

MODUS OPERANDI AND CRIMINAL POLICY OF SEXUAL VIOLENCE IN ISLAMIC BOARDING SCHOOLS

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Abstract

This paper describes the modus operandi and criminal policies against perpetrators of sexual violence in Islamic boarding schools (pesantren), the perpetrator's motive and how criminal law is upheld to the offenders. Sexual violence in pesantren requires prevention and overcoming with a legal paradigm. Therefore, it is necessary to know the modus operandi of sexual violence in pesantren to qualify which regulations and what criminal sanctions are relevant to be applied against perpetrators, as well as to map what legal protection victims of sexual violence in pesantren can get. This research uses a socio-legal method that is analysed descriptively and qualitatively to find answers to the problems discussed in this study. The result of this research is that the modus operandi of sexual violence in pesantren can be done by persuading, forcing, luring to be married, transferring knowledge, taking responsibility and facilitating education until college so that the victim is tricked and willing to commit these immoral acts. In addition, the criminal law policy on sexual violence has been regulated by the Wetboek van Strafrecht, the Child Protection Law, the Elimination of Domestic Violence (PKDRT) Law, and the Sexual Violence Criminal (TPKS) Law with various forms of sanctions for committers and protection for victims to uphold justice in the community.

Keywords: modus operandi; criminal policy; sexual violence; pesantren

Abstrak

Tulisan ini merupakan penelitian tentang modus operandi dan kebijakan kriminal terhadap pelaku kekerasan seksual di Pesantren, apa alasan dan tujuan pelaku melakukan kekerasan seksual serta bagaimana kebijakan hukum pidana bagi pelaku kekerasan seksual di pesantren. Kekerasan seksual di pesantren memerlukan pencegahan dan penanggulangan dengan paradigma hukum, oleh karenanya perlunya diketahui modus operandi kekerasan seksual di pesantren agar dapat mengkualifikasikan regulasi mana dan sanksi pidana apa yang relevan diterapkan terhadap pelaku juga dapat memetakan perlindungan hukum apa yang bisa didapat korban kekerasan seksual di pesantren. Penelitian ini menggunakan metode sosio legal yang dianalisis secara deskriptif kualitatif sehingga dapat menemukan jawaban atas permasalahan yang akan dibahas dalam penelitian ini. Hasil penelitian ini adalah modus operandi kekerasan seksual di pesantren dapat dilakukan dengan membujuk rayu, memaksa mengiming-imingi akan dinikahi,

ditransfer ilmu, bertanggung jawab dan akan memfasilitasi pendidikan sampai perguruan tinggi sehingga korban terperdaya dan mau melakukan perbuatan asusila tersebut. Selain itu kebijakan hukum pidana kekerasan seksual telah diatur oleh *wetboek van strafrecht*, Undang-Undang Perlindungan Anak, Undang-Undang Penghapusan Kekerasan dalam Rumah Tangga (PKDRT), Undang-Undang Tindak Pidana Kekerasa Seksual (TPKS), dan Kitab Undang-Undang Hukum Pidana (KUHP) dengan bentuk sanksi dan perlindungan yang beragam dengan tujuan memberikan perlindungan dan keadilan bagi korban.

Kata Kunci: modus operandi; kebijakan kriminal; kekerasan seksual; Pesantren

Introduction

Sexual violence is a serious crime.¹ This crime can occur regardless of place or time and has severe and dangerous impacts on its victims. Sexual violence has occurred in educational institutions in Indonesia, both public and private institutions, whether based on secular or religious education. Furthermore, in recent times, religious educational institutions have been under scrutiny by society due to the high number of reported cases of sexual violence in Islamic boarding schools. The numerous victims who speak up about the violence they have experienced² becomes one of the ways some cases of sexual violence in Islamic boarding schools are uncovered. This emphasises that anywhere can potentially experience sexual violence, including educational institutions.

Islamic boarding schools are community institutions that teach faith and piety toward God and instill noble ethics in society. They are a form of practising the teachings of Islam rahmatan lil'alam through education, preaching, exemplary behaviour, and community empowerment.³ Islamic boarding schools have a legal basis under Law No. 18 of 2019 concerning Islamic Boarding Schools. With such regulations, the existence or presence of Islamic boarding schools is increasingly recognised in Indonesia, especially in terms of recognition, affirmation, and facilitation. Islamic boarding schools are a legacy of the nation's fighters through Islamic religious education that we must preserve and maintain as part of the uniqueness of the Indonesian nation.

Islamic boarding schools have experienced very rapid development in recent decades. According to the Ministry of Religious Affairs, there has been an

¹ D. Tomuka Amelia Kalangit, J. Mallo, "Peran Ilmu Kedokteran Forensik Dalam Pembuktian Tindak Pidana Pemerkosaan Sebagai Kejahatan Kekerasan Seksual," *Jurnal E-Clinic* 5, no. 3 (2020): 248–53, <https://doi.org/https://doi.org/10.35790/ecl.v1i1.4861>.

² Riyan Alpian, "Perlindungan Hukum Bagi Korban Tindak Pidana Kekerasan Seksual Di Perguruan Tinggi," *Jurnal Lex Renaissance* 7, no. 1 (2022): 69–83, <https://doi.org/10.20885/jlr.vol7.iss1.art6>.

³ Maulana Arif Setyawan, "UU Pesantren: Local Genius Dan Intervensi Negara Terhadap Pesantren," *MANAGERIA: Jurnal Manajemen Pendidikan Islam* 4, no. 1 (2019): 19–40, <https://doi.org/10.14421/manageria.2019.41-02>.

increase in Islamic boarding schools from 2005 to 2022. This can be seen from the rise in the number of Islamic boarding schools from 14,798 in 2005 with a total of 3,464,334 students, which then increased to 36,517 in 2022 with a total of 4,350,747 students⁴. Based on the data, it is evident that the community trusts Islamic boarding school educational institutions to entrust and educate their children to become knowledgeable individuals who benefit the nation and state.

As previously stated, Islamic boarding school educational institutions are among the places where sexual violence may occur, meaning that Islamic Boarding Schools are not safe places for students from sexual violence. Therefore, caution is needed from all parties within the Islamic Boarding School environment. Data from the National Commission on Violence Against Women states that from 2015 to 2020, they received 51 reports of sexual violence in educational institutions, with Islamic Boarding Schools ranking second after universities, accounting for 19% of the reported cases of sexual violence.⁵ The latest data from the Indonesian Child Protection Commission (KPAI) on sexual violence in Islamic boarding schools, where the victims are still classified as children, shows that there were 12 cases of sexual violence between January and July 2022. Boarding schools are the most frequent place of sexual violence against children, with 5 cases or 41.67% occurring in these institutions.⁶ Considering the data, it can be seen that Islamic boarding schools are not safe places for women and children when it comes to sexual violence.

