

Jurnal Hukum Islam (JHI) is a scientific periodic journal with Print ISSN: 1829-7382; Online: 2502-7719 published by the Sharia Faculty of Universitas Islam Negeri K.H. Abdurrahman Wahid Pekalongan. This journal warmly welcomes contributions from scholars with related disciplines. Novelty and recency of issues, however, are the priority in publishing. The Islamic Law Journal is published in June and December every year. This journal has been indexed at a reputable national indexing institution.

Indexed by:



ISSN : 1829-7382 E-ISSN : 2502-7719

Jurnal Hukum Islam

Volume 22, Nomor 1, June 2024

ISSN : 1829-7382

E-ISSN : 2502-7719

Jurnal Hukum Islam

Volume 22, Nomor 1, June 2024



IMPLEMENTATION OF THE COURT POLICY IN RELIGIOUS COURTS
ON THE LEGAL POLITICAL PERSPECTIVE

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APPLICATION OF VERY URGENT CRITERIA IN THE MARRIAGE DISPENSATION NORMS
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BOARDING SCHOOL: MAQASHID SYARIAH PERSPECTIVE

Siti Aminah Chaniago, Muhammad Izza, Bagaskara Sagita

Published:

FACULTY OF SHARIA

UNIVERSITAS ISLAM NEGERI K.H. ABDURRAHMAN WAHID PEKALONGAN

Jurnal Hukum Islam

Nationally Accredited by Ministry of Research, Technology and
Higher Education, Number B/1796/E5.2/KI.02.00/2020

JOURNAL HISTORY

Jurnal Hukum Islam was established in 2007. Title with the title Jurnal Hukum Islam. Starting from Vol. 7 No. 1 (2009), this journal is only published two times a year using English language. The name of the journal with subtitles was changed to Jurnal Hukum Islam.

DESCRIPTION OF ISSUE

Issued every June and
December

ISSN

2502-7719 (Print) | 1829-7382 (Online)

Editor in Chief

Maghfur Ahmad

Editor

Yunas Derta Luluardi

PUBLISHER

Faculty of Sharia
Universitas Islam Negeri K.H. Abdurrahman Wahid Pekalongan

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Kabupaten Pekalongan, Central Java, Indonesia, Postal Code 51161
E-mail: jhi@uingusdur.ac.id
Website: <https://e-journal.uingusdur.ac.id/jhi/index>

INDEXED

This journal has been indexed in SINTA, DOI CrossRef, Google Scholar,
DOAJ, Dimensions

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providing important contributions to criminal law policy and practice in the field of mental health and social. This study offers a new inclusive perspective based on humanitarian and religious values in handling victims of sexual violence.

KEYWORDS *Family Therapy; Maqasid al-Shari'a; Sexual Violence Rehabilitation.*

Abstrak

Rehabilitasi korban kekerasan seksual yang masih bersifat konvensional, dan hanya fokus pada pemulihan fisik dan psikologis, faktanya telah gagal untuk menangani kompleksitas trauma yang dialami korban. Penelitian ini mendiskusikan pendekatan baru dalam rehabilitasi kekerasan seksual melalui family therapy yang diintegrasikan dengan prinsip-prinsip Maqasid al-Shari'a. Metode penelitian menggunakan yuridis normatif dengan pendekatan filosofis, konseptual, dan perundang-undangan, yang menganalisis berbagai peraturan hukum, doktrin, serta prinsip-prinsip hukum Islam terkait kekerasan seksual dan rehabilitasi korban. Sumber data utama meliputi undang-undang, peraturan pemerintah, fatwa, serta keputusan pengadilan, didukung oleh kajian literatur dari jurnal hukum, buku, dan artikel ilmiah. Temuan penelitian menunjukkan bahwa integrasi antara Family Therapy dengan prinsip-prinsip Maqasid al-Shari'a merupakan model rehabilitasi yang holistik, dan tidak hanya fokus pada pemulihan korban tetapi juga memperhatikan peran dan dinamika keluarga dalam proses rehabilitasi. Model ini juga menunjukkan relevansi dan aplikasi praktis dari prinsip-prinsip Maqasid al-Shari'a dalam upaya pemulihan korban kekerasan seksual, serta memberikan kontribusi penting bagi kebijakan hukum pidana dan praktik di bidang kesehatan mental dan sosial. Penelitian ini menawarkan perspektif baru yang inklusif berbasis pada nilai-nilai kemanusiaan dan keagamaan dalam menangani korban kekerasan seksual..

KATA KUNCI *Family Therapy; Maqasid al-Shari'a; Rehabilitasi Kekerasan Seksual.*

Formulation of Criminal Policy on Sexual Violence Rehabilitation Based on Family Therapy with the *Maqasid al-Sharia* Principles

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Abstract

Conventional rehabilitation of victims of sexual violence, which only focuses on physical and psychological recovery has failed to handle the complexity of trauma experienced by victims. Therefore, this study discusses a new approach to the rehabilitation of sexual violence through Family Therapy integrated with the principles of *Maqasid al-Shari'a*. The research method uses normative with a philosophical, conceptual, and statute approaches, which analyzes various legal regulations, doctrines, and principles of Islamic law related to sexual violence and victim rehabilitation. The main data sources include laws, government regulations, fatwas, and court decisions, supported by literature reviews from legal journals, books, and scientific articles. The research findings show that the integration of Family Therapy with the principles of *Maqasid al-Shari'a* is a holistic rehabilitation model, which not only focuses on victim recovery but also pays attention to the roles and dynamics of the family in the rehabilitation process. This model also shows the relevance and practical application of the principles of *Maqasid al-Shari'a* in the recovery efforts of victims of sexual violence, as well as



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Introduction

Sexual violence remains a global emergency that requires serious attention.¹ According to the World Health Organization (WHO) 1 in 3 women experience physical and/or sexual violence in their lifetime globally.² This high rate of sexual violence is also seen in many countries, especially in Latin America and Sub-Saharan Africa, where reported rates of sexual violence are very high.³ In the United States, for example, the National Sexual Violence Resource Center (NSVRC) reports that approximately 1 in 5 women and 1 in 71 men have experienced rape at some points in their lives.

In the developing countries like India and Indonesia, the situation is no less worrying. The data from the National Crime Records Bureau (NCRB) India⁴ shows more than 30,000 rape cases are reported each year.⁵ Despite increasing awareness and reporting, social stigma,⁶ and distrust in the justice system still prevents many victims from reporting. In Indonesia, the National Commission on Violence Against Women (KOMNAS Perempuan) recorded more than 8,000 cases of sexual violence against women in 2022,

¹ Liqing Li et al., "Sexual Violence against Women Remains Problematic and Highly Prevalent around the World," *BMC Women's Health* 23, no. 1 (2023): 196, <https://doi.org/10.1186/s12905-023-02338-8>.

² WHO, "RESPECT Women: Preventing Violence against Women," *RESPECT Women: Preventing Violence against Women*. Geneva: WHO, 2019, 7, <https://apps.who.int/iris/bitstream/handle/10665/312261/WHO-RHR-18.19-eng.pdf?ua=1>.

³ United Nations, "Gender-Responsive Arms Control, Ending Impunity Key to Reverse Record Level of Sexual Violence against Women, Girls in Conflict Zones, Speakers Tell Security Council," 2024, <https://press.un.org/en/2024/sc15676.doc.htm>.

⁴ Simon-Kumar, "Sexual Violence in India: The Discourses of Rape and the Discourses of Justice," 21; M Srivastava and D P Shreshth, "Sexual Violence in Private Space: Marital Rape In India," *Available at SSRN 4818722*, 2024, 23, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4818722.

⁵ A S Hapsari and R A Fitriyono, "Hambatan Pemberian Restitusi Bagi Anak Korban Pencabulan Dalam Putusan Nomor 133/Pid. Sus/2023/PN. Skt," ... *Hukum: Kajian Ilmu Hukum, Sosial Dan ...*, 2024, 34, <https://journal.lpkd.or.id/index.php/Jembatan/article/view/430>.

