



## Juridical Review of the Crime of Taking Women Run

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### ABSTRACT

This study aims to determine the application of material criminal law provisions for the crime of taking women away in the Unaaha District Court Decision Number 14/Pid.B/2011?PN.Unh and knowing the legal considerations in imposing criminal sanctions on the perpetrators of the crime of taking women away in the decision. Unaaha District Court Number 14/Pid.B/2011?PN.Unh, which was implemented at the Unaaha District Court. The data collection method used was the library method and the interview method, then the data obtained were analyzed qualitatively.

### 1. Introduction

Humans as social beings in interacting both with each other and with other creatures are bound by laws that regulate what is allowed and what cannot be done. As a legal definition put forward by Achmad Ali (2002: 35) that law is a set of rules or measures that are arranged in a system that determines what is allowed and what cannot be done by humans as citizens of society in their social life.

In law, one type of law that is known is criminal law. WLG Lemaire (PAF Lamintang, 1997: 1) states that criminal law consists of norms that contain requirements and prohibitions which the legislators have associated with a sanction in the form of punishment, namely a special suffering. Thus it can also be said that criminal law is a system of norms that determine actions in which something is done or not to do something where there is a necessity to do something and under what circumstances the punishment can be imposed, as well as punishment. how can be imposed for these actions. Rusli Effendy (1986: 1) provide an explanation of criminal law is part of the whole that applies in a country that provides the basics and rules for: 1) Determining which actions should not be carried out which are prohibited accompanied by threats or sanctions in the form of certain crimes for anyone who violates the prohibition. the. 2) Determine when and in what cases those who have violated the prohibitions can be imposed or sentenced to criminal acts as threatened. 3) Determine in what way the crime can be carried out if there are people who are suspected of having violated the prohibition. 1) Determining which actions should not be carried out which are prohibited by being accompanied by threats or sanctions in the form of certain crimes for anyone who violates the prohibition. 2) Determine when and in what cases those who have violated the prohibitions can be imposed or sentenced to criminal acts as threatened. 3) Determine in what way the crime can be carried out if there are people who are suspected of having violated the prohibition. 1) Determining which actions should not be carried out which are prohibited by being accompanied by threats or sanctions in

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the form of certain crimes for anyone who violates the prohibition. 2) Determine when and in what cases those who have violated the prohibitions can be imposed or sentenced to criminal acts as threatened. 3) Determine in what way the crime can be carried out if there are people who are suspected of having violated the prohibition.

In criminal law itself, there are 2 (two) categories, namely crime and violation. Indonesian criminal law has regulated it positively in the Criminal Code (KUHP). Crimes are regulated in book II and violations in book III.

In accordance with the spirit of Article 1 of the Criminal Code, it is also required that the provisions of the law must be formulated as carefully as possible. This is called the *lex certa* principle. The law must sharply and clearly limit the government's authority over the people (*lex certa*: trustworthy law).

The basic understanding of Article 1 of the Criminal Code is also related to the spirit of Article 3 of the Criminal Code, namely that criminal law must be realized with adequate procedures and with legal guarantees. Anselm Von Feuerbach (PAF Lamintang, 1997: 132) formulates the principle of legality steadily in Latin, namely: 1) *Nulla poena sine lege*: there is no crime without criminal provisions according to law. 2) *Nulla poena sine crimine*: there is no crime without a criminal act. 3) *Nullum crimen sine poena legal*: there is no criminal act without a criminal offense according to the law.

One form of crime that will be discussed in this legal thesis is Crimes Against the Freedom of People, as regulated in book II Chapter XVIII of the Criminal Code (KUHP) which will specifically be studied in Article 332 of the Criminal Code.

Chapter XVIII of the Criminal Code (KUHP) which regulates crimes against the independence of this person consists of 14 (fourteen) articles. Theoretically, it consists of several actions, including the act of taking someone away with the intention of controlling (Article 328); carry away a person who is not yet an adult (Article 330); carry away a woman who is not yet an adult (Article 332); depriving someone of one's freedom by breaking the law (Article 333). The act regulated in Article 333 of the Criminal Code is generally known as kidnapping.

