

The Legal Review of Sexual Violence in Husband and Wife Relationships from the Perspective of Qiraah Mubadalah

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ABSTRACT

The cycle of suffering. According to validated data from the Ministry of Women's Empowerment and Child Protection (PPPA) in 2023, a total of 27,312 cases of alleged violence were reported, with 23,965 of the victims being women. Domestic violence committed by spouses is among the most common cases, with 20.2% of the victims being housewives. In light of this, the researcher conducted a study to examine the meaning of sexual violence within the context of law and Islamic teachings, particularly in Islamic households, with the aim of finding a balance of rights and obligations between husband and wife from the perspective of Qirah Mubjadi. The research method employed is a literature study. The results show that from the perspective of Qirah Mubjadi, sexual violence in marital relationships can be addressed through the principles of mutuality, mutual understanding, and reciprocal respect between husband and wife

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INTRODUCTION

Marriage is a bond between husband and wife whose aim is to form a family that is sakinah, mawaddah and warahmah. Wedding is one of the rooms scope from human life. Marriage according to article 1 of Law Number 1 of 1974 is a physical and spiritual bond between a man and a woman as husband and wife, with the aim of forming a happy and eternal family or household, based on the principle of belief in the Almighty God. In this way, marriage is a form of contract which in its meaning contains the words nikah and *tazwij* and is a sacred word. (Santoso 2016)

The journey in the marriage ark is not always filled with peace; sometimes a storm comes and shakes it. Various problems can trigger shocks in the household. Starting from trivial issues such as differences of opinion and perception, to more complex issues such as misunderstanding, disappointment, offense, and a number of other reasons. Factors causing domestic violence are: *First*, there is an imbalance between husband and wife. *Second*, economic problems. *Third*, attitude indifferent indifferent. *Fourth*, wrong thinking regarding understanding related to religion, for example concepts *nusyuz*. All of these things can trigger tension which then develops into conflict. However, it is important to remember that not all of this tension can be called a form of Domestic Violence (KDRT).

In fact, often in legal and official marriages, there are violations committed with the aim of fulfilling biological needs, for example forcing a wife even though she does not want to have sex, which is known as domestic rape.

Domestic violence is a form of violence that endangers women. Within the family environment, women of all ages can become victims of various forms of violence, including beatings, rape, as well as sexual, mental and other forms of violence that are maintained by traditional norms. The state must also create a legal system in his country respectively, and adopt laws on advancing gender justice and women's empowerment to uphold women's rights. (Sakirman 2015)

The problem of violence against women is not only an urgent issue, but has also been going on for years and can be found in various places. This violence can take the form of physical, psychological and sexual. Therefore, sexual coercion that occurs in the context of marriage and involves the husband against the wife can be considered a form of domestic violence which can be subject to legal sanctions in accordance with Law no. 23 of 2004 concerning the Elimination of Domestic Violence (KDRT).

However, it is important to remember that interpretations of the verses of the Qur'an can vary, and there are different approaches to understanding Islamic teachings. Some Islamic scholars and scholars emphasize the importance of balance and mutual understanding in the husband-wife relationship, while others may emphasize the husband's obedience and leadership aspects.

In the context of sexual relations, it is important to achieve mutual understanding and comfort between husband and wife. Refusal from the wife's side should not be considered as *nusyuz* (disobedience) without considering the context, health and possible psychological conditions. influence that decision. Respect for the human rights and dignity of both partners in marriage are also values recognized in Islam.

And one approach to reading the Koran that is suitable for problem This is the *Qiraah Mubjadi* raised by Faqihuddin. If so How interpreting the rights of husband and wife in the family, the concept of sexual relations between husband and wife and when using *qiraah mub* reading how to understand the meaning of rejection. (Natalis 2020).

METHOD

In this research, a qualitative research approach was used with library research (Library Research). By conducting several studies by looking at data to strengthen the accuracy of literature studies, as well as taking teacher action through reflection with the aim of improving performance as a teacher. (Zakariyah, A, M., Afriani, v., & Zakariyah, M 2014)

The type of research used in this research is the type of research from data sources obtained by researchers such as journals related to the theme or discussion analyzed by the researcher.

