

WHEN MEN ARE VICTIMS: POWER, HEGEMONIC MASCULINITY, AND THE EPISTEMIC LIMITS OF JUSTICE IN INDONESIAN SEXUAL VIOLENCE LAW

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Abstract

This study critically examines the treatment of sexual violence against men within the framework of Indonesian criminal law, highlighting the persistent influence of hegemonic masculinity on legal culture and courtroom practices. Historically, Indonesian law has constructed sexual violence through a gendered lens that positions men as active perpetrators and women as passive victims, thereby marginalising male victims and limiting societal and institutional recognition. Despite normative reforms, including the Sexual Violence Criminal Law and the New Criminal Code, which adopt gender-neutral definitions and acknowledge coercion, power dynamics, and non-physical forms of violence, the implementation of these laws remains constrained by patriarchal legal culture. Using a Foucauldian feminist approach, the study demonstrates that courts often privilege physical evidence and linear narratives of trauma, thereby subordinating the psychological and relational dimensions of male victimisation. Empirical cases, including sexual violence against a male student in Batu City and the victimisation of 43 boys in a religious educational institution in Agam Regency, illustrate how judicial masculinity operates to standardise rationality, depoliticise power relations, and symbolically protect patriarchal norms. Male victims are compelled to negotiate their masculinity, conform to societal expectations, and substantiate trauma within a framework biased toward physical proof. The study further contextualises these dynamics internationally, comparing the recognition of male rape in jurisdictions such as the United Kingdom, the United States, and the International Criminal Court, underscoring the global persistence of gendered assumptions that impede legal acknowledgment and social support for male victims. The analysis concludes that achieving substantive gender justice requires a transformation of the epistemology of legal practice: courts must reconceptualise sexual violence as a mechanism of domination and social control rather than an anomaly, and recognise male vulnerability without pathologisation. Only through integrating legal cultural analysis, trauma-informed evidence evaluation, and awareness of hegemonic masculinity can the law substantively protect male victims and dismantle the structural biases that perpetuate the marginalisation of men within sexual violence discourse.

Keywords: *Sexual Violence against Men; Indonesian Criminal Law; Hegemonic Masculinity; Gender Justice and Power Relations; Legal Culture.*

A. Introduction

The discourse on sexual violence within the framework of Indonesian criminal law has historically been framed within a hierarchical gender imagination that implicitly places men as

active subjects and women as vulnerable subjects.¹ On the other hand, although this framework was born out of a political need for the law to protect women from gender-based violence, it simultaneously created a structural blind spot towards various other forms of sexual violence that did not fit with the dominant imagination of masculinity. Thus, when sexual violence did not fit with the binary opposition of “male” perpetrator and “female” victim, it tended to be marginalised, denied, or reduced. In other words, this framework is not only a legal normative construction but also determines how sexual violence is produced, classified and recognised.²

The imagination of sexual violence within the framework of hegemonic masculinity often places sexual violence committed by men against men outside the horizon of legal and social recognition, not because the events do not exist, but because of epistemic closure in how the law interprets sexual violence.³ Even in this case, sexual violence against men is often considered an abnormality or even an impossible deviation. In contrast, in social reality, male bodies are also subject to sexual domination, coercion and control. Several empirical data reinforce this discourse.⁴

Referring to data from the Safe Public Space Coalition in its survey involving 62,224 respondents, one in ten men has experienced sexual violence in public spaces. Then, in a report by the Indonesian Judicial Research Society and INFID in 2020, it was recorded that 33% of men have also experienced sexual violence in the form of sexual harassment. Furthermore, the Ministry

¹ Nikodemus Niko and Jakkrit Sangkhamanee, “Beyond Gender Norms: Unveiling Myths and Taboos of Male Rape in Indonesia,” *Sexuality, Gender & Policy* 8, no. 4 (2025): e70035, <https://doi.org/10.1002/sgp2.70035>; Wahidah Zein Br Siregar and Ella Syafputri Prihatini, “Passing the Sexual Violence Crime Law in Indonesia: Reflection of a Gender-Sensitive Parliament?,” *Politics and Governance* 12 (August 2024): 8245, <https://doi.org/10.17645/pag.8245>; Tri Guntur Narwaya, “The Hegemony of Masculinity and Victim Bias in Sexual Violence Norms at Yogyakarta Colleges,” *Journal Communication Spectrum: Capturing New Perspectives in Communication* 15, no. 1 (2025): 1–14, <https://doi.org/10.36782/jcs.v15i1.2635>.

² April Murphy, “When, Why and How Male Victim-Survivors of Sexual Violence Seek Help: Sexual Violence Practitioner Experiences of Support Provision,” *The British Journal of Criminology*, December 2, 2025, azaf110, <https://doi.org/10.1093/bjc/azaf110>; Michelle Davies et al., “Effects of Perpetrator Gender and Victim Sexuality on Blame Toward Male Victims of Sexual Assault,” *The Journal of Social Psychology* 146, no. 3 (2006): 275–91, <https://doi.org/10.3200/SOCP.146.3.275-291>; Darren Langdridge et al., “Male Survivors’ Experience of Sexual Assault and Support: A Scoping Review,” *Aggression and Violent Behavior* 70 (May 2023): 101838, <https://doi.org/10.1016/j.avb.2023.101838>.

³ Jaeun Kwak et al., “Hegemonic Masculinity, Intersectional Stigma, and Intimate Partner Violence Among Young Sexual Minority Men: A Qualitative Study,” *Psychology of Men & Masculinities (US)* 26, no. 2 (2025): 254–64, <https://doi.org/10.1037/men0000513>; Charlotte C. Petersson and Lars Plantin, “Breaking with Norms of Masculinity: Men Making Sense of Their Experience of Sexual Assault,” *Clinical Social Work Journal* 47, no. 4 (2019): 372–83, <https://doi.org/10.1007/s10615-019-00699-y>.

⁴ Valorie K. Vojdik, “Sexual Violence Against Men and Women in War: A Masculinities Approach,” *Nevada Law Journal* 14 (2013): 923–52, https://ir.law.utk.edu/utklaw_facpubs/274/; Lucie Wicky, “Sexual Violence Against Men Is Committed by Other Males, Mainly During Childhood,” *Population & Societies* 633, no. 5 (2025): 1–4, <https://doi.org/10.3917/popsoc.633.0001>; Sandesh Sivakumaran, “Sexual Violence Against Men in Armed Conflict,” *European Journal of International Law* 18, no. 2 (2007): 253–76, <https://doi.org/10.1093/ejil/chm013>.

of Women's Empowerment and Child Protection recorded an increasing trend in male victims of sexual violence from 2020 to 2025, from 909 reports to 1,317, or an increase of 45% in the last 5 years. The findings show that in the 13-17 age group, the prevalence of sexual violence against men is higher than that against women. These facts challenge the dominant assumptions about victims of sexual violence and, at the same time, reveal the disparity between empirical reality and legal recognition.⁵

One concrete case that has emerged in the public sphere is the case of bullying and sexual harassment against male employees at the Indonesian Broadcasting Commission (KPI), which shows how sexual violence has been reduced in meaning to the point of losing its legal facts. This is rooted in the assumption that male victims of sexual violence are an extreme anomaly rather than an expression of a deeper structural problem. The lack of recognition of this issue is supported by the strength of hegemonic masculinity, which assumes that men are omnipotent, rational subjects who have complete control over themselves.⁶

In this hegemonic logic, men are assumed always to desire sexual relations, cannot resist, and therefore cannot be forced. Such assumptions not only shape social judgements but also influence how the law interprets victims' experiences. Men who admit to having experienced sexual violence are more often questioned about their masculinity and even have their sexual orientation called into question.⁷ These experiences continue to be reduced to personal failure rather than to a structural violation of bodily autonomy. Cohen⁸ describes this condition as culture denial, a culture of denial that does not involve overt rejection but rather minimisation and normalisation mechanisms. This is manifested in the non-denial of the existence of sexual violence

⁵ Bestha Inatsan Ashila and Naomi Rehulina Barus, *Kekerasan Seksual Pada Laki-Laki: Diabaikan Dan Belum Ditangani Serius*, November 30, 2023, <https://ijrs.or.id/2023/11/30/kekerasan-seksual-pada-laki-laki-diabaikan-dan-belum-ditangani-serius-2/>.

⁶ Ibid.; A. Muh. Ibnu Aqil, *KPI in Hot Water After Allegations of Harassment in the Workplace*, September 5, 2021, <https://www.thejakartapost.com/news/2021/09/05/kpi-in-hot-water-after-allegations-of-harassment-in-the-workplace.html>; Dewi Elvia Muthiariny, *KPI Launches Internal Investigation into Alleged Sexual Violence*, September 1, 2021, <https://en.tempo.co/read/1501318/kpi-launches-internal-investigation-into-alleged-sexual-violence>; Tri Melisa Selviani and Sunarto Sunarto, "News Framing Analysis About Sexual Harassment on Men in the Work Environment KPI on Online Media (Detik. Com and Tribunnews. Com)," *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)* 5, no. 1 (2022): 7389-400, <https://doi.org/10.33258/birci.v5i1.4473>.

⁷ Ligia Kiss et al., "Male and LGBT Survivors of Sexual Violence in Conflict Situations: A Realist Review of Health Interventions in Low-and Middle-Income Countries," *Conflict and Health* 14, no. 1 (2020): 11, <https://doi.org/10.1186/s13031-020-0254-5>; K. Raatevaara-Cameron and H. Louhela, "Discourses of (Dis)Trust and Hegemonic Masculinity: Service Providers' Perspectives on the Disclosure Process of Men Who Have Experienced Sexual Violence in Childhood," *Journal of Child Sexual Abuse* 33, no. 8 (2024): 1025-47, <https://doi.org/10.1080/10538712.2024.2428286>; Zachary T. Carlisle and Rachel M. Schmitz, "'I Am a Man. How Could I Possibly Have Been Raped?' Men Making Sense of Their Experiences With Sexual Violence," *Journal of Interpersonal Violence* 38, nos. 19-20 (2023): 10514-41, <https://doi.org/10.1177/08862605231174500>.

⁸ Claire Cohen, *Male Rape Is a Feminist Issue: Feminism, Governmentality and Male Rape* (Springer, 2014).

against men, but it is considered an insignificant, non-traumatic issue that does not warrant prioritisation.

This culture allows society and legal institutions to acknowledge that sexual violence against men “exists” but at the same time refuse to provide equal normative and political consequences. Abdullah-Khan⁹ analyses this culture of minimisation and normalisation as a form of sexual reduction. Sexual violence is only understood as an act driven by sexual desire and not by power relations. In this context, when both the perpetrator and victim are male, this violence is immediately labelled as “homosexual rape,” as if the perpetrator’s sexual orientation were the main explanation for this act. However, within the framework of feminism, sexual violence is a practice of domination, control and humiliation. This sexual reduction can be understood as an attempt to protect dominant heterosexual masculinity by isolating rape against men into the realm of “deviant behaviour”.

