

## **Efforts to Overcome the Criminal Acts of Monothesis Among Boarding School Community Communities According to Positive Law and Religious Law (Case Study at Matholi'ul Anwar Boarding School, Wonosobo)**

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**Abstract.** *This study aims to determine the forms and factors causing the occurrence of criminal acts of sexual abuse in the Matholi'ul Anwar Wonosobo Islamic Boarding School environment, analyzing efforts to overcome criminal acts of sexual abuse in Matholi'ul Anwar Wonosobo Islamic Boarding School if analyzed using positive law in Indonesia and the prevention of criminal acts of sexual abuse in Matholi'ul Anwar Wonosobo Islamic Boarding School if analyzed using Islamic law. This study uses a socio-legal approach. Criminal acts of sexual abuse in Matholi'ul Anwar Wonosobo Islamic Boarding School occurred due to the deception of caregivers towards children, as regulated in Article 82 in conjunction with Article 76E of the Child Protection Law, with triggering factors in the form of weak internal supervision, lack of understanding of sexuality education, abuse of position, and a culture of covering up the institution's disgrace. Countermeasures according to positive law are carried out through the synergy of the Police, the Prosecutor's Office, and the Court based on the Criminal Code and the Child Protection Law, including repressive and preventive measures, but still require consistent application of the law for the certainty and protection of students. Meanwhile, according to Islamic law, prevention is carried out through the application of ta'zir or hudud punishments according to the severity of the violation, as well as strengthening morals, faith, and the exemplary behavior of caregivers. Thus, positive law and Islamic law both emphasize justice, victim protection, and moral development as integral efforts to prevent sexual abuse in Islamic boarding schools. The research in writing this thesis is descriptive-analytical. Based on the research, conclusions are drawn.*

**Keywords:** *Criminal; Molestation; Protection.*

## **1. Introduction**

The crime of indecency is a crime that is contrary to and violates a person's decency and morality regarding and related to the genitals or other body parts that can stimulate sexual desire. Indecency is one of the crimes against morality that is increasingly developing from time to time and is one of the realities in life that requires special handling. This is because crimes against morality will cause unrest in society. Therefore, various efforts are always made to overcome these crimes, although in reality it is very difficult to eradicate these crimes completely because basically crimes will always develop along with the development of society.(Chasawi, 2005)

The crime of child molestation, which is generally an act of satisfying sexual desires that violates the law and moral norms. This crime can be committed by anyone and against anyone. Every person who commits a crime must be held accountable for their actions. Ironically, perpetrators of child sexual abuse often come from within the child's family or immediate environment, including within the child's own home, school, educational institutions, and social environment. The perpetrator's ability to control the victim, through deception, threats, and harassment, makes this abuse difficult to avoid. Most cases of child sexual abuse are only revealed after the incident has occurred, and many have fatal consequences.(Widya Eka Rahmawati, 2025)

The perpetrator's ability to control the victim, either through deception or threats of violence, makes this crime difficult to prevent. Most cases of child sexual violence are only revealed after the incident has occurred, and many have fatal consequences. Sexual violence in educational settings has been a topic of much scrutiny in the past year, including in Islamic boarding schools. Islamic boarding schools, which serve as places for moral and character formation, are not immune to acts of sexual harassment. Sexual violence in Islamic boarding schools is characterized by forced marriages through manipulation of students, such as threats of punishment if they refuse the teacher's wishes, failure to graduate, loss of memorization, and so on. The vulnerability of obedient and submissive students, along with the power relations held by teachers/ustadz, creates opportunities for sexual violence to occur in Islamic-based educational settings.(Muhamad Rasis Alwafi, 2023)

Abuse in Islamic boarding schools (pesantren) is a common problem in these educational settings. One possible contributing factor is the significant power held by religious scholars or leaders in some pesantren, which can be used to perpetrate acts of abuse against vulnerable students. Inadequate supervision in some pesantren can lead to a lack of oversight and security, creating opportunities for those involved in abuse. Victims may be reluctant to disclose incidents of abuse due to social and cultural conventions that conceal or downplay the problem. Sometimes, administrators in pesantren may be unaware of the issue of abuse or

choose to ignore reports made by victims. It is crucial to understand that abuse in pesantren is a serious problem that requires preventive measures and solutions. These include raising awareness, educating students about their rights, and fostering transparency and accountability within the pesantren environment.(Adamami, 2023)

