



Review of Prosecutions for Perpetrators of Sexual Abuse Against Santri in Indonesia

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<http://dx.doi.org/10.18415/ijmmu.v9i8.3790>

Abstract

Pondok Pesantren which is known as a place to study Islam began to transform. Education at Pondok Pesantren aims to study, develop, and deepen religious science and conduct religious studies through the Yellow Book. However, on the contrary, there are some Pesantren Huts that have begun to commit immoral behavior towards students by unethical teachers. Children are a particularly vulnerable group to sexual abuse because they are always portrayed as weak, helpless, and highly dependent on adults. This makes them tight-lipped not to tell the chronology of the incident because it has been threatened by the perpetrator. So, this study aims to find out the punishment for perpetrators of sexual abuse that result in child students becoming victims reviewed from Indonesia's positive laws and the protection of victims using special laws governing child protection. The research method used is normative juridical by examining literature materials or secondary data only. Research shows that the execution of perpetrators is carried out by the process of proving *visum et repertum* from doctors.

Keywords: *Boarding School; Sexual Abuse; Child Protection*

Introduction

As a country of law, Indonesia provides protection to every citizen by providing institutions capable of providing justice in the form of a free and neutral judiciary. It is based on the freedoms and fundamental rights and obligations that everyone enjoys from birth, and the management of a state and the power of a state makes it impossible to diminish the meaning of freedom and human rights. One form of protection provided by the state to the community is through the judicial process to provide legal protection in case of criminal acts. Parties who urgently need protection in a criminal offense are victims

of the crime. The importance of providing attention and protection to the victim stems from the fact that the victim is a victim of a crime and must receive attention and service to protect his own interests.¹

Children are the next generation of the nation who have the privilege to be obliged to get maximum protection from parents, families, communities, and the state because children have their minds and hopes in the future for nation-building. Education for children in Indonesia is ideally 12 years of learning from elementary school to high school. Indonesia is a country with a majority of citizens of Islam, so there are some parents who are not small in number to include their children in Islamic Education schools, one of which is Pondok Pesantren. Because there is not only learning about compulsory subjects but also getting a deepening of material about Islamic Education.

Pondok Pesantren is a religious institution that provides education and deepening to develop and spread the religion of Islam. Ideally, the school in Pondok Pesantren is where the students are given a place to live in the form of dormitories in which there are also many other students. Dormitories between male and female students are in different buildings. There was a religious teacher commonly called Kyai. The dormitory for the students is located in the pesantren complex environment where Kyai also lives, in which there is a mosque for worship, and a room to study and do other religious activities. And can do Ihsan to others.

Pondok Pesantren which is known as a place to gain Islamic knowledge began to transform. Its existence in the community is expected to be a light for the community. While in Pondok Pesantren, students get an education that enables them to practice Islamic teachings and emphasizes the importance of ethics in interacting with the community. Furthermore, Education at Pondok Pesantren aims to study, develop, and deepen religious science and conduct religious studies through the Yellow Book. However, on the contrary, there are some Pondok Pesantren that have begun to commit immoral behavior towards students by unethical teachers. In-Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, it is explained in Article 9 Paragraph 1a that children have the right to be protected in the Education unit from sexual crimes and violence committed by educators, education personnel, and their students.²

If you look at the definition of Pondok Pesantren, it should be that parents feel safe their children are there because there is a strong religious science. Although there have been several cases of sexual abuse of students in Indonesia, lately the case has become a concern for the community because of the events where female students were victims of sexual abuse by one of the caregivers of Pondok Pesantren in West Java. As a religious teacher should set a good example for his students, this sexual abuse has also occurred in Central Java involving religious teachers as perpetrators and in other areas. Trust from parents who want their children to be in Pondok Pesantren so that they get a glimmer of good religious and moral education to become better people as well. However, it is not uncommon in the fact that individuals to abuse it.

Sexual harassment is a problem that arises from people's social interactions. Therefore, Islamic teachings have established rules of social interaction such as manners, dress ethics, and how to see a person when interacting and communicating. Therefore, sexual harassment is a form of behavior that is considered a lower moral act because morals are the behavior of those who interact and make friends with each other. Therefore, very high moral standards can be measured by the general perception that an action is not considered a violation of social rules and habits, what is appropriate and what is not.³

¹ Nova Ardianti Suryani, "Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Penganiayaan Ditinjau Dari Undang-Undang Perlindungan Anak," *Media of Law and Sharia* 2 (2020).