Ironically, feminist analysis that emphasises power relations in cases of sexual violence has not been consistently developed to accommodate male victims. Sexual violence against women is understood as an expression of patriarchy, while that which occurs against men is more often positioned as an individual criminal problem or even said to be a form of sexual deviance. Meanwhile, sexual violence against men is also essentially a product of a masculinity regime that demands domination, objectifies bodies that are considered weaker, and uses sexual violence as a means of control.¹⁰

In the context of Indonesian law, this issue intersects with normative constructions that, from the outset, limit the imagination of victims, making it impossible to imagine men as victims of sexual violence. Rape, which we consider to be a form of physical sexual violence and one of the most serious, is defined in Article 285 of the Old Criminal Code (*Wetboek van Strafrecht*) as only

⁹ Noreen Abdullah-Khan, *Male Rape: The Emergence of a Social and Legal Issue* (Palgrave Macmillan UK, 2008).

¹⁰ Louise du Toit and Elisabet le Roux, “A Feminist Reflection on Male Victims of Conflict-Related Sexual Violence,” *European Journal of Women’s Studies* 28, no. 2 (2021): 115–28, <https://doi.org/10.1177/1350506820904982>; Louise Maxwell and Graham Scott, “A Review of the Role of Radical Feminist Theories in the Understanding of Rape Myth Acceptance,” *Journal of Sexual Aggression* 20, no. 1 (2014): 40–54, <https://doi.org/10.1080/13552600.2013.773384>; Ruth Graham, “Male Rape and the Careful Construction of the Male Victim,” *Social & Legal Studies* 15, no. 2 (2006): 187–208, <https://doi.org/10.1177/0964663906063571>; Aliraza Javaid, “Feminism, Masculinity and Male Rape: Bringing Male Rape ‘Out of the Closet,’” *Journal of Gender Studies* 25, no. 3 (2016): 283–93, <https://doi.org/10.1080/09589236.2014.959479>; Aliraza Javaid, “Male Rape, Masculinities, and Sexualities,” *International Journal of Law, Crime and Justice* 52 (March 2018): 199–210, <https://doi.org/10.1016/j.ijlcj.2017.12.003>; Gertie Pretorius, “The Male Rape Survivor: Possible Meanings in the Context of Feminism and Patriarchy,” *Journal of Psychology in Africa* 19, no. 4 (2009): 575–80, <https://doi.org/10.1080/14330237.2009.10820332>.

applying to female victims.¹¹ At the same time, similar experiences suffered by men are only categorised as indecent acts. This construction reflects the assumption that men's bodies do not suffer the same harm when subjected to sexual coercion as women do. Although the definition of rape was subsequently broadened through Article 473 of Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code), which does not explicitly specify the gender of either the perpetrator or the victim, as well as Law No. 12 of 2022 concerning Sexual Violence Crimes, which acknowledges the dimensions of coercion, power dynamics, and victim suffering, its implementation still relies entirely on law enforcement officials who remain deeply entrenched in a masculine legal culture.¹²

Article 473 of New Criminal Code and the Sexual Violence Criminal Act have indeed normatively shifted the understanding of sexual violence to a gender-neutral regime, especially in the Sexual Violence Criminal Act, where the understanding of violence is no longer categorised as physical violence but has been shifted to a violation of bodily autonomy and the dimension of consent.¹³ In this legal regime, violence is no longer required to take the form of visible physical injury or impact. However, it can take the form of psychological dimensions, abuse of power relations or the helplessness of the victim. Ironically, however, this normative expansion does not automatically change the way law enforcement officials view the experiences of male victims. In this case, during trials, the standards of proof, the use of judicial language and the way in which the victim's body is described are often still carried out within the framework of hegemonic masculinity.¹⁴

¹¹ Rizka Nurliyantika and Aisyah Wardatul Jannah, "The Implementation Challenges of the Law Concerning Sexual Violence in Indonesia," *Simbur Cahaya* 30, no. 1 (2023): 14–31, <https://doi.org/10.28946/sc.v30i1.2775>; Maryamul Chumairo'Al Ma'shumiyyah, "Unveiling the Issues: Feminist Legal Theory's Critique on Rape Formulation in Indonesia," *Walisongo Law Review (Walrev)* 5, no. 2 (2023): 221–44, <https://doi.org/10.21580/walrev.2023.5.2.13555>; Simon Butt and Tim Lindsey, "The Criminal Code," in *Crime and Punishment in Indonesia* (Routledge, 2020); Khudzaifah Dimiyati and Angkasa Angkasa, "Victimological Approaches to Crime of Rape in Indonesian Criminal Justice System," *Hasanuddin Law Review* 4, no. 3 (2018): 366–76, <https://doi.org/10.20956/halrev.v4i3.1292>.

¹² Niko and Sangkhamanee, "Beyond Gender Norms: Unveiling Myths and Taboos of Male Rape in Indonesia."

¹³ Muhammad Rosyid Ridho et al., "Diskriminasi Laki-Laki Sebagai Korban Kekerasan Seksual Perspektif Kesetaraan Gender," *ADLIYA: Jurnal Hukum Dan Kemanusiaan* 16, no. 1 (2022): 21–42, <https://jdih.dprd.bandung.go.id/artikel/detail/927>; Rabia Rasul, *Comparing Sexual Violence Frameworks in Indonesia and Australia*, June 27, 2025, <https://ijrs.or.id/2025/06/27/comparing-sexual-violence-frameworks-in-indonesia-and-australia/>; Muhammad Fadli and I. Gusti Ayu Stefani Ratna Maharani, "Urgensi Perlindungan Dan Penegakan Hukum Dalam Mengatasi Problematika Sexual Hardness Terhadap Laki-Laki Di Indonesia," *Ethics and Law Journal: Business and Notary* 2, no. 3 (2024): 183–92, <https://doi.org/10.61292/eljbn.230>.

¹⁴ Rachel Killean et al., *Sexual Violence on Trial: Local and Comparative Perspectives* (Routledge, 2021); Eylem Ümit Atılgan, "Complicit Masculinity of Judges: Unjust Provocation Mitigation in Femicide in Turkey," *Oñati Socio-Legal Series* 14, no. 5 (2024): 1497–523, <https://doi.org/10.35295/osls.iisl.2088>; Aliraza Javaid, "Male Rape in Law and the Courtroom," *Web Journal of Current Legal Issues* 20, no. 2 (2014): 1–15, https://www.researchgate.net/publication/273574378_Male_Rape_in_Law_and_the_Courtroom; Aliraza Javaid,

Under such conditions, the courtroom becomes a crucial arena where normative law and legal culture meet and interact. Here, the victim's experience is forced to conform to the legally recognised language of law. Of course, this is not a neutral process but a practice of power that determines which experiences can be classified as violence. For male victims, especially in cases of rape by other men, the courtroom more often becomes a place where the victim's suffering is tested not only in terms of evidence but also morally and in terms of gender.¹⁵ Questions about the victim's resistance and response are used to cast doubt on the victim's experience.

Within the Foucauldian feminist framework, court rulings are understood not only as the result of norm application but also as discursive texts that produce legal truth.¹⁶ How the language of the ruling, the structure of the argumentation and the logic of the evidence as discursive practices that shape the legal subject actually determine who is referred to as the victim and what sexual violence is recognised. Within this framework, sexual violence experienced by men is not only a normative obstacle but also an epistemic one, where the law is limited in its ability to imagine men as vulnerable bodies.¹⁷

The initial assumption used is that the main problem of sexual violence against men is not merely the absence of legal regulations but rather how the law reads and interprets the experiences of victims.¹⁸ The focus of the analysis is not the law's text but how it is practised, particularly in

"The Unknown Victims: Hegemonic Masculinity, Masculinities, and Male Sexual Victimization," *Sociological Research Online* 22, no. 1 (2017): 28–47, <https://doi.org/10.5153/sro.4155>.

¹⁵ Eugene Emeka Dim and Alexandra Lysova, "Male Victims' Experiences With and Perceptions of the Criminal Justice Response to Intimate Partner Abuse," *Journal of Interpersonal Violence* 37, nos. 15–16 (2022): NP13067–91, <https://doi.org/10.1177/08862605211001476>; Sarbopriya Das et al., "'The Unheard Voices': Lived Experiences of Sexual Abuse in Male Survivors," *Indian Journal of Psychological Medicine* 44, no. 5 (2022): 474–78, <https://doi.org/10.1177/0253717620972912>; Madeleine Millar et al., "Mock Jurors' Determinations of Guilt in Sexual Offences Involving Male Victims: A Systematic Review," *Trauma, Violence, & Abuse*, September 16, 2025, 15248380251366264, <https://doi.org/10.1177/15248380251366264>; Charu Lata Hogg, "Male Victims: A Blind Spot in Law," in *Sexual Violence Against Men in Global Politics* (Routledge, 2018).

¹⁶ Cohen, *Male Rape Is a Feminist Issue: Feminism, Governmentality and Male Rape*; Holly Henderson, "Feminism, Foucault, and Rape: A Theory and Politics of Rape Prevention.," *Berkeley Journal of Gender, Law & Justice* 22 (2007): 225–53, <https://doi.org/10.15779/Z38M90226M>; Harriet Gordon, "A Foucauldian-Feminist Understanding of Patterns of Sexual Violence in Conflict," *The Philosophical Journal of Conflict and Violence* 2, no. 1 (2018): 22–40, <https://www.ceeol.com/search/article-detail?id=911756>.

¹⁷ Petersson and Plantin, "Breaking with Norms of Masculinity: Men Making Sense of Their Experience of Sexual Assault"; Martina Delle Donne et al., "Barriers to and Facilitators of Help-Seeking Behavior Among Men Who Experience Sexual Violence," *American Journal of Men's Health* 12, no. 2 (2018): 189–201, <https://doi.org/10.1177/1557988317740665>; Paula Drummond, "What About Men? Towards a Critical Interrogation of Sexual Violence Against Men in Global Politics," *International Affairs* 95, no. 6 (2019): 1271–87, <https://doi.org/10.1093/ia/iiz178>.

¹⁸ Sarah R. Meyer et al., "Sociological Theories to Explain Intimate Partner Violence: A Systematic Review and Narrative Synthesis," *Trauma, Violence, & Abuse* 25, no. 3 (2024): 2316–33, <https://doi.org/10.1177/15248380231210939>; Clayton M. Bullock and Mace Beckson, "Male Victims of Sexual Assault: Phenomenology, Psychology, Physiology," *Journal of the American Academy of Psychiatry and the Law Online* 39, no. 2 (2011): 197–205, <https://jaapl.org/content/39/2/197>; B. Kennath Widanaralalage et al., "'I Didn't Feel I Was A Victim': A Phenomenological Analysis of the Experiences of Male-on-Male Survivors of Rape and

the courtroom.¹⁹ Thus, the questions that arise are not only whether the law regulates, but also how it works, in what language, and in what regime of knowledge.

