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Women Curative Protection on the Violence Victims: The Relevance of *Maqasid al Shari'ah al-Islamiyyah* on the Justice Access

Nurul Adhha*

Abstract

Women are reserved to their rights fulfilment in obtaining a long-term security to restore their mental or receiving a curative protection in order to get a good quality, comprehensive, and sustainable progress. Notably, the government of Indonesia has strived the rules to protect and recover women as the violence victims curatively through related people who are responsible to the problem. Whereas, it has not been implemented yet effectively. Furthermore, the Islamic sharia plays a rule as *al-maslahat al-'ammah*, which becomes grace for all of the world. Therefore, one of the important questions to remember is that "Have the efforts and the security process, as well as the service to the violence victims in Indonesia been operated and given based on the Islamic mandate?". As the result, five aspects of *Maqasid al-shar'iyah* in the Islamic rights should be identified whether it is implemented and possessed a relevance to the curative protection from the Women National Commission to the violence victims. In light of, this research is classified into a qualitative research methodology by using normative approach. The author conducts the research by utilizing an analysis study towards *Maqasid al-shar'iyah* to find its relevance on the women protection access of the violence victims in Indonesia which is gathered by descriptive analysis. The result of the research seems to indicate that *Maqasid al-shar'iyah* becomes the purpose of *syara'* which has several preference levels in its implementation. Those five indicators included to *maslahat* or *Maqasid daruriyyat* are relevant towards five formats of curative protection as the completion efforts of the women violence that can be a prevention and protection representing the soul indicator and offspring indicator. Additionally, the curative protection and the investigation can be done to represent the indicator of treasures and minds.

Keywords: Women violence, curative protection, *Maqasid al-shar'iyah*, justice

Introduction

The system of laws in Indonesia has established the violence on women and children as one of the criminal crimes.¹ Also, the convictions to the violence suspects are the important thing to be carried out, which have been set in the

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¹ Read seventh subsection Number seven Year 1984 about the Convention Endorsement about the removal of any discrimination to women, forty-fourth subsection Number 23 Year 2004 about the removal of any violence in a household, thirteenth subsection Number 35 Year 2014 about the children protection.

constitution. Furthermore, it becomes the legal protection for victims and the protection of the public.¹

Based on the statements above, Islam seems to indicate as the nature religion and still relevant to the societies, so it is able to provide an effective solution for any problems faced by many people, families, and societies.² Moreover, Islam also has assigned the violence as one of the criminal crimes, and the violence suspects should obtain an appropriate punishment based on their faults.³ In general, positive laws and negative laws do not only organize the repressive protection for victims, but it also arranges and provides the preventive protection through *freis ermessen* spirit and curative protection.⁴ What is more, Jamaa (2014) stated that the repressive protection to the suspects is still dominant than the others.⁵

Therefore, the government, the law enforcers, and the societies should pay more attention and optimize the women recovery from any violence through curative legal protection massively. As stated in the Constitution Number 23 Year 2004 about the removal of violence in a household, women who receive the violence are deserve to get a temporary security after the violence occurred and long-term protection in order to recover the victims' mental.

Through the curative protection, the women violence victims get various facilities from the law constitution, social volunteers, medical officers, and so on. After obtaining the physical treatment on the post-trauma, women usually are given an intensive treatment from the law counselors, social counselors, Islamic counselors, psychologists, and women empowerment to the victims.

In fact, the number of access availability to the complain institution, or the safety room clinic in each region of Indonesia are different. However, its availability can be the vital factors to reduce the violence numbers and protect women of the violence victims. It is caused by important role of the government institution as the partner of the women national commission in providing a protection, recovery, curative security, and service to the women violence victims. As the result, the

¹ Hadjon, P.M., *Perlindungan Hukum bagi Rakyat*, (Surabaya: Bina Ilmu, 1987), 11.

