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Legal Protection for Victims of Sexual Violence in Disaster Situations

Perlindungan Hukum bagi Korban Kekerasan Seksual dalam Situasi Bencana

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ABSTRAK

Kekerasan seksual adalah pelanggaran serius yang berdampak mendalam secara fisik, psikologis, maupun sosial, terlebih lagi jika terjadi saat bencana. Penelitian ini mengkaji perlindungan hukum terhadap kekerasan seksual dalam situasi bencana menurut hukum pidana positif dan hukum pidana Islam, serta mendeskripsikan bentuk-bentuknya, menguraikan pengaturan hukum di Indonesia, dan menganalisisnya dari perspektif Islam. Metode yang dipakai adalah penelitian hukum normatif dengan pendekatan perundang-undangan, konsep, dan kasus, berbasis data sekunder berupa peraturan, literatur, dan karya ilmiah. Hasil penelitian menunjukkan perempuan dan anak menjadi kelompok paling rentan, dipicu kepadatan pengungsian, hilangnya privasi, lemahnya pengawasan, serta ketergantungan ekonomi korban. UU No. 12 Tahun 2022 Tindak Pidana Kekerasan Seksual telah mengatur perlindungan menyeluruh, termasuk pemberatan pidana sepertiga bagi pelaku yang memanfaatkan situasi bencana, sebagaimana diatur juga dalam Pasal 473 ayat (10) KUHP Baru dan Pasal 15 ayat (1) huruf k UU Tindak Pidana Kekerasan Seksual. Dalam hukum Islam, kekerasan seksual dipidana dengan sanksi ta'zir yang tegas selaras dengan prinsip Maqashid Syariah. Pemerintah dapat menjatuhkan sanksi tambahan agar pelaku jera, antara lain: mengumumkan perbuatannya secara terbuka, menjatuhkan denda atau ganti rugi moril yang besar, melakukan pengasingan, serta memberikan peringatan keras yang tercatat.

Kata Kunci: Perlindungan Hukum, Kekerasan Seksual Situasi Bencana, Hukum Pidana Islam

ABSTRACT

Sexual violence is a serious violation that has profound physical, psychological, and social impacts, especially when it occurs during a disaster. This study examines legal protection against sexual violence in disaster situations according to positive criminal law and Islamic criminal law, and describes its forms, outlines legal regulations in Indonesia, and analyzes them from an Islamic perspective. The method used is normative legal research with a legislative, conceptual, and case approach, based on secondary data in the form of regulations, literature, and scientific works. The results of the study indicate that women and children are the most vulnerable groups, triggered by overcrowding in refugee camps, loss of privacy, weak supervision, and economic dependence of victims. Law No. 12 of 2022 Sexual Violence Crimes Law has regulated comprehensive protection, including a one-third increase in criminal penalties for perpetrators who exploit disaster situations, as also regulated in Article 473 paragraph (10) of the New Criminal Code and Article 15 paragraph (1) letter k of the Sexual Violence Crimes Law. In Islamic law, sexual violence is punished with strict ta'zir sanctions in line with the principles of Maqashid Syariah. The government can impose additional sanctions to deter perpetrators, including: publicly announcing their actions, imposing large fines or moral damages, exiling them, and issuing a recorded warning.

Keywords: Legal Protection, Sexual Violence in Disaster Situations, Islamic Criminal Law

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INTRODUCTION

Women are particularly vulnerable to violence. Many women experience the most severe forms of sexual, psychological, and physical violence. Violence against women is one of the many topics discussed and highlighted (Muladi, 2005). Weakening of women's social status, increasing burdens on women, and weak position before the law (Sukiati, 2020).

The Ministry of Women's Empowerment and Child Protection website, throughout 2023, there were 29,883 cases of sexual violence in Indonesia, of which 26,161 victims were women (Deviana, 2025). Compiled from data reported to the National Commission on Violence Against Women and case data reported and handled by service institutions managed by civil society and local and central governments, the Religious Courts or *Badilag*, hospitals, courts, police and other institutions.

