

## LEGITIMIZATION OF POWER AND SEXUAL VIOLENCE IN RELIGIOUS EDUCATIONAL INSTITUTIONS AS VIOLATIONS OF ISLAMIC LEGAL

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### Abstract

Islamic boarding schools are Islamic educational institutions in the form of dormitories where students' activities are carried out under the guidance and supervision of mentors who are supposed to play an important role in instilling religious values so that students can comply with the legal norms that apply to them. However, behind the image of Islamic boarding schools as places of spiritual development, reports of sexual violence have raised public concern because they are committed by people who have the authority to educate and protect students. This occurs because the perpetrators wield power, making it easy for them to intimidate their victims. Sexual violence in religious educational environments is often hidden and goes unreported because it is committed by people with strong power structures. This issue is important and very complex because it can lead to violations of Islamic legal norms. Using a qualitative approach, this study analyzes the experiences of victims and the response of institutions to violations that have occurred. The results of the study show that unchecked power can create an environment that encourages sexual violence. This is evidenced by the fact that the perpetrators were immoral teachers and dormitory supervisors who held positions of power at the Islamic boarding school, making it impossible for the victims to avoid or even reject them. This study is expected to provide insights into the need for policy reform and increased awareness to protect victims, as well as the enforcement of existing legal norms

**Keywords:** legitimacy of Power, Sexual Violence, Islamic Law.

## Background

The legitimacy of authority in educational institutions held by leaders or administrators such as teachers or dormitory managers is recognized and accepted by students, parents, and teaching staff. This process is very important for creating an educational environment that is in line with the desired objectives. Legitimate authority in educational institutions depends not only on formal structures, but also on interpersonal relationships, community participation, and leadership performance. However, under certain conditions, unchecked authority can be abused to commit deviant acts, and this is easily done because of the power they wield.

Based on existing issues and facts, it is known that from January to August 2024, there were incidents of sexual harassment in educational institutions in Indonesia, the Ministry of Religious Affairs reported 62.5% of incidents at the junior high school, MTs, and pesantren levels, and 37.5% at the elementary, MI, and PAUD levels. There were 101 victims of sexual violence;<sup>1</sup> The gender of the victims was 69 percent male and 31 percent female.<sup>2</sup> Some data on violence such as the case of sexual violence against 26 (twenty-six) students at the Ogan Ilir Islamic Boarding School in Pinrang Regency which caused severe physical and mental trauma,<sup>3</sup> Another case of sexual violence against 4 (four) students at an Islamic boarding school in Mojokerto committed by the caretaker of the Islamic boarding school, the students experienced psychological disorders.<sup>4</sup> The latest case occurred in Agaam Regency, West Sumatra 43 (forty-three) male students were victims of alleged sexual violence committed by two teachers at an Islamic

<sup>1</sup> Ben Kasstan, 'Everyone's Accountable? Peer Sexual Abuse in Religious Schools, Digital Revelations, and Denominational Contests over Protection' (MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations, 2022) <file:///C:/Users/asus/Downloads/religions-13-00556.pdf>.

<sup>2</sup> Stephanus Arandito, 'Sejak Januari, Sudah 101 Anak Jadi Korban Kekerasan Seksual Di Pesantren', *Kompas*, August 2024.

<sup>3</sup> Ken Gersang, 'Perkembangan Terbaru Kasus 26 Santri Diduga Mengalami Kekerasan Seksual, Begini', *JPNN.Com*, 2021.

<sup>4</sup> Khusnul Hasana, 'Santri Korban Kekerasan Seksual Di Mojokerto Bertambah 4 Orang', *Times Indonesia*, 2021.

boarding school in Agam Regency, West Sumatra.<sup>5</sup>

Several previous studies have stated that sexual violence generally occurs as a result of actions that are also driven by the sexual desires of people who have higher structural power, enabling them to intimidate victims because the victims are under pressure from the power they wield<sup>6</sup>. This is legitimized by a position in the social structure or certain institutions.<sup>7</sup> Sexual violence committed by pesantren owners also occurred in Langkat Regency in the form of sexual harassment of a 14-years old student.<sup>8</sup> Netti Herawati's research states that among the factors that contribute to acts of sexual violence by anyone including kiyai or pesantren leaders is the abuse of power, utilizing their position to force, trick, or manipulate someone sexually.<sup>9</sup> According to Ben Kasstan, educational institutions where the education process is carried out in the form of dormitories are prone to sexual violence in various forms, especially male-only educational institutions.<sup>10</sup>

In addition to analyzing transgressions of Islamic legal norms from the viewpoint of the Quran and Sunnah, this study attempts to identify the types of sexual violence that take place in religious educational institutions and how the legitimacy of authority creates opportunity for these incidents. In order to perform the research,

<sup>5</sup> helbert Caniago, 'Kronologi Kasus Dugaan Kekerasan Seksual Terhadap 43 Santri Di Agam - Korban Mengalami "Trauma Mendalam" Dan Stigma', *BBC News Indonesia* (August 2024).

<sup>6</sup> Vanessa Borges Platt, 'Sexual Violence against Children: Authors, Victims and Consequences', *SciELO - Scientific Electronic Library Online*, 23.4 (2018) <<https://www.scielo.br/j/csc/a/hhByRPpywpXghzXYS5K4FYf/?format=html&lang=en&stop=previous>>.