The critical questions we ask are: How is sexual violence against men constructed in Indonesian legal culture? How do courtrooms produce truths about victims, violence and masculinity? To what extent can the Foucauldian feminist framework open up the possibility of re-reading criminal law, which has been trapped in a regime of judicial masculinity? Within this framework, we attempt to dismantle the epistemic boundaries of criminal law in interpreting sexual violence by positioning sexual violence against men as a feminist issue and a problem of power relations. This paper not only broadens the scope of studies on sexual violence but also offers a fundamental critique of how the law produces the meaning of justice.

B. Under Masculine Morality and Rationality: Legal Culture as a Precondition for Interpreting Sexual Violence in Indonesia

Sexual violence does not only affect women. Men and boys can also be victims, including in the form of rape that occurs without consent. The essence of rape is the absence of consent. Gender does not determine the likelihood of someone becoming a victim. The assumption that men always want sexual relations and therefore cannot be forced is a myth. Sexual desire is not the same as consent. Physical responses cannot be used as evidence of willingness. In several countries, such as the United Kingdom, the United States, India, and Singapore, legal regulations have recognised that men can be victims of rape. However, in Indonesia, cases of sexual violence against men are rarely exposed and even more rarely prosecuted to completion. Many reports are dropped due to obstacles in proving the case. Power relations are a key factor in many cases. Sexual violence often occurs when there is an imbalance of power between the perpetrator and the victim. Educational environments are particularly vulnerable. Orientation periods or hazing rituals are often accompanied by bullying that leads to sexual harassment, especially when seniors have control over juniors. Violence can also occur within groups of friends, gangs, or closed

Sexual Abuse,” *Victims & Offenders* 17, no. 8 (2022): 1147–72, <https://doi.org/10.1080/15564886.2022.2069898>; Edmilson Ozorio dos Santos et al., “Characterization of Male Sexual Assault in the State of São Paulo, Brazil: An Epidemiological Study from 2014 to 2017,” *International Journal of Legal Medicine* 138, no. 2 (2024): 571–81, <https://doi.org/10.1007/s00414-023-03104-z>.

¹⁹ Sabelinah Tshoane et al., “The Inadequacies of the South African Criminal Justice System Against Male Victims of Domestic Abuse,” *OIDA International Journal of Sustainable Development* 16, no. 6 (2023): 21–34, <https://oidaijsd.com/wp-content/uploads/2023/12/16-06-2-020-SPA-23-AO.pdf>; Vanita R. Parekh et al., “Men After the Sexual Assault: The Journey from Medical Service to Court,” *Journal of Forensic and Legal Medicine* 103 (April 2024): 102676, <https://doi.org/10.1016/j.jflm.2024.102676>; Michae Scarce, *Male on Male Rape: The Hidden Toll of Stigma and Shame* (Basic Books, 2008); Dim and Lysova, “Male Victims’ Experiences With and Perceptions of the Criminal Justice Response to Intimate Partner Abuse.”

communities. Those in positions of authority, such as educators or staff in educational environments, also have the potential to abuse their position. The same pattern emerges in various social contexts where power is not monitored.²⁰

Male victims face significant social barriers. They are often doubted, laughed at, or blamed. Double standards arise when the perpetrator is female. The social system tends to view men as always being sexually ready. As a result, victims find it difficult to prove that the act occurred without consent. The situation becomes more complicated if the victim is under the influence of alcohol, drugs, or threats. In some international cases, such as a case in the United Kingdom involving the manipulation and drugging of victims, it is clear that men can be targets in planned schemes. Stigma is also strong in the digital space. Victims who speak openly are vulnerable to cyberbullying. Social pressure causes many victims to remain silent. Some use social media to seek public support because they feel that legal channels do not provide certainty. This phenomenon reveals a gap between victims' needs and the legal system's response. The psychological impact on male victims cannot be ignored. They can experience depression, anxiety, post-traumatic stress disorder, and identity crises. Social rejection exacerbates these conditions. Several studies show that past experiences of sexual violence can increase a person's risk of committing violence in the future, especially if the trauma is not addressed. However, this is not deterministic. Not all victims become perpetrators. Factors such as social support, access to counselling services, and early intervention are crucial in determining the direction of recovery.²¹

The legal recognition of male rape, introduced through the Criminal Justice and Public Order Act of 1994, marked a critical shift in the UK's approach to sexual offences, yet it simultaneously exposed the enduring gender biases within the legal system. Prior to this, forced penile-anal penetration was categorised as buggery, which, in contrast to rape, carried a significantly lesser penalty. This distinction between buggery and rape was not just a matter of legal terminology but a reflection of deeply entrenched societal beliefs that rape was primarily a male crime against women. While the 1994 Act did broaden the scope to include male victims of rape, it still failed to fully address the gendered nature of sexual violence.²² By limiting the definition of rape to penile-

²⁰ Niko and Sangkhamanee, "Beyond Gender Norms: Unveiling Myths and Taboos of Male Rape in Indonesia."

²¹ Ibid.

²² Javaid, "Male Rape in Law and the Courtroom"; Jennifer Temkin and Barbara Krahé, *Sexual Assault and the Justice Gap: A Question of Attitude*, vol. 5 (Bloomsbury Publishing, 2008); Olivia Smith and Tina Skinner, "Observing Court Responses to Victims of Rape and Sexual Assault," *Feminist Criminology* 7, no. 4 (2012): 298–326, <https://doi.org/10.1177/1557085112437875>; George J. Severs, "Male Rape: Survivors, Support and the Law in Late Twentieth-Century England and Wales," *History Workshop Journal* 97 (April 2024): 196–220, <https://doi.org/10.1093/hwj/dbae002>; Ngosa Kambashi et al., "Adult Male Rape Myths in England Since 1994: A

anal intercourse and not extending it to other forms of sexual assault, such as oral or object penetration, the Act reinforced a narrow view of rape that prioritised certain victim experiences over others. Male victims of sexual violence, particularly in cases involving non-penetrative assault, continued to find themselves on the periphery of legal protections, with their experiences often dismissed or minimised within the judicial system.²³

Furthermore, the implementation of this partial gender-neutrality has resulted in a legal landscape where male victims face significant challenges in gaining recognition and support. The law, though amended, continues to carry implicit biases that stem from historical gender roles, where men are expected to be resilient and invulnerable, while women are seen as the primary victims of sexual violence. The 1994 Act did not go far enough in addressing these systemic issues, as evidenced by the persistent disparity in sentencing and the marginalisation of male victims within the judicial process. The legal system's failure to recognise all forms of sexual violence equally, and to challenge preconceived notions of masculinity, underscores the continuing struggle for gender equity in the law. Male victims, particularly those in vulnerable contexts such as prisons or same-sex relationships, are often discouraged from reporting their assaults due to the risk of not being taken seriously or being blamed for their victimisation.²⁴

In Indonesia, the expansion of the definition of sexual violence in the normative framework through Law No. 12 of 2022 on Criminal Acts of Sexual Violence and Law No. 1 of 2023 on the New Criminal Code is interpreted as the basis for transformative criminal law with a progressive and gender-responsive direction of reform. Normatively, Indonesia's positive law no longer limits rape victims to women, as previously stipulated in Article 285 of the old Criminal Code, nor does it categorise sexual violence as a criminal offence. The Law on Sexual Violence Crimes and Article 473 of the New Criminal Code explicitly recognise that victims of sexual violence are no longer defined by gender and can include a wider range of violence, both physical and non-physical, non-vaginal penetration and victim helplessness. However, this normative expansion does not necessarily guarantee the interpretation of victims' experiences in law enforcement practice, especially for male victims.

Systemic Mixed Methods Review.," *Psychology, Public Policy, and Law* (US) 29, no. 4 (2023): 497–511, <https://doi.org/10.1037/law0000402>.

²³ Siegmund Fred Fuchs, "Male Sexual Assault: Issues of Arousal and Consent," *Cleveland State Law Review* 51, no. 1 (2004): 93–121, <https://engagedscholarship.csuohio.edu/clevstrev/vol51/iss1/5/>.

²⁴ Michelle Davies, "Male Sexual Assault Victims: A Selective Review of the Literature and Implications for Support Services," *Aggression and Violent Behavior* 7, no. 3 (2002): 203–14, [https://doi.org/10.1016/S1359-1789\(00\)00043-4](https://doi.org/10.1016/S1359-1789(00)00043-4); Daniel Jacobson López and Antonio García, "'Cuz They Straight and Everything': Barriers to Reporting Among Gay Latino Male Sexual Assault Survivors," *American Journal of Men's Health* 18, no. 6 (2024): 15579883241288979, <https://doi.org/10.1177/15579883241288979>.

This deviation lies in the implicit assumption that the law works linearly: norms are enacted, officials enforce them, and justice is achieved. Of course, this assumption ignores various factors that shape how the law operates, such as the legal culture surrounding it. In Firedman's²⁵ view, the law consists of three intertwined elements: structure, substance, and legal culture. Legal culture, which refers to the values, perceptions, attitudes, and social orientations towards applicable law, also encompasses and operates within society and law enforcement agencies. Stagnation in this dimension will affect the substance and structure of the law. In such conditions, changes in the substance of the law risk becoming merely symbolic and meaningless.²⁶

In the context of sexual violence against men, society's understanding of gender, sexuality and victims, especially when within patriarchal power relations, will certainly give a patriarchal nuance to legal culture.²⁷ Patriarchal values essentially function not only as a system of social relations but also within a regime of knowledge that determines who can be categorised as vulnerable.²⁸ In this regime, masculinity is understood as the antithesis of vulnerability. Patriarchy thus not only produces gender inequality but also determines moral imagination, particularly regarding sexual violence.²⁹

Sexual violence in the patriarchal regime is understood as an act that befalls weak and powerless bodies and is culturally coded as feminine.³⁰ Conversely, male bodies are constructed as strong and capable of fighting back. In this construction, sexual violence against men is

²⁵ L. M. Friedman, *The Legal System: A Social Science Perspective* (Russell Sage Foundation, 1975).

²⁶ Teddy Asmara, *Budaya Ekonomi Hukum Hakim* (Fasindo, 2011).

²⁷ Gad Barzilai, "Culture of Patriarchy in Law: Violence from Antiquity to Modernity," *Law & Society Review* 38, no. 4 (2004): 867–84, Cambridge Core, <https://doi.org/10.1111/j.0023-9216.2004.00073.x>; Lynne Henderson, "Law's Patriarchy," *Law & Society Review* 25, no. 2 (1991): 411–44, <https://doi.org/10.2307/3053805>; Carol Smart, *Feminism and the Power of Law*, Sociology of Law and Crime (Routledge, 1989).

²⁸ Eva Bermúdez Figueroa et al., "Gender and Structural Inequalities from a Socio-Legal Perspective," in *Gender-Competent Legal Education*, ed. Dragica Vujadinović et al. (Springer International Publishing, 2023), https://doi.org/10.1007/978-3-031-14360-1_4; Danielle Cusmano, "Rape Culture Rooted in Patriarchy, Media Portrayal, and Victim Blaming," *Writing Across the Curriculum* 30 (2018): 1–10, https://digitalcommons.sacredheart.edu/wac_prize/30; Bob Pierik, "Patriarchal Power as a Conceptual Tool for Gender History," *Rethinking History* 26, no. 1 (2022): 71–92, <https://doi.org/10.1080/13642529.2022.2037864>; Sylvia Walby, *Theorizing Patriarchy* (Wiley, 1991).