The Big Indonesian Dictionary, violence is defined as an act by an individual or group that causes injury, death, or physical damage to another person or property. Contextually, sexual violence is an act that uses force or coercion, degrading, and humiliating someone related to sexual desire or reproductive organs (Pembinaan Bahasa, 2023). Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence provides a more comprehensive definition than previous regulations. This law covers various forms of sexual crimes, including electronic sexual violence, forced marriage, forced contraception, and sexual torture (Hairi, PJ, & Latifah, 2024). With the provider Law, Indonesia strives to provide stronger protection for victims and provide strict sanctions for perpetrators. And can be additional criminal penalties in Article 15 paragraph (1) letter k of the Sexual Violence Crimes Law (1) Criminal plus 1/3 (one third) of the criminal threat as referred to in Article 4 to Article 6, if the Crime of Sexual Violence is committed: in an emergency situation, disaster situation, conflict, or other crisis. Types of sexual violence can legally refer to the provisions in Article 4 of the Sexual Violence Crimes Law. From the sound of Article 4 paragraph (1) of the Sexual Violence Crimes Law, criminal acts of sexual violence consist of:

Non-physical sexual violence, namely inappropriate statements, gestures or activities that are sexually suggestive with the aim of degrading or humiliating; (Undang-undang, 2022) Physical sexual violence; forced contraception; forced sterilization; forced marriage; sexual torture; sexual exploitation; sexual slavery; and electronic-based sexual violence.

Furthermore, Article 4 paragraph (2) of the Sexual Violence Crimes Law explains that the crime of sexual violence also includes: rape; indecent acts; sexual intercourse with children, indecent acts against children, and/or sexual exploitation of children; acts that violate morality that are contrary to the will of the victim; pornography involving children or pornography that explicitly contains violence and sexual exploitation; forced prostitution; the crime of human trafficking aimed at sexual exploitation; sexual violence within the household; the crime of money laundering whose predicate crime is the crime of sexual violence; and other crimes that are expressly stated as crimes of sexual violence as regulated in statutory provisions.

Sexual violence is a serious form of human rights violation that often leaves profound physical, psychological and social impacts on its victims (Sari & Rambe, 2024). In various parts of the world, including Indonesia, sexual violence continues to be a complex issue, encompassing various dimensions, including legal, cultural, and social. Within the legal context, sexual violence requires special attention to ensure that victims receive adequate protection and perpetrators are given appropriate

sanctions. One relevant approach to addressing this issue is the perspective of Islamic criminal law, which is characterized by justice based on religious values (Deviana, 2025).

Islamic law defines certain acts as criminal acts or *jarimah* and regulates the threat of certain punishments for them with the aim of protecting the human rights of every person and the collective interests of a society as well as preserving moral values and harmonious life in society (Nasution & Sari, 2025). Sexual violence, in this case, is an act that degrades human dignity and is prohibited by law as a violation of a person's human rights. Sexual violence is an immoral act intentionally committed by someone in public against another person, whether male or female (Sugiarto et al., 2022).

The Quran only addresses adultery, not sexual violence. Islamic law prohibits kissing or touching a woman's body parts, not even looking at her in a way that arouses lust, as it can lead to adultery. As stated in QS. Al Isra' verse 32:

وَلَّا تَقْبُورُوا آلَ زَيْلٍ إِنَّهُ كَانَ فَاخِشَةً وَسَاءَ سَبِيلٌ

Meaning: *"And do not come near to adultery; indeed adultery is an act abominable and a bad way." (Indonesia, 2020)*

All sexual relations that deviate from the teachings of Islam are considered adultery, which in itself invites the punishment that has been outlined, because adultery is one of the acts for which punishment has been outlined (Sabiq, 1995). Adultery must be punished to the maximum extent, considering that the consequences are very bad, and invite crime and sin. As Allah SWT says in QS. An-Nur verse 2 The following:

الرَّائِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينِ هَالِكٍ إِن كُنتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَلْيَشْهَدْ عَذَابُهُمَا طَائِفَةٌ مِّنَ الْمُؤْمِنِينَ

Meaning: *"The woman who commits adultery and the man who commits adultery, flog each one of them." from both of them one hundred dali dera, and let no mercy towards them prevent you from (carrying out) the religion of Allah, if you believe in Allah, and the Hereafter, and let (the execution of) their punishment be witnessed by a group of those who believe". (QS. an-Nur: 2)*

One act classified as a crime against humanity or a violation of human rights is sexual violence. The elements of the act are based on crimes against morality or adultery. The difference is that adultery involves consent, while sexual violence involves coercion. Islamic law categorizes rape as adultery with coercion (*al-wath'u nil-kikrah*), for which the perpetrator can be subject to severe punishment (Dewi, 2022).