² Daming, S.I.A et., Masyru' Al-Ijraat Al-Munazzamah li Al- Thalaq Wa Ma Yatarattabu 'Alaihi Al-Zaujah Wa Al-Abna', (Riyad Muassasah Sultan Abd Al Aziz Ali Sa'ud Al Khairiyyah, 2000), p. 58.

³ Syazili, H.A., *al-Jinayat fi al-Fiqh al-Islami Dirasah Muqaranah Baina al-Fiqh al-Islami wa al-Qanun*, (Beirut: Dar al Kitab al Jami'i.), 8.

⁴ Arifin, B., Santso, L., "Perlindungan Perempuan Korban Kekerasan dalam Rumah Tangga Perspektif Hukum Islam", *De Jure: Jurnal Hukum dan Syari'a*, 8 (2), 2016, 113-125.

⁵ Jamaa, L., "Perlindungan Korban Kekerasan dalam Rumah Tangga dalam Hukum Pidana Indonesia", *Jurnal Cita Hukum*, 1 (2), 2014, 250-272.

government, and self-help institution have a responsibility to help the victims in restoring their mental illness and convince them about their justice from the violence.

Furthermore, Islamic sharia is established as *al-maslahat al-'ammah*, which is included in Allah's commandment "And I did not send you, except as a mercy to all nature".¹ So, one of the prominent aspects to be improved is whether the process of women security and the service to the violence victims have been operated based on Islamic sharia. Moreover, it should be identified whether the five aspects in *maqasid al-shar'iyah* in Islamic laws have been realized and still relevant to the curative protection from the Women National Commission to the victims. Therefore, it can be the main evaluation for many people and its results can be used as a consummation initiative and an improvement in conducting the curative protection for the women of violence victims.

A. Method

This research was classified into a qualitative research methodology which focused on the normative approach.² The author conducted the research by using an analysis study towards *maqasid al-shar'iyah* to find out its relevance to the justice access of curative protection on the women violence victims. Moreover, to analyze the data of the research, the author utilized a descriptive analysis, which described the data and facts and synthesize all of the data into an in-depth analysis based on what the author informed.³ The analysis was gathered by reducing the data, presenting the data, and providing the conclusion.⁴

Violence Trends on Women in Indonesia

a. The Concept of Violence against Women

The word "violence" is originated from Latin language "violentis", which means a power manifestation, happened spontaneously as the

¹ Al-Anbiya', verse 107. In this verse, the word "mercy" means both love and compassion. When it is related to Allah, it means that Allah affirms the favor, virtue and affection to all creatures through his sharia to the Prophet Muhammad. Also, M. Quraissy Syihab explained that grace is not limited by time and place. So, this verse makes clear that the lessons from prophet Muhammad as the sharia for the humankind without any time and places limitation. See Husayn ibn Muhammad al Isfihany, *al-Mufradat fi Gharib al-Qur'ann*, (Damascus: Dar al-Qalam, 1412 H), p. 347. See also M. Quraissy Syihab, *Tafsir al Misbah*, vol. 8, (Jakarta: Lentera Hati, 2002), p. 519.

² Moleong, L.J., *Metodologi Penelitian Kualitatif*. (Bandung: PT Remaja Rosda Karya, 2014), p. 256.

³ Bryman, A., *Social Research Methods*, (New York: Oxford University Press, 2012), p. 565.

⁴ Creswell, J.W., *Research Design: Pendekatan Metode Kualitatif, Kuantitatif, dan Campuran* (ed.), (Yogyakarta: Pustaka Pelajar, 2017), p. 253.

result of the intentional power reaction.¹ In the early interpretation of the violence meaning, it is caused by a strong different perception between male and female without any stoppages that only produces the overlap relation patterns. Therefore, it may possibly create willingness coercion from someone to other people either individual to a group or a group to the surroundings.²

