



Samarah: Jurnal Hukum Keluarga dan Hukum Islam
Volume 5 No. 1. January-June 2021
ISSN: 2549 – 3132; E-ISSN: 2549 – 3167
DOI: 10.22373/sjhk.v5i1.9144

Sexual Violence in an Islamic Higher Education Institution of Indonesian: A Maqasid Al-Shariah and Foucauldian Perspective

Ilyya Muhsin

Institut Agama Islam Negeri Salatiga

Sukron Ma'mun

Western Sydney University, Australia

Wardah Nuroniyah

Institut Agama Islam Negeri Syekh Nurjati Cirebon

Email: Ilyya_muhsin@iainsalatiga.ac.id

Abstract: Sexual violence was prevalent in many settings, including in religious educational institutions. This article analyzed cases of sexual violence at an Islamic higher education institution in West Java, Indonesia, using the *maqasid al-shariah* and Foucault's theory of sexuality as the theoretical frameworks. This mixed-method research used Google form's surveys, in-depth interviews, and observations as the data collection methods. The data were analyzed using a flow model, which comprised selection, display, analysis or discussion, and conclusion. This study showed that verbal and non-verbal sexual violence was rampant. It occurred between student and student, lecturer and staff, staff and staff, and lecturer and student. Four models of sexual violence were found based on the typology designed by Dzeich and Weiner, who categorized thirteen forms of sexual violence. The *maqasid al-shariah* analysis outlined that sexual violence was against the fundamental values and objectives of sharia and human rights. Additionally, Foucault's theory identified patriarchal and cultural hegemony aspects in sexual violence. This study's intriguing part was the findings that combined in-depth interviews, observations, and surveys, intended to understand the intensity of existing cases. On the other hand, the power of analysis was centered on normative fiqh and sociological aspects. According to the literature reviews, these two approaches had not been administered by previous researchers.

Keywords: sexual violence, maqasid al-shariah, human rights, & patriarchy.

|| Submitted: March 8, 2021 || Accepted: June 5, 2021 || Published: June 30, 2021

<http://jurnal.arraniry.ac.id/index.php/samarah>

Abstrak: Kekerasan seksual terjadi di banyak tempat, termasuk di lembaga pendidikan agama. Artikel ini menganalisis kasus kekerasan seksual di sebuah perguruan tinggi Islam di Jawa Barat, Indonesia, dengan menggunakan kerangka teori seksualitas *maqashid al-syari'ah* dan Foucault. Penelitian metode campuran ini menggunakan Google form survey, wawancara mendalam, dan observasi sebagai metode pengumpulan data. Data dianalisis menggunakan model alur, yang terdiri dari seleksi, display, analisis atau diskusi, dan penarikan kesimpulan. Studi ini menunjukkan bahwa kekerasan seksual verbal dan non-verbal merajalela. Itu terjadi antara mahasiswa dan mahasiswa, dosen dan staf, staf dan staf, dan dosen dan mahasiswa. Empat model kekerasan seksual ditemukan berdasarkan tipologi yang dirancang oleh Dzeich dan Weiner, yang mengkategorikan tiga belas bentuk kekerasan seksual. Analisis *maqashid al-syariah* menggarisbawahi bahwa kekerasan seksual bertentangan dengan nilai-nilai fundamental dan tujuan syariah dan hak asasi manusia. Selain itu, teori Foucault mengidentifikasi aspek patriarki dan hegemoni budaya dalam kekerasan seksual. Bagian menarik dari studi ini adalah temuan yang menggabungkan wawancara mendalam, observasi, dan survei, yang dimaksudkan untuk memahami intensitas kasus yang ada. Di sisi lain, kekuatan analisis berpusat pada *fiqh* normatif dan aspek sosiologis. Menurut tinjauan literatur, kedua pendekatan ini belum pernah dilakukan oleh peneliti sebelumnya.

Kata Kunci: kekerasan seksual, *maqashid al-syariah*, hak asasi manusia, patriarki

Introduction

Sex is the basic need for every being, including humans. As a part of the basic needs, the history of human civilization recorded various phenomena and problems emerged from sexuality, like the issue of economy or power. For example, the love story of Cleopatra-Mark Anthony and Romeo-Juliet was a sexuality issue involving women, power, and religion. In the history of religion and civilization, the story of Yusuf-Zulaikha also attracted attention as it involved the issue of sexuality involving individuals from different social classes. Therefore, according to Muhammad, Mulia, and Wahid¹, sexuality was interpreted as a cultural space for humans to express themselves to others,

¹ Husein Muhammad, Siti Musdah Mulia, and Marzuki Wahid, *Fiqh Seksualitas: Risalah Islam untuk Pemenuhan Hak-Hak Seksualitas*, ed. Maesur Zacky, Yogyakarta: PKBI, 2011, p.14.

<http://jurnal.arraniry.ac.id/index.php/samarah>

and it could be related to self-identity, sexual acts, sexual behavior, and sexual orientation.

Sexuality is a part of human rights protected by law, social norms, or any religious conventions. The international human rights instruments² stated that the sexual rights of every human being are based on seven main principles: the principle of sexual rights as human rights; the principle of protection and the development of children; the non-discrimination principle; the principle of enjoyment and comfort; the principle of responsible freedom; the principle of dignity and human freedom; and the principle human rights fulfilment. The social norms of society also declared that sexuality was a basic human right regulated by the community according to their individual needs. Meanwhile, the teachings of every religion seemed to provide maximum protection in regulating sexuality issues. In Islam for example, the mechanism of legalizing sexuality was regulated under the *munakahat* (marriage) article and discussed further in fiqh.

The problem of sexuality arises in the forms of sexual violence or sexual harassment, rape, and adultery. Sexual violence refers to various acts of humiliating, insulting, assaulting, and other forcible acts, related sexual desire which against a person's consent³. Sexual violence is a problem that often emerges in male-female relationships, regardless their status or social class. Sexual violence could occur in many forms: verbal and non-verbal; and direct or indirect. It could take place in various settings, such as workplace, educational institutions, entertainment venues, and other public spaces.

Sexual violence in educational institutions, such as schools, universities, or other educational institutions, is not unusual. These problems appear not only in remote educational institutions, but also in urban area. In higher education level, this problem also occurs in universities that have religious affiliations. Several studies on this issue were conducted by Marcia L Bellas

² See Muhammad, Mulia, and Wahid, *Fiqh Seksualitas...*, p. 1.

³ Nikmatullah, 'Demi Nama Baik Kampus VS Perlindungan Korban: Kasus Kekerasan Seksual Di Kampus', *Qowwam: Journal for Gender and Mainstreaming* 14, No.2 (2020), p. 37–53 <<https://doi.org/10.20414/qawwam.v14i2.2875>>; Compared also with Moore and Mennicke, who provide sexual harassment can also mean verbal or physical actions and non-verbal actions that are limited to words or words and writing physical gestures and pictures. See John Moore and Annelise Mennicke, 'Empathy Deficit and Perceived Permissive Environment: Sexual Harassment Perpetration on Collage Campuses', *Journal of Sexual Aggression*, 2019, p. 1–13 (pp. 1–2) <<https://doi.org/10.1080/13552600.2019.1651913>>.

<http://jurnal.arraniry.ac.id/index.php/samarah>

and Jennifer L Gossett.⁴ They investigated the lecturer sexual behaviors on students at higher education institutions in the United States of America. Bellas and Gossett found that sexual violence against students influenced by many factors, such as gender, race/ ethnicity, sexual orientation, and student level (undergraduate and graduate). Poor policies in institutional level were becoming a contributing factor that influence the emergence of sexual violence. Research conducted by Dogar, Shah, Ali, and Shah⁵ in Pakistani universities showed that sexual violence was prevalent, both in verbal and non-verbal forms. It was not only performed by men against women but also by women against women (e.g., female lecturers against female students). The ignorance of university stakeholders made it difficult to break the chain of sexual violence in Pakistan. In another setting, students at several universities in South Africa also experienced the identical issue. Both men and women had experienced sexual violence on campus⁶. In addressing this problem, Watts⁷ argued the importance of conducting research, advocacy, and policy change to end sexual violence.

In Indonesia, sexual violence also occurred in various higher education institutions, but there was a limitation concerning the previous studies that exposed openly about this issue. A preliminary study conducted by Artaria⁸ for example, revealed various forms of sexual violence that occurred at a leading university in Surabaya, East Java. The violence happened either physically or psychologically, and it was generally done by superiors or seniors in the institution social hierarchy. It also became the cause of the difficulty of uncovering cases of sexual violence on campus. It was not uncommon to find survivors that chose to keep silent. It was motivated by several reasons, including the superiority and dominance of the perpetrators. The survivor was worried that her position would be threatened as the result

⁴ Marcia L. Bellas and Jennifer L. Gossett, "Love or The 'Lecherous Professor': Consensual Sexual Relationship Between Professor and Students," *The Sociology Quarterly* 42, no. 4 (2001), p. 529–58.