Sexual violence during disasters usually occurs in refugee or evacuation sites, where women and children are more vulnerable due to emergency conditions, minimal supervision, and limited space. It can take the form of physical groping, threats, and sexual coercion. Perpetrators of sexual violence, as seen in the explanation above, will be given a Had punishment in the form of caning or stoning. Article 1 of the UU Sexual

Violence Crimes states that non-physical sexual violence, namely inappropriate statements, gestures, or activities that lead to sexuality with the aim of degrading or humiliating, acts also include physical sexual violence, in one example of a case of rape of a 7-year-old girl raped by two teenagers in the Palu earthquake refugee area, the victim was a Palu earthquake refugee who was known to be sitting in a classroom.

1 Elementary School and the most recent case in 2025 of sexual violence that occurred in Aceh Tamiang Regency, that one of the students was affected by a flood disaster that paralyzed traffic, however large trucks were still able to pass for evaluation, one of which was carrying the student and during the trip the driver took the opportunity to commit sexual violence against the student by touching the victim's body without consent.

The chronology of the rape of a teenager in an earthquake evacuation shelter in Lombok in 2018. The victim was a 14-year-old girl living in a refugee camp with her family. The perpetrator took advantage of the crowded conditions, minimal lighting, and lack of separate sleeping areas. While the victim was alone guarding her belongings, the perpetrator forced his way in and raped her (Zuhaili, 2011)

Child Molestation in Semeru Eruption Evacuation Camp in 2021 After the eruption of Mount Semeru, Lumajang, East Java, in December 2021, the victim was a 7-year-old girl, who was separated from her parents' supervision because they were busy looking for necessities. The perpetrator, identified as R (45 years old), a neighbor who was also a refugee, invited the victim to play in a quiet and dark corner of the tent, and then committed the molestation. The incident was discovered when the victim cried and complained of pain, and was then examined by the post's medical team. The medical examination results proved physical violence and indications of molestation.

Rape of a woman who survived the flash floods in West Sumatra in 2024, when flash floods and landslides hit Agam Regency, West Sumatra, in May 2024. The victim was 30 years old, who was walking looking for her family in the middle of damaged, dark, and deserted roads. The perpetrator with the initials H (27 years old), a local resident who knew the area was deserted and chaotic. The perpetrator dragged the victim into the bushes and raped her, believing that no one would see or stop him. Luckily, a resident who passed by heard the screams, the perpetrator was secured and handed over to the police.

In a rape case at a flood refugee camp in Kalawa Village, Pisau Regency, a 16-year-old girl was dragged by Rianto (the perpetrator), 28, who was also taking refuge at the same post, to a darker place behind a pile of sacks containing basic food aid. Rianto then pressed Witness A's body to the ground, covered her mouth to prevent her from screaming, while holding her neck and threatening: "Just keep quiet if you don't want to get hurt! Right now there's a big flood, everyone is busy, no one will hear or help you. If you scream, I'll kill you here!" Because she was very afraid and her body was much weaker than Rianto's, Witness A was unable to fight back and could only cry softly. The perpetrator then took off the girl's clothes and forced her to have intercourse. The act only stopped when another resident passed by and heard the sound of sobs coming from behind the pile of sacks.

The panel of judges found Rianto guilty of committing a crime of violence involving sexual intercourse with a child during a natural disaster. He was sentenced to 12 years in prison and a fine of Rp 200,000,000. Failure to pay the fine will result

in an additional six months in prison. Any previous detention time served will be deducted from his sentence, as per Decision Number 22/Pid.Sus/2018/PN.Pal.

In this case, the flood disaster demonstrated that emergency conditions actually increase the vulnerability of women and children. Overcrowded refugee camps, minimal supervision, and limited facilities make them more vulnerable to sexual violence. Therefore, the author is interested in researching how legal protection against sexual violence in disaster situations is addressed within the context of criminal law and Islamic criminal law.

METHOD

This research uses a type of normative legal research or what is often called library research (Romli, 2017). Normative legal research is research that uses law as a written norm or rule, where the object of study is focused on statutory regulations, legal theory, and legal concepts related to the problem being researched.