² Samsul Bahri, "Model Pengawasan Anak Dalam Upaya Pencegahan Pelecehan Seksual Di Lingkungan Pesantren," *Jurnal Ilmiah*, 2021.

³ A. Gunawan Setiardi, *Dialektika Hukum Dan Moral* (Yogyakarta: Kanisius, 1990).

The crime of decency and the crime of sexual abuse have become such complex problems, and it worries society that it is impossible to see it from a microspice perspective alone. If you want to know the root cause, you must dare to enter all aspects of life that have an impact on human behavior including decency and sexual harassment. Human behavior does not arise by itself, but develops through processes due to environmental influences such as the natural environment, sociology, politics, economics, and cultural aspects (*including religion*). The crime of decency does not arise just like that, but through a process of abuse that is initially considered ordinary but then leads to crime. Sexual harassment is the abuse of the relationship between a man and a woman to the detriment of either party (*whose dignity is denigrated by being harassed*). So sexual abuse not only humiliates women but can also happen to men, but women are the most vulnerable to sexual abuse not infrequently also occurs in minors.⁴

Children are a particularly vulnerable group to sexual abuse because they are always portrayed as weak, helpless, and highly dependent on adults. This makes them tight-lipped not to tell the chronology of the incident because it has been threatened by the perpetrator. In almost all cases found the perpetrators are people who are close to the victim and some perpetrators are the ones who control the victim. Child sexual abuse not only has an impact on future health problems but also the impact of trauma due to the act of sexual abuse experienced. For example, such as trauma to adulthood, betrayal, distrust of adults, helplessness, and stigma (*stigmazation*). Physically it may not cause problems for victims of sexual abuse, but it can psychologically lead to addiction, trauma and even resentment if not taken seriously. Child sexual abuse can have a widespread social impact in society.

However, many victims have chosen legal avenues to solve problems, hoping to get justice, provide a deterrent effect or lesson for the perpetrator. But not a few also choose silence because they do not want to delay the problem. Even though there is already a child protection law that regulates every criminal offense committed by and / or against children. It has also been regulated about legal protection for victims of abuse. Children need special protection and nurturing, including legal protections that are different from adults. It is based on the physical and mental reasons of immature and mature children. Children need the protection afforded by law. Every child can bear this responsibility so that he needs opportunities for physical, mental and social development, noble character and the need to be given protection efforts by guaranteeing the fulfillment of rights, and non-discriminatory treatment in order to realize a welfare for children.⁵

When looking at the laws in Indonesia, child sexual abusers violate Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection. In its development, the prosecution should not only punish the perpetrator or cause grief, but also protect and improve the condition of the victim. In Muladi's opinion, one of the goals of the trial is to prioritize the resolution of conflicts caused by crime by restoring community balance and building peace.⁶ Law enforcement must be done with a focus on achieving the goal of the law itself, namely achieving legal certainty, justice and expediency, and not only being able to punish offenders who can provide a deterrent effect but also prevent the occurrence of similar crimes. Also protect the victim during the process of solving the case and punish the perpetrator so that the victim can re-adapt to society without leaving trauma.

Based on the background that the author has explained above, the Author focuses the formulation of the problem in two so as not to be too broad in the discussion, namely First, how the prosecution for perpetrators of sexual abuse of children in Indonesia is reviewed from the Criminal Code; Second, How legal protection for child victims of sexual abuse is reviewed from the Child Protection Act.

⁴ Christy A. I. Aleng, "Sanksi Hukum Terhadap Pelaku Pelecehan Seksual Secara Verbal," *Lex Crimen* IX (2020).

⁵ Komnas HAM, "Anak-Anak Indonesia Yang Teraniaya," *Buletin Wacana*, November 2006.

⁶ Heri Tahir, *Proses Hukum Yang Adil Dalam Sistem Peradilan Pidana Indonesia* (Yogyakarta: Lakbang Pressindo, 2010).

Research Methods

This study uses normative juridical methods to provide useful results for readers in accordance with the title and problems that the author wants to discuss in this study. According to Soerjono Soekanto, normative legal research is the study of literature law conducted by only studying library materials or secondary data. This approach method uses deductive reasoning techniques to draw conclusions based on facts that are general in nature and supported by facts that have been confirmed to be true. The conclusion is characterized by something special, and analyzed with a qualitative approach, the object of its analysis shows the legal norms contained in the law.