⁶ S Mas'udah, "The Meaning of Sexual Violence and Society Stigma Against Victims of Sexual Violence," *Society*, 2022, 89, <https://society.fisip.ubb.ac.id/index.php/society/article/view/384>.

and this figure is estimated to be higher because many cases go unreported.⁷ The United Nations Children's (UNICEF) also reports that 1 in 10 girls in Indonesia experience sexual violence before the age of 18, indicating the need for urgent action to protect children from violence.⁸

World religions, including Islam,⁹ Christian,¹⁰ Hindu,¹¹ and Buddha,¹² firmly oppose sexual violence by emphasizing protection and respect for human dignity,¹³ However, even though these teachings are clear, violations of these principles are still high in various religious communities.¹⁴ The

⁷ Komnas Perempuan, "CATAHU 2022: Bayang-Bayang Stagnansi: Daya Pencegahan Dan Penanganan Berbanding Peningkatan Jumlah, Ragam Dan Kompleksitas Kekerasan Berbasis Gender Terhadap Perempuan," *Komnas Perempuan* (Jakarta, 2022), 3.

⁸ T UNICEF and Centers for Disease Control and Prevention, "... Report on the Prevalence of Sexual, Physical and Emotional Violence, Context of Sexual Violence, and Health and Behavioural Consequences of Violence ...," *Dar Es Salaam, Tanzania ...*, 2011, 45.

⁹ I Kamalludin, B D Pratami, S Khasna, and ..., "Revitalizing Justice in Fiqh: Revisiting Non-Retroactive Principles to Address Sexual Violence," *Uhlul Albab: Jurnal ...*, 2024, 32, <https://jurnal.unissula.ac.id/index.php/ua/article/view/31028>.

¹⁰ Damaris S Parsitau and Ruth A Aura, "The Role of Religion and Faith Actors in Violence Against Women and Girls in Africa BT - The Palgrave Handbook of African Women's Studies," ed. Olajumoke Yacob-Haliso and Toyin Falola (Cham: Springer International Publishing, 2020), 34, https://doi.org/10.1007/978-3-319-77030-7_27-1; Sean Durbin, New Zealand, and Robert Myles, "Rape Culture, Gender Violence, and Religion: Christian Perspectives - Contents," *Turkey and the European Union*, 2021, 65.

¹¹ Bina Sengar, "Ahimsā BT - Hinduism and Tribal Religions," ed. Jeffery D Long et al. (Dordrecht: Springer Netherlands, 2022), 17, https://doi.org/10.1007/978-94-024-1188-1_231; Veena Das, "15 Violence and Nonviolence at the Heart of Hindu Ethics," ed. Michael Jerryson, Mark Juergensmeyer, and Margo Kitts, *The Oxford Handbook of Religion and Violence* (Oxford University Press, January 7, 2013), 42, <https://doi.org/10.1093/oxfordhb/9780199759996.013.0001>; Bindu Puri, "Satya and Ahimsa: Learning Non-Violence from the Gita BT - Gandhi for the 21st Century: Religion, Morality and Politics," ed. Mrinal Miri and Bindu Puri (Singapore: Springer Nature Singapore, 2023), 81, https://doi.org/10.1007/978-981-99-3792-9_2.

¹² Charya Samarakoon, "ADDRESSING THE CAUSES OF CONFLICT-RELATED SEXUAL VIOLENCE WITH THE BUDDHIST DOCTRINE OF LACK OF A PERMANENT SELF AND MEDITATION TRAINING," *Contemporary Buddhism* 22, no. 1–2 (July 3, 2021): 21, <https://doi.org/10.1080/14639947.2022.2080370>; Shanta Nishi Kanukollu and Quyen Epstein-Ngo, "Violence Against Women Through a Buddhist Lens BT - Religion and Men's Violence Against Women," ed. Andy J Johnson (New York, NY: Springer New York, 2015), 21, https://doi.org/10.1007/978-1-4939-2266-6_21.

¹³ Iqbal Kamalludin, Bunga Desyana Pratami, Syarifah Khasna, Alamul Yaqin, et al., "Revitalizing Justice in Fiqh: Revisiting Non-Retroactive Principles to Address Sexual Violence" 7, no. 2 (2024): 54.

¹⁴ Tamer Koburtay, Jawad Syed, and Radi Haloub, "Implications of Religion, Culture, and Legislation for Gender Equality at Work: Qualitative Insights from Jordan," *Journal of Business Ethics* 164, no. 3 (2020): 17, <https://doi.org/10.1007/s10551-018-4036-6>; Zehavit

main causes are misinterpretation of religious texts, patriarchal culture, and lack of comprehensive religious education.¹⁵ Patriarchal cultural norms often ignore women's rights,¹⁶ while the implementation of the law in some countries¹⁷ The Muslim majority sometimes does not align with the principles of justice and protection in Islam, which exacerbates the difficulties for victims of sexual violence in seeking justice.¹⁸

Various global efforts have been made, through international agreements and national laws, but the approach to the rehabilitation of victims of sexual violence is often still conventional, focusing on the physical and psychological recovery of victims without taking into account other broader aspects.¹⁹ This approach often fails to handle the complexity of the trauma experienced by victims and the family dynamics that can impact the recovery process.²⁰

Gross, "Introduction: Challenging Patriarchy: New Advances in Researching Religious Feminism and Religious Education BT - Gender, Religion and Education in a Chaotic Postmodern World," ed. Zehavit Gross, Lynn Davies, and Al-Khansaa Diab (Dordrecht: Springer Netherlands, 2013), 5, https://doi.org/10.1007/978-94-007-5270-2_1; Christine Lalonde and Steven Arnocky, "Religion and Domestic Violence BT - Encyclopedia of Domestic Violence," ed. Todd K Shackelford (Cham: Springer International Publishing, 2023), 127, https://doi.org/10.1007/978-3-030-85493-5_1431-1; Emma Tomalin, "Spiritual Abuse and Gender-Based Violence BT - Gender-Based Violence: A Comprehensive Guide," ed. Parveen Ali and Michaela M Rogers (Cham: Springer International Publishing, 2023), 24, https://doi.org/10.1007/978-3-031-05640-6_24.

¹⁵ Mark D Faries, Megan McClendon, and Eric J Jones, "Destroying God's Temple? Physical Inactivity, Poor Diet, Obesity, and Other 'Sin' Behaviors," *Journal of Religion and Health* 59, no. 1 (2020): 528, <https://doi.org/10.1007/s10943-017-0368-2>.

¹⁶ M Arnez, "Gender, Islam and Sexuality in Contemporary Indonesia: An Overview," *Gender, Islam and Sexuality in Contemporary ...* (Springer, 2024), 155, https://doi.org/10.1007/978-981-99-5659-3_1; Vera Lomazzi, "The Cultural Roots of Violence against Women: Individual and Institutional Gender Norms in 12 Countries," *Social Sciences* 12, no. 3 (2023): 45, <https://doi.org/10.3390/socsci12030117>.

¹⁷ Human Rights Law, Standards I N The, and International Criminal, "Rape and Sexual Violence Standards in the International Criminal," n.d., 48.

¹⁸ the Ahmadiyya Muslim Community, "Does a Victim of Rape Need to Provide Four Witnesses?," n.d., <https://www.alislam.org/question/does-victim-of-rape-need-to-provide-four-witnesses/>.

¹⁹ E R Dworkin and T L Weaver, "The Impact of Sociocultural Contexts on Mental Health Following Sexual Violence: A Conceptual Model.," *Psychology of Violence*, 2021, 47, <https://psycnet.apa.org/record/2021-81558-006>.

²⁰ E R Bennett et al., "Supporting Survivors of Campus Dating and Sexual Violence during COVID-19: A Social Work Perspective," *Social Work in Health ...*, 2021, 112, <https://doi.org/10.1080/00981389.2021.1885566>.