Khalid (1985) stated that the violence is an amoral attitude and it can be happened in various forms, such as physic and verbal carried out by individual or group. Also, it happens because of any systematic abuses to ruin people reputation or reject someone's presence.³ In line, Moore (1994) argued that violence is caused by a shadow of the role and identity function-based gender, which becomes a fear perception from the person than the fear itself.⁴ Furthermore, Hotaling and Finkelhor (1992) explained that a violence is a series of attitudes that give a physical and psychological traumatic intentionally or unintentionally to other people.⁵ On the other hand, Seligman and Johnson (1954) indicated that violence is an illegal use of laws in achieving the individual or collective prominences.⁶

The violence against women is introduced internationally by the United Nation in 1993 on World Human Rights Conference at Winna emphasizing on a gender violence that can cause several losses, physical suffering, sexual defective, psychological illness, freedom seizure in public or personal life.⁷ This conference had become a good opportunity to reduce the violence against women and promoted about human rights of women and children that cannot be removed from other human rights.⁸

¹ Sa'id, S., *Nazhariyat al 'Unuf fi al Shira' al Idiulujiyah*, (Damaskus: Dar al-dimasy li al-Tib'ah wa al-Shahafah wa al-Nashr), p. 122.

² Budiarto, B., *Aneka Pemikiran Tentang Kuasa dan Wibawa*, (Jakarta: Sinar Harapan, 1984), 32.

³ Khalil, A.K., "Mulahazat Awaliyah Haula Raghbat al-'unuf wa al-Tamdzahab", *Jurnal Dirasah 'Arabiyyah*, 8 (21), 1985, p. 26.

⁴ Moore, h, *A Passion for Difference*, (UK: Polity Press, 1994), 68.

⁵ Hotaling, G.T., Finkelhor, D., *Family Abuse and Its Consequences*, (New York: Free Press, 1992), p. 15.

Declaration about Action Program at Winna in 1993. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>, diterjemahkan bebas dan dikutip dari Vienna Declaration and Programme of Action, the World Conference on Human Rights in Vienna on 25 June 1993, part I, paragraph 18.

⁶ Seligman, E.R. A., Johnson, A., *Encyclopedia of The Social Sciences*, (New York. The Macmilan Company, 1954), p. 264.

⁷ Declaration about the Removal of Violence against United Nation Women. (1993), <http://www.un.org/documents/ga/res/48/a48r104.htm> Declaration on the Elimination of Violence against Women, A/RES/48/104, 85th plenary meeting, 20 December 1993.

⁸ Declaration about Action Program at Winna in 1993. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>, diterjemahkan bebas dan dikutip dari Vienna

b. Violence against Women in Indonesia

Based on the Indonesian constitution Number 23 Year 2004, the government of Indonesia has established the definition of violence, which related to any kinds of action to women and detrimental the physical, psychological, and sexual. Furthermore, the other actions that are included to the violence are ignoring household life, threatening someone, forcing and seizing people freedom in household scope.¹ Consequently, the government of Indonesia has assigned the violence as the criminal punishment for those people who did a violence against women. This constitution possesses several important principles, such as appreciating the human rights, justice, non-discrimination and victims' protection.

Besides, this constitution seems a guarantee from the Indonesian government to the citizens in order to prevent all of the violence forms in general and in the household life, protect the victims, demand the suspects, and maintain the harmony and the prosperous household integrity. Additionally, it sets the prevention, protection and the victims' recovery.²

Based on the data reported by the Violence against Women National Commission in 2017, there were 10,205 cases of violence against women and assumed for about 75% cases of violence in household. Moreover, 3,092 violence cases also were happened in the societies' household and estimated reach into 22%. While, the violence against women in the state scope attained 305 cases or equal to 3%. It could be seen that the cases of physical violence seemed in the highest level which gained into 4,281 cases or equal to 42% from the total. Then, it is followed by 3,495 cases of sexual violence or equal to 34%, 1,451 cases of psychological cases or equal to 14%, and 978 cases in the financial factors or equal to 10%. Furthermore, according to the published annual notes, the sexual violence was established as the first rank of the violence that still happened reaching to 2,290 cases or equal to 74%, while the second rank was received by the physical violence achieving to 490 cases or equal to 16%. It continued to the third rank which was occupied by the psychological harassment for about 83

Declaration and Programme of Action, the World Conference on Human Rights in Vienna on 25 June 1993, part I, paragraph 18.