⁵ Adnan Ahmad Dogar et al., "Perception, Prevalance and Awareness of Sexual Harassment among University Students in Abbottabad," *Psychology and Education* 58, no. 1 (2021), p. 1182–95.

⁶ Helen T Oni, Takalani G Tshitangano, and Henry A Akinsola, "Sexual Harassment and Victimization of Students: A Case Study of a Higher Education Institution in South Africa," *African Health Sciences* 19, no. 1 (2019), p. 1478–85.

⁷ Elizabeth A Watts, "Ending Sexual Violence on Campus Through Research, Practice, and Policy: Introduction to the Special Supplement," *Health Education & Behavior* 47, no. IS (2020), p. 45–65, <https://doi.org/10.1177/109019812094599>.

⁸ Myrtati D. Artaria, "Efek Pelecehan Seksual di Lingkungan Kampus: Studi Preliminer," *Biokultur* 1, no. 1 (2012), p. 53–72. <http://jurnal.arraniry.ac.id/index.php/samarah>

of her courage to reveal the perpetrator's crime. In addition, the existence of a strong patriarchal culture might cause the victims, especially women, not to take any action or only to keep silent⁹. It was not unusual to find a campus that concealing a sexual violence incident for the sake of campus reputation and 'protecting' the survivor¹⁰. However, according to Adiyanto¹¹ social media such as Instagram could be used as a medium for discussion of sexual harassment prevention efforts at higher education level.

In religion-based higher education institution, it seemed that sexual violence had not been widely disclosed in the mass media or through academic research. It did not mean that sexual violence cases were not exist. In fact, academics who were considered as religious figures also became the sexual violence perpetrators in public universities, regardless their understanding of the social norms and religious teachings. Moreover, Weeks¹² also reminded us that sexuality was not only the issue of basic instincts, but also a problem of social construction among human beings.

This study aimed to reveal various sides of sexual violence in a religion-based academic institution. This research tried to investigate the sexual violence issue through the perspective of *usul al fiqh* and sociology—the approaches that was limitedly performed by the previous researchers. Therefore, this study would analyze two problems: firstly, how and what types of sexual violence occurred in an Islamic campus in West Java? Secondly, how do the perspectives of the *maqashid al-shariah* and Foucault's theory of sexuality view the problem?

This qualitative research took place at an Islamic higher education institution in West Java using the normative-judicial and sociological approaches. Although this study was mainly employed qualitative methodology, the data mining was strengthened by a Google Form survey. The survey intended to see the percentage of sexual violence cases occurrence, forms of sexual violence, respondent experiences, and policy responses. However, this quantitative data was only intended to prove an overview of the prevalence of the case. The main point of this study was to use qualitative

⁹ See Ariani Hasanah Soejoeti and Vinita Susanti's study, "Memahami Kekerasan Seksual Sebagai Menara Gading Di Indonesia Dalam Kajian Sosiologi," *Community* 6, no. 2 (2020), p. 207–21.

¹⁰ Nikmatullah, "Demi Nama Baik Kampus VS Perlindungan Korban: Kasus Kekerasan Seksual Di Kampus."

¹¹ Wiwid Adiyanto, "Pemanfaatan Media Sosial Instagram Sebagai Ruang Diskusi Upaya Pencegahan Pelecehan Seksual Di Lingkungan Akademis," *Jurnal Ilmiah Pangabdhi* 6, no. 2 (2020), p. 78–83.

¹² Jeffer Weeks, *Sexuality*, Ellis Korwood: Tavistock Publicational, 1986, p. 39.
<http://jurnal.arraniry.ac.id/index.php/samarah>

methods to investigate more about the forms of sexual violence experienced by the survivors. This qualitative method provided a more in-depth exploration of the phenomenon of sexual violence, which so far had not received adequate responses by higher education institutional policies.

This research took place in 2020, and a survey was conducted on students and employees of the Islamic higher education institution via Google Form, involved at least 333 participants. Meanwhile, the qualitative data mining was carried out by in-depth interviews with survivors, who contacted the researchers through the Google Form or via WhatsApp¹³ application. The unplanned participant observations were also carried out over a period of time due to the involvement of one of the researchers as a lecturer and a member at the Center for Gender and Child Studies on his campus.

The results of this study were discussed systematically according to scientific principles, with an analysis of the concept of *maqashid al-shariah* and human rights, as well as analysis by the sociologist Michel Foucault on sexuality, knowledge and power. In the next section, the findings and analysis would be discussed. Finally, the researchers would conclude this study by providing some essential notes and recommendations.

Forms of Sexual Violence

Sexual violence is defined as a non-consensual coercive sexual activity which causes harm to the victim. This violence develops in various forms. In simple terms, Thoresen¹⁴ in his research, asked four questions in unraveling the forms of sexual violence; has a person experienced unwanted sexual contact while intoxicated so that she/ he was unable to stop the activity; has someone ever held another person's genitals by force or force someone to hold his/ hers; has a person ever been forced to have sexual relations; and what other forms you have experienced related to sexual violence. These questions raise many different forms of sexual violence.

In simple terms, sexual violence can be divided into two forms: verbal and non-verbal. This form was later developed by Dzeich and Weiner¹⁵ into thirteen types of sexual violence. The first model is the *quid pro quo* (power-player) in which the perpetrator commits sexual violence and exchanges

¹³ All names of respondents in this study are pseudonyms.

¹⁴ Thoresen, "Violence Against Children, Later Victimization, and Mental Health: A Cross Sectional Study of the General Norwegian Population," *European Journal of Psychotraumatology* 6, no. 2 (2005), p. 5–6.

¹⁵ B.W Dzeich and L Weiner, *The Lecherous Professor: Sexual Harassment on Campus*, Illinois: University of Illinois Press, 1990.
<http://jurnal.arraniry.ac.id/index.php/samarah>

profits for the victim. The next model, *the father/mother figure (the counselor-helper)* to children, is the type of violence perpetrated by a more senior person who acts as a mentor. A third type is *one-of-the-gang* harassment, in which a senior conducts a sexual violence to his/ her subordinates' member. The fourth model is violence in a closed setting so that it could not be known or realized by the victim or anyone else. Next, *the groper* in which a harasser unwantedly touches the victim personal part both in a crowded or uncrowded area. Other type is the opportunist type, which takes advantage of a situation when the victim is helpless because of a certain situation. The seventh model is *confidante*, which attempts to seduce the victim by getting her/ his sympathy with a false story. The goal is to get a chance to vent sexual desire. The next model is *situational harasser*, which targets the victim who is in a difficult position or experiencing suffering or disability¹⁶. The ninth type is *pest*, which is a type of coercion occurs even though the victim expresses her/ his disapproval. Next, *the great gallant* is the next type where the perpetrator gives excessive praise in a public place that embarrasses the victim. The eleventh model is the *intellectual seducer*, where the perpetrator finds out the victim habits and later uses them to harass the victim. The *incompetent* is the type where the perpetrator does not get the victim's attention, and he/ she takes revenge by sexually harassing her/ him because of the refusal. The last type is a *sexualized environment*, or an environment that contains elements of sexual harassment, such as graffiti, pornography, and sexually degrading posters.

The Indonesian National Commission on Violence against Women (Komnas Perempuan¹⁷) also stated the identical notion. It categorizes sexual violence into fifteen models, including: rape, sexual intimidation, sexual harassment, sexual exploitation, sexually-motivated women trafficking, forced prostitution, sexual slavery, forced marriage, forced pregnancy, forced abortion, forced contraception and sterilization, sexual torture, punishments with sexual nuances, traditional practices of sexual nature that harm or discriminate against women, and sexual control, including various discriminatory regulations on the grounds of morality or religion. These types are formulated based on various problems that occur in the community or based on complaints received by Komnas Perempuan.

¹⁶ See research by Kirkner, Plummer, Findley, and McMohan on violence against victims with disabilities on American college campuses Anne Kirkner et al., "Campus Sexual Violence Victims with Disabilities: Disclosure and Help Seeking," *Journal of Interpersonal Violence*, (2020), p. 1–22, <https://doi.org/10.1177/0886260520967149>.