²⁹ Anne-Kathrin Kreft, "'This Patriarchal, Machista and Unequal Culture of Ours': Obstacles to Confronting Conflict-Related Sexual Violence," *Social Politics: International Studies in Gender, State & Society* 30, no. 2 (2023): 654–77, <https://doi.org/10.1093/sp/jxac018>; Robert Jensen, *The End of Patriarchy: Radical Feminism for Men* (Spinifex Press, 2017); Andrea Dworkin, *Woman Hating* (Penguin Books Limited, 2025); Catharine A. MacKinnon, *Feminism Unmodified: Discourses on Life and Law*, Emerson: Emergent Village Resources for Communities of Faith Series (Harvard University Press, 1987).

³⁰ Gordon, "A Foucauldian-Feminist Understanding of Patterns of Sexual Violence in Conflict"; Kreft, "'This Patriarchal, Machista and Unequal Culture of Ours': Obstacles to Confronting Conflict-Related Sexual Violence"; Ann J. Cahill, "Foucault, Rape, and the Construction of the Feminine Body," *Hypatia* 15, no. 1 (2000): 43–63, Cambridge Core, <https://doi.org/10.1111/j.1527-2001.2000.tb01079.x>; Renée J. Heberle and Victoria Grace, *Theorizing Sexual Violence*, vol. 21 (Routledge, 2009).

understood as something irrational and unusual, so that it becomes contrary to their “common sense” if men can experience sexual violence.³¹ Social expectations of masculinity support this view. From an early age, men are socialised to be emotionally tough, physically strong, and self-controlled.³² This can be seen in various cultural settings in Indonesian society, such as in Java, where men are destined to be the protectors of their families and are therefore required to possess composure, strength and sound judgement.³³ Similar situations occur in various cultural backgrounds within Indonesia’s diverse society.³⁴

Within this cultural framework, fear, weakness, or helplessness are not merely viewed as temporary emotions but as moral and identity failures. Furthermore, acknowledging oneself as a victim of sexual violence has the potential to undermine one’s moral and masculine identity. With this in mind, it is not surprising that many male victims choose to remain silent, not only because of the trauma they have experienced, but also because of the symbolic threat to their masculinity and rationality, which is manifested in their self-esteem and social recognition as “real men”.³⁵

Patriarchal morality works through normative and evaluative judgements, so that when a man admits to having experienced sexual violence, the response he receives is not empathy but

³¹ Andrew J. Rizzo et al., “Unpacking Adolescent Masculinity: Relations between Boys’ Sexual Harassment Victimization, Perpetration, and Gender Role Beliefs,” *Journal of Family Violence* 36, no. 7 (2021): 825–35, <https://doi.org/10.1007/s10896-020-00187-9>; Tomoya Mukai, “Traditional Male Gender Roles and Negative Social Reactions to Male Victims of Sexual Violence in Japan,” *Sexuality & Culture*, ahead of print, January 14, 2026, <https://doi.org/10.1007/s12119-025-10522-1>; Aliraza Javaid, *Male Rape, Masculinities, and Sexualities: Understanding, Policing, and Overcoming Male Sexual Victimization*, Palgrave Hate Studies (Springer International Publishing, 2018); Paul J. Fleming et al., “Competition and Humiliation: How Masculine Norms Shape Men’s Sexual and Violent Behaviors,” *Men and Masculinities* 22, no. 2 (2019): 197–215, <https://doi.org/10.1177/1097184X17715493>.

³² Petersson and Plantin, “Breaking with Norms of Masculinity: Men Making Sense of Their Experience of Sexual Assault”; Davies, “Male Sexual Assault Victims: A Selective Review of the Literature and Implications for Support Services”; Kevin F. Hogan et al., “The Impact of Masculine Ideologies on Heterosexual Men’s Experiences of Intimate Partner Violence: A Qualitative Exploration,” *Journal of Aggression, Maltreatment & Trauma* 33, no. 1 (2024): 123–42, <https://doi.org/10.1080/10926771.2022.2061881>.

³³ Vina Adriany, *Gender and Power in Early Childhood Education in Indonesia* (Taylor & Francis, 2024); Matteo Carlo Alcano, *Masculine Identities and Male Sex Work between East Java and Bali: An Ethnography of Youth, Bodies, and Violence*, Critical Studies in Gender, Sexuality, and Culture (Palgrave Macmillan US, 2016); Elli N. Hayati et al., “‘We No Longer Live in the Old Days’: A Qualitative Study on the Role of Masculinity and Religion for Men’s Views on Violence Within Marriage in Rural Java, Indonesia,” *BMC Women’s Health* 14, no. 1 (2014): 58, <https://doi.org/10.1186/1472-6874-14-58>.

³⁴ Desi Dwi Prianti, “The Identity Politics of Masculinity as a Colonial Legacy,” *Journal of Intercultural Studies* 40, no. 6 (2019): 700–719, <https://doi.org/10.1080/07256868.2019.1675612>; Pam Nilan et al., “Youthful Warrior Masculinities in Indonesia,” in *Masculinities in a Global Era*, ed. Joseph Gelfer (Springer New York, 2014), https://doi.org/10.1007/978-1-4614-6931-5_4; Pam Nilan, “Contemporary Masculinities and Young Men in Indonesia,” *Indonesia and the Malay World* 37, no. 109 (2009): 327–44, <https://doi.org/10.1080/13639810903269318>; Sonja van Wichelen, *Religion, Politics and Gender in Indonesia: Disputing the Muslim Body*, Routledge Research on Gender in Asia Series (Taylor & Francis, 2010).

³⁵ Anne Cossins, *Masculinities, Sexualities and Child Sexual Abuse* (Brill | Nijhoff, 2021), <https://doi.org/10.1163/9789004478640>; Sabelinah Tshoane et al., “Domestic Violence Against Men: Unmuting the Reality of the Forgotten Gender,” *Cogent Social Sciences* 10, no. 1 (2024): 2304990, <https://doi.org/10.1080/23311886.2024.2304990>.

suspicion.³⁶ Many questions will be asked: why did the victim not fight back? How did he end up in that situation? How could he be sexually “weak”? These questions are nothing more than a manifestation of the assumption that men always have the capacity to control their bodies and situations, so that failure to do so is interpreted as personal weakness and even suspicion that the victim consented to the sexual treatment.

Even more problematic is that the experiences of male victims are often associated with indications of sexual deviance. As stated by Cohen³⁷ & Abdullah-Khan³⁸, sexual violence between men is prone to being reduced to an issue of sexual orientation rather than a problem of power relations. In a social culture that still considers homosexuality taboo, male victims are in a very vulnerable position. They are rarely seen as victims, but rather suspected of deviant behaviour and even considered to be “enjoying” the treatment. In this context, violence loses its status as a crime and transforms into a stigma of identity.

In our observations, the general public, both directly and on news sites, more often than not responded in a manner that confirmed this description of the masculine cultural setting. Take, for example, the case of Saipul Jamil’s sexual assault on DS. Through several social media platforms, we found several responses questioning how DS, who was a minor at the time, could have stayed at Saipul Jamil’s house. Some even questioned DS’s sexual orientation, or even stated that DS actually wanted it, but for some reason reported Saipul Jamil to the police.³⁹

This illustrates the patriarchal morality prevalent in Indonesian society. This morality then produces what is known as masculine rationality, which not only regulates the way individuals think but also shapes the standards of reasonableness in assessing an event. Masculine rationality places self-control, physical strength and autonomy as the benchmarks of subject rationality. In this logic, a “rational” victim can fight back, report immediately, and provide clear physical evidence. On the other hand, victims who do not fight back tend to delay reporting and are unable to provide clear physical evidence, which is seen as inconsistent and untrustworthy, resulting in the neglect of the victim’s experience.

³⁶ John C. Thomas and Jonathan Kopel, “Male Victims of Sexual Assault: A Review of the Literature,” *Behavioral Sciences* 13, no. 4 (2023): 304, <https://doi.org/10.3390/bs13040304>.

³⁷ Cohen, *Male Rape Is a Feminist Issue: Feminism, Governmentality and Male Rape*.

³⁸ Abdullah-Khan, *Male Rape: The Emergence of a Social and Legal Issue*.

³⁹ Annisa Salsabila and Maria Alyssia, “Men: The Silenced Survivors of Sexual Assault,” *Seribu Tujuan (Atrium)*, November 12, 2021, <https://www.seributujuan.id/atrium/men-the-silenced-survivors-of-sexual-assault>; Safrin La Batu, “Saiful Case Intensifies LGBT Debate,” *The Jakarta Post*, February 20, 2016, <https://www.thejakartapost.com/news/2016/02/20/saiful-case-intensifies-lgbt-debate.html>.

The existence of this masculine rationality tends to limit how sexual violence is understood in society severely. Sexual violence, which can manifest itself in various forms of acts, is often dismissed in this ratio simply because the victim experiences no resistance or physical harm. Worse still, all of the victim's experiences tend to be dismissed in order to prove that the victim consented to the actions she received, and are even used as accusations of deviant behaviour on the part of the victim. Ultimately, the victim's powerlessness is reduced to a personal weakness rather than to a real power imbalance.

Masculine morality and rationality within the framework of patriarchal culture not only operate in the social sphere but also permeate legal culture. Friedman⁴⁰ emphasises that legal culture reflects society's values, which influence how the law is administered. Of course, law enforcement officials are not immune to social influence; they carry the values, assumptions, and prejudices of their social environment. Thus, society's views on masculinity and victims are easily translated into law enforcement practices.

Laws that exist within a culture influenced by masculinity and rationality will tend to take a relatively narrow view of sexual violence. Violence will be equated with physical injury, requiring resistance and direct threats. On the other hand, symbolic, psychological and relational violence will be marginalised. This is quite contradictory to the legal norms presented in the Sexual Violence Criminal Law and Article 473 of New Criminal Code, which recognise that sexual violence can take various forms, including recognising conditions of helplessness and without physical resistance. At this point, there is tension between progressive legal norms and conservative legal culture, which is also a major problem in the interpretation of sexual violence in Indonesia, especially in relation to male victims.

A legal culture influenced by masculine rationality will affect how victims' testimonies are assessed and evaluated. In such a cultural context, the testimonies of male victims are considered insufficiently credible because they do not meet the expectations set for men within the framework of masculinity. Various forms of emotions that contradict the image set for men, such as fear, confusion or emotional trauma, are not assessed as signs of violence but as indications of inconsistency or weakness. In this context, male victims are burdened with two responsibilities: they must prove the violence and maintain their masculinity.

The patriarchal culture that exists in Indonesian society produces epistemic injustice against male victims. The experiences of victims are arbitrarily not recognised as a valid source of

⁴⁰ Friedman, *The Legal System: A Social Science Perspective*.

knowledge about sexual violence. The knowledge of victims is sidelined by legal knowledge that is enforced based on assumptions of masculinity and rationality, especially regarding the body and sexuality. When the victim's experience does not correspond with how the law is narrated, that experience is automatically excluded from legal truth.

