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# Has Increasing Penalties for Teachers Achieved the Goal of Protecting Children?

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## Abstract

Cases of child molestation involving teachers have increased, raising serious concerns regarding the effectiveness of Indonesia's child protection system. As individuals who occupy positions of authority that may be misused, teachers' criminal liability requires a focused analysis within the framework of Indonesian criminal law. This study examines the forms of criminal liability applicable to teachers who commit child molestation by analyzing the elements of the offense, the principle of culpability, and the scope of their legal responsibility. It also evaluates the implementation of enhanced penalties under Law No. 35 of 2014 and Law No. 17 of 2016, which classify power imbalances as an aggravating factor. Employing a normative juridical method with statutory, conceptual, and case-based approaches, the study finds that teachers possess full legal capacity and that enhanced penalties are consistently imposed, as power relations are deemed to intensify victimization. In conclusion, the normative foundation for imposing criminal liability and enhanced penalties on teachers who commit child molestation is strong, although greater consistency in application remains necessary.

**Keywords:** *Criminal Liability, Enhanced Penalties, Child Molestation, Accountability*

## Abstrak

Kasus pencabulan yang dilakukan guru terhadap anak semakin meningkat dan menimbulkan isu serius dalam sistem perlindungan anak di Indonesia. Guru memiliki posisi otoritatif yang dapat disalahgunakan, sehingga pertanggungjawaban pidananya memerlukan analisis khusus berdasarkan hukum pidana Indonesia. Penelitian ini bertujuan untuk mengkaji bentuk pertanggungjawaban pidana guru pelaku pencabulan anak melalui analisis unsur delik, asas kesalahan, serta ruang lingkup pertanggungjawabannya, serta menilai penerapan pemberatan hukuman sesuai UU No. 35 Tahun 2014 dan UU No. 17 Tahun 2016 yang menempatkan hubungan kuasa sebagai faktor pemberat. Metode yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan studi putusan. Hasil penelitian menunjukkan bahwa guru memiliki kapasitas penuh sebagai subjek hukum, dan pemberatan pidana secara konsisten diterapkan karena hubungan kuasa dianggap memperparah viktimisasi. Kesimpulannya, dasar normatif pertanggungjawaban pidana dan pemberatan hukuman bagi guru pelaku pencabulan telah kuat, meskipun konsistensi penerapannya masih perlu diperkuat.

**Kata kunci:** *Pertanggungjawaban, Pidana, Pemberatan Hukuman, Pencabulan Anak*

## 1. INTRODUCTION

Criminal law serves as a fundamental instrument for maintaining public order and protecting vulnerable groups—particularly children—from various forms of violence and exploitation. The rising incidence of sexual violence against children has positioned child protection as a central concern within both international and national legal frameworks. International instruments, including the Convention on the Rights of the Child, affirm the state's obligation to adopt legislative, administrative, and judicial measures to prevent all forms of sexual exploitation of children. This underscores that sexual crimes against children are not merely legal violations but also offenses against human dignity, producing long-term psychological, social, and moral consequences.

Sexual violence committed by individuals who occupy positions of authority and trust, such as teachers, presents an even more complex and serious problem. Educational institutions are expected to function as safe environments in which children can grow, learn, and develop their potential. Teachers play a crucial role in shaping students' character and moral values. When such authority is misused to commit sexual abuse, the harm inflicted extends beyond the psychological trauma experienced by the victim; it also erodes public trust in educational institutions. Cases involving teachers as perpetrators often reveal patterns of power exploitation, psychological manipulation, and reporting barriers that facilitate grooming and repeated victimization.

Indonesia has responded to this phenomenon by strengthening its legal framework, including through Law No. 35 of 2014 on Child Protection and Law No. 17 of 2016, which introduced enhanced penalties such as higher minimum sentences, substantial fines, and additional measures including chemical castration and electronic monitoring devices. These regulations explicitly designate abuse of authority—including by teachers—as an aggravating circumstance. This legislative reinforcement reflects the state's commitment to providing maximum protection for children while creating a strong deterrent effect.

Nevertheless, national data continue to show an upward trend in cases of child molestation occurring within schools. Reports from the Indonesian Child Protection Commission (KPAI) and various media investigations confirm that educational institutions remain among the most vulnerable settings for sexual abuse committed by educators. This indicates systemic weaknesses in internal school oversight, insufficient enforcement of professional ethics among teachers, and the absence of robust prevention and early detection mechanisms. The inherent power imbalance between teachers and students further contributes to victims' reluctance or inability to disclose incidents of violence.

Scholarly studies on child molestation, particularly when committed by educators, have gained significant prominence in the fields of law, education, and child protection.