In relation to Article 332 of the Criminal Code which is understood as taking away a woman who is not yet an adult with the intention of controlling her, our society is often associated with the term elopement. Elopement itself when interpreted simply is between a man and a woman who carry out a marriage without the approval of their parents or guardians. Although there are many factors that influence the occurrence of elopement, the general public has assumed that socio-economic factors are the main factors in the occurrence of elopement.

In the case that will be used as a reference in this legal thesis, the defendant has been charged with an act, namely taking away a woman who is not yet an adult without the consent of the woman's parents. However, the defendant also admitted that he had sexual relations with the victim's witness. However, what becomes problematic in Decision Number 14/Pid.B/2011/PN.Unh is that there are indications of the fact that the application of sanctions is only 10 (ten) months in prison while in the Criminal Code (KUHP) Article 332 paragraph 1 the threat of punishment 7 (seven) years in prison.

## 2. Method

### 2.1 Data collection technique

To obtain the data needed in this study, the research conducted data collection through the following techniques:

a. Interview Techniques (interviews)

That is by conducting questions and answers to the parties involved or regarding this crime, including the judge at the Unaaha District Court who decided this case, as well as other parties who took part in this case.

- b. Library Engineering  
That is a normative review technique of several laws and regulations and court decision files related to this crime as well as a review of some relevant literature with the material discussed.

## 2.2 Data Analysis Techniques

The data that has been obtained from the results of this study are compiled and analyzed qualitatively, then the data is then described descriptively in order to obtain a picture that can be understood clearly and directed to answer the problems that the authors examine.

## 2.3 Operational Definition

- a. The application of criminal sanctions is the imposition of punishment on someone who commits the crime of escaping women in Konawe Regency.
- b. The court is the Unaaha District Court.
- c. The case is a criminal act of escaping women in Konawe Regency.
- d. A criminal act is a criminal act that can be punished or any act that is threatened with punishment as a crime or violation, both stated in the Criminal Code and other regulations.
- e. Taking women away is carrying with the intention of having a woman under his control against the right with the aim of marrying her.

## 3. Analysis and Results

### 3.1. Application of Material Criminal Law Provisions Against the Crime of Taking Women Running in the Unaaha District Court Decision Number 14/Pid.B/2011/PN. uh.

Following main headings should be provided in the manuscript while preparing. The separation between main headings, sub-headings and sub-sub headings should be numbered in the manuscript with the following example:

The Unaha District Court which examines and adjudicates criminal cases in the first instance by means of an ordinary examination has rendered the following decisions in the case of the Child Defendant:

Name	: AGUS TAUFIK HIDAYAT Bin SARJANI
Place of birth	: Beautiful Nario
Age/Date of Birth	: 16 years/ 16 may 1994
Gender	: Man
Citizenship	: Indonesia
Residence	: Kel. Sendang, Kec. Tongauna, Kab. Konawe
Religion	: Islam
Profession	: Student

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a. Case Position

The beginning of the incident was on October 11, 2010, at around 09.00 WITA the defendant had taken the victim away to the defendant's grandmother's house which is located at SPH Narioh Indah Kec. Wawotobi, Kab. Konawe, but before taking the victim away, the defendant first contacted the victim by sending an SMS that the defendant would come to school and invite the victim to meet. The victim then left the school and met the defendant. Then the defendant took the victim to the defendant's grandmother's house with the reason that "if we don't run we will be killed by your mama" so that at that time the victim wanted to go with the defendant to the defendant's grandmother's house which is located at SPH Nario Indah Kec. Wawotobi, Kab. Konawe. After arriving at the defendant's grandmother's house at around 11:00 WITA, the two of them rested there. Around 15: 00 WITA the defendant's grandmother ordered the defendant to immediately take the victim home but the defendant remained silent so the defendant's grandmother ordered her husband to inform the defendant's parents that the defendant was at his house with his girlfriend (the victim) and did not want to go home. After the defendant's parents learned about the news, they contacted the police, who also happens to be the defendant's uncle, to ask for protection to prevent unwanted things from happening to the victim's family when they found out about the incident. At around 23:00 WITA the defendant and the victim were picked up by the police and then they were taken to the police station.