The crime of child molestation is a crime that often occurs in the community and family environment. This is a serious problem because this act violates decency and morality, which makes the victim feel very disadvantaged, therefore it has a very negative impact on the child's development and psychology.(Brahmanta, 2021)

The crime of sexual abuse needs to be prevented and addressed to uphold the law, and efforts or policies that can be implemented to prevent and address this crime are through various means. The first effort uses penal measures (penal policy) or criminal law efforts or criminal law policies, and the second effort uses non-penal measures (non-penal policy) or policy efforts outside of criminal law. Basically, penal policy emphasizes repressive measures (eradication) after a crime has occurred, while non-penal policy emphasizes preventive measures (prevention) before a crime occurs. Crime prevention through penal measures is the application of criminal law, so the basis is nothing other than what is regulated in the Criminal Code.(Hamdan, 1997)

Islamic law has a strong preventive principle through the maqasid sharia approach. One of its goals is to protect honor (hifz al-'irdh) and offspring (hifz al-nasl). Sanctions in Islamic law (hudud or ta'zir) also have a penal function to protect society, which aligns with the function of criminal law in positive law. Positive law in Indonesia refers to applicable regulations, such as the Criminal Code, the Child Protection Law, and other laws. Criminal law policies are formulated based on the values of Pancasila, including morality recognized by society. Educational and preventive approaches in Islamic law can be adopted to strengthen non-penal criminal law policies in Indonesia, such as legal counseling programs or strengthening family values.

By looking at the harmony between the principle of prevention in Islamic law and penal and non-penal policies in positive law, it is important to review various previous studies that have studied the crime of sexual abuse from both perspectives. These previous studies are needed to strengthen the theoretical basis and map the scientific contribution of the research being compiled. Research conducted by Salman Adami and Safik Faozi with the title of Handling the Crime of Sexual Abuse by Islamic Boarding School Teachers with the results of the study Implementation of Criminal Law: Analysis of Decision Number 989 / Pid.Sus / 2021 / PN Bdg and Decision Number 1361 / Pid.B / 2022 / PN SBY shows that criminal law has been applied strictly to perpetrators of sexual abuse in Islamic boarding schools. The penalties imposed are the death penalty and imprisonment. (2) The

**Role of Islamic Boarding School Managers:** Islamic boarding school managers have a crucial role in preventing cases of sexual abuse. Some steps that can be taken include (a) Increasing supervision of interactions between students and Islamic boarding school staff. (b) Providing age-appropriate sexuality education for students. (c) Creating a safe and comfortable environment. (d) Creating standard operating procedures (SOPs) as protocols for preventing sexual violence in Islamic boarding schools. (e) Collaborating with external parties such as the police, NGOs, and the media. (Salman Adami, 2023) Furthermore, research by Khorun Nisa and Ramadani entitled "Child Molestation in the Review of Islamic Criminal Law and Law Number 35 of 2014 (Case Study in Manambin Village, Kotanopan District)" shows that ta'zir is the appropriate punishment for perpetrators of violence against children. The sanctions given for violations of rules and legislation related to child protection are fines of up to five million rupiah and imprisonment of five to fifteen years. The findings of this study are expected to provide input for community norms in responding to acts of violence and child neglect. (Khorun Nisa, 2024) Furthermore, research by Syifa Mega Khaerunisa with the research title Sanctions for Criminal Acts of Threats of Violence and Indecent Acts against Children by Educators in Article 82 (1) of Law No. 17 of 2016 in conjunction with Article 15 Paragraph (1) Letter (b) of Law No. 12 of 2022 from the Perspective of Islamic Criminal Law, the results of the research show that in positive law, sanctions are regulated in Article 82 (1) of Law No. 17 of 2016 in conjunction with Article 15 (1) letter (b) of Law No. 12 of 2022, which provides increased sanctions for educators. In Islamic law, this act is considered a ta'zir crime with provisions for punishment determined by the judge based on moral and social considerations. The results of the study show that both legal systems equally emphasize protection for children and provide strict sanctions to perpetrators, especially if carried out by parties who have power and trust. (Khaerunisa, 2025) The novelty of this research lies in the direct analysis of cases of sexual abuse at the Matholi'ul Anwar Wonosobo Islamic Boarding School and an integrated comparison between countermeasures according to positive law and Islamic law, thus producing a more comprehensive prevention model than previous research.