The rules for prevention and handling, including sanctions for perpetrators of sexual violence in Islamic boarding schools, have been regulated in several Indonesian laws, including the Criminal Code and the Child Protection Act.⁷ Several regulations have been established in Indonesia's legal system to prevent and handle sexual violence in Islamic boarding schools, including sanctions for perpetrators. These regulations include the Criminal Code, the Child Protection Law, and the latest Sexual Violence Criminal Act. In addition, efforts to prevent and handle sexual violence in Islamic boarding schools have been regulated through the issuance of Minister of Religious Affairs Regulation No. 73 of 2022 concerning the Prevention and Handling of Sexual Violence in Education Units under the Ministry of Religious Affairs (Ministerial Regulation 73 of 2022). These regulations have been established regarding prevention efforts, handling for both victims and perpetrators and the imposition of sanctions for perpetrators of sexual violence in Islamic boarding schools.

⁴ Admin, "Data Pesantren Dan Pendidikan Keagamaan Islam," ditpdpontren.kemenag.go.id, 2023.

⁵ Rahel Narda Chaterine, "Data Komnas Perempuan, Pesantren Urutan Kedua Lingkungan Pendidikan Dengan Kasus Kekerasan Seksual," kompas.com, 2021.

⁶ Mutia Yuantisya, "KPAI Ungkap Ada 12 Kasus Kekerasan Seksual Anak Sepanjang Januari-Juli 2022," tempo.co, 2022.

⁷ Moch. Rusmansyah Linda Meilani, Djuwiah Putri, "Perlindungan Hukum Terhadap Santriwati Korban Tindak Pidana Pencabulan," *Iblam Law Review* 02, no. 03 (2022): 28–34.

Perpetrators of sexual violence are individuals who are close to the internal environment of the Islamic Boarding School itself, including but not limited to the owners of the Islamic Boarding School, teachers or Islamic Scholar, and even fellow students who use religious narratives to justify their actions, making it difficult for the victim, who is also a student, to refuse the sexual violence that is being inflicted upon them.⁸ Sexual violence occurs because of an imbalance of power relations. Usually, there is a hierarchy between the caretaker, the teacher, and the students of Islamic boarding schools. Some caretakers or teachers abuse this inequality to commit immoral acts towards their students, especially towards female and even children students. The most concerning thing is that religious dogma is used as a tool to deceive victims so that their desires can be followed. This condition is very alarming, as Islamic boarding schools should be a safe place to study religious knowledge and science and practice it in daily life.

Several cases of sexual violence in Islamic boarding schools are committed using various modes,⁹ including offering promises to take responsibility and marry the victim, transferring knowledge, financing education up to college, telling personal family problems to gain sympathy, and even some cases where perpetrators force victims with threats to comply with their desires using the narrative "*must obey the teacher/ Islamic Scholar or religious leader to obtain the benefits of knowledge and blessings.*" Additionally, perpetrators always take advantage of the situation of boarding schools, which are often quiet and closed, making them inaccessible to the public. Perpetrators even prepare places where others cannot enter and take advantage of these situations to engage in immoral behaviour.¹⁰

This modus operandi of perpetrators of sexual violence in Islamic boarding schools needs to be explored as it will be related to the extent to which the victim experiences physical and psychological violence, how many victims there are, and the consequences of sexual violence on the victims.¹¹ In addition, the modus operandi may explain the perpetrator's motive for daring to commit immoral and criminal acts in this sacred place to measure criminal accountability that the perpetrator must accept. It can also be used as a basis for developing prevention and intervention strategies for sexual violence in Islamic boarding schools by both the government and the boarding school management.

⁸ Siti Komariah BZ Fitri Pebriaisyah, Wilodati, "Kekerasan Seksual Di Lembaga Pendidikan Keagamaan: Relasi Kuasa Kyai Terhadap Santri Perempuan Di Pesantren," *Jurnal Harkat : Media Komunikasi Gender* 18, no. 1 (2022): 33–42.

⁹ Samsul Bahri and Mansari, "Model Pengawasan Anak Dalam Upaya Pencegahan Pelecehan Seksual Di Lingkungan Pesantren," *Legalite : Jurnal Perundang Undangan Dan Hukum Pidana Islam* 6, no. 2 (2021): 108–9, <https://doi.org/10.32505/legalite.v6i2.3518>.

¹⁰ Said Alwi et al., "Preventing Bullying in Integrated Islamic Boarding Schools of Lhokseumawe City: A Strategic Management Approach," *IDARAH (Jurnal Pendidikan Dan Kependidikan)* 7, no. 1 (2023): 17–34, <https://doi.org/10.47766/idarah.v7i1.138> Copyright.

¹¹ Natalie Bennett and William O'Donohue, "The Construct of Grooming in Child Sexual Abuse: Conceptual and Measurement Issues," *Journal of Child Sexual Abuse* 23, no. 8 (November 2014): 957–76, <https://doi.org/10.1080/10538712.2014.960632>.

From this problem identification, this study is expected to reveal the modus operandi of sexual violence in Islamic boarding schools and formulate criminal law policies to reduce the rate of sexual violence.

Methods

This research is normative legal research using a socio-legal approach. It examines behaviour and societal perceptions towards events that occur in the field.¹² In this research, the author will examine the reasons and objectives of perpetrators in committing sexual violence in Islamic boarding schools by empirically observing and analysing them descriptively and qualitatively. The data obtained by the researcher, both primary and secondary data, will be analysed descriptively and qualitatively by explaining, describing, and outlining the problem and solutions to the problem researched by the author. Due to the importance of studying the modus operandi of sexual violence in Islamic boarding schools, the researcher is very interested and focused on examining the modus operandi of perpetrators of sexual violence in Islamic boarding schools to find criminal law policies as an effort to prevent and handle sexual violence in Islamic boarding schools, and to measure the extent to which regulations on sanctions for sexual violence are applied and have an impact on the perpetrators of the crime.

Results and Discussion

Modus Operandi, Forms, and Motives of Sexual Violence in Islamic Boarding Schools

Violence is an attempt to harm someone deliberately, using physical force, power, or a person's position.¹³ Meanwhile, sexual violence is a type of violence that can occur in private or public spaces, with most of the victims being women. Sexual violence is a form of violence aimed at inflicting harm on another person through the use of force, power, or the perpetrator's position¹⁴. The World Health Organization (WHO) defines sexual violence as not only limited to the crime of rape, which involves physical coercion or forcing someone to have sexual intercourse by violence, but more broadly, it encompasses any act of sexual assault or coercion, including forced sexual contact, molestation, and unwanted sexual advances, as long

¹² Sabian Utsman, *Dasar-Dasar Sosiologi Hukum: Dilengkapi Proposal Penelitian Hukum (Legal Research)* (Yogyakarta: Pustaka Belajar, 2013).

