

HIFZ AL-'IRDH (PROTECTING OF DIGNITY) AS THE BASIS FOR OFFENSES IN DOMESTIC CONFLICT

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Abstract: Domestic conflict is often understood as a personal issue whose resolution is adequately placed within the realm of morality or family law. This view becomes problematic when conflict escalates into violence, coercion, or neglect that clearly violates the dignity and honor of family members, particularly in spousal relationships. This research aims to construct the principle of *hifz al-'irdh* within the framework of *maqasid al-syari'ah* as a normative and legal foundation for understanding domestic conflict and the conceptual justification for establishing family offenses, to analyze the relevance of *maqasid al-syari'ah* in responding to domestic violence practices, including sexual violence and forced abortion, and to bridge family law, criminal law, and Islamic law within an integrative framework oriented toward protecting human dignity and well-being. This research uses a normative legal research method with a conceptual approach to analyze legal doctrines and perspectives, a philosophical approach to explore fundamental values, and a comparison between Islamic law and Indonesian positive law. The main research sources include primary legal materials and secondary legal materials (legal literature, expert doctrine, scientific journals). Data collection techniques were

carried out thru literature studies involving document searching and review. The data analysis techniques used were qualitative analysis to describe legal materials, interpretation using the hermeneutics method for an in-depth understanding of legal meaning, and comparative analysis to identify the alignment and differences in legal norms, as well as the implications of *hifz al-'irdh* for positive law. The research findings indicate that violations of dignity within the household (physical, psychological, sexual violence, reproductive coercion) are not only ethical or civil violations but also meet the criteria for serious violations of the objectives of Islamic law. The principle of *hifz al-'irdh* has a strategic function as a parameter for distinguishing domestic conflicts that are still in the private sphere from those that require criminal law intervention. This research concludes that integrating *hifz al-'irdh* into Indonesian family law and criminal law has the potential to strengthen the protection of human dignity, bridge Islamic law and national law, and promote legal reforms that are more oriented toward substantive justice and victim protection.

Keywords: *Hifz al-'Irdh*, *Maqasid al-Shari'ah*, Domestic Conflict, Islamic Family Law, Criminal Law.

Introduction

Conflict within a family, if not managed well, can potentially lead to actions that violate human dignity and the values of justice. Research shows that vulnerable families, without adequate family resilience management activities, are at higher risk of experiencing conflicts that can lead to dignity violations (Mulawarman, 2022). Additionally, the inability to manage conflict constructively can lead to widespread harm, including loss of life or severe abuse, all of which are contrary to justice (Muzan et al., 2023). Domestic violence is specifically considered a widespread human rights violation, particularly affecting vulnerable groups such as mothers and children (Silaban et al., 2023). Although domestic

conflict is often viewed as a private matter, this perspective is evolving with increasing legal intervention. Previously, household disputes were often resolved internally, but now domestic violence is viewed by state authorities as a public issue and no longer a private matter (Sunaryo et al., 2022).

From an Islamic legal perspective, neglecting the legal and ethical dimensions in the husband-wife relationship directly leads to a violation of the principle of protecting human dignity (*hifz al-'irdh*), which is an integral part of the core objectives of Islamic law (*maqasid al-syari'ah*). According to some contemporary studies, the objectives of Islamic law (*maqasid al-syari'ah*) not only serve to preserve human physical existence but also protect the dignity, honor, and moral integrity of individuals and the family institution as part of the comprehensive objectives of Islamic law that are relevant to modern social challenges (Tahir & Hamid, 2024). The neglect of this principle, as reflected in the high divorce rates and cases of domestic violence, indicates a shift in societal values and understanding of rights and obligations within marriage (Muzan et al., 2023). This phenomenon is exacerbated by a lack of understanding of a comprehensive Islamic legal framework, even tho *an-Nisa* [4]: 34-35 clearly provide a legal basis for resolving domestic disputes involving various parties as a legal umbrella.