The crime of sexual abuse in Islamic boarding schools (pesantren) is a phenomenon that raises serious concerns because it occurs in educational spaces that should be places of moral development and protection for students. This crime not only violates criminal law provisions as stipulated in the Child Protection Law, but also violates religious values and public trust in Islamic boarding schools. Abuse of authoritative positions by caregivers or educators, coupled with weak oversight mechanisms and a culture of covering up, leaves students in a vulnerable position. This situation demonstrates the need for firm, transparent, and equitable legal handling, as well as strengthening internal prevention systems so that Islamic boarding schools can once again become safe environments that uphold the dignity of children. (Fauz, 2023)

Therefore, the author emphasizes the importance of identifying the problem correctly so that the phenomenon of sexual abuse in Islamic boarding schools can be analyzed based on clear root causes, so that efforts to overcome it, both according to positive law and religious law, can be directed in a focused manner and be able to answer fundamental issues related to the protection of students and the effectiveness of law enforcement. This study aims to determine the forms and factors causing the occurrence of sexual abuse in the Matholi'ul Anwar Wonosobo Islamic Boarding School environment, analyze efforts to overcome sexual abuse in Matholi'ul Anwar Wonosobo Islamic Boarding School if analyzed using positive law in Indonesia and the prevention of sexual abuse in Matholi'ul Anwar Wonosobo Islamic Boarding School if analyzed using Islamic law.

## **2. Research Methods**

This research method uses a socio-legal approach with descriptive-analytical specifications. Data were obtained through directed interviews with the Wonosobo Police Criminal Investigation Unit, the Wonosobo District Attorney's Office, the Wonosobo District Court, and the Wonosobo Ministry of Religious Affairs. Data were also analyzed through literature review of primary, secondary, and tertiary legal materials, including internet searches. Data processing was carried out through qualitative analysis to describe the facts, assess the suitability of theory and practice, and answer the research questions.

## **3. Results and Discussion**

### **3.1. Forms and factors causing the occurrence of criminal acts of sexual abuse in the Matholi'ul Anwar Wonosobo Islamic Boarding School environment**

The phenomenon of sexual violence is a serious problem that also occurs in Islamic boarding schools (pesantren), even though they are disciplined Islamic educational institutions focused on religious learning. Sexual violence can occur in the form of harassment, coercion, or exploitation, and often goes unreported because victims are afraid to report it. From any religious perspective, sexual violence is a bad act that has serious impacts on victims, such as trauma, depression, self-harm, and dissociation. Forms of sexual abuse can be direct acts such as touching the victim's body with sexual elements without consent, or indirect through obscene electronic communications, often accompanied by inducements, threats, or promises. Legally, these acts fulfill the elements of a crime in Articles 289–296 of the Criminal Code, especially those committed through violence, threats, deception, or abuse of power, which in the context of Islamic boarding schools often occur because the perpetrators take advantage of their position and trust.

As for the case handled by the PPA unit of the Wonosobo Police Criminal Investigation Unit in Police Report number LP / B / 35 / IV / 2021 / JATENG /

RES.WSB dated April 15, 2021, the form of criminal acts of child molestation in the Matholi'ul Anwar Wonosobo Islamic Boarding School environment as referred to in Article 82 paragraph (1), (2) in conjunction with Article 76 E of the Republic of Indonesia Law No. 23 of 2002 concerning Child Protection as amended by the Republic of Indonesia Law No. 35 of 2014 concerning amendments to the Republic of Indonesia Law No. 23 of 2002 concerning child protection as amended by the Republic of Indonesia Law No. 17 of 2016 concerning the Determination of PERPPU No. 1 of 2016 concerning the second amendment to the Republic of Indonesia Law No. 23 of 2002 concerning the second amendment to the Republic of Indonesia Law No. 23 of 2002 concerning child protection into a law which reads:

"Everyone is prohibited from committing violence or threats of violence, forcing, using trickery, telling a series of lies, or persuading a child to commit or allow an indecent act to be committed and if it is done by a parent, guardian, child caretaker, educator, or educational staff, then the punishment is increased by 1/3."

