

PROTECTION OF SEXUAL VIOLENCE VICTIMS FROM THE PERSPECTIVE OF *MAQĀSĪD AL-SHARĪ'AH*

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Abstract: The Witness and Victim Protection Agency (LPSK) in Indonesia plays a crucial role in safeguarding individuals affected by sexual violence. This article evaluates the LPSK's authority in protecting sexual violence witnesses and victims through the lens of *maqāṣid al-sharī'ah*. Employing a normative research approach, laws and regulations relevant to witness and victim protection were analyzed. Data, gathered via literature review, underwent deductive analysis. The study highlights that LPSK's authority is governed by Laws No. 13/2006 (amended to No. 31/2014) on the Protection of Witnesses and Victims and Law No. 12/2022 on Criminal Acts of Sexual Violence. While these laws establish a vital framework for safeguarding sexual violence victims, their execution reveals notable weaknesses. To achieve the highest realization of *maslahah* in *maqāṣid al-sharī'ah*, enhancing the protection of witnesses and victims is imperative. LPSK should focus on five key aspects: *ḥifẓ al-dīn* (protecting victims in accordance with God's commandments), *ḥifẓ al-nafs* (providing medical protection), *ḥifẓ al-nasl* (administering

punishment to perpetrators violating victims' dignity), *ḥifẓ al-'aql* (imparting knowledge about victims' rights), and *ḥifẓ al-māl* (supporting victims in obtaining restitution or material needs).

Keywords: Sexual violence; protection; witness; victim; *maqāṣid al-sharī'ah*.

Introduction

The Witness and Victim Protection Agency (LPSK) has formal juridical legitimacy because it was established under the law. LPSK is necessary as a manifestation of the state's commitment to protecting its citizens.¹ The type of protection offered varies depending on the circumstances of each case, including instances of sexual violence.² Protection is extended to witnesses and victims facing threats, harassment, or pressure during legal proceedings. However, the optimal implementation of protection for victims and witnesses has not been achieved.³

Cases of sexual violence in Indonesia still occur frequently, both in private and public spheres.⁴ Many communities show little concern for witnesses and victims of sexual violence. The lack of public empathy towards victims creates a sense of hopelessness

¹ Sofyan Rauf, Hasjad, and Sabri Guntur, "Efektifitas Peran Lembaga Perlindungan Saksi dan Korban (LPSK) dalam Melindungi Saksi Tindak Pidana Gratifikasi," *Sibatik Journal: Jurnal Ilmiah Bidang Sosial, Ekonomi, Budaya, Teknologi, dan Pendidikan*, Vol. 1, No. 3 (2022), 205.

² Fitri Ida Laela and Frits Marsel Adu, "Perlindungan Hukum Wanita Korban Kejahatan Kesusilaan Menurut Lembaga Perlindungan Saksi dan Korban," *Jurnal Ilmiah Hukum dan Keadilan*, Vol. 8, No. 2 (2021), 186.

³ Yolanda Hosana, "Victim Impact Statement sebagai Perlindungan Hukum Korban Kekerasan Seksual," *Jurist-Diction*, Vol. 5, No. 3 (2022), 1171; Rauf, Hasjad, and Guntur, "Efektifitas Peran Lembaga Perlindungan Saksi dan Korban (LPSK)," 215.

⁴ Susiana Kifli and Atika Ismail, "Analisis Hak Korban Korban Kekerasan Seksual dalam Rancangan Undang-Undang Penghapusan Kekerasan Seksual dalam Perspektif Hukum Positif dan Hukum Islam," *Wajah Hukum*, Vol. 6, No. 2 (2022), 463; Komnas Perempuan, "Korban Bersuara, Data Bicara Sahkan RUU Penghapusan Kekerasan Seksual Sebagai Wujud Komitmen Negara: Catatan Kekerasan Terhadap Perempuan," *Catatan Tabunan tentang Kekerasan terhadap Perempuan* (Jakarta, 2019), retrieved from <https://komnasperempuan.go.id/uploadedFiles/1165.1614075414.pdf>; Iyus Yosep et al., "Experiences of Sexual Harassment by Patients among Nurses at the Mental Hospital of West Java Province: A Qualitative Study," *International Journal of Environmental Research and Public Health*, Vol. 20, No. 8 (2023), 1-10.