Research by Campbell, R., Dworkin, E., & Cabral, G., shows that many rehabilitation programs focus on cognitive-behavioral therapy (CBT) in dealing with psychological trauma, but do not consider the social and cultural factors that influence recovery.²¹ Herman, J. L. in his book *Trauma and Recovery*²² criticizes approaches that ignore the community and social support aspects of rehabilitation, which often do not sufficiently assist victims in long-term social reintegration. Snyder, C. R., & Ingram, R. E. also highlight the importance of social support from family and community, because rehabilitation can be less effective and prolong the healing process without it.²³ Van der Kolk, B. A. in *The Body Keeps the Score*, emphasizes the importance of integration between various forms of therapy, including approaches involving family and community, in dealing with complex trauma such as sexual violence. These references show that although conventional approaches have made significant contributions, there is still an urgent need to develop a more holistic and contextual rehabilitation model, which not only focuses on the physical and psychological recovery of the individual but also involves the victim's social and cultural environment.²⁴ Therefore, a more holistic and interdisciplinary approach is needed, which not only handles the physical and psychological impacts, but also takes into account the social, cultural and religious context of the victims.

This study aims to offer a new rehabilitation model that integrates the principles of Family Therapy with *Maqasid al-Shari'a*, which has not been widely discussed in academic literature. This approach aims to recover victims from trauma and also involve the roles of the family in the

²¹ Rebecca Campbell, Emily Dworkin, and Giannina Cabral, "An Ecological Model of the Impact of Sexual Assault On Women's Mental Health," *Trauma, Violence & Abuse* 10 (June 1, 2009): 240, <https://doi.org/10.1177/1524838009334456>.

²² Judith Lewis Herman, *Trauma and Recovery: The Aftermath of Violence--from Domestic Abuse to Political Terror* (Hachette uK, 2015), 67.

²³ Charles Richard Snyder and Rick E Ingram, *Handbook of Psychological Change: Psychotherapy Processes & Practices for the 21st Century*. (John Wiley & Sons, Inc., 2000), 41.

²⁴ B van der Kolk, *The Body Keeps the Score: Brain, Mind, and Body in the Healing of Trauma* (Penguin Publishing Group, 2014), 43, <https://books.google.co.id/books?id=T7iJDQAAQBAJ>.

rehabilitation process. By emphasizing the importance of family support and the practical application of Islamic principles in the context of rehabilitation, this study offers a more comprehensive alternative in handling sexual violence, which is expected to overcome the limitations of existing conventional approaches.

Methods

The legal research method used in this research is the normative juridical method with philosophical, conceptual and statute approaches.²⁵ This study analyzes various laws and regulations, legal doctrines, and principles of Islamic law related to sexual violence and victim rehabilitation.²⁶ The main legal materials used include laws, government regulations, fatwas, and relevant court decisions. Data collection in this study was carried out through documentation studies by collection and recording, systematization, and classification of legal materials. This literature review aims to gain a comprehensive understanding of existing legal practices and relevant Islamic legal principles. In the legal research method using a prescriptive approach, data analysis techniques focus on providing recommendations for legal issues identified during the study.

Discussion

Regulation of Sexual Violence Rehabilitation: An Evaluation

Legal frameworks to address sexual violence already exist and have been implemented in various countries internationally,. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),

²⁵ Peter Mahmud Marzuki, *Penelitian Hukum*, 16th ed. (Surabaya: Kencana, 2021), 9.

²⁶ Mukti Fajar and Yulianto Achmad, "Dualisme Penelitian Hukum Normatif Dan Empiris," *Yogyakarta: Pustaka Pelajar*, 2010, 23.

adopted by the United Nations (UN) in 1979,²⁷ obliges member states to take all necessary steps to eliminate discrimination against women in all its forms, including sexual violence. In addition, the 1993 UN Declaration on the Elimination of Violence against Women also calls for international action to end gender-based violence. At the national level, various countries have enacted stringent laws to punish perpetrators of sexual violence. For example, in India, the Protection of Children from Sexual Offences (POCSO) Act 2012 and the Rape Act Amendment Act 2013 introduced harsher penalties for perpetrators of sexual violence, including the death penalty in certain cases. In Indonesia, Law Number 23 of 2004 on the Elimination of Domestic Violence²⁸ and the Child Protection Act²⁹ impose severe sanctions on perpetrators of sexual violence, including prison sentences and large fines.

However, despite these legal frameworks, rates of sexual violence remain high in many countries. This is due to a variety of complex factors. First, the law enforcement is often inconsistent and ineffective. Many victims of sexual violence are reluctant to report the case due to fear of social stigma, intimidation, or distrust of the justice system. Research shows that victims often face lengthy and tedious legal processes, which often result in additional trauma.³⁰ In many countries, law enforcement is also hampered

²⁷ A Alfitri, "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia," *Studia Islamika* (researchgate.net, 2020), 24, https://www.researchgate.net/profile/Alfitri-Alfitri-2/publication/343423546_Protecting_Women_from_Domestic_Violence_Socio-Legal_Approach_to_CEDAW_Bill_in_Indonesia/links/5f731827458515b7cf5672a3/Protecting-Women-from-Domestic-Violence-Socio-Legal-Approac.

²⁸ Pemerintah Republik Indonesia, "Undang-Undang Nomer 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga" (2004), <https://doi.org/10.56301/awal.v5i1.442>.

²⁹ Undang-Undang Republik Indonesia, "Undang-Undang RI Nomor 17 Tahun 2016 Tentang Perubahan Kedua Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak Menjadi Undang-Undang" (2016).

³⁰ W R Aidy and M S R Sanaky, "Victims of Child Sexual Violence from a Legal Perspective," *Jurnal Hukum Sasana* (academia.edu, 2022), 54, <https://www.academia.edu/download/106454913/827.pdf>.

by a lack of training and awareness among law enforcement regarding the issue of sexual violence.³¹

Second, patriarchal social and cultural norms persist in many societies, deeming sexual violence a private matter that is not worthy of public discussion. These norms reinforce the stigma against victims and often prevent them from seeking justice. In many cases, society tends to blame the victim rather than the perpetrator, leading to low reporting and prosecution rates. For example, in India, despite tightened laws, cases of sexual violence still often go unreported due to fear of social stigma and discrimination.³²

Third, there is a large gap between policy and implementation on the ground. Many countries have good laws on paper, but their implementation is weak. This is often due to lack of resources, corruption, and the inability of the legal system to handle the large number of cases. In Indonesia, for example, although the existing laws are adequate, their implementation still faces major challenges such as lack of support services for victims, protracted legal processes, and limited funding for prevention and rehabilitation programs.³³

Overall, despite the existence of strong international and national legal frameworks to address sexual violence, the incidence of sexual violence remains high. This shows that legal efforts alone are not enough; a more holistic approach that includes education, social change, and comprehensive support for victims is needed to truly address this issue effectively. Countries such as Indonesia, India, and many others have adopted various regulations and rehabilitation programs for victims of

³¹ Katrin Hohl and Elizabeth A Stanko, "Five Pillars: A Framework for Transforming the Police Response to Rape and Sexual Assault," *International Criminology* 2, no. 3 (2022): 24, <https://doi.org/10.1007/s43576-022-00057-y>; Christopher Dowling and Anthony Morgan, "Trends & Issues Sexual Offenders," no. 628 (2021): 21.

³² G Gangoli, *Indian Feminisms: Law, Patriarchies and Violence in India* (taylorfrancis.com, 2016), 79, <https://doi.org/10.4324/9781315588292>; Srivastava and Shreshth, "Sexual Violence in Private Space: Marital Rape In India," 98; N Mitra, "Routine Unrecognized Sexual Violence in India," *New Feminist Perspectives on Embodiment*, 2018, 21, https://doi.org/10.1007/978-3-319-72353-2_10.

³³ Kamalludin et al., "Sexual Violence and the Politics of Criminal Law in Indonesia: A Gender Equality Approach and Maqāsid Al-Sharī'a."

sexual violence. In Indonesia, for example, there is Law Number 23 of 2004 concerning the Elimination of Domestic Violence and related regulations that regulate rehabilitation services for victims of sexual violence, including psychological counseling, health services, and legal support. In India, the government has established a One Stop Center (OSC) scheme that provides integrated services for women who are victims of violence, including counseling, legal aid, and medical rehabilitation. In the United States, the Violence Against Women Act (VAWA) supports various rehabilitation programs and services for victims of sexual violence, such as rape crisis centers that offer counseling and legal assistance. Although these initiatives appear to demonstrate a serious commitment to helping victims, research shows that these rehabilitation programs are often ineffective.