<sup>7</sup> Ryan Aldi Nugraha and Subaidi, 'Kekerasan Seksual Dalam Perspektif Dominasi Kuasa', *IJouGS: Indonesian Journal of Gender Studies*, 3.1 (2022).

<sup>8</sup> Indah Maya Sari Ritonga and Budi Sastra Panjaitan, 'Kritik Restorative Justice Dalam Kasus Pelecehan Seksual Di Pesantren: Analisis Undang-Undang No. 12 Tahun 2022', *Legalite: Jurnal Perundang Undangan Dan Hukum Pidana Islam*, 9.1 (2024), pp. 100-116.

<sup>9</sup> Netti Herawati, Abnan Pancasilawati, and Maisyarah Rahmi, 'Perlindungan Hak Anak Akibat Kekerasan Seksual Di Pondok Pesantren Perspektif Maqashid Syariah (Yasser Auda) Dan Hukum Positif', *The Juris*, 7.1 (2023).

<sup>10</sup> Ben Kasstan, 'Everyone's Accountable? Peer Sexual Abuse in Religious Schools, Digital Revelations, and Denominational Contests over Protection'.

several types of sexual assault that took place in religious education institutions were identified, analyzed, and their contributing elements were examined. The impact of legal norm violations on the existence of pesantrens as Islamic religious education institutions is also examined in this study, which also looks at how the structure and dynamics of power in religious education institutions lead to the occurrence of sexual violence. In order to perform the research, several types of sexual violence that took place in religious education institutions were identified and analyzed, along with the circumstances that contributed to them. The impact of legal norm violations on the existence of pesantrens as Islamic religious education institutions is also examined in this study, along with how the structure and dynamics of power in these establishments contribute to the incidence of sexual violence. This research is useful to provide recommendations for the development of policies that are more effective in preventing and dealing with sexual violence in religious education institutions, as well as strengthening existing legal norms.

The legitimacy of authority in Islamic boarding schools can provide opportunities for perpetrators to commit sexual violence. The hierarchy of Islamic boarding schools often has a strict structure, where leaders or caregivers have high authority. This can cause powerlessness among students to report or challenge inappropriate behavior. A culture that prioritizes respect for leaders or teachers can make students feel pressured not to disclose sexual violence they have experienced, for fear of being seen as disrespectful or defiant of authority. In the pesantren environment, there is a very clear hierarchy between ustaz, gus, or kyai and students, resulting in an unequal power relationship dominated by perpetrators.<sup>11</sup>

Cases of sexual violence that occur in the Islamic boarding school environment are one of the behaviors that are very contrary to religion and human rights (HAM). Based on data from social media such as print media circulating, there

<sup>11</sup> Bz. Fitri Pebriaisyah, Wilodati Wilodati, and Siti Komariah, 'Kekerasan Seksual Di Lembaga Pendidikan Keagamaan: Relasi Kuasa Kyai Terhadap Santri Perempuan Di Pesantren', *Sosietas: Jurnal Pendidikan Sosiologi*, 12.1 (2022), pp. 1–14, doi:10.17509/sosietas.v12i1.48063.

are many cases of sexual violence that occur in the Islamic boarding school environment. Generally, sexual violence occurs due to unequal power relations, where those who have authority are seen as having the opportunity to abuse power to commit sexual violence against people who are considered weak or under their supervision. In the context of Islamic boarding schools, Kyai and teachers have higher power over their students.<sup>12</sup> This study aims to test the hypothesis that the legitimacy of power in Islamic boarding schools makes it highly likely for perpetrators who are hierarchically considered to be in a higher position or in power to commit sexual violence against students who are considered to be in a lower position or under their power.

## Methods

This research utilized a collaborative and reflexive approach in collecting, interpreting, and presenting findings from the researchers' observations.<sup>13</sup> Based on the theory of sexual violence with qualitative data which aims to look for a phenomenon in a category, then examine the phenomenon with data found in the field, then the researcher classifies symptom that have the same characteristics so that they group together to form a theory,<sup>14</sup>

This study uses an exploratory research design to determine the extent to which the influence of legitimizing power opens opportunities for perpetrators to commit acts of sexual violence. This research design focuses on collecting data through semi-structured interviews to explore facts in the field. This qualitative method allows researchers to gain deeper insights into the behavior of perpetrators of sexual violence who use their power and

<sup>12</sup> Muhammad Dacha Ramadhan and Hari Soeskandi, 'Perlindungan Hukum Yang Diberikan Terhadap Anak Yang Menjadi Korban Kekerasan Seksual Di Lingkungan Pondok Pesantren', *Harmonization: Jurnal Ilmu Sosial, Ilmu Hukum, Dan Ilmu Ekonomi*, 1.2 (2023), doi:<https://jurnal.eraplikasi.id/index.php/HN/article/view/301>.

<sup>13</sup> Kathomi Gatwiri and others, 'Reflections of "Doing" Research That Involves Trauma: A Methodological Guide and Framework for Researchers', *International Journal of Qualitative Methods*, 24 (2025), pp. 1–10, doi:10.1177/16094069251350310.

