

Prevention of Sexual Violence Against Children Based on the Integration of Islamic Law and Positive Law

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Abstract: The issue of sexual violence against children always increases every year. Therefore, there is a need for holistic and integrated legal handling and protection between Islamic law and positive law. Looking at the prevailing concepts, there is a conceptual and practical bottleneck between Islamic law and positive law in efforts to prevent sexual violence against children. This research aims to collaborate these two laws to prevent sexual violence against children. This research is classified as qualitative research using a collaborative approach between Islamic law and positive law. This research shows that there is a need for integration between Islamic law and positive law to prevent sexual violence against children. Steps that can be taken include emphasizing sexual education for children, prohibiting child marriage and protecting children's rights.

Keywords: *Sexual violence, Islamic Law, Positive Law*

INTRODUCTION

Currently, Indonesia is experiencing an emergency of sexual violence against children. In July 2022, social media was busy discussing the case of sexual violence that occurred at the Shiddiqiyah Jombang Islamic Boarding School. The Islamic boarding school environment, which is supposed to provide education and protection for children, actually ranks second in cases of sexual violence. (Herawati dkk., 2023) Based on records from the Ministry of PPPA, it was recorded that from January to November 2023 there were 15,120 cases of violence against children. (Kolaborasi Berkelanjutan Lintas Sektor dan Regional, Kunci Atasi Kasus Kekerasan terhadap, 2024) This phenomenon shows how narrow and difficult a safe world is for children. Therefore, in handling this phenomenon there is a need for holistic and integrated legal protection, both positive law and Islamic law.

However, if you look at the applicable legal concept, there is a conceptual and practical bottleneck between Islamic law and positive law in efforts to prevent sexual violence against children. For example, the practice of child marriage. On the one hand, the law has tightened it. (Haryadi dkk., 2023) However, by utilizing fiqh rules, the practice of child marriage continues and is accepted by society through the practice of unregistered marriage. Child marriages through unregistered marriages are very vulnerable to violence and exploitation (Hani dkk., 2024). This

shows that there is ongoing contestation between positive law where fiqh law is the basis for traditional practices.

In the realm of positive law, this is also the case. The applicable law is only remedial and retributive or retaliatory against perpetrators of violence. The emphasis in positive law still focuses on handling cases after a case occurs. As in the articles of the Criminal Code which regulate sexual intercourse and obscene acts against children, the focus is on providing criminal punishment to the perpetrator. Act. No. 12 of 2022 concerning Crimes of Sexual Violence also focuses on victim recovery. Meanwhile, Islamic law teaches about manners of dressing, separation of beds and rooms, and permission to enter the house. All of these teachings can be understood as preventive education against acts of sexual violence against children.

Therefore, this research will integrate positive law and Islamic law studies so as to create a new formula so that the two laws are related to each other. Throughout the search, the author has not found any research that integrates Islamic law with positive law in efforts to prevent sexual violence against children. Through this research, the author seeks to break down conceptual bottlenecks and at the same time integrate Islamic law with positive law to prevent sexual violence against children.

RESEARCH METHODS

Based on the problems described previously, this research can be categorized as qualitative research with a collaborative approach between Islamic law and positive law. This research collaborates Islamic law with positive law related to the issue of sexual violence against children. In other words, after explaining Islamic law related to this theme, it is then linked to the positive law that applies in Indonesia. The sources of Islamic law used are verses and hadiths relating to sexual violence against children. Meanwhile, the positive legal sources used are laws relating to sexual violence against children, such as the Law on Child Protection and the Law on the Elimination of Sexual Violence.

