

Criminal Responsibility of Sexual Violence Perpetrators in Islamic Boarding Schools: Analysis of the Herry Wirawan Verdict

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ABSTRACT

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Sexual violence is a criminal offense that violates human rights and causes physical, psychological, social, and economic harm to victims. The Herry Wirawan case attracted significant public attention because the offenses were committed within an Islamic boarding school involving multiple female students through the abuse of authority and power relations. This study aims to analyze Herry Wirawan's criminal liability for sexual violence based on Indonesian criminal law. This research employs normative legal research using statutory and case approaches. Legal materials consist of primary, secondary, and tertiary legal sources analyzed qualitatively through library research. The findings indicate that Herry Wirawan fulfilled all elements of criminal liability because the criminal act was committed intentionally, he possessed the capacity to be held criminally responsible, and there were no justifying or excusing circumstances. The court's decision was based on the fulfillment of criminal elements, the large number of victims, abuse of authority as a boarding school caregiver, and the severe consequences suffered by the victims. The application of criminal liability in this case reflects the principles of legal certainty, justice, and legal utility while strengthening legal protection for victims of sexual violence.

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1. Introduction

Sexual violence is one form of crime that constitutes a serious violation of human rights, particularly the right to safety, honor, and dignity of every individual [1]. Sexual violence is not only viewed as a violation of legal norms but also as a breach of humanitarian values that has widespread impacts on the victims [1]. The impacts caused include physical suffering, psychological trauma, social disruption, and economic losses that can last for a long time [2]. Victims of sexual violence often experience mental pressure, loss of self-confidence, and difficulty returning to a normal life after the crime [2]. Legal protection for victims becomes the responsibility of the state thru a criminal justice system that can provide legal certainty, justice, and benefits for all parties [3]. Law enforcement against the perpetrator must be carried out firmly to provide a deterrent effect and prevent the recurrence of similar crimes in the future [4]. The application of appropriate criminal liability is an important part of realizing the goals of criminal law because it determines the form of responsibility that the perpetrator must bear for the consequences caused [5].

The case of sexual violence committed by Herry Wirawan has garnered significant attention from the Indonesian public because it occurred in a pesantren environment, which is supposed to be

a place for character building, moral education, and the strengthening of religious values [3]. Herry Wirawan was proven to have committed sexual violence against several female students under his supervision, causing very serious impacts on the victims [3]. The acts took place over a considerable period, resulting in some victims becoming pregnant and giving birth due to the perpetrator's actions [6].

The condition indicates an abuse of position, trust, and power relations that the perpetrator had over the victims [6]. The case of Herry Wirawan serves as a concrete example of the importance of legal protection for victims of sexual violence in religious-based educational environments [7]. The imposition of a sentence on the perpetrator not only aims to provide retribution for their actions but also reflects the state's efforts to protect the victims and maintain public trust in the criminal justice system [7]. The case serves as a strong basis for examining the application of criminal liability against perpetrators of sexual violence based on the applicable criminal law provisions in Indonesia [5].

Criminal liability is one of the fundamental concepts in criminal law that determines whether or not a person can be sentenced for the actions they have committed [5]. The concept means that a person can only be held accountable if it is proven that they committed a crime, have the capacity to be responsible, and there is an element of fault inherent in them [5]. The application of criminal responsibility aims to achieve legal certainty, justice, and utility in the law enforcement process against every perpetrator of a crime [4]. Sexual violence crimes require the careful application of the concept of criminal responsibility because these acts cause significant harm to the victims, both physically and psychologically [1].

The imposition of a sentence on the perpetrator must consider the level of fault, the consequences caused, and the conditions that led to the commission of the crime so that the verdict reflects a sense of justice [5]. Judges play an important role in assessing the fulfillment of elements of criminal liability based on evidence and legal facts revealed during the trial process [3]. Analysis of criminal liability is important to determine whether the application of the law to Herry Wirawan has been in accordance with the prevailing criminal law provisions in Indonesia [5]. The court's decision regarding Herry Wirawan has become one of the widely noted rulings because it includes legal considerations regarding the severity of the consequences caused to the victims [3].

