

## Legal Protection of Child Victims of Religious Leader Sexual Violence (Community Protection and Punishment)



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**ABSTRACT:** Sexual violence constitutes a worldwide concern that jeopardizes individual security and integrity while eroding the social and moral fabric of society. When perpetrated by religious leaders, the issue becomes more intricate due to the exploitation of power, trust, and elevated social status. These leaders, expected to serve as moral exemplars, become offenders of crimes that infringe upon human rights. Legislators have established many laws and regulations, with the provisions controlling sexual violence delineated in Law Number 12 of 2022. However, there are still many cases of sexual violence against children both in the education environment and in society in Indonesia, especially those that occur in the Aru Maluku Islands Regency. The problem encountered is why there is an inequality in criminal law enforcement against children as victims of sexual violence committed by religious leaders?. This research aims to analyze the legal protection of victims of sexual violence committed by religious leaders. The research findings indicate a necessity for legal and policy reform, emphasizing that sanctions imposed on perpetrators of sexual violence who are religious leaders must be stringent to prevent the perception of legal immunity due to their religious status. So it is recommended that the government revise the law to remove legal immunity for religious leaders.

**KEYWORDS:** Legal Protection, Children, Victims, Religious Leaders, Sexual Violence

### I. INTRODUCTION

Sexual assault is becoming a common social phenomena that is prevalent in nearly every country in the world, including Indonesia.<sup>1</sup> Regardless of location, time, or age, there are many different reasons why sexual assault occurs, and as a result, this crime is becoming more and more taboo in society. Paradoxically, those who commit acts of sexual violence are not limited to common people, those with health issues such as sex disorders, or those without formal education who lack knowledge of social norms and ethics. Acts of sexual violence are also frequently committed by religious leaders, who are undoubtedly viewed as positive role models in society.<sup>2</sup>

Sexual assault is a worldwide concern that jeopardizes individual security and integrity while eroding the social and moral fabric of society. When sexual violence is committed by religious leaders, the issue becomes more complex because it involves the abuse of power, trust and high social position. Religious leaders, who are supposed to be moral role models, become perpetrators of crimes that violate human rights.

Religious leaders are those seen as experts in religious and spiritual domains. They often play an important role in guiding people, conveying religious teachings, and providing moral and spiritual advice. In many cultures, religious leaders have a major influence on the social norms and moral values of the community. Religious leaders not only serve as spiritual leaders but also play a role in shaping and maintaining social structures and cultural values.

Indonesia possesses numerous laws and regulations aimed at safeguarding victims of sexual assault, the most recent being Law Number 12 of 2022 about the Crime of Sexual assault (Sexual Violence Crime Act). Sexual Violence Crime Act represents a significant advancement in the initiatives to prevent and combat sexual violence in Indonesia. This law includes a broader definition

<sup>1</sup> Abu Hurairah, *Kekerasan Terhadap Anak : Fenomena Masalah Sosial Krisis di Indonesia*, Nuansa (Anggota IKAPI), Bandung, 2006, hlm 45

<sup>2</sup> Abdullah, I, *Sangkan Peran Gender*, Pustaka Pelajar, Yogyakarta, 2006, hlm 90

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of sexual violence and provides a recovery mechanism for victims. It also includes measures to strengthen law enforcement and increase public awareness.

Notwithstanding the presence of laws and regulations designed to safeguard victims of sexual violence, the actual circumstances reveal numerous obstacles that must be addressed. The patriarchal culture that is still strong in many communities makes reporting sexual violence difficult. Religious leaders, especially men, are often considered superior and their actions are rarely questioned. Victims, especially women and children, are often blamed or seen as shaming their families and communities.

Sexual violence perpetrated by religious leaders is not confined to major urban centers like Java and Jakarta; it also transpires in regions such as Maluku Province, specifically in the Aru Islands Regency, East Central Aru District, Kojjabi Village, where a pastor identified as SF Alias Silo assaulted a female congregant known as KE alias Aci. This case was revealed in 2020 on a report from the victim's family who knew that the victim was pregnant. According to data and information provided by Bripka Irsan Yusuf, head of the Women and Children's Service Unit (PPA) of the Aru Islands Police, the pastor perpetrated sexual violence from 2017 to 2020, with incidents recorded as follows: 5 in 2017, 10 in 2018, 10 in 2019, and 5 in 2020. Even the sexual violence committed by the pastor against the victim was carried out in the pastorate of the congregation with the mode of asking the victim to come to the pastorate so that the victim was prayed for by the pastor so that he would always receive blessings from the Lord Jesus, become a successful person, become a rich person and be able to enter heaven.

