

Institutional Approach: Legal Protection Efforts against Sexual Violence in Islamic Boarding School Educational Institutions

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ABSTRACT

The increasing number of pesantren and students reflects the rapid growth of these institutions over recent decades. The high number of students in religious-based educational institutions, such as pesantren, with their complex interactions involving children and the need for controlled environments, has been shown to increase vulnerability to sexual violence. This is evidenced by the occurrence of 12 cases of child sexual abuse between January and July 2022, with pesantren being the most frequent location, accounting for 5 cases (41.67%). Using an institutional approach, this paper aims to provide an alternative perspective on improving policies and procedures to enhance the effectiveness of preventing and addressing sexual violence in pesantren. Previous research by Pebriaisyah et al. focused on the power dynamics between kyai and female students in pesantren, highlighting patterns of abuse and proposing sexual education as a preventive measure. In contrast, this study emphasizes policy reform through institutional guidelines to prevent sexual violence. The key difference is that this study addresses broader policy aspects, while Pebriaisyah's work is more specific to individual dynamics. The research employs a mixed-methods approach, combining quantitative and qualitative data, with primary data collected through online questionnaires from adolescents aged 14-17 during March 2023, and a normative juridical analysis using primary and secondary legal materials to analyze the prevention and handling of sexual violence in pesantren according to relevant laws and regulations. The findings conclude that, first, the authoritative nature of educational institutions in preventing and addressing sexual violence increases the likelihood of institutional leaders acting arbitrarily, often protecting perpetrators and neglecting victims. Second, the institutional approach can be implemented gradually, from preventive to responsive measures, through the development of multidisciplinary protocols and strategies specific to preventing and addressing sexual violence. Ultimately, a comprehensive legal framework will provide a foundation for task forces to act as the primary implementers of policies in preventing and handling sexual violence in pesantren.

Keywords: Child, institutional approach, Islamic Boarding School, sexual violence, task force.

ABSTRAK

Meningkatnya jumlah pesantren dan santri mencerminkan pesatnya perkembangan pesantren dalam beberapa dekade terakhir. Tingginya jumlah santri di lembaga pendidikan berbasis agama seperti pesantren, dengan interaksi yang kompleks dengan anak-anak yang mengharuskan adanya pembatasan lingkungan, diketahui dapat meningkatkan kerentanan terhadap kekerasan seksual. Kondisi ini terindikasi dari terjadinya 12 kasus kekerasan seksual pada anak dalam kurun waktu Januari-Juli 2022, dengan pesantren sebagai lokasi yang paling banyak menjadi tempat terjadinya kekerasan seksual pada anak, yaitu sebanyak 5 kasus (41,67%). Dengan pendekatan institusional, tulisan ini bertujuan untuk memberikan sudut pandang alternatif dalam memperbaiki kebijakan dan prosedur untuk meningkatkan efektivitas pencegahan dan penanganan kekerasan seksual di lembaga pendidikan pesantren. Penelitian sebelumnya dari Pebriaisyah et al. berfokus pada relasi kuasa antara kyai dan santri perempuan di pesantren, menyoroti pola kekerasan seksual dan mengusulkan pendidikan seksual sebagai solusi. Sementara itu, penelitian ini menekankan reformasi kebijakan dengan pedoman kelembagaan untuk pencegahan kekerasan seksual. Perbedaannya, penelitian ini menyoroti aspek kebijakan yang lebih luas, sementara Pebriaisyah lebih spesifik pada dinamika individu. Penelitian ini menggunakan metode campuran yang menggabungkan data kuantitatif dan kualitatif, dengan data primer dikumpulkan melalui kuesioner online pada remaja

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usia 14-17 tahun selama Maret 2023, serta kajian normatif yuridis menggunakan bahan hukum primer dan sekunder, untuk menganalisis pencegahan dan penanganan kekerasan seksual di pesantren sesuai dengan UU dan regulasi terkait. Temuan penelitian ini menyimpulkan bahwa: pertama, sifat otoritatif Satuan Pendidikan dalam hal pencegahan dan penanganan kekerasan seksual di semua jenjang dan jenis pendidikan di lingkungan kementerian agama telah memperbesar kemungkinan pimpinan lembaga pendidikan bertindak sewenang-wenang, yang seringkali melindungi pelaku dan melupakan korban kekerasan seksual. Kedua, pendekatan institusional dalam menangani kekerasan seksual dapat dilakukan secara bertahap mulai dari tindakan preventif sampai dengan tindakan responsif dengan menyusun pedoman/protokol/strategi multidisipliner yang spesifik untuk mencegah dan menangani kekerasan seksual. Pada akhirnya, ketersediaan payung hukum yang komprehensif akan menjadi landasan bagi Satuan Tugas untuk menjadi pelaksana kebijakan utama, yaitu memiliki pola tersendiri dalam upaya pencegahan dan penanganan kekerasan seksual di lembaga pendidikan pesantren.