This condition is an indication of the main problem in the enforcement of sexual violence laws against men, which is not actually a lack of norms, but rather a limitation on legal imagination. The law is actively limited by masculinity and rationality, which assume that men are always powerful subjects. As long as these restrictions escape criticism, there will always be a risk that progressive legal norms will be reduced to mere symbols, lacking real transformative power. It must be acknowledged that the patriarchal culture that produces masculine morality and rationality influences the legal culture, which in turn shapes law enforcement practices, especially in the courtroom. It is in this space that patriarchal values are articulated in legal language, in the logic of evidence, and in judges' considerations. The transition from patriarchal culture to legal culture will show how masculine assumptions operate concretely in judicial practice and influence the production of legal truth.

C. Verdicts as Texts of Power: The Production of Victims, Truth and Doubt under the Regime of Judicial Masculinity: A Foucauldian Feminist Approach

A judge's background influences an inherently biased perspective, shaped by a complex interplay of foundational factors, including family socialisation, religion, social class, ethnicity, and gender relations in private life.⁴¹ This is further shaped by instrumental factors such as legal education, recruitment trends, professional culture, and career networks, and ultimately solidified by environmental factors like judicial traditions, normative decision-making language, and collegial expectations regarding judicial authority. At this juncture, hegemonic masculinity functions as an implicit value system that significantly influences judges' evaluations of "male" subjects in sexual violence cases.

In Connell⁴² theory of masculinity, hegemonic masculinity is not merely an individual characteristic but a prevailing benchmark of the ideal man, characterised by self-control, strength,

⁴¹ Andreia de Castro Rodrigues et al., "Judges Looking into Themselves: What Makes a Good Judge?," *Psychiatry, Psychology and Law*, May 19, 2025, 1–22, <https://doi.org/10.1080/13218719.2025.2470640>; Suteki, *Desain Hukum Di Ruang Sosial* (Thafa Media, 2013); Abigail A. Matthews and Rachael K. Hinkle, "Judicial Influence and the Importance of Intersecting Identities," *Research & Politics* 12, no. 3 (2025): 20531680251353143, <https://doi.org/10.1177/20531680251353143>.

⁴² Raewyn Connell, *Masculinities* (Polity Press, 2005).

dominance, and invulnerability; this benchmark subsequently serves as an implicit criterion for evaluating the reasonableness of a man's experiences. In cases of male victims of sexual violence, this criterion frequently causes the judicial process to transition from scrutinising the criminal conduct to assessing the victim's gender identification, despite the absence of an explicit articulation of this criterion. The method unfolds through multiple ostensibly formal yet value-infused stages: initially, the credibility construction phase, during which the judge evaluates the coherence of the victim's statement, their emotional display, and the "normalcy" of their post-incident reaction. In the context of hegemonic masculinity, males are presumed to possess the capacity to resist, uphold their boundaries, and act resolutely; hence, trauma responses such as freezing, dissociation, or brief cooperation for survival are often misconstrued as consent or apathy. Secondly, the phase of evaluating tardy reporting, wherein the postponement is interpreted as a sign of reluctance or deceit, contrasts with male victims, for whom such delays are frequently instigated by shame, fear of stigma, anxiety about being perceived as "not masculine," or concerns of being viewed as the aggressor, particularly within homophobic or masculinist social environments. Third, the phase of assessing power dynamics, wherein the court frequently presumes that power relations manifest solely as direct physical force, even though sexual violence frequently transpires through threats, coercion, authoritative influence, economic dependency, intoxication, or psychological manipulation, rendering the victim "without effective options" despite their physical ability to move.

When judges possess prevailing masculine biases, non-dramatic power dynamics are often diminished to commonplace disputes, humour, or consensual interactions that are subsequently "regretted," thus constricting the potential for evidence. The fourth stage involves the examination of medical and digital evidence, wherein the lack of physical injuries or signs of penetration is interpreted as an absence of violence. This perspective overlooks that numerous forms of sexual violence against men may not leave readily observable evidence, particularly if the victim delays seeking examination or if the violence manifests as non-penetrative coercion, harassment, or exploitation. In this context, hegemonic masculinity perpetuates evidentiary prejudice by establishing the assumption that "authentic" assault must be harsh and leave visible scars, rendering the experiences of victims that do not conform to this standard as less credible. Fifth, the phase of the decision's language, wherein the judge employs terms like "reasonableness," "propriety," or "common sense" without scrutinising whether such common sense is inherently patriarchal; this is where masculine legal culture operates effectively, as it masquerades as common sense.

The primary consequence is the potential for verdicts that overlook the experiences of male victims, coupled with the systemic effect of heightened underreporting, since victim communities perceive the implicit message that the court would evaluate their masculinity prior to assessing the perpetrator's conduct. A thorough study requires distinguishing between judicial independence as a constitutional ideal and judicial discretion as a domain of interpretation; independence must be preserved, while discretion should be guided by norms that rectify gender prejudice. This rectification can be accomplished through an analysis of power dynamics, a trauma-informed methodology that recognises differences in victim reactions, and an evidentiary framework that does not transfer moral responsibility onto the victim. Thus, the court can refocus on its fundamental duty: scrutinising the perpetrator's conduct, methodically evaluating evidence, and safeguarding the dignity of victims, particularly male victims, from being undermined by prevailing masculine standards that, while not codified, frequently function as if they were legal mandates.

The transition of masculine morality and rationality, contained in society's patriarchal culture, into the judicial sphere is not merely a change in location but a mode of power. In the courtroom, patriarchal relations that have been internalised in the legal culture of Indonesian society are reproduced in the form of judicial common sense or a sense of what is reasonable that classifies the appropriateness or legitimacy of victims, violence and legal meaning. In this context, judges and law enforcement officials become agents of judicial truth production, through whose decisions the boundaries of legal culture continue to be produced. In this context, the configuration of values, assumptions, and standards of rationality that shape how judges read the facts, assess the evidence, and decide cases illustrates the regime of judicial masculinity in law enforcement. Judicial masculinity is not limited to a judge's personal attitude. However, it is a cultural residue that operates through legal language, argumentative structures, and the distribution of doubt in the ruling's text.

Rulings on cases of sexual violence against men are a concrete manifestation of this phenomenon of judicial masculinity. When male victims are tried, social norms about men as strong subjects who are not vulnerable to sexual violence implicitly overshadow how judges read the evidence and assess the victim's testimony. The hegemonic moral and rational structures in patriarchal culture are internalised in legal decision-making. As a result, the space for judicial imagination is limited to traditional gender stigmas: women as victims are normal, while men as victims are anomalies and signs of deviance.

The case of a male student who was sexually assaulted by a fellow male at a villa in the city of Batu is concrete evidence of how the configuration of judicial masculinity has worked, with the victim keeping the incident to himself for a month.⁴³ In this case, the victim stated that he was beaten, threatened with death and forced to have sexual intercourse accompanied by intimidation and pressure. A medical report and several pieces of evidence were submitted to corroborate the victim's statement. The perpetrator denied that there was any element of coercion and implied that the act was consensual. In such a situation, the judge was not only faced with the question of whether the elements of the offence were fulfilled. The judge was faced with something more fundamental, namely, whether the victim's experience of powerlessness could be recognised as an experience of sexual violence recognised by law.

In the case of the student in Batu City above, the court found the defendant legally and convincingly guilty of sexual violence using threats and physical violence as stipulated in Article 6 letter b of the Sexual Violence Criminal Law. The threats of murder and beating, as confirmed by the judge, had placed the victim in a position of helplessness, so that consent was never given voluntarily or freely. Normatively, this verdict can be considered progressive because it recognises that men can be victims and considers that psychological pressure and power relations are sufficient to negate consent. However, in a Foucauldian feminist reading, how the text constructs the narrative of truth is more important than the outcome.

In the ruling, the judge placed strong emphasis on the medical examination and physical injuries sustained by the victim. The judge mentioned in detail the bruises and marks of violence as objective indicators to prove the truth of the coercion. On the other hand, the psychological dimension of the victim was not central to the argument, even though it was mentioned. In Foucault's⁴⁴ logic, power is the keyword for revealing vulnerability, so that the prioritisation of forensic evidence in the most credible discourse of truth becomes proof that the victim's experience can be legitimised as long as it can be proven materially. Thus, when judges give significant weight to physical injuries proven through medical examinations and "underestimate" the psychological impact, the evidence becomes imbalanced because judges overlook the main reason for sexual violence, namely unequal power relations. In fact, the Sexual Violence Criminal Law explicitly

⁴³ M. Bagus Ibrahim, "Mahasiswa Malang Jadi Korban Kekerasan Seksual Pria Gay Di Vila Kota Batu," *detikJatim (Detik.Com)*, December 17, 2025, <https://www.detik.com/jatim/hukum-dan-kriminal/d-8264537/mahasiswa-malang-jadi-korban-kekerasan-seksual-pria-gay-di-vila-kota-batu>.

⁴⁴ Michel Foucault, "Discipline and Punish: The Birth of the Prison," in *Social Theory Re-Wired* (Routledge, 2023); Michel Foucault, *Power: The Essential Works of Michel Foucault 1954-1984*, Penguin Modern Classics (Penguin Books Limited, 2019); Michel Foucault, *Power/Knowledge: Selected Interviews and Other Writings 1972 - 1977*, ed. Colin Gordon (Pantheon Books, 1981).

recognises that sexual violence is committed, among other things, through the abuse of power relations and vulnerability, not solely through physical violence. Here, power works through the production of knowledge: the truth about sexual violence is centred on the body that can be examined, not on the subjectivity that speaks.⁴⁵

It is true that although the judge ultimately chose the above approach, it did not result in the perpetrator's acquittal. However, it still shows how the legal regime of truth prioritises evidence that can be empirically verified within the framework of masculine rationality. In this framework, the victim's body is made an object of examination. In contrast, the victim's narrative must still go through an institutional validation process that is closely linked to masculinity and masculine rationality. From a feminist perspective, although the victim's experience is acknowledged, it is still done within the framework of the logic of objectification of the body and not a full acknowledgement of the victim's life experience. Then, the judge verifies the victim by attaching her to feminine values so that she can fit in with existing masculine rationality.⁴⁶

In a larger case, in terms of the number of victims, this was demonstrated in a case of sexual violence against students at a religious educational institution (equivalent to junior high school) in Agam Regency, with 43 male child victims. In the verdict, the judge stated that the defendants RA and AA were legally and convincingly proven to have committed the crime of sexual violence against children.⁴⁷ The judge qualified the defendants' actions as physical sexual violence directed at the victims' bodies and reproductive organs with the intention of degrading their dignity and placing them under the unlawful control of the perpetrators.

The judge classified the act as physical sexual abuse directed at the victim's body and reproductive organs with the intention of degrading the victim's dignity and placing the victim under the perpetrator's unlawful control. This classification refers to Article 6(b) and (c) of the Sexual Violence Criminal Law, specifically the elements of abuse of position, authority and power relations. The judge also invoked Article 82(1) and (2) in conjunction with Article 76E of the Child Protection Law, considering that the victim was a child, especially since the act was committed by an educator who had an authoritative relationship with the child.