among them. Furthermore, prosecuting perpetrators is often hindered by various reasons. Violence against women is commonly viewed as a personal issue to be resolved within the family. These perspectives persist in society, discouraging open discussions about violence and making it difficult for victims to seek help. Although some victims have started speaking out in public spaces and seeking justice, the public perception of their experiences remains unfavorable. Victim reports are often viewed as attempts to defame the perpetrator or are even considered defamatory themselves. Therefore, support from various entities, both in the community and government, is essential to protect victims.⁵

To protect victims of sexual violence, the LPSK refers to Law Number 31 of 2014 concerning the Protection of Witnesses and Victims⁶ and Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (TPKS).⁷ Additionally, Law Number 23 of 2004 on the Elimination of Domestic Violence (Domestic Violence Law) is also in place. However, this law restricts the scope of sexual violence to domestic settings and does not cover public or other contexts.⁸ According to the law, victims of sexual violence have the right to protection and rehabilitation. In this regard, the LPSK is entrusted with providing assistance and protection to victims of sexual violence. Furthermore, the LPSK is actively involved in handling sexual violence cases as witnesses, where it is

⁵ Nur Lailatul Musyafa'ah, Achmad Safiudin R, and Hammis Syafaq, "Peran Pusat Studi Gender dan Anak dalam Mencegah Kekerasan Seksual di Kampus Perspektif Hukum Pidana Islam," *Al-Jinayah: Jurnal Hukum Pidana Islam*, Vol. 8, No. 2 (2022), 129.

⁶ Presiden Republik Indonesia, "Undang Undang Republik Indonesia Nomor 31 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 13 Tahun 2006 tentang Perlindungan Saksi dan Korban," Pemerintah Republik Indonesia, (2014), <https://peraturan.bpk.go.id/Home/Details/147284/inpres-no-4-tahun-2002>.

⁷ Presiden Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual," Pub. L. No. 12, 1 (2022), <https://peraturan.bpk.go.id/Home/Details/207944/uu-no-12-tahun-2022>.

⁸ Topo Santoso and Hariman Satria, "Sexual-Violence Offenses in Indonesia: Analysis of the Criminal Policy in the Law Number 12 of 2022," *Padjadjaran: Jurnal Ilmu Hukum*, Vol. 10, No. 1 (2023), 60.

responsible for safeguarding both witnesses and their families, as well as assisting in the court examination process.⁹

LPSK protects victims from victimization that can cause suffering, including mental and physical distress. The aim of this protection is to enable victims to lead their lives, exercise their rights, and fulfill their obligations as human beings. LPSK plays a role in assisting victims in reclaiming every right they are entitled to, offering psychosocial and medical support in this regard.¹⁰

Islam is a religion of mercy that rejects violence, and sexual violence is a criminal act explicitly prohibited in Islam.¹¹ Such acts go against the purpose of Islamic sharia, commonly referred to as *maqāṣid al-sharī'ah*. The fundamental aim of Islam is to bring about benefits and reject harm (*maḍārah*).¹² The establishment of LPSK is geared towards safeguarding victims and witnesses, including those of sexual violence. This protection is intended to yield benefits for the victims and witnesses involved. Based on the aforementioned context, this article delves into the role of LPSK in protecting victims of sexual violence from the perspective of *maqāṣid al-sharī'ah*.

