



Ekasakti Journal of law and Justice

e-ISSN: 2987-436X | p-ISSN: 2987-7954

Vol 4, No. 1, June 2026

journal homepage <https://ejrev.org/law>

Juridical Review of Criminal Acts of Sexual Abuse of Children Committed by TNI Officers (Study of Decision No. 88-K/PMT-BDG/AL/X/2024)

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Article History

Revised: 2026-05-19

Accepted: 2026-06-01

Published: 2026-06-05

Abstract: This study aims to juridically analyze the criminal act of sexual abuse against children committed by Indonesian National Army officers and assess the application of the principle of the rule of law in military justice based on Decision Number 88-K/PMT-BDG/AL/X/2024. The research method used is normative legal research with a legislative approach and a case approach, using secondary data obtained through literature studies and analysis of court decisions, then analyzed qualitatively. The results of the study showed that the perpetrator's actions had fulfilled the elements of criminal offenses, namely sexual acts, intentional elements, and physical, psychological, and moral losses experienced by child victims. The military court's decision in the case reflects the application of the principle of the rule of law and equality before the law because the perpetrators are still processed and sentenced to death without any special treatment despite their status as state officials. However, there are still weaknesses in the aspect of victim protection, especially related to psychological recovery and transparency of the military justice process. Therefore, it is necessary to strengthen child protection mechanisms, increase the accountability of military law enforcement officials, and more firm and consistent law enforcement to ensure justice and legal certainty.

Keywords: Criminal Offenses; Sexual Abuse of Children; TNI Officers; Crimes; Rule of Law; Court Decisions

Introduction

Law plays an important role in creating order and justice in society. Every person who commits a criminal act must be held accountable before the law, regardless of social status, position, or position.¹ This principle is in line with the principle of *equality before the law* which guarantees that all citizens have an equal position before the law.²

One of the crimes that is very troubling to the community and receives serious attention is sexual abuse of children. Children are an inseparable part of the survival of humans and the nation.³ They have the right to be protected from all forms of violence, as affirmed in Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that "*Every child has the right to survival, growth, and development and is entitled to protection from violence and discrimination.*" However, cases of sexual abuse against children are also carried out by parties who are supposed to be the protectors of the community, including Indonesian National Army (TNI) officers. This act not only injures the dignity and dignity of

¹ Moeljatno, *Principles of Criminal Law* (Jakarta: Rineka Cipta, 2008), p. 54.

² Aprianasdi, *Criminal Responsibility of Perpetrators of Persecution Resulting in Death in a Human Rights Perspective (Case Study of Criminal Case Decision No. 218/Pid.B/2024/PN JKT PST)* (Thesis, Sultan Agung Islamic University, 2025), p. 6.

³ Nurlaila et al., "Legal Protection of Children as Victims of Sexual Abuse (Case Study of Bani Ma'mun Islamic Boarding School, Serang Regency)," *Predicential* 2, no. 2 (2025): 241.

children, but also tarnishes the honor of military institutions that should be exemplary in the enforcement of discipline, honor, and morality.⁴

One concrete example is case Number 88-K/PMT-I/BDG/AL/X/2024, in this case a member of the Indonesian Navy was found guilty of committing a criminal act of sexual harassment of a minor. This case raises fundamental questions about military criminal accountability and how the military justice system applies the principle of justice in cases involving violations of children's rights. Thus, this research is important to be conducted in order to juridically review the application of military criminal law to perpetrators of sexual abuse of children by TNI officers, as well as to assess the extent to which the verdict reflects the principle of justice based on divine values.

Methods

The specification of this research is descriptive-analytical using a normative juridical approach through a legislative approach and a case approach. The type of data used is secondary data. Secondary data was obtained through document studies and literature studies which included laws and regulations, law books, scientific journals, and court decisions. The data obtained is then analyzed qualitatively.

Findings and Discussion

Juridical Review of Criminal Acts of Sexual Abuse of Children Committed by TNI Officers Based on Decision Number 88-K/Pmt-I/Bdg/Al/X/2024

The crime of sexual abuse of children is a very serious form of crime because it not only violates legal norms, but also damages the future of children as victims.⁵ Children are individuals who are still in the stage of physical and mental development so they need special protection from the state, society, and family.⁶ Therefore, the state provides legal protection for children through various laws and regulations, one of which is Law Number 35 of 2014 concerning Child Protection.

