



## LEGAL ANALYSIS CRIMINAL SANCTIONS OF PRISON AND TRAINING WORK ON CHILDREN AS PERPETRATORS CRIME OF ABUSE (Study of Medan District Court Decision Number 14/Pid.Sus-Anak/2024/PN.Mdn)

Daffa Aldi <sup>1</sup>, Syahrul Bakti Harahap <sup>2</sup>

<sup>1,2</sup> Fakultas Hukum Universitas Muslim Nusantara Al Washliyah Medan

Email : [syahrulbakti71@yahoo.com](mailto:syahrulbakti71@yahoo.com)

### ARTICLE INFO

#### History of the article:

Received: 06/10/2025

Corrected: 11/10/2025

Accepted : 30/10/2025

Published: 30/10/2025

#### Keywords:

Prison Sentence, Job Training, Children, Intercourse

### ABSTRACT

Prison is not the most appropriate place to rehabilitate negative behavior, especially for children. Job training can be provided as a form of accountability for their actions and to transform negative behavior into positive behavior in the future. Research shows that Legal regulations regarding children who commit the crime of sexual intercourse are actions that violate several provisions, for example Article 76D Law Number 35 of 2014 About Child Protection which strictly prohibits anyone from committing violence or threats of violence to force a child to have sexual intercourse with him or with another person. The application of imprisonment and job training to children who commit the crime of sexual intercourse is in accordance with Article 81 paragraph (2) of the Child Protection Law, which is a prison sentence of 3 (three) years and job training for 1 (one) month at the Medan Class I Special Child Development Institution. Prison sentences are the last resort while job training for children is carried out at institutions that carry out job training that is appropriate to their age. The judge's consideration in imposing prison sentences and job training on children who commit the crime of sexual intercourse is that the judge does not find things that can eliminate criminal responsibility, either as a justification or excuse, so that the child must be responsible for his actions and because the child is capable of being responsible, he must be declared guilty and sentenced to prison

### 1. Introduction

Sentencing someone who commits a crime is a crucial part of establishing a sound criminal justice system. In this regard, judges must be able to choose the appropriate type of punishment to impose on the perpetrator. The judge's role is crucial in determining the effectiveness of the punishment they impose on a perpetrator. Sexual violence committed by children is a common crime, often committed by children, driven by a variety of factors and motives. The prevalence and variety of crimes committed by children have been concerning for all parties, especially parents.

The increasing number of crimes committed by children seems to be disproportionate to the perpetrator's age. Children who commit these crimes are not exempt from positive legal responsibility for their actions, which creates a





noble duty for judges to impose appropriate and appropriate sanctions for children, considering that they still have a long future ahead of them. Children, as weak and helpless individuals, naturally do not yet understand what is right and wrong. The aim of the juvenile criminal justice system is to protect the dignity and honor of children, where children have the right to receive special protection, especially legal protection in the justice system, therefore the juvenile criminal justice system is not only emphasized on imposing criminal sanctions on children who commit crimes, but is also focused on the idea that imposing sanctions is intended as a means of realizing the welfare of children who commit crimes.

Fair juvenile criminal justice provides protection for children, whether as suspects, defendants, or as convicts or prisoners, because protection for children is the main pillar in juvenile criminal justice in a state of law because prison is not for children, because what children need is education, what children need is help, and what children need is guidance. The differences in treatment and criminal penalties for children compared to adults are intended to better protect and nurture children so they can face their long future well. These differences are also intended to provide children with the opportunity to develop their identity through guidance and become independent, responsible, and useful individuals for their families and communities.

