

MAQASHID SHARIA CONCERNING SEXUAL VIOLENCE AGAINST WIFE IN LAW NUMBER 23 YEAR 2004

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Abstrak

Tulisan ini berangkat dari konsep dalam yakni akad dalam perkawinan membentuk seorang laki-laki dan perempuan menjadi satu keluarga baru yang didasarkan pada suka sama suka sehingga tujuan dalam perkawinan menjadikan keduanya Sakinah, mawaddah, warahmah. Terdapat hak dan kewajiban setelah proses akad tersebut termasuk hak dan kewajiban dalam memenuhi kebutuhan seksual antara suami dan istri, namun dalam faktanya dengan atas nama agama menjadi satu-satunya dasar apabila ada pemaksaan dari salah satu pihak yang melakukan pemaksaan seksual seorang suami terhadap istri, yang seharusnya dalam melakukan hubungan suami istri dengan cara yang baik (ma'ruf) dan saling menimbulkan kasih sayang diantara keduanya. Berdasarkan fakta (kenyataan) kejadian tersebut, maka penulis membahas bagaimana Maqashid Syar'iah dari tindakan kekerasan seksual terhadap istri dalam Undang-Undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan Dalam Rumah Tangga. Dengan Menggunakan metode yuridis normatif, dalam hal ini meneliti tentang kekerasan seksual terhadap istri menurut Fiqih Munakahat dan hubungannya dengan Undang-undang Nomor 23 tahun 2004 Tentang Penghapusan Kekerasan dalam Rumah Tangga (PKDRT). Hasil penelitian menjelaskan bahwa untuk mencapai dan memelihara 5 (lima) prinsip utama dalam islam yaitu memelihara Agama (hifdz al-din), jiwa (hifdz al-nafs), akal (hifdz al-'qal), keturunan (hifdz al-Nasl), dan Harta (hifdz al-mal wa al-'irdh) maka korban harus terlindungi dan diberikan keadilan, sehingga tidak terjadi kembali kekerasan seksual pada seorang istri.

Kata Kunci: Maqashid Syari'ah; Kekerasan; Kekerasan Seksual.

Abstract

This paper departs from the internal concept, namely the contract in marriage to form a man and a woman into a new family based on consensual relationships so that the purpose of marriage is to make them both Sakinah, mawaddah, warahmah. There are rights and obligations after the contract process including rights and obligations in fulfilling sexual needs between husband and wife, but in fact in the name of religion becomes the only basis if there is coercion from one of the parties who commits sexual coercion of a husband against his wife, which should be in a husband and wife relationship in a good way (ma'ruf) and cause mutual affection

between the two. Based on the facts (reality) of the incident, the author discusses how Maqashid Syar'iah from acts of sexual violence against wives in Law Number 23 of 2004 concerning the Elimination of Domestic Violence. By using normative juridical methods, in this case researching about sexual violence against wives according to Fiqh Munakahat and its relationship with Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT). The results of the study explain that to achieve and maintain 5 (five) main principles in Islam, namely maintaining religion (hifdz al-din), soul (hifdz al-nafs), reason (hifdz al-'qal), offspring (hifdz al-Nasl), and property (hifdz al-mal wa al-'irdh) then the victim must be protected and given justice, so that sexual violence does not happen again to a wife.

Keywords : Maqashid Syari'ah; Violence; Sexual Violence

Accepted: June 15 2022	Reviewed: June 29 2022	Published: July 30 2022
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A. Introduction

Sexual violence in the household (marital rape) is something that is still not widely known by some people. This may be due to the habits and culture of some Indonesians who do not understand sexual violence in the household, especially against wives. Domestic sexual violence is part of domestic violence (KDRT), a crime that is included in the non-public space so that it is difficult to show on the surface. Even though this act has actually been convicted, its status is still a complaint offense. Victims need to be active in upholding justice for their own series. Domestic sexual violence is an act of violence or coercion by a husband against his wife to perform sexual activities without seeing and considering the conditions and circumstances of the wife.(Marlia, 2007)

The forms of sexual violence in the household, especially against the wife, can be formulated as follows: (1) Unwanted sexual relations by the wife due to the unpreparedness of the wife, both physically and psychologically. (2) Sexual intercourse in a way that is not desired by the wife, for example by oral or anal. (3) Relationships that are threatened or accompanied by violence that result in minor or serious injuries to the wife.(Marlia, 2007)

According to data from the 2019 Annual Records of the National Commission on Violence Against Women, there were 2988 cases of sexual violence and 195 cases of which were marital rape, this figure increased from the previous year, which was 172 cases. (Komisi Nasional Anti Kekerasan Terhadap Perempuan, n.d.) From this data, it can be seen that there are still people, especially husbands, who think that forcing their wives to have sex is a natural thing, because they consider

that serving their husbands well is the wife's obligation no matter what the circumstances.