Upon arrival at the police station, the victim's parents were informed to pick up their child who is now at the police station. After the victim's parents picked up their child and learned about this incident, the victim's parents objected and then complained about the defendant's actions of taking his child (the victim) away without his knowledge and consent.

b. Public Prosecutor's Indictment

The contents of the indictment for the act of taking a minor away without the permission and knowledge of the child's parents were read out at the trial at the single judge of the Unaaha District Court, which are basically as follows:

That he is the defendant Agus Taufik Hidayat Bin Sarjani, on Monday, October 11, 2010 at around 09:00 WITA or at least at another time in October 2010, at SPH Nario Indah, Kec. Wawotobi, Kab. Konawe or at least in other places that are still included in the jurisdiction of the Unaaha District Court, by taking away a woman who is not yet an adult, without the will of her parents/guardian but with her consent, both inside and outside of marriage. Which acts are carried out in the following manner:

Whereas at the time and place as mentioned above, the victim's witness started studying at school and then the defendant texted him by inviting the victim's witness to meet. Next, the victim's witness left the school, then met the defendant and asked the victim's witness to leave with the excuse "if we don't run, we will be killed by your mama" so that at that time the victim's witness wanted to go with the defendant and to the defendant's grandmother's house at SPH Nario Indah Kec. Wawotobi, Kab. Konawe. The defendant brought the victim's witness without the permission and knowledge of the victim's parents.

That the defendant's actions were Agus Taufik Hidayat Bin Sarjani, the victim's parents objected.

The actions of Agus Taufik Hidayat Bin Sarjani mentioned above are as regulated and are threatened with crime in Article 332 paragraph 1 of the Criminal Code.

c. Statements of Witnesses and Defendants in Trial

The statements of witnesses and defendants in the trial are essentially as follows:

1). Witness Ice Trisnawati

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- a). Whereas the witness knows the defendant and has no family or work relationship with the defendant;
  - b). Whereas the witness has known the defendant for about a year because the witness's house was close to the defendant's house;
  - c). Whereas the incident was on October 11, 2010 at around 09.00 WITA where initially the witness, who was studying at SMP 1 Unaaha, was texted by the erdakwa;
  - d). Whereas the text of the defendant's SMS was to invite the witness to go to his grandmother's house at SPH Narioh Indah Village, Kec. Wawotobi, Kab. Konawe;
  - e). Whereas then the defendant came to see the witness at his school and the witness then gave permission to the school on the grounds that there was a need;
  - f). Whereas the defendant then invited the witness to the defendant's grandmother's house at SPH Nario Indah Village, Kec. Wawotobi, Kab. Konawe by using a motorcycle taxi;
  - g). Whereas after arriving there the witness rested and then at 22.00 WITA the witness was picked up by the police;
  - h). Whereas the defendant brought the witness to his grandmother's house without the permission of the witness' parents;
  - i). Whereas the defendant took the witness away because the defendant was afraid of the witness's parents who would examine the witness for a virginity test;
  - j). Whereas the witness had sexual relations with the defendant 2 times; based on the testimony of the witness, the Defendant stated that the testimony of the witness was true;
- 2). Witness Harlian Bakrin
- a). Whereas the witness knows the defendant and has no family or work relationship with the defendant;
  - b). Whereas the incident took place on October 11, 2010 and the witness did not know what time the witness's son, Ice, was under running by the defendant;
  - c). That the witness was getting worried because at school time, Ice's school friend came with Ice's bag and said that Ice went with the defendant;
  - d). Whereas the witness then contacted Ice but his cellphone was not active and then the witness looked for Ice to the houses of his friends and relatives;
  - e). Whereas the witness knew that his son was at the police station at 22:00 WITA;
  - f). Whereas the witness was suspicious of Ice because of his different behavior and body and the witness suspected that Ice was not a virgin and the witness intended to check Ice's virginity;
  - g). That the witness did not know that Ice was dating the defendant, the witness only knew that Ice was closest to the defendant because the defendant was considered his own child by the witness;
  - h). That the witness was never asked for permission by the defendant to bring Ice;
  - i). Whereas the witness did not know the reason the defendant took Ice away;
- 3). Witness Sujono
- a). Whereas the witness knows the defendant and has a relationship with the defendant, namely the witness is the defendant's grandfather and has no work relationship;
  - b). Whereas on Monday 11 October 2010 the defendant came to the witness' house in Nario Indah village, Kec. Wawotobi, Kab. Konawe together with the victim;
  - c). Whereas at that time the victim was still wearing a school uniform and before that the victim had never been to the witness' house;
  - d). Whereas the defendant said that he was just taking a walk, then the defendant and the victim were just sitting at the witness's house;
  - e). Whereas the witness then ordered the defendant and the victim to go home several times but they did not want to, until finally the police arrived at around 22.00 WITA;