There are several studies related to the LPSK and sexual violence, including Fransiska, who asserts that the LPSK actively plays a role in providing protection and various other rights to witnesses and victims. However, due to the victim's lack of awareness regarding restitution, some victims prefer to seek severe criminal penalties for the perpetrator.¹³ Nurjannah's research indicates that the LPSK's role in protecting child victims of sexual violence in the family environment is outlined in Article 287 of the

⁹ Marnex L. Tatawi, "Perlindungan Hukum terhadap Saksi dan Korban (Kajian Undang-Undang No. 31 Tahun 2014)," *Lex Et Societatis*, Vol. 3, No. 7 (2015), 47-48.

¹⁰ Hosana, "Victim Impact Statement," 1175.

¹¹ Ahmad Bin Muhammad Husni, Zaini Nasohah, and Mohd Izhar Ariff Mohd Kashim, "Problem of Domestic Violence and Its Solutions in the Light of Maqasid Shariah," *Asian Social Science*, Vol. 11, No. 22 (2015), 33.

¹² Nur Lailatul Musyafa'ah, "Maqashid, Muslim Devotion and Ramadhan Tradition in Pandemic Times," *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan, dan Ekonomi Islam*, Vol. 13, No. 2 (2021), 154.

¹³ Fransiska Novita Eleanora and Andang Sari, "Eksistensi Lembaga Perlindungan Saksi dan Korban dalam Memberikan Perlindungan terhadap Anak Korban Eksploitasi Seksual," *Supremasi Hukum: Jurnal Penelitian Hukum*, Vol. 28, No. 2 (2019), 153-63.

Criminal Code. This protection is also regulated outside the Criminal Code through Article 9 of the Child Protection Law, Article 5 of the Witness and Victim Protection Law, Article 4 of the Law on the Elimination of Domestic Violence, and Government Regulation Number 4 of 2006 in Article 2.¹⁴ Additionally, Muhamad Kevin Audi and Chepi Ali Firman Zakaria conducted research on legal protection for victims of rape in connection with Law Number 31 of 2014 concerning the protection of witnesses and victims,¹⁵ while Ida Nur Laela researched the legal protection of women victims of moral crimes according to witness and victim protection agencies.¹⁶ Despite these studies, none have discussed the role of the Witness and Victim Protection Agency from the perspective of *maqāṣid al-sharī'ah*.

This research is normative juridical research, which views law as a system of norms. The normative legal research approach considers the legal system to comprise principles, norms, and methods encompassing laws and regulations, decisions by agencies, agreements, and doctrines. This methodology concentrates on the analysis and interpretation of laws, regulations, and other legal documents relevant to witness and victim protection, serving as the primary data source for this study. Additionally, data were sourced from books or journals associated with witness and victim protection. The analysis was conducted descriptively, employing the theory of *maqāṣid al-sharī'ah*.

Witness and Victim Protection Agency (LPSK)

The LPSK protects the rights of witnesses and victims in a criminal act. Duties and Responsibilities of LPSK include physical and non-physical protection for witnesses and or victims and fulfilling the rights of witnesses and or victims as stated by law,

¹⁴ Nurjannah Nasution, "Tinjauan Yuridis Peran Lembaga Perlindungan Saksi dan Korban dalam Melindungi Anak Korban Kekerasan Seksual di Lingkungan Keluarga," *Judge: Jurnal Hukum*, Vol. 4, No. 1 (2023), 88-100.

¹⁵ Muhamad Kevin Audi and Chepi Ali Firman Zakaria, "Perlindungan Hukum bagi Korban Tindak Pidana Pemerkosaan Dihubungkan dengan Undang-Undang Nomor 31 Tahun 2014 tentang Perlindungan Saksi dan Korban," *Bandung Conference Series: Law Studies*, Vol. 2, No. 1 (2022), 14-21.