¹³ Sabda Tuliah, "Kajian Motif Pelaku Kekerasan Seksual Terhadap Anak Melalui Modus Operandi Di Lingkungan Keluarga," *EJournal Sosiatri-Sosiologi* 6, no. 2 (2018): 1–17.

¹⁴ Yonna Beatrix Salamor and Anna Maria Salamor, "Kekerasan Seksual Terhadap Perempuan (Kajian Perbandingan Indonesia-India)," *Balobe Law Journal* 2, no. 1 (2022): 7, <https://doi.org/10.47268/balobe.v2i1.791>.

as it involves attack and coercion, then it constitutes sexual violence.¹⁵ The definition is in line with their opinion. Consistent with the WHO definition, sexual violence is a sexual attack that occurs both within and outside of sexual relationships, regardless of the relationship between the victim and the perpetrator. From the above definition, it can be concluded that sexual violence is a severe problem, with increasingly rampant and diverse modes of operation,¹⁶ including those that occur in the educational environment, particularly in Islamic boarding schools.

In terms of perpetrators of sexual violence, they can be divided into two categories. First is familial abuse, in which the perpetrator is a close relative of the victim. Second is extra-familial abuse, in which the perpetrator is not a close relative or part of the victim's family but rather someone outside of the victim's family.¹⁷ Sexual violence in Islamic boarding schools is committed by *Extra Familial Abuse* perpetrators, who are individuals from within the boarding school environment and have no familial relationship with the victims. In some cases of sexual violence in Islamic boarding schools, the perpetrators are the leaders of the boarding school, teachers or Islamic scholars, or even the students themselves. By exploiting their power, these perpetrators can easily coerce their victims into engaging in immoral acts through persuasion or even threats and force, leaving the victims feeling helpless and afraid to resist the sexual violence.

Sexual violence committed by the perpetrator always has a modus operandi. Sexual violence continues to experience development, especially in terms of its modus operandi, particularly with the rapid growth of technology, which has made crime more diverse, including sexual violence. The modus operandi in cases of sexual violence includes the way and process by which someone commits sexual crimes against another person, including what tools are used to commit the crime.¹⁸ According to Rachel Boba, there are several characteristics of modus operandi, including *firstly*, the type of sexual violence; *secondly*, who is involved in sexual violence, both the victim and the perpetrator; *thirdly*, where and when the sexual violence occurs; *fourthly*, why sexual violence occurs; and *fifthly*, how sexual violence is carried out by looking at the chronological aspects of the event, the motive behind the act, what the

¹⁵ Prianter Jaya Hairi, "Problem Kekerasan Seksual: Menelaah Arah Kebijakan Pemerintah Dalam Penanggulangannya Sexual Violence Problems: Analyzing the Direction of Government Policy in Handling the Problems," *Negara Hukum* 6, no. 1 (2015): 1–16.

¹⁶ Siti Mas'udah, "The Meaning of Sexual Violence and Society Stigma Against Victims of Sexual Violence," *Society* 10, no. 1 (2022): 1–11, <https://doi.org/10.33019/society.v10i1.384>.

¹⁷ Joko Suwandi, Chusniatun Chusniatun, and Kuswardani Kuswardani, "Karakteristik Kekerasan Seksual Terhadap Anak Perempuan Di Wonogiri Dan Boyolali," *Jurnal Pendidikan Ilmu Sosial* 29, no. 1 (2019): 65–77, <https://doi.org/10.23917/jpis.v29i1.8285>.

¹⁸ Erin E. Bonar et al., "Prevention of Sexual Violence among College Students: Current Challenges and Future Directions," *Journal of American College Health* 70, no. 2 (February 2022): 575–88, <https://doi.org/10.1080/07448481.2020.1757681>.

perpetrator did, who the target was, the condition after the sexual violence occurred, and what tools were used in carrying out the sexual violence.¹⁹

Sexual violence that occurs in Islamic boarding schools has its modus operandi. To examine this operandi, the researcher will provide examples of several cases of sexual violence that occurred in Islamic boarding schools along with their modus operandi. *Firstly*, the case of sexual violence committed by Harry Wirawan, the head of Tahfidz Madani Islamic Boarding School in Bandung City. This case of sexual violence occurred in a boarding school in the city of Bandung with thirteen victims who were students of the perpetrator. The perpetrator was the head of the boarding school. The Bandung District Court has ruled on the case and upheld it by the Bandung High Court in case No. 86/PID.SUS/2022/PT BDG. The judge has sentenced the perpetrator to the death penalty and ordered him to pay restitution to the victims. The sanction against the defendant was aggravated because most of the victims were pregnant, and some had already given birth due to the perpetrator's immoral behaviour. The modus operandi involved gaining sympathy from the victims by telling them about the perpetrator's family problems and convincing them that he would take responsibility for his actions and promised to finance their education until college. With this modus operandi, the perpetrator coerced and persuaded the victims to engage in sexual intercourse. In addition, due to the intense power dynamic of the perpetrator, the victims were helpless and complied with his demands.

The second case is the case of Sexual Violence committed by Hendra, the head of the La Roiba Islamic Boarding School in the Bandung Regency. There were three victims, all of whom were students of the perpetrator. This case has received a verdict from the Bale Bandung District Court with case number 429/Pid.Sus/2022/PN Blb. The sanction against the perpetrator is eleven years of imprisonment and a fine of one billion rupiah, and if the fine is not paid, it will be replaced with a three-month imprisonment. The perpetrator's modus operandi is to promise to assist the victims, finance their education up to college, and offer them a job as a caretaker at the La Roiba Islamic boarding school after completing their education. With this modus operandi, the perpetrator persuaded and coerced the victims into having sexual intercourse. Furthermore, due to the perpetrator's strong power relation, the victims were helpless and had to comply with the perpetrator's desires.

The third case is a sexual violence case committed by Moch Subchi Azal Tsani, a teacher and son of the supervisor of Islamic Boarding School Majma'al Bahrain Hubbul Wathon Minal Iman Shiddiqiyah Ploso Jombang. This case has been decided by Surabaya District Court with verdict No. 1361/Pid.B/2022/PN Sby, imposing a seven-year prison sentence on the perpetrator. The modus

¹⁹ Rachel Boba, *Crime Analysis with Crime Mapping* (Los Angeles/London/New Delhi/Singapore/Washington DC: Sage Publication, 2009). p. 142-143

operandi used by the perpetrator was to lure the victim into becoming his wife, and with this approach, the victim was forced and coerced into having sexual intercourse. Moreover, due to the intense power dynamic between the perpetrator and victim and the perpetrator's status as a teacher, the victim was helpless and compliant with the perpetrator's demands.

The fourth case is about Sexual Violence committed by Imam Akbar, a teacher at an Islamic boarding school in Ogan Ilir. The victims were 26 male students who were lured with money and threatened to be locked up in the Islamic Boarding School warehouse. The Palembang District Court has adjudicated this case. The perpetrator committed sexual violence against the students with the motive of personal satisfaction and possibly due to past trauma related to sexual violence.²⁰ With the power relation that the perpetrator has as a teacher, he forced, coerced, and threatened to commit sodomy against the victims.

