

## **The Concept of Protection For Criminal Act of Sexual Harassment Against Children Based Upon Qanun Aceh Number 6 Of 2014 At The Sharia Court Takengon From Fiqh Perspective**

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### **ABSTRACT**

*The various violation cases of violations frequently occurs, one of which is sexual violence/harassment against children, which frequently appears on television, newspapers and social media as a form of representation that there have been many various types of criminal violations occurred. The misuse of technology, chances and light punishment that is not suitable based on the acts of the perpetrators of criminal acts, especially in the sexual abuse against children are the factors of this phenomenon. This research used a juridical research method with a normative approach in analyzing the judge's decision and linking it to existing facts, law, and Islamic fiqh. The data sources consisted of primary data, which focused on the analysis of judges' decisions regarding sexual abuse against children and secondary data from the introduction of Qanun Jinayah Aceh, Fiqh Jinayah and fiqh books such as Abd al-Qadir `Awdah, al-Tasyri` al-Jina `I al-Islami, Wabhah al-Zuhayli, and al-Fikih al-Islami wa Adillatuh. The results of the research showed that Sharia Court of Takengon is a judicial institution under the Supreme Court implementing justice in Takengon area. The Sharia Court has succeeded in deciding the case in accordance with Qanun No. 6 of 2014, but the decision was found not optimal or not commensurate with what the Defendant has done from a Fiqh perspective. The decision was also found still inappropriate and not commensurate with what the Defendant has done to the child.*

**Keywords:** *Concept, Sexual Harassment, Child Protection, Qanun, Fiqh*

### **Introduction**

There are various types of offences, one of which is child sexual abuse, which often appears on television, newspapers and social media, which is a form of representation of the occurrence of various types of criminal offences. The background of all these things is usually caused by the misuse of technology, the opportunity and not severely punished according to the actions of the perpetrators of criminal acts, especially the criminal act of sexual abuse of children. The position of children in life is as the object of the nation's successor, which can be said to determine the future of a country in a nation whether it is

successful or not.<sup>1</sup> To achieve and realise the future, a child should get protection from threats, disturbances and acts of violence that are often committed against children where the perpetrators are adults. In this protection, it must be imposed on the parents, the responsibility of the community is also included, as well as the nation and state such as a good environment and a safe environment. support the child mentally and physically.

One of the crimes is child sexual abuse, which is familiar to us today with the rampant news about cases of sexual abuse offences against children, which we know that children are the next generation of the nation who continue to be victims. Even sexual violence against children occurs starting from rural areas, big city environments that have progress, culture and more advanced technological developments or legal knowledge.<sup>2</sup>

Criminal justice has a secondary prevention system to reduce crime and criminality.

Then, the system that commits crimes through the process of detection, punishment, and execution of punishment has two dual functional dimensions: one is to help society control crime. The other is as a tool to control society. If assessed from a physical point of view on children who are victims of sexual violence, it may not be too noticeable depending on the flow of the case, but from a psychological point of view, the impact causes addiction, a sense of trauma, and can even be an outlet for revenge if there is no serious action against the perpetrator, cases of sexual abuse against children can become a nightmare or a broad social impact on society. Violence is a form of violence that can be used as a form of social control. Child sexual abuse is the involvement of a child in any form of sexual activity that occurs before the child reaches a certain age as defined by the laws of the country of origin. has more knowledge than the child uses to achieve sexual pleasure.

Over the past three years, there have been many cases of sexual violence against minors in Aceh. Around 620 children were reported to be victims of sexual abuse, according to the Aceh Women's Empowerment. and Child Protection Agency (DPA). Cases of sexual violence against children are increasing in Aceh. PSTP2A Aceh data shows around 379 cases in 2020. About 200 cases of violence against children occurred in the middle of this year. With 69 cases, sexual abuse, 33 cases, and 58 cases, psychological violence are the

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<sup>1</sup> Winarno Budyatmojo Dhania Alifia, "Analysis of Legal Protection for Children as Victims of Child Father Violence (Study of Decision Number 242/pdt.Sus/2015/pn.pdg)" 2018, 179.