¹⁶ Laela and Adu, "Perlindungan Hukum Wanita Korban Kejahatan Kesusilaan."

including in the process of recovery of the criminal victim in the form of medical assistance, psychological, psychosocial rehabilitation, as well as the victim assistance process concerned to the victim with the request for restitution and compensation from the State.¹⁷ LPSK was established based on Law Number 13 of 2006 concerning the Protection of Witnesses and Victims. Law Number 13 of 2006 has been amended into Law Number 31 of 2014 concerning the Protection of Witnesses and Victims. A significant change in fulfilling victims' rights in Law Number 31 of 2014 is the right to psychosocial and psychological recovery. In addition, the law also includes procedures for granting the right to compensation for victims of serious human rights violations, terrorism and the right to restitution.¹⁸

LPSK is an independent agency. This is stated in Law Number 31 of 2014 in Article 11 paragraph (1). This means that the LPSK is an independent agency outside the executive, legislative, and judicial branches of power but has a mixed function between the three branches of power.¹⁹ LPSK is present to provide protection and security for victims and witnesses at every examination stage in criminal cases. One type of crime that often causes trauma and misery for victims is sexual violence.²⁰ Therefore, LPSK also has an important role in protecting witnesses and victims of sexual violence. The presence of LPSK is a new effort from the government to protect every witness and victim.

Government Regulation Number 2 of 2002 also explains protection procedures for witnesses and victims. In this regulation, there is an addition of the term "victim" associated with "witness." The term used in this Government Regulation refers to the concept of protection, which can be interpreted as the efforts of law enforcement officials or security forces in providing facilities to provide a sense of security, both physically and mentally, to victims and witnesses so that they are protected from threats of

¹⁷ Lembaga Perlindungan Saksi dan Korban, *Witness and Victim Protection Agency* (Jakarta: Lembaga Perlindungan Saksi dan Korban, 2017), 90.

¹⁸ Dudung Mulyadi, "Efektivitas Undang-Undang Nomor 31 Tahun 2014 tentang Perlindungan Saksi dan Korban," *Jurnal Ilmiah Galuh Justisi*, Vol. 2, No. 1 (2016), 17-18.

¹⁹ Pratiwi Eka Putri Tumian, "Kedudukan Lembaga Perlindungan Saksi dan Korban dalam Sistem Peradilan Pidana," *Lex Crimen*, Vol. 7, No. 10 (2018), 81.

²⁰ Hosana, "Victim Impact Statement," 1180.

harassment, terror, and violence that may come from certain parties, especially during the examination process. The existence of LPSK based on laws and regulations requires support from all components of the nation. Not only to play an optimal and maximum role but also to take part at the regional and international levels.²¹

The vision of LPSK is to create a strong protection environment for witnesses and victims in the criminal justice process.²² Thus, the LPSK, which acts as the main center in protecting witnesses and victims as described in the law, is also determined to create conditions where witnesses and victims feel fully protected and can give their testimony safely during criminal justice.

To achieve this vision, LPSK has formulated several missions in realizing the existing vision, namely: (1) Ensure the protection and respect of the rights of witnesses and victims in criminal justice proceedings; (2) Build agencies with high professional standards in providing protection and ensuring the rights of witnesses and victims are properly fulfilled;²³ (3) Strengthen the legal basis and capacity of the LPSK in carrying out its duties to protect the rights of witnesses and victims; (4) Build strong networks with relevant stakeholders to meet the rights of witnesses and victims; (5) Creating an environment that supports and involves the community in witness and victim protection efforts so that it can contribute positively to the criminal justice system.

Sexual Violence Crime

Sexual violence is one form of violence that is very detrimental and affects many aspects of the victim's life. Sexual violence can occur anywhere, whether in the family environment, workplace, college or in public places.²⁴ Sexual violence can happen to anyone,

²¹ Lembaga Perlindungan Saksi dan Korban, "Laporan Tahunan 2018," *Lembaga Perlindungan Saksi dan Korban* (Jakarta, 2018), 29, retrieved from <https://medium.com/@arifwicaksanaa/pengertian-use-case-a7e576e1b6bf>.

²² *Ibid.*, 6.

²³ Eleanor and Sari, "Eksistensi Lembaga Perlindungan Saksi dan Korban," 155.