Sexual violence by religious leaders has far-reaching implications, both socially and legally. These include the impact on the victim, the community, and the religious institution itself. Victims of sexual violence often experience profound physical and psychological trauma. Long-term impacts can include mental health disorders, such as depression and Post-Traumatic Stress Disorder (PTSD), as well as social harms, such as loss of trust in religious institutions and communities.

People who feel betrayed by their spiritual leaders may become more skeptical and distrustful of religious institutions in general. Religious institutions involved in sexual abuse scandals often face major challenges in restoring their reputation and integrity. Attempts to cover up or minimize such incidents may exacerbate the crisis and damage relationships with the faithful.<sup>3</sup>

The crime of sexual violence is now a social phenomenon that is rampant in almost all parts of the world, including Indonesia. Various acts of sexual violence are wrapped in all kinds of motives; regardless of place, time, or age, this crime is increasingly volatile in the midst of society. Ironically, the perpetrators involved in acts of sexual violence do not only come from ordinary people or people diagnosed with health problems such as sufferers of sex disorders or by perpetrators who do not have a qualified educational background and do not understand the norms and ethics of life, but acts of sexual violence are also now rampant by religious leaders who are certainly seen as role models in the midst of society.

Victims will usually be afraid to report because they do not feel powerful, especially perpetrators who have authority and power. Even worse, the resolution of some cases of sexual violence by religious leaders through mediation between victims and perpetrators with religious leaders mediating, so that the case is closed and ends in peace. In fact, the trauma of the victim will be so imprinted, and the perpetrator may not really repent or even look for other victims.

## II. RESEARCH METHOD AND STUDY APPROACH

This research uses normative juridical legal research methods, normative juridical research, namely a study that primarily examines positive legal provisions, legal principles, legal principles and legal doctrines in order to answer the legal problems at hand. With a statute approach and case approach.

## III. THEORETICAL CONCEPTUAL BASIS

### A. Enforcement Of The Criminal Law

The goal of law enforcement is to bring the concepts of justice, legal certainty, and social benefit to life. So, in essence, law enforcement is an idea-realization process. The process of working to maintain or implement legal standards as rules for participants in traffic or legal interactions in the affairs of the state and society is known as law enforcement. The goal of law enforcement is to bring the theories and notions of the law to life that the public expects to be true. The procedure of enforcing the law requires numerous steps.<sup>4</sup>

The practical implementation of criminal law by law enforcement personnel is known as criminal law enforcement. Put another way, the application of criminal laws constitutes criminal law enforcement. Law enforcement, then, is a system that deals with how values, regulations, and actual human conduct are integrated. These regulations thereafter serve as standards or guidance for acceptable or suitable conduct. The goal of the action or attitude is to establish and uphold peace. Moeljatno defines law enforcement as a component of a country's criminal law, which includes determining prohibited actions and imposing punishment for those who violate it. Specify the circumstances in which persons who violate these restrictions may face the corresponding punishment. Determine how punishment can be imposed if someone is accused of violating a restriction.

<sup>3</sup> Hajar, I, *Kiai ditengah Pusaran Politik Antara Petaka dan Kuasa*, Ircisode, Yogyakarta, 2009, hlm 123

<sup>4</sup> Delyana, Shant. *Konsep Penegakan Hukum*. Liberty, Yogyakarta, 1988, hlm 32

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### B. Victims

According to Bambang Waluyo, a victim is "a person who has received physical or mental suffering, property loss, or death as a result of an act or attempt to commit a minor offense committed by the perpetrator of a criminal offense and others".<sup>5</sup> It is apparent that "people who get physical suffering and so on" refers to victims of transgressions or criminal activities. Meanwhile, Arif Gosita defines victims as "those who suffer physically and mentally as a result of the actions of others who seek the fulfillment of themselves or others against the interests and human rights of those who suffer".<sup>6</sup>

### C. Sexual Violence

Achie Sudiarti Luhulima defines sexual violence as a crime involving marriage or sexuality, specifically male and female sexuality.<sup>7</sup> Sexual violence is not limited to physical invasion of the human body; it can also encompass behaviors that do not result in penetration or even physical touch (such as forcing women to be naked in public). Sexual violence encompasses both physical and psychological assaults on a person's sexual qualities.<sup>8</sup>

### D. Religious Leaders

According to Kartini Kartono, religious leaders are informal leaders who do not require formal appointment, but because of their superior qualities, they rise to the status of people who can influence the psychological conditions and behavior of a group or society.<sup>9</sup> Religious leaders, like informal leaders, rely on acceptability or acknowledgment, as well as community trust.<sup>10</sup> Religious leaders are those who are aligned with religious beliefs, as indicated by attempts to promote religious life in society through thoughts, written works, and roles directly related to the development of religious institutions and infrastructure.<sup>11</sup>