<sup>14</sup> Syafrida Hafni Sahrir, *Metodologi Penelitian* (penerbit KBM Indonesia, 2021), p. 9.

authority in committing acts of sexual violence against santri. Behavior is any form of action or response performed by living beings as a reaction to certain stimuli or conditions in their environment. Interviews were conducted with key informants consisting of teachers, students, the investigating team and the community. This qualitative approach provides space to understand more deeply how the legality of power provides opportunities for perpetrators to commit acts of sexual violence that they rationally understand as violations of legal norms and Islamic religion.

The data sources in this study consisted of secondary data and primary data collected through interviews and observations, where when conducting interviews, the questions asked included personal information,<sup>15</sup> in this case regarding sexual violence that occurred in Islamic boarding schools. This interview was conducted with informants who have access to the object of research. Informants include teachers, boarding school leaders who know the case. This primary data is combined with secondary data which includes documents in the form of journals, articles and news related to the object under study. This data provides a relevant context and helps understand how the legitimacy of power provides opportunities for acts of sexual violence in the pesantren environment, especially in the Agam district area. The use of secondary and primary data allows researchers to obtain a comprehensive picture of the object of research.

## Results and Discussion

Legitimacy in terms that come from Latin, namely "Lex" which means law. The word legitimacy is synonymous with the emergence of words such as legal legality and legitimacy thus in simple terms legitimacy is the suitability of an act of formal legal ethical ethical customs and societal laws that have long been legitimately created. This legitimacy is considered important for government leaders because government leaders of any political system seek to obtain or

maintain it.<sup>16</sup> Furthermore, legitimacy is understood as the power attached to a person. Miriam Budiardjo quotes Max Weber in his book *Wirtschaft und Gesellschaft* arguing that "power is the ability to, in a social relationship, carry out one's own will despite resistance, and whatever the basis of ability. Miriam Budiharjo concluded that although there are many different views on power, it can be concluded that power is considered as the ability to impose one's will or will to other parties.<sup>17</sup> C. Wright Mills stated that power is domination, which is the ability to carry out the will even though others oppose it, meaning that power has a coercive nature.<sup>18</sup> Legitimacy is the psychological property of an authority, institution or social order that makes those associated with it believe that it is appropriate, reasonable and fair. Because of legitimacy, people feel that they should submit to decisions and rules, following them voluntarily out of obligation.<sup>19</sup> It can be understood that with the legitimacy of power, a person is able to make people who are around him submit to what he wants.

Power is a necessity in understanding human interaction and relations in various conditions, the occurrence of acts of sexual violence is the power of one party, namely the perpetrator, which makes the victim powerless to resist these actions. Christopher Kilmartin, in his book entitled "Sexual Assault in Context: Teaching about Gender College Men" explains that many cases of sexual violence are not from misunderstandings or mistakes between the two parties, nor are they due to elements of accident, mistake or sudden occurrence, but the sexual violence occurs because of the element of planning and this is done consciously by the perpetrator who has power, opportunity and reads the victim's situation. Even to the extent that the perpetrator knows and assumes that the victim will not refuse

<sup>16</sup> Heldi and others, 'Demokrasi, Keadilan, Dan Utilitarianisme Dalam Upaya Legitimasi Kekuasaan Birokrasi', *Jurnal Ilmu Sosial Dialektika*, 19.1 (2021).

<sup>17</sup> Miriam Budiardjo, *Aneka Pemikiran Tentang Kuasa dan Wibawa* (SinarHarapan, 1991).

<sup>18</sup> Salman Luthan, 'Penegakkan Hukum Dan Kekuasaan', *Jurnal Hukum*, 14.2 (2007), pp. 166–84.

<sup>19</sup> Tom R. Tyler, 'Psychological Perspectives on Legitimacy and Legitimation Title', 2006 <<https://www.annualreviews.org/content/journals/10.1146/annurev.psych.57.102904.190038>>.

<sup>15</sup> Marie-Luise Friedemann, Carlos Mayorga, and Luz Dary Jimenez, 'Data Collectors' Field Journals as Tools for Research', *NIH Public Access Author Manuscript*, 16.5 (2011), doi:10.1177/1744987110387319.Data.

or tell others about what happened to her through intimidation.<sup>20</sup> From several cases of sexual violence that occurred in the realm of education such as universities, pesantren and other educational institutions, it is not impossible that the perpetrators did not have knowledge, the perpetrators committed immoral acts through their power relations through knowledge. As revealed by Foucault "power is always actualized through the effects of power"<sup>21</sup>

Sexual violence is defined as any sexual act, attempt to obtain a sexual act, or act of trafficking for sexual purposes, directed against a person by means of force, harassment or seduction committed by any person regardless of their relationship to the victim, in any situation, occurring anywhere.<sup>22</sup> Based on the Draft Law on the Elimination of Sexual Violence (RUU PKS) Article 1 which states that "Sexual violence is any act of degrading, humiliating, attacking or other acts against the body, a person's sexual desire or reproductive function". So it can be said that sexual violence is an act that violates human rights that involves sexual coercion or force against individuals without their consent. It includes various forms of behavior, such as firstly rape, where rape is sexual intercourse committed without consent, either through physical coercion or threat of sexual intercourse. The second is sexual harassment, where sexual harassment is an unwanted act of a sexual nature, including comments, touching, or intrusive behavior. Then the third is sexual exploitation, where sexual exploitation is done by utilizing individuals for sexual gain, often in a harmful way. Next is sexual trafficking, which is human trafficking for the purpose of sexual exploitation. The fourth is sexual violence, which is defined as any sexual act or any attempt to exercise sexual desire, statement or promotion of sexual matters or acts of trafficking, or otherwise directed against a person by force, by any person regardless of his or her relationship with the victim and committed

<sup>20</sup> Christoper Kilmartin and Alan D. Berkowitz, *Sexual Assault in Context* (Lawrence Erlbaum Associates, 2005).