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- 4). Hariati's Witness
- a). That the witness knows the defendant and has a relationship with the defendant, namely the witness is the defendant's grandfather and has no work relationship
  - b). Whereas on Monday 11 October 2010 the defendant came to the witness' house in Nario Indah village, Kec. Wawotobi, Kab. Konawe together with the victim;
  - c). Whereas at that time the victim was still wearing a school uniform and before that the victim had never been to the witness' house;
  - d). Whereas the defendant said that he was just taking a walk, then the defendant and the victim were just sitting at the witness's house;
  - e). Whereas the witness then ordered the defendant and the victim to go home several times but they did not want to, until finally the police arrived at around 22.00 WITA;
- 5). Bachelor's Witness
- a). Whereas the witness knows the defendant and has a family relationship with the defendant, namely the witness is the father of the defendant and has no work relationship;
  - b). Whereas on Monday 11 October 2010 the witness' father, Sujono, came to the witness's house in the afternoon to inform him that the defendant was at Sujono's house with a woman;
  - c). Whereas the witness then contacted the Police who happened to be the defendant's uncle;
  - d). Whereas the witness suspected that there would be problems with the woman under the defendant;
  - e). Whereas the victim's parents once offered to make peace but there was no agreement with the witness;
- 6). Further, the statement of the defendant is essentially as follows:
- a). Whereas on Monday, October 11, 2010 in the morning around 09.00 WITA, the defendant brought Ice Trisnawati (Ice) who was at school by telephone and sms to ask her to go;
  - b). Whereas furthermore, the defendant came to Ice's school at SMP 1 Unahaa by using a motorcycle taxi to pick up Ice Trisnawati;
  - c). Whereas the defendant took Ice to the defendant's grandmother's house at SPH Nario Indah, Kec. Wawotobi, Kab. Konawe;
  - d). Whereas the defendant and Ice were just sitting and resting at the defendant's grandmother's house;
  - e). That at around 22.00 WITA the police came to pick them up and took them to the police station;
  - f). Whereas the defendant took Ice away because the defendant was afraid that Ice would be tested for his virginity and the defendant had been threatened by Ice's mother;
  - g). Whereas the defendant had had sexual intercourse twice with Ice;
  - h). Whereas the defendant never asked permission or told Ice's parents to take Ice away;
- d. Prosecutor's Claim
- Regarding the Public Prosecutor's Claim against the case of carrying away underage women carried out by Agus Taufik Bin Sarjani, the Public Prosecutor conveys the facts that were revealed in court successively presented in the form of statements of witnesses (five witnesses), and statements of the defendant.

Based on the testimony of one witness to another which is in accordance with the statement of the defendant, evidence is obtained regarding the occurrence of a criminal act in the form of a criminal act of carrying away an underage woman committed defendant.

Based on the facts revealed in the trial, it came to proving the elements of the criminal act that was charged to the defendant, namely Article 332 paragraph 1 of the Criminal Code.

Based on the prevailing laws and regulations, namely Article 182 paragraph 1 of the Criminal Procedure Code, in particular Article 332 paragraph 1 of the Criminal Procedure Code and other applicable laws relating to this case, the Public Prosecutor at the Prosecutor's Office with Case Register Number PDM-21/Rp- 9/Ep/01/2011 dated March 1, 2011.