RESULTS AND DISCUSSION

Sexual Violence Against Children in the Perspective of Islamic Law

Sexual violence in Islamic law, violence is defined as abuse. When compared with sexual violence, it can be understood that sexual violence is all sexually oriented actions that contain elements of mayhem.(Taufiki & Hakimah, 2021). Sexual violence has various forms and types, including visual viewing, or touch that contains taboo elements such as kissing and touching. (Magfirah dkk., 2023)

Thus, sexual violence against children is the abuse of children as a means of satisfying one's sexual desires. These sexual crimes began with sexual harassment and culminated in actual sexual relations with children. (Universitas Al-Azhar & UNICEF, 2022) There are verses in the Koran that explain the factors that lead humans to sexual violence. As stated in QS. Al-Mukminun 5-7. Ibn Jarir Ath-Thabari interprets the pronunciation of *of insight* as a person who seeks sexual desire other than his wife and the female slaves he owns. This includes giving vent to his sexual desires towards children. Such people fall into the category of people who go beyond the permissible limits. (Ath-Thabari, 2000)

وَالَّذِينَ هُمْ لِأَفْوَاجِهِمْ حَافِظُونَ ﴿٥﴾ أَرْوَاجِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ فَإِنَّهُمْ غَيْرُ مَلُومِينَ
﴿٦﴾ فَمَنْ ابْتَغَى وَرَاءَ ذَلِكَ فَأُولَٰئِكَ هُمُ الْعَادُونَ ﴿٧﴾

5. and those who guard their private parts, 6. except for their wives or slaves they own; So in fact they are not blameless in this matter. 7. Whoever seeks beyond that, those are the people who go beyond limits.

In the teachings of Islamic law, sexual violence is prohibited against anyone, adults or children, both men and women. The argument used to prohibit sexual violence, especially with children, often refers to general texts. In other words, there are no arguments in the text that show sexual violence against children specifically, there are only arguments that show violence in general.

Prevention of sexual violence against children, if viewed from the Quran, can be seen through the principles it contains. Al-Raisuni, quoted by Abu Zaid, explained that there are six general principles contained in the Qur'an, namely, 1) monotheism and worship of Allah, 2) guidance for religious and world affairs, 3) purifying the soul and teaching wisdom, 4) bringing mercy and happiness, 5) upholding justice, 6) and straightening thoughts. (Abu Zaid, 2019) These general goals can be a framework for developing the religious goals intended in the Koran in any theme, including the protection and prevention of child sexual violence.

The principle that applies in the Qur'an is the principle of love or mercy, including regarding children. This principle is also in line with the prophet's vision contained in the QS. Al-Anbiya: 107. Quraish Shihab explains that the vision of the prophet's grace can fulfill human inner desires to achieve calm and peace which also involves protection (Shihab, 2001). Therefore, the Qur'an was revealed and the Prophet was sent to ensure that this mercy always becomes a reference for human life in all life relationships, including children who physically and mentally still need protection.

Three verses give direct signals about the principle of love for children. However, in the editorial of the verse it is mentioned as an orphan. The verse in question is QS. Al-Baqarah:83, QS. Ad-Duha:9 and QS. Al-Ma'un:1-2. However, Abdul Hakim al-Unais thinks that although the verse

talks about orphans, the verse also covers every child in general. Orphans are children, and every child needs loving treatment as a principle of humanitarian teachings. They, orphans or not, must be treated with compassion, not treated arbitrarily, not shouted at or rebuked. Therefore, the principle of love for children, which means not being treated arbitrarily, is a basic teaching in Islam and is God's covenant with previous peoples. (al-Unais, 2013)

All vocabulary in the Qur'an relating to children, both in the form of descriptive stories and prescriptive rules, can be drawn upon to conclude what rights can be assigned to children. From here arose a broad inspiration about the importance of basic ethics that must be given to children. The ethics in question include the prohibition of doing injustice, not cheating, not hurting, helping each other, and doing good to each other, and others. As long as these basic ethics are met, the form and type of implementation can be open according to the needs experienced by humans themselves. (Muhammad, 2006)