The four cases above are examples of sexual violence cases that occurred in Islamic Boarding School education and have shaken and drawn attention from society. Sexual violence in Islamic Boarding Schools is carried out by the perpetrator with various modus operandi. Still, the pattern of modus operandi is almost the same, which is the unequal power relationship between the sexual violence perpetrator. Usually, the victim is under the pressure of the perpetrator, who is considered to have higher authority and position, so that the perpetrator, with their power, can persuade, force, or even threaten the victim to do something that is against the norms of ethics, morality, religion, and even the law. The power imbalance can occur because most sexual violence perpetrators are the owners of the Islamic Boarding School, teachers, or Islamic Scholars, especially in Islamic Boarding School educational institutions where ethical issues, particularly towards teachers or Islamic Boarding School owners, are prevalent. In the Islamic boarding school tradition, obedience to teachers is a must and a priority. The sexual violence perpetrators often exploit this to facilitate their sexual violence against students or victims, wrapped in religious doctrines that the perpetrators twist to deceive their victims.

These findings are compared to Rachel Boba's opinion on the characteristics of sexual violence modus operandi. *First*, the sexual violence that happened in the Islamic boarding schools is a type of crime that is silent and quiet, both in the form of physical, non-physical, verbal, and using information and communication technology. These types of violence also align with Minister of Religious Affairs Regulation No. 73 of 2022. Of the various kinds of sexual violence that occur in Islamic Boarding School, molestation or rape is the most frequent.

²⁰ Dede Cindy Aprilia, Abdul Mu'ti, and Sururin, "Kekerasan Seksual Di Lingkungan Pesantren," *Jurnal on Education* 5, no. 01 (2022): 662–75.

Secondly, sexual violence that occurs in Islamic boarding schools often involves perpetrators who are part of the school environment, such as the owner of the boarding school, teachers or Islamic scholars, and even perpetrators who are senior students, and the victims are their students, both female and male. Most perpetrators are individuals with solid power compared to their victims. Therefore, with their power and authority, perpetrators can easily commit sexual violence against victims in various ways and for multiple reasons, while the position of the victim being under the authority of the perpetrator forces them to comply with the perpetrator's wishes, resulting in sexual violence.

Thirdly, sexual violence in Islamic boarding schools occurs in a very closed and inaccessible place for others; even the perpetrators intentionally prepare a special place to carry out their immoral acts. Because the scene is closed and difficult to access by people, it makes the evidence of the violence challenging to find, causing the victim to be reluctant to report it due to fear and not having any evidence related to the sexual violence incident experienced by the victim.²¹ Therefore, sexual violence in Islamic boarding schools will be challenging to uncover if there is no courage from the victim to speak out that sexual violence has occurred against them.

Fourth, sexual violence occurs in some Islamic boarding schools because not everyone can enter them, and their supervision is very inadequate.²² Both the Ministry of Religious Affairs as the authorised institution to oversee and the general public have not been able to sufficiently monitor and regulate some Islamic boarding schools, which has contributed to the occurrence of sexual violence within these institutions. Fourth, sexual violence occurs in Islamic boarding schools because not all people have access to them, and their supervision is minimal, both by the Ministry of Religion as the authorised agency to oversee and the community in general. The lack of supervision over Islamic boarding schools is because they are considered sacred places, and the community trusts them and does not think of them as places prone to sexual violence because, in essence, Islamic Boarding Schools are institutions that teach society about the values and teachings of Islam. Therefore, in the minds of the community, it is impossible for someone who understands religion to commit actions that are prohibited by religion, which is often taught to students and even to the community. This lack of supervision is what causes sexual violence to occur in Islamic Boarding School educational institutions. In addition to supervision, sexual education in the Islamic Boarding School environment is also not maximised. Sexual education is an effort to provide information or knowledge about the importance of sexual development and reproductive health,

²¹ Nita Anggraeni, "Problematika Tindak Pidana Kekerasan Seksual Dalam Sistem Hukum Di Indonesia," *103.20.188.221* 17, no. 2 (2021): 36–45.

²² Syaiful Bahri and Dan Fajriani, "Suatu Kajian Awal Terhadap Tingkat Pelecehan Seksual Di Aceh," *Jurnal Pencerahan* 9, no. 1 (2015): 50–65.

including about the body and gender²³. Sexual education will teach students that sexuality is a private right that everyone must respect, appreciate, and uphold, so no one is allowed to commit sexual violence. Sexual education will also explain how to respond to sexual violence and how to prevent and handle it. The lack of sexual education is what causes some cases of sexual violence in Islamic boarding schools to be challenging to uncover because the victims may lack the courage and knowledge to convey the information.

Fifth, sexual violence that occurs in Islamic boarding school educational institutions by sexual perpetrators is motivated or driven by several factors, including the perpetrator's deliberate intention, along with the opportunity to harass male and female students. Furthermore, the urge of uncontrolled desire by the perpetrator also becomes a driving force for the occurrence of sexual violence. In addition, in some cases of sexual violence in Islamic boarding schools, the perpetrators were once victims of sexual violence in the past, which led them to commit the same crime against others. Lastly, the perpetrator's drive to commit sexual violence in the boarding school is due to the perpetrator's abnormality or sexual disease, such as having excessively high libido or psychological disorders related to sexual orientation.

These five cases illustrate how diverse the motives for sexual violence are. To strengthen the argument for the diversity of motives for sexual violence, especially in Islamic boarding schools, researchers conducted direct interviews with several perpetrators of sexual violence in Islamic boarding schools. The perpetrator possesses them to carry out the immoral act. These motives are only a tiny part of the many motives for sexual violence that occur in Islamic boarding school environments that need to be mitigated so that they can be prevented.

Sexual violence can take the form of rape or sexual abuse²⁴. However, several cases of sexual violence in Islamic boarding schools have more types of sexual violence, including rape, sodomy, and sexual abuse. Sexual perpetrators in Islamic boarding schools often commit these three forms of sexual violence against their victims, who are students. Sexual violence in the form of rape is an act of forcing penetration into the victim's genitalia.²⁵ In addition, sexual violence in the form of sodomy is a deviant sexual act that involves forced anal or oral intercourse.²⁶ Male perpetrators commit sexual violence in the form of sodomy

²³ Nur Mahmudah, "Memotret Wajah Pendidikan Seksualitas Di Pesantren," *Quality* 3, no. 1 (2015): 133–57.

²⁴ Salsabila Rizky Ramadhani et al., "The Traumatic Impact of Adolescent Victims of Sexual Violence And The Role Of Social Family Support," *Social Work Jurnal* 12, no. 2 (2023): 131–37, <https://doi.org/10.24198/share.v12i2.39462>.