Prior research has examined a range of critical issues, including causal factors, forms of criminal liability, judicial reasoning, and the relevance of legal norms in addressing cases that involve significant power disparities between teachers and students. The academic literature generally underscores that teachers hold strategic and authoritative positions within school environments, thereby magnifying the impact of their misconduct on both victims and educational institutions.

Laurinsque L.T. et al. analyze child molestation as a form of sexual violence that violates human dignity, particularly given that children represent the nation's future generation. Using normative and empirical approaches, the study identifies factors contributing to perpetration, including weak moral restraint and uncontrolled impulses. Although the research addresses criminal liability based on court decisions, it does not specifically examine the application of enhanced penalties when the perpetrators are educators.<sup>1</sup>

Similarly, Alauw and Razak investigate judicial considerations in imposing sanctions on teachers who commit child molestation, drawing on a normative approach and case studies. Their findings demonstrate that judges adhere to the provisions of the Child Protection Law and consider broader social developments. The study confirms that judicial assessments extend beyond establishing the elements of the offense to evaluating social, psychological, and moral factors associated with teachers' strategic roles as educators. However, the study does not elaborate on how the aggravating provisions under Law No. 17 of 2016 are operationalized in judicial practice.<sup>2</sup>

Furthermore, Agrianty et al. examined the criminal liability of teachers who committed rape against students based on judicial decisions. Using a normative juridical approach, the authors concluded that perpetrators may be subject to a minimum sentence of five years' imprisonment and fines as stipulated in Article 81 of the Child Protection Law. They also underscored the urgency of increasing penalties by up to one-third of the principal sentence. Although the study provides an important overview of the implementation of criminal sanctions, it does not conceptually explain how teachers' roles as holders of moral and social mandates influence the framework of criminal liability.<sup>3</sup>

Sihotang et al. broaden this perspective by integrating legal analysis, professional ethics, and social context. They highlight the importance of an educators' code of ethics

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<sup>1</sup> Margaretha Laurinsque L.T, Erna Dewi, and Indah Satria, "Analisis Pertanggungjawaban Pidana Bagi Pelaku Tenaga Pendidik Dalam Melakukan Kejahatan Pencabulan Terhadap Anak: Studi Putusan Nomor 75/PID.SUS/2020/PN Metro," *Wajah Hukum* 5, no. 1 (2021): 162–69, <http://dx.doi.org/10.33087/wjh.v5i1.373>.

<sup>2</sup> Fiolita Chaterine Alauw and Muhammad Abdul Razak, "Tinjauan Yuridis Sanksi Pidana Pencabulan Anak Oleh Pendidik: Studi Putusan No. 203/Pid.Sus/2021/PNSDA," *Dekrit: Jurnal Magister Ilmu Hukum* 14, no. 1 (2024): 1–16, <https://doi.org/10.55499/dekrit.v14n1.226>.

<sup>3</sup> Firly Mega Agrianty, Sartika Dewi, and Muhammad Abas, "Criminal Liability for Teachers Perpetrating the Rapes of Their Students: Child Protection Law Perspective," *Unes Law Review* 6, no. 3 (2024): 9343–50, <https://doi.org/10.31933/unesrev.v6i3.1856>.

as a moral guideline governing teacher–student interactions. Their study demonstrates that sexual misconduct by teachers not only violates criminal law but also undermines the integrity of the teaching profession and erodes public trust in educational institutions. However, it does not specifically explore the mechanism of sentence enhancement within the context of criminal liability.<sup>4</sup>

Research by Khaerunisa et al. compares the provisions of Indonesian positive law with Islamic criminal law regarding sanctions for educators who commit child molestation. Their findings indicate that both legal systems strongly emphasize child protection and the imposition of strict sanctions, particularly when perpetrators exploit their positions of authority. While the comparative perspective is valuable, the study does not address the structural relationship between a teacher’s authoritative status and the application of legal-normative sentence enhancements within the national justice system.<sup>5</sup>

Junaidi et al. analyzed judicial decisions in cases of sexual violence committed by teachers, highlighting both legal and non-legal considerations. They found that factors such as advanced age, health conditions, and cooperative behavior often influence sentencing outcomes. However, the study does not examine how the aggravating factor of the perpetrator’s status as a teacher should be applied in practice.<sup>6</sup>

Fatemaluo explored the criminal responsibility of minors who commit sexual violence against other children. Although relevant to broader discussions of child protection, the study differs in focus because the perpetrators were not educators and the power-relational dynamics are therefore not comparable. Its contribution is more conceptual, particularly in terms of the principle of legal utility in sentencing.<sup>7</sup>

Lowrencha emphasizes the growing prevalence of sexual violence against children in schools perpetrated by teachers. While underscoring the vital roles of families, communities, and the state, the study focuses primarily on preventive and social dimensions rather than legal analyses of teacher criminal liability.<sup>8</sup> Similarly, Anis and Wicaksono examine the criminal liability of perpetrators of sexual abuse based on

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<sup>4</sup> Agustin Pratama Sihotang et al., “Pertanggungjawaban Pidana Tenaga Pendidik Pelaku Tindak Pidana Pencabulan,” *Journal of Law and Nation* 2, no. 4 (2023): 422–31, <https://jolin.my.id/index.php/jolin/article/view/74>.