Based on the analysis of Police Report LP/B/35/IV/2021/JATENG/RES.WSB, the crime of indecent assault in this case includes three forms. First, direct indecent acts in the form of touching or sexually charged actions against students under the age of 18, which fulfills the elements of Article 82 paragraph (1) in conjunction with Article 76E of the Child Protection Law. Second, the perpetrator used deception by persuading the victim through manipulative sentences that exploited the students' trust in the kyai, thus legally fulfilling the element of "deception or a series of lies" in the same provision. Third, the perpetrator is a boarding school caretaker who has educational and caregiving responsibilities, but abused that authority, so that his actions become a criminal offense with aggravating factors as stipulated in Article 82 paragraph (2) of the Child Protection Law. Thus, this act constitutes a criminal act of child molestation committed using deception by the boarding school caretaker in accordance with Article 82 paragraphs (1) and (2) in conjunction with Article 76E of the Child Protection Law.

Based on the analysis, the causal factors of sexual abuse in Islamic boarding schools can be seen in the abuse of position and power relations between the perpetrator and the victim. The modus operandi frequently encountered indicates that the perpetrator exploits his position as a religious leader or respected figure among the students to commit indecent acts. This power relationship creates inequality in social relations, where the perpetrator uses his influence and moral authority to order or coerce students to commit certain acts.(Fajri, 2023)In practice, these actions are often accompanied by flattery, threats, or a series of lies packaged under religious pretexts, such as obtaining "blessings" or a form of spiritual devotion, so that the victim does not dare to refuse.

In addition to power relations, the culture of high respect for teachers and



religious leaders within Islamic boarding schools also contributes to victims' vulnerability. The attitude of *ta'dzim* (absolute obedience) inherent in Islamic boarding school culture often leads students to view teachers as unquestionable figures. This creates room for abuse of authority, potentially exploited by individuals to commit unlawful acts. (Kuswandi, 2023) Thus, it can be understood that the crime of sexual abuse in Islamic boarding schools is not solely caused by the individual motivation of the perpetrator, but is also influenced by structural and cultural factors that develop within the Islamic boarding school education system itself.

The research also shows that the causal factors for the sexual abuse at the Matholi'ul Anwar Islamic Boarding School in Wonosobo are not isolated but are influenced by several interrelated factors. One of the main factors is the weak supervision system within the boarding school. The large number of students is not matched by adequate supervisors, resulting in suboptimal supervision of the students' daily activities. This situation creates loopholes for individuals with bad intentions to commit reprehensible acts without being easily detected. Furthermore, the closed leadership structure and lack of transparency in the boarding school's management system mean that many cases tend to be hidden rather than resolved legally.

In addition to individual and social factors, there is also a significant institutional factor, namely internal resolution by Islamic boarding schools. In some cases, administrators choose to resolve issues amicably by reprimanding or transferring the perpetrators without further legal proceedings. This measure is taken to protect the institution's reputation, but such practices actually create injustice for the victims and undermine the authority of the law. When crimes are not reported to the authorities, law enforcement cannot proceed properly. This creates the impression that the law only applies outside Islamic boarding schools, while the religious education environment enjoys moral immunity untouched by positive law.

The impact of this weak oversight and law enforcement is profound. Victims experience prolonged psychological trauma, loss of self-confidence, and in some cases, even having to leave the Islamic boarding school to avoid social stigma. Furthermore, perpetrators are not adequately punished, opening the door to future recurrence of similar acts. Incomplete handling also results in a loss of public trust in Islamic boarding schools as educational institutions that should serve as moral and spiritual role models. (Winarno, 2025)

Considering these facts, it can be concluded that the criminal act of sexual abuse at the Matholi'ul Anwar Islamic Boarding School in Wonosobo occurred due to the interaction between weak supervision, abuse of authority, and a weak legal culture within the boarding school. To prevent the recurrence of similar acts, firm and comprehensive steps are needed, including increased internal supervision,

moral development for teachers and students, and cooperation with law enforcement officials in every alleged crime so that its resolution is carried out in accordance with applicable legal provisions. Only in this way can the principles of justice and legal certainty be realized, and the image of the boarding school as a religious educational institution can be restored.

