it. In line with matter This, Qanun is a regulation special (*lex specialis*) which applies in the legal area of Aceh itself, so the existence implementation of the Qanun Jinayat is considered more in accordance with values, social and cultural Acehnese society based on Islamic law. However, If facts found in the field said others, such as in the judge's consideration Number 9/JN/2023/ MS.Tkn, which is not truly responsive will Justice substance victim's child, then naturally must hold review or reconstruction back to Qanun like for example repair rule regarding with aggravate criminal penalties for perpetrators or with add mechanism victim recovery and perpetrator with concrete.

Based on to results analysis that has been done as explained by the Author, the decision of Court Sharia Takengon Number 9/JN/2023/MS.Tkn, if outlined consideration panel of judges in the decision, has fulfilled Procedural Justice. Still, I reviewed more in Again the decision Not yet truly touching a sense of Justice for all the parties in the matter. This decision is for the Children Victims and Society; in other words, substantive Justice has Not yet been achieved in the act of criminal sexual abuse in children through decision Number 9/JN/2023/MS.Tkn.

C. Consideration in Decision Number 9/JN/2023/ MS.Tkn Based on Aspect Child Protection

When a crime happens, the victim is the most disadvantaged party in his rights because the victim is a party the main one who feels suffering consequences from the action perpetrator. The loss felt by the victim is, of course, in the form of loss material and also immaterial. Then how? If the victim is meant here, is it a child? Children are individuals who are not ripe Good in a way physical, and even mental social.²¹ So, If compared to adults, naturally, children have more potential to become victims of harassment, sexual and criminal acts, crime others. Then, If We speak, the impact of the bad clear will be very diverse; like child will feel frustrated, feel low self, decreased sense of confidence self and sense of confidence towards others, or even impact from the worst to the worst is No close possibility the child will become perpetrators in the future come. Of course, this is not a desired thing from children as successor nation.

Children in groups are vulnerable, which still need attention and supervision from all over layer public, including the country. The attention of this country poured out in Lots of regulations, and special Goods set up in law positive and also Islamic law. With existence of

²⁰Alkostar, "The Need for Responsiveness of Criminal Procedure Law Treatment and the Basis for Consideration of Sentencing and Judicial Immunity."

²¹ Irwan Safaruddin Harahap, "Legal Protection for Child Victims of Sexual Crimes in the Perspective of Progressive Law," *Jurnal Media Hukum* 23, no. 1 (2016): 37–47.

regulations speaks about concern for children. This regulation shows that the country really has supremacy in the matter of protecting children and using it with Good.

Constitution Number 35 of 2014 concerning Child Protection, which is a regulation specially arranges all problems about children. It is mentioned in Article 1 paragraph (2) states that "Child Protection is all activity For guarantee and protect children and their rights so that they can live, grow, develop and participate optimally according to with dignity and honour humanity as well as get protection from violence and discrimination."²² A little shift in Constitution Number 39 of 1999 concerning Right Basic Humans is also mentioned in Article 65: "Every child entitled For to obtain protection from activity exploitation economy and abuse sexual, kidnapping, trafficking children, and from various form abuse narcotics, psychotropics and substances addictive other."²³

It is not only about the protection of the child in regulation. This issue is also regulated by How the punishment received for perpetrator crimes against children with specification abuse sexual, as mentioned in Article 76 E, which states that" Everyone is prohibited from do violence or threat violence, forcing, doing cheat trickery, to do a series lie, or persuade the child to do or let done action obscene. Article 82, paragraphs (1) and (2) states, "Any person who violates provision as meant in Article 76 E is punishable by with criminal imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp. 5,000,000,000 (five billion rupiah). In matter act criminal This carried out by Parents, Guardians, Child Caregivers, Educators, or power Education so the crime plus 1/3 (one third) of threat criminal as referred to in paragraph (1). Likewise, the Qanun Jinayat in Article 47 states that "Any person who with on purpose do Crime Abuse Sexual to the child, threatened with Uqubat Ta'zir a maximum of 90 whips (nine tens) times or a maximum fine of 900 (nine hundred) grams of gold pure or imprisonment for a maximum of 90 (nine twenty) months."²⁴