¹⁷ As cited by Jeremy Chandra Sitorus, "Quo Vadis, Perlindungan Hukum Terhadap Korban Pelecehan Seksual Di Kampus," *Lex Scientia Law Review* 3, no. 1 (2019), p. 30–39, <https://journal.unnes.ac.id/sju/index.php/lslr>.
<http://jurnal.arraniry.ac.id/index.php/samarah>

The concept of Maqashid al-Sharia and Human Rights

Islamic law regulates the relationship of men and women equally. This relationship cannot be separated because humans are seen as equal by Islam and are distinguished on the level of morality they have¹⁸. The Hadith of the Messenger of Allah narrated by Anas bin Malik¹⁹ states, "*Humans are equal like the teeth of a comb. There is no privilege between one and another, except because of the quality of his piety.*"²⁰ Men and women have equality in the autonomy of their bodies, although, in some understandings of fiqh, there is a bias that leads to patriarchal interests (men). For example, there are several opinions which state that a woman's (body) belongs to the man who marries her (*milk istimta' al-rajul bi al-mar'ah*)²¹. Women are often blamed, and they become the object of sexual violence as the cause of the hadith which consists gender-bias interpretation. Hadiths about the 'cursing' of women who reject the sexual intimacy are a form of misogynistic hadith²² which is then used to reference women as powerless objects. The powerlessness of women over themselves is not only for married women but also for the virgins. It seems that human rights are not directed towards women.

This fact is refuted by fiqh, which states that Islamic or sharia law provides equal rights for every human being. The principles of Islamic law, according to Muhammad, Wahid, and Mulia²³ are equality (*al-musawah*),

¹⁸ Look at some of the verses of the Qur'an that state these similarities in Surah Al-Baqarah: 30, 187, 228; An-Nisa: 1; Adz-Dzariyat: 56, Al-Isra: 70 dan Al-Hujarat: 13 Kementerian Agama, *Al-Qur'an dan Terjemahannya*, Jakarta: Kementerian Agama RI, n.d.

¹⁹ Al-Ajaluni, *Kasyf Al-Khifa Wa Mazil Al-Ilbas*, Chapter 2, n.d., 326 hadist number 2847.

²⁰ See another hadith narrated by Imam Bukhari and Imam Muslim, the Messenger of Allah said, "Verily Allah does not look at your body and appearance, but Allah will look at your heart and your deeds". As quoted in Abu Sa'adat Mubarak bin Muhammad Ibn Al-Atsir, *Jami' Al-Ushul Fi Ahadist Al-Rasul*, Chapter I, Beirut: Dar Ihya at-Turats, 1984, p. 471.

²¹ See Wahbah Az-Zuhaili, *Al-Fiqh Al-Islamiy Wa Adilatuhu*, IV, Damaskus: Dar al-Fikr al-Mu'ashir, 2004, p. 6513.

²² In a hadith, it is narrated that "when the husband asks her to have sex, the wife must fulfill it even if she is in the kitchen or on the back of a camel" See At-Tirmidzi, Sunan At-Tirmidhi, Beirut: Dar al-Fikr, 1994. Hadist Nomor 1160. In another hadith, it is stated, "when the husband asks him to have sex, then the wife refuses it, so that the husband sleeps full of anxiety, then he is cursed by the angels until morning" See Abi Abdillah Muhammad Ibn Ismail Al-Bukhari, Shahih Al-Bukhari, Bandung: Syirkah al-Ma'arif li al-Thab'i wa al-Nasyr, n.d. hadith number 3065.

²³ See Muhammad, Mulia, and Wahid, *Fiqh Seksualitas: Risalah Islam Untuk Pemenuhan Hak-Hak Seksualitas*, 34; See also Ibn al-Qayyim Al-Jawziyyah, *I'lam Al-Muwaqi'in 'an Rabb Al-Alamin*, Kairo: Maktab al-Islam, 1980, p. 149.

<http://jurnal.arraniry.ac.id/index.php/samarah>

justice (*al-is*), love (*al-rahmah*), wisdom (*al-hikmah*), and benefit (*al-maslahah*)²⁴. Al-Ghazali²⁵ stated that the most basic principle of Sharia law is the fulfilment of its existence (*maqashid al-Sharia*), even though the understanding of the *fuqaha* will be influenced by his/ her contexts. Al-Ghazali developed this principle with the concept of *al-dlaruriyat al-khams* or the five domains of human protection: *hifh al-diin* (the right to embrace faith or religion), *hifd al-nafs* (the protection of life or rights to life), *hifd al-aql* (the freedom of expression), *hifd al-nasl* (the protection of reproductive health rights), and *hifd al-maal* (the protection of property rights)²⁶.

Sexuality rights are basically included within the five principles above. Disruption of sexual rights, of course, violates the sharia principles, not only *hifd al-nasl*, but also *hifd al-nafs*. This sharia principle is in line with the Universal Declaration of Human Rights. Related to the sexual orientation, in December 2008, The United Nations urged to condemn stigmatization, violence, discrimination, exclusion, and prejudice based on sexual orientation and gender identity²⁷. Specifically, the Cairo declaration at the International Congress People Development (ICPD) in 1994 included the proclamation of 'Sexual Rights' as part of human rights. There are seven principles in the formulation: sexuality is an important part of human beings; a person under the age of eighteen has the right of her/ his sexuality; protection and promotion and fulfillment of human rights is a non-discriminatory right; people should be able to enjoy their sexuality and to free them from coercion; the right to be protected from all harmful things, especially for those under eighteen years of age to receive special protection from various forms of exploitation; sexual

²⁴ Scholars in the modern era can carry out various "ijtihad" efforts in a limited sense to achieve these values. For example, traditional scholars conduct *bahtsul masail* (studying problems by paying attention to religious values and norms). See Sukron Ma'mun, "Ilhaq Dalam Bahtsul Masa'il NU; Antara Ijtihad Dan Ikhtiyat," *ALQALAM* 28, no. 1 (2011), p. 63, <https://doi.org/10.32678/alqalam.v28i1.512>; Sukron Ma'mun and Ilyya Muhsin, "Istinbāt Method of Tablighi Students In Pesantren Temboro: Textual and Contextual Matter," *Justicia Islamica* 17, no. 2 (2020), p. 185–204, <https://doi.org/10.21154/justicia.v17i2.2003>.

²⁵ See Abu Hamid bin Muhammad bin Muhammad Al-Ghazali, *Al-Mustashfa Min Ilm Al-Ushul*, Jilid I, Beirut: Dar al-Fikr, n.d., p. 286.

²⁶ Bahruddin A., "Implementasi Maqasid Al-Shari'ah Sebagai Solusi Problematika Sosial Dan Kemasyarakatan Kontemporer," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 17, no. 1 (2017), p. 1–18, <https://doi.org/10.18326/ijtihad.v17i1.1-18>; See also Busyro, "Bom Bunuh Diri dalam Fatwa Kontemporer Yusuf Al-Qaradawi dan Relevansinya Dengan Maqasid Al-Shari'ah," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 16, no. 1 (2016), p. 85–103, <https://doi.org/0.18326/ijtihad.v16i1.85-103>.

²⁷ See Komnas Perempuan's notes on Sexual Violence and Muhammad, Mulia, and Wahid's book, *Fiqh Seksualitas: Risalah Islam untuk Pemenuhan Hak-Hak Seksualitas*, xii. <http://jurnal.arraniry.ac.id/index.php/samarah>

rights are only limited by human rights law; and the obligation of the state to respect, protect, and fulfill the sexual rights of all people²⁸.

Foucault: Sex, Knowledge, and Power

Sexuality becomes one of Foucault's discussions when he talks about the disciplined body for the modern society. Sexuality is part of the discussion of Foucault's theory because it is related to the relationship of the body, system, and power. For Foucault²⁹, the body is an important part of discipline in modern society. A person has no 'power' over his/ her own body because he/ she is subject to an external 'power'—the surrounding life, norms, laws, or culture. The body is no longer disciplined through corporal punishment as in traditional times (e.g., imprisonment or corporal punishment), but through a policy of coercion. The forced policy allows for *political anatomy*, the performance of power that can control the bodies of others³⁰.

This forced policy is manifested through understandable regulations followed by the society. Foucault describes the discipline as an activity carried out in prison through supervision, which he later calls it as *panoptic*³¹. Through panoptic, humans can be monitored thoroughly so that that discipline can be implemented. Panoptic allows humans to implement the rules either through direct or indirect supervision³². Foucault states that through the panoptic system, power relations can run completely and without touching the physical, even reaching the most intimate life without knowing its provenance³³.

²⁸ See Muhammad, Mulia, and Wahid, *Fiqh Seksualitas...*, p. xvi.