In the case contained in Decision Number 88-K/PMT-I/BDG/AL/X/2024, the defendant is an Indonesian National Army officer who was charged with committing the crime of sexual abuse against children. Because the perpetrator is an active member of the military, the judicial process is carried out through a military court in accordance with the provisions of Law Number 31 of 1997 concerning Military Justice. Juridically, the analysis of this case can be carried out by reviewing several aspects, namely the elements of the criminal act, the judge's legal considerations, and the conformity of the verdict with the provisions of the applicable laws and regulations.

a. Analysis of the Elements of Crime

In criminal law, an act can be declared a criminal offense if it meets the elements that have been determined by law. In the case of child sexual abuse, the elements that must be met include:

1. The element of "everyone"

This element shows that any individual who commits an act prohibited by law can be held criminally responsible. In this case, the defendant is a member of the TNI who is legally considered a legal subject who can be held accountable for his actions. Thus, the element of "everyone" in this case has been fulfilled.

2. Elements of committing obscene acts or sexual harassment

This element is related to actions that violate moral norms committed by the perpetrator against the victim. Based on the facts revealed at the trial, the defendant committed a sexual act against the minor victim. This action is clearly contrary to moral norms and violates the applicable legal

⁴ Karina Hasiyanni Manurung and Irwan Triadi, "Juridical Analysis of Sexual Harassment Cases Committed by Members of the Indonesian National Army," *Socius: Journal of Social Sciences Research* 1, no. 5 (December 2023): 34.

⁵ Rani Rahayu and Sari, "Legal Analysis of the Crime of Molestation of Minors in the Perspective of Child Protection in Indonesia," *Court Review: Journal of Legal Research* 5, no. 6 (2025): 315.

⁶ Nashriana, *Criminal Law Protection for Children in Indonesia* (Jakarta: PT Raja Grafindo Persada, 2011), p. 3.

provisions. With the witness statements, victim statements, and other evidence submitted at the trial, the panel of judges considered that the act was proven to have been committed by the defendant. Therefore, the element of committing obscene acts or sexual harassment is declared fulfilled.

3. The victim element is the child

Based on the provisions of the Child Protection Law, a child is a person who is not yet 18 years old. In this case, the victim is a minor child so it falls into the category protected by law.

Thus, the element of the victim is a child has also been fulfilled in this case.

b. Judge's Legal Considerations (*Ratio Decidendi*)

In passing a verdict on a case, the judge must consider various relevant legal aspects. The judge's legal considerations or ratio decidendi are the reasons that are the basis for the judge in imposing a verdict against the defendant. Decision Number 88-K/PMT-I/BDG/AL/X/2024, the panel of judges considered several things, including:

1. The judge considered the facts revealed at the trial based on witness statements, victim statements, and other evidence. Based on the results of the examination, the judge concluded that the defendant was proven to have committed the acts charged by the military prosecutor.
2. The judge considered the defendant's position as a TNI soldier. As a state apparatus, a TNI soldier should be an example for the community and uphold the values of discipline and military honor. Therefore, the acts committed by the defendant are considered not only to violate the criminal law, but also to tarnish the good name of the military institution.
3. The judge also considered the impact experienced by the victim. The crime of sexual abuse of children can cause prolonged psychological trauma and affect the mental development of the victim in the future.⁷ Therefore, the judge considered that the defendant's actions were serious and needed to be given strict sanctions.

Based on these various considerations, the panel of judges finally sentenced the defendant in accordance with the provisions of applicable law.

c. Conformity of the Decision with Laws and Regulations

Based on the results of the analysis of the decision, it can be seen that the decision handed down by the panel of judges is in accordance with the provisions of the applicable laws and regulations in Indonesia.

1. Based on the criminal law, the defendant's actions have fulfilled the elements of the criminal act of sexual abuse against children as stipulated in the Child Protection Law. This shows that the application of the law in the case has been carried out appropriately.
2. In terms of military law, the judicial process against the defendant is carried out through a military court in accordance with the provisions of the Military Justice Law. This shows that the legal procedures applied in the case are in accordance with the judicial system applicable to military members.⁸
3. The verdict handed down by the judge also considers the interests of the victim and provides a deterrent effect to the perpetrator. This is in line with the purpose of criminal law, which is to provide protection to the community and prevent future criminal acts

d. The Author's Analysis of the Verdict

The verdict handed down by the panel of judges in this case is appropriate because it has considered various relevant legal aspects. The judge not only considers the elements of the criminal

⁷ Rika Saraswati, *Child Protection Law in Indonesia* (Bandung: Citra Aditya Bakti, 2015), p. 102.