The panel of judges considered the number of victims, the duration of the criminal acts, the relationship between the perpetrator and the victims, as well as the impact caused as the basis for imposing a sentence on the perpetrator [3]. The actions taken by Herry Wirawan indicate an abuse of position as a pesantren caretaker to commit crimes against the female students under his supervision [6]. The situation shows that power relations can be a factor that facilitates the occurrence of sexual violence if not accompanied by adequate oversight mechanisms [6]. Law enforcement against the perpetrators is expected to provide legal protection [6].

Several previous studies concerning the Herry Wirawan case have mainly focused on victim protection, human rights, and judicial decisions. However, limited studies specifically examine the application of criminal liability by comprehensively analyzing the elements of criminal responsibility, the existence of criminal intent, the absence of justifying and excusing reasons, and judicial considerations in imposing criminal sanctions. Therefore, this study provides a more comprehensive legal analysis of criminal liability based on Indonesian criminal law principles and contributes to the development of criminal law scholarship concerning sexual violence committed within educational institutions.

2. Method

This research uses a normative legal research method with a statutory approach and a case approach. The normative legal research method was chosen because this study focuses on examining legal norms that regulate criminal liability for perpetrators of sexual violence crimes based on positive law provisions in Indonesia. The legislative approach is carried out thru the examination of the Criminal Code, Law Number 12 of 2022 concerning Sexual Violence Crimes, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, as well as other regulations related

to the research object. The case approach was conducted by analyzing the Bandung District Court Decision Number 989/Pid.Sus/2021/PN Bdg along with subsequent decisions related to the Herry Wirawan case. The analysis of the decision aims to understand the application of criminal liability to the perpetrator based on the judge's legal considerations and its conformity with the applicable legal provisions [8].

The legal materials used in this research consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and court decisions related to sexual violence crimes, while secondary legal materials include books, scientific journals, research results, and literature discussing criminal liability, sexual violence, and legal protection for victims. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other supporting sources used to clarify relevant legal terms. The technique for collecting legal materials is carried out thru library research by inventorying, identifying, and examining various legal sources related to the research problem. The analysis of legal materials is conducted qualitatively using a descriptive-analytical method thru the interpretation of legal provisions, doctrines, and judicial considerations to obtain conclusions regarding Herry Wirawan's criminal liability for sexual violence in the pesantren environment [9].

3. Results and Discussion

The sexual violence crime committed by Herry Wirawan is one of the cases that draws significant attention to the enforcement of criminal law in Indonesia because it involves many victims who are still students. The act was committed repeatedly within the pesantren environment, which should be a place for education, character building, and the instillation of religious values [10]. The perpetrator's position as a pesantren caretaker provided access and authority that were then misused to commit acts contrary to the law. The situation indicates an abuse of trust and power relations, resulting in the victims being in a difficult position to resist or report the perpetrator's actions. The impact caused is not only in the form of physical and psychological suffering but also results in some victims experiencing pregnancy and giving birth to children due to the perpetrator's actions. The condition indicates that the crime committed has a high level of seriousness, necessitating strict law enforcement and optimal protection for the victims [11]. The case of Herry Wirawan serves as an example that sexual violence crimes can occur in religious educational institutions if supervision of educational administration is not carried out effectively.

Criminal liability for Herry Wirawan is based on the fulfillment of the elements of the crime as proven in the trial process. The perpetrator was proven to have intentionally committed acts prohibited by law and possesses the ability to be held accountable for his actions before the law. The examination during the trial did not reveal any circumstances that could eliminate criminal liability, whether it be justifying reasons or extenuating circumstances. These facts serve as the basis for the panel of judges to declare that the perpetrator can be held criminally responsible for all the actions he has committed. The repeated intentionality over a long period of time shows that the actions were not spontaneous but were carried out with full awareness of the consequences. The fulfillment of the element of fault is one of the main factors underlying the imposition of a sentence on the perpetrator. The application of criminal liability in this case shows that every perpetrator of a crime is obliged to account for their actions if all elements of the crime and elements of fault have been legally proven.