¹ The constitution Number 23 Year 2004 about the Removal of Violence in the Household Life, <https://www.wcwonline.org/pdf/lawcompilation/Indonesia-Regarding-Elimination-of-Violence-in-Household.pdf>.

² Arief, H., "Domestic Violence and Victim Rights in Indonesian Law Concerning The Elimination of Domestic Violence", *Journal of Legal, Ethical and Regulatory Issues*, 21 (4), 2018, pp. 1-7.

cases or equal to 3%, and lastly was the violence towards the traffic for about 1339 cases or equal to 4%.¹

Djojohadikusumo (2019) stated that a number of violence against women reported in 2019 based on the National Commission of Anti-violence of women increased up to 14% from 2018. In the annual report, it was explained that 406,178 cases of women violence had been reported in 2018 and also noted 348,466 cases in the previous years. To be more detail, there were 71 percent of the physical, psychological, and financial harassment carried out by the family members. Whereas, 28 percent of the violence was done by co-workers, and only 1% was executed by the state.

Through the data of the violence against women in 2018 and 2019, it can be said that the highest violence cases are happened in the Central Java for about 2,913 cases, then are followed by DKI Jakarta province for about 2,318 violence cases.² Based on the data, it seems to indicated that the violence in the family level is classified into an emergency case, which needs several intensive and long-term treatments. In this case, the family has a vital role in supporting one to another, instead of discriminating one of the family members.³

1. Curative Protection as the Justice Access

According to Goodman et al (2003) the recovery process of the women violence victims given in the curative protection can be provided to the victims in the long-term memory.⁴ It usually happens in the physical, emotional, and sexual attacks which are occurred several months or years. Consequently, it may cause stress and depression in the post-trauma.⁵ So, it needs an optimum treatment given to the women violence victims. Senter and Caldwell (2002) argued that the process of mental change needs hard efforts, which people move from the surviving mode

¹ National Commission of Violence against Women, *Dari Gang Rape hingga Femicide, Alarm bagi Negara untuk Bertindak Tepat*. An Annual Report about Women Violence in 2017, 21

² Online news reported by Lestari, K.R Violence against women in Indonesia rises sharply, an interview result from Rahayu Saraswati Djojohadikusumo, on March 8th 2019 <https://www.ucanews.com/news/violence-against-women-in-indonesia-rises-sharply/84684>, on April 19th 2019, 12.45 PM.

³ National Commission of Violence against Women, *Tergerusnya Ruang Aman Perempuan dalam Pusaran Politik Populisme: An Annual Report about Women Violence in 2018*, 25.

⁴ Goodman, L., Dutton, MA, Weinfurt, K., & Cook, S. "The intimate partner violence strategies index", *Violence Against Women*, 3 (9), 2003, pp. 163-186.

⁵ Fergusson, DM, Horwood, LJ, & Ridder, EM., "Partner violence and mental health outcomes in a New Zealand birth cohort", *Journal of Marriage and Family*, vol. 67, 2005, 1103-1119

to starting the new life.¹ Additionally, Herman (1997) explained that each victim would get different traumatic responses, but the substantial percentage of violence against women indicates in the progressive form that can attack and escape their personality slowly, so that it requires a step by step treatment to restore their mental.