<sup>5</sup> Syifa Mega Khaerunisa, Deden Najmudin, and Yayan Muhammad Royani, “Sanksi Tindak Pidana Ancaman Kekerasan Pencabulan Terhadap Anak Oleh Tenaga Pendidik Dalam Pasal 82 (1) UU No.17 Tahun 2016 Jo Pasal 15 Ayat (1) Huruf (b) UU No 12 Tahun 2022 Perspektif Hukum Pidana Islam,” *Realita: Jurnal Penelitian Dan Kebudayaan Islam* 23, no. 2 (2025): 293–310, <https://doi.org/10.30762/realita.v23i2.574>.

<sup>6</sup> Junaidi Junaidi, Nashriana Nashriana, and K.N Sofyan, “Pertanggungjawaban Tindak Pidana Kekerasan Seksual Terhadap Anak Yang Dilakukan Oleh Oknum Guru Putusan Nomor: 305/Pid.Sus/2017/Pn.Sky,” *Lexlata: Jurnal Ilmiah Ilmu Hukum* 2, no. 2 (2020): 594–614, <https://doi.org/10.28946/lexl.v2i2.825>.

<sup>7</sup> Kartini Fatemaluo, “Analisis Pertanggungjawaban Pidana Oleh Anak Yang Melakukan Tindak Pidana Pencabulan Terhadap Anak Ditinjau Dari Aspek Kemanfaatan Hukum,” *Jurnal Panah Hukum* 4, no. 2 (2025): 177–88, <https://doi.org/10.57094/jph.v4i2.1668>.

<sup>8</sup> Lowrencha Lowrencha, “Analisis Terhadap Pelaksanaan Pemberatan Pidana Bagi Tenaga Kependidikan Yang Melakukan Tindak Pidana Pencabulan Terhadap Anak Dalam Putusan Pengadilan Negeri Manna Nomor 7/PID.SUS/2018/PN.MNA.,” *Jurnal Hukum Adigama* 4, no. 2 (2021): 3469–88, <https://doi.org/10.24912/adigama.v4i2.17920>.

statutory elements; however, their analysis is general in nature and does not specifically consider cases involving teachers, limiting its contribution to a descriptive account of offense construction.<sup>9</sup>

A review of existing literature indicates that most studies examine the criminal liability of child molestation perpetrators in general or analyze judicial decisions from a normative standpoint. However, none have comprehensively analyzed how teachers' status as educational authorities serves as a basis for sentence enhancement under Law No. 35 of 2014 and Law No. 17 of 2016. The originality of the present study lies in its integration of power relations, child protection principles, and the systematic application of enhanced criminal penalties for offenders who serve as teachers. Based on this scholarly gap, the objectives of this study are to:

- 1) Examine the forms of criminal liability applicable to teachers who commit child molestation under Indonesian criminal law, including the elements of the offense, the principle of culpability, and the limits of liability.
- 2) Analyze the application of enhanced penalties for teachers who commit child molestation under Law No. 35 of 2014 and Law No. 17 of 2016 by assessing how teachers' authoritative positions influence sentencing, judicial considerations, and the objectives of criminal policy in child protection.

## 2. RESEARCH METHODOLOGY

This study employs a normative juridical approach combined with conceptual and case-based analyses to examine criminal liability and the legal basis for sentence enhancement for teachers who perpetrate child molestation. The normative juridical approach is used to analyze positive legal norms, criminal law principles, and the regulatory framework governing sexual offenses against children under the Child Protection Law, the Criminal Code, and Law No. 17 of 2016. Through this approach, the study assesses the appropriateness of applying the elements of the offense, the principle of culpability, and the structure of criminal liability to perpetrators who occupy positions of authority or trust.

The conceptual approach is utilized to explore criminal law doctrines, the concept of abuse of power, positions of trust, sexual crimes against children, and the philosophical foundations of sentence enhancement. Scholarly literature—including textbooks, national and international journal articles, and international legal instruments—serves as the primary reference base for developing the study's theoretical framework. The research relies entirely on secondary data, which are analyzed using

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<sup>9</sup> Riyan Anis and Bintang Wicaksono, "Pertanggung Jawaban Pidana Pelaku Pencabulan Dan Kekerasan Terhadap Anak Di Bawah Umur: Analisa Putusan Nomor 40/Pid.Sus/2024 PN Depok," *Iblam Law Review* 4, no. 3 (2024): 109–119, <https://doi.org/10.52249/ilr.v4i3.481>.

qualitative techniques, including norm inventory, theoretical construction, and application to concrete cases.