Results and Discussions

The Prosecution for Perpetrators of Sexual Abuse of Child Students in Indonesia Is Reviewed from the Criminal Code

When it comes to sexual abuse, these crimes can happen anywhere and to anyone whether it's women, men, even children. Sexual harassment is often difficult to know because sexual acts, behaviors, and comments are sometimes taken for granted so that it is acceptable in everyday life even if it is the wrong action. The definition of child sexual abuse under the law is a crime in which an adult engages in sexual activity with a minor or exploits a minor for sexual gratification. As we know that this abuse is an immoral act because it involves the exposure of minors to sexual activities that they should not know and even feel it let alone occur in the Pondok Pesantren which in fact is a place to study religion.

Many impacts occur for victims of sexual abuse because this can damage the physical and mental victims of children, the perpetrators of crimes can be charged with layered articles because of the presence of special regulations regarding children. In Indonesia itself has not been fully regulated regarding sexual abuse in the Criminal Code, but the criminal act of physical sexual abuse can be applied using the article on decency. While verbal sexual harassment can be applied by using the article regarding minor insults.

Before discussing further about the punishment for perpetrators of sexual abuse, the author will first describe the difference between physical and verbal sexual abuse. Physical sexual abuse is harassment by means of unwanted touch leads to sexual acts such as kissing, patting, hugging, pinching, stroking, massaging the nape, sticking the body or other physical touch that leads to sexual appetite. Verbal sexual harassment is harassment in the form of unwanted comments about a person's personal life or body parts or appearance including jokes and sexually charged comments.

In Indonesian positive law, sexual harassment is generally regulated in the Criminal Code (KUHP) Second Book on Crime. Chapter XIV on the Crime of Decency. The types of sexual crimes are also diverse and all are regulated in the Criminal Code. Sexual harassment in the Criminal Code is generally regulated in Article 281 and Article 282 which reads:

Article 281: *"threatened with imprisonment for a maximum of two years and eight months or a fine of at most five hundred rupiah if it deliberately and openly violates decency and in the presence of others who are there against his will violates decency".*

So, in this article it means that the perpetrator of sexual abuse consciously and deliberately commits the act of decency in front of people, both known and not openly known.

Article 282: *"Whoever broadcasts, displays or pastes writings, images, objects in public whose contents violate decency or enter them into the country, forwards and removes them from the country or*

has a clear supply by circulating a letter without being asked and offering or showing it can be punished with imprisonment for a maximum of one year and six months or a fine of at most three thousand rupiah". Sexual abuse committed by a man or woman who has been bound in marriage (*adultery*) is stipulated in **Article 284 of the Criminal Code**: "threatened with imprisonment for a maximum of Nine months if a man has married adultery when it is known that Article 27 BW applies to him (*a man may only marry with a woman or vice versa, those subject to this article may not commit adultery with others*); a married woman commits adultery; a man who participated in doing the act when it was known that the guilty was married; an unmarried woman who participated in committing an acts when it was known by her that the one who was guilty had married and article 27 BW applies to her".

Article 285 of the Penal Code contains a law on the imposition of rape, "*anyone with violence or threats of violence forces a woman to have sex with him outside of marriage, threatened with rape with a maximum imprisonment of twelve years*".

Article 286 of the Penal Code regulates the sex of a woman who is unconscious and helpless, "*whoever has sex with a woman outside of marriage when it is known that the woman is unconscious or helpless then threatened with imprisonment for a maximum of nine years*".

Article 287 and Article 288 of the Criminal Code stipulate that having sex with an underage woman is threatened with imprisonment for a maximum of nine years, but if before being able to marry, threatened, resulting in injuries with a maximum imprisonment of four years.

Article 289 of the Criminal Code which reads: "*anyone with violence or threats of violence compels a person to commit or allow obscene acts to be committed, is threatened with committing acts that attack the honor of decency with a maximum imprisonment of nine years*".