Conservative rehabilitation programs are unable to provide the long-term support that victims of sexual violence need. One reason is the limited funding and resources, which result in rehabilitation services not being able to meet the needs of all victims.³⁴ For example, in India, although OSC has been established in many areas, research by Human Rights Watch shows that these centers often lack trained staff and adequate resources to provide effective and sustainable services.³⁵ In Indonesia, a report from the National Commission on Violence Against Women shows that integrated service centers for victims of violence (P2TP2A) often face constraints in terms of budget and capacity, which limits their ability to provide comprehensive and sustainable services.³⁶

³⁴ Éric Binet et al., "Letter from the French-Speaking Association of Trauma and Dissociation on the Case of Shaïna, a Victim of Sexual and Gender-Based Violence in Her Home Housing Project, and a Lack of Understanding within the Justice System," *European Journal of Trauma & Dissociation* 6, no. 2 (2022): 11, <https://doi.org/https://doi.org/10.1016/j.ejtd.2022.100273>.

³⁵ P Kotiswaran, "Trafficking: A Development Approach," *Current Legal Problems*, 2019, 23, <https://academic.oup.com/clp/article-abstract/72/1/375/5687198>.

³⁶ Rifky Taufiq Fardian and Meilanny Budiarti Santoso, "Pemenuhan Hak Anak Yang Berhadapan (Berkonflik) Dengan Hukum Di Lembaga Pembinaan Khusus Anak (Lpka) Kelas Ii Bandung," *Jurnal Kolaborasi Resolusi Konflik* 2, no. 1 (2020): 97, <https://doi.org/10.24198/jkrk.v2i1.27043>.

Regarding regulations, several regulations on the rehabilitation of victims of sexual violence in Indonesia still contain legal weaknesses. This can be seen from several aspects that need to be improved. First, Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS)³⁷ in Article 56, although it provides the rights for victims to receive rehabilitation, this regulation does not explain how the procedures and mechanisms for such rehabilitation are implemented in detail. This article only states in general that victims have the right to receive protection and recovery services, without providing clear technical guidance on how psychosocial, medical, or economic rehabilitation should be implemented. This ambiguity can lead to different interpretations at the implementing level, which has the potential to hinder victims access to the necessary services.

Furthermore, Government Regulation Number 4 of 2006 concerning the Implementation and Cooperation in the Recovery of Victims of Domestic Violence³⁸ Articles 6 and 7 only state that victims must receive health services and counseling without setting minimum standards or quality of services that must be met. As a result, there is a lack of uniformity in the quality of rehabilitation services across regions, with some regions possibly lacking adequate resources to provide quality rehabilitation services. This indicates weak regulation of the quality and standardization of rehabilitation services, which impacts the effectiveness of victims recovery.

Regulation of the Minister of Women's Empowerment and Child Protection Number 01 of 2010 concerning Minimum Service Standards in the Field of Integrated Services for Women and Children Victims of Violence,³⁹ Although it provides guidelines for minimum service standards,

³⁷ Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual," 1 Kementerian Sekretariat Negara Republik indonesia § (2022), https://jdih.setkab.go.id/PUUdoc/176736/Salinan_UU_Nomor_12_Tahun_2022.pdf.

³⁸ Pemerintah Republik Indonesia, "Peraturan Pemerintah Tahun 2006 Tentang Penyelenggaraan Dan Kerjasama Pemulihan Korban KDRT" (2006).

³⁹ Pemerintah Republik Indonesia, "Peraturan Menteri Negara Pemberdayaan Perempuan, Perlindungan Anak Republik Indonesia Nomor 1 Tahun 2010 Tentang Standar

in Articles 8 and 9, this regulation does not regulate the monitoring and evaluation mechanisms for the implementation of these standards in detail. As a result, it is possible that these standards will not be implemented consistently throughout Indonesia, and there are no clear sanctions for parties who do not comply with these standards. This weakens law enforcement in ensuring that victims of sexual violence receive adequate and standard rehabilitation services.

Regulation of the Minister of Health Number 6 of 2024 concerning technical standards for fulfilling minimum health service standards, it regulates health insurance for victims of violence against children and women, but this regulation does not accommodate the differences in needs between victims with different conditions, for example victims with disabilities or victims from other vulnerable communities. This limitation shows that the regulation is still general and not fully inclusive, which can cause some victims not to receive rehabilitation that suits their specific needs.

Finally, Government Regulation Number 70 of 2020 concerning Procedures for Implementing Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children,⁴⁰ Although it provides a framework for the implementation of rehabilitation, restitution, and fulfillment of rights, in Articles 18 to 20, this regulation does not explicitly regulate the funding mechanism for rehabilitation services, either from the central or regional governments. Without clear and adequate funding allocation, the implementation of rehabilitation services regulated in this regulation could be hampered. This shows that there are still weaknesses in ensuring that all victims of sexual violence can access the

Pelayanan Minimal (SPM) Bidang Layanan Terpadu Bagi Perempuan Dan Anak Korban Kekerasan" (2010).

⁴⁰ Pemerintah Republik Indonesia, "Peraturan Pemerintah Republik Indonesia Nomor 70 Tahun 2020 Tentang Tata Cara Pelaksanaan Tindakan Kebiri Kimta, Pemasangan Alat Pendeteksi Elektronik, Rehabilitasi, Dan Pengumuman Identitas Pelaku Kekerasan Seksual Terhadap Anak" (2020).

necessary rehabilitation without financial barriers. Without solid financial support, this regulation risks being ineffective in practice, as the expected service delivery may not be optimal.

Overall, although there are several regulations governing the rehabilitation of victims of sexual violence in Indonesia, there are still various legal weaknesses that affect the effectiveness of their implementation. There needs to be a revision and improvement of these regulations to ensure the rights of victims of sexual violence can be optimally fulfilled.

Conventional rehabilitation programs do not take into account the individual needs of victims, which vary widely based on their traumatic experiences.⁴¹ A one-size-fits-all approach often ignores factors such as cultural background, age, and the type of trauma experienced by the victim. In many cases, rehabilitation programs fail to integrate adequate mental health services, which are critical to a victim's recovery from deep psychological trauma. For example, in the United States, despite the presence of numerous rape crisis centers, studies show that the mental health support offered is often inadequate to handle the long-term trauma experienced by victims.

Social stigma and lack of public education about sexual violence also hinder the effectiveness of rehabilitation programs.⁴² Many victims feel ashamed or afraid to seek help for fear of negative reactions from society or even from their own families.⁴³ This suggests that in addition to providing

⁴¹ L Tarzia, "Toward an Ecological Understanding of Intimate Partner Sexual Violence," *Journal of Interpersonal Violence*, 2021, 11, <https://doi.org/10.1177/0886260519900298>; M Chen and K L Chan, "Characteristics of Intimate Partner Violence in China: Gender Symmetry, Mutuality, and Associated Factors," *Journal of Interpersonal Violence*, 2021, 67, <https://doi.org/10.1177/0886260518822340>.

⁴² D M Horvitz, *Literary Trauma: Sadism, Memory, and Sexual Violence in American Women's Fiction* (books.google.com, 2000), https://books.google.com/books?hl=en&lr=&id=sddTgcrkONEC&oi=fnd&pg=PP11&dq=sexual+violence+extraordinary+crime&ots=m4CjM_mJ1h&sig=QVRh1L8s6WTwofQJJN5FPYCYzU8; A M Bámbaren-Call et al., "Interpreting Compassion: A Needs Assessment Report on Interpreting for Survivors of Torture, War Trauma and Sexual Violence," *The Voice of Love. Http ...*, 2012, 77.

⁴³ M Benson and T I Gizelis, "A Gendered Imperative: Does Sexual Violence Attract

rehabilitation services, there is an urgent need for wider public education and awareness to reduce stigma and support victims in their recovery process.