More continue to Law Number 35 of 2014 concerning Child Protection paragraph (12) says that "Children's Rights are part of a right basic human being who is obliged protected, and fulfilled by parents, family, society, state, government, and government area". This verse return confirms and proves that, in essence, the one in charge of ensuring the fulfilment rights of the child is the task. We all no escape institution deep governance matter This is institution justice. It means a settlement and handling dispute child through court is part of the protection child in a way repressive. Depart from what has been presented, the Author will try to link the results decision through the judge's consideration in decision Number 9/JN/2023/MS.Tkn with the aspect of protecting the child in a way law positive

Speak about criminalisation, in Decision Number 9/JN/2023/ MS.Tkn Judge sentenced a punishment of 72 months in prison, which means lower than what is being accused by The Prosecutor General is 80 months and which is regulated in Qanun Jinayat in Article 47, namely with confinement the maximum prison term is 90 months. In Constitution, Number 35 of 2014 concerning Child Protection is also said that Perpetrators who Abuse Sexuality in children are convicted of criminal imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years in a matter This Perpetrator is an Educator, or power Education so the crime plus 1/3 (one third) or if accumulated in amount month so can shall be punished with a maximum sentence of 240 months.

The facts found at the trial also saw the history of life alleged perpetrator . Once involved in an act criminal that is suspicious rape of a woman in 2003, but No until through the court settlement process Because has made peace in the village. With existence information, It means show There is a pattern of the same and repeated crimes. Remember history, alleged perpetrators do act criminal rape of women and later day does abuse sexual children with the

²² Constitution Number 35 of 2014 concerning Child Protection

²³ Constitution Number 39 of 1999 concerning Right Basic Man

²⁴ Aceh Qanun Number 6 of 2014 concerning Jinayat Law

motive of the Defendant to order the child victim to stand beside him quibble that the seventh writing the victim's child No neat. At the same time, hold the genitals from seventh the victim's child. Seeing matter This, then, already duly matters. This move is under consideration Because the historical perpetrator can used To evaluate the possibility level of the crime that will done in the future.

Furthermore, in his consideration, the judge did not prioritise the recovery impact against which victim; this is one of the parts of embodiment protection for the child as a victim. The judge only focuses on criminalisation to perpetrator temporary victim protection such as recovery through rehabilitation or restitution No under consideration in a way explicit. The judge only touches on his considerations that Correct seventh victim's child shows Symptoms of people with ASD (*Acute Stress Disorder*) or acute stress as well as physical reaction also shows existence disturbance sleep, improvement alertness, heart pounding, and decreasing lust Eat consequence action The Defendant, but No give affirmation in a way concrete related mechanism recovery the victim's psyche for example with pointing institution related to the deep matter This own authority For mentoring trauma recovery and impact psychic others felt child victim.

Constitution Child Protection in Article 69 states protection for child victims of sexual crime done through efforts: education about health reproduction, religious values, and values of morality; b. rehabilitation social; c. assistance psychosocial until recovery; and provision protection on every level inspection starting from investigation, prosecution, until with examination in court court.²⁵ Similarly, Constitution Number 12 of 2002 concerning Action Criminal Violence Sexual Article 70 also states that victims' Rights to recovery include Rehabilitation, Medical, Mental and social rehabilitation; Empowerment is social; d. Restitution and/ or compensation, reintegration social.²⁶ With a concluded that protection for children, which includes the right to recovery and rehabilitation, is a strong foundation for children to get comprehensive protection.

This matter shows one weakness in the world of practice Handling problem act criminal, where the Judge or results decision oftentimes only focus on giving punishment to the Defendant and, in particular No aware put aside protection towards the victims. Especially protection in a way psychic that may be for some people considered No too important towards the victim, such as existence order for recovery, giving change loss, compensation, cost treatment etc. Then, based on what has been explained by the Author, that result decision through the judge's consideration Number 9/JN/2023/ MS.Tkn does Not yet fully protect the child as a victim intact. True. The judge has punished the perpetrator, but the judge has not yet truly focused on the deep victim protection matter. This decision is to recover the victim's psyche.