The application of the law to minors in cases of child sexual intercourse receives serious attention. Law enforcement officers, when processing and making decisions, must be absolutely certain that the decisions they make will provide a solid foundation for restoring and guiding the child toward a positive future, enabling them to develop as responsible citizens

## 2. Research Method

This research is descriptive analytical, that is, research that merely describes the condition of an object or event without any intention of drawing generally applicable conclusions. Descriptive analytical research tends towards normative juridical research, namely reviewed based on the Law. The approach method in this research is to use a "normative juridical approach and a case study approach, namely an approach carried out by collecting secondary data" in the form of legislation and materials that are relevant to the problems in this thesis and analyzing a decision/case that has binding legal force





### 3. Results And Discussion

Crimes that often occur against children are crimes against morality. Criminal acts against morality consist of various forms, where criminal acts against morality are regulated in the Criminal Code in chapter XIV which consists of 18 articles, namely in Article 281 of the Criminal Code to Article 299 of the Criminal Code, in the provisions contained in the chapter there are different regulations, namely between sexual intercourse and indecency, where sexual intercourse is regulated in Article 284 of the Criminal Code to Article 288 of the Criminal Code and indecency in Article 289 of the Criminal Code to 296 of the Criminal Code which have different legal consequences.

This deviant behavior in children naturally stems from curiosity, leading them to try to figure out what sex is all about on their own, without parental guidance. Afterward, the children will try to act out every scene in the film they watch with friends of the opposite sex.

Based on the principle of *lex specialis derogate legi generalis*, after the enactment of the SPPA Law, it applies to children who commit crimes. The enactment of the SPPA Law means that sanctions for children who commit crimes of sexual intercourse are based not only on the PA Law but also on the SPPA Law. The PA Law and the SPPA Law were drafted to provide protection for children, both as perpetrators and as victims.

The SPPA Law essentially aims to protect the rights of children in conflict with the law. This protection of the rights of children in conflict with the law is a form of restorative justice implemented through diversion efforts for children in conflict with the law.

The juvenile criminal justice system must strive for diversion, starting from the investigation, prosecution, and trial stages. The objectives of this diversion are stipulated in Article 6 of the Juvenile Justice and Child Protection Law, namely:

1. Achieving peace between victims and children;
2. Resolving children's cases outside the judicial process;
3. Protecting children from deprivation of liberty;
4. Encourage the community to participate;
5. Instilling a sense of responsibility in children.

There are conditions that must be met for implementing diversion for children in conflict with the law. This is regulated in Article 7 paragraph (2) of the SPPA Law, which states that diversion can only be attempted for crimes that are punishable by imprisonment of less than 7 (seven) years and are not a repeat of the crime. These conditions are cumulative, meaning both must be met. If even one is not met, diversion cannot be implemented.



In cases of criminal acts of sexual intercourse committed by children which violate Article 76E UUPA, diversion cannot be attempted, because in this case, violators of Article 76 UUPA are subject to a maximum prison sentence of 15 (fifteen) years and a maximum fine of IDR 5,000,000,000 (five billion rupiah) (Article 82 paragraph (1) UUPA).

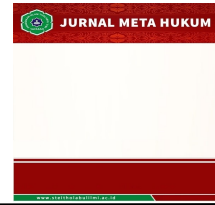
The criminal threat for the crime of sexual intercourse with a child as stated in Article 81 paragraph (1) of the Child Protection Law is in the form of a prison sentence of at least 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of IDR 5,000,000,000.00 (five billion rupiah), which does not apply fully to children. According to the Child Protection Law, children as perpetrators of criminal acts must be subject to diversion.

The concept of diversion arose from the fact that the criminal justice process for children as perpetrators of crimes through the conventional criminal justice system causes more harm than good. This means that it will give children an understanding of their actions as criminals. In other words, this diversion effort is also carried out to find a solution that provides protection for children.

The legal aspect of sexual intercourse is that it is a very unnatural crime for children to commit and in this crime of sexual intercourse, the victims are basically women and are among those who are weak in protecting themselves, while the perpetrators of the crime of sexual intercourse are men who essentially have stronger physical strength than women.

Referring to the criminal sanctions of imprisonment threatened for perpetrators of the crime of sexual intercourse against children, diversion cannot be carried out, because the conditions for diversion are that the crime committed is threatened with a prison sentence of less than 7 (seven) years and is not a repeat of the crime, so that children as perpetrators of the crime of sexual intercourse against children can only be sentenced to a maximum of 7.5 (seven point five) years in prison. This is based on Article 81 paragraph (2) of the SPPA Law which states that the maximum prison sentence that can be imposed on children is  $\frac{1}{2}$  (one half) of the maximum prison sentence for adults. Not fulfilling the conditions for diversion for children as perpetrators of the crime of sexual intercourse does not mean that a maximum prison sentence of 7.5 (seven point five) years is ready to be imposed on children.