RESULT AND DISCUSSION

Understanding and Legal Basis

According to the term, privilege is the power or authority that each individual needs to obtain something they want. Privileges are arrangements that each individual has, while commitment is something that should given in the form of merchandise, objects or actions. After the marriage contract between husband and wife, freedom and commitment emerge for each party. These include the privileges of husband and wife which have become the wife's obligation, the wife's privileges which have become the husband's obligation, and freedoms between husband and wife.

The concept of relationship in Islam between husband and wife is directed at fostering a feeling of love and building a complete family, *mawaddah* and *rahmah* as

stated in Q.S Ar-Rum verse 21. A husband and wife should work together fairly, support each other, looking out for each other. Religious points are important in marriage so that the couple's way of behaving, carrying out obligations and providing rights that must be fulfilled are in accordance with Islamic teachings. After all that carried out, maintaining harmony between privilege and commitment to create a protected, peaceful and prosperous family environment. (Asman 2020)

This division of tasks is a system of Islamic rules for building a lasting and happy family. This division of positions does not mean that the spouse is superior because he is the head of the family and the wife is below standard because she is a housewife who stays at home. Daily routines in marriage should be experienced with full attention, liking, respecting each other, complementing each other, paying attention to each other and seriously maintaining each other's rights and commitments as in Q.S Al-Baqarah: 228.

Marriage is not an agreement of slavery or transfer of ownership, but marriage is an agreement that provides equal mutual freedom according to the advantages of each partner. A woman has the privileges of husband and wife which must be fulfilled by her partner, in particular such as the freedom of a partner which must be fulfilled by her partner, for example a good relationship, not misery, fear of Allah regarding the interests of her partner. the wife deserves her partner and improves herself for her partner so as not to look at each other, husband and wife need to meet the needs between them. If either of them feels unable to uphold their partner's rights, it is recommended that each of them seek treatment. (Baharuddin 2012)

Divorce is a complex event in the context of marriage in many cultures and religions, including Islamic law in Indonesia. The main goal of marriage in Islam is to build a harmonious and lasting family, as well as encouraging maintaining balance in the household.

However, the reality does not always match these expectations. Many factors can influence household dynamics and result in divorce, although ideally this should be avoided. For example, differences in views, incompatibility, unresolved conflicts, economic difficulties, and other factors can cause divorce.

Efforts to maintain the integrity of a marriage and maintain balance in the household are not easy. Commitment, patience, good communication and a willingness to try to resolve conflicts are required in a way that is in accordance with religious teachings and applicable laws.

Divorce may be the best solution to avoid greater conflict or to give individuals a chance to find better happiness in the future. Even though divorce is considered a 'failure' of marriage, in many cases, it can be a good solution for both parties (Andaryuni 2017)

Compilation of Islamic Law and Law of the Republic of Indonesia Number 1 of 1974 contains concerning Marriage, which regulates the rights, obligations and position of husband and wife in Indonesia. Article 79 concerning the Islamic Sharia Association defines the roles of husband and wife as follows: (i) The husband is the head of the household, while the woman is the housewife. ii) between wives and husbands they have the same rights, obligations and positions in the household and social sphere of society. iii) Everyone is free to take legal action. Marriage Regulations are regulations between a husband and wife that regulate the privileges and commitments of both people according to society and law. In article 33 it is understood that husband and wife have a commitment to love, respect and serve each other to provide assistance both physically and externally so that the husband's privileges and commitment can be

traced, legally. What differentiates the two is that, in accordance with article 31 paragraph (3), the husband is the head of the family and is obliged to provide for and take care of all family needs, while the mother, in her role as housewife, is responsible for managing family affairs. the couple is a housewife, and family.

The submission of husband and wife to their partner is regulated in article 33. The wife has the right not to follow her husband's orders and has the right to sue in court if the husband does not fulfill his responsibilities towards his wife. In accordance with article 34 paragraph 3, couples also have the right to file a case in court. This means that if one or both of them cannot complete their respective submissions, the other party can take legal action.