As organized in the positive law of Indonesia, the constitution Number 23 Year 2004 about the removal of violence in the household scope that the women violence victims are deserved to get their rights in form of curative protection, particularly in receiving a qualified recovery, comprehensively, and sustainability. Furthermore, the rules to protect and restore the women mental curatively as the violence victims have been strived by the stakeholders and responsible for the cases, even though it has been yet applied maximum.² It happens because the treatment for the women violence victims is only carried out repressively through the law track, a litigation and also strengthening the constitution and regulation in Indonesia, without giving any curative recovery to the victims, including a regularly medical service, a step by step security service, and an intensive counseling. On the other hand, if the curative protection is not given to the victims consistently, the negative effects will be more dangerous and cause the victims difficult to be recovered.³

Moreover, Islam prohibits any actions that cause violence even to women. Also, Islam carries out a curative protection to those women from various discrimination and any violence forms. What is more, Islam teaches to the human to do a preventive action in protecting women from violence. It is stated in a hadith which means “the best among you is the best towards his family, and I am the best towards my family”. This hadith can be used as a foundation to build and keep a good relationship between one to another in a family, so the harmony between them will be gained. Also, the relationship in a family is real test to show the goodness to each other, without taking care of any difference, level of knowledge, social status, and others.

¹ Bacon, Senter, KE, & Caldwell, K, “Spirituality and the maintenance of change: A phenomenological study of women who leave abusive relationships”, *Contemporary Family Therapy*, vol. 24, 2002, pp. 543-564.

² Purwanti, A. (2017). “Protection and Rehabilitation for Women Victims of Violence according to Indonesian Law”, *Diponegoro Law Review*, 2 (2), 2017, pp. 1-22.

³ Herman, J., *Trauma and recovery*, (New York: NY, 1997), p. 78.

1. Access to the Women Justice of the Violence Victims

The National Commission of Women in Indonesia has confirmed the access to the women justice of the violence victims through the Framework for the Examination of Due Diligence of the State's Obligations in the Elimination of Violence against Women in 2015. Further on, Zarizana (2015) has mentioned that the National Commission of Women has established five formats and steps to reduce the violence against women after the testing of the Due Diligence Project toward the experience of women violence victims as follows, prevention, protection, investigation, prosecution, conviction and recovery.¹ The explanations of those formats are provided below.

Prevention

Essentially, the prevention is the process of delivering and spreading information of the problem resources by providing education to the societies about the removal of the violence.

Protection

In general, the protection is oriented to avoid the victims from the repetition of the violence and ensure the victim protection from the violence suspects, their families, and all people related to the suspects. It is needed to safe the family members of the victims, including protecting children from other people.

Investigation and Prosecution

The legal process in terminating the impunity is carried out through an in-depth investigation and prosecution. These two actions are intended to eliminate the violence against women efficiently. Therefore, the government responsibilities in strengthening the trust from the victims to the police, the prosecutors, and the court institution become the important requirement that should be done in the investigation and the prosecution process.

Conviction

The government responsibility in the criminal prosecution can be included into the imposition of the civil, criminal, administrative

¹ Zarizana (translated edition). (2015). *Kerangka Uji Cermat Tuntas Kewajiban Negara dalam Penghapusan Kekerasan terhadap Perempuan*. Jakarta: Komnas Perempuan. Read on the National Commission of Violence against Women, *Membangun Akses ke Keadilan bagi Perempuan Korban Kekerasan*, (Jakarta: Komnas Perempuan. 2017), 71.

punishment, and others. In convicting the penalties, the law enforcement must understand the systematic and structural inequalities between men and women, so that they will impose the punishment based on the mistakes. Therefore, the security and the safety of women victims should be more increased in committing the criminal acts, including when the offenders are convicted with other than a prison.

Recovery

The recovery process of the victims of violence against women should be focused on the needs of victims. Therefore, the government should develop several methods to recover the victims in the form of compensation, restitution, compensation for their lost opportunities, including the physical and the psychological care. In addition to long-term recovery, a broad recovery also means preventive protection oriented to guarantee the non-repetition of violence against victims, including taking temporary preventive measures, fulfilling victims' sense of justice, for example through the truth tribunals, public apologies, and warning.