### **3.2. Efforts to overcome the crime of sexual abuse at the Matholi'ul Anwar Wonosobo Islamic Boarding School when analyzed using positive law in Indonesia.**

In the Indonesian criminal justice system, law enforcement institutions such as the police, prosecutors, and courts, along with community organizations that support the legal system, are interconnected and interdependent, creating a sustainable judicial process. Each institution plays a strategic role in combating sexual assault, making synergy between institutions fundamental to effective law enforcement. (Lubi, 2025)

Based on the results of research conducted at the Wonosobo Police, the Wonosobo District Attorney's Office, the Wonosobo District Court, and the Wonosobo Regency Ministry of Religious Affairs Office, it is known that efforts to overcome the crime of sexual abuse in the Matholi'ul Anwar Islamic Boarding School environment are carried out through two approaches, namely a repressive and preventive approach based on positive legal provisions in Indonesia. The results of the study indicate that the crime of sexual abuse in the Islamic boarding school environment is not only seen as a violation of religious morals and ethics, but also as a form of violation of criminal law norms that must be prosecuted in accordance with applicable laws and regulations.

Based on the analysis, the Police have a strategic role as the spearhead of law enforcement in the Indonesian criminal justice system, because they are the first institution to handle a criminal incident through investigative and investigative actions as regulated in Article 1 numbers (1) to (5) of the Criminal Procedure Code. In handling the alleged crime of sexual abuse in the Islamic boarding school environment, the Wonosobo Police Resort officers apply the provisions of Articles 289–296 of the Criminal Code, as well as the provisions of Law Number 35 of 2014 in conjunction with Law Number 17 of 2016 concerning Child Protection if the victim is a child. Every case that meets the elements of a crime is processed through formal legal mechanisms without considering the social status of the perpetrator or the status of the Islamic boarding school institution. In addition, based on the Regulation of the Republic of Indonesia National Police Number 1 of 2021 concerning Community Policing, the Polmas concept emphasizes partnerships between the Police and the community in detecting and resolving public order and security problems. In the context of sexual violence in Islamic boarding schools, empowering religious scholars through the implementation of Community Policing is important, where Bhabinkamtibmas as the spearhead of



Community Policing plays a role in fostering community security, community empowerment, and early detection of potential crimes at the village or sub-district level.

Based on the results of interviews with the Wonosobo District Attorney, during the prosecution stage, the Public Prosecutor is guided by the Criminal Procedure Code and Law Number 35 of 2014 in conjunction with Law Number 17 of 2016 concerning Child Protection. This emphasizes the strategic role of prosecutors in the criminal justice system, particularly in cases of indecent assault, not only as prosecutors of the perpetrators but also as representatives of the state in protecting the interests of victims through criminal charges, restitution, and compensation. The prosecutor emphasized the importance of a deterrent effect through proportional demands, while maintaining a balance between retributive and preventive aspects, as mandated by Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia.

The criminal sanctions in the indictment against perpetrators of child molestation are based on Article 82 of the Child Protection Law, which stipulates a prison sentence of 5–15 years and a maximum fine of Rp. 5,000,000,000, and an aggravation of one-third if the perpetrator is a parent, guardian, caregiver, educator, or education staff. In the case at the Matholi'ul Anwar Wonosobo Islamic Boarding School, the perpetrator as the caregiver and head of the Islamic boarding school abused his authoritative position to commit indecent acts against students, so that legally it becomes an aggravating circumstance according to Article 82 paragraph (2). Therefore, the Public Prosecutor has a strong basis for demanding a heavier sentence for the sake of justice for the victim, a deterrent effect, and the restoration of public trust in religious educational institutions. The application of Article 82 reflects the enforcement of the principle of *lex specialis derogat legi generali*, that in criminal acts with child victims, the Child Protection Law is the main legal basis that must be optimally enforced.