In building a family, a husband and wife must both fulfill their respective commitments and obligations to create harmony and tranquility so that satisfaction with married life becomes greater. Couples have a privilege which is a commitment to their partner. A husband's commitment to submit to his partner is related to the husband's authoritative position in the family according to surah An-Nisa: 34 that because men lead women, Allah gives some of them (men) more priority than others (women).

Rights and Obligations of Husband and Wife

Marriage is a factor that influences a person's happiness in life. In building a household for a couple, each individual must be committed and responsible for creating peace and harmony in line with the goal that life is the happiness of the couple (Fatimah and Nuqul 2018). Married couples have freedoms which include: commitment to their better half. According to An-Nisa's letter, the husband's power in establishing the household has an impact on the husband's willingness to obey: Because 34 men are the leaders of women, Allah prioritizes certain people (men) above other people (women).

The Wife's Rights Become the Husband's Obligations

There are two rights and obligations on the part of the husband who has become a right and obligation for the wife, namely: *First*, material obligations, including: dowry in Al-Quran surah *An-nisa*: 4 and sustenance in Surat *Al-Baqarah*:233. Material obligations, namely seeking sustenance to fulfill the basics of the house such as food, clothing and children's school fees. (Paramurobi 2020)

According to Sayyid Sabiq in the book *Fiqh Sunah*, a husband has two obligations in a household: *First*, support his wife and *Second*, fair to all wives if a husband has more than one wife.

Furthermore, the non-material obligations between husband and wife are contained in the meaning of each of the following articles 80 paragraphs (1), (2) and (3), specifically: 1.) In connection with important family decisions made by the couple together, the husband or wife acts as a mentor for the couple and their family. 2.) The husband has an obligation to take care of the husband his wife and meet all the family's needs as best as possible. 3.) The wife has the responsibility to receive strict education from her husband, as well as time to obtain information that is useful for her religion, state and nation. (Hatta 2008)

Husband's Rights Become Wife's Obligations

It is found in the Al-Qur'an and Hadith. Among the obligations that must be carried out by husband and wife in a family relationship include: Being loyal to the wife in accordance with sharia guidelines, protecting the husband's property and honor, and being responsible in family matters. According to the Prophet's hadith: "A

wife's obligation is to serve her husband's sexual needs, accompany him, and manage his household. (HR. Muslim and Bukhari). (Naily n.d.)

Common Rights and Duties

The existence of reciprocal rights and responsibilities between husband and wife depends on three factors, according to classical jurisprudence books: positive relationships (*deliberation bil ma'ruf*), support from outside, and support from within. In the relationship between the two parties, it is appropriate to maintain mutual harmony and romance between the couple, because maintaining the relationship between the husband and wife becomes the basis for a beautiful and beneficial relationship. Between partners, it is not a dominative relationship, but a relationship of compatibility (*zawj*), reciprocity (*exchange*), partnership (*muawannah*) and cooperation or participation (*deliberation*). (Ula et al. n.d.)

Husband and wife sexual relations

a. Definition and Legal Basis.

According to jurisprudence, sex in Arabic is *wait'* or *what'u* which has the meaning of sexual, or sexuality. Sex can also be interpreted as a means of gender that is visible and can be designated. The word in terms of sex is also related to meaning behavior or actions, feelings and emotions that are tied to stimulation of the genital organs (reproductive organs).