With this approach, the Qur'an is seen as a book that inspires the importance of children's rights being protected and fulfilled. The implementation of rights deduced from the Qur'an can also be collaborated with applicable norms and legislation. At the same time, inspiration from Qur'anic studies can also be used for constructive dialogue in criticizing perspectives that are still ignored by existing legislation. (Kodir, 2022a)

In the Hadith of the Prophet, no text specifically indicates sexual violence against children. In general, scholars use hadiths for general anti-violence messages related to sexual violence against children. The hadith used as a reference regarding the prohibition of violence in general is

عَنْ ابْنِ عَبَّاسٍ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «لَا ضَرَرَ وَلَا ضِرَارَ»
From Ibn Abbas, the Prophet once said 'You must not hurt yourself and you must not hurt others' (Majah, t.t.)

Apart from that, hadiths which show the principle of love, protection from actions that are contrary to the principles of love, kindness and benefit to children are also often used as a basis for anti-sexual violence. There are many hadiths that explain the principles of compassion and doing good. One of these hadiths is as follows:

عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا عَنِ الْبَدَاوَةِ ، فَقَالَتْ: كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ «يَا عَائِشَةُ ، اِرْفُقِي فَإِنَّ الرِّفْقَ لَمْ يَكُنْ فِي شَيْءٍ قَطُّ إِلَّا لَأَشَانَهُ»
From Aisyah ra., Rasulullah SAW said to me, 'O Aisyah, be gentle, because gentleness, never, is in something (or someone) unless it makes it beautiful, and if it is separated from it it will make it ugly' (Dawud, t.t.)

In the study of jurisprudence, both classical and contemporary, the substance of Islamic law has been recorded in the concept that has been developed by classical scholars, namely *maqashid*



al-shari'ah. There are five most basic objectives in this *maqashid concept*. The five include religious protection, soul protection, intellectual protection, offspring protection, and property protection. (Asy-Syatibi, 1997) With these five basic principles, Muslims can create Islamic law that encourages the upholding of the values of justice and moral behavior in discussing all Islamic legal issues, including the prevention of sexual violence against children. For example, hereditary protection (*hifz nasl*). This principle provides a framework for the prohibition of sexual violence and the obligation to protect children from bad marriages in the current Indonesian context.

These five basic principles are a concrete form of the Islamic perspective of mercy. This perspective will be able to become complete and holistic if it is conceptualized with an approach to *makruf*, *mubadalah*, and women's essential justice. By using this approach, it is ensured that the *mashed al-shari'ah framework* and its implementation can truly present aspects of Islamic law that contribute to global civilization and are by the vision of *rahmatan lil alamin*. Therefore, he can produce legal views that can prevent sexual violence against children. (Kodir, 2022b)

Sexual Violence Against Children in Positive Law

The state has an important role in protecting children from sexual violence. Because, in essence, the state can shape the readiness of individuals, families, and communities. The state, in this case, the government, is the party that is fully responsible for the benefit of its people, including in this case ensuring the future of children. Therefore, the government is responsible for protecting its citizens from victims of sexual violence that occurs against children. One of the state's protections related to this phenomenon is the enactment of Law Number 23 of 2002 concerning Child Protection which was later revised twice through Law No. 35 of 2014 and Law No. 17 of 2016. This law is quite comprehensive regarding the special conditions experienced by children so that they receive protection, including the issue of sexual violence.

The spirit of child protection also underlies other regulations, such as Presidential Decree No. 36 of 1990 concerning ratification of the Conference on Children's Rights; Law No. 4 of 1979 concerning Child Welfare; Law No. 11 of 2012 concerning the Juvenile Justice System; Law no. 23 of 2014 concerning Regional Government which mandates that each region must make efforts to fulfill children's rights and protect children; Government regulations. No. 40 of 2011 concerning the Development, Assistance, and Recovery of Child Victims or Perpetrators of Pornography; Presidential Regulation no. 18 of 2014 concerning the Protection and Empowerment of Women and Children in Social Conflict; and many more regulations that pay attention to the protection of children's basic rights in Indonesia, both in the fields of health, education, and labor.