Then, in Constitution Number 35 of 2014 concerning Child Protection Article 9, paragraph 2 also stated that " Every child has the right get protection in educational units from crime sexual and violence committed by educators, Education Personnel, fellow students participant educate, and/ or party other.²⁷ Chapter This is in harmony with the situation chronology in decision Number 9/JN/2023/MS.Tkn, which shows the Defendant's profession as a teacher. With existing chapter also back confirms that children are entitled get protection even outside the House, even though such as in the educational environment.

Besides protection, in a way repressive as it has been exposed previously, that is in the form of promulgated regulations, as well as solutions within institutions of Justice. Protection law, in a way preventive, also has not lost the deep importance context. This principle is protection law to the child, protection law in a way preventive. This rule aims to prevent

²⁵ Constitution Number 35 of 2014 concerning Child Protection

²⁶ Constitution Number 12 of 2002 concerning Action Criminal Violence Sexual

²⁷ Constitution Number 35 of 2014 concerning Child Protection

violence or crimes similar to a child.²⁸ To realise protection, preventive needed unity and harmony from all over the community. Protection preventive This can start from the family as the smallest unit with the way parents always give education sexual since early in children; getting used to openness will feelings in the child also validate it, creating a safe and comfortable space in the House so that the child No need look for security outside home. But what becomes frequent obstacles appear when parents cannot fulfil matter this, so needed cooperation between the other party, namely the institution government and also institution public such as the Regional Technical Service Unit - Women and Children's Services (UPTD-PPA), Commission Indonesian Child Protection Agency (KPAI) and authorised institutions other.

Reported from interviews conducted Writer with one of the Commissioner Commission Indonesian Child Protection, Mrs. Dian Sasmita. She conveys.

"Besides focusing on giving criminal confinement prison, there should also be criminal additional dropped to criminal. Perpetrator addition This is in the form of rehabilitation Good medical and also social. This principle is naturally rehabilitative Because, however, we also need to see and give a chance to the perpetrator. For Can responsible answer more. Responsible answer to himself Alone for No repeat the same thing in the future come with give support rehabilitation for perpetrator myself. Unfortunately, things are still often ignored Because, often interpreted as narrow, rehabilitation is The same as entering prison, even though rehabilitation is meant to be more than that, like filling in the needs psychic the perpetrator, investigating more perspective perpetrator with gender justice approach. In addition, giving rehabilitation is also considered as siding with the perpetrator, even though one of the objectives of giving rehabilitation to the perpetrator is for the victim himself, with the hope Nothing will happen Again the same case in the future."²⁹

This matter is in accordance with facts found at trial in verdict Number 9/JN/2023/MS.Tkn, Where Defendant was allegedly Once involved in an act of criminal that is suspicious rape of a woman in 2003, but No until through the court settlement process Because has made peace in the village. Then, 10 years Later Defendant committed similar crimes . However, No. There are decisions still related to cases that occurred in the past perpetrator thing. This issue can be due to Because perpetrator Not getting support for recovery of his behaviour. Unfortunately, the judge did not consider the points and missed giving rehabilitation to perpetrators. Rehabilitation to perpetrator This is set up in Constitution Number 12 of 2002 concerning Action Criminal Violence Sexual Article 17 states that "Apart from sentenced criminal, perpetrator act criminal violence sexual can be charged action in the form of rehabilitation. Includes: Rehabilitation medical and rehabilitation social."

Furthermore, He also added :

"Responsive or whether or not A decision to protect a child as a victim of sexual violence can seen from how the judge considers the seriousness of rehabilitation towards the victim, providing special mentoring during the legal process until the case is finished even though. Then, in the matter, this is also very much needed encouragement from the government area Because This is a mandate for the fulfilment rights child for the government area. Besides, it should also be noticed How award towards the four pillars of children."

This matter is listed in the Convention of Children's Rights, which then adopted principles in the Constitution. Child Protection includes the Right to Life, Rights For Developing, Rights For Protection, and right to Participate. The protection referred to here covers protection from

²⁸ S. Romadhona, "5 Forms of Child Protection According to Law in Indonesia," JDIH Sukoharjo, 2024, <https://jdih.sukoharjokab.go.id/berita/detail/5-bentuk-perlindungan-anak-menurut-hukum-di-indonesia>. Accessed on February 07 , 2025.