Statistical data shows that constant disputes and arguments continue to be the leading cause of divorce, reaching 281,323 cases according to the Religious Courts Agency, indicating a crisis in fostering family harmony (Garnasih & Zahara, 2023). Factors such as domestic violence, both physical and verbal, create a traumatic environment that has a long-term impact on a child's social and emotional development, often triggering a cycle of violence that is difficult to stop. In this context, *Hifz al-'Irdh* (protection of dignity) as one of the five main objectives of

Sharia (*maqasid al-syari'ah*) becomes crucial for further study, considering that this principle seeks to protect the honor and dignity of individuals within the family, including from all forms of violence and neglect (Adynata & Sulaiman, 2022).

Furthermore, the fair and just fulfillment of both material and non-material rights and obligations is the foundation for permanently achieving a happy household, where failure to fulfill them can trigger significant disputes and conflicts. The importance of this dignity protection aligns with the purpose of marriage in Islam, which is to achieve a harmonious, loving family that is always under God's mercy, as explained in various Islamic legal literature (Maghfiroh, 2023). Islam views marriage as a sacred and social contract that establishes reciprocal rights and obligations between husband, wife, and children. Wahbah al-Zuhayli emphasizes that the principle of *mu'asharah bil al-ma'ruf* (kind treatment) requires fair, dignified, and non-violent treatment in household relationships, both in meeting material and non-material needs (Al-Zuhaili, 2011a). Failure to fulfill these obligations, including verbal abuse, emotional neglect, or sexual coercion, constitutes a violation of the purpose of marriage and contradicts the values of *maqasid al-syari'ah*. Ibn Ashur places the *maqasid al-syari'ah* as the foundation of Islamic legal ethics, emphasizing the importance of protecting human dignity and honor, which cannot be sacrificed for family authority or the supremacy of certain parties. This is because the *maqasid* actually emphasize *maslahat* (goodness) and *al-'adl* (justice) in every aspect of sharia law (Umami & Ghofur, 2022).

Legal studies on Domestic Violence (DV) show a fragmentation of approaches between positive law, normative Islamic law, and family law. Positive law affirms domestic violence as a criminal act that must be punished under the Law on the Elimination of Domestic Violence,

but its implementation still faces legal and structural obstacles in enforcing punishment against perpetrators (Aji, 2017). Islamic legal studies tend to remain at the level of normative and ethical principles, with no direct connection to the operational criminal structure in religious courts, often failing to provide a comprehensive legal solution for domestic violence cases (Iskandar et al., 2025). On the other hand, family law studies often view domestic conflict as a moral or civil matter that has not been explicitly integrated with the criminal dimension when serious violations of human dignity occur (Nasoha et al., 2024). Thus, there is a research gap in the form of the principle of *Hifz al-'Irdh* not yet being integrated as a normative basis for formulating offenses or legal liability for violations of dignity in the relationship between husband and wife.

In the context of Indonesian national law, the tension between the private sphere of the family and the public sphere of criminal law is becoming increasingly apparent. The existence of laws such as Law Number 23 of 2004 concerning the Elimination of Domestic Violence in Indonesia demonstrates the state's efforts to provide legal protection for victims of domestic violence and to shift the perspective of domestic conflict from the private sphere to a legal issue (Bachtiar & Abadi, 2024), but it has not been fully linked to the values of substantive justice and the protection of human dignity, which are in line with the *maqasid al-syari'ah*. In fact, conceptually, *Hifz al-'Irdh* can be positioned not only as a moral principle, but also as an ethical-legal basis for determining actions that are worthy of being qualified as family offenses, especially when those actions violate the honor, bodily integrity, and personal autonomy of family members.

Based on the above description and the existence of a research gap regarding the lack of integration of the principle of *Hifz al-'Irdh* as a normative basis in formulating

offenses or legal liability for violations of dignity in husband-wife relationships, this research has several objectives. First, constructing the principle of *Hifz al-'Irdh* within the framework of *maqasid al-syari'ah* as a normative and legal foundation for understanding domestic conflict. This includes its role as a conceptual justification for the formation of family torts. Second, it analyzes the relevance of *maqasid al-syari'ah* in responding to domestic violence practices, including sexual violence and forced abortion, which clearly contradict the principles of *mu'asyarah bil ma'ruf* and consultation. Third, bridging family law, criminal law, and Islamic law within a single integrative framework that is oriented toward protecting human dignity and well-being, both in this world and the hereafter. Thus, this research is expected to make a significant contribution to efforts to strengthen the protection of human dignity, promote legal reforms that are more oriented toward substantive justice, and provide a solid legal foundation for handling domestic conflicts in Indonesia.