Musdah Mulia emphasized that sexuality is related to complex emotions, character, and inter-social interactions which are closely related to behavior and orientation towards sexual meaning which is influenced by individual social groups. The term human sexuality, without focus, is associated with enthusiasm, attraction, lust and dreams, but at the same time it is often viewed with doubt, confusion, fear and disgust. A sexual relationship is a relationship that is at the same time an outpouring of closeness or a high articulation of worship on the basis of a sexual relationship that unites the physical and the profound at the same time. (Hamid 2022)

Imam Ghazali also said the same thing: sexual relations are human interactions with a specific purpose: *First*, To experience extraordinary pleasure (enjoyment) from the chosen sexual relationship, you will become increasingly unique in your ability to enjoy life after death (heaven). *Second*, To have offspring (children) and maintain human existence on this planet. (Uce 2022)

One element of the family is raising children and grandchildren in a way that is halal and responsible both socially and morally. As Allah's confirmation in Surah Al-Baqarah: 187. A partner is like an example of clothing (shirts, trousers, etc.) for his partner because he covers all aspects of his partner like clothing covers the wearer, and prevents him from committing a sin or anything that violate Sharia. (Lailiyah 2021)

b. Equal Rights of Husband and Wife (Sexual Equality)

Islam maintains standards of justice and equality without caring orientation, wealth, and high position. In approaching human freedom, in Surat Al-Honesty Article 13 explains that the ideal benchmark that distinguishes humans is their commitment to Allah through the implementation of His commands and prohibitions. Regarding the following hadith on husband and wife relations: According to Abu Hurairah r.a., Rasulullah SAW said: The holy apostles refrained from worship (kindness) until the morning if their partner invited their partner to sleep (sexual intercourse) and the partner firmly refused (rebel). This caused the husband to become very angry. (Sahih Al-Bukhari: 3272).

When understood literally, the hadith above does not describe equality, uniformity and *mu'asyarah bi al-ma'ruf*. There are countless researchers who urge not to understand the hadith above in its true meaning. For example, Musthafa Muhammad 'Imarah who means the condemnation of the other world. will appear assuming his partner rejects "without reason". This should be considered rejection if rejected (*nusyuz*). Even though a husband is essentially obliged to serve his wife, he is free to ask his wife to reject him if that was his true desire. Apart from that, a sick woman is not obliged to serve her husband. If her husband continues to demand then he has ignored a guideline towards goodness, namely *deliberation bil ma'ruf* by abusing the wife he was supposed to protect. (Alfreda and Insan 2023)

In a sexual relationship there is commitment from both parties, both partners. Both parties must be able to enjoy their rights to sexual relations. A husband and wife have a commitment to love each other and provide satisfaction to their partner through a good and respectful relationship. Sexuality is an important right and needs to receive more attention. If a couple's sexuality is interpreted as a form of the concept of commitment, then this only becomes a problem and for every partner being sexual is a burden to himself. (Development et al. 2019)

The concept of bodily rights was interpreted by Faqihuddin Abdul Kodir in his book *Manba'ussa'adh fi Asasi Husnil Mu'asyarah wa Important at - Ta'awun wa al-Musyarakah fi Hayat az-Zaujiyyah* as the freedom to pursue sexual urges in a relationship. appropriate and halal way (*talbiyyah al-gharizah al-jinsiyyah*). Imam Wadah Abu al-Qasim al-Junaid Muhammad, tube al-Junaid al-Baghdadi, was an outstanding Sufi in Baghdad. It is quoted by al-Ghazali in the book *Ihya' Ulumuddin* Volume 2, p. 39, from the container of Imam Siri Mughlis as-Saqati, tube al-Haris Asad al-Muhasibi. Consuming staple foods can provide energy and health for humans. Therefore, the more often you make important connections. This can free oneself from lust (*as-syahwat*) and fill life with vitality if done with halal friends. The Prophet often advised people to marry if they were ready mentally, financially, emotionally, and in the appropriate situation.

c. Good relationships (Mu'asyarah was- Ma'ruf)

Marriage is a way to direct sexual relations in a halal way, so as to achieve the same goals and interests without any misunderstanding between husband and wife. Word of Allah QS. An-Nisa: 19. In married life, *mu'asyarah bil Ma'ruf* is characterized by an attitude of giving and receiving as well as loving and loving each other. couple loves each other. do not hurt each other and do not show contempt for each other and do not ignore the freedom and commitment between partners. (Mustaqim, Tamam, and Rahman 2021)

