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ISLAMIC LEGAL PERSPECTIVE ON PROTECTION OF WOMEN VICTIMS OF FEMICIDE IN INDONESIA

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Abstract

The phenomenon of femicide, or the killing of women based on gender-related motives, in Indonesia has shown a troubling increase, while the national legal system has yet to establish specific regulations addressing this crime. This legal vacuum results in the handling of femicide cases being limited to general homicide provisions under the Criminal Code (KUHP), without adequately considering the gender-based dimensions inherent in such acts. This study aims to analyze the protection of women as victims of femicide from the perspectives of Islamic law and positive law, as well as to examine how the principles of *maqāsid al-syarī'ah* and *siyāsah syar'iyah* can serve as a philosophical foundation for formulating national legal policies capable of preventing femicide and protecting women. The research employs a normative juridical approach with comparative and conceptual analysis, utilizing primary sources such as the Qur'an, Hadith, and principles of Islamic law, alongside secondary sources including the Criminal Code (KUHP), the Law on Sexual Violence Crimes (UU TPKS), and relevant legal literature. The findings indicate that Islamic law firmly prohibits all forms of violence and the killing of women, as such acts fundamentally contradict the principles of *ḥifz al-nafs* (protection of life) and the overarching notion of justice within Islamic jurisprudence. Meanwhile, the national legal system urgently requires regulatory reform through the integration of the values of *maqāsid al-syarī'ah* and *siyāsah syar'iyah* into the formation of a Gender-Just, Humanistic, and Comprehensive Anti-Femicide Law.

Keywords: Femicide, Women's Protection, Islamic Law, *Maqāsid al-Syarī'ah*, *Siyāsah Syar'iyah*, National Legal Policy.

Abstrak

Fenomena femisida atau pembunuhan terhadap perempuan karena faktor gender di Indonesia menunjukkan peningkatan yang mengkhawatirkan, sementara sistem hukum nasional belum memiliki regulasi khusus yang mengaturnya. Kekosongan hukum ini menyebabkan penanganan kasus femisida hanya mengacu pada pasal pembunuhan umum dalam KUHP tanpa mempertimbangkan dimensi berbasis gender. Penelitian ini bertujuan untuk menganalisis perlindungan terhadap perempuan korban femisida dari perspektif hukum Islam dan hukum positif, serta menelaah bagaimana prinsip *maqāsid al-syarī'ah* dan *siyāsah syar'iyah* dapat menjadi dasar filosofis dalam merumuskan kebijakan hukum nasional yang mampu mencegah femisida dan melindungi perempuan. Metode penelitian yang digunakan adalah pendekatan yuridis normatif dengan analisis komparatif dan konseptual, menggunakan sumber primer berupa Al Qur'an, hadis, serta prinsip hukum Islam, dan sumber sekunder seperti KUHP, UU TPKS, serta literatur

*hukum terkait. Hasil penelitian menunjukkan bahwa hukum Islam secara tegas melarang segala bentuk kekerasan dan pembunuhan terhadap perempuan karena bertentangan dengan prinsip *hifz an-nafs* (perlindungan jiwa) dan keadilan syariat. Sementara itu, sistem hukum nasional perlu segera mereformasi regulasi melalui integrasi nilai-nilai *maqāsid al-syarī'ah* dan *siyāsah syar'iyah* dalam pembentukan Undang-Undang Anti Femisida yang berkeadilan, humanis, dan berperspektif gender.*

Kata kunci: *Femisida, Perlindungan Perempuan, Hukum Islam, Maqāsid al-syarī'ah, Siyāsah syar'iyah, Kebijakan Hukum Nasional.*

INTRODUCTION

In Indonesia, the prevalence of violence against women as part of the issue of crime still often receives limited attention. Crimes targeting women are often positioned as general crimes without considering gender-based dimensions. This is reflected in the application of criminal provisions that are still based on murder in the Criminal Code (KUHP), both premeditated and unplanned, without any specific classification related to femicide. As a result, the characteristics of gender-based violence are often not specifically identified, especially when the victim dies. In contrast to this approach, an international document issued by the United Nations classifies femicide as the murder of women driven by various motives, including intimate partner violence, honor killings, armed conflict, dowry, and violence related to sexual orientation or gender identity (United Nations, 2022). A number of countries have even explicitly adopted the term femicide in their regulations to strengthen legal protection for women.

Empirical data shows the urgency of this issue. The National Commission on Violence Against Women's annual report recorded 289,111 cases of violence against women throughout 2023 (Komnas Perempuan, 2024). Meanwhile, data from the Indonesian Service Provider Foundation shows an overall decrease in violence cases of 12% or around 55,920 cases compared to the previous year. but the trend of femicide actually increased in the previous period, from 95 cases in 2020 to 237 cases in 2021 and 307 cases in 2022, with 159 cases recorded in partial data for 2023 (YAPHI, 2024). On a personal level, violence against wives was the highest form of violence with 674 cases in 2023, an increase of 22% compared to the previous year, replacing violence by ex-boyfriends, which had previously been dominant. This condition confirms that even though the number of violence cases in general has decreased, gender-based fatal violence and domestic violence remain serious problems.