Conceptualizing Domestic Conflict from the Perspective of Family Law and Criminal Law

Written Domestic conflict is a reality that is inseparable from the dynamics of family life. Differences in character, social background, economic pressure, and gender role expectations often trigger tension between husbands and wives. From a sociological perspective, such conflicts are often understood as a natural part of intimate, personal relationships. However, such understanding becomes problematic when conflict escalates into actions that harm one party and violate the fundamental rights guarantyd by law and ethics.

In the legal context, households cannot be viewed solely as private spaces free from state intervention. Marriage is a legal institution that creates legal

relationships between the parties, so every action within that relationship has legal consequences. Friedman asserts that family law is part of the legal system that directly touches upon social, moral, and power values, making it in the state's interest to ensure that family relationships do not become an arena for human rights violations (Friedman, 2001). Therefore, domestic conflicts must be placed within a broader legal framework, especially when these conflicts touch upon aspects of protecting individual dignity and safety.

In Islamic law, although the family is positioned as a sacred space whose harmony must be preserved, Sharia never completely separates domestic relationships from the principles of justice and the protection of rights. The Quran explicitly outlines mechanisms for resolving domestic conflicts thru stages of advice, mediation, and third-party involvement, as stated in Surah *an-Nisa* [4]: 34-35. This shows that domestic conflict has been understood from the outset as an issue with normative and social dimensions, not merely a personal matter immune to legal evaluation (Al-Zuhaili, 1997b).

Not every conflict within a household can be qualified as a violation of the law. Law, whether Islamic or positive, recognizes a limit to tolerance for incidental tensions and disputes. However, problems arise when the conflict shows a recurring and systematic pattern of violence, coercion, or oppression. At this point, domestic conflict turns into a legal matter requiring state intervention.

According to Soerjono Soekanto, an action can be categorized as a legal issue if it disrupts social order and violates norms protected by the legal system (Soekanto, 2016). In the context of households, physical violence, psychological violence, sexual violence, and economic neglect are forms of conflict that go beyond reasonable limits and directly threaten the dignity and safety of the victims. Therefore, the dichotomy between "private" and

"public" conflicts becomes irrelevant when individuals' fundamental rights have been violated.

Islamic law uses the parameter of *dharar* (harm) as the primary limit for legal intervention. The principle of "no harm, no injury" emphasizes that all forms of actions that cause harm and suffering to others must be prevented, even if they occur within a relationship that is legally permissible (al-Suyuti, 1998). Therefore, domestic conflict that causes physical or psychological suffering cannot be tolerated in the name of family unity or the husband's leadership.

In practice, domestic conflicts with legal implications can be classified into several main forms. First, economic conflict leading to abandonment of financial support. Failure to fulfill maintenance obligations, especially when done intentionally and continuously, not only violates civil obligations but also harms the dignity of the spouse and economically dependent children. In Islamic jurisprudence, this kind of neglect is considered a form of *taqsir* (negligence) that can lead to legal consequences (Al-Zuhaili, 2011b).

Second, verbal and psychological violence, such as insults, threats, excessive control, and emotional manipulation. This form of violence is often invisible to the naked eye, yet it has a deeply destructive impact on the victim's mental health. Dutton and Goodman's research shows that psychological violence in intimate relationships serves as a control mechanism that systematically undermines the victim's autonomy and self-esteem (Dutton & Goodman, 2005). This kind of violence meets the criteria for violating human dignity and is therefore worthy of consideration as an object of legal intervention.

Third, sexual violence in marriage, including forced sexual relations without consent. Although still frequently denied in social practice, Indonesian national law has recognized sexual violence as part of domestic violence.

Hifz al-'Irdh (Protecting of Dignity) as the Basis for Offenses in Domestic Conflict

From an Islamic legal perspective, sexual coercion contradicts the principle of *mu'asharah bil ma'ruf* and reduces the husband-wife relationship to one of unilateral domination (Kamali, 2008).