According to Al-Shirazy, quoted by Masdar F. Mas'udi, a husband or wife is essentially obliged to support their partner's sexual interactions. The wife has the right to bargain or postpone sexual intercourse for three days if she is not motivated to do so. For the weak partner, it is not mandatory to acknowledge their partner's sexual advances until the irritation disappears. However, if a partner continues to force his partner to serve him, then the husband is ignoring the guidelines *mu'asyarah bi al-ma'ruf* and is considered to have mishandled the party he should have received. (Khasanah 2021)

Husein Muhammad quotes Abd al Rahman in his book *al-Fiqh Ala Mazahib al-Arba'ah*, which states that the majority of the four schools of thought among researchers define marriage as a contract in which a man hands over everything to a woman in order to get married. enjoying his body and recognizing that men

are the owners of sexual pleasure. Therefore, this assessment bears a great responsibility for the rights of women (partners) regarding their sexuality. This evaluation includes, among other things:

First, The Syafi'i school of thought, whose opinions are accepted by the majority of Indonesian society, believes that a person's sexual freedom includes sexual rights, so that women do not have the right to ask for sex. is a service to humanity and is simply the result of a moral obligation.

Second, Men, not women, have the right to have sex, according to the Hanafi school of thought. Because, not the other way around, men have the power to force women (wives) to fulfill their sexual desires. Nevertheless, partners have an ethical obligation to meet each other's needs in order to uphold ethics.

Third, Maliki also made a similar statement, stating that the purpose of marriage is to use a woman's body and not a man's body. Furthermore, the Maliki school of thought believes that men (husbands) have an obligation to satisfy their wife's sexual desires, and that women will suffer and be harmed if they are rejected. (Thesis 2019)

This fiqh perspective shows the dominance of men (partners) over women (wives). Perhaps women do not have freedom over their own bodies, so this view ignores the perspective of justice in relation to a person's sexual rights. Even though it is not widely adopted, the opinion of the Shafi'i school of thought is that the marriage contract is a bond that contains the possibility of sexual pleasure because it is a contract of *ibahah* (choice) not *tamlik* (ownership). This means that the wife has the right to demand the right to sexual services from her husband because of the husband's right to sexual pleasure. furthermore, partners for generally desired goals and in fair distribution.(Faisol 2023)

The concept of Qiraah Mubjadi

Faqihuddin Abdul Qodir designed an interpretation technique known as *Qira'ah mub*. This method is based on hadith and Koranic texts which discuss the relationship of interdependence between men and women. The Arabic roots of the term "*mubindah*" are *ba'*, *dal*, and *lam*. These terms denote replacement, change, exchange, rotation, exchange, and revolve around the idea of reciprocity. The word "*mubjadi*" in Indonesian refers to reciprocity, which means that men and women both benefit from the situation. (P 2020)

Through the use of a methodological approach, *Read;ah Subject* provides opportunities to improve understanding and application of a text, ultimately revealing the meaning of relationships. This method equalizes the position of men and women in the interpretation of the Qur'an. Al-Qur'an verses that highlight justice, such as the command to help each other, please help in goodness, stay away evil, praying, paying zakat, and obeying Allah and His Messenger (At Taubah: 71), are the sources of inspiration for this idea. However, the principle of loving others as you love yourself (H.R. Bukhari Number 13) also suggests that Islamic doctrine views men and women as equal. (RETNIASIH 2022)

Mub point of view conceptis focuses on the issues of men and women working together to forge lifelong relationships at home and in the wider public sphere. The following three basic principles form the basis of the mubjadi interpretive approach:

1. The first premise of the mubjadi method

belief that the writings of the Qur'an contain teachings for men and women because revelation in Islam was given to both. The aim of the current law is to provide benefits to both men and women.

2. The second principle from the mubjadi perspective

Instead of hegemony and domination, the basis of interaction between men and women is mutuality and collaboration.