The statutory approach, or often called the normative juridical approach, is one of the methods of approach in legal research that focuses on the analysis of applicable laws and regulations, both written and those whose existence is recognized in the national legal system (Marzuki, 2021). This approach examines law as a norm or rule that regulates human behavior, which originates from valid and binding legal rules (Tambunan & Supriyanto, 2023).

The conceptual approach is a research method that describes the definition, meaning, legal basis, and elements of the legal terms or concepts being discussed. The goal is to gain a clear and firm understanding of the concept being studied before analyzing the problem.

The case study approach analyzes actual legal events that have already occurred, both those that have been decided by the courts and those still being processed. The goal is to understand how the law is applied in practice, the obstacles that arise, and the correspondence or inconsistency between theoretical rules and their implementation in the field.

According to Soerjono Soekanto and Sri Mamudji, the legislative approach is carried out by examining and studying the laws and regulations related to the problem being studied, to find out whether these regulations are adequate, consistent, clear, and in accordance with the legal needs of the community (Mamudji & Soekanto, 2004). Meanwhile, Peter Mahmud Marzuki explained that this approach aims to examine the law in terms of its content, structure, systematics, and relationships between regulations, in order to find legal answers to the problems faced (Soekanto & Mamudji, 2023).

In legal research, the statutory approach includes activities, identifying and collecting all laws and regulations related to the research topic, examining the content, meaning and interpretation of each relevant article to find out the legal regulations, analyzing the relationship between regulations whether they complement each other, contradict each other or do not regulate clearly, assessing the suitability of regulatory provisions with legal needs and developments over time (Abas et al., 2023).

Data collection techniques are carried out through library research, namely by collecting and reviewing various literature, laws and regulations, fiqh books, journals, and other references related to research problems. Based on the results of the analysis, conclusions are drawn deductively-inductively to answer the research problems,

namely how legal protection works, what its weaknesses are, and how Maqashid Syariah reviews this protection.

RESULTS AND DISCUSSION

Forms of Sexual Violence that Occur in Disaster Situations

Women and children are the most vulnerable groups to sexual violence during disasters for a reason; this is driven by a combination of mutually reinforcing factors: physical emergencies, security system weaknesses, socioeconomic and cultural dependencies, and psychological vulnerabilities. Based on research and real-world cases, these factors can be detailed as follows: inadequate and unsafe refugee conditions.

When a disaster occurs, disaster victims are moved to refugee posts or tents that are prepared suddenly, so facilities are very limited. Densely packed living spaces, no separation of men's and women's/adults' and children's sleeping areas, minimal or dark lighting, and a lack of fences separating private spaces. This lack of privacy makes it easy for perpetrators to approach victims covertly without others knowing, as in the case of the rape of a teenager in a refugee camp in Lombok, which exploited dark corners and open spaces. Furthermore, refugee camps are often spread out and far from main roads and security posts, making surveillance difficult.

The main focus of the government and officials during a disaster is centered on evacuating victims, distributing food, treating physical injuries, and restoring public facilities, so that security supervision and legal services are neglected (Susila, 2019). The number of police, security forces, and women and children's protection officers is significantly less than the number of refugees; those available are often exhausted and overstretched. Law and order in society are weakening, and perpetrators feel emboldened to commit crimes because they believe no one will see them, no one will report them, or that the prosecution process will be slow and weak. This is clearly evident in the case of rape in the earthquake evacuation center in Sikka, East Nusa Tenggara. The rape involved a 15-year-old girl from Nangahale Village, Talibura District, Sikka Regency, East Nusa Tenggara. The victim was a survivor of the Flores earthquake. The incident occurred in an empty house abandoned by its owner for evacuation, where the perpetrator tricked the victim by inviting her to collect food aid (Tarida, 2026).

Disaster victims have experienced severe trauma due to the loss of homes, relatives, fear of the dangers of disasters that still threaten, feelings of helplessness, anxiety, and depression (Muladi, 2005). This weakened mental state makes it more difficult for women and children to resist physical resistance or intimidating perpetrators who threaten to harm themselves or their families if they speak out. Furthermore, feelings of shame, social prejudice, victim-blaming, and a lack of trust that reports will be processed or protection provided persist, leading many cases to remain hidden and unreported to authorities (Ignasia, 2013). Like the case of sexual harassment that occurred in Aceh Tamiang Regency, one of the students was affected by a flood disaster that paralyzed traffic, but large trucks were still able to pass for evaluation, one of which was carrying the student and during the trip the driver took the opportunity to sexually harass the student by touching the victim's body without consent.