In the Criminal Code, several articles protect children against sexual violence. Protection of children is demonstrated by providing criminal penalties for perpetrators, not responsibility for direct and concrete losses or suffering of victims. This is stated in the Criminal Code in the following articles:

1. The issue of sexual intercourse is regulated in Articles 287, 288 and 291
2. Obscene acts are regulated in Articles 289, 292, 293, 294, 295 and 298.

Child protection in Presidential Decree No. 36 of 1990 concerning Ratification of Concessions Concerning Children's Rights is regulated in Article 34 and Article 36. In these articles, children have the right to protection from sexual exploitation and abuse including prostitution, involvement in pornography (Article 34), and other forms of exploitation (Article 36). Article 2 to Article 8 of Law no. 4 of 1979 concerning Child Welfare has also determined that children have the right to welfare, care, upbringing, and guidance based on love both within their families and in special care to grow and develop naturally. Children also have the right to protection of the environment which may harm or hinder their normal growth and development. Even children have the right to receive help and assistance as well as protection in dangerous situations.

Law no. 35 of 2014 concerning amendments to Law no. 23 of 2002 concerning child protection also provides special protection for children's rights from various kinds of violence, including acts of sexual violence. Article 15 clearly states that every child has the right to obtain protection from sexual crimes. To avoid this, it is emphasized in Article 20 that the state, regional government, community, family, and parents or guardians are obliged and responsible for implementing child protection. This protection also applies within educational units (Article 54 paragraph 1).

Children who are victims of violence have the right to receive protection in the form of supervision, prevention, care, and rehabilitation by the government and society. This protection can be carried out through guidance on religious values and social values, counseling, social rehabilitation, and social assistance. Apart from that, the victim is also entitled to receive restitution which is the responsibility of the perpetrator of the crime. (Articles 71, 71A, 71B, and 71D in Law No. 35 of 2014).

In the same law, perpetrators of sexual violence against children are subject to criminal penalties (sanctions) to account for their actions as regulated in Article 81 and Article 82. However, it is felt that the punishments stipulated in this law do not have a deterrent effect. at the perpetrator. This is because the phenomenon of sexual violence against children is increasing from year to year and threatens the strategic role of children as the next generation for the future of the nation and

state. So, it is necessary to toughen criminal sanctions and take action against perpetrators of sexual violence against children by amending Law No. 23 of 2002.

The state has taken optimal and comprehensive steps by not only providing criminal sanctions, but also implementing forms of prevention by providing measures in the form of chemical castration, installing electronic detection devices, and rehabilitation for perpetrators of sexual violence against children. In response to this, the President implemented Government Regulation instead of Law No. 1 of 2016 concerning the second amendment to Law No. 23 of 2002 concerning Child Protection on 25 May 2016.

Although child protection is spread across various regulations, specifically, the rules regarding sexual violence have been regulated in Law No. 12 of 2022 concerning the Crime of Sexual Violence which was ratified on April 12, 2022. The issue of sexual violence against children is included in it. The substance of the law is explained in Article 3, namely that it aims to prevent all forms of sexual violence; handle, protect, and recover victims; carry out law enforcement and rehabilitating perpetrators; create an environment without sexual violence; and ensure the non-recurrence of sexual violence.

Thus, this Law contains details and specifics regarding the various rights of victims of sexual violence. The victims' rights are in the form of treatment (Article 23), protection (Article 24) and recovery (Article 25). Families of victims of violence also have rights. Article 33 in the same Law details the rights obtained by the victim's family, including the right to information, confidentiality of identity, security, not to be prosecuted criminally or even sued civilly, economic empowerment, educational facilities, health services, and insurance, and of course with social Security.