<sup>2</sup> Firda Laily dan Mufid Mohammad Hafidz, "Firda Laily Mufid, Legal Protection of Child Victims of Sexual Violence (Study in Sabrang Village, Ambulu Subdistrict, Jember Regency)", Jurnal Rechtsens 7, no. 1 (June 2018) 20.

three worst types of violence experienced by children.<sup>3</sup>

## **Discussion**

### **1. Case Description and Concept of Child Protection**

Coinciding with Decision Number 9/JN/2023/MS. Tkn is a decision to try a Jinayat case at the first level with an ordinary examination procedure with a Single Judge of the Takengon Shari'ah Court the detainee (Defendant) unnamed 38 years old who works as an honorary teacher at a school in Takengon located in Kebayakan, Central Aceh Takengon district was charged with having sexually abused 7 children named (AK, SL, UP, KJ, YG, ST, SR), unnamed in the classroom of the school where he taught. The defendant was sentenced to 72 months imprisonment by the Takengon Shari ah Court.

The defendant sexually abused seven children under the age of ten from December 2022 to early 2023 at the defendant's place of work as an honorary teacher at a school in Takengon at 9:30am to 10:30am by telling them to come forward to correct an assignment given to them and then the defendant abused them by grabbing their genitals and sensitive female parts and by having conversations that were inappropriate for minors to hear, followed by threats to prevent the victim from reporting the incident.<sup>4</sup>

Based on the chronology of the case, the defendant was proven to have fulfilled the elements of sexual harassment:

- a. Sexually related acts.
- b. The perpetrator is male and the victim is female.
- c. The actions taken are physical and non-physical.
- d. There is no voluntarism or mutual consent.

Harassment in the mild (e.g. verbal) or severe (e.g. rape) categories are actions that are offensive and cause harm individuals. Or things that have an element of attacking the public interest in the form of guaranteed human rights which must be respected collectively.

- a. Child Protection Based on Aceh Qanun

The central government gave Aceh the legal right to implement Islamic law. To protect children, Law No. 11/2006 on the Government of Aceh regulates child

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<sup>3</sup> Popularitasnews, "During 2020 33 Children in Aceh Were Raped and Abused 69, 9 Juli 2020," August 19, 2020.

<sup>4</sup> Contained in Decision No 9/JN/2023/MS. Tkn

protection. Articles 31 and 32 of Law No. 11/2008 stipulate that children who are victims of violence, trafficking and exploitation are entitled to protection through the authorities, by providing integrated services to victims up to the stage of confidential rehabilitation, either as individuals, or groups.

In addition, Law No. 11 of 2008 stipulates that victims of child abuse, trafficking, or exploitation are entitled to protection and assistance from psychologists and legal aid to ensure their rights as victims.<sup>5</sup>

b. Protection of children as victims of sexual harassment in decision No 9/JN/2023/MS.Tkn.

Law No. 35/2014, which is an amendment to Law No. 23/2002 on Child Protection, clearly regulates child sexual abuse as a criminal offence. With the enactment of Government Regulation in Lieu of Law (Perpu) Number 1 Year 2016 on the Second Amendment to Law Number 23 Year 2002 on Child Protection, the law was also strengthened.<sup>6</sup>

Specifically for the province of Aceh, Aceh Qanun No. 6/2014, or the Aceh Criminal Code, stipulates the highest flogging penalty for child rapists, with a minimum limit of 150 lashes and a maximum limit of 200 lashes.

Perpetrators of sexual harassment are subject to four lashes of flogging twenty-five times, a fine of four hundred and fifty grams of pure gold, or imprisonment of at least forty-five months. All of this is explained in the Aceh Qanun Jinayat book in the sixth section. "Any person who intentionally commits the Jarimah of Sexual Harassment shall be punished with "Uqubat Ta'zir flogging for a maximum of 45 (forty-five) times or a fine of a maximum of 450 (Four hundred and ) grams of pure gold or imprisonment for a maximum of 45 (Forty-five) months", according to Article 46 of Aceh Qanun Number 6 Year 2014.

Article 47 stipulates that offenders who deliberately commit the offence of sexual abuse of a child, as mentioned in the previous article, shall be punished with 90 lashes or a fine of 900 grams of pure gold or imprisonment for at least 90 months.<sup>7</sup>

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<sup>5</sup> Contained in Decision the Aceh Qanun Law is Supreme Court Decision.

<sup>6</sup> Contained in Decision No 9/JN/2023/MS. Tkn

<sup>7</sup> Quoted from the stipulation of Governor's Qanun Aceh No. 6/2014 on page 15 of the sixth section.

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Law No. 35/2014, Perpu No. 1/2016, and Articles 47, 48 of Aceh Qanun No. 6/2014 emphasise that perpetrators of crimes against children should be subject to severe criminal sanctions and fines, especially for sexual crimes and rape, with the aim of providing a deterrent effect and encouraging real efforts for the physical, psychological and social recovery of children. Legal factors provide good protection for child victims of sexual crimes.