R. Soesilo argues that all obscene acts violate decency (decency) and relate to sexual pleasures such as kissing, genital contact or breasts. Obscene acts also include acts of violence, including genitalia and other body parts that can stimulate the sexual desires of others through violence or coercion.⁷ Therefore, the term sexual harassment refers to sexual harassment which leads to unwelcome attention or "*imposition of unwelcome sexual demands or creation of sexually offensive environments*" which means rejection in all forms of action or without the willingness of the victim.

In the Criminal Code, what determines the severity of an act of sexual abuse is to look at the threat of punishment that can be imposed on the perpetrators. For example, in Article 285 of the Criminal Code it is determined that the threat of imprisonment is the longest is 12 (twelve) years, while in Article 289 of the Criminal Code the criminal threat is a maximum of 9 (nine) years. Thus, the provisions of Article 285 are heavier than the provisions of Article 289 but there are similar elements that must be fulfilled, namely the presence of violence or threats of violence.

Cases of sexual abuse in the scope of Pondok Pesantren often do not come to light because victims are afraid to report because they are threatened by the perpetrators. The perpetrators of the management of Pondok Pesantren always use religious arguments as legitimacy to commit acts of violence and harassment. Sexual abuse that occurs in the Pondok Pesantren environment involving minors being victims of some of its cases can be described as follows:

1. From 2009 to 2012, 85 children were victims of sexual violence in Pondok Pesantren neighborhoods in Central Java such as sodomy, underage marriage, rape, and sexual abuse.⁸

⁷ Adami Chazawi, *Tindak Pidana Mengenai Kesopanan* (Jakarta: PT. Raja Grafindo Persada, 2002).

⁸ Ecpat Indonesia, "Terjadi Pelecehan Seksual Di Pesantren," 2013, <https://ecpatindonesia.org/berita/terjadi-pelecehan-seksual-di-pesantren/>.

2. In 2019 in Padang Tualang Subdistrict, North Sumatra, there was sexual harassment committed by individuals from the leader of an Islamic religious education institution to several students by being molested and sodomized. This case can be revealed because it stems from the fear of child victims due to sexual abuse experienced by him. Unfortunately, the victim had told one of the administrators of Pondok Pesantren who was trusted but was ignored because there was no strong evidence, especially the culprit was the leader of the pesantren. There are 17 students who are victims in this case, 8 of whom have suffered severe trauma and also some have contracted venereal diseases.⁹
3. In 2020 in Bantul City, Yogyakarta, there were ustadz who made sexual slurs to their students. The case came to light after the victim asked his relatives to pick him up home from Pondok Pesantren. The perpetrator's mode is to ask the victim to have dinner together then the victim is forced to open his pants and the perpetrator performs his act. The perpetrator threatened the victim to keep the actions he had done before the victim returned from Pondok Pesantren. Until finally from the family reported to the authorities so that there is justice for victims of this sexual abuse.¹⁰
4. In 2020 in Padarincang, Serang Regency, Banten there was an abuse of pesantren teachers against santriwati. There are 4 (four) children who are victims of the abuse.¹¹
5. In 2021, the Indonesian Child Protection Commission (KPAI) recorded 18 cases of sexual violence from schools under the authority of the Ministry of Religious Affairs. The majority of sexual violence cases occur in boarding education units as many as 12 units of education. The total victims were 207 people with an age range of 3-17 years. It is mentioned that the perpetrators have various modes of abuse such as promising victims high marks, being a policewoman, and playing online games on the perpetrator's smartphone. The perpetrator asked for massages by the victims and then the victim was groped for intimate parts while massaging, and the perpetrator asked the victim to sweep the warehouse but then molested. If the victim refuses, the perpetrator will threaten and hit the victim under the pretext of having to obey what the teacher asked. This case of sexual violence and harassment occurred in 17 regencies / cities in nine provinces in Indonesia, namely West Java, East Java, Central Java, D.I. Yogyakarta, West Sumatra, North Sumatra, South Sumatra, South Sulawesi, and Papua.¹²

A person who sexually abuses a child under the age of 15 (fifteen) years can be convicted under article 287 of the Criminal Code which reads: *"Any person who has sex with a woman outside marriage, even if it is known or reasonably suspected to be under the age of fifteen years or an unproven marriage is punishable by imprisonment of up to nine years"*. Because there is a special law governing children, the perpetrator can be charged with Law No. 23 of 2002 jo. Law No. 35 of 2014 jo. Law No. 17 of 2016 concerning Child Protection because it conflicts with Article 76D, prohibiting any person who commits violence or threats of violence to force children to have sexual relations with him or others, threatened with a minimum sentence of 5 years and a maximum of 15 years and a maximum fine of Rp5,000,000,000.00 (five billion rupiah).