Article 81 paragraph (5) of the SPPA Law states that imprisonment for children is only used as a last resort (*ultimum remedium*). The regulation of sanctions imposed on children based on the SPPA Law explicitly uses 2 (two) types of sanctions at once (double track system), namely in the form of criminal sanctions (*straf*) and actions (*maatregels*). With the existence of types of criminal sanctions



and action sanctions that can be imposed on children, the SPPA Law places imprisonment as the ultimum remedium.

The principle of ultimum remedium stipulated in the SPPA Law serves as the primary guideline to ensure that children in conflict with the law receive humane treatment without neglecting the interests of the victim and the community. The SPPA Law prioritizes a restorative justice approach by making criminal sanctions part of the final measure (ultimum remedium).

Restorative justice refers to the process of resolving criminal cases that includes the perpetrator, the victim's family, both parties, and other related parties with the aim of finding a just solution with an emphasis on restoring conditions to the way they were before the incident, rather than on imposing punishment as a form of retribution.

In practice, implementing this principle faces various challenges, particularly when children are the perpetrators of crimes involving immorality. Children often lack clear intent or purpose for their crimes, as their intellectual development is not yet fully developed, making it difficult for them to understand the nature of a crime.

This aligns with the principles of restorative justice and diversion, which aim to prevent children from being removed from the judicial process. This ensures that children avoid the stigma of being legal offenders and have the opportunity to re-adapt to their normal social environment.

The enactment of the SPPA Law is based on the principle of *Lex specialis derogate legi generalis*, so Articles 45 to 47 of the Criminal Code state that the regulations in these articles no longer apply to child perpetrators. The SPPA Law regulates in more detail the sanctions against children as perpetrators of criminal acts. Article 71 of the SPPA Law explains the main penalties and additional penalties imposed on children as perpetrators of criminal acts, which are different from the penalties imposed on adults as perpetrators of criminal acts.

According to the explanation of Article 73 U of the SPPA Law, a conditional sentence can be imposed by a Judge if the prison sentence to be imposed on a child is a maximum of 2 (two) years, with general and special conditions. The general condition is that the child will not commit another crime during the conditional sentence, while the special condition is to do or not do certain things that are applied in the judge's decision. The maximum period of a conditional sentence that can be imposed by a judge is 3 (three) years. During the conditional sentence, the child is supervised by the Public Prosecutor and guided by a Community Guidance Officer to comply with the requirements that have been set. During the conditional sentence, the child must also attend 9 (nine) years of compulsory education.





Imprisonment, also known as a restriction of liberty, is imposed when a child commits a serious crime or a crime involving violence. Article 81 of the Child Protection and Child Protection Law explains that the restriction of liberty imposed on a child is a maximum of  $\frac{1}{2}$  (one half) of the maximum prison sentence imposed on an adult. The maximum penalty for an adult is the maximum prison sentence imposed for a crime committed in accordance with the provisions of the Criminal Code or other laws. The minimum specific prison sentence does not apply to children.

Children who are sentenced to imprisonment in a Special Correctional Institution for Children (hereinafter referred to as LPKA) if the child's condition and actions will endanger society. The maximum prison sentence that can be imposed on a child is  $\frac{1}{2}$  (one half) of the maximum penalty for adults. If the crime committed by the child is a crime that is threatened with the death penalty or life imprisonment, then the sentence imposed is a maximum prison sentence of 10 (ten) years. The prison sentence is carried out in LPKA until the child is 18 (eighteen) years old and if the child has served  $\frac{1}{2}$  (one half) of the length of the prison sentence imposed on him and behaves well, then the child has the right to receive parole.

The enactment of the Child Protection and Child Protection Law (UU SPPA) provides separate provisions for criminal sanctions and actions against children who commit crimes, distinct from the provisions of the Criminal Code, as a form of special protection for children. Implementing guidance and providing protection for children requires support, both in terms of institutions and a more robust and adequate legal framework.