In addition, there are other forms of legal protection for children of sexual crimes, such as the purpose of the Integrated Service Centre for Women's Empowerment and Child Protection (P2TP2A), known as Rumoh Putroe Aceh, is to help women and children victims of violence fulfil their rights to truth, protection, truth, and the right to recovery and empowerment. Control, protection, rehabilitation, and mentoring programmes are other forms of legal protection for children.<sup>8</sup>

In relation to case No. 9/JN/2023/Ms. Tkn, the judge of the Takengon Shari'a Court found the defendant guilty of committing sexual abuse against a child. The judge made a decision of uqubat ta'zir for the defendant, which means that the defendant must serve a prison sentence of 72 months and pay a fine of Rp. 2,000. In addition, the defendant's detention period was reduced while the Defendant remained in prison.

In handling the case, the judge has considered the protection of The form of protection given to children as victims of sexual harassment in Decision Number 9/JN/2023/Ms. Tkn is the provision of criminal sanctions and with various considerations the judge considers that the defendant is kept away from the victim' environment for a certain time with the intention of maintaining the psychological development of the child. then by also considering the best for the child as a victim (the best of child).

## **2. Judges` Consideration in Decision Number 9/JN/2023/Ms.Tkn**

In deciding case No. 9/JN/2023/Ms. Tkn, the Takengon Shariah Court Judge considered the legal facts and decided that the defendant was charged with the subsidiary charges by the public prosecutor. In article 47 of Aceh Qanun No. 6/2014,

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<sup>8</sup> Retrieved from <http://www.p2tp2aaceh.com/p/tujuan-pembentukan-p2tp2a-memfasilitasi.html>.

the panel of judges considered four elements, namely:

a. Element of every person

According to Aceh Qanun No. 6/2014, every individual who is a Muslim must be proven to have committed Jarimah in the Aceh area. Or it can be said that people who must be responsible for all their actions. Referring back to the case in decision Number 9/JN/2023/MS. Tkn, it was stated that in the testimony of the defendant whose name (ST) was camouflaged in the trial, he admitted that he was a Muslim domiciled in Aceh, precisely around the city of Takengon, Central Aceh, according to the testimony of the witnesses also stated that the defendant was a person who should be said to be healthy in terms of physical and spiritual health considering that the defendant was a strata 1 and worked as a teacher. Therefore, the defendant should be considered a defendant in the case of sexual abuse of a child because the element of intentionally has been fulfilled by law.

b. The element of intentionally

In the deliberate element, it is intended that there is an act based on the intention of the perpetrator consciously and has known what consequences he will face if he does this. but even so, the perpetrator never thinks back to not doing it and still does it.

According to the testimony in decision number 9/JN/2023/MS. Tkn, it was proven based on the confession and testimony of the witness, the defendant committed the offence to satisfy his lust, considering that the defendant committed the offence not only once, but also on one occasion. victim but 7 times. Therefore, the consideration of the element of intentionally has been fulfilled and legally proven.<sup>9</sup>

c. Elements of committing sexual harassment

According to Article 1 Point (27) of Aceh Qanun Number 6 of 2014, jinayat is an immoral or obscene act deliberately committed by a person in public or against another person, both male and female, without consent.

Referring to decision number 9/JN/2023/MS. Tkn in relation to the legal facts of the element of committing sexual harassment above, the defendant clearly stated

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<sup>9</sup> Contained in Decision No 9/JN/2023/MS. Tkn

that he had committed the crime of harassment from December 2022 to early January 2023 by threatening each victim not to tell what had happened. In addition to that, the defendant was a teacher where the children went to school and was a second parent to the children who should have been a carer, teacher and mentor.

Thus, the judge decided that the defendant committed the offence by repeatedly touching the genitals and sensitive areas of the child without the victim's consent, in accordance with Article 1 Paragraph (27) of the 2014 Aceh Qanun on Jinayat Law. Based on the data and testimony, the judge considered and assessed that the element of committing harassment was clearly and legally fulfilled.

d. Elements Against the Child

In relation to article 1 point 40 of the Aceh Jinayat Law Number 6 of 2014, the victim in the decree is stated to be a child. Because a child is a person who is not married and has not reached the age of 18 years. as shown in decision Number 9/JN/2023/MS. Tkn after being traced based on the certificate of residence, the seven children were still under 18 years old and even under 10 years old considering that the children were school students. Thus, the Judge decided that the element against the child has been proven legally, by fulfilling the requirements of Article 47 of Qanun Aceh Number 6 Year 2014 on Jinayat. In relation to the charge of sexual abuse in the trial, the defendant must be found guilty. As such, the accused should be punished with a penalty proportionate to his actions.