In terms of empowerment, this Law also includes the rights of victims and their families to obtain health insurance and social security for the continuation of their lives. Apart from that, the perpetrator will also receive rehabilitation so that he does not repeat the actions he committed. Apart from that, the perpetrator is also subject to compensation (restitution) for both material and immaterial losses. Efforts to prevent sexual violence are contained in Article 5 of the same law. This prevention is carried out in the fields of education, infrastructure, public services governance, and institutional management as well as the economy, society, and culture. Forms of prevention and responsibility for the implementation of sexual violence are the responsibility of the government to be carried out together with the community.

Therefore, the presence of this law is a breath of fresh air for children in Indonesia who are most vulnerable to becoming victims of sexual violence. The passing of this Law is a manifestation of the state's presence to protect and fulfill victims' rights to treatment, protection, and recovery.

Apart from that, it is also hoped that the number of sexual violence against children can be reduced. Because this law can close and perfect gaps in the handling of sexual violence.

Integration of Islamic Law and Positive Law in Preventing Sexual Violence Against Children

Children are part of society and are very vulnerable to being victims of sexual violence. In every conflict, children are the parties most at risk. Therefore, the state seeks to provide guarantees of protection through positive legal guarantees. Not only that, Islam, as a religion that is the source of world culture and civilization, also pays attention to the issue of sexual violence against children. In both positive law and Islamic law, the rules established in both aim to provide protection and benefit to children.

These two laws are supposed to be mutually binding. Even though Islamic law is adequate, Islamic jurisprudence itself still considers that the protection and prevention of sexual violence against children only relies on individual responsibility (at the family level), without involving the state. (Kodir, 2022a) Therefore, to meet the demands of the times, the two must collaborate. This means that both positive law and Islamic law must mutually reinforce each other so that these norms and regulations truly reinforce the protection and prevention of sexual violence against children.

The most important thing is that positive law must collaborate with Islamic law as long as the results are for the best needs of children. Likewise with Islamic law, as a norm, it must not feel the most correct and perfect by ignoring the experience of other sources of law, even if the nuances are secular. The *maqashid al-syari'ah* approach is a suitable framework for integrating Islamic law with positive law. This is because *maqashid al-shari'ah* is not sensitive in searching for and finding existing rules, norms, or initiatives such as in-laws or other regulations as long as they provide protection and can prevent sexual violence against children.

As a classical legacy, the five basic principle concepts contained in *maqashid al-syari'ah* have become a clear and definite legal basis, as part of the basic principles of religion, legal rules, and religious principles. These five basic principles are not only used as a framework for safeguarding and protecting basic human rights but also for developing them with contemporary life. Therefore, the five basic principles experienced a shift in meaning from being partial and limited in the hands of classical scholars, to becoming more comprehensive in the hands of contemporary scholars.

Steps taken to prevent cases of sexual violence against children are through emphasizing sexual education. In fact, Islamic teachings contain several ethics that must be carried out as preventive education against sexual violence against children. Sexuality education for children is not limited to gender. However, it is also an effort to guide children so that they can truly

understand the meaning and function of their sex life so that they can use it well (Camelia & Nirmala, 2017). Sex education for children is also part of moral education. These teachings include dressing etiquette, maintaining one's gaze, separating beds and rooms when the child turns ten years old, and permission to enter rooms, including the parents' room. (Maharani, 2022)

In Islamic teachings, the parents are responsible for sexual education for children. Parents must provide education to their children about relationships between men and women with demands and sex education that are full of wisdom. Parents must also build good communication with their children, especially discussing sexual issues. In this way, a child will be protected from actions that cause sexual violations and deviations that are undesirable by parents and society.

Steps to prevent sexual violence against children can also be taken by prohibiting child marriage. Often, some parties view marriage as a solution to the rise of sexual violence. Even though the two are different, marriage does not prevent someone from being a victim or perpetrator of sexual violence. The assumption of prevention through marriage is that sexual violence occurs due to a large sexual desire that cannot be vented because there is no halal marriage partner. So, when they get married and have a halal partner, they can vent and the impact of sexual violence will no longer occur.