Research at the Wonosobo District Court shows that the panel of judges in cases of molestation in Islamic boarding schools continues to be guided by the evidence and legal facts revealed in court, taking into account the elements of the article, the condition of the victim, and the aggravating and mitigating circumstances of the defendant. The judge emphasized that the status of Islamic boarding schools as religious institutions cannot be used as a justification or excuse, so that law enforcement remains applied equally in accordance with the principle of equality before the law as regulated in Article 27 paragraph (1) of the 1945 Constitution.

Law Number 18 of 2019 concerning Islamic Boarding Schools established an independent institution called the Majelis Masyayikh, which serves as the representative and coordinator of the Majelis Masyayikh at the national level. The Majelis Masyayikh in each Islamic boarding school is authorized to develop

curricula, oversee the learning process, improve educator competency, conduct testing based on quality standards, and submit graduate data to the Majelis Masyayikh. These two institutions serve as instruments for strengthening the quality of Islamic boarding school education as well as internal oversight to prevent sexual violence and ensure that the Islamic boarding school environment remains child-friendly. The Majelis Masyayikh does not replace the founder or caretaker of the Islamic boarding school, but rather carries out a learning management function as a form of harmonization between the independence of the Islamic boarding school and the obligation of government oversight.

The Islamic Boarding School Law also requires Islamic boarding schools to implement educational functions that are relevant to current developments. One example is the Islamic Sexual Education Program, a sexual education program based on Islamic values aimed at preventing sexual violence among students (*santri*). It is designed in accordance with UNESCO standards and adapted to the Islamic boarding school education system. The curriculum is structured using a hybrid learning method, combining face-to-face learning with the use of digital media such as animated videos and booklets. Internal instructors, such as teachers and religious scholars (*kyai*), deliver sexual education materials from an Islamic perspective, while online teaching involves health practitioners, legal practitioners, and other experts to provide students with a more comprehensive understanding.

Analysis shows that the Ministry of Religious Affairs has administrative authority to supervise and guide Islamic boarding schools, including issuing warnings, administrative sanctions, and even revoking operational permits for serious violations, particularly crimes that tarnish the institution's integrity. The Ministry of Religious Affairs also encourages collaboration between Islamic boarding schools, law enforcement officials, and the community to develop mechanisms to prevent sexual violence through the dissemination of religious ethical values, teacher development, and an internal reporting system involving students, guardians, and administrators.

The results of the study indicate that the handling of sexual abuse crimes at the Matholi'ul Anwar Wonosobo Islamic Boarding School has referred to positive law that emphasizes victim protection, justice enforcement, and deterrent effects, but its implementation still faces obstacles such as low courage of victims to report, attempts to close cases by the Islamic boarding school, and weak coordination with law enforcement officials. Legally, every act of sexual abuse in Islamic boarding schools must still be processed according to the law regardless of the location or status of the perpetrator. Future handling requires synergy of preventive and repressive efforts, namely through strengthening internal supervision, child protection education, and a safe reporting system for victims, as well as firm law enforcement by the police, prosecutors, and courts to ensure

legal certainty and maintain Islamic boarding schools as safe and dignified educational environments.

Efforts to combat the crime of sexual abuse in the Matholi'ul Anwar Wonosobo Islamic Boarding School environment, when analyzed using the theory of legal certainty, show that the existence of positive legal regulations in Indonesia has provided a firm legal basis for all forms of moral violations. Based on the results of research at the Police, the Prosecutor's Office, the District Court, and the Ministry of Religious Affairs of Wonosobo Regency, it can be seen that each agency has carried out its role in accordance with their respective authorities to uphold legal order and provide protection for victims. Legal certainty in this context demands that every stage of law enforcement, from investigation, prosecution, to court decisions, be carried out consistently and in accordance with the provisions of laws and regulations. This is in line with Sudikno Mertokusumo's view that the law must be implemented properly and have binding force for all parties, as well as with the concept of Jan Michiel Otto who emphasizes the importance of having clear rules, consistently applied by law enforcement officers, and obeyed by the community. Thus, the application of criminal law to the crime of sexual abuse in Islamic boarding schools is not only a form of enforcing norms, but also a real manifestation of the function of law in providing certainty, justice, and protection for all citizens.(Zainal, 2012)