### 3. RESEARCH RESULT AND DISCUSSION

#### 3.1. Criminal Liability of Teachers Who Commit Child Molestation

This study examines the forms of criminal liability applicable to teachers who commit child molestation under Indonesian criminal law. The analysis focuses on identifying the elements of the offense, the application of the principle of fault (*mens rea*), the limits of criminal responsibility, and the imposition of enhanced penalties for perpetrators who abuse power relations and positions of trust. The study also compares empirical findings from court decisions with existing scholarship to assess how Indonesian legal doctrine positions teachers as legal subjects entrusted with moral, professional, and legal responsibilities.

The findings indicate that criminal liability for teachers who commit child molestation satisfies all fundamental elements required under Indonesian criminal law, namely the existence of an unlawful act (*actus reus*), fault (*mens rea*), and the capacity to be held responsible. Acts of molestation committed by teachers constitute conscious, intentional conduct and cannot be classified as negligence (*culpa*). The elements of the offense are explicitly defined in Article 76D and Article 82(1) of Law No. 35 of 2014 on Child Protection, which strictly prohibit the involvement of children in sexual activities through violence, threats, inducements, or psychological coercion. As a *lex specialis*, this statute prevails over the general provisions of the Criminal Code. Judicial decisions further reveal that proving the elements of the offense in cases involving teachers is relatively straightforward due to patterns of repeated conduct, the presence of digital evidence, and consistent witness testimony indicating planned and deliberate acts.

The study also shows that the principle of fault plays a central role in constructing criminal liability. Teachers' acts of sexual misconduct not only demonstrate intent (*opzet*) but also reflect a deliberate mental orientation toward exploiting power asymmetries and emotional closeness to facilitate the crime. Empirical evidence from court decisions indicates that perpetrators frequently engage in grooming behaviors—such as providing excessive attention, offering gifts, or issuing subtle threats—to create a false sense of closeness. These patterns demonstrate the existence of malicious intent long before the physical acts occurred. Thus, *mens rea* is established not only through overt conduct but also through the manipulative behaviors preceding it.

This study confirms that teachers, as perpetrators, cannot invoke justification or excuse defenses to avoid criminal liability. Children are legally incapable of providing valid consent to sexual activity; therefore, claims of consensual relationships lack legal relevance. This aligns with the general characteristics of sexual offenses against children, which in certain respects resemble strict liability offenses, particularly regarding the

victim's incapacity. Furthermore, the findings affirm that teachers possess full criminal capacity; there is no evidence of mental disorders or other conditions that would negate responsibility. Consequently, the burden of criminal liability cannot be reduced or shifted through subjective arguments offered by perpetrators.

Another key finding concerns the effect of authority and trust as aggravating factors in sentencing. Article 81(3) of Law No. 17 of 2016 stipulates that when a sexual offense is committed by an individual who holds a position of power or trust over a child, the sentence shall be increased by one-third of the maximum penalty. Teachers clearly fall within this category, as they exercise direct authority over students in their roles as educators, mentors, and supervisors. Judicial decisions consistently reflect this principle, with judges viewing abuse of authority as an aggravating circumstance because the perpetrator not only violated the child's physical and psychological integrity but also betrayed public trust in educational institutions. This finding is consistent with criminal law scholarship, which affirms that abuse of trust heightens culpability and justifies harsher legal consequences.

The analysis further demonstrates that digital evidence—such as electronic messages, photographs, audio recordings, and communication logs—plays a critical role in establishing intent and premeditation. In many cases, teacher-perpetrators used social media platforms and instant messaging applications to initiate contact, engage in emotional manipulation, and arrange meetings with victims. Such evidence is vital to strengthening criminal liability because it reveals preplanned conduct and shows abnormal communication patterns that exceed appropriate professional boundaries between teachers and students. In addition, witness testimony, including from other students and fellow teachers, contributes to reconstructing the sequence of events and corroborates the victim's account. Medical examinations also provide objective proof in cases involving physical contact.