²⁹ See Michel Foucault, *Discipline and Punish*, New York: Vintage Books, 1979, p. 138; Compared it with Petrus Sunu Hardiyanta, *Disiplin Tubuh: Bengkel Individual Modern*, Yogyakarta: LKiS, 1997, p. 28–30; Yuris Fahman Zaidan, "Relasi Tubuh dan Kekuasaan: Kritik Sandra Lee Bartky Terhadap Pemikiran Michel Foucault," *JAQFI: Jurnal Aqidah dan Filsafat Islam* 5, no. 2 (2020).

³⁰ See Zaidan, "Relasi Tubuh dan Kekuasaan: Kritik Sandra Lee Bartky Terhadap Pemikiran Michel Foucault," p. 136.

³¹ See Haryatmoko, *Membongkar Rezim Ketidakpastian: Pemikiran Kritis Post-Strukturalis*, Yogyakarta: Kanisius, 2016, p. 21; Zaidan, "Relasi Tubuh dan Kekuasaan: Kritik Sandra Lee Bartky Terhadap Pemikiran Michel Foucault."

³² Foucault analyzes two panoptic systems, namely panoptic surveillance of residents in Vincennes carried out by the military in monitoring the spread of the bubonic plague and pathoptic developed by J. Bentham with the architecture of prison buildings capable of supervising inmates. See Hardiyanta, *Disiplin Tubuh: Bengkel Individual Modern*, 104–14.

³³ See Haryatmoko, *Membongkar Rezim Ketidakpastian: Pemikiran Kritis Post-Strukturalis*, p. 22–23.

<http://jurnal.arraniry.ac.id/index.php/samarah>

The sexuality is the subject of discussion in Foucault's theory because it is related to the existing power and knowledge. Foucault asserts that sexuality develops into a discourse that influences knowledge and power. The most intimate life is discussed because the state (power) wants to know and regulate the life patterns of its people. Related to this, Haryatmoko³⁴ emphasized that religion is the most effective tool that is sometimes used by the powerful to reproduce knowledge by controlling the sexuality of its citizens. It controls relationship patterns, dressing style, and husband and wife relationship. Furthermore, Foucault³⁵ explains that a fairly effective way to exercise the power of knowledge is by giving prohibitions, rejections, stimulation, and intensification or what he calls the *polymorph* power.

Thus, sexuality is a social construction that involves knowledge and power. In more detail, Dzihayatin³⁶ explains that the construction is related to human sex organ-based control. The construction of knowledge through religious norms will be normalized in life as a pattern of life and culture. Obedience, appropriateness, and taboo are part of the social construction, although they are also part of religious norms.

Sexual Violence on An Islamic Higher Education Institution in West Java

It seemed surprising that sexual violence cases emerged in an Islamic higher education institution. However, as discussed by Soejoeti and Susanti³⁷, the sexual violence issue is an iceberg of problem that is prevalent

³⁴ See Haryatmoko, p. 23–24.

³⁵ See Haryatmoko, p. 25–26.

³⁶ Siti Ruhaini Dzuhayatin, "Konstruksi Seksualitas dalam Fiqh Islam," *Jurnal Hukum* 8, no. 5 (1997), p. 50–60.

³⁷ Soejoeti and Susanti, "Memahami Kekerasan Seksual Sebagai Menara Gading Di Indonesia Dalam Kajian Sosiologi"; See also Nindhi Meilia Seba Ardi and Tamsil Muis, "Perilaku Seksual Remaja Mahasiswa Fakultas Bahasa Dan Seni Universitas Negeri Surabaya," *Jurnal BK* 4, no. 3 (2012), p. 650–57; Helen Bovill et al., "How Does Student Activism Drive Culture Campus Change in the UK and US Regarding Sexual Violence in Campus?," *Critical Social Policy* 0, no. 0 (2020), p. 1–23, <https://doi.org/10.1177/0261018320913967>; Amal Hamada et al., "Fighting Sexual Harassment on Campus: How Local Contexts of Different Universities Affect the Dynamics and Outcomes of These Efforts," *Institute of Development Studies* 51, no. 2 (2020), p. 21–42, <https://doi.org/10.19088/1968-2020.128>.
<http://jurnal.arraniry.ac.id/index.php/samarah>

everywhere³⁸. Nikmatullah³⁹ indicated that this problem also occurred at the Mataram State Islamic University, although she did not provide a detailed explanation of the issue. However, the emergence of the rector's policy regarding the sexual violence provided a strong indication that cases of sexual violence had occurred.

Based on a survey conducted by researchers through a Google Form survey, several facts regarding sexual violence were found. The number of respondents was 333 people, consisting of 291 students and 42 employees and lecturers. The percentage of the male respondents was 23.2 percent and the female respondents were 76.8 percent. The respondents aged between 17 to 50 years old. The number of respondents aged 17 to 25 years old were 291 people, while 24 people aged between 26 to 39 years old, and 18 people aged between 40 to 50 years old. Meanwhile, regarding the experience of sexual violence, 27.5 percent stated that they had experienced verbal sexual violence, and 13.8 percent stated that they had experienced non-verbal sexual violence. Regarding the experience of witnessing cases of sexual violence, as many as 65 percent of respondents said they had never seen or knew any cases, 22.4 percent said they had experiences, 1.5 percent often saw it, and 11.2 percent said they rarely found any incidents.

³⁸ Look at the results of research conducted by Linder and his friends on cases of sexual violence on campus within ten years. They analyzed 450 articles discussing sexual violence on campus. These articles show a fairly serious case of this problem. See Chris Linder et al., "What Do We Know About Campus Sexual Violence? A Content Analysis of 10 Years of Research," *The Review of Higher Education* 43, no. 4 (2020): 1017–1040, <https://doi.org/https://doi.org/10.1353/rhe.2020.0029>.

³⁹ See Nikmatullah, "Demi Nama Baik Kampus VS Perlindungan Korban: Kasus Kekerasan Seksual Di Kampus." <http://jurnal.arraniry.ac.id/index.php/samarah>

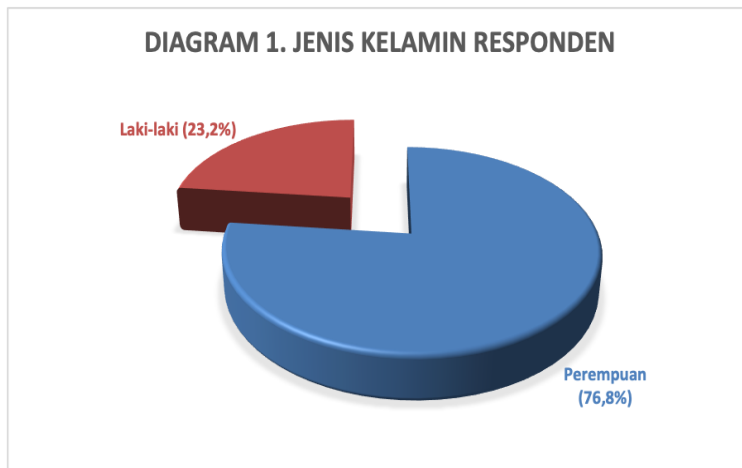


Figure 1 The Respondent Gender (Male:23.2%, female: 76.8%)

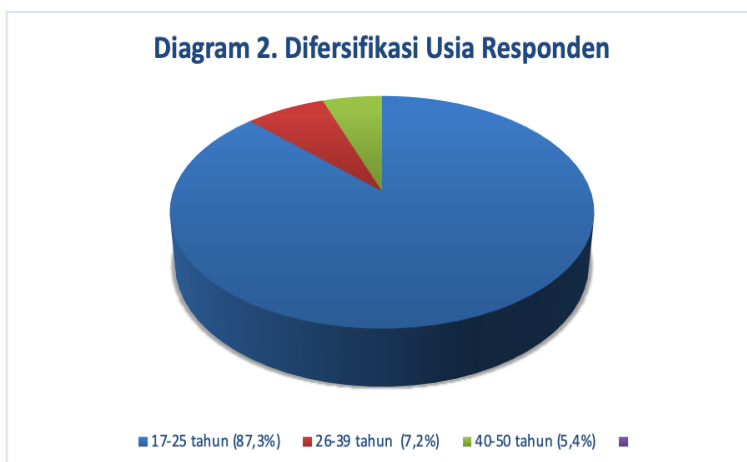
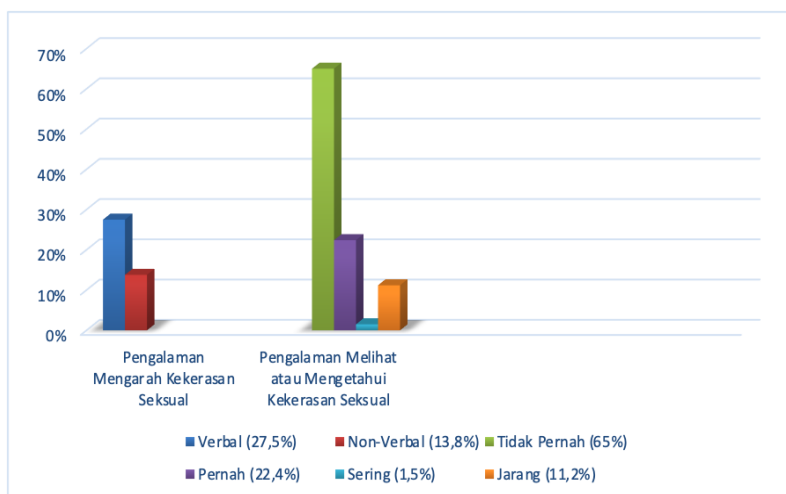