In socio-cultural terms, women are often seen as weaker, inferior, or as having to obey men; this view reinforces the position of perpetrators who feel they have the

power to oppress women in the midst of chaos (Sugiarto et al., 2022). Many women and children don't understand their legal rights, where to report or what medical/psychological support services are available during a disaster. The lack of awareness among female-only officers also makes victims reluctant to discuss sensitive sexual matters with male officers at the disaster command posts. In general, it can be said that the forms of sexual violence that occur in disaster situations include;

Sexual intimidation, in the form of threats, pressure, or coercion to commit acts of sexual nature on the grounds of not providing assistance, food, protection, or safety if the victim complies, such as the case of the Aceh Tamiang flood in 2022.

Sexual harassment involves touching, staring, leering, using words, or making gestures that cause shame, humiliation, or sexual distress. Such cases include the child molestation case in the Semeru eruption evacuation center in 2021.

Rape, an act of sexual intercourse carried out by force, threats, or taking advantage of the victim's helpless situation and separation from their protector, is a crime. Examples include the rape of a teenager in an earthquake evacuation shelter in Lombok in 2018 and the rape of a flash flood survivor in West Sumatra in 2024.

Sexual extortion involves demanding sexual favors in exchange for assistance, aid, security, or access to basic necessities that the victim should receive for free. Such cases include child molestation in evacuation centers following the 2021 Semeru eruption.

Legal Protection for Victims of Sexual Violence in Disaster Situations: A Positive Indonesian Legal Perspective

Women and children are the most vulnerable groups to sexual violence during disasters, due to emergency conditions that weaken oversight, the loss of privacy in crowded evacuation centers, dependence on aid, and disruptions to legal and health services. Data from the Ministry of Women's Empowerment and Child Protection (2023) recorded 29,883 cases of sexual violence in Indonesia, with 26,161 victims being women. This violence not only causes physical injury, but also causes severe psychological trauma and damages human dignity as a human right protected by law (Muladi, 2005)

According to Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (hereinafter referred to as the Sexual Violence Crimes Law), sexual violence is an act of degrading, insulting, harassing, or attacking the body and sexuality of another person by means of coercion, threats, or taking advantage of their helplessness (Undang-undang, 2022).

The types include non-physical/physical sexual violence, rape, forced marriage/contraception, sexual exploitation, and electronic-based violence (Undang-undang, 2022). Specifically, if it is committed in a disaster situation, the perpetrator's criminal threat is increased by one third as an aggravating circumstance (Dewi, 2022). The most important and strongest to incriminate the suspect is Law No. 12 of 2022 on Sexual Violence Crimes, Article 4 paragraph (1) of the Criminal Act of Sexual Violence consists of: a. non-physical sexual harassment; b. physical sexual harassment; c. forced contraception; d. forced sterilization; e. forced marriage f. sexual torture; g. sexual exploitation; h. sexual slavery; and i. electronic-based sexual violence. and paragraph (2) In addition to the Criminal Act of Sexual Violence as referred to in paragraph (1), the Criminal Act of Sexual Violence also includes: A. Rape; b. indecent acts; c. sexual intercourse with children, and/or sexual exploitation of children; d.

slavery violating morality against the will of the victim; expressly states that if the crime is committed in a disaster situation, emergency or refugee camp, then the punishment is increased by one third to one half of the maximum threat plus Article 473 paragraph (10) of the new Criminal Code which reads; In the case of a crime as referred to in paragraph (1) to paragraph (9) being committed jointly and in association, or committed against a person in a state of danger, emergency, conflict situation, disaster or war, the penalty may be increased by 1/3 (one third)." and Article 15 paragraph (1) letter k of the Law on Sexual Violence Crimes which reads; committed against a person in a state of emergency, dangerous situation, conflict situation, disaster or war as the basis for additional aggravation, so that the suspect can be given a very heavy sentence because his actions were carried out by taking advantage of the victim's hardship during the disaster.