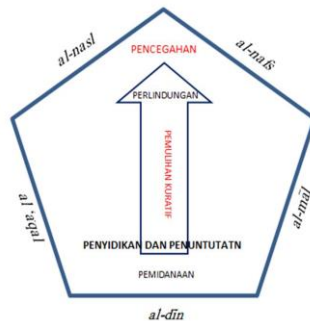
The Relevance of *Maqasid al-Shar'iyah* in Recovering the Women Violence Victims

Islam is one of the religions that has organized all of the humans' life and ensure the harmony between the protection of repressive, preventive, and curative for every woman victims of violence through legal objectives indicators included in the main aspects from *maqāṣid al-Shar'iyah*. Those five aspects are also called as *al-Kulliyāt al-Khams* or *al-Ḍaruriyyat al-Khams*. *Maqāṣid al-Shar'iyah* is a *sharī'ah* objectives in Islamic religion and possesses several preference levels in its implementation claim, which is started by *al-Ḍarūriyāt*, *Ḥajiyāt* and *Tahsinīyāt*. In the Islamic studies, the relationship between the proposed method in law references and the *maqāṣid* element is able to strengthen the law into *qat'i* or almost *qat'ī* level.¹ Therefore, the existence of the five aspects of *maqāṣid al-Shar'iyah* is still relevant as the standard qualification and operational and becomes a benchmark optimization in measuring the women victims of violence in the preventive and curative level. Indirectly, when an Islamic figure suggests a number of proposed methods to be used in realizing the recovery steps for the women victims of violence, the priority of the method can be measured and evaluated based on the relationship between *maqāṣid al-Shar'iyah*. In addition,

¹ Read Ibnu Asyur, *Maqasid al-Shari'ah al-Islamiyyah*. (Al-Qahirah: Dar al-Salam, 2009).

there are many proposed methods that can be analyzed with *maqāṣid al-Shar'iyah*, such as the concept of *al-Amru dan al-Nahyu*, *mafhūm mukhālafah* and the opposed argument or *al-Ta'arud baina al-Adillah*. What is more, Al-Shāṭibī asserted that all customary laws and Islamic law should be based on the humans' interest. Therefore, all of the dangerous and destructive things must be prevented according to the consideration of *maṣlaḥah al-Shar'iyah*.¹

Furthermore, Allah has established the rules of law to ensure the goodness for all of the humans and avoid them from any harm happened (*jalbul maṣāliḥ wa dar'u al-Mafāsīd*). In other words, the legal rules that have been stated by Allah to His servants are merely for the human itself. Specifically, *maqāṣid al-sharī'ah* can be divided into three important parts, including *ḍarūriyyāt* (primary), *hajiyyāt* (secondary) and *taḥsinat* (complement). *Maqashid* or *maṣlahat ḍaruriyyat* is something that must be existed in order to achieve the benefits of Islam as a religion and the world. If this part does not exist, it will cause a damage, loss of life, and loss of human life. Among its indicator including to the *Maqāṣid* or *maṣlaḥat ḍaruriyyat* can be divided into five types, such as religion (*al-Dīn*), soul (*al-Nafs*), descendants (*al-Nasl*), treasure (*al-Māl*), and reason (*al-'Aql*).² Those *maṣlaḥah* principles can be said as the achievement of *sharī'ah* objectives (*maqāṣid al-Tashrī'*), in order to protect five holistic items (*al-Muḥāfaẓah' al-Kulliyyah al-Khams*). Therefore, its relevance in the curative protection of women victims of violence will be described as follows³:



Picture 4.1. The Relevance of *Maqāṣid al-Sharī'ah* as the access to the Justice

¹ Read al-Syāṭibī, *Al-Muwāfaqāt fi Ushūl al-Syarī'ah*. Part II. (Beirut: Dar al-Kutub al-'Ilmiyyah, 2010), p. 8.