Figure 2 Distribution of the Respondents by Age (17-25 years old [87.3%], 26-39 years old [7.2%], and 40-50 years old [5.4%])

Table 1. Experiences of Sexual Violence in Islamic Higher Education Institution



Experience of attempted sexual violence

Experience of witnessing sexual violence

Verbal (23.5%), Non-verbal (13.8%), Never (65%), Sometimes (22.4%), Often (1.5%), Seldom (11.2%)

In an Islamic higher education institution in West Java, 71 percent of sexual violence generally occurred in social activities, such as organizational activities, classroom learning, and academic activities such as meetings, training, and so forth; 10.2 percent were related to policies, services, and academic activities; and 18.8 percent of the cases was related to other activities. Regarding the perpetrators, respondents stated that 50.2 percent were outsiders, 34.6 percent were students, 6.8 percent were lecturers or educators, 4.9 percent were employees, 2.4 percent were janitors, and 1 percent were security personnel. Thus, the percentage of insiders as perpetrators of sexual violence was in the range of 49.80 percent.

Additionally, the researchers found several forms of sexual violence on the campus. These forms of sexual violence could be classified into at least five types⁴⁰. First, the *quid pro quo* (*power-player*). In this model, the perpetrator provided certain compensation to the victim, mostly financial benefits. False promises were given by the perpetrator to lure the victim, sometimes by using force. For instance, a sexual violence experienced by Putri⁴¹, a 5th-semester student, who was forced by her lecturer to have sexual intimacy with him, in exchange for 2 million Rupiah (approximately USD 138). After the incident however, she was only got 1 million Rupiah. Putri as

⁴⁰ Look again at the types of sexual violence offered by Dzeich and Weiner, *The Lecherous Professor: Sexual Harassment on Campus*.

⁴¹ A personal interview in West Java, October 15, 2020.

<http://jurnal.arraniry.ac.id/index.php/samarah>

the survivor felt forced or tricked because she was invited for a picnic by the harasser.

Similarly, a male lecturer promised to wed Eli, a female employee (32 years old), as his second wife. However, the promise was not kept, as he only offered her a *siri* (unofficial or hush hush) marriage. They finally got divorced after the Eli got one child from the unregistered relationship. The employee felt cheated and had to bear the child by herself.

“I am a widow with limited understanding of religion. I was persuaded and eventually tempted by one of the lecturers of Islamic Law. With the hope that I can study religion, even though polygamously, I fell in love and finally wanted to be his wife. But it turns out that he was a coward and never legalized our marriage. Finally, I parted with bringing a child from the relationship with him”⁴².

The second type was the *mother/father figure*. This model was like patronage, which seemed to protect the victims. This happened frequently when students interacted with their lecturers when working on final assignments, papers, field assignments, and so forth⁴³. Salihah⁴⁴ stated that she was asked by one of the lecturers to propose that he would be her supervisor because he admired her beauty. This was stated openly and made Salihah felt uncomfortable because it seemed like she was being watched constantly. Similar case also occurred between senior and junior faculty members. Laila, casual lecturer, received unfair treatment from her senior colleague.

“I am a casual lecturer. I helped my senior peer with the intention of gaining experience and serving my beloved campus. Later, he expressed his interest in me, even though he was already married. I was forced to attend his sexual desire under the pretext of getting married. Because of his seduction, I was attracted to

⁴² A personal interview with Eli, a female employee (32 years old) on October 15, 2020.

⁴³ See T Oni, G Tshitangano, and A Akinsola's research results: “Sexual Harassment and Victimization of Students: A Case Study of a Higher Education Institution in South Africa”; Sometimes sexual violence in some cases can also occur between female lecturers and their students. However, this case may often occur in Indonesia and in countries that apply equality between men and women. See the research results of Bellas and Gossett, “Love or The ‘Lecherous Professor’: Consensual Sexual Relationship Between Professor and Students”; Dogar et al., “Perception, Prevalance and Awariness of Sexual Harassment among University Students in Abbottabad.”

⁴⁴ A personal interview with Salihah, a master's student, 5th-semester, on October 14, 2020.

him since he was so charismatic in my eyes. But in the end, I was disappointed, because he only made sweet promises and never really meant it”⁴⁵.

The next model was the *opportunistic*, where the perpetrator took advantage of a situation where the victim was powerless in certain situations. The powerlessness is not due to the victim’s disability or paralysis but her/ his inability to fight back⁴⁶. Elis⁴⁷, a master’s degree student, had an unpleasant experience with her supervisor. She was hugged and kissed forcibly in the lecturer’s room when office hours were past. She was lucky because there was a security personnel who happened to check the lecturer’s rooms⁴⁸. This even happened frequently among students, and it was usually done by people they knew very well or even boyfriends. Pepe, a student activist in the 5th semester, has experienced unpleasant treatment from her boyfriend. One night she was given a drink that made him unconscious. When she woke up, her clothes were already open.

“I once complained (of the sexual violent) to my best friend and university officials. But, I didn’t get any defense or sympathy. Instead I was blamed, because as a woman, they said it was not decent for me to attend campus activities until the late evening. It’s kind of like getting victim blaming from policy makers as a congregation”⁴⁹.

The great gallant was a ‘praise’ from the perpetrator to the victim in a public place in order to embarrass her/ him. This behavior was actually an insult. This type of violence was often categorized as non-verbal violence, and many cases occurred because some people were ignorant and only saw it as a joke. On the studied campus, this type of violence had the highest percentage with 73.1 percent. In the testimony of the victims, this type was the most frequently reported. Tina⁵⁰, a young lecturer, experienced this model of

⁴⁵ A personal interview with Laila, a widow and a casual lecturer, 37 years old, on October 14, 2020.

⁴⁶ This is different from sexual violence due to disability. Sexual violence due to disability is not only due to lack of it, but can also be carried out by helping or gossiping about certain parts of the victim due to the disability. See Kirkner et al., “Campus Sexual Violence Victims with Disabilities: Disclosure and Help Seeking.”

⁴⁷ A personal interview with Elis, October 25, 2020.

⁴⁸ Even a lecturer who had a doctoral degree was still getting physical sexual violence. “Several times I got physical touch from male lecturers and my boss. That’s where I thought that I should start limiting the interaction.” (A personal interview, Mia, a lecturer from Educational Studies Department, November 5, 2020).

⁴⁹ A personal interview with Pepe, November 4, 2020.

⁵⁰ A personal interview, October 25, 2020.

violence because she was considered having a 'sexy' body. Fina⁵¹, a 35-year-old employee, also admitted that she was uncomfortable with the treatment of her boss, who often commented on her dressing style in public, "Do not wear pants, your calves are as big as a coconut tree". Similar incident also occurred among students as experienced by Nia, a second-semester student.

"I'm used to get sexist calls like the chubby, the big mountain, the round balloon, and so forth. When I walked around campus, I often got unimportant whistles from men. I think I have chosen the wrong campus. Even though it is an Islamic university, but why don't I feel safe? It's very sad"⁵².

In certain contexts, the 'spices' of religious doctrines were used as legitimacy to carry out this non-verbal violence. Tika⁵³, a 3rd-semester student, admitted that she often got blasphemed by her friends or lecturers because her body was considered slanderous. "Why do they think dirty ... I finally decided to wear a robe and veil"⁵⁴. A female lecturer, 30 years old, also received similar treatment from a senior lecturer who was saying, "your breasts are too big if you don't cover them with a long hijab"⁵⁵.

The forms of sexual violence at an Islamic higher education institution in West Java was mostly discussed above. However, there were other types, but the cases were not so prominent, so the data from the investigation was not very visible.