There is also the practice of marrying children, especially girls because the girl has misbehaved. So the remedy is to marry off the girl so that her delinquency will decrease or even disappear. Quite a few women experience sexual violence, sexual injury, hurt, intimidated, and at least forced to have intimate relations which leaves them with prolonged trauma, and as a result, they do not enjoy married life. Moreover, those who are forced to marry, assuming it is to avoid sexual violence, will experience repeated violence and insults. (Kodir, 2022)

Other impacts resulting from child marriage are 1) loss of access to the reproductive and sexual health of girls, the potential for complications, and maternal death due to undergoing childbirth at a too-young age. Babies born also have the potential to have low body weight. 2) vulnerable to experiencing domestic violence, because girls are not yet psychologically and mentally ready to live a domestic life. 3) Eliminating girls' access to decent education. This happens to those who experience unwanted pregnancies, where the school expels them from school so that they can no longer access higher education. (Tim KOMNAS Perempuan, 2019)

In Islamic law, especially the maqashid al-syari'ah framework, providing education about sexuality to children is included in the principle of preserving offspring (hifz al-nasl). The principle of preserving offspring can be understood as a recommendation for marriage and a prohibition against committing adultery. Adultery is also seen as an act of sexual violence. Because in Islamic



law, everything related to unlawful sexual intercourse is said to be an act of zina (Aprita, 2023) and the act of zina violates the principle of preserving one's offspring.

With the emphasis on sexual education, parents must teach and supervise their children. These teachings include how to dress well and politely (QS. Al-A'raf: 26), lower your gaze and guard your private parts (QS. An-Nur: 31) interact with other people well (QS. Al-Hujurat: 10), get used to sleeping alone,¹ teach permission when entering parents' room. (QS. An-Nur: 58-59)

These teachings are intended to prevent people from falling into committing adultery. Both real and majestic adultery. True adultery is defined as an act of sexual intercourse. Meanwhile, zina majazi is defined as the act of touching the hands of someone who is not your mahram, seeing someone committing adultery or being alone with someone who is not your mahram. (Komisi Fatwa Jaringan Islam, 2009). Thus, the principle of protecting offspring becomes the framework for providing sexual education to children in order to prevent sexual violence.

Unfortunately, efforts to prevent adultery have not been implemented in Indonesian law. In Indonesia, there are no legal regulations that specifically and explicitly regulate efforts to prevent adultery. The main focus of positive law in Indonesia related to adultery is more on handling the consequences of adultery. Therefore, through the formulation contained in Islamic law, it can be used as an effort to prevent acts of adultery in order to prevent sexual violence against children.

Apart from adultery, child marriage also violates the principle of preserving offspring. Because physically and psychologically, a child is not yet mature enough to build a family. Child marriage can also threaten the ideal values of family as outlined in the Koran. The meaning of the principle of preserving offspring in the current era must be expanded to include family development. This is to cover all fundamental moral values regarding the protection of individual and social rights, especially children. (Auda, 2015) Therefore, the principle of protecting offspring becomes the framework in formulating decisions to prohibit sexual violence and the obligation to protect children from bad marriages in the current Indonesian context.

The principle of protecting offspring in child marriage must also proceed from the fact that the impact of child marriage on women, both biologically and socially, is much worse than on men. Child marriage will not cause men to become pregnant, give birth, postpartum, and breastfeed when they are children. Meanwhile, women can potentially experience all of that. Even as adults, women undergo this biological experience which is accompanied by pain, especially if they are still children. Therefore, the protection that must be given to girls must be extra and the development of

¹مُرُوا أَوْلَادَكُمْ بِالصَّلَاةِ وَهُمْ أَبْنَاءُ سَبْعِ سِنِينَ، وَاضْرِبُوهُمْ عَلَيْهَا، وَهُمْ أَبْنَاءُ عَشْرِ وَفَرَّقُوا بَيْنَهُمْ فِي الْمَضَاجِعِ