The examination of criminal cases of sexual abuse in the judicial process of this case is basically to find out the truth of the actual case. This can be seen from the various efforts made by law enforcement officials to obtain the evidence needed to solve the case at the preliminary examination stage such as investigation and prosecution and the trial stage of the case. In proof, of course, it cannot be separated from the existence of evidence, evidence is an object, tool or result of a criminal act, but as long as it is

⁹ Kementerian Pemberdayaan Perempuan dan Perlindungan Anak RI, "Pimpinan Ponpes Di Langkat Cabuli Belasan Santri, Kemen Pppa Kawal Kasus Hingga Tuntas," 2019, <https://www.kemenpppa.go.id/index.php/page/read/29/2130/pimpinan-ponpes-di-langkat-cabuli-belasan-santri-kemen-pppa-kawal-kasus-hingga-tuntas>.

¹⁰ Theofilus Richard, "Miris, Ini 5 Skandal Ustadz Lakukan Pelecehan Seksual Yang Baru Terungkap Ke Publik!," 99.co, 2021, <https://www.99.co/blog/indonesia/skandal-ustadz-pelecehan-seksual/>.

¹¹ Zakki Amali, "Kasus Kekerasan Seksual Di Pesantren: Tekanan Publik & Tak Tuntas," Tirto.id, 2020, <https://tirto.id/kasus-kekerasan-seksual-di-pesantren-tekanan-publik-tak-tuntas-fUqk>.

¹² Merdeka News, "KPAI Catat 18 Kasus Kekerasan Seksual Di Sekolah Sepanjang 2021," 2021, <https://www.merdeka.com/peristiwa/kpai-catat-18-kasus-kekerasan-seksual-di-sekolah-sepanjang-2021.html>.

directly related to the criminal act can also be used as evidence. evidence, such as clothing worn when abused. In the elaboration of Article 183 of the Criminal Procedure Law (KUHAP), it is stated that this provision is to ensure that a person achieves truth, justice, and legal certainty. The existence of Article 183 of the KUHAP shows that our country adheres to a negative proof system or theory of proof of evidence in accordance with the law, and the judge can only impose a criminal if there are no less than two incriminating evidence. Article 183 of the KUHAP stipulates that "*the judge shall have at least two valid means of evidence that he believes that there has been a criminal offense and that the defendant has committed a criminal offense before it can be convicted*". Article 184 (1) of the KUHAP regulates the legal evidence, including witness statements, expert statements, letters, instructions and defendants' statements.

For criminal acts of sexual abuse, the evidentiary process is carried out with the support of *visum et repertum* from the doctor. Regarding this evidence tool, it relates to the role of doctors in assisting investigators in providing media information about the condition of victims of abuse through *visum et repertum*. Attempts to obtain evidence or signs from the victim that sexual abuse does occur criminal behavior. The existence of proof *visum et repertum* is to fulfill the provisions of Article 183 and article 181 of the Criminal Code which asserts that in criminal cases the existence of court evidence is strengthened for judges to seek material truth and judges must not impose criminal charges without evidence. So, the form of legal protection provided by the Criminal Code for children who get sexual abuse is a criminal liability for the perpetrator, not a liability for the victim's loss / suffering directly and concretely but rather focused on personal / individual accountability.¹³

Legal Protection for Child Abuse Victims of Sexual Abuse Is Reviewed from the Child Protection Act

As part of the ideals of the next generation of the nation, children have a strategic role in ensuring the survival of the nation and state in the future. In order for them to assume these responsibilities later, they must have the greatest opportunity to grow and develop optimally both physically, mentally, socially, and spiritually. Children have various rights that must be fulfilled in their lives and lives. If no party is able to fulfill these rights and obligations, it is the responsibility of the state to fulfill them.¹⁴ Child protection in Indonesia means protecting the potential of human resources and realizing a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Efforts to protect children's laws must be carried out in an ongoing manner so that children's rights are not taken away and can later participate optimally for the development of the nation and state. In general, there are three major explanations for the occurrence of sexual abuse that befell women and children:¹⁵

1. Explanation of internal conditions that lead to the personal characteristics of sexual abusers that lead to sexual violence. For example, abuse committed by people who are restless, disturbed souls, depressed, have many conflicts and problems that are then responded to by abusing people around them. For women and children who have experienced it, this type of sexual abuse is not an ordinary occurrence but is very kasuistic.
2. An explanation of what caused the attachment to the personal characteristics of the victim. Here the sexual abuse of the victim is caused by the behavior of inviting the victim himself or by the victim who has certain personality characteristics that make him vulnerable to sexual harassment and violence. The victim himself is the one who initiated the violence or abuse against himself.