Consistent with prior research, the findings of this study reinforce the central role of power relations in sexual offenses against children.<sup>10</sup> Earlier studies have shown that perpetrators who maintain close relationships with victims commonly engage in grooming before committing the assault. This study strengthens those conclusions by examining judicial decisions that reveal systematic behavioral patterns among teacher-perpetrators. At the same time, this study expands the scope of previous scholarship by analyzing how norms regarding sentence enhancement are consistently applied and how elements of culpability are derived not only from physical acts but also from manipulative motives and power dynamics evident in electronic evidence. Thus, this

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<sup>10</sup> Putra Fahreza Aqila Akhmad, "Suara Yang Terpendam Relasi Kuasa Terhadap Terjadinya Pelecehan Seksual Di Lingkungan Akademik Malang," *Harmoni: Jurnal Ilmu Komunikasi Dan Sosial* 3, no. 1 (2025): 20–33, <https://doi.org/10.59581/harmoni-widyakarya.v3i1.4583>; Mohamad Ashif Fuadi et al., "Menyoal Ketimpangan Relasi Kuasa Dan Upaya Pencegahan Kekerasan Seksual Di Pesantren: Sebuah Tinjauan Kritis," *Musawa: Jurnal Studi Gender Dan Islam* 22, no. 2 (2023): 148–60, <https://doi.org/10.14421/musawa.2023.222.148-160>.

study both confirms and enriches existing normative and empirical analyses of the forms of criminal liability applicable to teachers as perpetrators.

The criminal liability of teacher-perpetrators must also be understood within the broader social and institutional context in which the offense occurs.<sup>11</sup> Classrooms and school environments—spaces that should be safe for children—can inadvertently provide opportunities for abuse due to routine proximity, the teacher's control over students' activities, and insufficient oversight. These circumstances indicate that a teacher's criminal liability should be viewed not only as an individual wrongdoing but also as a structural breach of the child protection framework within educational institutions. Accordingly, the imposition of enhanced penalties can be interpreted as a form of punishment for violating institutional trust, not solely for the harm inflicted upon the victim.

This study confirms that the structure of criminal liability in cases of child molestation committed by teachers is comprehensive and leaves no room for defenses that could diminish culpability. All elements of the offense—*actus reus*, *mens rea*, and responsibility—are clearly fulfilled. Empirical findings demonstrate that the perpetrator's actions were deliberate, premeditated, and exploited the child's psychological vulnerability. Judicial decisions consistently emphasize that abuse of authority constitutes the gravest form of wrongdoing because it involves using professional status to compromise a child's physical and emotional integrity.

The findings of this study show that the criminal liability of teachers who commit child molestation is grounded in a strong, coherent, and well-established legal framework. The norm of sentence enhancement reinforces the legal protection afforded to children and affirms the teaching profession as one that carries significant moral responsibility. The affirmation of the elements of the offense, the principle of culpability, and the boundaries of liability in judicial decisions demonstrates that the Indonesian legal system provides an adequate normative and doctrinal response to the complexity of these cases. These findings contribute meaningfully to the development of criminal law scholarship and serve as a foundation for designing more effective prevention and oversight mechanisms in educational settings.

### **3.2. Implementation of Enhanced Sentences for Teachers Who Commit Child Molestation**

This study examines the application of enhanced sentences for teachers who commit child molestation based on the provisions of Law No. 35 of 2014, Law No. 17 of 2016, and Law No. 12 of 2022 on Sexual Violence (the TPKS Law). The analysis focuses on how teachers' positions of authority influence sentencing, the considerations taken by

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<sup>11</sup> Topo Santoso, *Kriminologi: Suatu Pengantar* (Depok: PT. RajaGrafindo Persada, 2025), <https://www.rajagrafindo.co.id/produk/kriminologi-suatu-pengantar-topo-santoso/>.



judges, and the relevance of criminal policy within the broader framework of child protection. Through a combination of normative inquiry, case analysis, and doctrinal approaches, this study demonstrates that educational authority is not merely an aggravating factor but a structural element that shapes assessments of culpability and strategies for strengthening legal protection for children.

The findings show that Indonesian positive law clearly identifies teachers as legal subjects subject to enhanced penalties when they commit sexual offenses against children. Law No. 17 of 2016 and the TPKS Law explicitly provide for increased sentences for perpetrators who occupy positions of power or authority. The research reveals that teachers' roles as educators, mentors, and supervisors within the school environment create an asymmetrical relationship that legally increases the potential for abuse of power. As a result, in cases involving child molestation by teachers, courts generally apply enhanced sentencing norms as a mechanism to provide superior protection for children as a vulnerable group.

Analysis of several court decisions indicates that judges consistently apply Article 81(3) and Article 82(2) of Law No. 17 of 2016, which stipulate that when a sexual offense is committed by an individual with a familial relationship, legal authority, or a position of trust over the child, the prison sentence shall be increased by one-third. This demonstrates that enhanced sentencing functions not as an optional judicial consideration but as a mandatory norm embedded within the criminal justice system. In the cases examined, judges justified the application of enhanced sentences by highlighting teachers' functional control over the school environment and learning activities, which heightened both the gravity of the offense and its social impact.