²⁵ Muhammad Ansori Lubis and Lestari Victoria Sinaga, "Tindak Pidana Eksploitasi Seksual (Perkosaan) Oleh Orang Tua Tiri Terhadap Anak Dibawah Umur (Studi Putusan Pn Medan No. 1599/PID. B/2007/PN Mdn)," *JURNAL RECTUM: Tinjauan Yuridis Penanganan Tindak Pidana* 2, no. 2 (2020): 92, <https://doi.org/10.46930/jurnalrectum.v2i2.638>.

²⁶ J. Purwaningrum and E. Soekry, "Analisa Pidana Sodomi Pada Anak," *Prosiding Pertemuan Ilmiah Tahunan 2017*, 2017, 153–58.

against their male victims for sexual gratification. Meanwhile, sexual violence in the form of sexual abuse involves actions that interfere with others' sexuality, both physically and non-physically, such as intentionally touching someone's body or making sexist remarks, as well as actions or attitudes that have sexual connotations.²⁷

The *modus operandi*, form, and motive of sexual violence in Islamic boarding schools are essential in criminal law because they will measure the extent to which the perpetrator is involved in an act of sexual violence and what sanctions are appropriate to be given to the perpetrator.²⁸ Principally, a person cannot be punished without guilt or wrongdoing.²⁹ One law principle reflects this: “*Geen straf zonder schuld, actus non facit reum nisi mens sit rea.*”³⁰ The *modus operandi* and motive will depict an individual committing an act of sexual violence in Islamic boarding schools, whether the act was intentional or due to negligence. Additionally, knowing the *modus operandi* and motive of sexual violence makes it easier for us to devise strategies for prevention, handling, and mitigation of sexual violence in Islamic boarding schools so that cases of sexual violence in the future can be prevented with techniques that have been prepared and implemented within the boarding school.

Criminal Law Policy Towards Perpetrators of Sexual Violence in Islamic Boarding Schools

Prevention and handling of sexual violence, especially in Islamic Boarding School educational institutions, is part of the criminal policy of the Indonesian government in its effort to reduce the incidence of sexual violence. Sudarto argues that there are at least three things related to criminal policy; namely, in a narrow sense, criminal policy is understood as the principles and methods that serve as a basis for responding to crimes with punishment; in a broad sense, criminal policy is understood as law enforcement by law enforcement officers, from the police process to the court process; and in the broad sense, criminal policy is defined as policy using laws and legitimate bodies as an effort to implement norms of society³¹. The criminal policy on sexual violence is an effort

²⁷ Rosania Paradias and Eko Sopyonono, “Perlindungan Hukum Terhadap Korban Pelecehan Seksual,” *Jurnal Pembangunan Hukum Indonesia* 4, no. 1 (2022): 64, <https://doi.org/10.14710/jphi.v4i1.61-72>.

²⁸ Juliane A. Kloess et al., “A Qualitative Analysis of Offenders’ Modus Operandi in Sexually Exploitative Interactions With Children Online,” *Sexual Abuse: A Journal of Research and Treatment* 29, no. 6 (September 2017): 563–91, <https://doi.org/10.1177/1079063215612442>.

²⁹ Kristian Kristian and Christine Tanuwijaya, “Kebijakan Formulasi Pidana Terhadap Korporasi Sebagai Pelaku Tindak Pidana Pencucian Uang Dalam Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang,” *Jurnal Hukum Mimbar Justitia* 2, no. 1 (2019): 688, <https://doi.org/10.35194/jhmj.v2i1.564>.

³⁰ L. Alexander and K.K. Ferzan, *Crime and Culpability: A Theory of Criminal Law*, (Cambridge: Cambridge University Press, 2009).

³¹ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana* (Jakarta: Kencana, 2010). Hlm. 3

to protect society from sexual violence and to ensure that society receives genuine justice from a legal policy of a country.³²

As previously explained, an individual or legal entity will receive criminal sanctions if they commit a criminal act, especially if the act has an element of fault, which can lead to criminal responsibility being sought.³³ Criminal liability is a legal consequence that must be accepted and fulfilled by a person for a criminal act committed by violating state regulations. A person who can be held criminally liable is someone who fulfils the elements of a criminal act, both the *actus reus* or the criminal act itself and the *mens rea* (the evil intent or guilty mind)³⁴, However, in some instances, *mens rea* does not need to be proven, namely in *strict liability* criminal offences.³⁵

Criminal acts of sexual violence in Islamic Boarding School educational institutions through several *modus operandi* can undoubtedly be held criminally accountable provided that the elements of the crime are fulfilled under criminal provisions. Sexual violence is a crime which can be seen through the characteristics of a crime or the aspects of a criminal act. According to Moeljatno,³⁶ The criminal act can be formulated into several elements; among others, there is an act committed by a human, and the act is prohibited and punishable by law. Concerning these elements, sexual violence is classified as a criminal act because it is committed by a person, prohibited by law such as the Criminal Code, the Child Protection Law, and the Law on Sexual Violence, and is punishable by law with a maximum imprisonment of twenty years, life imprisonment, or even death penalty.

Generally, sexual violence has been regulated in the criminal law provisions of Indonesia, both in the Criminal Code as well as in more specific laws, including the Sexual Violence Criminal Law and the Child Protection Law, if the victim is a child³⁷. Those legal provisions can undoubtedly serve as a reference for preventing and handling sexual violence in Indonesia, including in Islamic boarding school educational institutions. Within these regulations, efforts to

³² "Online Grooming of Children for Sexual Purposes: Model Legislation & Global Review" (International Centre for Missing & Exploited Children, 2017).

³³ Russel Butarbutar, "Modus Operandi Dan Pertanggungjawaban Pidana Suap Korporasi," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 4, no. 1 (2017): 181–203, <https://doi.org/10.22304/pjih.v4n1.a10>.

³⁴ Anak Agung Ayu Sinta Paramita Sari, "Pertanggungjawaban Pidana Dan Pidanaan Terhadap Pelaku Pedofilia Dalam Hukum Pidana Indonesia," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 6, no. 1 (2017): 23, <https://doi.org/10.24843/jmhu.2017.v06.i01.p03>.

³⁵ Hasbullah F. Sjawie, *Direksi Perseroan Terbatas Serta Pertanggungjawaban Korporasi*, (Bandung: Citra Aditya Bakti, 2013). Hlm. 25

³⁶ Adami Chazawi, *Pelajaran Hukum Pidana Bagian 1* (Jakarta: Raja Grafindo Persada, 2002). Hlm. 79

³⁷ Yuyut Prayuti Ahmad Jamaludin, "Model Pencegahan Kejahatan Seksual Di Lembaga Pendidikan Pesantren," *Res Nullius* 4, no. 2 (2022): 161–69, <https://doi.org/10.34010/rnlj.v4i2.6861>.

prevent and handle victims and perpetrators of sexual violence are outlined, as well as the sanctions that will be given to the perpetrator.