<sup>21</sup> R. S. Hidayat (ed) Foucault, *Seks Dan Kekuasaan: Sejarah Seksualitas* (Gramedia Pustaka Utama, 1997).

<sup>22</sup> Elizabeth Dartnall BAppSc, 'Sexual Violence against Women: The Scope of the Problem', *ScienceDirect Journals on ScienceDirect*, 27.1 (2013), pp. 3–13.

anywhere.<sup>23</sup> According to the World Health Organization (WHO), every child has the right to health and a life free from violence. Child Sexual Abuse (CSA) occurs when children are victims of sexual activity that they cannot understand, that is developmentally inappropriate, that they cannot consent to and/or that violates laws or community rules.<sup>24</sup>

Based on the definition above, it can be understood that child sexual abuse occurs when children who do not understand sexual activity become victims of sexual activity carried out by others. The root cause of sexual violence, according to Dion Daffa Athaya and Ni Wayan Ella Apryani in an excerpt from Wilkins' book, is the social environmental factors of society, such as a culture that considers that sexual violence is normal, or not a problem if it is done so that these habits support sexual violence. The next factor is weak physical and mental health, resulting in a disturbed or weak mentality which ultimately causes deviant behavior such as sexual violence.<sup>25</sup>

According to Mukhlis<sup>26</sup> who is a teacher who teaches at one of the Islamic boarding schools in Agam, West Sumatra, that of the several forms carried out in general, these actions are directed at the victim's sexual organs in order to fulfill the sexual desires of the perpetrator which are carried out by force without the victim's consent. Sexual violence that has occurred is in the form of oral sex such as touching, fingering, kissing the body and even the victim's sexual organs. Among the forms is sexual coercion such as sodomy, where in this activity an adult male commits sexual violence against another adult male or another boy, or as in the case in one of the Islamic boarding schools in Agam Regency, a male teacher to a male student, or between boys as seniors with their male classmates, through the anus.

<sup>23</sup> Guruh Tio Ibipurbo, Yusuf Adi Wibowo, and Joko Setiawan, 'Pencegahan Pengulangan Kekerasan Seksual Melalui Rehabilitasi Pelaku Dalam Perspektif Keadilan Restoratif', *Jurnal Hukum Respublika*, 21.2 (2022), pp. 155–78.

<sup>24</sup> Vanessa Borges Platt, 'Sexual Violence against Children: Authors, Victims and Consequences'.

<sup>25</sup> Dion Daffa Athaya and Ni Wayan Ella Apryani, 'Perlindungan Hukum Terhadap Anak Sebagai Korban Kekerasan Seksual Di Lingkungan Sekolah', *Jurnal Kertha Semaya*, 11.4 (2023), pp. 910–21.

<sup>26</sup> Abdul Mukhlis, 'Wawancara' (2024).

The word “norm” in Indonesian comes from a European language that entered Indonesia through the influence of the Dutch language. In Dutch “norm” plural “normen” means rule, measure, value. In the Big Indonesian Dictionary, “norm” is defined as “a rule or regulation that binds members of a group in society, [which] is used as a guide, order, and controller of appropriate and acceptable behavior; a rule, measure, or rule that is used as a benchmark for judging or comparing something.”<sup>27</sup> When associated with legal studies, norms are paired with rules so that they are considered legal rules. There are many kinds of norms, such as norms of thinking, namely logical norms, and there are also norms of behavior. This behavioral norm includes four categories, namely religious norms, moral norms, norms of decency, and legal norms. Religious norms are provisions that come from God in the form of commands, prohibitions, and or instructions for human good in this world and in the hereafter. Religious norms when associated with Islamic law are rules or provisions derived from Islamic teachings (especially the Qur'an and Hadith), which regulate human behavior in various aspects of life, both worship and muamalah, with the aim of achieving justice, order, and benefit (common good) in accordance with the will of Allah SWT. This norm is religiously binding, and its violation has legal consequences, both in the world (if applied in a country that enforces Islamic law) and in the hereafter.

Violations of Islamic legal norms in cases of sexual violence include several important aspects that are contrary to the teachings and principles of Islam. Islam emphasizes the importance of respecting and protecting the dignity of every individual, both men and women. Sexual violence damages the honor and dignity of the victim, which is contrary to this principle. Islam provides quite severe sanctions for perpetrators of sexual violence, especially sexual violence committed against men (sodomy) in accordance with the Hadith of the Prophet Muhammad SAW narrated by Abu Daud which states that it is killed absolutely. Meanwhile, in the perspective of Islamic criminal law, the sanctions for sodomy perpetrators are very harsh, to the opinion of one

<sup>27</sup> Pusat Bahasa, *Kamus Besar Bahasa Indonesia* (Balai Pustaka, 2005).

of the scholars such as Assyaukani quoted by Sayyid Sabiq stating that for the perpetrators of sodomy will be given strict sanctions.<sup>28</sup>

Islam teaches to protect the weak and the oppressed. Sexual violence is a form of oppression that goes against the principles of justice and protection. Sexual violence in the form of oral sex abuse, adultery and deviant activities such as sodomy is something that is prohibited by religion and is classified as a criminal act. Sexual harassment is a problem that arises in the social relations of society. For this reason, the teachings of Islam have provided rules in social interactions such as manners, ethics of dressing and looking at someone in interacting or associating with others.