⁸ S. R. Sianturi, *Military Criminal Law in Indonesia* (Jakarta: Alumni, 2010), p. 25

act committed by the defendant, but also considers the impact of the act on the victim and the honor of the military institution. However, in the case of sexual abuse of children, law enforcement must be carried out firmly and consistently in order to provide maximum protection to children as victims. State officials, including members of the TNI, must be given stricter guidance so as not to commit acts that can harm the community and tarnish the good name of state institutions. Thus, law enforcement against perpetrators of sexual abuse of children committed by TNI officers must be carried out in a transparent, fair manner, and in accordance with applicable legal provisions. This is important to maintain public trust in law enforcement institutions and ensure the protection of the rights of children as victims.

Application of Military Criminal Law in Handling Cases of Sexual Abuse of Children Committed by Members of the TNI

Sexual abuse of children is a very serious form of crime because it not only violates legal norms, but also violates moral norms and human rights.⁹ Children as victims have the right to legal protection from the state because children are a vulnerable group to various forms of violence, including sexual violence. Therefore, the state provides special protection to children through various laws and regulations that apply in Indonesia. Members of the TNI who commit criminal acts are subject to military criminal law and are processed through military courts. Provisions regarding military justice are regulated in Law Number 31 of 1997 concerning Military Justice. Military courts are judicial institutions that have the authority to prosecute military members who commit violations of the law, both violations of military discipline and general criminal acts.¹⁰

If a member of the TNI commits a criminal act of sexual abuse against a child, then the process of handling the case is still carried out through the military justice mechanism. However, the application of the law to the case still refers to the provisions of the general criminal law and the laws governing child protection. This is because the criminal act of sexual abuse of children is a criminal act that is specifically regulated in laws and regulations. There are several stages that must be passed in handling cases of criminal acts committed by TNI members. These stages include the process of investigation, investigation, prosecution, and examination at military court trials.¹¹

In the early stages, if there is a suspicion that a member of the TNI has committed a criminal act, then military law enforcement officials will conduct an investigation to find out whether a criminal event has indeed occurred. After that, an investigation process was carried out to collect various evidence related to the incident. If sufficient evidence is found in the investigation process, the case will be handed over to the military inspector for prosecution in the military court. Military inspectors are officials who have the authority to prosecute military members who are suspected of committing criminal acts.¹² The case will be examined by a panel of judges in a military court. In the trial process, the judge will consider various evidence submitted by the military prosecutor, such as witness statements, victim statements, and other evidence related to the case. After the entire examination process is completed, the judge will then render a verdict against the defendant based on the facts revealed at the trial.

In the case of sexual abuse of children committed by members of the TNI, the perpetrator can be subject to criminal sanctions in accordance with the applicable legal provisions. In addition, the perpetrator may also be subject to additional sanctions in the military environment, such as demotion, dismissal from military service, or other disciplinary sanctions. The application of sanctions aims to

⁹ Nuke Rouffyanti Abdillah and Oci Sanjaya, "A Criminological Review on Perpetrators of Sexual Exploitation of Minors," *Scientific Journal of Wahana Pendidikan* 8, no. 15 (2022): 352.

¹⁰ Suprobo Rini and Suprpto, "The Authority of Military Courts in Cracking Down on TNI Members Who Commit General Crimes," *Journal of Science Collaborative* 8, no. 8 (2025): 5123.

¹¹ Wisnu Adi Saputera, "Analysis of Legal Protection Efforts for Victims of Sexual Harassment in the Military Environment," *Indonesian Law Student Writers Association Law Journal* 2, no. 1 (2022): 131.

¹² A. Afandi, "Military Justice Reform in the Context of Civil-Military Relations in Indonesia" (2000), p. 34.

provide a deterrent effect to the perpetrators and maintain discipline and honor in the military environment.

Based on the analysis of the application of military criminal law in handling cases of sexual abuse of children committed by members of the TNI, it can be seen that the military justice system has an important role in enforcing the law against military members who commit criminal acts. Strict law enforcement against perpetrators of sexual abuse against children is also a form of legal protection for children as victims. Thus, the application of military criminal law in handling cases of sexual abuse of children committed by members of the TNI must be carried out firmly, transparently, and in accordance with the provisions of applicable law. This is important to provide justice for the victims and maintain public trust in military institutions as state institutions that have the responsibility to maintain public security and order.