The prohibition of sexual violence in Indonesia is regulated by various laws with different criminal sanctions and is qualified in the Criminal Code and other laws. The following are some regulations that regulate sexual violence along with their criminal sanctions described in the table below:

Table 1. Regulation of sexual violence

| No | Laws | Articles regulating and their criminal sanctions. Criminal Sanctions. |
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| 1. | Code of Criminal Law | <ol style="list-style-type: none"> 1. Article 281 regarding public indecency, punishable by a maximum of 2 years and eight months imprisonment and/or a maximum fine of Rp. 4500. 2. Article 282 regarding pornography, with a maximum punishment of 2 years and eight months imprisonment or a fine of Rp. 75000. 3. Article 283 regarding child pornography, with a maximum punishment of 9 months imprisonment. 4. Article 285 regarding rape, with a maximum punishment of 12 years imprisonment. 5. Article 286 regarding sexual intercourse with an unmarried woman who is helpless, with a maximum punishment of 9 years imprisonment. 6. Article 287 regarding sexual intercourse with a child, with a maximum punishment of 9 years imprisonment. 7. Article 288 regarding sexual intercourse with an unmarried woman who is not yet ready to be married and causing minor or severe injuries, with a maximum punishment of 12 years imprisonment. 8. Article 289 regarding rape or crimes that attack decency, with a punishment of 9 years imprisonment. 9. Article 290 on indecent acts towards helpless individuals, children or those who are not yet of legal age to marry, with maximum criminal sanctions of 7 years imprisonment. 10. Article 292 on indecent acts towards individuals of the same gender towards children, with maximum criminal sanctions of 5 years imprisonment. 11. Article 293 on inciting indecent acts with a child, with criminal sanctions of 5 years imprisonment. 12. Article 294 on sexual abuse towards children, with criminal sanctions of 7 years imprisonment. 13. Article 295 on facilitating indecent acts towards children, with maximum criminal sanctions of 5 years imprisonment, and if the crime is committed as a profession, the sentence will be increased by one-third. 14. Article 296 on facilitating sexual abuse as a profession or habit, with criminal sanctions of 1 year and four months imprisonment or a fine of Rp. 15,000. 15. Article 297 on child trafficking, with maximum criminal sanctions of 6 years imprisonment. |

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| 2. Law No. 23 of 2004 regarding the Elimination of Domestic Violence | 1. Article 46 of the Elimination of Domestic Violence Law prohibits sexual violence within households, with a penalty of 12 years imprisonment and a fine of 36 million Indonesian rupiah |
| 3. Law Number 35 of 2014 concerning Child Protection | <p>1. Article 76D prohibits violence or threats of violence to force sexual intercourse with a child, with the penalty regulated in Article 81 of imprisonment for a minimum of 5 years, a maximum of 15 years and a fine of 5 billion rupiah. If committed by a family member, educator, or close acquaintance, the penalty is increased by one-third. If the violence results in serious injury, multiple victims, or death of the victim, the perpetrator may be sentenced to death, life imprisonment, or 20 years in prison, and an additional penalty of public announcement of the perpetrator's identity, chemical castration, and electronic monitoring.</p> <p>2. Article 76E prohibits violence or threats of violence, deception, or a series of lies to force or allow a child to engage in sexual misconduct. The penalty, regulated in Article 82, is imprisonment for a minimum of 5 years, a maximum of 15 years and a fine of 5 billion rupiah. If committed by a family member, educator, or close acquaintance, the penalty is increased by one-third of the threatened penalty. If the violence results in serious injury, multiple victims, or the death of the victim, the perpetrator may be sentenced to one-third of the threatened penalty and an additional penalty of public announcement of the perpetrator's identity, rehabilitation, and electronic monitoring.</p> |
| 4. Law 12 of 2022 concerning Sexual Violence crimes | <p>1. Article 5 of The Law on Sexual Violence Crimes on non-physical sexual harassment, the punishment is nine months imprisonment and a fine of 10 million rupiahs.</p> <p>2. Article 6 of The Law on Sexual Violence Crimes on physical sexual harassment, the punishment is 12 years imprisonment and a fine of 300 million rupiahs.</p> <p>3. Article 8 of The Law on Sexual Violence Crimes on forced contraception, the punishment is five years imprisonment and a fine of 50 million rupiahs.</p> <p>4. Article 9 of The Law on Sexual Violence Crimes on forced sterilisation, the punishment is nine years imprisonment and a fine of 200 million rupiahs.</p> <p>5. Article 10 of The Law on Sexual Violence Crimes on forced marriage, the punishment is nine years imprisonment and a fine of 200 million rupiahs.</p> <p>6. Article 11 of The Law on Sexual Violence Crimes on sexual torture, the punishment is 12 years imprisonment and/or a fine of 300 million rupiahs.</p> <p>7. Article 12 of The Law on Sexual Violence Crimes on sexual exploitation, the punishment is up to 15 years imprisonment and/or a fine of 1 billion rupiahs.</p> |