So that the Panel of Judges of the Unaaha District Court who examines and hears this case decides:

- 1). Stating that the defendant Agus Taufik Hidayat is legally and convincingly guilty of committing the crime of "taking away children under age" as threatened with criminality in Article 332 of the Criminal Code.
- 2). Sentencing the defendant Agus Taufik Hidayat with a prison sentence of 1 (one) year reduced as long as the defendant is in temporary detention, and stipulates that the defendant remains detained.
- 3). Stipulates that the defendant is burdened with paying court fees of Rp. 1000-, (one thousand rupiah).

e. Verdict

Based on the demands of the Public Prosecutor, in this case, only a single indictment is used and the facts revealed in court are the statements of the accused and the statements of witnesses who have been brought before the trial.

In view of and taking into account Article 332 paragraph 1 of the Criminal Code, Law no. 3 of 1997 concerning Juvenile Court, Law no. 8 regarding the Criminal Procedure Code and other regulations related to this case, the Judge hereby:

"Judgment"

- 1). Stating that the defendant Agus Taufik Hidayat Bin Sarjani has been legally and convincingly proven guilty of the criminal act of "running off a woman who is not yet an adult";
- 2). Sentencing the defendant Agus Taufik Hidayat Bin Sarjani with a maximum imprisonment of 10 (ten months);
- 3). Determine that the period of detention that has been served by the defendant is deducted entirely from the sentence imposed;
- 4). Determine that the defendant remains in custody;
- 5). Charge the defendant a case fee of Rp. 1000, - (one thousand rupiah).

This was decided by the Judge of the Unaaha District Court on Thursday, March 3, 2011 by Andi Adha, SH. As a juvenile judge, the decision was pronounced in a public trial on the same day by the juvenile judge assisted by Sahir. R, as Registrar in lieu of the Unaaha District Court in the presence of Hidar, SH as the defendant's Public Prosecutor.

f. Author's Analysis

The success of a law enforcement process is very dependent on the application of criminal law, where one of the roles of law enforcement is how to actualize it well in the real world.

An indictment is the basis or basis for examining a case in a court session, while a letter of indictment is a letter containing the demands of the public prosecutor against a criminal act.

In essence, a Public Prosecutor must make a letter of indictment and a letter of indictment which makes the perpetrator/defendant of a criminal act unable to escape the snares.

law. The judge in examining a case must not deviate from what is formulated in the indictment letter. A defendant can only be sentenced because it has been proven in a trial that he has committed a crime as stated or stated by the prosecutor in the indictment.

The indictment of the Public Prosecutor in this case has technically met the formal and material requirements of the indictment as referred to in Article 143 of the Criminal Procedure Code, namely, it must contain the date and be signed by the public prosecutor and the full identity of the accused, besides that it must also contain a careful, clear and complete description regarding the crime charged with mentioning the time and place of the crime being committed.

However, the author saw that based on the statements of the witnesses and the testimony of the defendant, it was revealed that the defendant admitted that he had had sexual relations with the victim's witness, this was also acknowledged by the victim's witness. According to the author, in this case the defendant can also be charged with Law Number 23 of 2002 concerning Child Protection as regulated in Article 81 which reads:

- 1). Anyone who intentionally commits violence or threats of violence to force a child to have sexual intercourse with him or with another person, shall be punished with imprisonment for a maximum of 15 (fifteen) years and a minimum of 3 (three) years and a maximum fine of Rp. 300,000,000.00 (three hundred million rupiah) and at least Rp. 60,000,000.00 (sixty million rupiah).
- 2). The criminal provisions as referred to in paragraph (1) also apply to anyone who intentionally commits a trick, a series of lies, or persuades a child to have intercourse with or with another person.

Based on the author's analysis that the application of criminal sanctions by the Public Prosecutor in this case should also contain charges/claims for violating Article 81 of Law Number 23 of 2002 concerning Child Protection.

So that the author is of the opinion that the imposition of criminal sanctions by the judge for the crime of taking women away in this case is not only 10 (ten) months in prison because Article 81 of Law Number 23 of 2002 concerning Child Protection stipulates a minimum sanction of at least Rp. 60,000,000.00 (sixty million rupiah).