Departing from the facts described above as if there is an imbalance between Law Number 23 of 2004 concerning the Elimination of Domestic Violence and Fiqh Munakahat, a research will be carried out which will be outlined in this thesis. Researchers consider it necessary to conduct research in order to emerge a comprehensive picture of sexual violence against wives in the view of fiqh munakahat and its relationship with Law Number 23 of 2004 concerning the Elimination of Domestic Violence.

B. Research Method

This study uses a normative juridical method, namely legal research conducted by examining library materials or secondary data as the basic material for research by conducting a search on regulations and literature related to the problems studied. In this case, it examines sexual violence against wives according to Fiqh Munakahat and its relationship with Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT).

C. Research Findings and Discussion

Domestic Sexual Violence

Based on the Info Graphic, CATAHU 2020 was developed to make it easier to read the Annual Records of Violence, published by Komnas Perempuan, which is more concise, concise and clear. Cases of Violence against Women by Area, Cases of Sexual Violence Based on Areas, Cases of Sexual Violence in the Community, Cases of Cyber Crime in Institutions Komnas Perempuan's Services and Complaints and Cases of Violence received at Service Institutions.

Table. 1

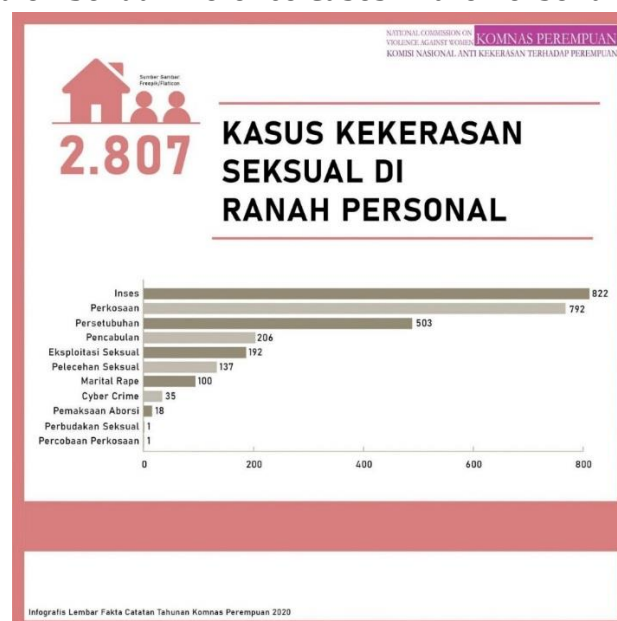


Source: Annual Records (Catahu) of Komnas Perempuan

Based on the data above, cases of violence against women in Indonesia throughout 2019 were very high and increasing from year to year, from 2015 as many as 321,752 cases, in 2016 as many as 259,150 cases, in 2017 as many as 348,446 cases, in 2018 as many as 406,178 cases, and the last time in 2019 was 431,471 cases, this is a common concern so that the right solution is needed so that sexual violence can be abolished.

Table 1.1

Data on Sexual Violence Cases in the Personal Area



Source: Annual Records (Catahu) of Komnas Perempuan

A total of 2,807 cases of sexual violence in the personal domain (private domain) can be found in the family and immediate environment of the victim with 822 cases of incest, 792 cases of rape, 503 cases of sexual intercourse, 206 cases of sexual exploitation, 192 cases of sexual harassment 137 cases, 100 cases of Marital Rape, 35 cases of Cyber Crime, 18 cases of forced abortion, 1 case of sexual slavery and 1 case of attempted rape.

Based on the data above, the authors highlight and focus on cases of sexual violence against wives in marriage (Marital Rape) which should in marriage cause love but instead become violence, besides that many victims of violence within the scope of husband and wife do not report their cases coupled with patterns of thinking that are considered normal.