Sexual Violence Against Maqashid al-Sharia and Human Rights

Sexual violence is a form of crime and injustice that is unacceptable by any religions, including Islam. In Islam, crime and tyranny cannot be tolerated because they can inflict damage, harm, and it could cause harmful physical or psychological impacts. The Messenger of Allah⁵⁶ as narrated by Ibn Abbas, stated, "there should be no harm to oneself (*dharar*) or to others (*dhirar*)".

⁵¹ A personal interview, October 25, 2020.

⁵² A personal interview with Nia, a 2nd-semester student, October 25, 2020.

⁵³ A personal interview, November 4, 2020.

⁵⁴ A similar situation was experienced by a female civil servant in Dompu, who stated that she did not wear a headscarf in the office at first. Finally she decided to wear the hijab because she was uncomfortable with the temptation of her coworkers at the office. View research results Komnas Perempuan Andy Yentriyani et al., *In the Name of Regional Autonomy: The Institutional of Discrimination in Indonesia* (Jakarta: KOMNAS PEREMPUAN, 2010), p. 23, 31.

⁵⁵ A personal interview, November 5, 2020.

⁵⁶ Cited from Faqih Abdul Kodir, Pera Soparianti, and Yulianti Muthmainnah, *Tanya Jawab Seputar RUU Penghapusan Kekerasan Seksual: Dari Pandangan Kongres Ulama Perempuan Indonesia (KUPI)* (Jakarta: KOMNAS PEREMPUAN, 2020), p. 11–12. <http://jurnal.arraniry.ac.id/index.php/samarah>

Sexual violence has a direct or indirect negative impact on the survivors. The aforementioned cases indicated the several unintended consequences, such as having to bear children as a widow as the result of the *siri* marriage, and the stripping of a female student by her boyfriend.

Those cases showed that sexual violence had a negative physical impact on the victim. In the concept of *maqashid al-shariah*, Islam cannot tolerate it because it has fundamentally violated the right to protection of reproductive health (*hifdz al-nasl*)⁵⁷, specifically, this is related to dignity and offspring. Islamic legal scholars, such as Jasser Auda stated that *hifdz al-nasl* was also a part of *hifdz al-irdh*⁵⁸ (maintaining dignity), even though there was also a separation between the two⁵⁹. However, both concepts have an attachment as part of the protection of individual rights. Children who were born out of wedlock or outside of the marriage might lose custody and livelihood rights from their biological father. Mothers and children would psychologically have limited respectability because they might be considered as a mortification by the community. In other contexts, the absence of a father might give negative impact on the development of a child. They could have unhealthy body as the results of the mother inability to provide adequate livelihood for her child⁶⁰. Damage to physical health, of course, might also violate the basic purpose of Islamic law, *hifdz al-nafs*⁶¹ (protection of the soul), from lack of nutritional intake.

Non-physical violence, like harassment, insults, cat-calling, temptations, dirty jokes, lustful gazes, and so on, seemed dominating sexual violence cases in an Islamic higher education institution in West Java. The survey results showed a fairly high percentage of this type, 86.4%. This model of violence could lead to grudge, hatred, shame, and dishonor among the

⁵⁷ Look again at the formulation of *maqashid al-Shariyyah*. Al-Ghazali, *Al-Mustashfa Min Ilm Al-Ushul*, p. 286.

⁵⁸ See the study written by Maulidi, "Maqasid Syariah Sebagai Filsafat Hukum Islam: Sebuah Pendekatan Sistem Menurut Jasser Auda," *Al-Mazahib* 3, no. 1 (2015), p. 12.

⁵⁹ Compared it with Syukur Prihantoro's study, "Maqasid Al-Syari'ah Dalam Pandangan Jasser Auda (Sebuah Upaya Rekonstruksi Hukum Islam Melalui Pendekatan Sistem)," *Jurnal At-Ta'fikir* 10, no. 1 (2017), p. 123; Retna Gumanti, "Maqasid Al-Syariah Menurut Jasser Auda (Pendekatan Sistem Dalam Hukum Islam)," *Jurnal Al-Himayah* 2, no. 1 (2018), p. 103, <http://journal.iaingorontalo.ac.id/index.php/ah>.

⁶⁰ See the results of research conducted by the Ministry of Women's Empowerment and Child Protection and the Indonesia Research Foundation, *Siri* (unofficial, unregistered, or hush-hush) Marriage and Its Impact in West Java Province (West Java); and Siti Umm Adillah, 'Implikasi Hukum dari Perkawinan Siri terhadap Perempuan dan Anak', *Palastren*, 7.1 (2014), p. 193–222.

⁶¹ Al-Ghazali, *Al-Mustashfa Min Ilm Al-Ushul*, p. 286.

<http://jurnal.arraniry.ac.id/index.php/samarah>

survivors. Nia, a second-semester student who experienced non-verbal violence, admitted that she chose the wrong campus, even though the campus was labeled as Islamic institution. "I am often being called the curvaceous, the great mountain, the round balloon"⁶². Ismi⁶³, a 5th-semester student, also often heard to jokes that were supposedly uttered by lecturers in classroom, "For lecturers, please don't tease us even if it's just a joke. That's very inappropriate." The type of non-verbal violence did not cause physical damage, but it harmed the survivors psychologically. They could be traumatized by socializing and reluctant to meet the opposite sex. This violence was, of course, not following Sharia principles, which provided protection for the freedom of thought and action of every individual or *hifdz al-aql*. Freedom to express something did not mean that it was permissible to violate the freedom of others by conveying unacceptable behaviours to others. People who committed non-verbal sexual violence could not control their freedom of thought to respect and appreciate the survivors as fellow human beings. The Prophet⁶⁴ in this case, reminded that "*Muslim is a brother of another Muslim, so he should not oppress him, nor should he hand him over to an oppressor*". Another hadith also emphasizes the importance of maintaining human dignity, like the prohibition of disturbing life, property, and dignity.

"From Abi Hurairah said, Rasulullah SAW said that it was enough for someone to be considered bad when harassing his own Muslim brother. It was forbidden for a fellow Muslim to disturb his blood, property, and dignity" (Sahih Muslim no. Hadith 6706)⁶⁵.

Sexual violence in any form is, of course, not only violated religious law but also human rights. The International Congress of People Development (ICPD) in 1994 in Cairo associated sexual rights to every human being⁶⁶. The experiences of sexual violence survivor on a campus in West Java was the abandonment of human rights in the forms of verbal and non-verbal sexual violence. Sexual violences appeared to be natural and the perpetrators seemed to commit crimes without minding the sin. Referring to the ICPD's *Sexual*

⁶² A personal interview with Nia, 2nd-semester student, 25 October 2020.

⁶³ A personal interview with Ismi, 5th-semester student, 5 November 2020.

⁶⁴ See the hadith narrated by Abdullah bin Umar in Al-Bukhari, *Shahih Al-Bukhari* Hadist number 2482.

⁶⁵ Cited from Kodir, Soparianti, and Muthmainnah, *Tanya Jawab Seputar RUU Penghapusan Kekerasan Seksual: Dari Pandangan Kongres Ulama Perempuan Indonesia (KUPI)*, p. 15–16.

⁶⁶ See on the book introduction of Muhammad, Mulia, and Wahid, *Fiqh Seksualitas...*, p. xvi.

<http://jurnal.arraniry.ac.id/index.php/samarah>

*Rights*⁶⁷, every human being has the right to life, freedom, security guarantees (article 3), the right to privacy (article 4), the right to personal autonomy and legal recognition (article 5), and the right to have free thought, opinion, expression and association (Article 6), shows that sexual violence in any form has violated these principles. It is also against the guarantees of human rights declared by the United Nations (UN) which stated in the Universal Declaration of Human Rights (GA Res 48/104) of 1992 concerning the elimination of violence against women⁶⁸. The act of sexual violence condemned by the United Nations in the declaration is contained in article 2, which encompassed the elimination of physical, sexual, psychological violence, sexual abuse, sexual coercion, and sexual harassment, in any settings.

Sexual violence on a campus in West Java was a human rights violation that could not be tolerated from both fiqh and human rights perspectives. This form of violence provided disastrous harm to the survivors and subsequently threatened the life within the academia. It did not even rule out the possibility of threatening the existence of the educational institution itself. Therefore, it is important to provide preventive measures to avert greater damage. This is where the norms of fiqh provide a solution by enacting a convention “*dar'ul mafasid muqaddamun ala jalb al-mashalih*” (preventing damage should be prioritized over gaining benefit). This convention arises because of the principle of *al-dharuriyah al-khamsah* and also the theory of *syadu al-dara'i* (preventing damage). Similarly, the principles of human rights as stated in the ICPD declaration regarding sexual rights are based on seven principles: sex as a human need, the principle of protecting minors, protection from discrimination, sexual freedom for human being, protection from harm, the principle of guaranteeing sexual rights as human rights, and the obligation of the state to protect its citizens⁶⁹.