Overall, although countries have developed various rehabilitation regulations and programs for victims of sexual violence, their effectiveness is often hampered by limited resources, non-individualistic approaches, and inherent social stigma. Research suggests that to achieve effective rehabilitation, a more comprehensive and sustainable approach is needed, focusing not only on physical recovery but also on mental health and social support for victims.

The problem in handling sexual violence is not only about how heavy or light the punishment is for the perpetrator, but also how modern criminal law can view and implement comprehensive recovery efforts for all parties involved, including the perpetrator, victim, and the surrounding environment, especially the family, based on the theory of restorative justice.⁴⁴ This theory emphasizes the importance of shifting the focus from mere punishment towards recovery and reconciliation, both for victims who experience trauma, perpetrators who need to be held accountable and rehabilitated, and society which must restore the social balance disturbed by acts of violence. In the context of sexual violence, the restorative justice approach proposes a process involving mediation and structured dialogue between the victim and the perpetrator, where the victim is given space to express the impact they have experienced and the perpetrator is encouraged to admit their mistakes and try to repair the impact of their actions.

UN Attention in Civil Wars?," *Journal of Conflict Resolution*, 2020, 55, <https://doi.org/10.1177/0022002719841125>.

⁴⁴ W Z Absi, R Rusniati, and M Martini, "A Victimological Perspective Review of Crimes of Sexual Violence Against Children (Child Sexual Abuse)," ... *Journal Of Social Science Research And ...*, 2023, 14, <https://ijssrr.com/journal/article/view/1440>; M S El Islam and I N Juaningsih, "Victim Impact Statement As The Restoration Of The Rights Of Victims In Law Number 12 Of 2022 On Sexual Violence," *Pancasakti Law Journal (PLJ)*, 2023, 210, <https://plj.fh.upstegal.ac.id/index.php/plj/article/view/43>.

Restorative justice also emphasizes the importance of ongoing support for victims for physical, emotional, and psychological recovery.⁴⁵ This can include access to counseling, therapy, and community support services that can help victims cope with the trauma they have experienced. Research shows that victims of sexual violence often suffer from post-traumatic stress disorder (PTSD), depression, and other mental health issues, which require a holistic, long-term approach to recovery. As such, a modern criminal justice system based on restorative justice must ensure that there is adequate infrastructure and resources to support the full recovery of victims.

For perpetrators, restorative justice requires an effective rehabilitation program to prevent recurrence of violence. This includes re-education on social values, anger management, and psychological therapy aimed at fundamentally changing the perpetrator's behavior. In many cases, perpetrators of sexual violence may also be victims of a larger cycle of violence, and without proper intervention, they are likely to repeat their behavior. Therefore, a comprehensive rehabilitation program involves not only punishment, but also behavioral correction and reintegration of the perpetrator into society as a changed individual.

In addition, the surrounding environment, especially the family, also plays a key role in the recovery process. Restorative justice theory recognizes that sexual violence not only affects victims and perpetrators, but also damages social relationships and family dynamics.⁴⁶ Programs designed to repair family relationships, provide emotional support, and rebuild trust are essential. These approaches help reduce stigma and provide support for families in the recovery process, ensuring that they are not isolated or neglected.

⁴⁵ F KAZEMPOORFARD and T A RANGCHI, *The Effects of Restorative Justice in Family Crimes* (sid.ir, 2018), 12, <https://www.sid.ir/paper/95320/en>.

⁴⁶ T Hambridge, "Family Violence, Cultural Appropriateness and True Remorse: How Should Restorative Justice Factor in Sentencing Considerations," *Newcastle L. Rev.*, 2018, 20, https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/nwclrl13§ion=10.

The implementation of restorative justice in the context of sexual violence requires a paradigm shift from a retributive legal system to a more inclusive and recovery-based system. This involves collaboration between the justice system, social institutions, and communities to create an environment that supports holistic recovery.⁴⁷ Research shows that this approach is not only more effective in reducing recurrence rates, but also helps to build stronger and more resilient communities. Thus, modern criminal law based on restorative justice theory must address the need for holistic and sustainable recovery, focusing not only on punishing the perpetrator but also on healing the victim and restoring social balance.

Sexual Violence Rehabilitation Based on Family Therapy Model: A New Concept of Restorative Justice Implementation

Restorative justice is an approach to the criminal justice system that focuses on reparation for the harm caused by crime, to the victim, the perpetrator, and the community. Philosophically, restorative justice emphasizes the importance of repairing relationships damaged by crime through a process of dialogue and mediation, involving all parties affected. This approach aims to achieve a deeper understanding of the impact of crime, and to encourage perpetrators to take responsibility and correct their mistakes. Restorative justice is based on the principles of fairness, empathy, and restoration, in contrast to the retributive approach which focuses on punishing the perpetrator.⁴⁸

⁴⁷ D H Retnaningrum, S Wahyudi, and ..., "Application of Restorative Justice in Health Crime," *Jurnal ...*, 2023, 12, <https://dinamikahukum.fh.unsoed.ac.id/index.php/JDH/article/view/3207>.

⁴⁸ A Morris and G Maxwell, "Restorative Justice in New Zealand: Family Group Conferences as a Case Study," *Western Criminology Review*, 1998; R Boston, "Do Restorative Justice Principles Underpinning Family Group Conferencing Still Apply in Cases Involving Domestic Violence?: Implications for Social ..." (Leeds Beckett University, 2015), 52; Brilian Capera, "Keadilan Restoratif Sebagai Paradigma Pemidanaan Di Indonesia," n.d., 225–34.

In modern criminal law, the importance of restorative justice is increasingly recognized because this approach is able to provide a more humane and holistic solution compared to the traditional approach which often only focuses on punishment. Restorative justice offers a mechanism to achieve more inclusive and sustainable justice, by involving victims, perpetrators, and communities in the conflict resolution process. It can reduce the burden on the justice system which is often focused on formal legal procedures and pays less attention to the needs of victims. In addition, restorative justice can help reduce recidivism rates by encouraging perpetrators to admit and correct their mistakes, which can ultimately help them to return to society in a more constructive way.⁴⁹

In the context of sexual violence crimes, restorative justice plays an important role in mitigation and prevention efforts. This approach can help victims of sexual violence to gain more comprehensive recovery, both psychologically and emotionally. The dialogue and mediation processes in restorative justice allow victims to speak out their experiences, needs, and to gain support from the community. For perpetrators, restorative justice offers an opportunity to understand the impact of their actions and to make concrete reparations to the victim. This can create a greater sense of responsibility and prevent future criminal behavior.

Real forms of restorative justice in dealing with and preventing sexual violence include various programs and initiatives designed to facilitate dialogue between victims and perpetrators, and to support victim recovery. For example, a mediation program involving professional counselors, victims, and perpetrators to discuss the impact of the crime and reparation steps that can be taken. In addition, the existence of a support community that provides a space for victims to share experiences and get emotional support is also a form of restorative justice implementation. Perpetrators can also be required to participate in rehabilitation and education programs

⁴⁹ D Fox, "An Examination of the Implementation of Restorative Justice in Canada and Family Group Conferencing Approaches in the UK" (Venture Press, 2005), 121.

designed to change their behavior and raise awareness of the impact of sexual violence. Through this integrated and community-based approach, restorative justice can make a significant contribution to create a safer and more supportive environment for all parties involved.⁵⁰

In cases of sexual violence, the trigger for the crime is often not only the individual perpetrator, but is also influenced by the surrounding environment which can create conditions or norms that support the occurrence of the crime. The environment that triggers sexual violence can include various factors such as patriarchal culture, social norms that degrade women, domestic violence, or an environment that does not support gender equality. On the other hand, victims of sexual violence are not limited to individuals who directly experience the violence, but also involve their surrounding environment which is significantly affected by this crime. The victim's environment, such as family, friends, and community, often suffers from severe psychological and emotional impacts due to the incident. The victim's family may experience secondary trauma, feeling guilty, ashamed, or angry about what happened, while friends and the community may feel afraid and lose their sense of security.