Kata kunci: anak, kekerasan seksual, pendelatan institusional, pesantren, satgas

INTRODUCTION

The Islamic Boarding School is a traditional Islamic educational organization that emphasizes the importance of strict, in-depth quality as a rule for daily life in society (Ridwan, 2018). Since 2019, Islamic Boarding School has had a legal foundation, namely Law Number 18 of 2019 concerning Islamic Boarding School. With the existence of this regulation, the existence or presence of Islamic Boarding School is increasingly recognized in Indonesia, especially in terms of recognition, affirmation, and facilitation. Islamic Boarding School is a heritage of Islamic religious education left by the nation's fighters that we must protect and preserve as part of Indonesia's uniqueness. Setyawan noted in his writing that as a form of practicing the teachings of Islam *rahmatan lil'alam*, Islamic Boarding School is a community institution that teaches faith, piety to Allah SWT, and instills noble character to society through education, preaching, exemplary conduct, and empowerment within the community (Setyawan, 2019).

The rapid development of Islamic Boarding School in recent decades can be seen in the increased number of Islamic Boarding School and students from 2005 to 2022, with 14,798 Islamic Boarding School and 3,464,334 students in 2005, and 36,517 Islamic Boarding School and 4,350,747 students in 2022 (Admin, 2023). This data shows that society has strong confidence in Islamic Boarding School educational institutions to entrust and educate their sons and daughters to become knowledgeable and beneficial citizens for the nation. According to the Islamic Boarding School Data Center of the Ministry of Religious Affairs, in 2019 there were 2,905,316 resident students and the remaining 1,171,091 were non-resident students, the term 'resident' being familiar with the blessing value and its relation to the existence of the Islamic Scholar, as the Islamic Scholar has an important role in Islamic Boarding School (Solekhah, 2022). However, with a sufficiently high number of resident students in religious-based educational institutions such as Islamic Boarding School, it is known to have increased vulnerability to sexual violence. In her writing, Shurlee Swain states that a long history has recorded the increasing vulnerability to endemic sexual violence within complex interaction systems involving children, which requires environmental restrictions (Swain, 2015), Such as in Islamic Boarding School educational institutions.

In the Annual Report (CATAHU) of the National Commission on Violence Against Women for the year 2023, the data of complaints received by the Commission throughout 2022 shows that sexual violence is the dominant form of violence against women (2,228 cases/38.21%). In addition, data from service providers also indicate that there were 4,102 cases of sexual violence (26.52%) (Komnas Perempuan, 2023). Meanwhile, in the public sphere such as educational institutions, there were 37 cases of violence with sexual violence being the most common form of violence in the public domain (Komnas

Perempuan, 2023). According to the latest data from the Indonesian Child Protection Commission (KPAI) on sexual violence in Islamic Boarding School with child victims, there have been 12 cases of sexual violence between January and July 2022, with Islamic Boarding School being the most frequent location of sexual violence against children, accounting for 5 cases (41.67%) (Mutia Yuantisya, 2022). Based on the data, Islamic Boarding School has become an unfriendly environment for women and children in terms of sexual violence.

The vulnerability of children is further complicated because primary school children aged 10-11 years old are able to identify and reject sexual abuse activities, but they have low skills to tell and report such inappropriate behavior (Wulandari dkk., 2020). Similar to what was shown by Tufford and Lee, who demonstrated that as many as 93% of 33,000 people in Canada have indicated that they would not report their experiences of child abuse to the police, this condition raises concerns because it indicates that only a small fraction of such criminal activities are detected and reported (Tufford & Lee, 2020). In line with that, the Bureau of Justice Statistics noted that out of 2,380 rape cases, only 60 victims reported their cases to authorities in educational institutions (Krebs dkk., 2016).

As previously stated, Islamic Boarding School educational institutions are among those with the potential for sexual violence to occur, which means that Islamic Boarding School is not a safe place for students to avoid sexual violence. Therefore, vigilance is needed from all parties in the Islamic Boarding School environment. According to data from the National Commission on Violence Against Women, from 2015 to 2020, they received 51 reports of sexual violence in educational institutions, with Islamic Boarding School ranking second after universities as educational institutions where sexual violence occurs, reaching 19% of the total number of reports (Rahel Narda Chaterine, 2021).