²⁴ Jacquelyn C. Campbell *et al.*, "Unwanted Sexual Acts among University Students: Correlates of Victimization and Perpetration," *Journal of Interpersonal Violence*, Vol. 36, No. 1-2 (2021), 504-26.

men and women.²⁵ The majority of victims were women.²⁶ In Indonesia, sexual violence is a frequent problem, and many cases are not reported to the authorities.²⁷

Several types of sexual violence crimes have been regulated along with criminal penalties, including fines against the perpetrators. The following is an explanation of each type of crime:

Nonphysical Sexual Harassment is regulated in Article 5 of the TPKS Law. Nonphysical sexual harassment refers to inappropriate statements, gestures, or activities related to sexuality with the aim of degrading or humiliating others. Perpetrators of non-physical sexual harassment can be punished with a maximum prison sentence of 9 months and a maximum fine of Rp. 10,000,000.

Physical Sexual Harassment is regulated in Article 6 of the TPKS Law. Perpetrators of physical sexual abuse can be punished with imprisonment of up to 12 years and a maximum fine of Rp. 300,000,000.

Coercion of Contraception is regulated in Article 8 of the TPKS Law. Suppose someone forces another person to use contraception to cause temporary loss of reproductive function. In that case, the perpetrator can be punished with a maximum prison sentence of 5 years and a fine of Rp. 50,000,000.

Forced sterilization is regulated in Article 9 of the TPKS Law. If a person forces another person to use contraception to cause permanent loss of reproductive function or forced sterilization, the perpetrator can be declared a criminal act of sexual assault.

Forced marriage is regulated in Article 10 of the TPKS Law. Forced marriage includes child marriage, forced marriage in the name of cultural practices, and forced marriage between victims and perpetrators of rape.

²⁵ Shannon E. Cusack et al., "Prospective Predictors of Sexual Revictimization Among College Students," *Journal of Interpersonal Violence*, Vol. 36, No. 17-18 (2021), 8495.

²⁶ Sharyn J. Potter et al., "Sexual Assault Prevalence and Community College Students: Challenges and Promising Practices," *Health Education and Behavior*, Vol. 47, No. 1 (2020), 10.

²⁷ Aryati Hamzy, Cheng-Chung Chen, and Kuan-Ying Hsieh, "Mental Health and Aggression in Indonesian Women," *Behavioral Sciences*, Vol. 13, No. 9 (2023), 727.

Sexual torture is regulated in Article 11 of the TPKS Law. Any official or person acting in the capacity of an official, or a person acting with the knowledge or at the request of an official official, commits sexual violence against another person for the purpose of intimidation, confession, persecution, or punishment, and degrading the dignity of that person on the grounds of discrimination or sexual in all its forms, may be punished with a maximum imprisonment of 12 years and/or a maximum fine of Rp. 300,000,000.

Sexual Exploitation is regulated in Article 12 of the TPKS Law. Any person who uses force, threats of violence, or abuses position, authority, belief, or innateness arising from deception or relationship of circumstances, vulnerabilities, inequalities, helplessness, dependence, debt bondage, or gives payment or benefit with intent to gain advantage or exploit sexual or other organs of that person for sexual purposes, shall be punished with imprisonment of not more than 15 years and/or maximum fine of Rp. 1.000.000.000.

Sexual slavery is regulated in Article 13 of the TPKS Law. Any person who unlawfully places a person or others under his control and renders him powerless with the intent to sexually exploit him may be punished with a maximum imprisonment of 15 years and/or a maximum fine of Rp. 1,000,000,000.

Electronic-Based Sexual Violence is regulated in Article 14 of the TPKS Law. Electronic-based acts of sexual violence include recording or taking images or screenshots containing sexual content without the consent of the person who is the object, sending electronic information or electronic documents containing sexual content without the recipient's consent for sexual purposes, and stalking or tracking using electronic systems against a person for sexual purposes.