For example, the victim's family may be devastated to see their family member suffer and may feel helpless or have failed to protect them. They may also experience social pressure from an environment that judges or blames the victim and family for the incident. These impacts can lead to social isolation, stigma, and mental health problems for other family members. Likewise, the perpetrator's environment, especially if the perpetrator is part of a close family or community, may experience similar impacts. The perpetrator's family members may feel shame, distress, and

⁵⁰ A Vetere, "Structural Family Therapy," *Child Psychology and Psychiatry Review*, 2001, <https://www.cambridge.org/core/journals/child-psychology-and-psychiatry-review/article/structural-family-therapy/08A08B5B57A07E0AE39B30419C95DE9D>; M S Karver et al., "A Theoretical Model of Common Process Factors in Youth and Family Therapy," *Mental Health Services ...*, 2005, 211, <https://doi.org/10.1007/s11020-005-1964-4>.

stigmatization from the perpetrator's actions, and may have difficulty navigating their social and community relationships.⁵¹

Therefore, it is important to carry out rehabilitation that involves many parties, not only the perpetrators and direct victims, but also their immediate environment, such as family and community. Rehabilitation for perpetrators should include programs that help them understand and change their behavior, as well as improve relationships with victims and the community. This can include individual and group therapy, gender awareness training, and social reintegration programs that help perpetrators become responsible members of society. Meanwhile, rehabilitation for victims should include psychological, medical, and legal support, as well as programs that help them recover emotionally and socially.

In addition, rehabilitation for the immediate environment of the victim and perpetrator is also very important. This can involve family counseling, community support programs, and education on how to provide effective support to victims and how to prevent sexual violence in the future. Families and communities must be involved in the recovery process to help overcome stigma and support holistic recovery. Thus, comprehensive rehabilitation can help reduce the negative impact of sexual violence, support the recovery of all parties involved, and prevent similar violence in the future.

The family therapy model has been applied and shown success in several criminal cases, both domestically and internationally. One prominent example is the application of family therapy in cases of domestic violence (KDRT) in the United States.⁵² Family-based interventions can

⁵¹ B Zerehdaran, *Politics and Poetica of Rights in Modern Iran: Subjective Rights in the Qajar Period* (books.google.com, 2024), <https://books.google.com/books?hl=en&lr=&id=VsfiEAAAQBAJ&oi=fnd&pg=PT9&dq=family+therapy+maqāsid+%22al+sharī%27a%22+sexual+violence+rehabilitation&ots=bylAmlnYfx&sig=1ihJkGsCNdTEYef7Mopjw7HyBuw>; M Brosi et al., "Beyond Resilience: Glimpses into Women's Posttraumatic Growth after Experiencing Intimate Partner Violence," ... *Journal of Family Therapy*, 2020, 111, <https://doi.org/10.1080/01926187.2019.1691084>.

⁵² J M Gómez and R L Gobin, "Black Women and Girls &# MeToo: Rape, Cultural Betrayal, &healing," *Sex Roles*, 2020, 21, <https://doi.org/10.1007/s11199-019-01040-0>.

significantly reduce incidents of domestic violence and improve family dynamics.⁵³ This therapy involves all family members in therapy sessions to understand the root of the problem, change harmful behaviors, and build healthy communication. Through this approach, perpetrators of violence are encouraged to recognize and take responsibility for their actions, while victims receive emotional support and strategies to cope with trauma.

Another example is the application of family therapy in the case of juvenile offenders in England. Research by Henggeler et al. (2009) found that Multisystemic Therapy (MST), which involves family, school, and community in the rehabilitation process, successfully reduced the rate of recidivism or repeat crime among adolescents.⁵⁴ This therapy focuses on improving family relationships, enhancing parenting skills, and developing strategies to cope with negative influences from the outside environment. As a result, adolescents involved in MST showed significant improvements in their behavior and were less involved in criminal activities in the future.

In Indonesia, although it is still rarely documented systematically, the family therapy model has also begun to be applied in several criminal cases. For example, the Integrated Service Center for the Empowerment of Women and Children (P2TP2A) in several regions has used a family therapy approach to handle cases of violence against children and women. Reports from P2TP2A in Jakarta indicate that family therapy can help restore relationships between victims and other family members, reduce emotional tension, and increase social support for victims. This approach not only

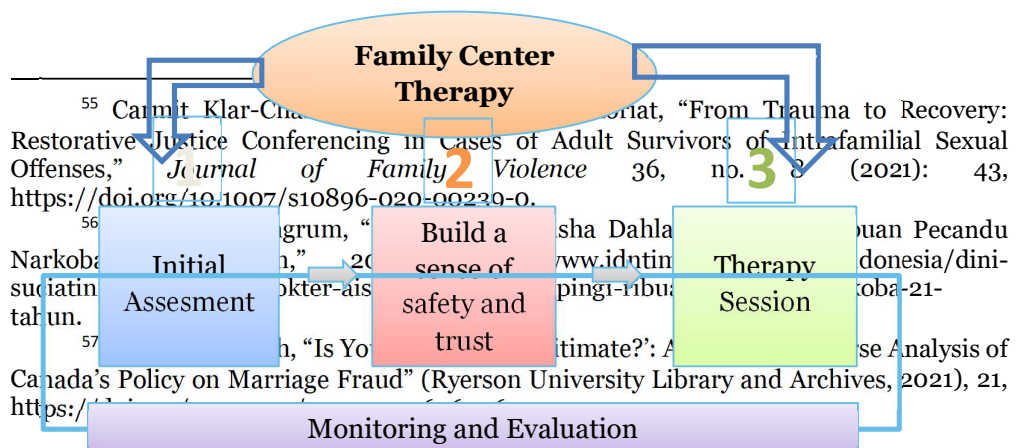
⁵³ C Spencer et al., "Factors Related to College Students' Decisions to Report Sexual Assault," ... of *Interpersonal Violence*, 2020, 42, <https://doi.org/10.1177/0886260517717490>; C M Spencer, B M Keilholtz, and S M Stith, "The Association between Attachment Styles and Physical Intimate Partner Violence Perpetration and Victimization: A Meta-analysis," *Family Process*, 2021, 73, <https://doi.org/10.1111/famp.12545>.

⁵⁴ Charles M Borduin, Cynthia E Brown, and Kaitlin M Sheerin, "Multisystemic Therapy for Serious Juvenile Offenders: From Development to Dissemination BT - New Frontiers in Offender Treatment: The Translation of Evidence-Based Practices to Correctional Settings," ed. Elizabeth L Jeglic and Cynthia Calkins (Cham: Springer International Publishing, 2018), 121, https://doi.org/10.1007/978-3-030-01030-0_13.

focuses on the recovery of victims but also on changing the behavior of perpetrators and preventing future violence.⁵⁵

Family therapy developed by Dr. Aisyah Dahlan has been proven effective in drug addiction rehabilitation in Indonesia, with an approach that involves all family members to create an environment that supports individual recovery. Through this method, Dr. Aisyah not only focuses on the addicted individual, but also improves family dynamics, resolves conflicts, and builds healthy communication. The success of this approach is seen in rehabilitation at the Harapan Permata Foundation, where many individuals have successfully recovered and live productive lives with family support. Dr. Aisyah's holistic approach, which also involves family education and collaboration with various institutions, shows that family therapy can be an effective model for dealing with drug addiction and preventing new addictions in the family.⁵⁶

Additionally, in Canada, family therapy has been implemented in sexual offender rehabilitation programs.⁵⁷ Research by Murphy and Ting (2010) suggests that family therapy, which includes the offender, victim, and other family members, can help reduce the risk of relapse and improve the mental health of all involved. It helps offenders understand the impact of their actions and work toward constructive behavioral change, while victims and families receive support to cope with trauma and repair damaged relationships.