The judgement did not find any justification or excuse. Therefore the defendant must be held accountable for his actions because the defendant is capable of taking responsibility, so the defendant is subject to the punishment of *uqubat ta`zir*.

- a. The defendant committed acts that clearly violated the Islamic Shari'a law that has been regulated in Takengon, Central Aceh, especially Aceh 'Province.
  - b. The defendant committed acts that caused the child victim to have her future damaged.
  - c. The defendant who committed the harassment was a teacher at the school where the seven children attended, which would have traumatised the children and caused them to return to school.
  - d. Acts committed by the defendant against a minor child
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- e. The defendant committed the offence with threats.

Matters that constitute the elements of the offence:

- a. The defendant was polite during the trial
- b. Co-operative in court
- c. The defendant was categorised as honest during the trial
- d. The defendant regretted his actions

In relation to the criminal charge of sexual abuse of a child by the Defendant, the panel of Judges of the Takengon Shari ah Court has handed down a decision numbered 9/JN/2023/MS.tkn which read as follows:<sup>10</sup>

- a. Stating that the defendant has been proven legally and convincingly guilty of committing the crime of "Sexual abuse of a child" as charged in the Single Indictment in violation of Article 47 Qanun Aceh Number 6 of 2014 concerning Jinayat Law.
- b. Sentencing the Defendant to 72 (Seventy Two months imprisonment to be reduced while the Defendant remains in detention.
- c. Stating the evidence in the form of 7 pieces of dark brown scout skirts, 7 pieces of dark brown scout clothes, 1 piece of plain black long cloth pants, 1 piece of brown shirt.
- d. evidence was returned to the 7 children as victims.
- e. Sentencing the Defendant to pay court costs in the amount of Rp. 2,000 (two thousand Rupiah).

### **3. Analysis of Decision No 9/JN/2023/Ms.Tkn from the Perspective of Fiqh and Qanun Law No. 6 of 2014**

From a Jurisprudence Perspective In the classical concept of fiqh, sexual harassment is not very common. It does not include Jarimah or common criminal offences such as kadzaf, zina, liwath, and musahagah. Hadiths relating to sexual harassment are not thoroughly examined. But behind it all, Islam is a religion that highly values the honour of a person including women as one of the Hadiths says the Prophet said "*This world is an adornment/pleasure and the best adornment/pleasure of the world is a righteous*

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<sup>10</sup> Contained in Decision 9/JN/2023/MS.Tkn

woman" (H.R. Muslim, Nasa' I, Ibn Majah, and Ahmad)".<sup>11</sup>

The Messenger of Allah also always reminded all Muslims to respect, honour and glorify women. The Messenger of Allah said *"I advise you to be kind to women"* (H.R.Muslim).<sup>12</sup>

Considered to lead to adultery in Islam, it is not only looking at a woman with desire that is forbidden, but also kissing or touching her limbs. Surah al-Israa' verse 32 reminds us of this:

وَلَا تَقْرَبُوا الزَّوْجَىٰ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا

Meaning: *"And do not approach adultery. Verily, adultery is an abominable deed. And a bad way"*.<sup>13</sup>

Because there are no clear explicit examples from the Qur'an and Hadith, and in the books, regarding sanctions for sexual offenders. Therefore, perpetrators of sexual harassment will be subject to takzir punishment, which is a type of jarimah and uqubat that is handed over to the government or the judge to stipulates it. Islamic law provides severe sanctions for the perpetrators of adultery because the act of adultery damages human dignity as a whole. Sexual harassment is classified as an act that damages human dignity. Therefore, perpetrators of sexual harassment, especially those who commit sexual violence, should be subject to severe punishment in accordance with the level of harassment committed.<sup>14</sup>

Allah Swt says in Q.S Surah An-Nur verse 2 which reads:

إِن كُنْتُمْ لِلَّهِ كُلًّا وَاجِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينٍ جَلْدُورًا أَوْ لَزَائِبًا  
لِّمُؤْمِنِينَ ۖ وَلَا يَشْهَدُ عَدَاِبُهُمَا طَائِفَةٌ مِّنْ لَّا خَيْرَ لِّيَوْمٍ أَوْ لِّلَّهِ أَتُؤْمِنُونَ بِ

Meaning: *The woman who commits adultery and the man who commits adultery,*

<sup>11</sup> Abubakar Ali dan Lubis Zulkarnain, *"Aceh Jinayat Law An Introduction"*, (Jakarta : Pustaka Kencana, 2019), 100.