## IV. LEGAL PROTECTION OF CHILD VICTIMS OF RELIGIOUS LEADER SEXUAL VIOLENCE BY COMMUNITY PROTECTION AND PURPOSE OF PUNISHMENT

### A. Protection of Victims of Sexual Violence

Victims of sexual violence are protected through a systematic and integrated effort that ensures their safety, justice, and recovery. This notion has several facets, including physical safety, psychological assistance, and legal rights. This protection is critical not only for victims to cope with the immediate aftermath of violence, but also to ensure that they receive the essential support for long-term healing. Victim protection is to limit the likelihood of future violence and ensure that victims do not face discrimination or neglect in the legal system.

Victim protection is an important part of the criminal justice and human rights systems. Victims of crime, including domestic abuse, sexual assault, and other crimes, frequently have severe physical, emotional, and psychological consequences. Despite the presence of numerous victim protection measures in Indonesia, their execution confronts a number of obstacles.

Statistics on violence and human rights abuses reveal that victim protection is a critical issue that requires attention and development. Failure to protect victims jeopardizes not just their well-being, but also the whole functioning of the criminal justice system.

Victim protection refers to a variety of measures aimed at providing security, justice, and recovery to people who have been victims of crime. This protection tries to alleviate the negative consequences of crime while also ensuring that victims obtain their legal rights. Legally, victim protection encompasses the following:

- a. Right to Protection: Ensures safety from further threats.
- b. Right to Justice: The right to have a fair trial.
- c. Right to Recovery: Provides medical, psychological, and social support for recovery.

### B. Aspects of Protection for Victims of Sexual Violence

1. Physical Protection: Physical protection is the first and often most urgent step in dealing with sexual violence cases. This includes:

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<sup>5</sup> Bambang Waluyo, *Viktimologi Perlindungan Hukum Terhadap Korban Kejahatan*, Sinar Grafika, Jakarta, 2011, hlm 9

<sup>6</sup> Ibid, hlm. 10

<sup>7</sup> Achi Sudiarti Luhulima, *Pemahaman Tentang Bentuk-Bentuk Kekerasan Terhadap Perempuan Dan Alternatif Pemecahannya*, PT. Alumni, Jakarta, 2000, hlm 57.

<sup>8</sup> Mahkamah Agung R.I, *Pedoman Unsur-unsur Tindak Pidana Pelanggaran Hak Asasi Manusia Yang Berat dan Pertanggungjawaban Komando*, Jakarta, 2006, hlm. 50.

<sup>9</sup> Kartini Kartono, *Pemimpin Dan Kepemimpinan: Apakah Kepemimpinan Abnormal Itu?* Rajawali Pers, Jakarta, 2016, hlm 10-11.

<sup>10</sup> Elly M. Setiadi dan Usman Kolip, *Pengantar Sosiologi, Pemahaman Fakta dan Gejala Permasalahan Sosial: Teori, Aplikasi, dan Pemecahannya*, edisi pertama, Kencana, Jakarta, 2011, hlm 779.

<sup>11</sup> Din Samsudin, *Strategi Dakwah Dikalangan Masyarakat*, Denpasar, 1993, hlm 29

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- Access to Medical Services: Immediately after a sexual assault occurs, victims need quick access to medical care to treat physical injuries and gather medical evidence that may be needed in legal proceedings. Medical services should also include mental and physical health checks to ensure there are no further repercussions.
  - Security and Shelter: In situations where the victim may face threats from the perpetrator or other parties, physical protection also means ensuring that the victim has access to safe shelter and adequate security measures, such as protection from the perpetrator and monitoring by relevant authorities.
2. Psychological Protection: Sexual violence often leaves a deep psychological impact. Therefore, psychological support is an important part of victim protection:
- Counseling and Therapy: Victims of sexual violence often require therapy to help them cope with trauma, anxiety, and post-traumatic stress disorder (PTSD). Counseling can help victims develop coping and recovery strategies.
  - Emotional Support: In addition to professional therapy, emotional support from family, friends, and support groups is crucial to a victim's recovery. Community support programs can provide a strong social network and understanding.
3. Legal Protection: Legal protections ensure that victims' rights are guaranteed and protected throughout the legal process. This includes:
- Right to Report: Victims have the right to report sexual violence without feeling pressured or fearing negative consequences. The legal system should allow victims to report safely and without threat.
  - Protection During the Legal Process: Legal protection also includes fair and non-discriminatory treatment during the judicial process. This includes avoiding intimidation and unfair treatment from the perpetrator or third parties.
  - Right to Information: Victims are entitled to clear and precise information about their rights, the progress of their case, and the legal process.