The judge's consideration in imposing a sentence on Herry Wirawan was based on the legal facts revealed during the trial process and the evidence presented by the public prosecutor. The large number of victims, the duration of the criminal acts, and the impact experienced by the victims were factors that aggravated the sentence imposed on the perpetrator. The perpetrator's position as a pesantren caretaker is also an important consideration because the perpetrator has abused the trust given by both the victims and the victims' parents. The consequences not only harm the victims physically and psychologically but also affect their social lives and future. The judge also considered that the crime was committed against a child who, according to the law, is entitled to special protection from all forms of violence and exploitation. These considerations show that the court's decision is not only oriented toward imposing sanctions on the perpetrator but also takes into account the protection of the victim and the interests of society. The basis of that consideration reflects the application of the principles of justice, legal certainty, and legal utility in the process of criminal law enforcement.

The concept of criminal liability in the Herry Wirawan case shows that the imposition of a sentence is not only based on the occurrence of an act prohibited by law but also on the existence of a fault that can be attributed to the perpetrator. The error is reflected in the element of intent in repeatedly committing criminal acts against the victims under his supervision. The perpetrator understands the legal consequences of each of their actions, yet continues to commit these acts over a prolonged period. This condition proves that the perpetrator has the ability to be held accountable and is not in a state that can absolve them of their wrongdoing. The fulfillment of the element of guilt becomes the main basis for the judge to impose a sentence in accordance with the applicable criminal law provisions. The application of this concept reflects that the principle of "geen straf zonder schuld" or "no punishment without guilt" has been applied in the resolution of this case. Criminal liability for Herry Wirawan shows that every perpetrator who meets the elements of a crime and the element of fault is held accountable.

The imposition of a sentence on Herry Wirawan also reflects the function of criminal law as a means of protecting the legal interests of society, particularly the protection of children as a group vulnerable to becoming victims of criminal acts. The sentence imposed not only aims to provide retribution for the perpetrator's actions but also to create a deterrent effect so that similar crimes do not occur again. The severity of the sentence imposed shows that the state is responding seriously to sexual violence crimes committed within the environment of religious education. The sentencing is expected to strengthen public trust in the criminal justice system in providing protection to victims. The judge also considered the long-term impact experienced by the victims as one of the reasons for the aggravated sentence. This consideration shows that the protection of victims is an inseparable part of the goals of criminal punishment in Indonesian criminal law. The ruling simultaneously serves as a reaffirmation that educational institutions should not be used as a means to commit crimes by exploiting the trust relationship between educators and students.

Analysis of the Herry Wirawan case shows that the application of criminal liability has been carried out in accordance with the principles of criminal law applicable in Indonesia. The elements of the criminal act, the element of fault, the ability to be held accountable, and the relationship between the act and the resulting consequences have been proven thru the evidentiary process in court [12]. The legal considerations used by the judge demonstrate a balance between legal certainty, justice, and the utility of the law in delivering the verdict. The imposition of severe penalties also reflects the state's efforts to protect the rights of victims while simultaneously warning society that any form of sexual violence will be dealt with firmly. The application of criminal liability in this case

demonstrates that the abuse of position, trust, and power relations are factors that can aggravate the perpetrator's responsibility. The results of the analysis show that the verdict against Herry Wirawan has met the objectives of criminal punishment, namely providing proportional retribution, preventing the recurrence of the crime, and offering legal protection to the victims and society. This study illustrates that the application of criminal responsibility plays an important role in achieving fair law enforcement against perpetrators of sexual violence crimes.