Actually, regulations on the prevention and handling, including sanctions for perpetrators of sexual violence in Islamic boarding schools, have been stipulated in several laws and regulations in Indonesia, including the Criminal Code, the Child Protection Act, and the latest is the Sexual Violence Criminal Act. In addition, the Ministry of Religious Affairs Regulation No. 73 of 2022 on Prevention and Handling of Sexual Violence in the Education Environment at the Ministry of Religious Affairs has been issued as an effort to prevent and handle sexual violence in Islamic boarding schools. Some of these regulations have regulated prevention efforts, handling of victims and perpetrators, and the imposition of sanctions on perpetrators of sexual violence in Islamic boarding schools. However, these regulations have not been fully enforced because the sanctions are still in the form of administrative sanctions, which means that victim protection has not been fully enforced. The absence of clear and adequate rules, policies, and mechanisms is still a barrier to efforts to prevent cases of sexual harassment. Therefore, the development and implementation of standard operating procedures are needed to prevent acts of violence based on guidelines issued by the government, and easily accessible complaint services are needed for students, parents, educators, educational staff, and the public (Alfauzi dkk., 2022).

Improvements in policies and procedures to enhance the effectiveness of handling cases of sexual violence are often the result of advocacy and actions taken by survivors and independent institutions. Therefore, the voices of survivors must be heard in the development of policies and practices to respond to and support victims of sexual violence (Blunden dkk., 2021). So, an institutional approach with the formation of independent institutions such as a Task Force that can specifically carry out work in preventing and handling sexual violence in Islamic Boarding School is important to do. Therefore, the author intends to examine how legal regulations in efforts to prevent and handle sexual violence in Islamic Boarding School educational institutions are carried out?, and how institutional approaches are used in efforts to prevent and handle sexual violence in Islamic Boarding School educational institutions?

RESEARCH METHOD

This study employs a mixed-methods design, combining and integrating quantitative (primary) and qualitative (secondary) data with a *one-phase design* approach, which involves analyzing them separately and then interpreting and examining whether the data found are mutually supportive or not (Creswell & Creswell, 2017). This research uses a mixed-methods design, combining and integrating quantitative (primary) and qualitative (secondary) data with a one-phase design approach, which analyzes them separately and then interprets and examines whether the data found are mutually supportive or not. The primary data sampling in this study uses *purposive sampling* techniques that target vulnerable groups such as minors aged 14-17 years old, which are conducted through the distribution of online questionnaires via *Google Forms* that are directly or virtually distributed during the period of March 7, 2023, to March 16, 2023, through 8 (eight) *WhatsApp* groups containing students and alumni of Islamic Boarding School in various regions in West Java. The variables in the questionnaire are created to obtain data on the extent to which students' vulnerability to sexual violence in the Islamic Boarding School environment occurs, and to what extent sexual violence occurs in the Islamic Boarding School environment.

The qualitative research in this paper is a normative juridical study with a *statutory approach* and a *comparative approach*, supported by primary legal materials such as Law Number 18 of 2019 concerning Islamic Boarding School, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, and Regulation of the Minister of Religious Affairs of the Republic of Indonesia Number 73 of 2022 concerning Prevention and Handling of Sexual Violence in Educational Units at the Ministry of Religious Affairs (Ministerial Regulation 73 of 2022). The secondary legal materials, namely legal materials that provide an explanation of primary legal materials, such as doctrines, scholarly works, journals, and other scientific writings. The research on secondary legal materials is intended to help analyze and understand primary legal materials, and tertiary legal materials, namely legal materials that provide guidance or explanations of primary and secondary legal materials. The secondary data in this study aim to explore, examine and study institutional approaches in preventing and addressing sexual violence in educational institutions, especially Islamic Boarding School, in order to understand the issue more comprehensively.

RESULTS AND DISCUSSION

Comparison of Regulations for Prevention and Handling of Sexual Violence in Islamic Boarding School with Other Educational Institutions

Overall, there were 50 respondents consisting of both students and alumni of the Islamic boarding school. Based on the survey results, there were 68% or 34 male respondents and 32% or 16 female respondents with an age distribution of 28% or 14 respondents aged between 12-14 years and 72% or 36 respondents aged between 15-17 years. The survey data analysis found that 30 respondents (60%) stated that they knew about cases of sexual violence that occurred in the Islamic Boarding School environment. Furthermore, 7 out of 50 respondents stated that there were rooms/places that caused discomfort and fear of sexual violence.