Fourth, reproductive coercion, including forced pregnancy or abortion. This action not only touches on biological aspects but also concerns bodily autonomy and the will of women as legal subjects. Within the framework of *maqāṣid al-syari'ah*, this type of conflict involves the simultaneous violation of *hifz al-'irdh*, *hifz al-nafs*, and *hifz al-nasl*, thus having serious legal implications.

One of the main problems in handling domestic conflict is the fragmentation of legal approaches. Family law tends to view conflict as a civil matter whose solution lies in mediation or divorce, while criminal law only intervenes when there is visible physical violence. As a result, many forms of dignity violations within households are not adequately addressed.

Law No. 23 of 2004 concerning the Elimination of Domestic Violence is a progressive step in shifting the private paradigm toward the public. However, several studies indicate that the implementation of the law still faces cultural and normative obstacles, especially when dealing with the moral legitimacy attached to the husband-wife relationship (Merry, 2009). In this context, a legal approach that integrates the value of protecting human dignity becomes extremely important.

Therefore, conceptualizing domestic conflict as a legal phenomenon must be directed toward recognizing that the family is a space of legal relationships fraught with the potential for rights violations. This approach became an important foundation for the development of family offenses based on *hifz al-'irdh*, as will be discussed further in the next subsection.

The Position of *Hifz al-'Irdh* in the Structure of *Maqasid al-Shari'ah*

Maqasid al-Syari'ah literally means "the objectives of Islamic law." Classical and contemporary scholars agree that Islamic law not only contains normative rules, but also ethical values aimed at achieving human welfare (*maslahah*) and preventing harm (*mafsadah*) (Al-Raysuni, 1995). In the tradition of jurisprudence, the objectives of this Sharia are summarized into five fundamental needs that must be protected: preservation of religion (*hifz ad-din*), protection of life (*hifz al-nafs*), preserving the mind (*hifz al-'aql*), preservation of offspring (*hifz al-nasl*), and protection of property (*hifz al-mal*) (Syathibi, 2006).

All five are not separate and independent, but are interconnected and mutually reinforcing. This concept emphasizes that Islamic law is not merely about rituals and formal rules, but about how it works substantively to bring well-being and justice into social life, including within the context of family relationships (Maulanida & Syafi'ie, 2024).

One important aspect of *maqasid* is the protection of dignity (*hifz al-'irdh*). Although not mentioned as one of the five classical essential needs, contemporary scholars assert that human dignity is an essential extension of the protection of offspring, the soul, and even reason (Tohari, I., & Kholish, 2020). In family life, the dignity of each individual husband, wife, and children holds a central position because the household is the most intimate and fundamental social unit.

In the family context, *hifz al-'irdh* includes respecting the fundamental rights of spouses and children, including protection from degrading treatment, coercion, and violence, which not only causes physical harm but also psychological and social damage. This concept has been identified by *maqasid* studies that emphasize the role of

sharia values in shaping more humanistic and substantive family law policies (Naimah et al., 2022).

Although protecting dignity is sometimes not mentioned as a "core" *maqasid* in classical thought, the function of *hifz al-'irdh* is complementary to other elements within the *maqasid*. For example, violations of dignity often have implications for protection of life (*hifz al-nafs*) because domestic violence causes psychological trauma and threats to life safety (Dutton & Goodman, 2005), preserving the mind (*hifz al-'aql*) because emotional pressure and verbal abuse hinder cognitive function and healthy decision-making, preservation of offspring (*hifz al-nasl*), because children's dignity and a safe family environment are the foundation of their social and psychological development, and protection of property (*hifz al-mal*), if domestic conflict results in material losses and economic hardship that impacts family well-being.

Therefore, preserving honor is not a value that stands alone; it serves as a central point connecting and strengthening various other objectives, ensuring that the family law system built is not only just but also prioritizes human dignity.

The implementation of *maqasid* in family law is not just a theory, but also a normative practice that is developing in contemporary literature and policy. Normative research on the *maqasid* (objectives) of family law, such as that conducted on the Compilation of Islamic Law (KHI), shows that the objectives of Islamic family law include protecting family welfare, guaranteeing the rights of family members, and strengthening ethical values in relationships between family members (Ramadan et al., 2025).