The application of criminal responsibility in the Herry Wirawan case also shows that the purpose of sentencing is not only oriented toward inflicting suffering on the perpetrator but also toward protecting the legal interests of society. The punishment imposed must be able to reflect a sense of justice for the victim, the victim's family, and the community affected by the crime. The existence of the court's ruling in this case sends a message that every form of sexual violence, especially against children, is a serious crime that must be dealt with firmly. The imposition of severe penalties also serves as a form of state protection for vulnerable groups that require security guarantees in obtaining education [13]. The decision is expected to enhance public trust in the criminal justice system in handling sexual violence cases professionally and fairly. Proportional sentencing becomes one of the important instruments in realizing the goals of criminal law, namely providing legal certainty, justice, and benefits for all parties. The application of criminal liability against Herry Wirawan demonstrates that criminal law has both preventive and repressive functions in addressing sexual violence crimes [14].

Crimes committed in the pesantren environment show that educational institutions are not entirely free from the potential for criminal acts if the mechanisms for supervision and protection of students do not function optimally. The relationship between caregivers and students, based on trust, can become a means of abuse of authority if not accompanied by an effective supervision system. This condition highlights the importance of increasing the responsibility of educational institutions in creating a safe environment free from all forms of sexual violence. Preventive efforts can be made thru strengthening internal supervision, providing easily accessible complaint mechanisms, and enhancing understanding of child protection for all educational institution administrators. The roles of families, communities, and the government are also needed to build a protection system capable of preventing similar criminal acts. The synergy between various parties is expected to create a conducive environment.

4. Conclusion

Based on the research findings, it can be concluded that Herry Wirawan has fulfilled the elements of criminal liability because he has been proven to have intentionally committed the crime of sexual violence, possesses the ability to be held accountable, and there are no justifying or excusing reasons that can absolve him of criminal liability. The application of criminal liability in the case is based on the fulfillment of the elements of the criminal act, the element of fault, and the existence of a relationship between the perpetrator's actions and the consequences experienced by the victims. The judge's considerations in imposing the sentence also took into account the severity of the consequences caused, the number of victims, the abuse of position as a pesantren caretaker, and the need to provide legal protection to the victims.

The verdict reflects the application of the principles of legal certainty, justice, and legal utility within the Indonesian criminal justice system. The enforcement of the law against Herry Wirawan shows that every perpetrator of sexual violence crimes must be

held accountable for their actions in accordance with the applicable legal provisions. The results of this study emphasize that the proper application of criminal responsibility not only deters the perpetrator but also plays a crucial role in protecting the rights of victims, maintaining public trust in the criminal justice system, and strengthening efforts to prevent sexual violence in educational environments, particularly in Islamic boarding schools (pesantren).

This research provides theoretical implications in the form of strengthening the concept of criminal accountability in cases of sexual violence based on power relations. Practically, the research results can serve as a reference for law enforcement officers, policymakers, and educational institution administrators in enhancing protection for victims and strengthening mechanisms to prevent sexual violence crimes in educational environments.

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Declarations

Author Contributions

Rian Rusmana Putra: Conceptualization, Writing–Original Draft.

Ilhamda Fattah Kaloko: Methodology, Validation.

Tri Novianti: Data Analysis, Literature Review.

Elsa Sepriani: Supervision, Editing, Final Approval.

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The authors declare that there is no conflict of interest regarding the publication of this article.