Forced sexual intercourse is one of the forms of violence that occurs in domestic life. Related to this, sexual violence in the household, especially against wives, has several forms and types.

Domestic violence is explained in Article 1 paragraph (1) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT), that domestic violence is any act against a person, especially a woman, which results in physical misery or suffering. , sexual, psychological, and/or neglect of the household including threats to commit acts, coercion or deprivation of liberty against the law in the household environment.

Sex is one of the basic human needs and is the basis of a marriage. Sex is a means of obtaining offspring, sexual pleasure and sexual satisfaction. Darwin stated that sexual satisfaction is one of the determining factors in family life. However, if one of the two husbands and wives who are having sexual relations do not enjoy it, then sexual relations can become something to be avoided, even feared and hated. (Darwin, 1996)

Sexual violence including various unwanted behaviors that contain sexual harassment as well as various forms of forced sex is referred to as rape. Sexual violence itself includes, forcing sexual relations in a pattern that is not desired or approved by the wife, and forced sexual intercourse when the wife does not want it and the wife is sick or menstruating.(Moerti, 2010)

Sexual violence against women has two meanings. First, in general, as gender-based violence, and second, in particular, as a particular form of violence against women, namely gender-based violence that causes harm or suffering to women sexually.

Many married couples do not enjoy the intimate relationship they have. Sex can be something to be avoided or even hated. This happens because one party imposes his sexual will without considering the will of the other party. Coercion

and indifference to the sexual desire and satisfaction of partners is one form of sexual violence.

Sexual violence against women based on gender (gender based violence) is broadly defined as: any act that causes harm or suffering to women physically, sexually and psychologically, including threats of certain actions, coercion or arbitrary deprivation of liberty carried out in front of public or in private life.

Included in this violence are beatings, sexual abuse of girls, dowry-related violence, marital rape, genital mutilation, traditional practices that torture and injure the body and genitals, rape, sexual harassment and threats in the public sector, trafficking in women and forced prostitution. Likewise, other violence against women that develops in (or) is developed by the domestic environment (family), society, or the state (violence by the state). (Marlia, 2007)

Meanwhile, sexual violence against women as a specific form of violence against women, is often defined as a crime that specifically attacks the female sexual organs, in the form of forcing a sexual relationship (rape), sexual harassment, or destruction of reproductive organs.

Then sexual violence according to Article 8 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, namely coercion of sexual relations carried out against people who live within the scope of the household, as well as coercion of sexual relations against one person within the scope of his household with another person to commercial purposes and/or specific purposes.

Meanwhile, according to The Declaration on the Elimination of Violence Against Women in 1993 in Articles 1 and 2, it is explained that sexual violence is any act that includes sexual harassment to forcing someone to have sexual intercourse without the victim's consent or when the victim does not want and/or have intercourse. sexual intercourse in a way that is inappropriate or unwelcome to the victim, and/or isolates or distances the victim from sexual needs.

From the definition above, the author argues that sexual violence according to Law Number 23 of 2004 concerning the Elimination of Domestic Violence is sexual intercourse by forcing without the victim's consent and/or in a way that is less or less liked by the victim, so that the victim feels pressured and hurt.

Maqasid Syariah consists of two words, namely Maqasid and Syar'iah, Maqasida is the plural form of maqsuudu which means intentional or purpose. Shari'ah means linguistically the way to the water source. The road to this water source can also be said to be the road to the main source of life. The meaning of Maqasid al-Syariah according to Abdullah Yusuf Ali, in The Holly Quran, Syari'ah is everything that is used or determined by Allah SWT in religion to regulate the lives of His servants. Akhmad al-Raisuni in Nazhariyat al-Maqashid 'Inda al-Syatibi, in

terms of language Maqasid al-Shari'at means the intent or purpose of being prescribed by Islamic law, therefore the main discussion in it is the issue of wisdom and ilat stipulation of an Islamic law. law. The content of Maqasid al-Syariah or the purpose of law is the benefit of mankind. This benefit, through the analysis of Maqasid al-Syariah, is not only seen in a purely technical sense, but in the dynamics and development of law, it is seen as something that contains the philosophical value of the laws prescribed by God to humans. Thus Maqasid Shari'ah can be interpreted as "the purpose of Allah and His Messenger in formulating Islamic Shari'ah". Which is nothing but to take benefit and avoid harm to man himself, both in this world and in the hereafter. The basis of Maqasid Sharia is as stated in the QS. Al-Jaatsiyah, verse 18:

ثُمَّ جَعَلْنَاكَ عَلَىٰ شَرِيعَةٍ مِّنَ الْأَمْرِ فَاتَّبِعْهَا وَلَا تَتَّبِعْ أَهْوَاءَ الَّذِينَ لَا يَعْلَمُونَ

"Then We made you on a shari'a (regulation) of (religious) affairs, so follow that shari'a and do not follow the lusts of those who do not know." (Q.S. Al-Jatsiyyah: 18).

And also in QS. Al-Shuraa, verse 13 is also emphasized:

شَرَعَ لَكُم مِّنَ الدِّينِ مَا وَصَّىٰ بِهِ نُوحٌ ۖ وَالَّذِي أَوْحَيْنَا إِلَيْكَ وَمَا وَصَّيْنَا بِهِ إِبْرَاهِيمَ وَمُوسَىٰ وَعِيسَىٰ ۚ أَنْ أَقِيمُوا الدِّينَ وَلَا تَتَفَرَّقُوا فِيهِ ۚ كَبُرَ عَلَى الْمُشْرِكِينَ مَا تَدْعُوهُمْ إِلَيْهِ ۗ اللَّهُ يَجْتَبِي إِلَيْهِ مَنْ يَشَاءُ وَيَهْدِي إِلَيْهِ مَنْ يُنِيبُ

"He has prescribed for you the religion of what He has testified to Noah and what We have revealed to you and what We have passed on to Abraham, Moses and Jesus, namely: Establish religion and do not be divided about it. It is very hard for the polytheists of the religion to which you call them. Allah draws to that religion whom He wills and guides (to Him) those who return (to Him)."

Maqasid Syariah is a concept that emphasizes the purpose of establishing Islamic law in an effort to maintain the benefit of human life, with the aim of bringing benefits and avoiding harm. Ibn al-Qayyim al-Jauziyyah, said that in fact the principles and basis of Islamic law income are for the benefit of the servant in this world and in the hereafter. According to him, Islamic law is all fair, brings mercy, contains benefits and brings wisdom. Imam al-Ghazali, argues, that benefit is basically an expression of obtaining benefits and rejecting harm. The expression is categorized as the broadest rule, its scope and scope. (Bakrie, 2010). Scholars argue that there are three kinds of syar'ah objectives or Maqasid levels, namely Maqasid al-Syariah, Maqasid al-Hajiat, Maqasid al-Tahsiniyat.

Imam Juwayniy has suggested, which was later developed by Al-Ghozali and Ash-Syatibi to maintain al-Umurdh-dharuriyah in human life, namely the things that become the foundation of the existence of human life which must benefit them. Namely all the Shari'a covered in five things, al-kulliyyat al-khams. The laws to maintain al-Umurdh-dharuriyah Namely first, Hifz al-din (protection of religion). To uphold the religion of Islam requires faith, especially the six pillars of faith and requires laws relating to the five pillars of Islam. Second Hifz al-nafs (protection of the soul). To protect the soul, Islam commands food and drink, to wear clothes and to stay just enough to keep it from destruction. Likewise, Islam stipulates the laws of qishash, diyat, and kifarar for people who deliberately commit murder and torture the body. All of these things are to avoid life-threatening harm. Third, Hifz al-aql (protection of reason). To preserve the mind, Islam forbids khamr and all kinds of food and drink that is intoxicating because it destroys the mind, and gives punishment to those who drink khamr. Islam also guarantees creativity in thinking and expressing opinions. Fourth, Hifz al-mal (protection of property). In order to maintain property, Islam forbids stealing, cheating, carrying out and consuming usury, destroying property, both one's own and that of others. To obtain wealth requires lawful businesses, such as farming, trade, manage industry, etc. Fifth, Hifz al-nasl wa al-ird (protection of honor and offspring)

To maintain honor/lineage, Islam prescribes corporal punishment (had) for those who commit adultery and those who accuse good people of committing adultery. To maintain offspring, Islam requires marriage law so that humans reproduce in the best possible conditions. Islam also forbids insulting and harassing other people in public Islam guarantees the honor of human beings by giving great attention, which can be used to specialize in their human rights. Islam also provides protection through the prohibition of backbiting (backbiting), pitting against each other, spying, cursing, and reproaching by using bad calls, as well as other protections that intersect with human honor and glory. (Jauhar, 2009)

Maqashid Syari'ah Acts of Violence in Law No. 23 of 2004

The existence of Law Number 23 of 2004 concerning the Elimination of Domestic Violence is a basis for the elimination of all forms of domestic violence. This can happen to wives, children, parents, or even other family members from all forms of domestic violence, one of which is sexual violence.