The Qur'an refers to both physical and non-physical sexual harassment as “al-rafast” and “fakhsiyah”. According to the mufassirin, ar-rafast is al-ifhasy li al-mar'ah fi al-kalam or vile expressions against women that lead to sexuality. Meanwhile, fakhsiyah is similar to ar-rafasta, which is a dirty act or expression that attacks and degrades the dignity of women. Vile expressions and actions that lead to sexuality, such as calling women's bodies inappropriate (body shaming) which degrades the shape of the body. As well as the act of groping, poking, rubbing limbs and other actions, are clearly forbidden both in domestic public spaces, carried out by anyone and anywhere.<sup>29</sup>

Besides the prohibition of adultery, Islam also prohibits deviant sexual behavior such as sodomy. Sodomy or sexual analism as explained earlier, is the use of the anus for intercourse. In the encyclopedia of Islam, this is known as liwath in Arabic, which means having anal intercourse between men.<sup>30</sup> The prohibition of sodomy is based on several arguments from the Qur'an and Hadith such as the word of Allah in Surah al A'raf verse 81 which confirms that the act of sodomy (same-sex sexual relations) is an act that is condemned and considered very vile. Surah An Naml verse 55 states that the act of same-sex relations is considered deviating from the nature

<sup>28</sup> Vanessa Borges Platt, ‘Sexual Violence against Children: Authors, Victims and Consequences’.

<sup>29</sup> Adinda Cahya Magfirah, Kurniati, and Abd.Rahman, ‘Kekerasan Seksual’, *Jurnal Cakrawala Ilmiah*, 2.6 (2023), pp. 2581–90.

<sup>30</sup> Mochtar Effendy, ‘Ensiklopedi Agama Filsafat’, Cetakan II (Universitas Sriwijaya, 2001).

of creation. These evidences show that sodomy is prohibited in Islam for moral, social and human nature reasons. Homosexuality and other sexual deviations are considered major sins because they contradict religious norms, moral norms, and also contradict the *sunnatullah* (God's Law/natural law) and human nature.<sup>31</sup>

According to the Ministry of Education and Culture, sexual violence is an act that degrades, humiliates, harasses, and/or attacks a person's body and reproductive functions. This action can cause psychological or physical suffering for the victim. Sexual violence can occur in various environments, including families, communities, and educational institutions such as pesantren. The legitimacy of power in pesantren can provide opportunities for perpetrators to commit acts of sexual violence. Pesantren often have a strict hierarchical structure, where the leader or caregiver has high authority. This can create powerlessness among santri to report or challenge inappropriate behavior. From field data, it was found that sexual violence that occurred in Pondok Pesantren in Agam district was allegedly committed by two perpetrators with the initials RA, a 29 years old man, and AA, a 23 years old man who was a dormitory leader and teacher. From the available data, it is known that the victims reached 43 people. The sexual violence committed was in the form of oral sex abuse and sodomy.<sup>32</sup> Other information found is that the two perpetrators are the best graduates from the school and are well known preachers in the community because they are quite active in giving recitations in mosques and their social media channels.<sup>33</sup>

In pesantren, ustaz, kiai, or pesantren leaders have very strong authority and are respected by santri. Unfortunately, in some cases such as the example above, this authority is abused by individuals who have malicious intentions to sexually exploit santri. Santris are often afraid to report because of this position of authority. Santris living in a pesantren

environment are often highly dependent on kiai or caregivers for various needs, from education to spiritual guidance. It is this dependence that is exploited by perpetrators of sexual violence.

The causes of sexual violence, especially in the Islamic boarding school environment in Agam district, occur due to two factors, namely internal factors where the psychology of the perpetrator has a deviant sexual orientation, while the perpetrator has a position as a 'buya' who is highly respected in the Islamic boarding school, known as a teacher who fills many studies and an authoritative teacher among students, so that the perpetrator is able to suppress and frighten students, as well as threaten the education of students, which causes victims to be afraid and forced to fulfill the wishes of the perpetrator to commit sexual violence.<sup>34</sup> In addition, with the power they possess, the perpetrator intimidates with direct threats such as not being able to take the exam or not being promoted to the next grade.<sup>35</sup> Another form is that the perpetrator turns the harassment into a sanction for the victim's mistakes by stating that it is part of the learning process<sup>36</sup>

Another thing that the perpetrator did was to instill fear in the victim that with the power they had, they could have carried out actions that of course harmed the victim related to the continuity of his education at the Islamic boarding school, to cover the victim's mouth, the perpetrator used religious symbols such as ordering the student who was the victim to swear by the Quran not to report the incident to others.<sup>37</sup> The perpetrator's action was initially in the mode of asking for a massage, then slowly provoked harassment. There is also harassment in the form of punishment because there are mistakes made by dormitory students in learning or those who violate the rules and other mistakes. Another thing that triggers sexual violence is the urge to have sexual desires owned by perpetrators who do have deviant sexual orientations because the perpetrator has been a victim of sodomy who eventually becomes the perpetrator<sup>38</sup>

<sup>31</sup> Ani Wafiroh, 'Masail Fiqhiyah Penyelesaian Hukum Islam Terhadap Persoalan Keagamaan Kontemporer' (Sanabil, 2020), p. 212.