Academic debates on femicide also reveal differing perspectives. Within the framework of progressive Islamic thought, Faqihuddin Abdul Kodir, through the concept of *mubadalah*, asserts that Islam places justice and reciprocity as the basic principles of gender relations, so that violence and murder against women are contrary to *maqāsid al-syarī'ah*, especially the principle of *hifz al-nafs* as protection of life (Kodir, 2019). Conversely, the integrative criminal law approach proposed by Muladi emphasizes a balance between retribution, prevention, and the resocialization of perpetrators, so that according to this perspective, the establishment of specific rules on femicide is not always necessary because general criminal law already contains these objectives (Muladi, 2002).

This research is important because, to date, Indonesia does not have specific regulations on femicide, so that its handling still refers to the provisions on general murder in the Criminal Code. A number of previous studies have generally focused on positive legal analysis and gender relations, such as the studies by Adyan and Wibisono (2025), Khotimah et al. (2024), and Setiyawan and Ramadhani (2023). These studies contribute to understanding femicide from the perspectives of regulation, victim protection, and social analysis, but they have not specifically examined the prevention of femicide from the perspective of Islamic law and the values of the Qur'an.

Therefore, this study attempts to fill this gap by analyzing the prevention of femicide through the approaches of Islamic law and national law. This study examines verses from the Qur'an that emphasize the prohibition of murder, the protection of life, and respect for women's honor as the theological basis for the protection of the right to life. The focus of the study is on the integration of the principle of *maqāṣid al-syarī'ah* with the national legal system to produce a gender-perspective legal protection model. The purpose of this research is to provide conceptual and normative contributions to the development of gender-perspective legal policies based on Islamic values. In practical terms, the research is expected to serve as a reference for the government, legal institutions, and society in formulating fair and humane strategies for the prevention of femicide.

The hypothesis of this research states that the application of the principles of *maqāṣid al-syarī'ah*, particularly *hifz al-nafs* (protection of life) and *hifz al-'ird* (protection of honor), integrated with the concepts of *siyasah syar'iyah* and gender justice in Islam, has the potential to form the basis of a national legal system that is more preventive against femicide. This integration is expected to enable legal policies to be not only repressive after a crime has occurred, but also preventive through regulations that are gender-sensitive and oriented towards the public interest (*maṣlaḥah 'āmmah*).

METHOD

This study uses a normative juridical approach with comparative and conceptual analysis to examine the prevention of femicide from the perspective of Islamic law and national law. The normative juridical approach was chosen because the study focuses on the study of norms, principles, and legal doctrines derived from legal texts and scientific literature. This approach allows researchers to examine the compatibility between Islamic legal principles and the Indonesian positive legal system in formulating protection for women victims of femicide (Creswell, 2014; IRAC methodology in normative legal research). Comparative analysis is used to compare the concepts of protection of life and honor in *maqāṣid al-syarī'ah* with national criminal law regulations, while conceptual analysis is used to formulate a model for the prevention of femicide based on the integration of Islamic law and positive law values.

The research data sources consist of primary and secondary data. Primary data includes the Qur'an, hadith, and Islamic legal principles such as *maqāṣid al-syarī'ah* and *siyasah syar'iyah*, which form the theological basis for the protection of life (*hifz al-nafs*) and honor (*hifz al-'ird*). Meanwhile, secondary data includes national regulations such as the Criminal Code and the Law on Sexual Violence as the positive legal framework for the

protection of women in Indonesia. In addition, academic literature, scientific journals, and previous studies were used to strengthen the theoretical analysis and identify regulatory gaps related to femicide.

The data analysis technique uses a descriptive qualitative approach, which systematically interprets Islamic legal norms and positive law to formulate concepts of prevention and legal protection for women victims of femicide. The analysis is conducted through legal text interpretation, doctrinal reasoning, and conceptual synthesis to produce policy recommendations. With this approach, the study is expected to make a normative contribution in filling the void in national law that does not specifically regulate femicide, while offering a model of legal protection that is gender-sensitive and based on the principle of public interest (Sugiyono, 2022; Zahraa, 2000).

RESULTS AND DISCUSSION

The Nature of Femicide

The term femicide comes from the word *female*, meaning woman, and the Latin word *caedere*, meaning to kill, so femicide is understood as the killing of women or girls because of their gender identity. In international literature, femicide is defined as the killing of women driven by power relations, gender-based hatred, domination, or the assumption that women are objects of ownership (Russell & Radford, 1992; United Nations, 2012). This definition emphasizes that femicide is not just ordinary murder, but an extreme form of gender-based violence.

In the Indonesian context, various regulations have been enacted to protect women, such as Law No. 39 of 1999 on Human Rights, Law No. 23 of 2004 on the Elimination of Domestic Violence, and Law No. 12 of 2022 on Criminal Acts of Sexual Violence. However, there are no explicit regulations that qualify femicide as a specific criminal act. As a result, cases of murder of women are still handled using the general provisions on murder in the Criminal Code without considering gender motives as an important element of law enforcement (Salamor et al., 2025; Adyan & Anditya, 2025).