Patriarchy and Power in Sexual Violence

Sexual violence that occurred on an Islamic higher education institution in West Java, in some cases, was related to the power-knowledge and the development patriarchal culture. Patriarchy and the power of religious knowledge in several forms of sexual violence had harmful impacts on the survivors. In this research, patriarchy was institutionalized subconsciously in

⁶⁷ See on the book of Muhammad, Mulia, and Wahid, *Fiqh Seksualitas...* p. xvi–xvii.

⁶⁸ See Arimbi Heroepoetri et al., *Pedoman Pemantauan Kekerasan terhadap Perempuan dalam Kerangka Hak Asasi Manusia* (Jakarta: KOMNAS PEREMPUAN, 2011), p. 27–28.

⁶⁹ See Muhammad, Mulia, and Wahid, *Fiqh Seksualitas...*, p. xvi.
<http://jurnal.arraniry.ac.id/index.php/samarah>

a community. The community might accept the 'forced truth' or in Foucault's language is closer to *a policy of coercion*⁷⁰. This study found that sexual violence survivors must be forced to accept the 'truth' even though they could not accept it sincerely.

This fact was experienced by several respondents who claimed to have encountered unpleasant behaviour related to their physical condition as women. Dewi⁷¹, a lecturer who held a doctoral degree and an active academic activity, hoped to get a better academic role based on her ability. However, she must deal with the fact that her male counterparts had a greater power over her. She experienced getting unwanted physical touch from disrespectful male perpetrator. On the other hand, many female employees and students were forced to dress 'politely' because they were considered too seductive. They later decided to wear a large headscarf or veil.

The body was no longer free to move, and it was not only limited by rules, but also stereotypes emerged from the patriarchal perspectives. The patriarchal concepts did not solely mean the negative perception towards women, but mainly it gave more value on the existence of men and the superiority of the 'manly way'. Furthermore, the hegemony of patriarchy could also influence how women perceived other women. In this context, men could also become victims of gender-based sexual violence. The confession of a 45-year-old male lecturer, Salih⁷², exposed that he was dumped and humiliated by his former wife, and forced to divorce because he was earning less than her.

Regarding the body and sexual violence relation, the body seemed to be perceived in the relation of space, time, and certain situations. When a person felt uncomfortable with her/ his appearance, she/ he must adjust her/ himself to the acceptable social norm. Foucault⁷³ illustrated how a soldier must discipline his body with time (*docile bodies*), together with his equipments, gestures, and body movements. The exact reality experienced by the survivors of sexual violence in this study. In fact, in general, this condition must be accepted by women in a society dominated by patriarchal hegemony.

Even though in certain contexts there were misinterpretation of religious conventions, religious knowledge seemed to legitimize the patriarchal

⁷⁰ See Zaidan, "Relasi Tubuh dan Kekuasaan: Kritik Sandra Lee Bartky terhadap Pemikiran Michel Foucault," p. 136.

⁷¹ A personal interview, November 4, 2020.

⁷² A personal interview, November 4, 2020.

⁷³ See Hardiyanta, *Disiplin Tubuh: Bengkel Individual Modern*, 82–84; and Zaidan, "Relasi Tubuh dan Kekuasaan: Kritik Sandra Lee Bartky Terhadap Pemikiran Michel Foucault," p. 139.

hegemony. Foucault's polymorphic technique seemed to confirm this notion. There were prohibitions and rejections of certain norms, but there were also stimulations and augmentations. Also, there were norms that prohibited women to engage in more activities and to dress seductively. However, in another side, the sexual violence occurred, which in consequence tainted the norms. Sexual violence, of course, was against the principles of any religions, including Islam. However, the intensification and stimulation to satisfy sexual desire should also not be based on religious norms, for instance the invitation to do polygamy with the lure of financial rewards or so forth. If it still occurred, then the behavior should not be associated to the religious teachings, but merely the lecherousness.

Conclusion

Sexual violence issues in higher education is still open for future investigations. Researchers could study its cause and patterns by utilizing a more suitable theoretical perspective. This study argued that sexual violence in Islamic higher education institution in West Java occurred in various forms, including the *quid pro quo* (power-player), the *mother/ father figure* (counselor-helper), the *opportunist*, and the *great gallant*. These variants had occurred in a fairly high intensity on the campus. It did not mean that other forms of sexual violence did not occur on the campus. It was only a matter of the limited intensity. Meanwhile, in the perspective of *maqashid al-shariah* and human rights, sexual violence that occurred on Islamic campus could not be tolerated because it was against the fundamental purpose of Islamic teachings, including the existence of life insurance (*hifdz al-nasf*), the guarantee of offspring (*hifd al-nasf*), dignity (*hifdz al-irdh*), and assurance of free thought (*hifdz al-aql*). These protections were the basis for guaranteeing human rights from the perspective of religious norms. Meanwhile, human rights in the ICPD declaration had given sexual rights to every human being, including protection from various forms of sexual violence committed by every human being. According to Foucault's perspective, sexual violence could be seen from the dominant power relations, and cultural hegemony emerged from the religious norms and rooted in the power of patriarchal values. Although Foucault's perspective could analyze not all cases, some forms of violence lead to the 'deviation' of patriarchal power, which tended only to fulfill the interests of sexual desire. Further, it would lead to other questions: how is the conception of patriarchy that further leads to sexual misconducts built?

References

Book

- Agama, Kementerian. *Al-Qur'an dan Terjemahannya*. Jakarta: Kementerian Agama RI, n.d.
- Al-Ajaluni. *Kasyf Al-Khifa Wa Mazil Al-Ilbas*. Juz 2., n.d.
- Al-Atsir, Abu Sa'adat Mubarak bin Muhammad Ibn. *Jami' Al-Ushul Fi Ahadist Al-Rasul*. Juz I. Beirut: Dar Ihya at-Turats, 1984.
- Al-Bukhari, Abi Abdillah Muhammad Ibn Ismail. *Shahih Al-Bukhari*. Bandung: Syirkah al-Ma'arif li al-Thab'i wa al-Nasyr, n.d.
- Al-Ghazali, Abu Hamid bin Muhammad bin Muhammad. *Al-Mustashfa Min Ilm Al-Ushul*. Jilid I. Beirut: Dar al-Fikr, n.d.
- Al-Jawjiyyah, Ibn al-Qayyim. *I'lam Al-Muwaqi'in 'an Rabb Al-Alamin*. Kairo: Maktab al-Islam, 1980.
- Anak, Kementerian Pemberdayaan Perempuan dan Perlindungan, and Indonesia Research Foundation. "Perkawinan Sirri Dan Dampaknya Di Propinsi Jawa Barat." Jawa Barat, n.d.
- At-Tirmidzi. *Sunan At-Tirmidzi*. Beirut: Dar al-Fikr, 1994.
- Az-Zuhaili, Wahbah. *Al-Fiqh Al-Islamiy Wa Adilatuhu*. IV. Damaskus: Dar al-Fikr al-Mu'ashir, 2004.
- Dzeich, B.W, and L Weiner. *The Lecherous Professor: Sexual Harassment on Campus*. Illinois: University of Illinois Press, 1990.
- Foucaul, Michel. *Discipline and Punish*. New York: Vintage Books, 1979.
- Hardiyanta, Petrus Sunu. *Disiplin Tubuh: Bengkel Individual Modern*. Yogyakarta: LKiS, 1997.
- Haryatmoko. *Membongkar Rezim Ketidakpastian: Pemikiran Kritis Post-Strukturalis*. Yogyakarta: Kanisius, 2016.
- Heroepoetri, Arimbi, Dwi Ayu Kartika Sari, Imelda Bachtiar, Jane Aileen Tedjaseputra, and Sahat Tarida. *Pedoman Pemantauan Kekerasan terhadap Perempuan dalam Kerangka Hak Asasi Manusia*. Jakarta: KOMNAS PEREMPUAN, 2011.
- Kodir, Faqih Abdul, Pera Soprianti, and Yulianti Muthmainnah. *Tanya Jawab Seputar RUU Penghapusan Kekerasan Seksual: Dari Pandangan Kongres Ulama Perempuan Indonesia (KUPI)*. Jakarta: KOMNAS PEREMPUAN, 2020.
- Muhammad, Husein, Siti Musdah Mulia, and Marzuki Wahid. *Fiqh Seksualitas: Risalah Islam untuk Pemenuhan Hak-Hak Seksualitas*. Edited by Maesur Zacky. Yogyakarta: PKBI, 2011.
- Weeks, Jeffer. *Sexuality*. Ellis Korwood: Tavistock Publicational, 1986.
- Yentriyani, Andy, Azriana, Ismail Hasani, Kamala Chandrakirana, and Taty

Krisnawaty. *In the Name of Regional Autonomy: The Institutional of Discrimination in Indonesia*. Jakarta: KOMNAS PEREMPUAN, 2010.