### **3.2 Judges' Considerations in Imposing Criminal Sanctions in Decision Number 14/Pid.B/2011/PN.Unh.**

#### **a. Judge's Consideration**

Before deciding a case, the judge pays attention to the indictment of the Public Prosecutor, the testimony of witnesses who were present at the trial, the testimony of the defendant, evidence, subjective and objective conditions for a person to be convicted, the results of the report of the community advisor, as well as other mitigating and aggravating factors for the defendant.

In the decision, the judge mentions and imposes sanctions in the form of:

- 1). Stating that the defendant Agus Taufik Hidayat Bin Sarjani has been legally and convincingly proven guilty of the crime of "running off an immature woman";
- 2). Sentencing the defendant Agus Taufik Hidayat Bin Sarjani with imprisonment for 10 (ten months);
- 3). Determine that the period of detention that has been served by the defendant is deducted entirely from the sentence imposed;
- 4). Determine that the accused remains in custody;
- 5). Charge the defendant a case fee of Rp. 1000, - (one thousand rupiah).

The things that the judge considers in making a decision in this case are:

- 1). The judge considered that on the charges of the Public Prosecutor, the defendant stated that he understood and would not file an objection/exception;
- 2). The judge considers the statements of witnesses who have given testimony under oath;
- 3). The judge considers the defendant's statement;

- 4). The judge considered that the defendant was not accompanied by a legal advisor, but was accompanied by the defendant's parents and community advisor from BAPAS Kendari;
- 5). The judge considered the demands of the Public Prosecutor. Case Register Number: PDM-21/Rp9/Ep/01/2011;
- 6). The Judge considered that based on the demands of the Public Prosecutor, the defendant did not file a defense (pledoi) and asked the Judge for leniency;
- 7). The judge considers the results of the Community Research report submitted by the Community advisor regarding the defendant where the advice submitted to the Judge is that the defendant can be sentenced to the lightest possible sentence in accordance with Article 23 paragraph 2 of Law Number 3 of 1997 concerning Juvenile Court;
- 8). The judge considers the relationship of the legal facts to one another so that whether the defendant is proven to have committed a crime as indicted by the Public Prosecutor;
- 9). The judge considered that the defendant was only charged with a single charge;
- 10). The judge considers that all the elements in Article 332 paragraph 1 of the Criminal Code have been fulfilled, then there is sufficient reason to state that the defendant's actions are legally and convincingly proven guilty of committing a crime as stated in the indictment of the Public Prosecutor;
- 11). The judge considers that the defendant is found guilty and there is no justification or excuse that removes criminal responsibility, then the defendant is considered capable of being responsible for his actions so that the defendant must be punished according to his actions;
- 12). The judge considers that in this case children are children so that the defendant applies the provisions concerning Law No. 3 of 1997 on children who commit crimes and are 12 (twelve) years old to 18 (eighteen) years old, the judge can impose punishment for children (half) of the maximum penalty for adults;
- 13). The judge considered that after looking at the defendant's curriculum vitae and advice from the Penitentiary, the judge could obtain an accurate picture to give a decision that was fair and beneficial to the defendant. The judge was of the opinion that the defendant deserved to be sentenced to a sentence of imprisonment. The judge believes that by being sentenced to prison, the defendant will be placed in a Child Correctional Institution, so that the defendant is expected to receive guidance and guidance to be able to return and lead the defendant to develop himself as a citizen who is responsible for the life of his family, nation and state.
- 14). The judge considers aggravating and mitigating factors;
  - a). Aggravating things: The defendant's actions deeply disturbed the community, The defendant's family refused the customary settlement, the defendant had sexual relations with the victim
  - b). Mitigating factors: The Defendant was polite in court, the Defendant admitted frankly and regretted his actions, the Defendant was still young so he still had a long period of time.