*Figure 1. Family Therapy Model Idea for Sexual Violence*⁵⁸

Overall, the application of the family therapy model in criminal cases has shown positive results in various contexts. By involving all family members in the therapy process, this approach not only helps in the recovery of the individual but also strengthens family bonds and prevents future violence or crime. Family therapy offers a holistic approach that is able to handle the complexity of family dynamics that often contribute to crime, thus providing a more sustainable and effective solution in the long term.⁵⁹

The family therapy model in handling sexual violence involves a series of structured and comprehensive steps to ensure the recovery of the victims, change in the perpetrator's behavior, and improvement in the overall family dynamics. The first step in this process is to conduct an initial assessment to understand the family dynamics, history of violence, and the psychological and emotional conditions of each family member involved. This assessment involves in-depth interviews with the victim, perpetrator, and other family

⁵⁸ Inge Simons et al., "A Program of Family-Centered Care for Adolescents in Short-Term Stay Groups of Juvenile Justice Institutions," *Child and Adolescent Psychiatry and Mental Health* 11, no. 1 (2017): 5, <https://doi.org/10.1186/s13034-017-0203-2>.

⁵⁹ P Barker and J Chang, *Basic Family Therapy* (books.google.com, 2013), 22, <https://books.google.com/books?hl=en&lr=&id=yak41dQpdwQC&oi=fnd&pg=PR9&dq=family+therapy&ots=lgx3A64ZlB&sig=BoL7v8pph8bZG1XKWvPHCokzLwQ>.

members to identify factors that contribute to sexual violence and its impact on all family members.⁶⁰

After the initial assessment, the next step is to build a sense of safety and trust. It is important to create a safe, non-judgmental environment where the victim can talk about their experiences without fear or shame. Family therapy begins with separate sessions for the victim and the perpetrator to ensure that the victim is getting the emotional support they need and the perpetrator is beginning to understand the impact of their actions. The counselor or therapist then works with the family to develop a specific intervention plan, tailored to the needs and dynamics of the family.

The next step is to have a therapy session involving the entire family. During this session, the therapist helps the family communicate effectively, express their feelings, and work through any conflicts. The primary focus is on restoring family relationships and supporting the victim in their healing process. The therapist also provides education about sexual violence, including its impact and the importance of supporting the victim. The perpetrator is encouraged to take full responsibility for their actions and work to repair their relationship with the victim and other family members.

Family therapy also involves training in coping and stress management skills for the entire family. This includes techniques for dealing with trauma, managing emotions, and rebuilding trust among family members. The therapist helps the family develop constructive strategies for dealing with stress and preventing future violence. In addition, the family is given access to additional resources such as individual counseling, support groups, and legal services if needed.⁶¹

⁶⁰ C L Rowe, "Family Therapy for Drug Abuse: Review and Updates 2003–2010," *Journal of Marital and Family Therapy*, 2012, 212, <https://doi.org/10.1111/j.1752-0606.2011.00280.x>.

⁶¹ P J Guerin, *Family Therapy: Theory and Practice*. (psycnet.apa.org, 1976), 11, <https://psycnet.apa.org/record/1977-06288-000>; J Byng-hall, "Creating a Secure Family Base: Some Implications of Attachment Theory for Family Therapy," *Family Process*, 1995, 12, <https://doi.org/10.1111/j.1545-5300.1995.00045.x>.

Another important step in the family therapy model is ongoing monitoring and evaluation. The therapist regularly reviews the progress and adjusts the therapy plan according to the family's needs. This evaluation involves assessing changes in family dynamics, improvements in communication, and the victim's emotional and psychological recovery. If needed, additional therapies or other support services can be integrated into the recovery plan.⁶²

Throughout this process, active involvement and collaboration between the therapist, family, and other support services is essential. The therapist acts as a facilitator who helps the family find solutions that work best for them and ensures that all family members feel heard and valued. This holistic and inclusive approach not only aids in individual recovery but also strengthens the family system as a whole, creating a safer and more supportive environment for all its members. This model of family therapy, with its focus on recovery and prevention, offers hope for families affected by sexual violence to rebuild their lives stronger and more resilient.

Integration of Family Therapy and *Maqasid al-Shari'a*

Maqasid al-Shari'a or the objectives of Islamic law, is an important concept in Islamic law that focuses on achieving human welfare and public interest. This concept was developed to ensure that Islamic law not only complies with the rules of the Shari'a but also fulfills the larger objectives of protecting the five basic aspects of human life: religion, life, reason, lineage, and property. Jasser Auda, a contemporary Islamic jurist, adapted the system theory to further develop an understanding of *Maqasid al-Shari'a*.⁶³ By using six system features, namely cognitive nature, interrelated hierarchy, wholeness, openness, multi-dimensionality, and purposefulness,

⁶² R Deutsch, L Drozd, and C Ajoku, "Trauma-informed Interventions in Parent-Child Contact Cases," *Family Court Review*, 2020, 24, <https://doi.org/10.1111/fcre.12483>.

⁶³ TKPJ AUDA, "ISLAMIC LAW: A SYSTEMS APPROACH," *Academia.Edu*, n.d., 23, <https://www.academia.edu/download/105361227/239.pdf>.

Auda provides an integrated and holistic approach to understanding and implementing *Maqasid al-Shari'a* in the context of modern law, including in the restorative justice system.⁶⁴

First, the cognitive nature of the *Maqasid al-Shari'a* reflects the understanding that these legal objectives are based on a deep knowledge and insight into the needs of humans and society. This means that the *Maqasid al-Shari'a* are not just a collection of rules, but the result of thought and reflection on what is needed to create well-being. In the context of restorative justice, this cognitive approach encourages a deep understanding of the impact of violence or crime on individuals and society, and how rehabilitation processes can be designed to facilitate healing and repair of relationships between perpetrators and victims.

Second, interrelated hierarchy emphasizes that the various objectives of the *Maqasid al-Shari'a* are interconnected and inseparable from one another. The protection of religion, life, intellect, lineage, and property must be considered holistically. In restorative justice, this means that efforts to restore relationships and prevent crime focus not only on the individual but also on the community as a whole. For example, reparation for victims of sexual violence requires attention not only to the mental and physical health of the victim but also to how the legal system and community can support such reparation as a whole.

Third, wholeness in the context of *Maqasid al-Shari'a* refers to the concept that these goals form a unified and integrated system. This means that the application of *Maqasid al-Shari'a* must take into account the entire context and impact of each action. In restorative justice, this is reflected in an approach that addresses not only the legal aspects of the crime but also the social, emotional, and psychological factors involved. For example, rehabilitation programs for sex offenders often involve family therapy,

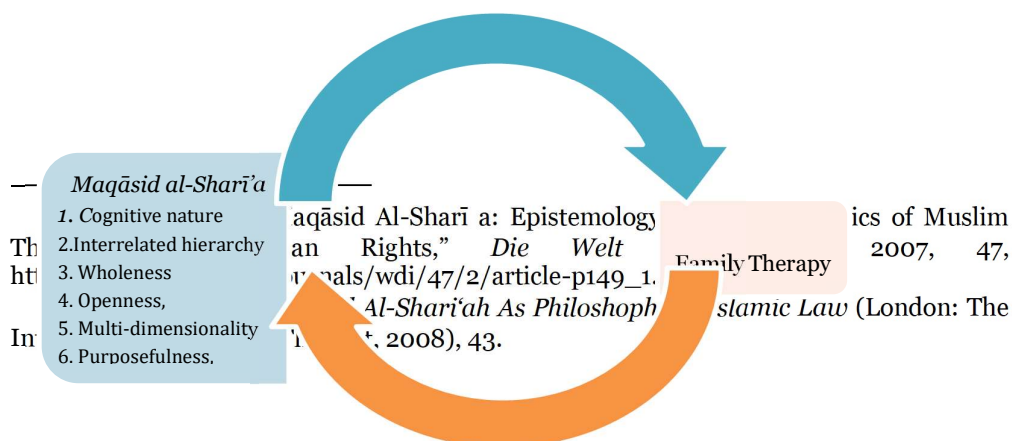
⁶⁴ J Auda, "Maqashid Al-Ahkam Al-Shar'iyyah Wa 'Ilaluha, Diunduh Dari [Http://www. Jasserauda. Net/Modules,](http://www.jasserauda.net/modules/research_articles/pdf/article1A.pdf)" *Research_Articles/Pdf/Article1A. Pdf Diakses Pada*, 2019, 213.

community support, and education about sexual violence, to ensure that restoration is holistic.⁶⁵

Fourth, openness indicates that the *Maqasid al-Shari'a* must adapt to changing times and society needs. This approach recognizes that the law must be flexible and responsive to changing contexts. In restorative justice, this means that methods and practices must be updated and adapted to the latest developments in understanding justice, rehabilitation, and crime prevention. This openness allows the application of the principles of the *Maqasid al-Shari'a* in a context that is relevant and effective for modern problems such as sexual violence.