<sup>32</sup> helbert Caniago, 'Kronologi Kasus Dugaan Kekerasan Seksual Terhadap 43 Santri Di Agam - Korban Mengalami "Trauma Mendalam" Dan Stigma'.

<sup>33</sup> Alfatah, 'MTI Canduang Ungkap Perkembangan Penanganan Kasus Asusila', *Antara Sumbar*, 2024.

<sup>34</sup> Irwan Syah, 'Wawancara' (Guru, 2024).

<sup>35</sup> Abdul Mukhlis, 'Wawancara'.

<sup>36</sup> Andi Markoni, 'Wawancara' (2024).

<sup>37</sup> RH, 'Wawancara' (2024).

<sup>38</sup> AY, 'Wawancara' (2024).

The Legitimacy refers to the normative belief by an actor that a rule or institution ought to be obeyed.<sup>39</sup> The legitimacy of power does not only occur through actors who are structurally in high positions, but also happens in the context of seniority where the perpetrator of violence is a senior student of the victim, who threatens the victim to fulfill their desires, including sexual desires.<sup>40</sup> The case occurred between students of the Islamic boarding school, where the victim and the suspected perpetrator were students at a religious-based educational institution located in Kamang Magek District, Agam Regency. Initially, the victim only knew and was familiar with the perpetrator. Then in the first incident, July 19, 2024, the victim was invited to skip and eat in an empty building outside the dormitory. At the location, the perpetrator committed an act of sexual violence, the victim was a class IX student and the perpetrator was one level above the victim or class X. In carrying out the action, the perpetrator threatened the victim with physical violence if he refused the perpetrator's will.<sup>41</sup> The existence of feelings of superiority and power makes victims, who are hierarchically lower in power than the perpetrators, helpless and feel unable to avoid or even save themselves from the acts of sexual violence.<sup>42</sup> In this case, it can be understood that the victim was forced to follow the perpetrator's wishes out of fear, some of the determinants of fear differ according to parental warnings, internalized mean world view, being more prone to anxiety are significant predictors of fear of rape across models,<sup>43</sup> and according to gender, including social disorder, prior

<sup>39</sup> Ian Hurd, 'Legitimacy and Authority in International Politics', *The IO Foundation and the Massachusetts Institute OfTechnology*, 53.22 (1999), pp. 379–408.

<sup>40</sup> Muhammad Renald Shiftanto, 'Remaja 15 Tahun Jadi Korban Kekerasan Seksual Sesama Jenis Di Pondok Pesantren Agam Sumbar Artikel Ini Telah Tayang Di Tribunnews.Com Dengan Judul Remaja 15 Tahun Jadi Korban Kekerasan Seksual Sesama Jenis Di Pondok Pesantren Agam Sumbar', *Tribunnews.Com*, 2024.

<sup>41</sup> Rian Afdol and Putra Susanto, 'Canduang Belum Kelar, Cabul Mencuat Di KamangMagek: Senior Jadi Tersangka Pelaku, Korban Diancam Dengan Kekerasan Fisik', *Padek: Padang Ekspress Digital Media*, 2024.

<sup>42</sup> Wahyudi Rahman, 'Wawancara' (Guru, 2024).

<sup>43</sup> Douglas W. Pryor, Marion R. Hughes, and Jennifer J. Langdon, 'Agents of Socialization, Anxiety, College Women, and Fear of Rape', *Sage Journals*, 30.3–4 (2023), pp. 691–721, doi:<https://doi.org/10.1177/10778012231172703>.

victimization, age, and income<sup>44</sup> and the perpetrator acted that way due to a sense of superiority because the perpetrator is the victim's senior.

Violations of legal norms in this case, religious law, certainly evoke a variety of reactions considering that Islamic boarding schools are educational institutions expected to educate students intellectually and instill Islamic values. The case of sexual violence occurring in the environment of these boarding schools tarnishes the image of the boarding school as a religious educational institution, especially when the perpetrator is a teacher and a dormitory leader who also serves as a preacher, where a preacher is someone who carries out the task of da'wah either through speech, writing, or actions carried out individually, in groups, organizations, or institutions.<sup>45</sup> We can understand that there is something illogical where the perpetrators of sexual violence are individuals who should be encouraging others to behave in accordance with the teachings of the Quran and Sunnah.

In response to this case, the residents of Canduang Koto Laweh, Agam Regency, West Sumatra, carried out a boycott and expressed a vote of no confidence against the Islamic boarding school (Ponpes) Madrasah Tarbiyah Islamiyah (MTI) Yayasan Syekh Sulaiman Ar-Rasuli, where the case of sexual violence occurred, among other places in this boarding school. The peaceful protest was conducted by dozens of residents and youths, closely guarded by the Bukittinggi City Police (Polresta) after the case of molestation committed by two teachers against dozens of male students was revealed.<sup>46</sup> The youth representatives and other community leaders also demanded that the Head of the Foundation resign because they are disappointed that this case involves a teacher and the leader of the dormitory, which certainly damages the image

<sup>44</sup> Heeuk D. Lee and others, 'Fear of Sexual Assault for Oneself and Others: A Gendered Perspective from Five States', *International Journal of Law, Crime and Justice*, 68 (2022).