Legal certainty also demands that existing regulations not only be formally written but also consistently implemented by law enforcement officials. Research conducted at the Wonosobo Police, District Attorney's Office, and District Court shows that law enforcement in cases of sexual abuse within Islamic boarding schools has been carried out in accordance with applicable criminal procedural law. Police officers conduct investigations based on evidence and public reports, prosecutors prosecute based on the principle of legality, and judges decide cases based on evidence and legal facts presented in court. These stages reflect the orderly and systematic application of the law, as required by the principle of legal certainty.

However, when linked to Jan Michiel Otto's view, legal certainty is not only measured by the existence of rules, but also by the extent to which these rules are consistently applied by authorized institutions and complied with by the public.(Soeroso, 2011)In practice, research results indicate that obstacles persist, particularly because some Islamic boarding schools tend to cover up cases in order to protect the institution's reputation. This attitude often leads to legal proceedings not proceeding as intended. Thus, although the legal framework governing the crime of sexual abuse is clearly established, its implementation has not fully met the ideal elements of legal certainty outlined by Otto, particularly in terms of consistent application of the law and concrete implementation of court decisions.

Furthermore, cultural and social factors within the community surrounding Islamic boarding schools also influence the level of legal certainty. Victims' fear of reporting, the belief that such cases should be resolved internally, and concerns about social stigma hinder firm law enforcement. Legal certainty, however, demands compliance with the rules by all parties without exception, including officials, educational institutions, and the community. When the law is not enforced firmly and uniformly, its function as a guide to behavior is weakened, and a sense of justice for victims is undermined.

### **3.3. Efforts to overcome the crime of sexual abuse at the Matholi'ul Anwar Wonosobo Islamic Boarding School when analyzed using Islamic law**

When analyzed through the perspective of Islamic law, the criminal act of sexual abuse that occurs in Islamic boarding schools can be categorized as a sinful act that is included in the crime of zina or muqaddimah al-zina (preliminary acts leading to zina) depending on the fulfillment of the required legal elements. In Islamic law, zina is literally understood as al-fahisyah or a heinous act, and according to the opinions of scholars such as al-Mawardi and 'Abd al-Qadir Audah, the act of zina is sexual intercourse carried out intentionally between a man and a woman without a legal bond. This is in line with the word of Allah SWT in Surah Al-Isra' verse 32 which emphasizes the strict prohibition of approaching zina because it is a heinous act and a bad path.

وَلَا تَقْرَبُوا الزَّانِيَ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا ﴿٣٢﴾

Meaning: And do not approach adultery by doing things that can stimulate or lead to adultery; indeed adultery is an abomination, which brings disease and destroys offspring, and an evil way that causes its perpetrators to be tormented in Hell.

In Islamic law, ta'zir is a punishment whose form and degree are left to the judge or waliyul amri (legal guardian) based on the severity of the violation and the public interest. This concept can be harmonized with positive law enforcement in Indonesia to provide a deterrent effect and educate perpetrators of sexual abuse, especially since the victims in these cases are generally children and therefore require strong protection. Islamic Sharia has a flexible principle (shalih li kulli zaman wa makan) making it relevant to preventing child exploitation and upholding the values of justice and moral protection. In Islamic law, indecent acts in Islamic boarding schools are classified as ta'zir crimes because they are considered unfinished acts (pre-adultery) and are not subject to hudud or qishas. Ta'zir is imposed for every sin that does not have a specific sanction, so the form of punishment is determined by the government through ijtihad according to the public interest. Criminal accountability in Islam requires the ability to think and will, but scholars differ regarding the limits for children. Sexual harassment is categorized as a ta'zir crime, with various types of punishment depending on the

circumstances of society, including imprisonment, ostracism, or other forms according to the judge's *ijtihad*.