Fifth, multi-dimensionality reflects the fact that *Maqasid al-Shari'a* involves various dimensions of human life and society. This means that the application of *Maqasid al-Shari'a* does not only look at one aspect but considers various factors that affect well-being. In restorative justice, this approach recognizes that justice and restoration involve complex dimensions, including legal, social, psychological, and cultural aspects. Effective restorative programs must consider this entire spectrum to achieve sustainable results.

Finally, purposefulness emphasizes that *Maqasid al-Shari'a* has a clear and significant purpose in improving human welfare. This principle shows that law does not only function to regulate but also to achieve greater goals. In restorative justice, this meaningfulness is reflected in the effort to ensure that the justice process does not only focus on punishment but also on restoration, reconciliation, and prevention of future crimes. The application of *Maqasid al-Shari'a* in restorative justice aims to create solutions that are not only fair but also contribute to the welfare of the whole community.⁶⁶



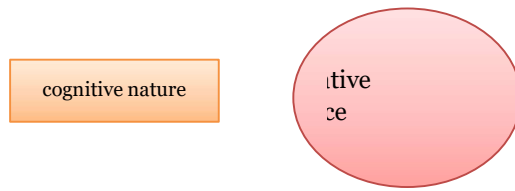


Figure 2. Integration of Family Therapy and *Maqasid al-Shari'a* idea

Using the systems approach developed by Jasser Auda, the application of *Maqasid al-Shari'a* in restorative justice can create a more holistic and responsive framework to the needs of society. This allows the integration of Islamic legal principles with modern practices in the administration of justice, supports comprehensive recovery for victims, perpetrators, and communities, and promotes crime prevention through an integrated and sustainable approach.

Maqasid al-Shari'a or the objectives of the Shari'a, is a concept that refers to the primary objectives of Islamic law which aim to protect and promote human well-being. The indicators proposed by Jasser Auda through systems theory provide a strong analytical framework for understanding and implementing *Maqasid al-Shari'a* in various aspects of life, including in the approach to sexual violence rehabilitation through Family Therapy. Jasser Auda proposed six system features, namely cognitive nature, interrelated hierarchy, wholeness, openness, multi-dimensionality, and purposefulness, which can be used to integrate the principles of *Maqasid al-Shari'a* in the Family Therapy model.⁶⁷

Cognitive nature in this context refers to a deep understanding of the values and goals of the *Maqasid al-Shari'a*. In the application of Family

⁶⁷ Muhammad Iqbal Juliansyahzen and Ocktoberinsyah, "The Contemporary Maqāṣid Sharia Perspective on Sexual Violence Provisions in the Indonesian Law Number 12 Year 2022," *Al-Manahij: Jurnal Kajian Hukum Islam*, 2022, 332, <https://doi.org/10.24090/mnh.v16i2.7018>.

Therapy, this understanding means that the therapist must have a deep knowledge of the principles of Shari'ah and how they can be applied to support the recovery of victims of sexual violence. This includes the protection of the soul (*hifz al-nafs*), honor (*hifz al-ird*), and lineage (*hifz al-nasl*). This knowledge allows the therapist to design interventions that are in line with Islamic values, so that the therapy not only helps the victim psychologically but is also in accordance with their religious beliefs.⁶⁸

Interrelated hierarchy emphasizes that all elements of the Shari'a system are interconnected and influence one another. In the context of Family Therapy, this means that the therapeutic approach must consider the relationships between the individual, the family, and the community. Sexual violence not only impacts the individual victim but also affects the dynamics of the family and community. Integration of the *Maqasid al-Shari'a* into Family Therapy requires a holistic approach that recognizes the broad impact of sexual violence and works to repair relationships and restore balance within the family and society.

Wholeness in the Sharia system means that Islamic law must be understood and applied comprehensively. In Family Therapy, this translates into a therapeutic approach that focuses not only on the recovery of the individual but also on the recovery of the family as a whole. The therapist must work with all family members to help them overcome trauma, restore communication, and rebuild trust. With this approach, recovery becomes more holistic and sustainable.

Openness indicates that the Sharia system is open to interpretation and adaptation according to the context and needs of the community. In Family Therapy, this means that therapeutic methods and techniques can be tailored to the specific needs of victims and their families, while still adhering to the basic principles of Sharia. This approach allows for flexibility

⁶⁸ Wardah Nuroniyah, "RENEWAL OF ISLAMIC LAW IN INDONESIA: A STUDY OF YUDIAN WAHYUDI'S THOUGHT," *SIBATIK JOURNAL: Jurnal Ilmiah Bidang Sosial, Ekonomi, Budaya, Teknologi, Dan Pendidikan* 2, no. 2 (December 7, 2023): 27, <https://doi.org/10.54443/sibatik.v2i2.637>.

in therapy, ensuring that the interventions provided are relevant and effective in the cultural and religious context of the victim.

Multi-dimensionality in the *Maqasid al-Shari'a* recognizes that the goals of Sharia encompass various aspects of human life, including physical, psychological, social, and spiritual. In Family Therapy, this approach is implemented by providing comprehensive support, covering these aspects. Therapy should include not only emotional and psychological support but also spiritual support that can help victims find meaning and purpose in their recovery in accordance with Islamic teachings. Purposefulness emphasizes that all actions in the Shari'a must have a clear and meaningful purpose. In the context of Family Therapy, this means that every intervention must be designed with a clear goal of restoring the well-being of the victim and his/her family. Therapy should focus on goals that are in accordance with the principles of *Maqasid al-Shari'a*, such as protecting the victim's life, honor, and descendants, and restoring balance and harmony within the family and community.⁶⁹

Integration of Family Therapy with *Maqasid al-Shari'a* based on Jasser Auda's systems theory framework offers a holistic, flexible, and meaningful approach to addressing sexual violence. By understanding and applying the six features of the system proposed by Auda, this therapy can not only help victims recover from trauma but also strengthen family and community structures, making them more in line with Islamic values and more effective in the long run. This approach ensures that the recovery of victims of sexual violence is not only limited to the physical and psychological aspects but also includes spiritual and social dimensions, which are very important in the context of a humanitarian society.

⁶⁹ Auda, "Maqashid Al-Ahkam Al-Shar'iyyah Wa 'Ilaluha, Diunduh Dari [Http://Www. Jasserauda. Net/Modules](http://Www.Jasserauda.Net/Modules)"; J Auda and A I al-Maqâshidî, "Min Al-Tashawwur Ilâ Al-Tanzîl Al-'Amali," *Beirut: Al-Syabakah Al-'Arabiyyah Li Al-Abhâts Wa Al ...*, 2013, 34.

Conclusion

Sexual violence rehabilitation model that integrates family therapy with the principles of *Maqasid al-Shari'a* provides a holistic and effective approach. The study found that the model not only focuses on the recovery of individual victims but also considers the role and dynamics of the family in the rehabilitation process, thereby creating a supportive environment for trauma recovery. The integration of *Maqasid al-Shari'a* values into rehabilitation enriches the approach by emphasizing the protection of life, honor, and lineage, in accordance with the objectives of sharia which protect human rights. So that, this model makes an important contribution to the development of more inclusive and sustainable sexual violence rehabilitation policies and practices, and offers an alternative that can be adopted by various rehabilitation institutions, victim service centers, and religious communities to increase the effectiveness of recovery programs.

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DECLARATION OF CONFLICTING INTERESTS

The authors declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

FUNDING INFORMATION

This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

ACKNOWLEDGMENT

We would like to thank the Universitas Diponegoro and Centre for Victimological Research and Victim Assistance (CVRVA) RV University, who have provided the opportunity for this collaborative research.

HISTORY OF ARTICLE

Submitted : January 10, 2024
Revised : March 03, 2024
Accepted : May 14, 2024
Published : June 15, 2024