<sup>45</sup> Nofria Meta Sari and Tomi Hendra, 'Peran Da'i Dalam Meningkatkan Motivasi Masyarakat Di Jorong Landai Kecamatan Harau Kabupaten 50 Kota', *Koloni: Jurnal Multidisiplin Ilmu*, 1.4 (2022), pp. 632–38.

<sup>46</sup> Altas Maulana, 'Warga Boikot MTI Canduang Agam Terkait Masalah Asusila Santri', *Antara: Kantor Berita Indonesia*, 2024.

of the boarding school as a religious educational institution. In addition, it also tarnishes the image of Nagari Candung considering that the perpetrator is not a native of Nagari Canduung. The proposed resolution efforts were also not responded to by the boarding school administration.<sup>47</sup>

Based on the cases that have been presented, it can be understood that incidents of sexual violence in Islamic boarding schools are often caused by the autonomous operating methods of the boarding schools, where there is a lack of supervision or even no strict external oversight from the government or third parties. This condition facilitates the occurrence of abuse of power or hidden acts of sexual violence, due to the lack of regulation and external control.

In several cases, sexual violence perpetrators in pesantren do not receive strict sanctions, and there are even instances where the perpetrators seem to be protected by the pesantren institution itself, especially if the perpetrator holds a high position or status. It can be said that sexual violence in pesantren is obscured due to the close relationship between the pesantren leaders and the authorities, or because the pesantren has significant influence in the community. This results in a lack of accountability and law enforcement against the sexual violence perpetrators, as these perpetrators hold high positions such as kiai, buya, teachers, or ustaz. Pesantren often have a strict hierarchical structure, where leaders or caretakers hold high authority. This can lead to powerlessness among the students to report or oppose such inappropriate behavior.

Based on the previous explanation, it can be said that there is a culture that emphasizes respect for leaders. People in positions of authority or teachers can make students feel pressured not to disclose the sexual violence they have experienced, for fear of being considered disrespectful or not honoring the authority of the perpetrator. Therefore, it is necessary to develop more effective policies to prevent and address sexual violence in religious educational

institutions, as well as to strengthen existing legal norms.<sup>48</sup>

Associated with the case described earlier, the students have a high sense of respect for the 'buya' in the Islamic boarding school as the main perpetrator of sodomy sexual violence, where this 'buya' is the name of the Minangkabau people who come from the Arabic language, namely abi, abuya which means my father. And usually someone who is called by that name because of his broad understanding of various religious disciplines and is able to embrace various circles of society.<sup>49</sup>

Based on this presentation, it can be understood that this 'buya' is an authority used by the perpetrator to pressure the victim not to dare to complain about the violence experienced by the student. Then seniority is also the authority of the perpetrator in launching his action which succeeded in making the younger classmates as victims afraid to report the sexual misconduct treatment in the form of sodomy that he received.

In Islam, sexual violence including harassment, forced relationships without legitimate consent, rape, and other forms are strictly prohibited. These acts are viewed as violations of Islamic legal norms concerning honor, the safety of life, and human rights. The act of coercing sexual violence perpetrated by individuals through the legitimacy of their power includes ta'zir crimes, where ta'zir is a type of punishment in Islamic criminal law that is not specifically defined in the Quran or Hadith, but is entrusted to the discretion of the judge or government authority to determine the form and extent of the punishment, and is considered a violation of Sharia. The words of Allah in Surah Al-Ahzab verse 58 are as follows:

وَالَّذِينَ يُؤْذُونَ الْمُؤْمِنِينَ وَالْمُؤْمِنَاتِ بِغَيْرِ مَا أَنْتَسَبُوا فَقَدِ احْتَمَلُوا بُعْدَانًا وَلَا  
يُبَيِّنُونَ (٥٨)

Artinya: "And those who harm the believers, both men and women, without any wrongdoing they have

<sup>48</sup> Hedi and others, 'Demokrasi, Keadilan, Dan Ultilitarianisme Dalam Upaya Legitimasi Kekuasaan Birokrasi'.

<sup>49</sup> Benny Wahyudhi Rm, M fuad Hafizuddin, and Afrizal Nur, 'Implementasi Penafsiran Buya Hamka Tentang Ayat-Ayat Zuhud Di Era Modern', *Meriva: Jurnal Pendidikan Dan Studi Islam*, 2.1 (2025), pp. 92–104.

<sup>47</sup> Erdi Nasrul, 'Warga Boikot MTI Canduung Agam Terkait Dugaan Asusila Santri', *Republika*, 2024.