The TPKS Law aims to provide legal protection for victims of sexual violence and provide strict sanctions for perpetrators of these crimes. This law is expected to increase public awareness about the importance of respecting human rights and maintaining the security and welfare of individuals in the context of protecting sexual life.

Protection of Victims of Sexual Violence by Witness and Victim Protection Agencies

LPSK has an important role in providing protection and rehabilitation to victims of sexual violence in Indonesia. In carrying out its duties, LPSK refers to two laws: Based on Law Number 13 of 2006, which has been amended into Law Number 31 of 2014 concerning the Protection of Witnesses and Victims, and Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence. Both laws provide a legal basis for the LPSK in providing protection and rehabilitation to victims of sexual violence. Based on Law Number 31 of 2014 concerning the Protection of Witnesses and Victims, the LPSK is authorized by the government to protect witnesses and victims who receive threats, harassment, or pressure in the trial process. Meanwhile, based on Law Number 12 of 2022, the LPSK is given the authority to provide assistance and protection to victims of sexual violence.

To get witness and victim protection, in addition to looking at the types of criminal acts that are the priority of the LPSK, some conditions must be met to protect witnesses and victims. Article 28 of the Law on the Protection of Witnesses and Victims essentially states that LPSK protection for witnesses and/or victims is provided by taking into account the requirements of the importance of witness and/or victim statements; the level of threat that endangers witnesses and/or victims; the results of the medical team's or psychologist's analysis of witnesses and/or victims; and a track record of criminal acts committed by witnesses and/or victims.²⁸

The agency provides legal assistance, escort, protection, rehabilitation, and restitution to victims of sexual violence and their families. The protection provided to victims or witnesses can be provided at various stages, ranging from the investigation, investigation, and prosecution to examination in court hearings. This can be done at the initiative of law enforcement officials or security forces or based on a request submitted by the victim himself. LPSK protects victims of sexual violence in several stages, namely receiving complaints, examination, assessment, and

²⁸ Abdul Haris Semendawai et al., *Potret Perlindungan Saksi Dan Korban* (Jakarta: Lembaga Perlindungan Saksi dan Korban, 2017); Lembaga Perlindungan Saksi dan Korban, *Witness and Victim Protection Agency*.

handling cases. LPSK strives to provide maximum protection to victims of reported sexual violence by prioritizing the principles of trust, confidentiality, and security.²⁹

LPSK also cooperates with other agencies, such as the Ministry of Women's Empowerment and Child Protection and other agencies related to victim protection. LPSK also conducts rehabilitation and social reintegration programs for victims of sexual violence, such as providing education, skills training, and psychological assistance. However, there are still several challenges in the LPSK's efforts to protect victims of sexual violence. These challenges include the lack of adequate budget,³⁰ lack of quality human resources, and lack of support from the community in protecting victims of sexual violence. Therefore, synergy is needed between LPSK and other related parties, such as the government, NGOs, and the community, in providing protection and rehabilitation to victims of sexual violence.³¹

Victims of rape receive legal protection as stated in articles 5, 6, and 7 of Law Number 31 of 2014 concerning the protection of witnesses and victims in the form of compensation and restitution. Victims also receive medical assistance and psychosocial and psychological rehabilitation assistance, such assistance according to the Witness and Victim Protection Agency. Victims have the right to protection for their personal, family, and property security and to be free from threats related to testimony they will, are being, or have given based on Law Number 31 of 2014 concerning the Protection of Witnesses and Victims.³²

Victims of sexual violence must know the extent of the legal process and what punishment the perpetrator receives. However, punishing the perpetrator does not mean that the victim's losses have been paid; it does not guarantee everything because the facts

²⁹ Helen Intania Surayda, "Perlindungan Hukum terhadap Korban Kekerasan Seksual dalam Kajian Hukum Islam," *Jurnal Ius Constituendum*, Vol. 2, No. 1 (2017), 34.

³⁰ Netty Endrawati and Dewi Setyowati, "Eksistensi Lembaga Perlindungan Saksi dan Korban dalam Sistem Peradilan Pidana di Indonesia," *Mizan: Jurnal Ilmu Hukum*, Vol. 7, No. 2 (2018), 23.