The study also finds that the implementation of the TPKS Law expands the scope of sentence enhancement through a cumulative sanction mechanism. The TPKS Law authorizes judges to impose not only imprisonment but also additional penalties such as identity disclosure, electronic monitoring, and chemical castration. In several cases involving teachers who committed repeated acts of sexual abuse, judges considered imposing these additional sanctions due to the perpetrators' high risk of recidivism and patterns of predatory behavior. The application of cumulative sanctions is viewed as a criminal policy aimed at preventing reoffending and reinforcing child safety.

Judges consistently place a teacher's authority as the primary determinant of sentence severity. The pedagogical relationship—characterized by emotional, psychological, and academic dependency—suggests a heightened capacity for manipulation. This finding aligns with criminological theories of power abuse, which posit that individuals with structural access to potential victims are more likely to engage in grooming, psychological manipulation, and implicit forms of coercion. In numerous decisions, judges interpreted the teacher–student relationship as a form of “total

authority” that can compel children to comply or remain silent, thereby providing strong justification for imposing harsher sanctions.

When compared with previous studies, these findings demonstrate a high degree of consistency. Research by Alauw and Razak, Fatemaluo, Khaerunisa et al., and Sihotang et al. similarly found that perpetrators in positions of authority—including teachers, principals, and extracurricular instructors—generally receive sentences above the statutory minimum.<sup>12</sup> However, this study shows that since the enactment of the TPKS Law in 2022, aggravating considerations have expanded beyond authority alone to include risk level, use of digital technologies, number of victims, duration of abuse, and the long-term psychological impact on children. This shift reflects a significant development from the previous “authority as a single aggravating factor” approach toward a more comprehensive and responsive model of “multi-layered aggravation.”

The Indonesian criminal justice system increasingly emphasizes a victim-oriented sentencing approach.<sup>13</sup> Judges in numerous decisions consider psychological trauma, educational disruption, and the erosion of trust in educational institutions as forms of aggravating harm. Consequently, sentencing is no longer focused solely on retribution but also on special prevention and public safety. In several cases, judges explicitly state that aggravating factors are imposed to restore public confidence in schools as safe environments for children.

Furthermore, the TPKS Law encourages judges to adopt a multi-layered sentencing framework that reflects forward-looking criminal policy. Identity disclosure, for instance, is applied in cases where the perpetrator is considered likely to reoffend upon release. Electronic monitoring is deemed appropriate when perpetrators remain in their productive years or exhibit limited remorse. Chemical castration appears in decisions involving teachers with multiple victims or a demonstrated pattern of repetitive sexual violence. The scope of aggravating factors thus extends beyond the teacher’s formal authority to encompass factual circumstances such as the use of threats, digital grooming strategies, the commission of the offense within the school environment, attempts to conceal the crime, and noncooperation during the

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<sup>12</sup> Alauw and Razak, “Tinjauan Yuridis Sanksi Pidana Pencabulan Anak Oleh Pendidik: Studi Putusan No. 203/Pid.Sus/2021/PNSDA”; Fatemaluo, “Analisis Pertanggungjawaban Pidana Oleh Anak Yang Melakukan Tindak Pidana Pencabulan Terhadap Anak Ditinjau Dari Aspek Kemanfaatan Hukum”; Khaerunisa, Najmudin, and Royani, “Sanksi Tindak Pidana Ancaman Kekerasan Pencabulan Terhadap Anak Oleh Tenaga Pendidik Dalam Pasal 82 (1) UU No.17 Tahun 2016 Jo Pasal 15 Ayat (1) Huruf (b) UU No 12 Tahun 2022 Perspektif Hukum Pidana Islam”; Sihotang et al., “Pertanggungjawaban Pidana Tenaga Pendidik Pelaku Tindak Pidana Pencabulan.”

<sup>13</sup> P Advent Christian S P and Junifer Dame Panjaitan, “Kebijakan Hukum Pidana Terhadap Korban Dalam Prespektif Undang-Undang Hukum Hak Asasi Manusia,” *Action Research Literate* 9, no. 7 (2025): 1839–45, <https://doi.org/10.46799/ar.v9i7.2998>; Kiki Diah Hafidzah and Maroni Maroni, “Model Restitusi Sosial Anak Korban Perkosaan Untuk Mewujudkan Keadilan Hukum,” *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 4 (2025): 5297–5310, <https://doi.org/10.61104/alz.v3i4.2107>; Anggi Mustavia Maulani and Rusmilawati Windari, “Victim Impact Statement Dalam Sistem Peradilan Pidana: Sebuah Urgensi Hukum,” *Rechtidee* 17, no. 1 (2022): 26–53, <https://doi.org/10.21107/ri.v17i1.14369>.

investigation. Each of these circumstances strengthens assessments of criminal responsibility and contributes to the justification for enhanced sentencing.