Real cases often occur in the field, for example the rape case in the flood refugee camp in Kalawa Village, Pisau Regency. The Panel of Judges ruled that Rianto was proven guilty of committing a crime of violence in the context of sexual intercourse with a child committed during a natural disaster. He was sentenced to 12 years in prison and a fine of Rp200,000,000 if the fine is not paid, it will be replaced with an additional 6 months in prison. The period of detention that has been served previously was deducted from his sentence Decision Number 22 / Pid.Sus / 2018 / PN.Pal. rape of a 7-year-old child in the Palu earthquake refugee camp, sexual exploitation in exchange for basic food aid during the Aceh Tamiang flood, to the rape of teenagers in Lombok refugee camps that utilize dark spaces and minimal supervision. This shows that while the main focus of society and the government is on evacuation and logistics, protection of women and children is often neglected.

Legal protection is divided into preventive (such as providing separate safe places, female companions, outreach) and repressive (quick handling of reports, confidentiality of victim identity, medical-psychological services, imposition of strict sanctions) (Mashudin, 2016). Even though regulations are in place, obstacles are still encountered in the form of limited expert staff, scattered refugee locations, victims' fear of reporting, and slow handling amidst the chaos after the disaster (Susila, 2019). Therefore, the integration of the protection team into the disaster management unit from the beginning of the incident is very necessary so that the victims' rights are guaranteed, their dignity is restored, and the perpetrators do not escape punishment.

Indonesian law guarantees comprehensive rights for victims, including physical security, identity confidentiality, restitution and compensation, medical and psychological services, reputation restoration, and special protection during disasters. For example, the state is obligated to provide free medical examinations, health care, and treatment to victims without any costs. This includes physical examinations, wound management, psychiatric assessments, and any necessary follow-up care. In disaster situations, these services must be available at health posts, field hospitals, and nearby health facilities. The state is also obligated to provide medical personnel who are sensitive to victims of sexual violence to ensure that victims do not feel pressured or treated inappropriately during examinations.

State protection does not end after a verdict is rendered, but continues until the victim has fully recovered physically, mentally, and socially. The state is obliged to monitor the victim's condition, provide gradual recovery assistance, and ensure their safety for as long as necessary. This aligns with the state's obligation to protect all its

citizens, especially those who are weak and helpless due to disasters and who are victims of crime.

Legal Protection for Victims of Sexual Violence in Disaster Situations from an Islamic Criminal Law Perspective

The Qur'an strictly prohibits approaching adultery and all actions that open the way to it, as written in the QS. Al-Isra' verse 32: "And do not approach adultery; indeed adultery is an abominable act and a bad path (Indonesia, 2020).

According to Islamic jurisprudence, anyone under duress, coercion, or threat is exempt from responsibility for sin or punishment; sexual harassment is a highly reprehensible act and contradicts the moral values and ethics taught by religion. Islam is known as a religion that is natural, universal, and comprehensive. (kaffah), which regulates all aspects of human life throughout the ages(Alqorni & Sari, 2026). This is in line with the principle that coercion eliminates the burden of legal responsibility on the victim(Zuhaili, 2011). This means that the victim is absolutely innocent and cannot be blamed, accused, humiliated, or punished in the slightest; all responsibility and the burden of sanctions falls entirely on the perpetrator who uses force, threats, or takes advantage of the victim's weak condition (Sugiarto et al., 2022).

Conditions during disasters leave women and children homeless, separated from family protection, living in fear and facing pressing basic needs; exploiting this emergency to sexually harass, coerce, or exploit becomes a more serious and reprehensible crime because it attacks people who should receive help, compassion and protection, not oppression and additional suffering. According to the Fuqaha, there are generally four sources of Islamic law: the Qur'an, Hadith, Ijma', and Qiyas(Sari, 2023). The provisions of the punishment for adultery written in QS. An-Nur verse 2 apply to perpetrators who violate and do so voluntarily, and do not apply at all to victims who are forced into a state of helplessness.

From the perspective of Islamic criminal law, acts approaching adultery or forcing sexual relations are strictly prohibited(Calvin, 2024). as written in QS. Al-Isra' verse 32 which prohibits approaching adultery because this act is despicable and damages dignity (Indonesia, 2020). so that the perpetrator can be given a heavy hadd sentence, while the victim must be fully protected without being blamed for being in a weak and forced position(Dewi, 2022). The principle of Maqashid Syariah which protects life, honor, descendants, reason, and property is a strong foundation that protecting victims is an obligation to realize justice (Al-Syathibi, 2014).