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| 8. | Article 13 of The Law on Sexual Violence Crimes on sexual slavery, the punishment is up to 15 years imprisonment and/or a fine of 1 billion rupiahs. |
| 9. | Article 14 of The Law on Sexual Violence Crimes on electronic-based sexual violence, the punishment is four years imprisonment and/or a fine of 200 million rupiahs. If accompanied by extortion and threats, the punishment is six years imprisonment and/or a fine of 200 million rupiahs. |
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| 5. | <p>Law No. 1 of 2023 concerning the Criminal Code</p> <p>The latest Criminal Code identifies sexual violence offences regulated in Articles 414 through 422 of the Criminal Code, including:</p> <ol style="list-style-type: none"> 1. In the latest Criminal Code Law, the criminal act of sexual violence is identified and regulated in Articles 414 to 422 of the Criminal Code Law, as follows: 2. Article 245 concerning rape and molestation based on race and ethnicity, the criminal penalty is one year plus one-third. 3. Article 414 concerning a person who commits indecent acts towards others with qualifications. 4. a. Conducted in public, punishable by one year six months or Category III fine. 5. b. If conducted with violence and threat of violence, the penalty is nine years. 6. c. If published containing pornography, the penalty is nine years. 7. d. Forcing someone else to commit indecent acts, the penalty is nine years. 8. Article 415 concerning indecent acts towards unconscious and helpless individuals and children, the penalty is nine years in prison. 9. If Articles 414 and 415 result in severe and serious injuries, then according to Article 416, the penalty is increased to 12 years in prison. If resulting in death, the penalty is 15 years in prison. 10. Article 417 concerning molestation with promises, or towards a child or allowing indecent acts towards oneself, the penalty is nine years in prison. 11. Article 418 concerning: 12. a. Molestation towards a child who is still within the family, the penalty is 12 years in prison. 13. b. For molestation committed by an official, the penalty is 12 years. 14. c. Molestation by a doctor, teacher, employee, or administrator in a private or state institution carries a penalty of 12 years in prison. 15. Article 419 concerning facilitating molestation towards a child, the penalty is seven years in prison; if the victim is a child within the family, the penalty is nine years. 16. Article 420 concerning connecting and facilitating indecent acts, the penalty is two years in prison. 17. Under Article 421, if Articles 419 and/or 420 are done as a livelihood, the penalty is increased by one-third. |
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18. Article 422, concerning placing a child to commit molestation, the penalty is nine years; if promising the child to get a job or any other promises while forcing them to commit indecent acts, the penalty is ten years in prison.
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The regulation on sexual violence in the *Dutch-made Wetboek van Strafrecht* or Criminal Code is no longer relevant, as can be seen from its concept of punishment, which is still retributive, with penalties that are too low for perpetrators of sexual violence, disproportionate to the impact on sexual violence victims, and do not reflect the values of justice in society, and do not have a comprehensive concept of prevention and handling. The term sexual violence is not known in the *Wetboek van Strafrecht*, in which only the terms of abuse or rape are known.³⁸ From the perspective of the substantive content, rape and molestation as forms of sexual violence have a very narrow definition, as can be seen in Article 285 (rape) and Article 289 (molestation) of the Criminal Code. Rape is defined as the insertion of the male genitalia into the female genitalia. In contrast, in some cases, rape has evolved to include not only the genitals but also the mouth and anus, and the perpetrator may not necessarily use only the male genitalia. Rape is also understood as a form of sexual intercourse, whereas molestation is only understood as the act of committing indecent acts without going as far as intercourse.³⁹ As a result, the criminal sanctions for molestation are much lighter compared to rape. In addition, the *Wetboek van strafrecht* has not provided comprehensive protection for victims of sexual violence. With many problems in the *Wetboek van strafrecht*, it is appropriate to replace it with the Indonesian Criminal Code through Law No. 1 of 2023 concerning the Criminal Code.

The Law on Domestic Violence is a legal reform of the Criminal Code/*Wetboek van strafrecht* regarding sexual violence within the household. The Criminal Code is considered no longer relevant because it does not accommodate protection for women who are wives or within the family environment; in other words, the Criminal Code does not regulate sexual violence in marital relationships.⁴⁰ In practice, protecting women within households certainly presents many challenges; even though the Law on Domestic Violence formally prohibits sexual violence within the family environment, in reality, many cases still occur, and enforcement of the law is complicated.⁴¹ However, the

³⁸ Wahyu Krisnanto and Martika Dini Syaputri, "Kelemahan Perlindungan Hukum Terhadap Perempuan Dari Kekerasan Seksual Di Ruang Publik," *Jurnal Ilmiah Universitas Batanghari Jambi* 20, no. 2 (2020): 519, <https://doi.org/10.33087/jjubj.v20i2.924>.

³⁹ Ni Made Dwi Kristiani, "Kejahatan Kekerasan Seksual (Perkosaan) Ditinjau Dari Perspektif Kriminologi," *Jurnal Megister Hukum Udayana* 7, no. 3 (2014): 371–82.

⁴⁰ Lily Zakiyah Munir, "Domestic Violence in Indonesia," *Muslim World Journal of Human Rights* 2, no. 1 (2005), <https://doi.org/10.2202/1554-4419.1031>.

⁴¹ Aden Rosadi Mufliha Wijayati, "Women before the Law: Between Justice and Certainty," *AKADEMIKA* 25, no. 1 (2020): 210.

shortcoming of the Law on Domestic Violence is that sexual violence is only limited to wives or family members and does not cover sexual violence outside the family environment. Therefore, it will not be able to prevent and address sexual violence, which has become a problem in society, not just a problem within the domestic sphere. The Law cannot address sexual violence that occurs in Islamic boarding schools on Domestic Violence. Still, suppose the victim is a wife or someone within the family environment of the boarding school. In that case, the Law on Domestic Violence can be used to prosecute the perpetrator of sexual violence. However, if the victim is not a part of the family, then other regulations related to sexual violence may be enacted.

The regulation of sexual violence in the Child Protection Law is excellent, as evidenced by the heavy criminal sanctions for perpetrators of sexual violence, including the death penalty. In addition to the primary criminal sanctions, there are also additional measures imposed on perpetrators of sexual violence against children, such as chemical castration, rehabilitation, and the installation of detection devices. In the context of criminal sanctions, the Child Protection Law has a legal reform in the form of the policy of chemical castration as a means to reduce the incidence of sexual violence against children. There are pros and cons regarding applying the chemical castration policy.⁴² However, this policy has already been implemented by judges in deciding cases of sexual violence against children in Mojokerto and Surabaya. Nevertheless, it is regrettable that the criminal law reform through the policy of chemical castration in the Child Protection Law is not accommodated as one of the forms of sanctions in the newly enacted Criminal Code Law No. 1 of 2023. In terms of victim protection, the Child Protection Law has protected child victims of sexual violence in terms of physical recovery, psychological recovery, social rehabilitation, and other forms of protection so that victims can recover from the trauma and pain of sexual violence and reintegrate back into the community. Sexual violence that occurs in Islamic Boarding Schools can be addressed using the Child Protection Law, provided that both the perpetrator and the victim are children. Therefore, the Child Protection Law can be used for the prevention and handling of sexual violence in Islamic Boarding Schools.

The Law on Sexual Violence Prevention and Handling is an initiative by the Indonesian Legislative Assembly (DPR). The Law on Sexual Violence Crimes is a demand and hope of the society that sexual violence can be quickly handled according to the sense of justice of the society, addressed and preventive measures taken to prevent such incidents as they are considered to disturb and harm the feelings of the community. The Law on Sexual Violence Crimes is a step to provide a more substantial effect on perpetrators to deter them, as well as to protect victims, especially women, which the *Wetboek van Strafrecht* does

⁴² Nuzul Qur'aini Mardiyah, "Penerapan Hukuman Kebiri Kimia Bagi Pelaku Kekerasan Seksual," *Jurnal Konstitusi* 14, no. 1 (2017): 213, <https://doi.org/10.31078/jk14110>.

not regulate. The Law on Sexual Violence Crimes is an integrated and mutually reinforcing law with the latest Criminal Code Law No. 1 of 2023 to punish perpetrators and provide protection to victims. In terms of substance, The Law on Sexual Violence Crimes has regulated and classified several forms of sexual violence; However, it does not restrict rape and abortion as forms of sexual violence in The Law on Sexual Violence Crimes. These forms of violence are already regulated in other laws with maximum criminal penalties. The most important aspect of the Law on Sexual Violence Crimes Law is that the victim can demand restitution or compensation through the court for what has happened to them, both physically and psychologically. For the Law on Sexual Violence Crimes to be effective, massive socialisation is required so that the public is aware of how to prevent and handle sexual violence if it occurs in their environment. In addition, implementing regulations in the form of Government Regulations is needed to ensure that the Law on Sexual Violence Crimes can be technically implemented in society. Regarding sexual violence in Islamic Boarding Schools, the Law on Sexual Violence Crimes can be used as a regulation to punish perpetrators and provide protection for victims of sexual violence in Islamic Boarding Schools. As the Law on Sexual Violence Crimes Law is a regulation that is not limited by age, space or time, it can seize anyone who commits sexual violence, including sexual violence that occurs in Islamic boarding schools.