<sup>12</sup> *Ibid*

<sup>13</sup> Quoted from: <https://tafsirweb.com/4636-surat-al-isra-ayat-32.html>

<sup>14</sup> *Ibid*

*punish each of them with one hundred lashes, and let not mercy on either of them prevent you from observing the religion of Allah, if you believe in Allah and the Last Day and let their punishment be witnessed by a group of believers.*

It is also mentioned in the Hadith that the Prophet said, "*Accept from me, accept from me, accept from me, Allah has made a way for them (the adulterous women). The bachelor who commits adultery with a bachelor shall be bound a hundred times and exiled for a year. And the widow who commits adultery with a widow shall be bound a hundred times and stoned*". (H.R. Muslim from Ubadah bin Shamit).<sup>15</sup>

Based on the opinion of Fathi Bahansi, the punishment of stoning is *siyasa* Syariah. It is handed over to Ulul Amri (The leader) to provide policies depending on the interests. According to Imam Malik, Imam Shaff I, and Imam Ahmad, it is obligatory.<sup>16</sup> Then it is explained based on the Hadith above the opinion of the Scholars, 100 lashes of flogging for the unmarried (Ghoiru Muhsin), then for them added to the punishment of exile for 1 year. This provision is indicated by the Sunnah, then it is said that the punishment for those who are married (Muhsin) is Stoning to death, this provision is based on the Sunnah of the Messenger of Allah.<sup>17</sup>

From Zaid in Khalid Al-Juhani, narrated, "*I heard the Messenger of Allah ordered that the Ghairu Muhsan adulterer be flogged 100 times and exiled for 1 year*" (H.R. Al-Bukhari).<sup>18</sup>

Punishment by flogging up to 100 times without mercy. and being alienated where the punishment is carried out in a public place among Muslims, this is expected to be a deterrent effect for the perpetrator and the wider community and become a valuable lesson.<sup>19</sup>

According to Imam Al-Nawawi's view, in Al-Majmu' Syarh Al-Muhadzdzab, if a perpetrator is arrested before he manages to seize property and kill, then the sanction is Ta'zir and detention based on the decision of the ruler. This is because he has been involved in a major sin, so it is necessary to impose the sanction of ta'zir. Examples of

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<sup>15</sup> Dzajuli H.A., "*Fiqh Jinayat Effort to Overcome Crime in Islam*, (Jakarta : Raja Grafindo Persada, 1996), 42

<sup>16</sup> *Ibid*

<sup>17</sup> Marsum, "*Jinayat (Islamic Criminal Law)*", (Jakarta : Fakultas of Law UII, 1984), 87

<sup>18</sup> Al-Bukhari, *Sahih Al-Bukhari*, Volume IV, 2733

<sup>19</sup> H.M. Nurul Irfan dan Masyrofah, "*Fiqh Jinayat*, (Jakarta: Amzah Imprint Bumi Aksara, 2013,) 32-33

this are someone who intends to steal and has put a hole in the wall, or someone who wants to commit adultery and has kissed. However, if the perpetrator has taken a certain amount of property stored in his storage location and has reached the nisab of theft, then an imam should punish by cutting off the perpetrator's right hand and cutting off his left leg. The reason for this is a hadith narrated by al-Shafii from Ibn 'Abbas, in which Ibn 'Abbas states about the sanction for robbers. If they have killed a soul and seized property, then their sanction is death and crucifixion. If they only killed a soul without seizing property, their sanction is only the death penalty, without being crucified. Meanwhile, if the perpetrators only seized property without killing a soul, then their sanction was the cutting of hands and feet crosswise and exile. If they run away when being punished, they will still be executed with hudud punishment.<sup>20</sup>

The perpetrator disrupts order using threats and even uses weapons with violence to threaten the victim, the action is categorised as Hirabah or robbery. The scholars refer the punishment of this jarimah to QS. al-Maaidah [5]: 33:

رُضٍ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْمَانُهُمْ وَأُرجُلُهُمْ مِّنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ لَهُمْ جزِيٌّ فِي الدُّنْيَا وَلَهُمْ فِي الْأَعْلَاءِ عَذَابٌ عَظِيمٌ

Meaning: "Verily, the punishment of those who fight against Allah and His Messenger and cause mischief in the earth, is that they shall be killed or crucified, or their hands and feet cut off crosswise, or they shall be banished (out of the country) Which Thus, (it is) a humiliation for them in this world, and a great torment for them in Hereafter". (QS. al-Maaidah [5]: 33).