In the policy realm, 26 (52%) respondents stated that there were specific standards in place to prevent or address cases of sexual violence in the Islamic Boarding School environment. However, overall, the respondents were unable to clearly explain these specific standards. Regarding the availability of a reporting post in the Islamic Boarding School environment specifically dedicated to handling reports of sexual violence cases, 27 (54%) respondents stated

that such a post existed, while 23 (46%) respondents claimed that there was no reporting post in their Islamic Boarding School environment that was tasked with handling reports of sexual violence cases. Some of the questionnaire data analysis results, with relevant variables related to sexual violence, indicate the respondents' vulnerability when interacting with perpetrators of sexual violence.

Meanwhile, since the 1970s, a new discursive situation has emerged from the bias between feminist activism and the rise of psychological and therapeutic discourse, which has made it possible to recognize and declare sexual violence against children as a dangerous act that has significant destructive impacts (Wright, 2016). As a result, victims of sexual violence experience mental and cognitive disorders, as well as post-traumatic psychological disturbances (Pusat Data dan Analisa Tempo, 2022). Sexual violence against children, such as sexual abuse, is not only a national legal issue, but also a global problem, and is not only dominated by lower economic and middle educational classes, but has permeated all levels of society (Atasasmita, 2005). In addition, vulnerability to sexual violence has been proven to be higher among women, and unpreparedness to face situations of sexual violence that have a risk factor is one of the contributing factors (Senn dkk., 2014).

Regarding sexual violence, it has been defined by the Criminal Act on Violence as any physical and/or non-physical act directed at the body and/or reproductive functions by force with threat, deception, or persuasion that has or does not have a specific purpose to gain profit resulting in physical, psychological, sexual, or economic suffering or distress. Violence, according to Romli Atasasmita, is a complement to the crime itself. Violence refers to behavior that is against the law, whether in the form of threats or actual actions that result in physical or property damage (Atasasmita, 2005). Nata then defines human sexuality into two categories (Nata, 2017): a) Moral sexuality, which is healthy and good, and b) immoral sexuality, which is sick and evil.

Furthermore, in the explanation of Law No. 12 of 2022, it is stated that sexual violence is a violation of human rights, a crime against human dignity, and a form of discrimination that must be eradicated. The term "violence" comes from the English term "sexual hardness" which means violence, discomfort, and lack of freedom (Echols & Shadily, 1997). Meanwhile, the definition of violence against children is closely related to the term "*abuse*", which is translated as violence, persecution, torture, or mistreatment (AR, 2003). Sexual violence against children can be classified based on the type of deviation, as follows (Sadarjoen, 2005): a) For sexual objectification purposes, such as hypersexuality; b) For profit-seeking purposes to support the family; and c) For sexual pleasure, such as seeking emotional warmth outside the home through excessive sexual behavior.

Furthermore, acts of violence in Law No. 35 of 2014 concerning Child Protection can be classified as physical violence, psychological violence, or sexual violence. Sexual violence against children is defined as a relationship or interaction between a child and an older/adult person, such as a stranger, sibling, or parent, who uses the child as an object to satisfy the perpetrator's sexual needs, and is carried out through coercion, threats, bribery, deception, or even pressure (Reid & Jones, 2011). The Vienna Declaration then distinguishes two (2) types of sexual violence against children in general, namely all forms of sexual exploitation and violence against children committed by adults (Farid, 1997).

Sexual violence is also defined as an act involving violence, such as threat, coercion, or physical violence (Purwandari, 2006). According to Article 4 of Law No. 23 of 2002 on Child Protection, every child has the right to live, grow, develop, and participate in a manner appropriate

to their dignity and human worth, as well as to be protected from violence and discrimination. Sexual violence against children cannot be separated from the position of women and girl children, where sexual violence is not just a matter of sex, but also a matter of power, where one party takes advantage of the vulnerability and suffering of another party (Lupitasari, 2021).

In the institutional context, sexual violence against children has been reported since the early 1900s (Bryce, 1922), and identified as a social phenomenon since the 1970s (Gil, 1975). Therefore, sexual violence against children that occurs within institutional contexts poses a significant threat to children. Various government investigations, such as the Royal Commission into Institutional Responses to Child Sexual Abuse in Australia and the Independent Inquiry into Child Sexual Abuse in England and Wales, have demonstrated the extent and level of vulnerability to sexual violence against children in various institutions (Wright, 2017). In line with this, sexual violence can occur in various locations or environments, including but not limited to religious organizations, childcare facilities and educational environments, as well as sports and community organizations. Therefore, the Australian Royal Commission distinguishes *institutional child sexual* abuse from other forms of sexual violence against children based on the situation and environment in which the perpetrator makes contact with their victim (Royal Commission into Institutional Responses to Child Sexual Abuse, 2017). One of these is in educational institutions. This is also in line with research on sexual violence against children, both within and outside the family, such as the method of *familial pimping*, which explores family relationships by emphasizing parental authority, such as the use of violence or coercion. This has convinced the public and experts about the urgency of addressing sexual violence and its impact on victims and survivors (Baird & Connolly, 2021).