⁴⁵ Foucault, *Power / Knowledge*.

⁴⁶ Cohen, *Male Rape Is a Feminist Issue: Feminism, Governmentality and Male Rape*.

⁴⁷ Wahyu Sikumbang, "Cabuli 50 Santri, Dua Guru Pesantren Di Agam RA Dan AA Divonis 17 Dan 16 Tahun Penjara," *iNews Indonesia*, 2024, <https://padang.inews.id/read/599979/cabuli-50-santri-dua-guru-pesantren-di-agam-ra-dan-aa-divonis-17-dan-16-tahun-penjara>; Halbert Caniago, "Pelecehan Seksual Santri Di Pesantren Sumbar: Bagaimana Bisa Terjadi Pada 40 Korban," *BBC News Indonesia*, 2024, <https://www.bbc.com/indonesia/articles/c0xjx7nd4vx0>.

In his legal considerations, the judge upheld that the principle of *lex specialis derogat legi generali* provides room for cumulative or alternative application of the Sexual Violence Criminal Law and the Child Protection Law as long as the elements of the offence are fulfilled. The Sexual Violence Criminal Law was used to emphasise the dimension of sexual violence based on power relations and provide more comprehensive protection for victims, particularly the recognition of electronic evidence and recorded victim statements. Meanwhile, the Child Protection Law addressed the dimension of special protection because the victim was a minor.

In terms of evidence, the judge's conviction was based on the evidence stipulated in Article 184 of the Criminal Procedure Code, as expanded upon in Article 24 of the Sexual Violence Criminal Law. The statements of dozens of victim witnesses, along with the consistency of the *modus operandi*, served as the basic framework for establishing legal truth. The judge emphasised that in cases of sexual violence against children, the victim's testimony has a strong position in the evidentiary process as long as it is supported by internal coherence and is not refuted by other evidence.

Normatively, this ruling is progressive in that it recognises that boys are under the same strong protection regime as girls. The judge also emphasised that power relations in educational and religious institutions, as the setting where the acts took place, are aggravating factors and not grounds for mitigation. However, from a Foucauldian feminist perspective, this ruling has deeper implications for how the subjects of the victim and the perpetrator are produced.

First, the power relations recognised by the judge are disciplinary in the Foucauldian sense, not merely structural-administrative relations. *Pesantrens* are boarding schools that shape the body and behaviour through structured schedules, patterns of obedience, and the internalisation of religious morality. The ruling revealed that the perpetrator's *modus operandi* was to ask students to massage him in the early hours of the morning, taking advantage of their habit of serving their teachers, as well as threatening them with failing grades and even asking them to swear in the name of God. At this point, power operates through a combination of pedagogical and pastoral power, in which teachers hold not only academic authority but also moral and spiritual authority. The students' bodies then fall into a regime of obedience normalised through daily practice.

Second, in the context of hegemonic masculinity, this case reveals the ambivalence of masculinity. At the perpetrator level, the acts of coercion, threats and control of the victim are performative acts of masculine domination. Hegemonic masculinity is not only related to sexual orientation but also to supremacy and control. The perpetrator, who took advantage of his position as a teacher, asserted his authority within the *pesantren's* masculine hierarchy. At the victim level,

boys who are victims of sexual violence face symbolic threats to their masculinity. Jaid shows that male sexual victimisation is often silenced because it contradicts the construction of men as strong and impenetrable subjects. In this case, the fact that the violence had been going on since 2022 and only came to light when one victim reported it is an indication of structural barriers. These barriers are not only in the form of direct threats from the perpetrator but also shame, fear of being seen as weak, and concerns about the stigma of homosexuality.

The Sexual Violence Criminal Law does not explicitly distinguish victims based on gender, but socially, stigma still prevails. After the verdict, one of the victims had difficulty finding a new school because of the assumption that victims have the potential to become perpetrators. In Cohen⁴⁸ and Abdullah-Khan's⁴⁹ analysis, this phenomenon shows how society often fails to integrate male victims into the narrative of legitimate victims, or that *a displacement of blame* has occurred, where the focus shifts from the perpetrator to the victim.

Fourth, the epistemic dimension, the mechanism of proof that has so far relied on empirical evidence and expert testimony, shows how the victim's body becomes *the locus* of truth production. Foucault asserts that empirical science, a product of forensic medicine, is part of the apparatus of knowledge and power. When the boy's body was examined to prove the existence of signs of violence, it did not produce empirical evidence that could be used as evidence because not all violence leaves physical marks. Therefore, by accepting the victim's testimony as sufficient evidence, the judge implicitly shifted the regime of proof from one based on physical evidence to one based on recognition of the structure of power relations and psychological trauma. Although the judge's actions reflect progressive law enforcement, several conceptual and ideological issues need to be raised regarding this legal construction.

First, the judge reduces power relations to mere "abuse of position" without dismantling the institutional patriarchy. Here, the panel of judges recognised the element of power relations as stipulated in the Sexual Violence Criminal Law, but framed it narrowly as a personal deviation of the perpetrator rather than as an expression of an institutional culture that opens up the possibility of institutionalised masculine domination. The Islamic boarding school is treated as a neutral space that was "abused" by the perpetrator. In contrast, in Foucauldian construction, boarding schools are disciplinary apparatuses that inherently produce bodily obedience and symbolic subordination.

The criticism raised here is not on the application of the article but on the judge's horizon of analysis, which unfortunately does not reveal how the structure of religious patriarchy and

⁴⁸ Cohen, *Male Rape Is a Feminist Issue: Feminism, Governmentality and Male Rape*.

⁴⁹ Abdullah-Khan, *Male Rape: The Emergence of a Social and Legal Issue*.

masculine hierarchy shaped the conditions that enabled the violence to occur. In other words, the law punishes the perpetrator but does not deconstruct the power field that underlies it.

Second, the construction of the victim is still trapped in a passive and pathological narrative. The victim, in the judge's verdict and considerations, is constructed as a weak party who is intimidated, fearful and powerless. Juridically, this is indeed relevant to prove the elements of violence and power relations; even so, discursively, the victim is again placed in an ambivalent position. They are recognised as victims, but through the lens of fragile subjects, deviating from the norms of masculinity, because only in this way can the incident fit into the morality and rationality of the male judge.

Moreover, this ruling does not explicitly challenge the hegemonic construction of masculinity that causes boys to be reluctant to report incidents for fear of not being considered manly enough or even of being labelled homosexual. Although the judge in the ruling accepted the fact of stigma, this was not articulated as part of gender-based structural violence. Thus, stigma is only treated as a social context and not as part of the secondary dimension of violence that should be given a normative response.

Third, the absence of an analysis of gender-based vulnerability experienced by male victims. Basically, the Sexual Violence Criminal Law provides sufficient space to re-understand sexual violence as a form of violation of bodily autonomy without distinguishing the gender of the victim. However, in reality, in the considerations of the verdict, there is no elaboration that male children are also in a specific regime of vulnerability. There is no reflection that hegemonic masculinity is actually a traumatic experience because victims are forced to face an identity crisis based on masculine morality and rationality. Moreover, the judge did not criticise how this process also disciplines the victim's body through the repetition of trauma in the courtroom. Victims must recount their sexual experiences in order to be recognised as legitimate legal subjects; here, the law liberates but also disciplines.

Fourth, the approach to evidence is still centred on formal legal rationality. Although judges accept victims' statements as strong evidence, the structure of their arguments still emphasises narrative consistency. In the context of sexual violence against children, especially boys, the pressure to demonstrate absolute consistency has the potential to override the dynamics of trauma that affect memory and the articulation of experience. Feminist legal theory has criticised the criminal evidence system for forcing victims to meet standards of masculine rationality that are linear and coherent. Thus, even though the verdict appears sensitive, it still operates within a masculine legal epistemology that demands narrative consistency, objectivity and certainty. The

fragmented trauma of victims is forced to be translated into a neat narrative in order to be credible. This is nothing less than an attempt to discipline the victim.

Fifth, the religious dimension as an apparatus of symbolic power legitimisation escaped the judge's criticism. During the trial, it was revealed that the perpetrator used an oath in the name of God and threatened the victim with failing grades. This shows how pastoral power is typically used in a religious context. The judge did not elaborate on the mechanism of religious authority being used as an instrument of control over children's bodies and sexuality. Religion only became a backdrop rather than a field of power that needed to be critically analysed. From Foucault's perspective, pastoral power operates through the internalisation of guilt and obedience. When the law is not used to uncover this dimension, it loses the opportunity to show that sexual violence in religious spaces is not merely an individual deviation but a consequence of a power structure that places teachers as sacred figures.

Sixth, the absence of discourse on judicial masculinity in the construction of the verdict. Although the judge imposed a heavy sentence, the argumentative style still reflected emotional distance and a tendency towards formal language. There was no empathetic articulation that acknowledged the identity crisis of the male victims or their courage in reporting the crime in the context of social stigma. Judicial masculinity here appears as cold rationality, attempting to appear neutral and objective. It is precisely this neutrality displayed by judges that is problematic because it obscures the fact that existing laws operate within a specific gender structure.

The above description does not necessarily refute the legal truth found by the judge. It should be noted that normatively, the application of the Sexual Violence Criminal Law and the Child Protection Law is appropriate. However, ideologically, the verdict remains trapped in an individual-punishment paradigm, without broader discursive transformation. Recognition is given to the victims, but the patriarchal culture that forms the backdrop is not fully dismantled, which triggers multiple layers of violence experienced by the victims, namely sexual violence and stigmatisation.

The case of sexual violence against 43 boys in Agam is nothing less than a reflection of the ambiguity of progressive law in a patriarchal society. The Sexual Violence Criminal Law, as a normative instrument, can be used to read the reality of power and sexual violence more comprehensively. However, in practice, it remains very limited by masculine and institutional legal epistemology. This demands a more radical reading of power relations, institutions, and gender constructions, not only so that justice does not stop with the punishment of the perpetrators, but also so that it touches on the transformation of the legal and social culture that surrounds it.

The phenomena in the courtroom revealed through the two cases above are concrete evidence of the failure of the legal system to fully escape the hegemonic masculine construction in its reading of sexual violence against men, as stated by Javaid. Although the judge acknowledged the victim and imposed a sentence based on the applicable legal framework, the dynamics of the trial still showed that the victim's legitimacy had first to pass a series of implicit masculinity tests. How victims of sexual violence in Batu must be framed in a feminine image, and how victims in Agam are required to present a consistent traumatic narrative. Moreover, the judge continued to ask why the victim did not fight back directly, why the victim remained at the scene of the incident, or why the victim delayed reporting the incident, which is a form of trial talk that is associated with rape myths in feminist literature.⁵⁰ In the context of male victims, this myth does not take the form of an assumption that the victim provoked the attack, but also that men should be strong enough to prevent sexual violence. Javaid notes that social expectations of male invulnerability and impenetrability cause any admission of vulnerability to become a threat to masculine identity.