"Order your children to pray when they are seven years old, beat them (if they do not pray) when they are ten years old, and separate the beds between them" (H.R. Abu Daud).

activities for them must also address the unique biological and social needs of girls that are not experienced by boys. (Rofiah, 2020)

In terms of the principle of protecting religion, providing sexual education has taught religious values such as maintaining good manners (QS. Al-Hujurat 10-11, QS. Al-Qasas: 58), maintaining human honor (QS. An-Nur: 31, QS. Al-Hujurat 13), and spreading peace (QS. An-Nisa: 90). In terms of the prohibition on child marriage, this prohibition is due to violating the principles of family protection as a religious norm contained in the Qur'an, such as doing good to each other (QS. Al-Nisa': 19), protecting each other (QS. Al-Baqarah: 187) and realizing calm and love (QS. Al-Rum: 21). Child marriage also violates the principle of preserving reason, because there are many negative impacts that result from child marriage. This bad impact also has an impact on finances. Therefore, this also violates the principle of protecting assets. (Kodir, 2022a)

In positive law, the state has also prevented child marriage by revising the age limit for marriage for women from 16 years to 19 years. This is stated in Law No. 16 of 2019 concerning Marriage as an amendment to Law No. 1 of 1974. This change was made because the age of 16 years was still categorized as a child in the Child Protection Law.

Apart from changing the age limit for marriage, the law also tightens dispensations. In Article 7 paragraph 2 of the same Law, dispensation can be requested for very urgent reasons and accompanied by sufficient supporting evidence and it is also mandatory to listen to the opinions of both the prospective bride and groom who will be getting married.

This is very important to realize and understand that children, especially girls, are more vulnerable. The impacts and burdens faced by girls are much different from boys when they get married. The time that should be used for playing, growing, and developing is lost by becoming a mother not in time and without sufficient preparation. Even when a child's marriage is forced, it can be included in the crime of sexual violence. This is stated in Article 4 of Law No. 12 of 2022 concerning Crimes of Sexual Violence.

When discussing the issue of prevention, it cannot be separated from the concept of protection. Efforts to prevent sexual violence against children can also be carried out by protecting and guaranteeing children's rights to survival, growth, and development. This is basically in line with the 1945 Constitution Article 28 B paragraph (2) which states "every child has the right to survival, growth and development and the right to protection from acts of violence and discrimination. In Islamic law, sexual violence is a prohibited act because it includes acts that hurt, damage, and oppress. The basic points used are: (Kodir, 2022a)

1. It is the glory of a person to be respected;
2. The command to protect and help each other;

3. Prohibition damages human honor and dignity;
4. Commandments for relationships that do good to each other;
5. Prevent the negative impacts of sexual violence, both physical, psychological, economic, and social; and
6. The existence of the basics of the state and laws that protect citizens from any acts of violence.

The protection and guarantee of children's rights can be applied within the framework of *maqashid al-syari'ah*. In terms of the principle of life protection, this can be done by developing children's living standards from anything that threatens their lives. Apart from that, it can also be done by developing children's living standards so that they continue to improve for the better. This principle of life protection can be further developed into a framework for indicators from the Basic Health and Welfare Cluster prepared by the Indonesian Government for the protection and fulfillment of children's rights, through PA Ministerial Regulation No. 12/2011.

The principle of offspring or family protection is defined as the principle of protecting and facilitating the growth and development of children in a healthy, mutually supportive, and loving family environment. This can be done by implementing child-rearing patterns that are free from violence and strengthening anti-violence education from an early age. This principle can also be interpreted as protecting children's biological reproductive organs from all physical and psychological threats, including sexual violence. So that in time when they are adults they can have a good family with healthy reproductive organs. This principle can also be used as a framework for indicators from the Family Environment and Child Care Cluster in PA Ministerial Regulation No. 12/2011.