The principle of *mu'asyarah bil ma'ruf*, which is a pillar of household ethics according to the Quran and classical fiqh, is a practical manifestation of the *maqasid* in the context of husband-wife relationships (Hilmi, 2023).

Mu'asyarah demands fair and good treatment within the legal framework, so any violation of this norm, such as psychological violence or coercion, has implications for violating the *maqasid*.

In the context of domestic conflict studies, *hifz al-'irdh* serves as a primary parameter for distinguishing between reasonable internal conflicts and substantive violations that require legal intervention. When domestic conflict is no longer just a difference of opinion, but leads to actions that degrade dignity, human rights, or individual safety, then that conflict has moved beyond the private sphere and requires strong legal protection mechanisms.

This approach aligns with the spirit of *maqasid al-syari'ah* to reject harm and uphold the welfare of the family as the basic social unit. Furthermore, developing family law instruments based on *maqasid* can enrich Indonesian national law to make it more responsive to the dynamics of modern family life, without abandoning the substantial principles of Islamic ethics (Hanafiah, 2024).

***Hifz al-'Irdh* as an Ethical and Legal Parameter in Husband-Wife Relationships**

The husband-wife relationship in Islam is built upon the principles of reciprocity (*mubadalah*), justice, and respect for human dignity. The Quran emphasizes that marriage aims to create tranquility (*sakinah*), love (*mawaddah*), and mercy (*rahmah*), not domination or a one-sided power dynamic. This principle carries the normative implication that any form of treatment that degrades the dignity of one's partner is contrary to the very basic purpose of marriage.

In classical jurisprudence, the husband-wife relationship is understood as both a legal contract (*'aqd*) and an ethical relationship. The husband is not only obligated to provide material support, but also to protect the wife's honor, safety, and psychological well-being.

Conversely, the wife has the right to good treatment (*mu'asharah bil ma'ruf*), which includes respect for her body, will, and dignity (Al-Zuhaili, 2011a). Thus, household relationships cannot be understood solely as private matters, but also as legal relationships imbued with ethical values.

The concept of *mu'asharah bil ma'ruf* is a practical manifestation of *hifz al-'irdh* in family life. This principle demands fair, humane, and dignified interaction between husband and wife, both physically, emotionally, and sexually (Hilmi, 2023). In the literature of Islamic family law, *ma'ruf* is understood as a social and moral standard that is rationally and contextually recognized, allowing it to evolve in accordance with societal dynamics.

Violations of *mu'asharah bil ma'ruf*, such as verbal abuse, excessive control, forced sexual relations, or neglect of emotional support, are not only ethical violations but also a form of damaging dignity (*ihanah al-'irdh*). From the perspective of the objectives of Islamic law (*maqasid al-syari'ah*), such actions contain widespread harm because they directly impact the mental health of victims, family stability, and the future of children (Al-Raysuni, 1995).

In social practice, the relationship between husband and wife is often not on an equal footing. Patriarchal structures, a narrow textual understanding of religious tenets, and economic factors often create power imbalances that open the door to domestic violence (Musawah, 2015). This inequality has the potential to blur the line between rights and abuse of power, especially when dominance is cloaked in religious or cultural legitimacy.

Research on domestic violence studies shows that violence is not always physical, but can also manifest through psychological control, emotional manipulation, and coercion (Dutton & Goodman, 2005). In this context, *hifz al-'irdh* serves as a parameter for assessing whether an action

remains within the ethical boundaries of a relationship or has become a serious violation of the partner's dignity.

When violations of dignity occur systematically and repeatedly, the issue can no longer be resolved solely through moral approaches or religious advice. At this point, the *maqasid al-syari'ah* provides a normative justification for legal intervention as a means of protecting victims (Ashur, 2006). The principle of *dar'u al-mafsadah* (preventing harm) requires the state and legal system to be present to prevent greater harm.

In contemporary Islamic family law, this trend is evident in efforts to incorporate *maqasid* values into the formulation of positive norms, including the protection of women and children from domestic violence (Tohari, I., & Kholish, 2020). Thus, protection of dignity (*hifz al-'irdh*) serves not only as an abstract ethical value but also as a foundation for formulating legal parameters in assessing and addressing domestic conflicts.