In line with the patterns of sexual violence previously described, the term '*talmadzah*' is known in the realm of Islamic boarding schools, which describes how the passive attitude of students towards their teachers occurs due to the pattern of education that positions the students as pupils, servants, and subordinates, as explained in the book *Ta'lim Muta'allim*, a reference book studied in Islamic Boarding School (Zakiah & Faturochman, 2004). This creates a problem in power relations that are severely imbalanced, where there is usually a hierarchy between the caretakers of the Islamic Boarding School, the Islamic religious teacher, and the students (Aini, 2022). This power imbalance is exploited by certain caretakers or Islamic scholar in the Islamic Boarding School to commit sexual abuse against their students, especially female students, some of whom are even children. What is most concerning is that religious doctrine is used as a tool to deceive victims into complying with the abusers' desires. This is extremely alarming, as Islamic Boarding School should be a safe place for students to learn and practice religious teachings in their daily lives, but instead, it is being used by perpetrators of sexual violence as a means to carry out their abusive actions against their students, which should never happen in a Islamic Boarding School.

Based on the existing facts, perpetrators of sexual violence in Islamic Boarding Schools are individuals closest to the internal environment of the Islamic Boarding School, such as caregivers, teachers or Islamic religious teacher, and students who become perpetrators by using religious narratives so that the victim, as a student, cannot refuse the sexual violence. Several cases of sexual violence in Islamic Boarding Schools are carried out in various ways, such as the perpetrator enticing the victim with promises of responsibility and marriage, transferring knowledge, financing education up to university level, telling the victim about family problems to gain sympathy, and in some cases, the perpetrator forces the victim to obey their wishes with the narrative "you must

obey the teacher/ Islamic religious teacher or Islamic Scholar in order for the knowledge to be useful" (Samsul Bahri & Mansari, 2021).

Furthermore, perpetrators often exploit the secluded and closed nature of Islamic Boarding School, making it inaccessible to the general public. In fact, perpetrators have even provided specially designated locations to prevent unauthorized individuals from entering (Bafaqih & Sa'adah, 2023). The condition is in line with the results of a survey conducted by the author, which showed that 14 out of 36 respondents stated that they had experienced uncomfortable situations such as the possibility of sexual violence when they were in boarding schools. The results are quite concerning, as seen from the 4 female respondents who stated that they had been in situations that made them feel uncomfortable, such as fear of sexual violence when they were in boarding schools.

Furthermore, in carrying out their actions, the perpetrator is known to use various manipulative strategies in their interactions with children to carry out their intentions, such as giving praise, flattery, and coercing children through requests, intimidation, threats, and blackmail. These techniques are used to desensitize children, stimulate sexual curiosity, break down resistance, normalize sexual activity, and validate sexual relationships between adults and children (Grosskopf, 2010). Sexual violence perpetrators often try to gain access to the targeted child and isolate them from others. Once they gain access, they often try to physically and emotionally isolate the child from their family and peer group (Lawson, 2003). Perpetrators even exert pressure in response to resistance and noncompliance (Seymour-Smith & Kloess, 2021), with the perpetrators using serious threats when first interacting with children and demanding children to engage in sexual activity (Chiang & Grant, 2018).

One concrete example of arbitrary actions by leaders of educational institutions in pesantren is the use of religious authority to manipulate female students in cases of sexual violence. For example, in a pesantren in Solo in 2018, a kyai committed sexual violence with the mode of "vaginal cleansing" ritual which was claimed to facilitate memorization of the Qur'an. This act is a form of abuse of authority where religious leaders use religious teachings to cover up their sexual crimes. A similar case occurred in Jombang, where a "gus" (kyai's son) used his position to force female students to have sexual intercourse under the pretext of "transferring knowledge" in order to succeed in exams. These examples show the existence of unequal power relations in pesantren, which makes santri feel helpless and difficult to resist (Pebriaisyah dkk., 2022).

In connection with the escalation of children's vulnerability to sexual violence in educational institutions, especially Islamic boarding schools (Islamic Boarding School), Ministry of Religious Affairs Regulation No. 73 of 2022, with its authoritative nature as outlined in Chapters III and V, has directly placed full responsibility on Educational Units for the prevention and handling of sexual violence in all levels and types of education within the Ministry of Religion, including Madrasah, Islamic Boarding School, and religious education units in organizing education in formal, non-formal, and informal settings. This policy is considered unlikely to produce the desired results in terms of prevention and handling of sexual violence activities in Islamic Boarding School, based on an assessment of similar regulations in different educational institutions.