Journals

- A., Bahruddin. "Implementasi Maqasid Al-Shari'ah Sebagai Solusi Problematika Sosial dan Kemasyarakatan Kontemporer." *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 17, no. 1 (2017): 1–18. <https://doi.org/10.18326/ijtihad.v17i1.1-18>.
- Adillah, Siti Ummu. "Implikasi Hukum dari Perkawinan Siri terhadap Perempuan dan Anak." *Palastren* 7, no. 1 (2014): 193–222.
- Adiyanto, Wiwid. "Pemanfaatan Media Sosial Instagram Sebagai Ruang Diskusi Upaya Pencegahan Pelecehan Seksual di Lingkungan Akademis." *Jurnal Ilmiah Pangabdhi* 6, no. 2 (2020): 78–83.
- Ardi, Nindhi Meilia Seba, and Tamsil Muis. "Perilaku Seksual Remaja Mahasiswa Fakultas Bahasa dan Seni Universitas Negeri Surabaya." *Jurnal BK* 4, no. 3 (2012): 650–57.
- Artaria, Myrtati D. "Efek Pelecehan Seksual di Lingkungan Kampus: Studi Preliminer." *Biokultur* 1, no. 1 (2012): 53–72.
- Bellas, Marcia L., and Jeninfer L. Gossett. "Love or The 'Lecherous Professor': Consensual Sexual Relationship Between Professor and Students." *The Sociology Quarterly* 42, no. 4 (2001): 529–58.
- Bovill, Helen, Sarah McMohan, Jennifer Demers, Victoria Banyard, Vlad Carrasco, and Louise Keep. "How Does Student Activism Drive Culture Campus Change in the UK and US Regarding Sexual Violence in Campus?" *Critical Social Policy* 0, no. 0 (2020): 1–23. <https://doi.org/10.1177/0261018320913967>.
- Busyro. "Bom Bunuh Diri dalam Fatwa Kontemporer Yusuf Al-Qaradawi dan Relevansinya dengan Maqasid Al-Shari'ah." *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 16, no. 1 (2016): 85–103. <https://doi.org/0.18326/ijtihad.v16i1.85-103>.
- Dogar, Adnan Ahmad, Ikram Shah, Syed Wajahat Ali, and Syeda Shereen Shah. "Perception, Prevalance and Awareness of Sexual Harassment among University Studnets in Abbottabad." *Psychology and Education* 58, no. 1 (2021): 1182–95.
- Dzuhayatin, Siti Ruhaini. "Konstruksi Seksualitas dalam Fiqh Islam." *Jurnal Hukum* 8, no. 5 (1997): 50–60.
- Gumanti, Retna. "Maqasid Al-Syariah Menurut Jasser Auda (Pendekatan Sistem Dalam Hukum Islam)." *Jurnal Al-Himayah* 2, no. 1 (2018): 97–118. <http://journal.iaingorontalo.ac.id/index.php/ah>.
- Hamada, Amal, Ahmed Kheir, Enas Hamdy, and Heba Youssif. "Fighting
- <http://jurnal.arraniry.ac.id/index.php/samarah>

- Sexual Harassment on Campus: How Local Contexts of Different Universities Affect the Dynamics and Outcomes of These Efforts.” *Institute of Development Studies* 51, no. 2 (2020): 21–42. <https://doi.org/10.19088/1968-2020.128>.
- Kirkner, Anne, Sara-Beth Plummer, Patricia A. Findley, and Sarah McMohan. “Campus Sexual Violence Victims with Disabilities: Disclosure and Help Seeking.” *Journal of Interpersonal Violence*, 2020, 1–22. <https://doi.org/10.1177/0886260520967149>.
- Linder, Chris, Niah Grimes, Brittany M. Williams, Marvette C. Lacy, and Brean'a Parker. “What Do We Know About Campus Sexual Violence? A Content Analysis of 10 Years of Research.” *The Review of Higher Education* 43, no. 4 (2020): 1017–1040. <https://doi.org/https://doi.org/10.1353/rhe.2020.0029>.
- Ma'mun, Sukron. “Ilhaq Dalam Bahtsul Masa'il NU; Antara Ijtihad Dan Ikhtiyat.” *ALQALAM* 28, no. 1 (April 29, 2011): 63. <https://doi.org/10.32678/alqalam.v28i1.512>.
- Ma'mun, Sukron, and Ilyya Muhsin. “Istinbāt Method of Tablighi Students In Pesantren Temboro: Textual and Contextual Matter.” *Justicia Islamica* 17, no. 2 (October 31, 2020): 185–204. <https://doi.org/10.21154/justicia.v17i2.2003>.
- Maulidi. “Maqasid Syariah Sebagai Filsafat Hukum Islam: Sebuah Pendekatan Sistem Menurut Jasser Auda.” *Al-Mazahib* 3, no. 1 (2015): 1–19.
- Moore, John, and Annelise Mennicke. “Empathy Deficit and Perceived Permissive Environment: Sexual Harassment Perpetration on College Campuses.” *Journal of Sexual Aggression*, 2019, 1–13. <https://doi.org/10.1080/13552600.2019.1651913>.
- Nikmatullah. “Demi Nama Baik Kampus VS Perlindungan Korban: Kasus Kekerasan Seksual Di Kampus.” *Qowwam: Journal for Gender and Mainstreaming* 14, no. 2 (2020): 37–53. <https://doi.org/10.20414/qawwam.v14i2.2875>.
- Prihantoro, Syukur. “Maqasid Al-Syari'ah dalam Pandangan Jasser Auda (Sebuah Upaya Rekonstruksi Hukum Islam Melalui Pendekatan Sistem).” *Jurnal At-Ta'fikir* 10, no. 1 (2017): 120–34.
- Sitorus, Jeremy Chandra. “Quo Vadis, Perlindungan Hukum Terhadap Korban Pelecehan Seksual Di Kampus.” *Lex Scientia Law Review* 3, no. 1 (2019): 30–39. <https://journal.unnes.ac.id/sju/index.php/lslr>.
- Soejoeti, Ariani Hasanah, and Vinita Susanti. “Memahami Kekerasan Seksual Sebagai Menara Gading di Indonesia dalam Kajian Sosiologi.”

Community 6, no. 2 (2020): 207–21.

T Oni, Helen, Takalani G Tshitangano, and Henry A Akinsola. "Sexual Harassment and Victimization of Students: A Case Study of a Higher Education Institution in South Africa." *African Health Sciences* 19, no. 1 (2019): 1478–85.

Thoresen. "Violence Against Children, Later Victimization, and Mental Health: A Cross Sectional Study of the General Norwegian Population." *European Journal of Psychotraumatology* 6, no. 2 (2005).

Watts, Elizabeth A. "Ending Sexual Violence on Campus Through Research, Practice, and Policy: Introduction to the Special Supplement." *Health Education & Behavior* 47, no. IS (2020): 45–65. <https://doi.org/10.1177/109019812094599>.

Zaidan, Yuris Fahman. "Relasi Tubuh dan Kekuasaan: Kritik Sandra Lee Bartky terhadap Pemikiran Michel Foucault." *JAQFI: Jurnal Aqidah dan Filsafat Islam* 5, no. 2 (2020).

Interviews

An interview with Dewi, Lecturer with a doctorate. West Java, November 4, 2020.

An interview with Eli, a 32-year-old female employee. West Java, October 15, 2020.

An interview with Elis, a master's degree student. West Java, October 25, 2020.

An interview with Fina, a 35-year-old employee. West Java, October 25, 2020.

An interview with Ismi, 5th-semester student, West Java, November 5, 2020.

An interview with Laila, non-permanent lecturer, a 37-year-old widow. West Java, October 14, 2020.

An interview with Mia, a 30-year-old female lecturer. West Java, November 5, 2020.

An interview with Nia, second-semester student, West Java, October 25, 2020.

An interview with Pepe, a 5th-semester student activist, West Java, November 4, 2020.

An interview with Putri, 5th-semester student, West Java, October 15, 2020.

An interview with Salih, 45 years old male lecturer. West Java, November 4, 2020.

An interview with Salihah, 5th-semester master's degree student, West Java, October 14, 2020.

An interview with Tika, 3rd-semester student, West Java, November 4, 2020.