The application of enhanced penalties for teachers who commit sexual violence reflects three core objectives of criminal policy: child protection, crime prevention, and the restoration of public trust.<sup>14</sup> As central figures within educational institutions, teachers' misconduct not only harms individual victims but also undermines the social trust that supports the education system. Accordingly, enhanced penalties carry not only individual but also symbolic and structural significance.

The study confirms that teachers hold a dual status within the criminal justice process: they can act as a criminogenic factor when authority is abused and as a normative aggravating factor when they perpetrate sexual violence. These dual characteristics provide strong justification for the state to impose harsher sentencing schemes to ensure optimal protection for children.

The findings demonstrate that the implementation of enhanced penalties for teachers who commit child molestation in Indonesia has evolved into a comprehensive, multidimensional, and normatively coherent system. The provisions of Law No. 17 of 2016 and the TPKS Law provide a clear foundation for sentencing enhancement based on a combination of authority, crime patterns, recidivism risk, psychological impact, and institutional considerations. Judges are increasingly consistent in applying victim-centered and child-protection-oriented sentencing approaches. This study confirms that the reform of aggravated sentencing for authoritative perpetrators—particularly teachers—constitutes a critical pillar in establishing an effective child protection system against sexual crimes.

#### 4. CONCLUSION

This study examines the criminal liability of teachers who commit child molestation within the framework of Indonesian criminal law and analyzes the application of enhanced sentences under Law No. 35 of 2014 and Law No. 17 of 2016. The findings indicate that teachers who perpetrate child molestation fulfill the elements of the offenses stipulated in Articles 81 and 82 of the Child Protection Law, with culpability grounded in intentional conduct, abuse of authority, and full awareness of the consequences of their actions. Within the structure of criminal liability, the teacher's role as an educational authority substantially increases the degree of culpability and the likelihood of receiving enhanced penalties.

The results further demonstrate that judges consistently apply increased sentences because the teacher–student power dynamic creates structural vulnerability, thereby justifying a one-third sentence enhancement. This study contributes to strengthening

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<sup>14</sup> Muladi Muladi and Barda Nawawi Arief, *Teori-Teori Dan Kebijakan Pidana* (Bandung: Alumni, 2010).

academic and policy-level understanding of child protection and the urgency of authority-based aggravating factors. However, the research is limited to normative analysis and does not incorporate field-based examinations of the psychosocial conditions of victims or perpetrators. Accordingly, future research should adopt empirical approaches to assess the practical effectiveness of sentencing policies. At the policy level, it is essential to reinforce child protection regulations in educational environments, improve teacher supervision mechanisms, and ensure the consistent implementation of enhanced sanctions to maximize prevention and safeguard children's well-being.

## REFERENCES

### Journals

- Agrianty, Firly Mega, Sartika Dewi, and Muhammad Abas. "Criminal Liability for Teachers Perpetrating the Rapes of Their Students: Child Protection Law Perspective." *Unes Law Review* 6, no. 3 (2024): 9343–50. <https://doi.org/10.31933/unesrev.v6i3.1856>.
- Akhmad, Putra Fahreza Aqila. "Suara Yang Terpendam Relasi Kuasa Terhadap Terjadinya Pelecehan Seksual Di Lingkungan Akademik Malang." *Harmoni: Jurnal Ilmu Komunikasi Dan Sosial* 3, no. 1 (2025): 20–33. <https://doi.org/10.59581/harmoni-widyakarya.v3i1.4583>.
- Alauw, Fiolita Chaterine, and Muhammad Abdul Razak. "Tinjauan Yuridis Sanksi Pidana Pencabulan Anak Oleh Pendidik: Studi Putusan No. 203/Pid.Sus/2021/PNSDA." *Dekrit: Jurnal Magister Ilmu Hukum* 14, no. 1 (2024): 1–16. <https://doi.org/10.55499/dekrit.v14n1.226>.
- Anis, Riyan, and Bintang Wicaksono. "Pertanggung Jawaban Pidana Pelaku Pencabulan Dan Kekerasan Terhadap Anak Di Bawah Umur: Analisa Putusan Nomor 40/Pid.Sus/2024 PN Depok." *Iblam Law Review* 4, no. 3 (2024): 109–119. <https://doi.org/10.52249/ilr.v4i3.481>.
- Christian S P, P Advent, and Junifer Dame Panjaitan. "Kebijakan Hukum Pidana Terhadap Korban Dalam Prespektif Undang-Undang Hukum Hak Asasi Manusia." *Action Research Literate* 9, no. 7 (2025): 1839–45. <https://doi.org/10.46799/arل.v9i7.2998>.
- Faternaluo, Kartini. "Analisis Pertanggungjawaban Pidana Oleh Anak Yang Melakukan Tindak Pidana Pencabulan Terhadap Anak Ditinjau Dari Aspek Kemanfaaaatan Hukum." *Jurnal Panah Hukum* 4, no. 2 (2025): 177–88. <https://doi.org/10.57094/jph.v4i2.1668>.
- Fuadi, Mohamad Ashif, Mega Alif Marintan, Qisthi Faradina Ilma Mahanani, and Muhammad Aslambik. "Menyoal Ketimpangan Relasi Kuasa Dan Upaya Pencegahan Kekerasan Seksual Di Pesantren: Sebuah Tinjauan Kritis."