As for what is prohibited in the household and is classified as domestic violence as regulated in Article 5 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, includes: Everyone is prohibited from

committing domestic violence against people within the scope of his household by means of physical violence, psychological violence; sexual violence; or Abandonment of household.

Forms of physical violence in the household where most of the wives are victims include being beaten, slapped, spat on, thrown with objects such as plates, grabbed by the hair and kicked. Psychological violence is violence experienced by people who are within the scope of the household that does not cause scars such as physical violence. psychological violence is more difficult to overcome than victims of physical violence. Psychological violence is in the form of verbal abuse, harsh words, threats, neglect, rejection and accusations. Sexual violence, sex is one of the basic human needs and is the basis of a marriage because, sex becomes a means of obtaining offspring, sexual pleasure and sexual satisfaction. The forms of sexual violence experienced by people in the household, especially the wife, include being harassed after having sexual intercourse, having sexual relations without the wife's consent, forcing their own sexual appetites, not paying attention to the wife's satisfaction, not fulfilling the wife's sexual needs because the husband has other wives or mistresses and the husband's infidelity or relationship with other women outside of marriage can also be called sexual violence against the wife. Economic violence such as not making a living, using or spending money earned from people in the household, and so on.

Each member of the household has a husband, wife and children. In forming a household we need a strong foundation to form a coveted household, before we build a strong foundation in the household, we need to know first, the purpose of marriage. The purpose of marriage is to build a family that is *sakinah* (tranquility), *mawaddah* (full of love), and *rahmah* (love). After we know these three things, then we can only build a strong fortress in the household, by applying these three things.

Building a strong fortress in the household the need for Islamic faith to build a household fortress. so that the household that is built is not easily shaken and fragile, the husband must look for a wife who is pious and has religious qualities that meet the requirements, the Prophet recommended that men look for women who are strong in religion, because women like this can be his helpers in building a benefit. Nowadays, it is not enough to have a pious wife and have neglect of the household, including threats to commit acts, coercion, or unlawful deprivation of liberty within the household. If the law is implemented, then a *sakinah* household can be formed.

In the household there must be love (*mawaddah*) and affection (*rahmah*). This feeling of love and affection can be seen from how the head of the household

treats his family. For example, there is a child who commits nusyuz, he is against his parents. His parents told his son to pray, but the child did not want to because he was playing with his friends. Then his parents advised him. After being advised the child also continued to fight his parents. Then his parents beat his son, so he felt sick. Because of the blow, a fear arose which caused him not to repeat his mistake again.

Problems like this are complex. Children commit psychological violence against their parents because children do nusyuz against their parents. Nusyuz is also an act of violence that hurts the feelings of his parents and parents commit physical violence against their children because it causes pain as stated in Article 5 letter a, the child experiences fear, which if viewed according to Law Number 23 of 2004 then that includes psychological violence. However, the fear experienced by the child here is different from what is meant by the law because the fear that arises is a fear that teaches the child a lesson so as not to repeat his mistake. The beatings made by their parents were the last method taken in educating their children, in accordance with Q.S An-Nisa verse 34, and the Prophet. said, "Tell your children to pray when they are seven years old, and beat them if they do not want to do it when they are ten years old, and separate their beds." (Narrated by Ahmad and Dawud). So hitting a child who does not pray is not an act of violence that can be criminalized. It is an educational blow for a child who does not pray.

So, from the example above, it can be concluded that the education applied is a form of love and affection given to children. If there is no education, then there will be no sense of love and affection. From the example above, what parents do to their children is for the benefit of the child, so that the child can be disciplined and have good morals, because maqashid aims to achieve a benefit in the household.