Criminologically, femicide is influenced by personal and situational factors, including power relations, domestic conflict, dominant masculinity, and psychological factors such as aggressiveness and superiority (Šeparović, 1985; Pramudibyanto, 2023). Research also shows that patriarchal social constructs play a major role in placing women as vulnerable parties, thereby increasing the risk of fatal violence (Zulaichah, 2022).

From an Islamic legal perspective, femicide is a serious crime because it contradicts the principles of protection of life (*ḥifẓ al-naḥs*) and honor (*ḥifẓ al-‘ird*) in *maqāṣid al-syarī‘ah*. The thinking of Abu Ishaq Al-Shatibi emphasizes that the protection of life is the main objective of sharia, so that murder without a valid reason is a serious offense that can be subject to *qishāṣ* sanctions (Auda, 2008).

Critical Mechanisms of Islamic Law and National Law in Dealing with Femicide

The development of national law shows efforts to protect women through various regulations, but the legal mechanisms are still normative-formal and not yet sensitive to gender dimensions. Recent studies show that although national law provides protection

instruments, femicide is still classified as general murder, so substantive justice for victims is not yet optimal (Khotimah et al., 2025).

In contrast, Islamic law provides a more explicit normative basis for rejecting violence against women. The principle of *maqāṣid al-syarī‘ah* places the protection of life and dignity as the main objective, so that the killing of women due to gender discrimination can be viewed as a serious offense. The literature on Islamic legal perspectives and femicide affirms that the values of justice, equality, and victim protection are integral to criminal punishment in Islam (Auda, 2008; Zahraa, 2000).

The main criticism of the national legal mechanism is the absence of a legal definition of femicide and the lack of a gender perspective in the law enforcement process. Research shows that law enforcement officials often encounter difficulties in understanding the nature of gender-based violence, which has an impact on the legal process and victim recovery (Salamor et al., 2025). Therefore, the integration of Islamic legal values is seen as complementing positive law by providing a more comprehensive ethical and normative framework.

Values and Benefits of the Islamic Legal Perspective on the Protection of Femicide Victims

The integration of Islamic legal values into national legal policy has strategic benefits because it places the protection of life and honor as a basic principle. The *maqāṣid al-syarī‘ah* approach can enrich the substance of national criminal law by including gender motives as an important factor in law enforcement and encouraging the establishment of a specific crime of femicide (Auda, 2008).

First, strengthening the substance of national law. The principle of protecting life and dignity can be the basis for criminal law reform to be more gender-sensitive and not merely formalistic. Second, improving the response to and recovery of victims. The Islamic perspective emphasizes restorative justice, psychosocial recovery, and social protection of victims as part of justice. Third, prevention through education and socialization. Islamic values that reject violence can be used in public education to change a culture that normalizes violence against women.

Thus, the integration of Islamic legal values has the potential to produce a more comprehensive legal system, one that not only punishes perpetrators but also prevents violence and restores victims. This approach is in line with the principles of human rights and substantive justice in modern legal systems. Policy recommendations that can be considered include criminal law reform to include the definition of femicide as a gender-based offense, training law enforcement officials based on a gender perspective and the value of protecting life, strengthening community education based on Islamic values of justice, and developing holistic victim recovery services.

CONCLUSION

Based on the results of normative and conceptual studies that have been conducted, it can be concluded that femicide is a serious crime rooted in power relations and gender-based discrimination against women, so it cannot be understood solely as a general act of

murder. Although Indonesia's national legal system has various regulations governing the protection of women, such as the Criminal Code, the Law on the Elimination of Domestic Violence, and the Law on Sexual Violence Crimes, to date there are no explicit regulations that recognize femicide as a specific gender-based crime. This legal vacuum has resulted in suboptimal protection for victims and a failure to achieve substantive justice for women who are victims of fatal violence. From an Islamic legal perspective, femicide is considered a serious crime that contradicts the fundamental principles of Sharia, particularly the protection of life (*ḥifẓ al-nafs*) and human dignity (*ḥifẓ al-‘ird*). Through the *maqāṣid al-syarī‘ah* approach, Islamic law not only assesses acts from a formal aspect, but also considers the motives, social impact, and values of justice inherent in every criminal act. Thus, the killing of women due to gender discrimination can be categorized as a serious violation that demands a firm, fair, and welfare-oriented legal response.

This study also shows that the integration of Islamic legal values with the national legal system has great potential to strengthen protection for victims of femicide. This integration is not intended to replace positive law, but rather to enrich the substance of national law through the instillation of values of gender justice, respect for women's dignity, and a preventive and transformative approach to law. By adopting the principles of *maqāṣid al-syarī‘ah* and *siyasah syar‘iyyah*, national legal policies are expected to be able to respond to the phenomenon of femicide in a more holistic, gender-sensitive, and just manner. Thus, it can be concluded that the prevention and eradication of femicide in Indonesia requires comprehensive and gender-sensitive legal reform, supported by moral and humanitarian values in Islamic law. This approach is expected to not only provide legal certainty and protection for victims, but also contribute to sustainable efforts to prevent gender-based violence in order to achieve social justice and dignified humanity.

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