The purpose of establishing criminal provisions and actions in the SPPA Law, which differ from those in the Criminal Code, is to better protect and nurture children. According to the general explanation of the SPPA Law, this distinction is intended to provide opportunities for children to develop their identity through guidance and become independent, responsible, and useful individuals for themselves, their families, their communities, their nation, and their country.

Even though juvenile delinquency is similar to crimes committed by adults, the sanctions imposed are not the same. Children are still children, and are still undergoing the physical, mental, psychological, and social development that leads to the same perfection as adults.

Following the issuance of the SPPA Law, specific regulations have been introduced regarding substantive criminal law, formal criminal law, and the enforcement of criminal penalties for children who have committed delinquency. The SPPA Law is a special law (*lex specialis*) derived from the





general law (*lex generalis*) contained in the Criminal Code and the Criminal Procedure Code.

Punishment for those proven to have committed a crime serves to re-educate and correct the offender's attitudes and behavior, enabling the child to abandon the bad behavior they have previously engaged in. The principle of prioritizing the offender's interests, which is pursued through guidance, education, and rehabilitation, and resocialization, serves as the basis for sentencing.

Considering the unique characteristics of children in their behavior and actions, it must be ensured that the punishment of children, especially the imposition of imprisonment, is a final measure when other efforts are unsuccessful.

Institutional development is carried out at job training centers or development institutions organized by both the government and the private sector. Institutional development is imposed if the child's condition and actions do not endanger society." Explanation of Article 79 of the SPPA Law states that this punishment can be imposed if the child commits a serious crime or a crime accompanied by violence. The maximum sentence of restriction of freedom imposed on children is  $\frac{1}{2}$  (one half) of the maximum prison sentence threatened to adults.

Given that the fundamental principle in addressing children's issues is to achieve the best interests of the child, a restorative justice approach is considered a viable alternative to achieving these interests. Restorative justice seeks to resolve conflicts peacefully outside the courts, specifically for children in conflict with the law

#### 4. Conclusion

Legal regulations regarding children who commit immoral crimes are actions that violate several provisions, for example Article 76D. Law Number 35 of 2014 About Child Protection which strictly prohibits anyone from using violence or threatening violence to force a child to have sexual intercourse with him or another person. Provisions regarding sexual intercourse with a child can also refer to Article 473 paragraph (1) and (2) of the Law. Law Number 1 of 2023 regarding the new Criminal Code which stipulates that sexual intercourse with children is a criminal act of rape.

The application of imprisonment and job training to children who commit immoral crimes is in accordance with Article 81 paragraph (2) of the Child Protection Law, which is a prison sentence of 3 (three) years and job training for 1 (one) month at the Medan Class I Special Child Development Institution.





Prison sentences are a last resort while job training for children is carried out at institutions that carry out job training that is appropriate to their age.

The judge's consideration in imposing a prison sentence and job training on a child who commits an immoral crime is that the judge does not find anything that can eliminate criminal responsibility, either as a justification or excuse, so that the child must be responsible for his actions and because the child is capable of being responsible, he must be declared guilty and sentenced to a criminal penalty

## References

- Aminah Aziz. Legal Aspects of Child Protection. University of North Sumatra USU Press. Medan, 2018.
- A. Djazuli, Figh Jinayat (Efforts to Overcome Crime in Islam), Raja Grafindo Persada, Jakarta, 2016.
- Ahmad Hanafi, Principles of Islamic Criminal Law, Bulan Bintang, Jakarta, 2017.
- Alya Andika, Mother: Where Was I Born From?, Pustaka Grhatama, Yogyakarta, 2020.
- Andi Hamzah, Legal Dictionary, Ghalia Indonesia, Jakarta, 2015.
- Arif Gosita, Child Protection Issues. Pressindo Academy, Jakarta, 2019.
- Bambang Sunggono., Legal Research Methods, Raja Grafindo Perkasa, Jakarta, 2018.
- Bunadi Hidayat, Criminalization of Minors, Alumni, Bandung, 2014
- Darwan Prints, Indonesian Child Law, Citra Aditya Bakti, Bandung, 2015