In the courtroom, doubt about the victim is not explicitly articulated as a form of gender bias but is cloaked in the language of rationality and proof. Discursively, it is not only the consistency of the story that is tested, but also the conformity of the victim's behaviour to standards of masculinity that are considered "normal". Thus, the courtroom functions as an arena for renegotiating hegemonic masculinity, and male victims are forced to prove that they are still "men" in order to be recognised as victims.

This is in line with Cohen⁵¹ and Abdullah-Khan's⁵² criticism that the neglect of male victims does not arise from a void in norms but as an effect of a knowledge structure that has long positioned sexual violence as a women's issue. Thus, when sexual violence against men enters the courtroom, it enters a regime saturated with patriarchal assumptions. Javaid⁵³ asserts that without expanding the feminist framework to accommodate men's experiences, the legal system tends to maintain the existing hierarchy of masculinity. In both cases, even though verdicts were handed

⁵⁰ Matlala Rorisang, "Rape Myths and the Language of the Law: The Need for a Feminist Jurisprudential Approach," *Constitutional Court Review* 14, no. 1 (2024): 137–52, <https://doi.org/10.2989/CCR.2024.0006>; Paulette Benton-Greig, "Hearing All That Is Expressed: A Feminist Listening to the Silencing of Rape Complainants While Giving Evidence," *Social & Legal Studies*, July 21, 2025, 09646639251357420, <https://doi.org/10.1177/09646639251357420>; Hedvig Gröndal et al., "Resisting Rape Myths and Doing Feminism in Legal Processes of Rape Cases," *Social Politics: International Studies in Gender, State & Society* 32, no. 4 (2025): 1130–52, <https://doi.org/10.1093/sp/jxaf016>.

⁵¹ Cohen, *Male Rape Is a Feminist Issue: Feminism, Governmentality and Male Rape*.

⁵² Abdullah-Khan, *Male Rape: The Emergence of a Social and Legal Issue*.

⁵³ Javaid, "Feminism, Masculinity and Male Rape: Bringing Male Rape 'Out of the Closet.'"

down, it was clear that sexual violence against men was still framed as an individual deviance, especially as it was framed through the feminisation of the victim. Thus, when men become victims of sexual violence, they not only become victims of a criminal act but are also symbolically alienated from dominant masculinity. This explains why victims are more likely to hold back, appear awkward or defensive in court. They not only face the perpetrator but are also confronted with social structures that force them to negotiate with the stigma of sexual deviance, failure to conform to hegemonic masculinity, and shame. In this case, the courtroom is not merely a forum for adjudication but also an arena for the production and reproduction of gendered power relations. Thus, without critical awareness of these dynamics, even normative progressive rulings still open up the potential for producing conditions that keep male victims on the margins of the discourse on sexual justice.

D. Transcending the Regime of Judicial Masculinity: Formulating a Critical Epistemology for Gender Justice in the Enforcement of Sexual Violence Law

Experiences of sexual violence among adults show significant differences between men and women, especially in how they interpret these events.⁵⁴ For men, the construction of masculinity plays a central role in the process of interpreting experiences of sexual violence. Several studies show that men are far less likely to report rape than women. The obstacles they face are different, ranging from a lack of education about the possibility of men being victims to social stigma often associated with homophobia. The concept of Hegemonic Masculinity introduced by Connell⁵⁵ explains this dynamic systematically. Hegemonic masculinity refers to cultural standards about how men should behave. The characteristics attached to these standards include heterosexuality, physical strength, mental toughness, and dominance in the gender hierarchy. The highest position in the hierarchy is occupied by men who are considered strong and do not display feminine characteristics. Any indication of weakness, vulnerability, or association with homosexuality is seen as lowering a man's symbolic status in that social structure.

⁵⁴ Theresia Rechenberg et al., "Gender-Related Stigma Toward Individuals with a History of Sexual or Physical Violence in Childhood," *BMC Public Health* 24, no. 1 (2024): 2396, <https://doi.org/10.1186/s12889-024-19913-9>; Rhiana Wegner and Kelly Cue Davis, "How Men's Sexual Assault Victimization Experiences Differ Based on Their Sexual History.," *Journal of Interpersonal Violence* (US) 35, nos. 13–14 (2020): 2624–33, <https://doi.org/10.1177/0886260517703374>; Hagit Bonny-Noach et al., "Gender Differences in the Experience of Sexual Harassment and Assault, and Attitudes toward the #metoo Campaign," *Smith College Studies in Social Work* 92, no. 3 (2022): 185–99, <https://doi.org/10.1080/00377317.2022.2111398>.

⁵⁵ Connell, *Masculinities*.

Within this framework, being a victim of sexual violence directly challenges the dominant masculine identity. The most common myth is that men cannot be raped. This view reinforces the idea that only women can be victims. Another myth blames the victim, assuming that men should be able to fight back physically. If the victim is unable to fight back, he is considered weak or less masculine. There is also a myth that links male rape to sexual orientation, as if the victim and perpetrator must be homosexual.⁵⁶ In addition, there is an assumption that men will not experience severe psychological effects because they are considered to be more emotionally resilient. These four myths are rooted in the belief that men are individuals who are always strong, heterosexual, and resistant to emotional pressure. This paradigm limits the space for male victims to acknowledge their experiences. Research even shows that men themselves are more likely to support the myth of male rape, especially if the perpetrator is female. This reinforces the cycle of denial and limits the search for help. The marginalisation of this issue is also influenced by the assumption that rape against men often involves same-sex perpetrators. This perception has led to the topic being long neglected in public and academic discourse. The impact is real. The rape myth hinders reporting, reinforces shame, and increases the social isolation of victims. These barriers contribute to low reporting rates and delayed access to psychological and legal support services.

When viewed through the lens of court rulings, the main problem is not that “the courts are unaware that sexual violence against men exists”. In fact, court rulings often include this fact. The problem lies in the way the courts transform facts into legal categories. In many cases, the panel and the prosecutor choose the most “safe” path doctrinally, which is to classify sexual acts against male victims as torture, cruel treatment, or inhumane acts, rather than as rape/sexual violence on its own. This choice shapes the entire architecture of the case. It transforms what should be read as a sexual assault into merely one technique of physical violence. As a result, the court does impose punishment, but it does not construct a clear legal message that men's bodies are also a field of sexual crime in war.

This pattern is clearly evident in ICTY practice, where verdicts such as *Prosecutor v. Tadić* or *Prosecutor v. Delalić et al. (Čelebići)* contain details of sexual coercion and genital violence. However, the construction of responsibility is more often “drawn” to the offence of torture or cruel

⁵⁶ Javaid, *Male Rape, Masculinities, and Sexualities: Understanding, Policing, and Overcoming Male Sexual Victimization*; Sandesh Sivakumaran, “Male/Male Rape and the ‘Taint’ of Homosexuality,” *Human Rights Quarterly* 27, no. 4 (2005): 1274–306, <https://doi.org/10.1353/hrq.2005.0053>; Scott M. Walfield, “‘Men Cannot Be Raped’: Correlates of Male Rape Myth Acceptance,” *Journal of Interpersonal Violence* 36, nos. 13–14 (2021): 6391–417, <https://doi.org/10.1177/0886260518817777>; Jessica A. Turchik and Katie M. Edwards, “Myths About Male Rape: A Literature Review,” *Psychology of Men & Masculinity* (US) 13, no. 2 (2012): 211–26, <https://doi.org/10.1037/a0023207>.

treatment. Analytically, this indicates an operational bias in the prosecution and judges' assessments: they are more comfortable proving "severe suffering" than proving specific sexual elements. This is not merely a choice of terminology. It affects three things. First, it narrows the way the court interprets motives. Sexual violence against men often functions as feminisation, humiliation, and social control. If the court dismisses it with the label of torture, the court loses the linguistic tools to explain the gender logic of the crime. Second, it affects the pattern of evidence. In sexual offences, prosecutors need to lock in the elements of sexual acts, the context of coercion, and the meaning of the attack on sexual dignity. In torture offences, prosecutors can win by focusing on physical suffering and perpetrator control. The second route is easier, so they often win "without" developing sex-violence jurisprudence on male victims. Third, it affects the symbolic weight of the verdict. Male victims may win in fact, but lose in legal recognition of the identity of their suffering.⁵⁷

At the ICC, the normative framework is actually more open because the Rome Statute of the International Criminal Court defines sexual crimes broadly and in a gender-neutral manner. This provides a basis for prosecuting male rape, forced nudity, genital mutilation, and other forms of "other sexual violence" of equal severity. However, court practice continues to show that factual recognition does not automatically translate into consistent prosecution. The case of Prosecutor v. Jean-Pierre Bemba Gombo, for example, shows how narratives of sexual violence against men can enter court documents.⁵⁸ However, the path to accountability remains vulnerable to debates over standards of proof, command relationships, and the quality of evidence. This leads to an important analytical lesson: the obstacles to "judgement" often begin long before the judgement is read. They arise from the indictment strategy, the choice of articles, the way the case is constructed, and the courage of the institution to label the act as sexual violence. If the prosecutor does not lock in the label from the outset, the judge tends to follow the available framework. If the judge does not lock in the label in the legal considerations, the anti-impunity message weakens. Thus, the focus of the verdict leads us to a sharp conclusion: the court can punish the perpetrator, but it still fails to

⁵⁷ Dimitris Liakopoulos, "Male Rape and Sexual Crimes in International Criminal Law Jurisprudence: A Critical Appraisal," *Revista Estudios Jurídicos. Segunda Época*, no. 18 (2018): 1–34, <https://doi.org/10.17561/rej.n18.a4>.

⁵⁸ Richard Gaskins, ed., "The Trial of Jean-Pierre Bemba," in *The Congo Trials in the International Criminal Court*, 2nd ed. (Cambridge University Press, 2022), Cambridge Core, <https://doi.org/10.1017/9781009208772.010>; Joseph Powderly, "Prosecutor V. Jean-Pierre Bemba Gombo: Judgment on the Appeal of Mr. Jean-Pierre Bemba Gombo Against Trial Chamber III's 'Judgment Pursuant to Article 74 of the Statute' (Int'l Crim. Ct.)," *International Legal Materials* 57, no. 6 (2018): 1031–79, Cambridge Core, <https://doi.org/10.1017/ilm.2018.50>; Sofie Rose, "Stigmatization and Social Death of Survivors of Wartime Sexual Violence," *Global Studies Quarterly* 3, no. 2 (2023): ksad021, <https://doi.org/10.1093/isagsq/ksad021>.

establish symbolic justice for male victims if it does not explicitly, consistently, and consequentially name the violence as a sexual crime in its verdict and sentencing.