- Musawa: Jurnal Studi Gender Dan Islam* 22, no. 2 (2023): 148–60.  
<https://doi.org/10.14421/musawa.2023.222.148-160>.
- Hafidzah, Kiki Diah, and Maroni Maroni. “Model Restitusi Sosial Anak Korban Perkosaan Untuk Mewujudkan Keadilan Hukum.” *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 4 (2025): 5297–5310.  
<https://doi.org/10.61104/alz.v3i4.2107>.
- Junaidi, Junaidi, Nashriana Nashriana, and K.N Sofyan. “Pertanggungjawaban Tindak Pidana Kekerasan Seksual Terhadap Anak Yang Dilakukan Oleh Oknum Guru Putusan Nomor: 305/Pid.Sus/2017/Pn.Sky.” *Lexlata: Jurnal Ilmiah Ilmu Hukum* 2, no. 2 (2020): 594–614.  
<https://doi.org/10.28946/lexl.v2i2.825>.
- Khaerunisa, Syifa Mega, Deden Najmudin, and Yayan Muhammad Royani. “Sanksi Tindak Pidana Ancaman Kekerasan Pencabulan Terhadap Anak Oleh Tenaga Pendidik Dalam Pasal 82 (1) UU No.17 Tahun 2016 Jo Pasal 15 Ayat (1) Huruf (b) UU No 12 Tahun 2022 Perspektif Hukum Pidana Islam.” *Realita: Jurnal Penelitian Dan Kebudayaan Islam* 23, no. 2 (2025): 293–310.  
<https://doi.org/10.30762/realita.v23i2.574>.
- Laurinsque L.T, Margaretha, Erna Dewi, and Indah Satria. “Analisis Pertanggungjawaban Pidana Bagi Pelaku Tenaga Pendidik Dalam Melakukan Kejahatan Pencabulan Terhadap Anak: Studi Putusan Nomor 75/PID.SUS/2020/PN Metro.” *Wajah Hukum* 5, no. 1 (2021): 162–69.  
<http://dx.doi.org/10.33087/wjh.v5i1.373>.
- Lowrencha, Lowrencha. “Analisis Terhadap Pelaksanaan Pemberatan Pidana Bagi Tenaga Kependidikan Yang Melakukan Tindak Pidana Pencabulan Terhadap Anak Dalam Putusan Pengadilan Negeri Manna Nomor 7/PID.SUS/2018/PN.MNA.” *Jurnal Hukum Adigama* 4, no. 2 (2021): 3469–88. <https://doi.org/10.24912/adigama.v4i2.17920>.
- Maulani, Anggi Mustavia, and Rusmilawati Windari. “Victim Impact Statement Dalam Sistem Peradilan Pidana: Sebuah Urgensi Hukum.” *Rechtidee* 17, no. 1 (2022): 26–53. <https://doi.org/10.21107/ri.v17i1.14369>.
- Sihotang, Agustin Pratama, Deo Agung Haganta Barus, Pingky Monica Hasugian, Reh Bungana Beru Perangin-angin, and Maulana Ibrahim. “Pertanggungjawaban Pidana Tenaga Pendidik Pelaku Tindak Pidana Pencabulan.” *Journal of Law and Nation* 2, no. 4 (2023): 422–31.  
<https://jolin.my.id/index.php/jolin/article/view/74>.

## Books

- Muladi, Muladi, and Barda Nawawi Arief. *Teori-Teori Dan Kebijakan Pidana*. Bandung: Alumni, 2010.
- Santoso, Topo. *Kriminologi: Suatu Pengantar*. Depok: PT. RajaGrafindo Persada,

2025. <https://www.rajagrafindo.co.id/produk/kriminologi-suatu-pengantar-topo-santoso/>.