This discussion confirms that *hifz al-'irdh* holds a strategic position as a bridge between Islamic family ethics and the construction of criminal law or family protection law. When individual dignity within the household is violated, whether through physical, psychological, sexual violence, or neglect, such violations can be qualified as actions that contradict the overall *maqasid al-syari'ah*.

Therefore, analyzing *hifz al-'irdh* opens up a conceptual space for formulating domestic conflict not only as a moral or civil matter, but also as a potential offense that demands legal accountability.

The Construction of *Hifz al-'Irdh* as the Basis for Offenses in Domestic Conflict

In Islamic legal tradition, not all morally reprehensible acts are automatically classified as criminal offenses (*jarimah*). However, an action can be elevated from a mere ethical violation to a legal offense if it meets the

criteria of significant harm (*mafsadah*) to the core objectives of Islamic law (*maqasid al-syari'ah*). Al-Syātibī emphasizes that *maqasid* serve as a normative standard for evaluating whether an action is worthy of being prevented, restricted, or even sanctioned in order to safeguard the public good (Syathibi, 2006). Thus, *maqasid* does not stop at the philosophical dimension, but has direct implications for the formation of legal norms, including in the context of criminal law.

One of the *maqasid* that is often marginalized in the discourse of family law is *hifz al-'irdh* (the protection of dignity). In fact, honor is the foundation of human existence, without which the protection of life (*hifz al-nafs*), preserving the mind (*hifz al-'aql*), and preservation of offspring (*hifz al-nasl*) becomes meaningless. Ibn 'Ashur places honor as part of the universal values of Islamic law, which aims to prevent all forms of human humiliation, degradation, and exploitation, both in the public and domestic spheres (Ashur, 2006). Therefore, actions that systematically violate individual dignity within the household can no longer be viewed as a purely private matter, but rather as a serious violation of the objectives of Islamic law.

Within this framework, the construction of offenses based on *hifz al-'irdh* can be understood as a normative process for determining the boundary between personal domestic conflicts and conflicts that have reached the level of legal violations. Al-Raysūnī explains that *maqasid* can serve as the basis for criminalization (the principle of *al-tajrim*) when an action demonstrably damages the fundamental values that the Sharia seeks to protect (Al-Raysuni, 1995). Thus, domestic violence, whether physical, psychological, or sexual, can be qualified as an offense not solely because it violates positive norms, but because it directly contradicts the goal of protecting human dignity.

Not every failure to fulfill household duties can be immediately categorized as a tort. Islamic law recognizes the principle of *tadarruj* (gradation) in assessing violations, where minor offenses are resolved thru advice, mediation, or internal family mechanisms. However, when an action shows a recurring pattern of violence, coercion, or oppression, the violation goes beyond the realm of ethics and enters the domain of criminal law.

Wahbah al-Zuhaylī emphasizes that the principle of *mu'asyarah bil ma'ruf* is not merely a moral recommendation, but a binding normative standard for husband-wife relationships (Al-Zuhaili, 2011b). Violations of this principle, especially in the form of degrading verbal abuse, psychological control that eliminates a partner's autonomy, or sexual coercion, constitute a form of *ta'addi* (excess) that is strictly prohibited. In this context, *hifz al-'irdh* serves as a key indicator for assessing whether an action has crossed the boundaries of sharia tolerance.

Conceptually, family offenses based on *hifz al-'irdh* can be characterized by three main elements. First, there must be actions that objectively degrade the victim's dignity or honor. Second, there must be an imbalance of power in the domestic relationship, leaving the victim in a vulnerable position. Third, there must be lasting effects on the victim's physical or psychological integrity. When these three elements are met, criminal law intervention becomes normatively legitimate and proportional.

One of the most serious forms of dignity violation in the household is marital rape. In social practice, the coercion of sexual relations is often legitimized in the name of the husband's rights, even tho classical and contemporary fiqh literature has never condoned sexual relations carried out thru coercion and violence. Ibn Qudāmah emphasized that the purpose of the husband-wife relationship is *istimta' bil ma'ruf*, not unilateral domination (Qudamah, 1997).