Like the policy regarding the prevention and handling of sexual violence in Islamic Higher Education Institutions in Indonesia. The Ministry of Religious Affairs, through the Director-General of Islamic Education in the Ministry of Religious Affairs, has established guidelines for handling cases of sexual violence in PTKI through Decree Number 5494 in 2019. The guidelines cover prevention, victim assistance, and disciplinary action against perpetrators of sexual violence

(Setiawan, 2019). The decision also directs universities to develop policies and reporting mechanisms for cases of sexual violence. Although there is no specific rule that explicitly requires institutions to form a Task Force, the decree states that every Islamic Higher Education Institution is required to form a team to handle cases of sexual violence consisting of several parties, including doctors, psychologists, educators, and officials responsible for disciplinary action. It emphasizes the importance of all parties, including professors, staff, and students, in preventing and addressing sexual violence in PTKI (Jailani, 2020).

Furthermore, the Regulation of the Minister of Education, Culture, Research, and Technology of the Republic of Indonesia Number 30 of 2021 concerning the Prevention and Handling of Sexual Violence in Higher Education has mandated that every campus must have a Task Force team with full authority to implement the regulation. The Task Force team consists of dedicated professors, educators, and students responsible for preventing and addressing sexual violence. This commitment has been tested from the outset, with a selection committee and potential task force team members undergoing a series of suitability and fitness tests. One of the roles and functions of the Task Force is to provide recommendations to university leaders for imposing sanctions on perpetrators and providing protection to victims and witnesses.

Thus, historically, institutional responses to sexual violence against children have often focused on protecting the institution's reputation by denying the victim and dismissing the perpetrator (Spröber dkk., 2014). Therefore, historically institutional responses to sexual violence against children have often focused on protecting the institution's reputation by denying the victim and removing the perpetrator. Thus, reporting allegations of sexual violence in educational institutions and implementing prevention strategies is mandatory. Unfortunately, the reporting function, as described in Article 16 paragraph (1) of Minister of Religious Affairs Regulation No. 73 of 2022, is directly mandated to the Head of the Educational Unit. The absence of a Task Force or a specific team with a function in reporting prevention and handling has caused doubts. In fact, institutions that focus on children, such as educational institutions, have systematically suppressed, concealed, and denied the existence of sexual violence against children, resulting in a lack of well-documented evidence (Krone dkk., 2020).

Institutional Approaches in Responding to Sexual Violence in Islamic Boarding Schools

Along with the ongoing cases of sexual violence in educational institutions, the process of reporting sexual violence is often not easily accessible, and most cases go unreported. Lack of awareness of reporting procedures in access policies is known to trigger impunity for perpetrators (Mahlangu dkk., 2022). In response to these facts, long before that, in 1990 the United States with the Clery Act (The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act) required educational institutions to collect data for reporting sexual violence and other crimes, especially in higher education. This policy shows that a victim-centered approach that emphasizes the importance of protecting and supporting victims or survivors of sexual violence is necessary for institution leaders to fulfill their responsibility for providing services to the community (Smith & Freyd, 2014). In addition, institutions also need to be transparent in discussing sexual violence in order to uncover common practices within the institution that make students vulnerable to violence by taking steps to make changes to their environment.

As a social issue, the problem of sexual violence cannot be fully understood without examining the institutions involved in conceptualizing, preventing, and responding to sexual

violence, such as in issues related to sexual consent, vulnerability, rape culture, and gender equality (Musselman dkk., 2020). In response to this situation, Edelman in his book explains the theory of legal endogeneity, where endogeneity in the context of law is viewed as an effort to understand how the legal system can produce a policy to influence the behavior of legal actors and its impact on society as a whole, in relation to which the law itself can influence or be influenced by internal factors within the legal system (Edelman, 2016). Therefore, according to the theory of legal endogeneity, legislation is indeed created by state institutions such as the House of Representatives (DPR) and the Government, but it is promoted and influenced by other institutions such as educational institutions.

A more holistic and integrated approach with the concept of intersectionality such as education, prevention, and response to sexual violence is highly needed (Klein dkk., 2021). With the existing urgency, Kimberlé Crenshaw introduced the concept of intersectionality in 1989, which emphasizes the important role of society and institutions that cannot be separated from one another (Crenshaw, 1989). Kimberlé Crenshaw went on to explain that intersectionality is a concept that describes how individuals can experience complex and interconnected forms of discrimination and inequality, especially stemming from factors such as gender, race, social class, sexual orientation, and disability (Crenshaw, 1989).