The two rulings analysed above confirm that the problem of law enforcement regarding sexual violence against men in Indonesia does not lie in a legal vacuum. The Sexual Violence Criminal Law provides categorisations of physical and non-physical sexual violence, accommodates issues of power relations, expands the scope of evidence to include electronic information, and integrates the victim's perspective through Article 24. However, this progressiveness does not automatically dismantle the epistemic foundations that underpin judicial practice. This is where the regime of judicial masculinity continues to work silently. It works through claims of objectivity and procedural neutrality that operate epistemically and ideologically within the framework of patriarchal legal culture. In this discourse, Friedman dissects the legal system into three main elements: substance, structure and legal culture. In terms of legal substance, the two previous cases revolved around the Sexual Violence Criminal Law, which can be considered relatively progressive, coupled with a judicial structure that has carried out its adjudicative function. However, both still operate within a legal culture that encompasses attitudes, values, and collective assumptions about the law and its role, which are still influenced by patriarchal configurations. Judicial masculinity is a concrete manifestation of this legal culture in the courtroom.

For the record, we assess that judicial masculinity epistemologically works through three main mechanisms: standardisation of rationality, depoliticisation of power relations, and normalisation of social space and symbolic protection of the patriarchal order. *First*, standardisation of rationality. In the two previous rulings, the judge assessed the victim's credibility based on the consistency of the chronology, the consistency between witnesses, and the support of medical or electronic evidence. Procedurally, this approach is in accordance with the criminal procedure law applicable in Indonesia, but epistemically, it places the victim's traumatic experience within a framework of linear rationality. It should be noted that trauma is more often fragmentary and non-linear, requiring adjustments to be compatible with the model of evidence used. From a Foucauldian perspective, this is the normalisation of narrative. Here, victims are not only required to tell the truth, but also to do so in a format acceptable to the legal knowledge regime.

In the Batu case, power relations were an important part of the construction of the offence. However, the victims' narratives were still measured based on their ability to explain coherently how the threats and pressure were received. In the Agam case, the santri children had to explain

consistently how spiritual threats and religious authority subjugated them. Experiences of violence fraught with fear and ambiguity are required to be explained through consistent legal language in both cases. Here, the law does not merely verify facts, but it also produces standards and forms of legitimate and acceptable victims. Legitimate subjects here are those who can meet the standards of masculine rationality within the framework of patriarchal culture.

Second, the depoliticisation of power relations. The Sexual Violence Criminal Law explicitly recognises power relations as an inevitable element in sexual violence crimes. However, in their deliberations, judges tend to view it as a tool used by perpetrators rather than as a product of social structures that create inequality. In his analysis of *male rape denial*, Cohen emphasises that social systems often acknowledge violence to a limited extent while avoiding its structural consequences. In both cases, power relations are acknowledged only to prove the elements of the offence. However, they are not developed into a critique of the institutional culture that allows domination to continue unnoticed for a long time.

In the case of Agam, the violence perpetrated against 43 victims between 2022 and 2025 shows nothing less than a culture of silence, subjugation and even possible neglect. Regrettably, the verdict was limited to the perpetrator's individual fault. The Islamic boarding school as an institution was not seen as a field of power that needed to be re-examined. In the Batu case, even though there was no formal structural relationship between the victim and the perpetrator, power was narrowed down to the perpetrator's actions alone. In these two cases, the broader social structure still escaped the focus of reflection.

Third, the normalisation of social space and symbolic protection of the patriarchal order. This mechanism lies in how the law implicitly normalises the social space where violence occurs. In both cases, in Agam and Batu, the verdict stopped at the perpetrator as a deviant from stable social norms that reflected society's morals. Here, violence is read as an anomaly rather than a symptom of a deeper social configuration.

In the case of Agam, the fact that violence occurred against 43 victims between 2022 and 2025 indicates a culture of silence, internalised obedience and even the possibility of structural neglect. However, Islamic boarding schools continue to be positioned as normative spaces deemed good. Violence is reduced to individual betrayal of religious values rather than an inherent possibility in a hierarchical system that idolises pastoral authority. With this mechanism, the institution is symbolically protected. The law is imposed on the perpetrator, but is not used as an instrument of criticism that reflects moral legitimacy in that space.

In the Batu case, the power configuration is quite different because there is no formal relationship between the victim and the perpetrator, nor between the victim and the institutional hierarchy. Even so, the normalisation mechanism still works. The villa, as a private space, is understood as an incidental location rather than a social space that allows for isolation and control of the body. The social relationship between the perpetrator and the victim is treated as a neutral relationship that happened to be abused. There is no further reflection on how norms of masculinity, social trust, or expectations of male socialising produce conditions that allow psychological pressure and manipulation to operate effectively.

This is where judicial masculinity operates ideologically. It maintains the stable meaning that social space is essentially neutral, while sexual violence is merely a personal deviation. However, as Foucault discusses, power does not reside solely in individuals but is distributed across networks of practices, norms, and social expectations. By refusing to reinterpret social space as a field of power, the law indirectly contributes to protecting the patriarchal structure from all forms of criticism.

This criticism is also related to how the law has defined vulnerability. In the two previous cases, the victims were indeed recognised as the parties who suffered losses. However, vulnerability was understood as a condition individuals experienced as a result of the perpetrator's actions against them. In contrast, in the broader sense of the term, as explained by Cohen⁵⁹ and Abdullah-Khan⁶⁰, vulnerability results from social structures that shape subjects into obedient, silent, or ashamed subjects. In the context of Agam, hegemonic masculinity places victims in a position where it is difficult for them to report incidents. In the context of Batu, heteronormative norms and stigma towards sexual relations between men create the potential for new burdens on victims. However, this dimension is not fully elaborated in judicial analysis within the field of violence.

Thus, this point highlights how the law stabilises social meanings and protects the symbolic structures of patriarchy by normalising the spaces where violence occurs. As a result, violence is reduced to a mere event rather than a symptom, and perpetrators are seen as anomalies rather than products of social configurations.

Transcending the regime of judicial masculinity means undertaking a more radical epistemic transformation than simply expanding the body of evidence or imposing harsher penalties. This

⁵⁹ Cohen, *Male Rape Is a Feminist Issue: Feminism, Governmentality and Male Rape*.

⁶⁰ Abdullah-Khan, *Male Rape: The Emergence of a Social and Legal Issue*.

transformation requires a rethinking of how the law understands and interprets power and vulnerability.

First, it requires acknowledging that legal truth is a discursive construction rather than a pure reflection of objective facts. With this acknowledgement, judges no longer claim to be outside power relations but rather part of the process of meaning production. Assessments of the credibility of victims and the intensity of coercion are always carried out through a lens that is considered neutral, but which reflects masculine morality and rationality. This awareness is the starting point for deconstructing judicial masculinity.

Second, integrating legal cultural analysis into the consideration of verdicts. Friedman emphasises that substantive legal change will not be sufficient without a transformation of legal culture, meaning that normative recognition of the reality of power in the Sexual Violence Criminal Law must be accompanied by judicial courage to read patriarchal norms as a structural context. In the Agam case, this is represented by reading religious obedience and hierarchy as part of the configuration of power. In the Batu case, this means how to read the control of private space and social manipulation in the context of masculinity norms that normalise domination.

Third, reading the Sexual Violence Criminal Law as a mandate for epistemic transformation. The Sexual Violence Criminal Law not only expands the types of criminal acts but also accommodates the issues of power relations and the victim's perspective as key elements. A progressive reading of the norms in the Sexual Violence Criminal Law allows judges to go beyond the paradigm of physical coercion and recognise psychological pressure, situational manipulation and the structure of stigma as part of violence. Thus, the victim's statement is no longer tested solely through formal consistency but can be understood in the context of trauma and relational inequality.

This critical epistemology does not merely enrich the existing gender perspective in law. It is a deconstruction of the claim of neutrality that is still used as the core of judicial masculinity. This criticism demands that the law recognise itself as a political arena of knowledge in which definitions of power, vulnerability, and truth always interact with certain social norms.

Without such a transformation, the enforcement of sexual violence laws will continue to be ambiguous. It will always appear progressive in normative texts but remain conservative in its epistemic foundations. It will only punish perpetrators but not fully dismantle the patriarchal structures that enable the reproduction of violence. Transcending the regime of judicial masculinity also means shifting the focus of justice from mere punishment to transforming the way the law

understands the body, power, social space and the production of truth, which ultimately determines how the law can be used to deliver complete gender justice.

E. Conclusion

The handling of sexual violence against men in Indonesian criminal law reveals deep structural problems related to the dominance of hegemonic masculinity. Historically, Indonesian criminal law has framed sexual violence within a gender framework that views men as active perpetrators and women as passive victims. This view creates strict limitations on how sexual violence is understood and accepted in society, leading to the neglect of male victims. Although there is a more inclusive recognition of sexual violence through the Sexual Violence Criminal Law and changes in the New Criminal Code, the implementation of these laws remains hampered by a legal culture that is still deeply rooted in patriarchal values.

Sexual violence against men is often reduced to an individual problem or even considered a sexual deviance, especially when both the perpetrator and victim are male. In many cases, this violence is considered unnatural and is often linked to the perpetrator's sexual orientation, rather than as a problem of domination and control of power. From a feminist perspective, sexual violence should be understood as a practice of domination and humiliation related to power relations, not merely as sexual desire. However, in reality, male victims often have their masculinity questioned, and there are even doubts about the authenticity of their experiences as victims. This is exacerbated by social stigma that considers men to be creatures who should not be victims of sexual violence.

The implementation of the Sexual Violence Criminal Law, which recognises a broader dimension of sexual violence, including power relations and coercion involving physical and non-physical violence, actually provides a more inclusive foundation. Although Indonesian law is more progressive in normative terms, a deeply ingrained masculine legal culture remains an obstacle to its implementation. Along with progressive changes in the substance of the law, the surrounding legal culture remains conservative and insensitive to the experiences of male victims. In courtrooms, the burden of proof often centres on physical evidence, while ignoring the psychological impact on victims. This shows how epistemic power determines what is considered legal truth.

A clear example of this problem can be found in a case of sexual violence against a male student in Batu City. Although the court found the perpetrator guilty and handed down a sentence, the legal process showed how the victim's experience was questioned based on the logic of hegemonic masculinity. The questions asked of the victim, such as why he did not fight back or

how he could have been in that situation, illustrate how masculine social norms are used to doubt and question the victim's experience. This confirms that the law often treats men as subjects who should not be vulnerable, which ultimately leads to a refusal to acknowledge that they can be victims of sexual violence.

Sexual violence against men is also often considered an anomaly and inconsistent with common views of masculinity. This culture not only applies in society but also flows into the legal sphere. In the judicial process, judges and law enforcement officials play significant roles in shaping how the victim's experience is understood. A legal culture based on masculine morality and rationality causes male victims' testimonies to be frequently questioned or even ignored. From a Foucauldian feminist perspective, this shows how the courtroom becomes an arena where patriarchal values are maintained and reinforced.

To achieve true gender justice in the enforcement of sexual violence laws, it is important to transform the epistemology of legal practice. This process must include recognising the experiences of male victims in a way that is more sensitive to power dynamics and social relations. The law must be able to view sexual violence as a matter of power relations, not just as an individual problem. This requires a more holistic approach that recognises the vulnerability of men and removes the stigma that prevents them from reporting and obtaining justice. Without this change, the existing legal system will only continue to reproduce injustice and exacerbate the marginalisation of male victims in cases of sexual violence.

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