*committed, indeed, they have borne a slander and a manifest sin."*

Islam has regulated how to channel or express sexual orientation with proper sexual behavior. In the Quran, there are many commands for humans to guard their private parts and to express sexual desires only in ways that are deemed lawful according to Sharia, among them the words of Allah in Surah An-Nur 30-31 which state that:

فَلَنَّ لِلْمُؤْمِنِينَ يَغْضُبُوا مِنْ أَبْصَارِهِمْ وَيَخْفَطُوا فُرُوجُهُمْ ذَلِكَ أَرْكَى لَهُمْ إِنَّ اللَّهَ خَيْرٌ بِمَا يَصْنَعُونَ (٣٠) وَقَلَنَّ لِلْمُؤْمِنَاتِ يَغْضُبُنَّ مِنْ أَبْصَارِهِنَّ وَيَخْفَطُنَّ فُرُوجُهُنَّ ... (٣١)

Artinya: " *Say to the believing men: "Let them restrain their gaze and guard their private parts; that is purer for them. Indeed, Allah is All-Knowing of what they do." And say to the believing women: "Let them restrain their gaze and guard their private parts".*

In the context of LGBT, many verses have been found that prohibit same-sex sexual relations (homosexuality) and describe it as a very wicked act (fahishah), excessive, and going beyond bounds, including verses from Al-A'raf 80-81:

وَلُونُطًا إِذْ قَالَ لِقَوْمِهِ أَتَأْتُونَ الْفَاجِحَةَ مَا سَيَقْكُمْ بِهَا مِنْ أَحَدٍ مِنَ الْعَلَمِينَ ٨٠ إِنَّكُمْ لَتَأْتُونَ الرِّجَالَ شَهْوَةً مِنْ دُونِ النِّسَاءِ بِلَّا أَنْتُمْ قَوْمٌ مُّسْرِفُونَ ٨١

Artinya: " *And (remember the story of) Lut, when he said to his people: 'Why do you commit such fahishah (very disgraceful acts) that no one has ever done before among the worlds? Indeed, you approach men to satisfy your lust, instead of women. You are indeed a people behaving excessively'.*

According to Imam al-Shirazi, verse 80 of Surah al-A'raf above, Allah refers to sodomy as "fahishah" (an abominable act), which serves as evidence for the prohibition of "sodomy". Anyone who commits it is considered to fall under the penalty of adultery (hadd zina), and thus must face the punishment of adulterous

penalty. In addition to the evidence from the Qur'an, there are many hadiths that explain the prohibition of homosexuality, whether concerning same-sex males (gay) or same-sex females (lesbian).<sup>50</sup> Sulaiman ibn Muhammad ibn 'Umar al-Bujairimi stated that the law of "liwat", i.e. inserting "hasyafah" (genital end) or the same size into the anus of a man even though his slave is his, or a woman other than his wife and "amat" (female slave) and intercourse with an animal is absolutely included in the obligation of "hadd" (punishment) is the same as the punishment of adultery into the vagina (female genitalia).<sup>51</sup>

The hadith source from 'Abdullah ibn Mas'ud states that the Prophet said: "A woman does not touch another woman's skin (in the same clothing) unless she imagines that it is her husband who is seemingly watching her (HR. al-Bukhari)." Then there is also a hadith sourced from 'Abdur Rahman ibn Abu Sa'id al-Khudri from his father, stating that the Messenger of Allah said: "It is not permissible for a man to look at another man's private parts, and it is not permissible for a woman to look at another woman's private parts, nor is it permissible for a man to touch a man's skin while wearing the same clothing, and it is not permissible for a woman to touch a woman's skin while wearing the same clothing." (HR. Muslim).

The essence of the verse mentioned above is the prohibition of LGBT relationships, and the essence of the hadith above is the obligation (taklif) for every Muslim to dress in a way that covers their private parts. Imam Al Nawawi opined regarding the Prophet's statement that "it is not permissible for a man to engage with another man in the same garment, nor for a woman with another woman, which is a prohibition that includes a haram ruling, if there is direct contact without a barrier between their private parts," which serves as evidence for the prohibition of physical contact between individuals of the same gender at any part. This ruling is the consensus among scholars.<sup>52</sup> Based

<sup>50</sup> Abu Ishaq Ibrahim Ibn Ali Ibn Yusuf Al-Fairuzabidi Al-Shirazi, *Al-Muhadhab* (Dar al-Fikr, 1987): 659.

<sup>51</sup> Sulaiman ibn Muhammad ibn 'Umar al-Bujairimi, *Tuhfab Al-Habib 'ala Sharh Al-Khatib*, Jilid 4 (Dar al-Fikr, 1996): 176.

<sup>52</sup> Imam Al-Nawawi, *Al-Minhaj Syarh Shabib Muslim*, Jilid 4 (Dar Ibn Hazm): 31.

on the Qur'an and Hadith as mentioned above, the scholars agree (*ijma'*) that sodomy in this case is sodomy and same-sex sexual activity is haram. Even homosexual perpetrators, such as in the case of sodomy, can receive severe punishment up to the death penalty, because they violate the sharia based on the postulates of the Qur'an and hadith that have been described previously.

## Conclusion

The forms of sexual violence found include oral sexual abuse and sodomy. These acts were carried out under the pretext of assigning special tasks to the victims and under the pretext of deepening their understanding of the subject matter by individuals who had strong legal legitimacy in the perpetrator's workplace. These acts were carried out by seniors or upperclassmen, and even by teachers with the title 'buya' and dormitory leaders. With the power possessed by the perpetrators, they were able to intimidate victims in various ways. Islamic boarding schools often have a strict hierarchical structure, where leaders or caregivers have high authority. This can create a sense of helplessness among students to report or oppose inappropriate behavior. A culture that prioritizes respect for seniors, leaders, or teachers makes students afraid to reveal the sexual violence they have experienced. Acts of sexual violence, whether in the form of deviant oral sexual exploitation such as sodomy or similar acts, are deviations from Islamic law norms that are subject to severe punishment because they are categorized as sinful acts.

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