So, regulating behavior in human interactions is part of the organization, in relation to the learning theory proposed by Argyris and Schon which explains that organizations can actually develop and redesign procedures to respond to a failure (Argyris & Schön, 1996). Jodi Death noted in her writing that the environment in many institutions has become criminogenic, leading to sexual violence (Death, 2015). Concerns about victimization of sexual violence against women can be linked to complex interactions between individual, relational, and community-level factors (Bonar dkk., 2022). Thus, situational crime prevention aims to prevent crimes that take advantage of the opportunistic nature of criminal activities by controlling situational or environmental factors that facilitate someone to commit criminal acts, such as eliminating justifications for potential offenders (Smallbone & Cale, 2016).

The prevention efforts have actually been outlined in Article 6 of Ministerial Regulation No. 73 of 2022, but the existing provisions are still considered insufficiently comprehensive in preventing sexual violence. In this regard, Bloom, Sorin, Oaks, and Wagman explained that there are two approaches to understanding the policy gaps and institutional educational practices in addressing sexual violence, namely the Social-Ecological Model and the Comprehensive School Approach (Bloom dkk., 2023). The *Socio-Ecological Model* framework is used in preventing violence by highlighting various interrelated factors such as individual, interpersonal, community, and policy that can influence long-term impact, such as preventing sexual violence (Centers for Disease Control, 2019; Krug dkk., 2002). The framework of the *Whole School Approach*, which is derived from education, social work, and public health, aims to promote violence prevention by focusing on violence in educational institutions, which is seen as a structural problem (Global Working Group to End School-Related Gender-Based Violence, 2019).

Moreover, the Global Working Group to End School-Related Gender-Based Violence also emphasizes that the WSA framework aims to preserve existing evidence, develop agreed-upon understandings of how sexual violence occurs in specific communities, address patterns of behavior, engage vulnerable groups in discussion forums, and continue to focus on students (Global Working Group to End School-Related Gender-Based Violence, 2019). The framework concept

emphasizes the role of educational institutions in creating an environment that seeks to prevent and respond to sexual violence. Beres, Treharne, and Stojanov in their research also emphasized that policy formulation and decision-making must involve various stakeholders, relevant elements outside the educational institution, and even the community (Beres dkk., 2019).

So the authorities have become the main focus of sexual violence in an institution, the institution's failure to respond appropriately and increase concerns through negative treatment of victims can also be another focus in terms of sexual violence that occurs in an institution such as an educational institution. This has shifted the focus from individuals as perpetrators to highlighting the role of institutions in perpetuating sexual violence (Wright, 2017). As a result, in addition to providing compensation to past victims of sexual violence, the demand for institutions to develop and implement strategies to prevent future acts of sexual violence is increasing.

In addition, in Article 16 paragraph (1) of Ministerial Regulation No. 73 of 2022, educational institutions are directly obligated to prevent sexual violence, including through socialization programs and other activities as needed. However, the unclear wording of this provision has raised doubts about achieving the goal of preventing sexual violence. One comprehensive effort to prevent sexual violence in an institution such as a Islamic Boarding School can be done in various ways, one of which is noted in the study conducted by Pinky Mahlangu et al., that the Ntombi Vimbela! (NV!) program as an intervention to reduce the risk of sexual violence in educational institutions and opposition to sexual violence developed and tested on female students in the northern hemisphere has proven to be effective enough (Mahlangu dkk., 2022). The intervention-based approach such as the NV! program is designed to: 1) raise awareness about reproductive and sexual rights; 2) increase sensitivity towards gender inequality and sexual violence; 3) provide skills to participants to assess and respond to situations with the risk of sexual violence; 4) build resilience and skills to resist social pressures in educational institutions; 5) enable access to health, psychosocial services, and justice for survivors; 6) improve communication skills and build healthy sexual relationships; and 7) enhance mental health and address problems while building empathy towards survivors (Nunze dkk., 2019).

As for handling, Article 8 of Ministerial Regulation No. 73 of 2022 mandates that Education Units have an obligation to report, protect, accompany, enforce, and restore victims. Although these handling functions have been broadly regulated in Article 9 through Article 14 of Ministerial Regulation No. 73 of 2022, the lack of standard operating procedures is also known to hinder the optimal implementation of these handling functions. Thus, to comprehensively handle sexual violence, the International Committee of the Red Cross (ICRC) explains strategies for effectively handling sexual violence using a multidisciplinary approach at various stages, starting with prevention measures up to responsive actions. The ICRC notes several indicators for handling sexual violence, including (International Committee of the Red Cross, 2018): 1) Developing multidisciplinary guidelines/protocols/strategies and institutional documents to prevent and address sexual violence; 2) Enhancing the confidence and competence of staff to address sexual violence; and 3) Monitoring and reporting on the extent to which parties are aware of and capable of reporting activities and outcomes related to the prevention and response to sexual violence.