3. The third premise is the belief that Islamic texts

Reinterpreted to ensure that each interpretation process embodies the two previous principles. (P 2020)

The mubindah approach is used in the interpretation process, namely identifying the main points raised in each text so that they can be interpreted according to general guidelines that apply to everyone, regardless of gender. According to Islamic beliefs, writing intended specifically for men or women is classified as partial and contextual text, which means that its meaning and content must be revealed. The aim of the mubindah approach is to fit each book into the broad framework of the Islamic religious paradigm, which emphasizes goodness for the universe as a whole and helping all people in general. It is based on the idea that Islamic principles are appropriate for a particular time, location, or circumstance.

There are three steps that make up the methodology for implementing an interpretive approach *Qiraah Mubadala*. (Kodir and Aufa 2024)

First, study of gender-neutral and global Islamic ideas. This philosophy, based on religious norms and customs, represents ideals that benefit both sexes.

Second, recognize the important points of the verses of the Koran, regardless of the gender of the object. Verses that discuss the obligations of men and women are often applied in the context of a certain time and space. It is important to investigate the realities that emerge between men and women by understanding them from both textual and contextual perspectives.

Third, expresses important concepts from previous phases, regardless of the gender of the verse. Thus, qiraah mubindah aims to bring together the virtues of Islamic teachings so that everyone can experience them together.

Analysis of Rejection of Sexual Relations from Qiraah Mubjadi's perspective. Islam views sexuality as a mutually balanced right and responsibility between husband and wife. This interpretation can be achieved using techniques *Qiraah mubadala* to analyze the idea of sexuality in husband and wife relationships. The Qur'an uses interesting allegories to explain some elements of sexuality. It's like a husband wearing clothes for his wife and a woman wearing clothes for her husband.

The husband is obliged to understand and satisfy his wife's sexual desires as well, in accordance with the method of understanding and analyzing hadith verses which discuss the wife's obligation to serve and satisfy her husband's desires. According to the mubjadi view, men are also obliged to fulfill their wives' sexual demands, and the meaning of this hadith especially applies to women. According to the mubindah worldview, a husband can also face consequences if he rejects his wife's advances, this emphasizes the idea that both partners must jointly fulfill each other's sexual demands. (Kodir and Aufa 2024)

In the mubjadi perspective, this condition can be interpreted as a way to interpret the hadith as a warning or curse, where curse refers to a condition that is far from mercy or compassion. This meaning relates to a situation where the husband has expressed anger loudly, so that the wife refuses the invitation to have sexual relations without any logical reason. In the context of the psychology of husband and wife couples, the hadith text emphasizes that angels curse wives because of their inability to understand and fulfill their partner's sexual needs.

In a mubjadi way, this understanding highlights the importance of fulfilling the fuel of love in the husband-wife relationship. Failure to meet these needs can have destructive consequences on relationships, leaving them fragile, stagnant, and even at risk of disintegration. Curse in this context reflects the negative impact of the inability to fulfill the sexual needs of a husband or wife, which can damage and destroy the relationship. (Sodiqin 2024).

CONCLUSION

Marriage is one of the factors that influences a person's happiness in life. In building a household for a couple, each individual must be committed and responsible for creating peace and harmony in line with the goal that life is the happiness of the couple. There are 3 shared rights and responsibilities between partners, including good relationships, physical support and mental support. In a relationship between husband and wife, it is important to maintain harmony and romance between partners, because maintaining the relationship between husband and wife is the basis for a beautiful relationship and brings benefits between partners. In my understanding, Qiraah Mubadallah is an interpretation method proposed by Faqihuddin Abdul Qodir. This approach was created because of the verses of the Koran and the hadith of the Prophet which discuss the interconnected bonds between husband and wife. In terms of meaning, the word mubdalam is interpreted as reciprocity, which means that the husband and wife get benefits together. By applying the qiraah mubjadi approach in interpreting the concept of sexuality in husband and wife relationships in Islam, it can be interpreted that in this religion, sexuality is considered as a mutually balanced right and obligation between husband and wife. The mubjadi approach in interpreting and understanding hadith texts which discuss the wife's obligation to fulfill and serve her husband's sexual needs emphasizes that husbands also have the same responsibility to understand and fulfill their wife's sexual needs.

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