²⁹Dian Sasmita , Member Commission Indonesian Child Protection, *Interview Personal, Zoom Meeting*, February 14, 2025

violence, discrimination, exploitation, neglect, assistance, and rehabilitation if associated with decision Number 9/JN/2023/MS.Tkn. Also, as already submitted by the Author previously, the judge did not arrange related technical rehabilitation for the seventh victim's child.

At the end interview, He added the related possibility of liberation conditional on the perpetrator of the matter. This rule is set up in Regulation of the Minister of Law and Human Rights Number 7 of 2022.³⁰

“With that being concentrated, we are here to determine whether Already Enough is fair for the victim. Is it Already Enough is equivalent to the suffering felt by the victim, considering the convict can submit liberation conditional after at least served 2/3 of his sentence. Memory will be an incident that did not occur, the pleasure of getting the child victim for sure Still going imagined and not comfortable, especially in case the victim's child is not getting rehabilitation. So that matter This must become focus We together, ” he said.

Back to the discussion, decision Number 9/JN/2023/ MS.Tkn has a religious court area, which includes Regency Right Meriah, Aceh Province. As is known, Aceh was given autonomous status. The widest possible special for operating Islamic law in the process of being launched is development governance and settlement problems. Aceh is an area of The province which is a unity public law of a nature special and given authority for organising and managing Alone affairs, local government and community interests in accordance with regulation legislation in the system and principles of a unitary state Republic of Indonesia based on The 1945 Constitution of the Republic of Indonesia, which a Governor led.³¹

The privileges granted to the Acehnese people are part of recognition and form award to struggling and values the essence of a permanent society maintained in a way hereditary as a runway to be alive both spiritual, moral and humanitarian. Aceh, who has characteristics typical public with a level his high religiosity, decide to live side by side with the teachings of Islamic law and make it a reference or guideline integrated through formal rules of things. This regulation, in line with sound Article 16 of the Law Republic of Indonesia Number 11 of 2006 concerning The Aceh government, stated that the scholars have a role in determining policy areas.

Leave from the definition, the privileges listed in Constitution Number 11 of 2006 gave birth to the product of the law that became Aceh Community Guidelines in finish dispute or the dispute that occurred between the communities called Qanun. More completely Article 1 states, "The Aceh Qanun is regulation legislation similar regulation area province that regulates organisation government and life of the Acehnese people."

The Qanun regulates all fields of life Good education, customs, economy, and also actions criminal. Then, Already In fact, the presence of Qanun could fulfil the desire of the seekers for Justice, remembering Qanun departs from aspirations, needs and values held by society are also based on the principles of Islam.

Then, in line with the discussion, This issue is whether Islam as a full religion will Justice always try to adapt to progress and change that occurs in society, make breakthroughs that aim to realise welfare to its adherents, both those that are sourced from the text and jihad of the ulama. One of them is to give protection to the rights base humans, including the rights child. Basically, all aspects of man must guaranteed and maintained, including religion, soul, lineage,

³⁰ Regulation Minister of Law and Human Rights Number 7 of 2022 concerning Terms and Procedures for Granting Remission, Assimilation, Leave Visit Family, Liberation Conditional, Leave Coming up Free, and Leave Conditional.

³¹ Constitution Republic of Indonesia Number 11 of 2006 concerning Aceh Government

wealth and reason. In general, the protection provided by Islamic law against the rights of humans (including the rights child) can categorised become two forms:³²

1. Give guarantee for realised and implemented rights man so that can felt by everyone;
2. Islam provides children 's rights as it is in the Quran, namely the right To get education, living, protection and maintenance.

Islam, in his teachings, uses various methods for protecting the rights child, as in A Hadîth that forbids parents from committing crimes against children. Prohibition, the crime in question here, covers all actions that can violate and harm the rights child good violence on physical, emotional, verbal, and sexual. So, as the words of the Prophet SAW:

“Hadîth from Abu Bakr bin Abi Syaibah and Hannad bin al-Sirri from al- Ahwash, from Syabib bin Gharqadah, from Sulaiman bin Amr bin al- Ahwash, from his father who heard the Prophet SAW say When Hajid Wada': "Hi everyone human. Remember, the day which one is better holy ?" The crowd answered: "The Day of the Great Hajj" The Prophet SAW said: "Indeed your blood, your wealth, and your riches is holy among You as sacred your day this, in your month this, in your country this. Remember, it is not once in a while someone does act crime but the result will overwrite himself alone. Parents No may do wicked to his son and a child No may do wicked to his parents” (HR. Ibnu Magazine).³³