¹³ Anastasia Hana Sitompul, "Kajian Hukum Tentang Tindak Kekerasan Seksual Terhadap Anak Di Indonesia," *Lex Crimen* IV (2015).

¹⁴ Muhammad Taufik Makarao, Wenny Bukamo, and Syaiful Azri, *Hukum Perlindungan Anak Dan Penghapusan Kekerasan Dalam Rumah Tangga* (Jakarta: Rineka Cipta, 2013).

¹⁵ Eliza Anggoman, "Penegakan Hukum Pidana Bagi Pelaku Kekerasan/Pelecehan Seksual Terhadap Perempuan," *Lex Crimen* VIII (2019).

3. Feministic explanation, where sexual violence or abuse of women and children is a product of social structure and socialization in society that prioritizes the interests and perspectives of men by viewing women as a lower gender and less valuable than men. Social structure that emphasizes and is dominated by men.

Legal protection for santri children who are victims of sexual abuse crimes can be seen from 2 domains, namely normative realms in the form of instruments of laws and practical regulations that are realized by law enforcement officials practically in the field¹⁶. In the normative realm, legal instruments that regulate children who face the law can be found in several laws and regulations, namely:

1. Constitution of the Republic of Indonesia 1945
2. Law No. 23 of 2002 jo. Law No. 35 of 2014 jo. Law No. 17 of 2016 concerning Child Protection.
3. Law No. 4 of 1979 concerning Child Welfare
4. Law No. 13 of 2006 jo. Law No. 31 of 2014 concerning Protection of Witnesses and Victims
5. Law No. 11 of 2012 concerning the Juvenile Criminal Justice System
6. Law No. 23 of 2004 concerning the Elimination of Domestic Violence
7. Law No. 21 of 2007 concerning The Eradication of Trafficking in Persons
8. Law No. 5 of 1998 concerning Ratification of the Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment

Pondok Pesantren has a dual role, especially as an Educational institution whose data is described as follows:¹⁷

1. As an Educational institution, any development carried out and undertaken by Pondok Pesantren will not change its main characteristics as an Educational institution in a broad sense.
2. As a scientific institution, book products from teachers at Pondok Pesantren will also be used in other Pesantren Huts.
3. As a training institution, students get initial training ranging from managing personal items to designing study plans and organizing things that affect their studies such as visits from parents or relatives.
4. As a community empowerment institution, in carrying out community empowerment, Pondok Pesantren is fully independent and more selective in funding from institutions other than the community itself.
5. As a religious guidance institution, it is not uncommon for people to use Pesantren Huts as part of religious guidance institutions in religious affairs.

If you look at the description of the role of Pondok Pesantren above, then children's students should not get sexual abuse in Pondok Pesantren. In Indonesia there is a special law that regulates child protection, namely Law No. 23 of 2002 jo. Law No. 35 of 2014 jo. Law No. 17 of 2016 concerning Child Protection. In Article 1 Number 2 of the law it is explained that child protection is all activities to ensure and protect children and their rights in order to live, grow, develop, and participate optimally in accordance with the dignity of humanity, and get protection from violence and discrimination. Article 59 explains that governments and state institutions are obliged and responsible for providing special protection to children who face the law and children who are victims of criminal acts. Article 3 provides an explanation of the purpose of child protection, namely to ensure the fulfillment of children's rights in order to live, grow, develop, and participate optimally in accordance with the dignity and dignity of humanity and get protection from discriminatory violence for the realization of quality, noble and prosperous Indonesian children.

¹⁶ Mukhlis R, "Perlindungan Hukum Terhadap Anak Dari Kejahatan Pelecehan Seksual Di Pekanbaru Tahun 2014," *Masalah-Masalah Hukum* 45 (2016): 276–84.