The law needs to first look at the benefits of parents who beat their children. The law reviewing the definition of domestic violence, which appears as "violence" in Islam has the aim of achieving maqashid in the household. Not all forms of violence are violence. There is violence that is intended to provide education and there is also violence in the form of punishment. Such violence is not the violence intended in the law, however. What is meant by the law is unjust violence, which commits violence only because of uncontrollable emotions or because it has no purpose. If violence educates and punishes, it is clear that he has a goal, namely so that the person who commits nusyuz cannot repeat his actions again.

It is undeniable that nusyuz is also a form of violence, because disobedience is a form of violence, so nusyuz is included in the category of unjust acts. So, the law does not provide an exception in the matter of violence because of the need for

caution, and later the reported problem will be reviewed by law. What are the causes of the violence? This is where the law will measure a domestic violence.

Law No. 23 of 2004 and fiqh both have the goal of benefit. Both can be used for the present. There are pros and cons in this case, some agree with the law and some agree with fiqh. Differences in understanding or opinion may occur but should not blame one opinion or understanding with another. We just have to choose which one we want to implement in our household, the law that prohibits violence, or fiqh that allows violence to educate, it's all in our hands.

Considering that human life should be respected and cruelty prohibited, a woman should be respected and protected in all circumstances, whether she belongs to her own nation or to an enemy nation, whether she follows your religion or belongs to another religion or has no religion at all. A Muslim cannot be angry under any circumstances. All promise cuous relationships have been prohibited, regardless of the status or position of the woman, whether the woman is a willing or unwilling partner. The Qur'an in this case mentions in: Q.S Al-Isra/17:32.

وَلَا تَقْرَبُوا الزَّوْجَ إِنَّهُ كَانَ فَحِشَةً ۖ وَسَاءَ سَبِيلٌ ۝۱

Meaning: "And do not approach adultery; Indeed, adultery is a heinous act. And a bad way."

Islam views the position of women and men in a balanced position because in essence all humans are equal in humanity. There is no advantage of one over the other due to their ethnicity, race, class, religion and gender. According to Islam, the value of human dignity lies solely in piety. However, based on the awareness of the differences between the two, both concerning physical and psychological problems, Islam then distinguishes the two in several issues, especially those concerning the functions and roles of each. . This distinction can be categorized into two things, namely in family life and public life. The verse that is often used as the basis for looking at the position of each man and woman is the Word of Allah in Surah al-Nisa: 34.

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ ۖ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ

Meaning: "Men are the leaders for women, because Allah has made some of them (men) superior to others (women), and because they (men) have spent part of their wealth"

All scholars agree that this verse has the power to apply in the context of the family. The difference between them only appeared when this verse was brought to make the legitimacy of the distinction between men and women in public life. However, their agreement in acknowledging the application of this

verse in the context of the family does not mean that they are also uniform in interpreting it, because of this difference, the Qur'an gives different rights and obligations for each.

However, what needs to be emphasized is that this distinction is not discrimination and a form of injustice, but rather to achieve balance and harmony in living the household ark. In distinguishing between rights and obligations, Islam does not take sides with men by suppressing women as stated in the Quran: "And women have rights that are equal to their obligations according to the right way". (Abdurraof, 1970)

The main mission of the Qur'an revealed is to liberate humans from various forms of discrimination and oppression based on ethnicity, culture, politics, religion and gender. Although Islam explains about the equality of positions between women and men, in reality we still often find conditions in which women still do not get their rights due to the discriminatory treatment they experience, one of which is Domestic Violence (KDRT). (As-Sa'di, n.d.) The ideal relationship between husband and wife in Islam is a relationship based on the principle of "Mu'asharah bi al ma'ruf" (Good husband and wife association). This is confirmed in the letter an-Nisa ': 19, Allah says which means, "And associate with them (wives) in a good (proper) way.