In the explanation of the above proposition, there are 4 punishment options for the category of thieves, namely the death penalty, crucifixion, cutting off the feet and hands in a cross; for example, the left hand and right foot are cut off, or exile. The court judge can choose one of the four punishment options based on the type of act committed to create a deterrent effect for the offender and the community.

The perpetrator was not punished, most likely as a form of reward to the perpetrator for admitting his actions, which is considered as repentance. The woman victim of rape

<sup>20</sup> Ibid

is also categorised as free from the allegation of jarimah kadzaf (accusing another person of adultery, in this case the person she pointed to had raped her), this Hadith does not indicate that rape is not punished in Islam. The Prophet tended to avoid punishments that would cause the perpetrator to seek repentance.<sup>21</sup>

a. Decision No 9/JN/2023/MS. Tkn in Fiqh Perspective

Referring to Decision No. 9/JN/2023/MS. Tkn regarding cases of sexual harassment against children seen from the perspective of Jurisprudence, the judge's decision to impose a prison sentence of 72 months is still not appropriate because according to jurisprudence harassment is an act of coercion of adultery that can be imposed with severe punishment, even in fiqh it is said that sexual violence or rape and the like are acts that violate human rights considering that the defendant committed repeated harassment and the actions he took were increasing day by day and were even carried out against 7 children who were minors who were his own students where he taught.

Furthermore, it was also explained that perpetrators who, commit acts of violence or harassment can be threatened with the punishment of Rajam, flogging 100 times and being banished for 1 year. Then if the perpetrator carries out the threat of violence with an element of coercion it can be an act of robbery / Hirabah considering that in the case handled the defendant carried out his actions by threatening 7 children with the element of showing power so that the victim could not resist. Furthermore, referring to the case the ACCUSED is A teacher who is categorised as being in good physical and mental health and who is aware of what he has done is an aggravating circumstance for the defendant.

b. Decision No 9/JN/2023/MS.Tkn in the Perspective of Qanun

Referring to decision No. 9/JN/2023/MS. Tkn the decision of the Judge of the Takengon Shariah Court regarding the sentencing of the perpetrator of the crime of sexual abuse against children as a form of protection of children as victims of sexual abuse in the decision the Judge found the defendant guilty of committing sexual abuse against the child with the legal basis of Aceh Qanun no 6 of 2014

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<sup>21</sup> H.A Djazuli, *"Fiqh Jinayat Effort to Tackle Crime in Islam"*, (Jakarta: Raja Grafindo Persada, 1996,) 108-109

article 47 and was sentenced to ugubat or imprisonment for 72 months.

According to Aceh Qanun No. 6 of 2014, the perpetrator is punished with "Uqubat Ta'zir" of 90 (ninety) lashes, a fine of 900 (nine hundred) grams of pure gold, or imprisonment of at least 90 O months. The verdict imposed on the ACCUSED with 72 months imprisonment has not fulfilled the maximum limit, because Law No. 6 of 2014 stipulates a maximum sentence of 90 months, but the ACCUSED was only sentenced to 72 months.

The ACCUSED has committed acts of sexual harassment with elements of intent and threats of violence against 7 children who are still minors The ACCUSED also committed harassment repeatedly and increasingly the level of harassment committed. Furthermore, according to witness testimony, the ACCUSED was also involved in a case of rape/abuse of a woman, and the ACCUSED was declared to be aware of his actions and was mentally and physically healthy.

### **Conclusions**

Based on the results of the research and discussion that has been described, the following conclusions can be made:

1. The form of protection set by the Single Judge of the Takengon Shari ah Court in Decision Number 9/JN/2023/MS. Tkn against children as victims of sexual abuse according to Aceh Qanun Number 6 of 2014 in the trial of the case is to impose a sentence on the perpetrator, namely 72 months imprisonment and pay court costs of Rp. 2,000 rupiah.
2. According to the Fiqh Perspective in Decision No. 9/JN/2023/MS. Tkn, the criminal act of sexual abuse a child categorised as Zina can be flogged 100 times and exiled for 1 year. And if it is accompanied by threats of violence even if it uses weapons carried out by the perpetrator then it can fall under the punishment of Hirabah / Robbery, with stoning for married perpetrators.

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