Indecent acts in Islamic boarding schools fulfill the element of intent (*al-qashd al-jinai*) and constitute a violation of the victim's honor and a betrayal of the perpetrator's moral trust as a caregiver, so that its handling is not only through positive criminal sanctions, but also religious guidance and internal supervision of the Islamic boarding school. Contemporary scholars agree that sexual harassment is an act that damages the social order and must be subject to *ta'zir*. The principle of *maqāshid al-syarī'ah* emphasizes the protection of children as the primary benefit, in contrast to positive law which assesses more the harm to society, while Islamic law views moral damage as the basis for imposing punishment because it impacts the safety of life, mind, property, and the peace of society.

In Islamic jurisprudence, perpetrators of sexual harassment are subject to *ta'zir* punishment, the determination of which is left to the leader. This aligns with the provisions of the Child Protection Law, starting with Law No. 23 of 2002 and its amendments, which also stipulate sanctions through government authority. However, upon closer examination, the provisions for sanctions in the Child Protection Law are more clearly and in greater detail. (Astuti, 2023)

Thus, the Islamic legal analysis of the crime of sexual abuse at the Matholi'ul Anwar Islamic Boarding School in Wonosobo confirms that the act falls under the category of *ta'zir* crimes, which must be subject to sanctions commensurate with the degree of wrongdoing. The purpose of Islamic law in this context is not merely to punish, but also to restore the victim's honor, safeguard the public interest, and close the doors to adultery, as affirmed in the Qur'an. Therefore, the integration of positive law enforcement and the *ta'zir* principle in Islamic law is crucial to creating justice that is not only juridical, but also moral and spiritual, so that the values of purity and honor that are the foundation of Islamic boarding schools can be re-established.

If analyzed using the theory of how law works put forward by Robert Seidman, efforts to overcome the crime of sexual abuse at the Matholi'ul Anwar Wonosobo Islamic Boarding School show that Islamic law and positive law in Indonesia do not operate in a separate space from the social, political and cultural realities of the Islamic boarding school community. (Soekanto, 1993) Based on research conducted at the Wonosobo Regency Police, District Attorney's Office, District Court, and Ministry of Religious Affairs, it was found that the application of the law to cases of sexual abuse in Islamic boarding schools is strongly influenced by the social dynamics and power structures within the Islamic boarding school environment itself. Within Seidman's theoretical framework, legal regulations that have been created, whether in the form of positive law or Islamic sharia norms, cannot necessarily function effectively without a balance between role occupants, implementing institutions, and societal forces operating within society.

In cases of sexual abuse in Islamic boarding schools, role holders such as the school caretakers, religious teachers, and students are actually bound by legal and religious norms that prohibit all forms of indecent acts. However, as Seidman explains, the behavior of these role holders in responding to legal regulations is often influenced by surrounding social and political factors. This is evident in the tendency of Islamic boarding schools to resolve cases internally to protect the institution's reputation and avoid public exposure. As a result, the legal process does not always run as intended, and law enforcement efforts are suboptimal. This situation indicates that legal norms are not yet able to fully control behavior due to social pressure, patron-client culture, and a sense of reverence for influential Islamic boarding school leaders.

Furthermore, the theory of how law works also emphasizes the important role of law enforcement agencies in responding to prevailing norms. In this context, the Wonosobo Police, the Wonosobo District Attorney's Office, and the Wonosobo District Court have attempted to enforce positive law against perpetrators of sexual assault, but their effectiveness is often hampered by cultural and structural factors.

#### 4. Conclusion

The crime of sexual abuse at the Matholi'ul Anwar Islamic Boarding School in Wonosobo occurred through deception by the caretaker against the child, influenced by weak internal supervision, minimal understanding of sexuality education, abuse of position, and a culture of covering up the institution's shame. Efforts to overcome this problem according to positive law are carried out through the synergy of law enforcement officers based on the Criminal Code and the Child Protection Law, including repressive and preventive measures, although consistency is still needed to ensure certainty and justice for the students. Meanwhile, according to Islamic law, prevention is carried out through the application of ta'zir or hudud punishments according to the severity of the violation, as well as strengthening morals and exemplary behavior as the main prevention. Thus, both legal systems emphasize the importance of victim protection, upholding justice, and moral development to prevent the recurrence of sexual abuse in the Islamic boarding school environment.

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