On the other hand, institutional responses in supporting the prevention and handling of sexual violence should include the following characteristics (Blunden dkk., 2021): On the other hand, institutional responses to support the prevention and handling of sexual violence should include the following characteristics: 1) Systemic, responses to sexual violence against children

must involve other institutions such as relevant government agencies and the police; 2) Building ongoing communication, including providing timely information about actions taken as an effort to rebuild trust between the victim and the institution; 3) A humane approach, showing sympathy and compassion towards the victim; 4) Restorative, institutional responses must have a long-term healing effect on the victim. Thus, within the framework of prevention, the legal obligation to report alleged acts of sexual violence becomes an important part, and policies and procedures also need to be established to respond to allegations of sexual violence in educational institutions (Cooper dkk., 2002).

Although initially the draft Regulation of the Minister of Religious Affairs on Prevention and Handling of Sexual and Child Violence in Islamic Boarding Schools aimed to encourage religious education institutions to establish a Prevention and Handling Unit for Sexual Violence Task Force (Task Force PPKS), which is one of the objectives of including the chapter on prevention of sexual violence (Sani, 2022). In the end, the absence of such rules has become a big question. Actually, the establishment of a Prevention and Handling Unit for Sexual Violence in Islamic Boarding School educational institutions would be a strategic institutional step. The Unit is expected to not only work for handling, but also for preventing sexual violence. Therefore, policies with a positive and authoritative nature are needed to provide a space for the unit to work substantively in preventing and handling cases of sexual violence in Islamic Boarding School educational institutions.

With the revelation of various cases of sexual violence in Islamic Boarding School, it is appropriate for Islamic Boarding School to include sexual education in the curriculum of the boarding school, as well as Operational Procedure Requirements in the event of sexual violence cases within the institution (Solekhah, 2022). In addition, the issue of decision-makers or authorities who can receive and process reports of sexual violence cases in Islamic Boarding School educational institutions is essential to be discussed together. This is important in order to form a comprehensive anti-sexual violence policy that accommodates systemic socio-cultural conditions. Thus, ensuring that what has happened to children in the past will never be allowed to happen again in the future, becomes one of the main goals of establishing the Task Force PPKS in Islamic Boarding School educational institutions.

It is a shared agreement that sexual violence in educational institutions is a crime that deprives students, especially women, of their right to equal access to education (Russlyn, 2011). In relation to that, Quayle noted that the institution is responsible for the occurrence of sexual violence involving children because the institution has created a risky situation and because the institution has provided or has control over facilities that facilitate the crime (Erooga, 2012). Other conditions at the policy level indicate that educational institutions often do not systematically and transparently evaluate their education programs, training, and provision of sexual violence complaint services (Bloom dkk., 2023). Eventually, the leaders of educational institutions must form a team that specifically represents all elements of the institution to evaluate cases of sexual violence and hold perpetrators accountable. The formation of such a special team is carried out to avoid the arbitrary actions of educational institution leaders, who often protect perpetrators and forget the victims of sexual violence (Lorenz dkk., 2021).

CONCLUSION

This study highlights several important aspects of preventing and addressing sexual violence in Islamic boarding schools (pesantren). *Firstly*, while the Minister of Religious Affairs Regulation No. 73 of

2022 provides a framework for the prevention and handling of sexual violence, it places full responsibility on the education unit itself, creating opportunities for institutional leaders to act arbitrarily. This often results in the protection of perpetrators while neglecting the victims, as seen in real cases like the 2018 “vaginal cleansing” ritual in Solo and the “knowledge transfer” abuse in Jombang. These incidents underscore the unequal power dynamics within pesantren, where religious authority is used to exploit students. Therefore, it is crucial to introduce stricter regulations obliging the formation of multidisciplinary teams within these institutions to evaluate and handle cases, ensuring accountability. *Secondly*, due to the complex interactions with children in pesantren, there is an increased vulnerability to endemic sexual violence. Addressing this issue requires an institutional approach that includes preventive and responsive measures, such as the development of specific protocols, enhancing staff competence in handling such cases, and implementing monitoring and reporting systems. Ultimately, the availability of a comprehensive legal framework will be essential in ensuring the effectiveness of policies aimed at preventing and addressing sexual violence within Islamic boarding schools.

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