¹⁷ M. Dian Nafi, *Praksis Pembelajaran Pesantren* (Yogyakarta: Lembaga Pelatihan dan Pengembangan, 2007).

Article 64 paragraph 2 explains that special protection for children facing the law is carried out through:

1. the treatment of the child humanely in accordance with the dignity and rights of the child;
2. provision of child-specific escort officers from an early age;
3. provision of special facilities and infrastructure;
4. appropriate sanctions in the best interests of the child;
5. continuous monitoring and recording of the development of children facing the law
6. the provision of guarantees to maintain relationships with parents and families; and
7. protection from identity reporting through the mass media and to avoid labeling.

Furthermore, Article 64 Paragraph 3 explains that the protection of children who are victims of criminal acts is carried out as follows:

- a. rehabilitation efforts, both within institutions and outside institutions;
- b. efforts to protect from identity reporting through mass media and to avoid labeling;
- c. providing safety guarantees for victim witnesses and expert witnesses both physical, mental, social; and
- d. provide accessibility to get information about the development of the case.

In addition to the UUPA, there is also a law that regulates the rights of children as victims of criminal acts, namely Law No. 11 of 2012 concerning the Juvenile Criminal Justice System. Article 89 reads: "the victim's child and/or the witness child are entitled to all protections and rights stipulated in the provisions of the laws and regulations". Article 90 explains that in addition to the rights stipulated in the provisions of the laws and regulations as intended in article 89, the victim's child and the witness child are entitled to:

1. Medical rehabilitation and social rehabilitation efforts both within the institution and outside the institution;
2. Guaranteed safety both physically, mentally, and socially; and
3. Ease of obtaining information about the development of cases.

Repressively necessary protection of the rights of children as victims of criminal acts:¹⁸

- a. Provision of restitution and compensation that aims to compensate for the losses suffered by the victim both physically and psychically, as well as reimbursement for the costs incurred as a result of the victimization. This right is regulated in Article 98 Paragraph 1 of the KUHAP.
- b. Counseling given to children as traumatized victims in the form of rehabilitation or recovery that aims to restore the victim's psychic condition as before. This is stipulated in Article 64 Paragraph 3 of the UUPA.
- c. Medical services or assistance provided to victims who suffer medically as a result of a criminal act that results in physical suffering. This is stipulated in Article 90 Paragraph 1 of the UUSPPA which states that, "*medical rehabilitation efforts and social rehabilitation both within the institution and outside the institution*". What is meant by medical rehabilitation is an integrated treatment process by restoring the physical condition of children who are dealing with law, (*victim children and witness children*) in order to carry out social functions in life in the community.

¹⁸ Fransiska Novita Eleanora, "Protection of Children's Rights as Perpetrators and Victims of Criminal Acts (Roles and Functions of the National Commission for Child Protection)," *Jurnal Artikel*, 2016.

Conclusion

Pondok Pesantren is a religious institution that provides education and deepening to develop and spread Islam. Education at Pondok Pesantren aims to study, develop, and deepen religious science and conduct religious studies through the Yellow Book. However, on the contrary there are some Pesantren Huts that have begun to commit immoral behavior towards students by unethical teachers. In Indonesia's positive law, generally sexual harassment is regulated in the Criminal Code (KUHP) Second Book on Crime Chapter XIV on the Crime of Decency. Cases of sexual abuse in the scope of Pondok Pesantren often do not come to light because victims are afraid to report because they are threatened by the perpetrators. The perpetrators of the management of Pondok Pesantren always use religious arguments as legitimacy to commit acts of violence and harassment. For the criminal conviction of sexual abuse is processed by proof carried out with the support of *visum et repertum* from a doctor. Regarding this evidence tool, it relates to the role of doctors in assisting investigators in providing media information about the condition of victims of abuse through *visum et repertum*.

Legal protection of children who are victims of sexual abuse is regulated in Article 64 Paragraph 3 of Law No. 23 of 2002 jo. Law No. 35 of 2014 jo. Law No. 17 of 2016 concerning Child Protection is carried out as follows: rehabilitation efforts, both within institutions and outside institutions; efforts to protect from identity reporting through mass media and to avoid labeling; providing safety guarantees for victim witnesses and expert witnesses both physical, mental, social; and provide accessibility to get information about the development of the case.

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