The principle of protecting children's minds or thoughts is defined as the principle of protecting children's minds and developing them with a variety of education that is needed, appropriate, and appropriate to their age. For example, increasing understanding of human rights, children's rights, and gender equality. Explicitly, the principle of protecting reason is in line with Article 1 of the Minister of Women's Empowerment and Child Protection Regulation No. 8 of 2012 which states that prevention is all actions taken to increase the community's knowledge, skills, and understanding regarding the protection and care of children to prevent violence, exploitation, neglect and abuse. This principle is also by the indicators of the Education Cluster, Utilization of Free Time and Cultural Activities in PA Ministerial Regulation No. 12/2011. These are matters regarding the availability of early childhood education, the implementation of 12 years of compulsory education, child-friendly school facilities, and the provision of facilities.

The principle of property protection is intended to protect children's property from damage and wasteful use. This principle is also intended to the importance of sufficient financial support for children so that the previous principles can be fulfilled properly and appropriately for children. As in Law No. 35 of 2014, financial fulfillment is the responsibility of the child's family and also the state. The principle of religious protection is intended to protect and strengthen children regarding the spirituality of the religious values they adhere to. For example, Islam teaches love to children, protects their right to life, and asks their parents to provide a conducive and strengthening environment for growth and development.

The five basic principles above are also in line with state services in providing protection from sexual violence to children and providing optimal services needed by victims. These services are in the form of regulations in the form of Law No. 23 of 2004 concerning the Elimination of Domestic Violence and Law No. 23 of 2002 concerning Child Protection as amended several times and most recently by Law No. 17 of 2016. The enactment of these two laws is also the embodiment of the principle of life protection within the framework of maqashid sharia

The principle of offspring protection is also contained in Article 3 of Law No. 23 of 2002. It states that child protection aims to guarantee the fulfillment of children's rights so that they can live, grow, develop, and participate optimally by human dignity, as well as receive protection from violence and discrimination, to create children who are of good quality, have noble character and are prosperous. As victims, children also receive legal assistance and other assistance (Article 18).

The principle of protection of reason is contained in Article 9 of the same Law. This article explains that every child has the right to receive education and teaching in the context of personal development and their level of intelligence by their interests and talents. Apart from that, providing a minimum of 9 years of basic education for children, providing children with the opportunity to obtain education is also an embodiment of the state in developing children's education (Articles 49-50)

Meanwhile, for the principle of religious protection, the state protects worshiping according to one's religion. This protection includes the formation, guidance, and practice of religious teachings for children (articles 42-43 in the same Law). The form of property protection is implemented in Article 22 of the same Law. This realization takes the form of the responsibility of the state and government to provide support for facilities and infrastructure in implementing child protection. The state also provides health facilities, organizes comprehensive health efforts (Articles 44-47), and provides education costs (Article 53).

CONCLUSION

To realize sexual prevention in children, there needs to be integration between Islamic law and positive law. Steps taken to prevent cases of sexual violence against children include providing sexual education to children and prohibiting child marriage. Within the framework of maqashid al-syari'ah, instilling sexual education in children is included in the basic principles of maqashid syari'ah. Likewise, preventing child marriage also means maintaining the five basic principles of maqashid sharia.

In positive law, child marriage is also prohibited, because the law stipulates that men and women are allowed to marry when they are no longer children. However, unfortunately, instilling sexual education in children is not yet included in Indonesian legislation. The existence of this formulation of Islamic law complements the rules that do not yet exist in positive law in Indonesia..

Preventing sexual violence against children can also be done by protecting children's rights. In Islamic law, sexual violence is a prohibited act because it includes actions that hurt, damage, and oppress children which can damage children's rights. In positive law, state protection for children is outlined in the Law on the Elimination of Domestic Violence and also the Child Protection Law.

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