### **C. Community Protection and the Purpose of Punishment for Children as Victims of Sexual Violence Committed by Religious Leaders**

Community protection in the context of sexual violence entails attempts to prevent future violence while maintaining public safety:

- Sexual Violence Prevention: This category comprises education and training initiatives designed to raise awareness about sexual violence and teach prevention measures. Education can occur in schools, businesses, and communities.
- Offender Supervision: Following the sentencing period, a supervision system can be developed to monitor sexual violence offenders, which includes registering and monitoring offenders to prevent future violence.

Protecting the public from sexual violence, particularly involving religious leaders, is a crucial issue that requires a comprehensive and sensitive approach. Sexual violence by religious leaders is a serious form of offense that threatens the safety and well-being of individuals, and undermines public trust in religious institutions.

Religious leaders are often perceived as role models and protector figures, whose role is to guide and provide spiritual support. When individuals in these positions are involved in sexual violence, the impact is far-reaching. Victims not only experience physical and psychological trauma, but also often experience a crisis of trust and a loss of security in an environment that should be a sanctuary. In addition, the wider community may lose trust in religious institutions, which can disrupt social stability and community integrity.

Victims of sexual violence should receive adequate protection to ensure their safety. This includes physical protection, such as safety from the perpetrator and prevention of further threats, as well as psychological support, such as counseling and therapy to help with emotional recovery. Communities and religious institutions need to provide resources that are accessible to victims, including safe reporting channels and procedures that do not disadvantage victims.

Public awareness of sexual violence by religious leaders needs to be increased to reduce stigma and improve support for victims. Educational campaigns that explain about sexual violence, victims' rights, and protection mechanisms can help create a safer and more supportive environment. Communities should also be encouraged to report cases of sexual violence and support victims in the legal process.

There also needs to be a cultural shift within religious institutions to address mindsets that may protect perpetrators or ignore sexual violence. A holistic approach, from education to policy to law enforcement, is key to creating meaningful change and providing effective protection for communities.

Overall, the protection of communities from sexual violence by religious leaders requires a concerted effort from all relevant parties-religious institutions, governments, communities, and individuals. With the right measures in place, it is hoped that victims can obtain justice and support, and prevent the recurrence of violence in the future.

Meanwhile, in terms of the objectives, criminalization in cases of sexual violence has several major goals:

- Deterrence: Punishment is intended to dissuade both the culprit and the general population. Strict punishment is likely to reduce future incidents of sexual violence. This comprises both general and specific deterrence, in which the punishment is meant to keep the offender from repeating the offense and others from performing similar acts.

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- Rehabilitation: The purpose of rehabilitation is to improve the offender's conduct and reduce the likelihood of repeating sexual assault in the future. Behavioral therapy, psychotherapy, and education about the consequences of sexual violence are all possible components of effective rehabilitation programs.
- Justice for Victims: Sentencing should represent justice for victims by ensuring that criminals are punished appropriately and proportionate to the gravity of the offense. This involves compensating and supporting victims.
- Social Restoration: The goal of social restoration is to reintegrate the offender into society in a secure and controlled setting following their sentence. This includes monitoring and support to prevent the perpetrator from reoffending.<sup>12</sup>

Thus, the goal of criminalizing perpetrators of sexual assault, particularly those committed by religious leaders, is extremely complex. Religious leaders are frequently viewed as role models and moral custodians of their communities. When they engage in sexual violence, the consequences are not only detrimental to the victim, but also to the community's trust in religious organizations. As a result, the objective of punishment in this scenario must be carefully considered.

## CONCLUSION AND SUGGESTIONS

### A. Conclusion

That community protection for victims of sexual abuse perpetrated by religious leaders must be included in efforts to prevent future violence and ensure public safety. Protection measures include preventing sexual violence through education and training initiatives that raise public awareness and teach prevention tactics for religious leaders and after serving a sentence, a monitoring system can be put in place to monitor sexual violence abusers by religious institutions, local governments, law enforcement officials, and members of the community.

### B. Suggestion

It is urged that the government amend the law to remove religious leaders' legal immunity in cases of sexual violence. Establish a model legal policy, as well as an independent supervision organization specializing in sexual abuse cases involving religious leaders, to promote openness and responsibility.

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<sup>12</sup> Andi Widjaja, *Teori Pidana: Tujuan dan Prinsip dalam Sistem Hukum Pidana*, Penerbit Sinar Grafika, Jakarta, 2019, hlm 84