Hifz al-'Irdh (Protecting of Dignity) as the Basis for Offenses in Domestic Conflict

From a *maqasid* perspective, sexual violence directly violates *hifz al-'irdh* because it negates free will and reduces the human body to an object of gratification. Additionally, this action also intersects with *hifz al-nafs* (protection of life) and *hifz al-'aql* (preserving the mind) due to the traumatic impact it causes. Empirical studies show that victims of marital rape experience long-term psychological distress equivalent to victims of sexual violence outside of marriage (Russel, 1990).

In the context of Indonesian national law, Law No. 23 of 2004 has recognized domestic sexual violence as a criminal offense. However, the positive legal approach still tends to be formalistic and has not explicitly integrated the dimension of dignity protection. Therefore, the construction of *hifz al-'irdh* as the basis for the offense provides additional normative justification that strengthens the legitimacy of criminalizing sexual violence in marriage, both from the perspective of Islamic law and human rights. In addition to physical and sexual violence, psychological violence is a form of dignity violation that often escapes legal attention. Verbal abuse, insults, threats, and excessive control over a partner can systematically destroy the victim's self-esteem. In Islamic jurisprudence, such actions are categorized as *idrar* (harmful actions), which are prohibited even if they do not cause physical injury (Al-Zuhaili, 1997a).

Ibn 'Ashur emphasized that human dignity is not only related to the body, but also to mental and emotional integrity (Ashur, 2006). Therefore, psychological violence that is repeatedly committed within the household can be qualified as a serious violation of *hifz al-'irdh*. Within the framework of family offenses, psychological violence meets the element of dignity violation if it is carried out systematically, intentionally, and causes significant psychological distress.

Research in legal psychology shows that psychological violence has an impact as destructive as physical violence, and is often even more difficult to recover from (Dutton & Goodman, 2005). This strengthens the argument that protecting dignity should not be limited to physical aspects alone. Thus, family offenses based on *hifz al-'irdh* must also include psychological violence as an object of criminalization.

Forcing a wife to have an abortion by her husband is a multidimensional violation of the objectives of Islamic law (*maqasid al-syari'ah*). In addition to violating the preservation of offspring (*hifz al-nasl*) and the protection of life (*hifz al-nafs*), this action also harms the protection of dignity (*hifz al-'irdh*) because it negates the autonomy of the woman's body and will. In Islamic jurisprudence, decisions regarding reproduction must be based on mutual consultation and consent, not unilateral coercion (Kamali, 2008).

From the perspective of Islamic criminal law, forced abortion can be positioned as a *ta'zir* crime whose punishment is determined based on the level of damage caused. When such coercion occurs in an unequal power dynamic and causes deep psychological distress, criminalization becomes legitimate and proportionate. This approach aligns with the principles of *maqasid*, which places human welfare as the primary goal of law.

The construction of *hifz al-'irdh* as the basis for offenses in domestic conflicts has significant theoretical and practical implications. Theoretically, this approach broadens the horizons of Islamic family law by normatively and proportionally integrating the criminal dimension. Practically, this approach provides a strong ethical-legal foundation for law enforcement officers to protect victims of domestic violence without getting caught in the private-public dichotomy.

Therefore, *hifz al-'irdh* not only serves as a moral principle but also as a normative instrument in the formation of family offenses oriented toward protecting human dignity and well-being. This integration is a strategic step to bridge Islamic law, modern criminal law, and human rights protection within the context of the household.

Normative Implications of *Hifz al-'Irdh* for Family Law and Criminal Law Reform in Indonesia

The discussion in the previous subsection shows that domestic conflicts involving violence, coercion, or neglect can no longer be understood solely as private matters or family civil issues. When such conflict violates the dignity and honor of individuals, it enters the realm of serious violations of *hifz al-'irdh* as one of the fundamental objectives of Islamic law (Ashur, 2006). From the perspective of the objectives of Islamic law (*maqasid al-syari'ah*), violating dignity carries the same normative weight as a threat to life and lineage.

Therefore, *hifz al-'irdh* serves as a conceptual bridge connecting Islamic family law with modern criminal law. This principle provides ethical and theological legitimacy for the state to intervene legally in order to protect vulnerable parties within the household, without being trapped by a rigid public-private dichotomy (Al-Raysuni, 1995).