² Read Al-Syāṭibī, *Al-Muwāfaqāt fi Ushūl al-Syarī'ah*, Part II. Beirut: (Dar al-Kutub al-'Ilmiyyah, 2010), p. 8.

³ Shomad, A., *Hukum Islam Penormaan Prinsip Syari'at dalam Hukum di Indonesia*. (Jakarta: Kencana, 2010), p. 63.

a. Ḥifẓ al-Dīn

As a standard of the Islamic law, *Ḥifẓ al-Dīn* is aimed to secure the enforcement of the right for everyone to possess a religion and provide a freedom of religion and do all of the responsibilities as the servant. Related to the implementation of the recovery of violence victims, they will be given a freedom and facilitated to receive a preventive protection and curative protection by the Islamic figures. Moreover, a religion itself is focused on the divine rules that have been revealed through the prophet in guiding the humans to the truth and the goodness in terms of the behavior and social relationship. Also, it limits humans to the restricted rules and makes them agree to the commands and the prohibitions in order to get the happiness in the world. What is more, the perfect religion consists of four elements, such as faith, external submission (Islam), belief in true doctrine (*i'tiqād*) and work (charity).¹ Therefore, the spirituality and religious belief based on the victims' faith can play an important role in the recovery process. Andersen et al (2012) explained that the optimization of the recovery process can give the victims a power to carry out the Islamic sharia intensively, and find the purpose of life clearly. In addition, the spirituality makes the victims find a place to depend on, called Allah as the God who has an enormous transcendent force. On the other word, the power may help them to rise from their suffering.

According to al-Yubi (1998) religiosity is part of the human innate nature that all of them must be affiliated to other religions.² Even though they ignore this innate nature, it can be said as a pure aberration. Thus, the spirituality found in the recovery process is the combination of the organized religion and the informal experiences of the victims. Further on, the religious support can contribute to the personal and social transformation of women victims of violence during their recovery. By gaining the recovery process through strengthening the religiosity aspect,

¹ Muhammad, A.A., *Al-Amīn al-Na'īm and Yūsuf al-Bashīr Muḥammad, Maqāṣid al-sharī'ah al-islāmiyyah*. (Khartoum: al-Markaz al-Qawmī li 'l-Intāḡ al-Islāmī, 1995), p. 26.

² Yubi, M.A., *Maqāṣid al-sharī'ah al-islāmiyyah wa 'l-'alāqatuhā bi 'l-adillat al-shar'īyyah*. (Riyadh: Dār al-Hijrah, 1998), p. 192.

the victims believe that God is a guiding force that saves their lives after the violence, and helps them overcome the challenges of trauma, and is able to give them the strength to end their adversity to start a new life.¹

b. *Hifz al-nafs*

Hifz al-Nafs can be defined as the guarantee of the opportunity to guarantee the right of life maintain and protect human dignity and human rights. In the law context, Islamic sharia has a similar objective to the principles of humans' right. The purpose of Islamic law or *maqāsid al-ṣhārī'ah* contains five basic rights in which becomes the primary need (*ḍaruriyat al-Khams*) including to maintain dignity and humanity rights. What is more, the Prophet of Muḥammad has applied the principles of humans' rights in the social life. In fact, there are many similarities than the differences between Nash, the principles of national human rights and the principles of human rights based on the Islamic perspective. Therefore, it is necessary to understand how the implementation of the objectives of the Islamic law (*maqāsid al-Sharī'ah*) in recovering women victims of the violence. Through this indicator, sharia regulates how all victims should receive protection before and after violence occurs as a manifestation of the fulfillment of their dignity and rights.