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References

- [1] D. I. Pratiwi, “Perlindungan Kekerasan Seksual Di Sekolah Studi Kasus : Kasus Dugaan Pemerkosaan Di Lingkungan Pesantren,” *J. Rechten Ris. Huk. Dan Hak Asasi Mns.*, vol. 4, no. 3, pp. 12–24, 2022.
- [2] N. Sengan, J. Yuwono, and R. N. Islamiati, “Analisis Dampak Sosial Dan Upaya Perlindungan Terhadap Kasus Pemerkosaan,” *Kaji. Adm. Publik Dan Ilmu Komun.*, vol. 1, no. 3, pp. 14–27, 2024, [Online]. Available: <https://doi.org/10.62383/kajian.v1i3.24>
- [3] N. I. Oktaviani and R. P. Hermawan, “Tinjauan Hukum Dan Masyarakat Terhadap Pemerkosaan Santri (Studi Kasus: Hery Wirawan Pemerkosaan 13 Santriwati),” *J. Ilm. Wahana Pendidik.*, vol. 10, no. 23, pp. 476–487, 2024.
- [4] A. R. Wulandari, K. M. Aprilia, N. N. Aulia, and N. Rahmawati, “Analisis yuridis: pemerkosaan 13 santri di madani boarding school ditinjau dari hak asasi manusia,” *J. Pengemb. Budaya Huk.*, vol. 2, no. 2, pp. 35–49, 2018.
- [5] Yulfarikaini, Heriyanto, and A. Yunus, “Analisis Yuridis Normatif terhadap Pertimbangan Hakim Terhadap pelaku Pemerkosaan Anak,” *Themis J. Publ. Huk.*, vol. 9, no. 1, pp. 1612–1622, 2025.
- [6] P. P. Hapsari and A. Widyawati, “Kejahatan Seksual Berbasis Relasi Kuasa dalam Institusi Pendidikan Keagamaan,” *Al-Zyan J. Ilmu Sos. Huk.*, vol. 4, no. 4, 2026.

- [7] M. Jaya Gumiang, "Analisis Keputusan Pengadilan Bandung Dalam Kasus Kekerasan Seksual Terhadap 13 Santriwati: Perspektif Pemenuhan Hak-Hak Dan Pidana Penjara Seumur Hidup Students: Perspective," *Case Law - J. Law*, vol. 5, no. 1, pp. 17–30, 2024.
- [8] Suyanto, *Metode Penelitian Hukum*. Gresik, Indonesia: UNIGRES PRESS, 2022.
- [9] W. S. Widiarty, *Buku Ajar Metode Penelitian Hukum*. Yogyakarta, Indonesia: Publika Global Media, 2024.
- [10] F. N. Eleanora, Z. Ismail, Ahmad, and M. P. Lestari, *Buku Ajar: Hukum Perlindungan Anak dan Perempuan*, Edisi Pert. Bojonegoro, Indonesia: Mazda Media, 2021.
- [11] A. Ahsinin, D. Stiawati, F. Y. T. Warhani, S. I. Ma, and Veronica, *Buku Saku: Mencegah dan Menangani Kekerasan Seksual Terhadap Perempuan dan Anak*. Jakarta, Indonesia, 2026. [Online]. Available: https://www.academia.edu/download/42530207/BUKU_BIG_DATA_2015.pdf
- [12] G. H. Nafisah, "Kasus Kekerasan Seksual oleh Herry Wirawan terhadap Santrinya di Pondok Pesantren Ditinjau dari Pancasila Sila Kemanusiaan yang Adil dan Beradab," *AL-ULUM J. Ilmu Sos. dan Hum.*, vol. 10, no. 2, p. 80, 2024, doi: 10.31602/alsh.v10i2.16715.
- [13] R. Apriadi, "The imposition of the death penalty on the perpetrator of sexual abuse against children," *Rechtswetenschap J. Mhs. Huk.*, 2024.
- [14] A. I. Budiarti, M. Maharani, M. Tarigan, B. I. Ashila, D. A. Wicaksana, and A. A. Saputro, *Refleksi Penanganan Kekerasan Seksual di Indonesia (Indeksi Terhadap Putusan Pengadilan Tahun 2018-2020)*. Jakarta, Indonesia, 2022.
- [15] K. I. P. Sari *et al.*, *Kekerasan Seksual*. CV. Media Sains Indonesia, 2020.