In the context of Indonesian national law, the protection of dignity within the household has been established thru various legal instruments, particularly Law Number 23 of 2004 concerning the Elimination of Domestic Violence (Law on the Elimination of Domestic Violence). However, the positive legal approach still tends to be fragmented and has not been fully integrated with the family ethical values prevalent in Muslim society (Marzuki, 2017).

The approach based on *hifz al-'irdh* can enrich national law by providing a more substantive normative framework. Protecting dignity is not only understood as protection from physical violence, but also includes psychological, sexual, and economic violence, as well as forms of coercion that are often beyond the reach of conventional criminal law approaches. Thus, the objectives of Islamic law have the potential to become an ethical paradigm that complements positive law without negating the principles of the rule of law.

The approach of *hifz al-'irdh* has direct implications for the formulation of offenses in the context of domestic conflict. Violations of dignity such as forced sexual relations within marriage, systematic psychological control, or abandonment of emotional support can be classified as reprehensible acts (*jarimah ta'ziriyah*) that warrant legal sanctions based on the principle of public interest (Al-Zuhaili, 2007).

In the tradition of criminal jurisprudence, *ta'zir* provides the state with discretionary space to determine punishments proportionate to actions not explicitly regulated in the *nash*, but clearly contrary to the objectives of the Sharia (Kamali, 2008). This concept aligns with the development of modern criminal law, which emphasizes victim protection and the prevention of social harm, rather than mere retribution.

One important contribution of the *hifz al-'irdh* approach is the shift in legal orientation from mere legal-formalism toward substantive justice. In many cases of domestic conflict, victims, especially women and children, are often trapped in a vulnerable position due to unequal power dynamics and social pressure (Musawah, 2015). The *maqasid* approach demands that the law actively work to restore the dignity of victims, not just punish perpetrators.

Restoring dignity (*i'adat al-'irdh*) is the primary goal, whether thru criminal sanctions, psychological

rehabilitation, or social protection guaranties. This aligns with the modern legal trend of placing victim-oriented justice as an integral part of the criminal justice system (Daly, 2016).

Academically, the integration of *hifz al-'irdh* into the analysis of domestic conflict enriches the field of Islamic family law studies with a more interdisciplinary approach, connecting *fiqh*, *maqasid*, and criminal law. This approach also opens up space for reinterpreting classical *fiqh* norms to be more responsive to contemporary social realities.

Practically, this framework can serve as a reference for policymakers, judges, and law enforcement officials in handling domestic conflict cases more fairly and with a focus on protecting human dignity. Thus, *hifz al-'irdh* not only serves as a normative concept but also as an ethical-legal instrument for building a just and humane family law system.

Conclusion

Based on the discussion presented, it can be concluded that domestic conflict cannot be understood solely as a private matter or personal dynamic within family life. When the conflict escalates into violence, coercion, or dehumanizing neglect, it has crossed the boundaries of ethical tolerance and entered the realm of serious violations against the objectives of Islamic law. In this context, the principle of *hifz al-'irdh* holds a strategic position as a normative parameter for assessing the quality of the husband-wife relationship and determining the limits of legal intervention's legitimacy.

This research confirms that preserving honor is not merely an abstract moral value, but an integral part of the *maqasid al-shari'ah* structure with real legal implications. Violations of dignity within the household, whether in the form of physical, psychological, sexual violence, or reproductive coercion, simultaneously threaten the

protection of life, mind, and offspring, thus warranting qualification as reprehensible acts that demand legal accountability. Therefore, the construction of family offenses based on *hifz al-'irdh* provides ethical-legal justification for criminalizing certain actions in domestic relationships without being trapped in a rigid dichotomy between the private and public spheres.

In the context of Indonesian national law, the *maqasid al-syari'ah* based approach, particularly *hifz al-'irdh*, can serve as a complementary paradigm that enriches positive law, including the Domestic Violence Elimination Act. This integration allows family law and criminal law to move more substantively, focusing on victim protection and the restoration of human dignity, rather than simply enforcing formal norms. Thus, this research contributes theoretically and practically to bridging Islamic law, modern criminal law, and human rights values in an effort to build a family law system that is just, humane, and oriented toward the common good.

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