This matter is a form of protection for the child; in the hadîth, it is said that parents are forbidden to commit crimes against their son. Meaning of Parents, even though it is true to own rights to their child, just Fear harm or violation right of their son, especially Again educators who do not have a connection between the biological rights full to the children; of course, a percentage his impermissibility will the more high. Another hadîth also says that action violence No may done to children, especially Girls, but by no means can a child man be treated No good. This issue is because women have gentle feelings and dispositions , so that is not in accordance with action violence. The Prophet SAW said :

“Hadîth from Qutaibah, from Born, from Abi Usysyanah, from Uqbah bin Amir that Rasulullah SAW said: "Do not treat your daughters with rough, because indeed they are a person with character gentle Again sensitive his feelings”. (HR. Ahmad).³⁴

Islam categorises sexual abuse as actions (crimes) that are close to adultery. Because, in fact, the Quran only mentions adultery and does not touch on sexual abuse and rape,³⁵ as the word of Allah SWT in QS. Al-Isra verse 32, which means: "*And do not You approaching adultery, in fact, adultery is a heinous act. And one bad road.*"

From the verse, the can be interpreted that Islam forbids his people's For approach, especially until they commit adultery. The usual meaning of adultery is interpreted as activities that are based on the principle of wanting The same Want to just prohibited; moreover, abuse, Sexuality and rape are based on coercion, deception, trickery, and lies. So, of course prohibited and will sentenced for the perpetrator. The punishment given to perpetrators of sexual abuse is ta'zir, which is of a nature education on crimes for which Sharia does Not yet determine the punishment.³⁶ The ulama agreed that adultery and its derivatives are prohibited acts and sins. Imam Syafii, Hambali and Maliki are of the opinion that perpetrators of adultery, homosexuality, and the like must given limits and limits in the form of stoning; in essence,

³² Hasan Abdul Rahman Asso, "Child Protection in Islam (Al-Quran and Hadith)," *SALAM: Syar-I Social and Cultural Journal* 4, no. 2 (2017): 219–30.

³³ Ibn Magazine, Sunan Ibn Magazine, in Mausu'ah al- Hadîth al- Syarif, Global Islamic Software Company, 1991-1997, 2nd ed., hadith no. 3046

³⁴ Muslim bin Hajjaj al- Naisabury, Sahih Muslim, (Beirut: Dar Ihya'al-Turâts al-Arabi, 1972), Juz II, p. 119, no. 34723

³⁵ Muhammad Rifqi Afrizal et al., "Sexual Harassment in the Qur'an," *Jurnal Tafseer* 10, no. 2 (2022): 154–68.

³⁶ Imam Mashudin, "Sanctions for Criminal Acts of Sexual Harassment of Children from the Perspective of Islamic Criminal Law" (2016): 2016.

Islam has not arranged in a way specific punishment for perpetrator sexual abuse. Therefore, Can said Qanun is present as one of the forms of ijtihad of the ulama, filling in emptiness and clarifying the deep matter This related specification crimes and their punishments. Qanun classifies action abuse sexual as a crime (act) criminal) and the perpetrator was sentenced to 90 months sentence confinement in prison, 90 lashes, or a fine of 90 grams of gold pure.

After the writer tries to link consideration decision Number 9/JN/2023/ MS.Tkn with How Islamic law views action abuse sexual in cases, the Author finds that decision Number 9/JN/2023/ MS.Tkn is Not yet fully responsive because the decision No prioritises welfare for the victims. Justice is not only about punishing perpetrators just but also paying attention to the welfare of victims to ensure the victims are protected. As has been explained, In Islam, five aspects must be guarded and protected and deep matter. This protection soul (*hifz an- nafs*) and *hifz al- aql* (protection mind, psychology) the victim has not fulfilled.

The Quran also mentions matters in QS. An- Nisa 58, which means: "*If You set law between human beings, should You set in a way fair*".