Legal implications of the case verdict on child protection and justice enforcement in the military environment

Court decisions in a criminal case have very important legal implications, both for the victim, the perpetrator, and for the law enforcement system as a whole.¹³ In the case of criminal acts of sexual abuse against children committed by members of the TNI, court decisions not only aim to punish the perpetrators, but also have a wide impact on child protection and the enforcement of justice in the military environment.

Children as victims of criminal acts have the right to receive legal protection from the state. This is because children are a vulnerable group and need special protection from various forms of violence and exploitation. Therefore, the state has regulated various legal provisions aimed at protecting children from criminal acts, including the crime of sexual harassment.

In the case contained in Decision Number 88-K/PMT-I/BDG/AL/X/2024, the panel of judges handed down a verdict against the defendant who is a member of the TNI because he was proven to have committed a criminal act of sexual abuse against children. The ruling has several important legal implications, particularly in relation to child protection and law enforcement in the military environment.

a. Implications for Child Protection

One of the legal implications of the decision is the increase in legal protection for children as victims of criminal acts. With the decision that imposes sanctions on the perpetrators, the state has shown its commitment to protecting children from various forms of violence, including sexual violence. The verdict also sends a message that every act that harms children will be processed legally regardless of who the perpetrator is. This is important because in some cases, the perpetrator of crimes against children is often a person who has a certain position or power, so the victim is afraid to report the events he experienced. The decision also provides a deterrent effect to the perpetrator and serves as a warning to the public not to commit acts that can harm children. Thus, the protection of children can be further strengthened through strict law enforcement against criminal offenders.

b. Implications for Enforcement of Justice in the Military Environment

Another legal implication of the ruling is on the enforcement of justice in the military environment. As a state institution that has an important role in maintaining state security and sovereignty, the TNI is required to have high discipline and uphold legal and moral values. When a member of the TNI is proven to have committed a criminal act, the perpetrator must be processed in accordance with the applicable legal provisions. Strict law enforcement against TNI members who commit criminal acts is a form of effort to maintain discipline and honor of military institutions. The verdict also shows that TNI members are not immune from the law. Even though they have a position

¹³ Military Court Decision Number 88-K/PMT-BDG/AL/X/2024.

as state apparatus, TNI members must still be held accountable for their actions if they violate the law. Thus, law enforcement carried out through military courts can increase public trust in military institutions.

c. Implications for Legal Certainty and Justice

Another legal implication of the verdict is the creation of legal certainty and justice for victims. In the criminal law system, the main purpose of law enforcement is to provide justice to the aggrieved party and to sanction the perpetrators of criminal acts. With the verdict against the perpetrator, the victim has received a form of legal protection and recognition that the act he experienced is a violation of the law. This is important to provide a sense of justice for victims and restore victims' trust in the applicable legal system. The verdict can also be a reference for handling similar cases in the future. Judges can use the decision as a consideration in deciding cases that have the same characteristics, so that consistency can be created in law enforcement.

d. The Author's Analysis of the Legal Implications of the Decision

The verdict in this case has important legal implications in an effort to improve child protection and law enforcement in the military environment. The imposition of sanctions on the perpetrators shows that the law applies to everyone regardless of status or position. However, efforts to protect children cannot only be carried out through law enforcement alone. Various more intensive prevention and coaching efforts are also needed, both in the military environment and in society in general. This is important so that cases of sexual abuse against children can be minimized in the future. Thus, the legal implications of the decision are not only limited to sanctioning perpetrators, but also have a broader impact in strengthening child protection and increasing public trust in the law enforcement system in Indonesia, especially in the military environment.

Conclusion

Based on the results of the research and discussion, it can be concluded that the criminal act of sexual abuse against children committed by TNI officers in Decision No. 88-K/PMT-BDG/AL/X/2024 has met the elements of criminal offenses, namely the existence of sexual acts, intentional elements, as well as physical, psychological, and moral losses for the victim, so that the perpetrators can be convicted in accordance with applicable law. The verdict also shows the application of the principles of the rule of law and *equality before the law*, because the perpetrators are still processed even though they are members of the TNI. However, there are still obstacles in law enforcement, especially the lack of transparency of the military judiciary and the lack of optimal psychological protection and recovery for child victims, so that it is necessary to improve the implementation of the law so that justice can be realized to the maximum.

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