The enactment of the new Criminal Code to replace the *wetboek van strafrecht* is the greatest gift to Indonesia, as for the first time, Indonesia has a Criminal Code that is created by the Parliament together with the government, making it under the *volkgeist* of the Indonesian nation. *Volkgeist*⁴³ is a term coined by the Historical School of Jurisprudence legal scholar Von Savigny, which means "the spirit of the nation." This means that the Criminal Code is a reflection of the values and spirit that exist in society, which are then implemented in the spirit of the formation of the Criminal Code so that it can be accepted and adhered to by the community because, essentially, the Criminal Code is a reflection of the spirit of the Indonesian nation. The Law No. 1 of 2023 is certainly different from the *Wetboek van Strafrecht*, as reflected in the legal policy of the formation of the Criminal Code through Law No. 1 of 2023, including decolonisation in the form of recodification, democratisation of criminal law, consolidation of criminal law, as well as harmonisation and adaptation. In the context of addressing sexual violence, which is regulated in Law No. 1 of 2023, following one of its legal policies, namely harmonisation and adaptation, which means following legal and scientific developments, the regulation of sexual violence crimes, as provided in Law No. 1 of 2023, is already interconnected and further strengthens the Sexual

⁴³ La Ode Dedihariadi and Edy Nurcahyo, "Pancasila Sebagai Volkgeist: Pedoman Penegak Hukum Dalam Mewujudkan Integritas Diri Dan Keadilan," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 9, no. 1 (2020): 142, <https://doi.org/10.24843/jmhu.2020.v09.i01.p10>.

Violence Criminal Act. In addition, Law No. 1 of 2023 modernises the understanding of rape offences to a broader and more contemporary scope, not limited to male genitalia penetration into female genitalia as understood in the *wetboek van strafrecht*. Furthermore, Law No. 1 of 2023 classifies sexual violence as a particular criminal offence under Article 599 letter d. This is because sexual violence has a significant impact on the victim, is transnational and organised, requires law enforcement agencies with their tasks, functions, and authorities, is a heinous and condemnable act by society, and so on. Law No. 1 of 2023 can be used to prosecute sexual violence in Islamic Boarding School. The law regulates many sexual crimes, including sexual abuse and rape, making it relevant to be applied in cases of sexual violence in Islamic Boarding School.

Act number 18 of 2019, regarding Islamic Boarding Schools, is a regulation that explicitly governs the management of Islamic Boarding Schools in Indonesia. It covers the recognition, affirmation, facilitation, and empowerment of Islamic Boarding Schools to ensure their legal existence. However, the Islamic Boarding School Law does not regulate explicitly or implicitly regarding sexual violence, both in the context of prevention and handling of sexual violence in Islamic Boarding School. Suppose sexual violence occurs in Islamic Boarding Schools. In that case, other laws such as the Child Protection Law, the Criminal Code, the Sexual Violence Law, or the Domestic Violence Law can be used besides the Islamic Boarding School Law, which already regulates sexual violence. With this law, efforts to enforce the law and provide legal protection for victims of sexual violence in Islamic boarding schools can be made so that they can obtain justice. As mentioned above, institutionally, efforts to prevent and handle sexual violence in Islamic Boarding schools have been made through Ministerial Regulation No. 73 of 2022. Still, this regulation is not strong enough to deter offenders as it does not have the power to punish someone with criminal sanctions. The regulation only regulates the mechanism for the prevention and handling of sexual violence in Islamic boarding schools with administrative sanctions or punishment to the perpetrator.

The government, through its legal policy direction, appears to be serious and concerned and has the intention to combat sexual violence, both against children and adults.⁴⁴ This is reflected in the numerous regulations specifically enacted to prevent and address sexual violence, including those that occur in religious boarding schools. This is evident in several laws passed and discussed above, including the Law on Sexual Violence. It focuses on preventing and addressing sexual violence in Indonesia, not only against perpetrators but also providing complete protection for victims in the form of restitution and/or compensation under the courts' order. In addition, in the Child Protection Law, the punishment for perpetrators of sexual violence against children is increasingly

⁴⁴ Nurul Isnina Syawalia Arifah Nasution, "Politik Hukum Pidana Kekerasan Seksual Dalam Rkuhp," *Khazanah Multidisiplin* 2, no. 1 (2021): 45–56, <https://doi.org/10.15575/km.v2i1.11636>.

being intensified, such as additional sanctions in the form of chemical castration being imposed.

In terms of protecting victims, the government appears to be very thoughtful about implementing several policies to ensure legal protection, including rehabilitation, recovery, and compensation or restitution to fulfil the victims' sense of justice and legal certainty. Finally, the government's seriousness in combating sexual crimes is reflected in the enactment of the latest Criminal Code Law, which modifies criminal sanctions for perpetrators of sexual violence, especially in Islamic boarding schools, to ensure that perpetrators receive a deterrent effect and provide justice for victims.

This research needs to be refined with further research regarding the prevention and handling of sexual violence in Islamic boarding schools based on protection for victims. This research is significant to see how preventive and repressive efforts to suppress incidents of sexual violence in Islamic boarding schools focus on protecting victims of sexual violence and provide encouragement to Islamic boarding schools to prepare facilities and infrastructure to prevent sexual violence that occurs in Islamic boarding schools.

Conclusion

From the above description, it can be concluded that *firstly*, the modus operandi of sexual violence in Islamic Boarding School uses the power relations possessed by the perpetrator so that the victim is powerless to refuse such obscene acts. The perpetrator, with the power they hold, threatens, forces, persuades, or seduces the victim to engage in indecent acts with the promise of marriage, responsibility, or even using religious dogma to compel the victim to obey the perpetrator's commands. Forms of sexual violence in Islamic boarding schools include physical, non-physical, and verbal violence and the use of information technology devices. The motive behind sexual violence in Islamic boarding schools is that the perpetrator is a victim of past abuse and seeks gratification. *Second*, criminal law policies on sexual violence in Islamic boarding schools are not yet regulated by the Islamic Boarding Schools Act but have been established in several regulations with various criminal qualifications and sanctions, as well as comprehensive protection for victims following the rules that have been ratified in the Child Protection Law, the Domestic Violence Law, the Trafficking in Persons Law, and most recently in the new Criminal Code. These various regulations on sexual violence must reinforce and complement each other to be effectively enforced within society.

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