This verse shows that We as men must be wise in conveying the mandate to they are the recipients The mandate in question here is objective from law That set, can in the form of Justice, benefit, and certainty. The mandate here has Enough wide meaning. Exclamation also includes characteristic fairness from the ruler to the people in the implementation of the law.

More continued considerations decision Number 9/JN/2023/ MS.Tkn If seen from glasses law positive and Islamic law actually Not yet truly responsive in a way intact towards children 's sense of protection. The judge's considerations in the decision only focus on punishment or criminalisation of the perpetrator and set aside victims' rights to get maintenance, protection, recovery, or even compensation (*dhiyat*). After seeing the history, life The Defendant, who was previously Once entangled in suspicious rape of women, also in public trial perpetrator rejected all testimony from the victim's child and then see the punishment given to the perpetrator for 72 months which is lower than demands The Prosecutor General that is for 80 months. It should be sentenced to a long sentence in prison in accordance with the demands of The Prosecutor General, that is, for 80 months. Then, the losses incurred impact not only impact only the victim but also the surrounding area; remember the perpetrator's profession as an educator and the location incident be in the environment school; of course, This will lower the sense of trust in the public to sector education.

From the thing also the Author can say that matter This proves law is positive and Islamic law has the same lens in looking at Justice. This issue also proves the reason why Qanun is based on formal law and teachings. Islamic law can implemented in Aceh because the second system of law This each other completely each other and already life in society. Purpose law That Alone created is used to reach Justice, benefit, and certainty, and also guarantees rights its people can fulfil.

3. Conclusion

As for what becomes the conclusion of the research, This is as follows:

1. The judge's considerations for sentencing punishment confinement imprisonment for the Defendant for 72 months based on the testimony of witnesses and the fulfilment of elements of Single Prosecutor's Indictment General is Article 47 of Aceh Qanun Number 6 of 2014. However, after done analysis, the judge's consideration is not seen to consider the history of past crimes. The Defendant where Defendant Once ensnared with an act criminal is suspicion rape of a woman in 2003. With existing information, this means show There is a pattern of the same and repeated crimes; remember, history alleged perpetrators do act criminally, rape women, and later day do abuse sexual in children. In addition that seeing the impact caused by crimes by the Defendant, the victim's children experienced fear, anxiety, and stress. Another fact is The Defendant has a background behind their

profession as a power teacher; the impact of the act of committing natural will bring a negative reaction and decrease trust from the public to all layers involved in the education sector; of course, This is It's a very unfortunate thing. So, from the analysis of the results, according to the writer through his considerations Panel of Judges against the Defendant Crime Abuse Sexual should Be more noticed and sentenced punishment prison in accordance with the amount demands demanded by the Prosecutor General, which is 80 months or even amount maximum specified in the Qanun Jinayat that is for 90 months.

2. Consideration Decision Court Sharia Takengon Number 9/JN/2023/ MS.Tkn has fulfilled proven procedural Justice with the judge basing it on article 47, which reads, " Everyone who is with on purpose do Crime Abuse Sexual against Children, threatened with uqubat Ta'zir A maximum of 90 lashes or a maximum fine of 900 (nine hundred) grams of gold pure or maximum prison sentence of 90 (ninety) months. The judge also examines and scrutinises tools and evidence presented at trial so that One one by one element from Article 47 of the Aceh Qanun has been fulfilled, namely Elements Every Person, Element with Intentionally; Element Do Crime Abuse Sexual towards the next Child Defendant can state has proven in a way valid and convincing do act criminal as charged with indictment single by the claimant general that has do Crime Abuse Sexual Towards Children.
3. Consideration decision Number 9/JN/2023/ MS.Tkn seen from the aspect of protection child, the judge does not prioritise recovery impact psychological against which victim this is is one of part from embodiment protection to child as a victim. The judge only focuses on criminalisation to perpetrator temporary victim protection such as recovery through rehabilitation or restitution. No under consideration in a way explicit, considering Justice No only punishes perpetrators just but also pays attention welfare of victims to ensure the victims are protected. As has been explained, In Islam, five aspects must be guarded and protected and deep matter. This protection soul (*hifz an- nafs*) and *hifz al- aql* (protection) mind, psychology) the victim has not fulfilled.

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