The ideal relationship between husband and wife in Islam is a relationship based on the principle of "Mu'asharah bi al ma'ruf" (Good husband and wife association). This is confirmed in Surah an-Nisa ': 19, Allah says which means, "And associate with them (wives) in a good (proper) way. Then if you don't like them, (then be patient) because maybe you don't like something, whereas Allah has made in him much good." This verse gives an understanding that in a marriage God wants a strong relationship between husband and wife to be built in a positive, harmonious interaction pattern with a peaceful mood, which is also marked by a balance of rights and obligations of both. A sakinah family cannot be built when the basic rights of husband and wife are in an unequal position, this often leads to a hierarchical relationship that can trigger the emergence of power relations that have the opportunity to hold power, placing subordination and marginalization of those who are controlled. Indeed, fair equality requires an egalitarian, democratic and open family relationship marked by mutual respect in order to create a harmonious community so that men and women get their basic rights as human beings, get respect and maintain their dignity as servants of God. your Excellency. (Mufidah, 2013)

Domestic violence (KDRT) is an act of gender-based violence which in its handling must be based on human values, glorifying others and providing benefits

and eliminating harm to humans. In an effort to handle wives of victims of domestic violence, it must be in line with the objectives of Islamic law, namely the protection of the 5 main principles in Islam, namely maintaining religion, soul, mind, lineage and property, with details namely, first, Maintaining Religion (hifdz al-din), In terms of Domestic Violence, a husband's mental attack on his wife as a victim often has the effect of disrupting the integrity of the psychological mental integrity of a wife so that spiritually the wife tends to have difficulty expressing gratitude so that the ability to guarantee a relationship with the creator is reduced.

Second, Nurturing the soul (hifdz al-nafs) Violence against human dignity as well as domestic violence is an act of discrimination that leads to intervention by those who are weakened. Indeed, in the household, the duty of a husband is to provide guidance with good treatment of his wife and children, not to carry out acts of arbitrariness or restraint on one's soul. Fourth, the maintenance of reason (hifdz al-'qal) a wife becomes a victim of a wife's arbitrariness in the household environment is often restrained by her freedom as an independent individual, psychological disorders often cause a person to lose the ability to think so that he cannot think logically, spiritually they become unable to express their emotions. Fifth, the maintenance of offspring (hifdz al-Nasl) Violence experienced by the wife in the household is reflected in acts of sexual violence even though forced abortion by the husband, this is certainly far from the principle of social life in the household which should be based on the principle of muashara bil ma'ruf and deliberation which should be inculcated in household life. Sixth, Maintenance of Assets (hifdz al-mal wa al-'irdh) A wife in the free sphere of the household has the right to earn a decent living from a husband, neglecting his wife and children is an irresponsible act, because a husband to ensure the survival of the family he brings. In Islam, a husband is commanded to have intercourse with his wife in a good manner with a prohibition against doing bad things to his wife, such as good character, good morals in socializing with family, and in society. From here, each husband and wife have rights and obligations to form a sakinah household life. If it is considered that the wife is under the ownership of her husband and receives intervention, threats or other harsh treatment, it is an act of violence that is not heeded in Islamic teachings.

The government's obligation to protect its citizens from discriminatory behavior must be carried out comprehensively by taking into account the rights that the wife should have in domestic life, including the right to receive physical and spiritual support from her husband, the right to get protection from and the right to be respected, the right to receive proper treatment. both from her husband and the right to obtain legal decisions that are not discriminatory in matters of

divorce, child care and inheritance, while still placing justice in the highest position as an effort to create good relationships (mu'asarah bil ma'ruf) in the family environment and for the realization of the balance of rights and obligations between husband and wife without any sense of interference with each other.

D. Conclusion

Maqasid al-Syar'iah domestic violence must be in line with the objectives of Islamic law, namely the protection of the 5 main principles in Islam, namely maintaining religion, soul, mind, lineage and property. In Islam, a husband is commanded to have intercourse with his wife in a good manner with a prohibition against doing bad things to his wife, such as good character, good morals in socializing with family, and in society. From here, each husband and wife have rights and obligations to form a sakinah household life. If it is considered that the wife is under the ownership of her husband and receives intervention, threats or other harsh treatment, it is an act of violence that is not heeded in Islamic teachings. The government's obligation to protect its citizens from discriminatory behavior must be carried out comprehensively by taking into account the rights that the wife should have in domestic life, including the right to receive physical and spiritual support from her husband, the right to get protection from and the right to be respected, the right to receive proper treatment. both from her husband and the right to obtain non-discriminatory legal decisions in matters of divorce, child care and inheritance, while still placing justice in the highest position as an effort to create good relationships (mu'asarah bil ma'ruf) in the family environment and for the realization of balance of rights and obligations between husband and wife without any sense of interference with each other.

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