It is stated in the Holy Qur'an "And We have honored the children of Adam, e brought them on land and sea, we gave them good food and we chose them for the perfect benefit of most creatures that we have created (Surah al-Isra, 70). Through this verse, it seems to suggest that Allah will raise the human level. However, there are still many violence happen, even the recovery process, protection provided to the victims have been implemented well. Furthermore, the letter of Al Isra': 70 indicated a glory of human called *Karāmah*. Hasbi Ash Shiddieqy divided *karāmah* into three categories such as personal triumph (*karāmah farḍiyah*), community glory (*karāmah ijtimā'iyah*) and politics of triumph (*karāmah siyāsīyah*). The first category explains that humans are protected both personally and their property, so the government should maximize their efforts and the protection facilities for the women

¹ Anderson, K.M., Renner, L.M., Danis, F.S., "Recovery: Resilience and Growth in the Aftermath of Domestic Violence", *Violence Against Women*, 18 (11), 2012), pp. 1279 –1299.

victims of the violence. While, the second category emphasizes that the status of human equality is fully guaranteed, which means that there is no distinction in optimizing recovery and fulfilling justice for victims, both men and women, rural communities, or cities and so on. Then, the third category is that Islam fully guarantees the political rights of people, therefore any type of violence and whoever does justice for victims, especially women victims cannot be obstructed by political reasons or obstacles from the dominance of the authorities.¹

c. *Hifz al-Nasl*

In accordance to the context of Islamic law, sharia guarantees the right to own and preserve the offspring. In addition, it becomes an indicator oriented to family protection and more attention about family institutions. Hifzhu al-nasl is an indicator that ensures the sustainability of the human population to stay alive and grow healthy physically and psychologically. Therefore, Islam provides provisions in the Qur'an and as-Sunnah how fellow humans to stop and avoid violence disruption or conflict between each other or related to the annihilation of other living creatures. Islam also provides lessons on how to educate children and take care for families from violence that is increasingly prevalent in society starting from the lowest order in the family even in state life.

d. *Hifz al-'Aql*

The purpose of guarding reason is ensuring freedom to think, debate, and have proper education. Thus this indicator is one of the institutions of the objectives of Islamic law that requires the security of mind or common sense from damage that causes the person concerned is not useful in society. Preventive efforts that are preventive by Shari'ah are actually aimed at increasing the ability of the mind and guarding various harmful things. In relation to the recovery of victims of violence, curative recovery to rehabilitate post-traumatic victims should be optimized. Because only with a calm mind and free from various pressures and human violence can

¹ Read Hasbi Ash Shiddieqy, T.M., *Sejarah dan Pengantar Ilmu Tauhid*, (Jakarta: Bulan Bintang, 1973).

develop science and technology and with that humans can manage and prosper their lives in the world as best as possible.¹

e. *Hifẓ al-‘Amal*

Guaranteed freedom to work, to get a job, to manage and exploit natural resources, and the right to own property is a realization of the goal of *hifẓ al-‘Amal*. This indicator also prioritizes prioritizing social care among human beings, therefore this element is a starting point and basis for the urgency of assistance and services provided by both social and religious officials to seek recovery for women victims of violence. Furthermore, this indicator also considers economic improvement and growth in the lives of victims in a better direction after experiencing violence, besides encouraging human well-being is also a major point that must be prioritized, because how can victims recover, if their standard of living has not reached a prosperous level. For this reason, integrated community protection places are needed for the victims to maximize protection efforts.

Conclusion

Maqasid al-Shar‘iyah is the objective of *syara’* in which has several preference levels in its implementation claim. The five indicators included in *maslahat* or *maqasid daruriyyat* are very relevant in its implementation to five curative protection formats in resolving and eradicating violence against women, called prevention and protection that represent indicators of life (*al-Nafs*) and heredity (*al-Nasl*). Then curative protection gathered investigations and prosecutions are done to represent indicators of wealth (*al-Māl*), and reason (*al-‘Aql*). Finally, punishment also represents an indicator of religion (*al-Dīn*).

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¹ Towadi, M., “The Application of Shari’a Maqasid on the Protection of the Rights”, *Journal of Indonesian Legal Studies*, 2 (1), 2017, 43-54.

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