#### **b. Author's Analysis**

Based on the results of the author's research, both through interviews with judges related to the case in this paper, as well as through a literature study of related documents, the authors conclude that before imposing or setting a decision on the perpetrators of the crime committed, the judge first considers many things. For example, the facts at trial, juridical and non-juridical considerations, circumstances and family background of the defendant, as well as other matters related to the criminal act committed by the defendant.

The juridical considerations are the considerations of the elements of the criminal acts indicted by the Public Prosecutor, as for the elements in Article 332 paragraph 1 concerning

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taking women away which according to the judge is in accordance with what the Public Prosecutor has indicted and must be based on the facts of the trial.

In connection with the case that the author discusses, the author conducted an interview with the judge who handled this case, namely Andi Adha, SH on January 5, 2015 to find out what the judges took into consideration in deciding and imposing a sentence on the defendant, explaining that:

"In deciding cases where children are perpetrators of criminal acts, a judge must pay attention to juridical considerations such as Law Number 3 of 1997 concerning Juvenile Court and must pay attention to the legal facts revealed in the trial, in this case the statements of witnesses, statements of the defendant, evidence, guidance from the prosecutor and various other considerations, including considering community reports regarding the condition of the child."

In this case, the judge sentenced the defendant to 10 (ten) months in prison, which is lower than the demands of the Public Prosecutor who demanded the defendant 1 (one) year. The judge's consideration was that the decision was lower than the prosecutor's demand because the judge considered the age of the defendant to be 16 (sixteen) years old.

In compiling the letter of demand the Public Prosecutor related to children's cases also considered various things as stated by the Public Prosecutor who handled this case, namely Nining Purnamawati, SH from the results of the interview on January 5, 2015 revealed that:

"What the Public Prosecutor takes into consideration in filing charges against children who are faced with legal processes are: The results of the Litmas as stipulated in Law Number 3 of 1997 concerning Juvenile Court, the background of the child committing the crime, the reasons or causes of a child committing a crime. is one of the reasons for the Public Prosecutor to have their own considerations in filing criminal charges against children, because basically no child in this world is born a criminal, the child's educational status, whether the child is still in school or continuing school, mental and psychological conditions with the legal process he is facing, because a child who is not yet an adult has a much lower state of readiness than an adult. This will be one of the factors that can affect the growth and development of children mentally and psychologically, changes in children's behavior towards the impact of the punishment imposed".

The writing analysis is based on the results of research in this case the decision on the criminal act of taking women away with Number: 14/Pid.B/2011/PN. UNH in considering and prosecuting cases is not only 1 (one) year until the imposition of criminal sanctions is not only 10 (ten) months by the judge if it refers to Law Number 23 of 2002 Article 81 which regulates the minimum penalty.

Judges are authorized by law to receive, examine and decide on a criminal case. Therefore, judges in handling a case must be able to do justice.

According to the author, judges should in imposing crimes against children who commit crimes against minors should pay attention to the consequences that arise from the existence of an act, both psychological aspects and psychological aspects of the victim, so that in his decision can satisfy the sense of justice for the victim and the community. Seeing this reality, criminal law should provide appropriate sanctions for the perpetrators of these crimes so that the rule of law is truly enforced and creates order in society.

In addition, the sanctions are expected to provide a deterrent effect for criminals so that they will not repeat their actions in the future and prevent others from committing these crimes because of the threat of a fairly heavy sanction.

There should be no doubt in imposing punishment, after all, a crime must be rewarded or punished accordingly, because punishment is not only used as a recompense for a crime, it can also be used as a remedy and prevention of the increasing number of crimes.

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#### 4. Conclusion

Based on the results of the research and discussion described above, the authors can draw the following conclusions: The application of the provisions of material criminal law to the case of decision Number: 14/Pid.B/2011/PN. UNH should not only be based on Article 332 paragraph 1 of the Criminal Code, but also Article 81 of Law Number 23 of 2002 concerning Child Protection. Legal Considerations Judges in imposing criminal sanctions in the case of decision Number: 14/Pid.B/2011/PN. UNH based on the considerations of the Public Prosecutor and the Judge, the sanctions imposed should not only be 10 (ten) months in prison if applying Article 81 of Law 23 of 2002 concerning Child Protection.

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