It is very important to emphasize that the emergency conditions of a disaster cannot be used as an excuse to reduce or free the perpetrator from punishment, instead it becomes an aggravating circumstance because the perpetrator deliberately exploits suffering, vulnerability, and the loss of public supervision to oppress the weak and helpless. In contemporary handling, the ulama also provide flexibility in proof: not only limited to four fair male witnesses, but can accept the results of medical examinations/post-mortems, victim testimony, psychological evidence, and statements from other relevant witnesses, so that crimes do not go unpunished even in crowded, chaotic refugee locations where it is difficult to find ideal witnesses(Zahrah, 2020)

Additional punishments in Islamic criminal law to provide a deterrent effect on the perpetrator are; firstly, announcing the perpetrator's despicable actions openly in the same place or equivalent to the extent of the impact of his actions with the aim of making the perpetrator feel ashamed for life and become a lesson for the wider

community, a large fine or moral compensation, exile or relocation of residence, as well as a recorded warning and stern reprimand (Audah, 2020).

Sexual violence that occurs during disasters directly damages the five main objectives of Islamic law (Maqasid Syariah), namely protecting basic human needs: al-Nafs (Protecting the Soul and Safety of the Body): Physically injuring the victim, causing deep trauma, even threatening the safety of the life of people who have suffered from the impact of the disaster; Hifz al-'Aql (Protecting the Mind and Mental Health): Causing depression, prolonged fear, mental disorders that damage the sanity, peace of mind and the ability to think of the victim; Hifz al-Nasl and Honor: Damaging self-dignity, self-purity, personal honor as well as family ties and the continuation of the lineage where a person's honor in Islam is equal to human life; disrupting the peace of life that supports the implementation of worship (hifz al-Din) and the security of property and the continuity of economic life (hifz al-Mal) in the midst of difficult times after a disaster (Al-Syathibi, 2014).

Based on this principle, the obligations of the authorities, officials, and the entire community are divided into preventive protection: separating the sleeping areas of women and children, providing separate safe places, assigning female companions, and strict supervision in the refugee camp environment; and repressive protection: receiving reports quickly, maintaining the confidentiality of the victim's identity, providing medical and psychological care, restoring the victim's dignity, and holding the perpetrator accountable fairly and firmly.

The spirit of victim protection and firm action against perpetrators contained in Islamic criminal law is very much in line with the provisions of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, which expressly stipulates an additional one-third of the sentence if sexual violence is committed in an emergency, disaster or other crisis situation, and guarantees the right to confidentiality of identity, physical & psychological recovery, and legal assistance for victims (Undang-undang, 2022). Both of them place the victim as a party that must be fully protected, the perpetrator must be given firm and appropriate sanctions, and they strongly refuse to allow the chaos after the disaster to become a loophole for sexual crimes to develop and run rampant without punishment.

Protection for victims in Islamic law is comprehensive and absolutely covers physical aspects, honor, property, as well as the restoration of the soul and its basic social status. It is the principle of Maqashid al-Syariahi to protect five main things: religion, soul, mind, honor, and property.

Victims must be kept safe, placed in a safe place, and protected from the threat of retaliation. The state is the protector of victims who lose their protector due to a disaster.

مِمَّا وَلِيٌّ مَنْ لَا وَلِيَّ لَهُ

Meaning: "The Head of State is a protector for those who have no protector."
(Narrated by Abu Daud)

Other protections include: disclosing or spreading the victim's shame. All material and moral losses must be fully compensated. If the perpetrator is unable to afford it, the state (Baitul Mal) must cover the costs. Exploiting a victim's weakness and helplessness is the most reprehensible act. Victims deserve dual priority protection from both the state and society.

مَنْ نَصَرَ أَخَاهُ الْمُسْلِمَ فِي مَوْطِنٍ ضُرَّ نَصَرَهُ اللَّهُ فِي الدُّنْيَا وَالْآخِرَةِ

Meaning: "Whoever helps his brother who is in trouble, Allah will help him in this world and in the hereafter."(Narrated by Ahmad)

The hadith on helping a brother in distress frames the protection of victims as a collective obligation rather than a mere moral recommendation. In disaster situations, victims of sexual violence often lose the protection of their families, their shelter, and their access to law enforcement. The duty to help them therefore falls primarily on the state as the holder of authority (*ulil amri*). This is where positive law finds its normative foundation in Islamic law. The victim's rights to assistance, protection, and recovery under the Sexual Violence Crimes Law can be read as an institutional expression of the principle of mutual assistance. What the hadith presents as an ethical injunction thus becomes an enforceable legal obligation.

The relationship between the two legal systems is most visible in the concept of *ta'zir*. The *hudud* punishment for adultery cannot serve as the basis for punishing perpetrators of sexual violence. *Hudud* requires an extremely strict standard of proof and presupposes the consent of both parties, whereas a victim of sexual violence acts under coercion and bears no criminal responsibility. Because the primary texts prescribe no fixed punishment for sexual violence, the determination of sanctions falls within the domain of *ijtihad* exercised by the ruling authority. The criminal provisions of the Sexual Violence Crimes Law can therefore be understood as codified and written forms of *ta'zir*. The two systems do not conflict but complement each other: positive law supplies procedural certainty and rules of evidence, while Islamic criminal law supplies the moral justification and ethical limits of such sanctions.

The parallels between the two systems are even clearer in the area of victim recovery. The principle that all material and moral losses must be fully compensated corresponds to the concept of compensation (*daman*) in Islamic jurisprudence, and in positive law it takes the form of restitution imposed on the perpetrator. The idea that the Baitul Mal should bear the costs when the perpetrator cannot pay has its counterpart in the victim assistance fund and state compensation provided for in the Sexual Violence Crimes Law. It should be emphasized that the role of the Baitul Mal here is the product of *ijtihad* and analogy, not a ruling of the primary texts. This correspondence should therefore be presented as a conceptual approach rather than an absolute equivalence of norms.

Analysis is *Maqasid al-Shariah*. Protecting victims in disaster situations relates to *hifz al-nafs* (the protection of life and physical safety), *hifz al-nasl* (the protection of lineage and dignity), and *hifz al-'ird* (the protection of honor), while the extreme vulnerability that disasters create aggravates the responsibility of perpetrators who exploit victims' helplessness. Within this framework, the contribution of this study goes beyond showing that the Sexual Violence Crimes Law and the New Criminal Code do not contradict Islamic law. It shows that both are instruments that realize the objectives of Islamic law, provided that their implementation genuinely reaches victims in disaster areas, from prevention in evacuation shelters to long-term recovery.

CONCLUSION

This study finds that sexual violence in disaster situations is not an incidental by-product of chaos but a foreseeable result of structural conditions: collapsed security, loss of privacy, economic dependence, and the diversion of officials' attention to evacuation and logistics. Women and children are the most exposed, and underreporting caused by fear, stigma, and limited access to services keeps the problem largely invisible. The central legal question is therefore not only whether perpetrators can be punished, but whether the state can protect and restore victims when ordinary institutions have broken down.

On this question, the study finds that the (Law No. 12 of 2022 on Sexual Violence Crimes) is normatively adequate but practically uneven. It defines the forms of sexual violence, adds one-third to the sentence when the offense is committed during a disaster or other emergency, and guarantees victims' rights to protection, confidentiality, medical and psychological services, legal assistance, and recovery. The main gap lies in implementation, not in the text: limited resources, the low priority given to protection in emergency response, and the difficulty of reaching victims in remote areas. This shifts the focus of reform from drafting new rules to building disaster-specific protection mechanisms, such as safe shelter design and reporting channels within evacuation sites.

The study's main contribution is to show that Indonesian positive law and Islamic criminal law are complementary rather than competing. Because hudud for adultery presupposes consent and a strict standard of proof, it cannot serve as the primary basis for punishing sexual violence, in which the victim is coerced and bears no responsibility. The criminal provisions of the Sexual Violence Crimes Law and the New Criminal Code are better understood as codified ta'zir, whose severity can legitimately be increased in disasters because the offender exploits victims' helplessness. Maqasid al-Shariah connects the two systems: the protection of life, dignity, and lineage, together with the duty to help those in distress, supplies the moral justification for the state's obligations under the Sexual Violence Crimes Law. In this way, the study offers a framework that grounds victim protection in disaster contexts in both legal systems, and it identifies the effective delivery of that protection as the remaining task.

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