³¹ Laela and Adu, "Perlindungan Hukum Wanita Korban Kejahatan Kesusilaan," 182.

³² Audi and Zakaria, "Perlindungan Hukum bagi Korban Tindak Pidana Pemerkosaan," 14-21.

on the ground show that many victims feel ashamed of their situation, commit suicide, or even become crazy. This tendency occurs due to disgrace that befalls and shame on the surrounding situation or environment. Therefore, in addition to punishing the perpetrator, protection must also be provided to the victim to obtain his rights and restore his health.³³

Protection of Victims of Sexual Violence from the *Maqāṣid al-Sharī'ah* Perspective

In Islamic law, victim protection is closely related to *maqāṣid al-sharī'ah*. The establishment of the *maqāṣid al-sharī'ah* law emphasizes universal principles and values. When partial and specific provisions in the Qur'an and Sunnah differ from the universal principles and values of *maqāṣid sharī'ah* derived from the Qur'an and Sunnah, those provisions must be interpreted according to their values and principles of universality.³⁴ *Maqāṣid al-sharī'ah* is the goal for human benefit. In general, it is often formulated that the purpose of Islamic law is the happiness of life in this world and the hereafter by taking everything beneficial and preventing or rejecting the harmful.³⁵

There are five main principles of the *maṣlaḥah* in *maqāṣid al-sharī'ah*: *ḥifẓ al-dīn* (keeping religion), *ḥifẓ al-naḥs* (keeping the soul), *ḥifẓ an-nasl* (keeping offspring), *ḥifẓ al-māl* (keeping property), and *ḥifẓ al-'aql* (keeping mind).³⁶ These five *maṣlaḥahs* must be consi-

³³ Eleanora and Sari, "Eksistensi Lembaga Perlindungan Saksi dan Korban," 158-59.

³⁴ Noorhaidi Hasan and Maufur (eds.), *Fikih Humanis: Meneguhkan Keragaman, Membela Kesetaraan dan Kemanusiaan* (Yogyakarta: Pascasarjana FUIN Sunan Kalijaga Press, 2022), 326.

³⁵ Musyafa'ah, "Maqashid, Muslim Devotion and Ramadhan Tradition in Pandemic Times," 154.

³⁶ Mazro'atus Sa'adah and Uswatun Hasanah, "The Common Goals of BAZNAS' Zakat and Sustainable Development Goals (SDGs) According to Maqasid Al-Sharia Perspective," *Al-Ibkam: Jurnal Hukum dan Pranata Sosial*, Vol. 16, No. 2 (2021), 302-26; Asyraf Wajdi Dusuki and Nurdianawati Irwani Abdullah, "Maqasid al-Shari'ah, Maslahah, and Corporate Social Responsibility," *The American Journal of Islamic Social Sciences*, Vol. 24, No. 1 (2007), 25-45; Nur Lailatul Musyafa'ah, Yamuna Nurafifah, M. Dzul Fadli, Diana Fatim, and Hammis Syafaq, "Local Head Election during the Covid-19 Pandemic in Qawaid Fiqhiyyah Siyasiyyah Perspective," in *Proceedings of the 2nd International Conference on Social Science, Political Science, and Humanities (ICoSPOLHUM 2021)*

dered by the LPSK in protecting victims and witnesses. Witness and Victim Protection Agencies in Indonesia have a very important role in protecting victims, especially those who are victims of sexual violence.³⁷

Hifẓ al-Dīn

In Islam, protecting victims of sexual violence is an obligation for every Muslim. This is as reflected in the Qur'an Surah al-Nisā' [4]: 75:

And why do not you fight those who break the covenant among those who have strength from them and (who) oppress the weak among them (men, women and children)? Though they are the ones who have surrendered themselves to you and they did not attack you in the first place. So God commanded you to fight those people and God knows much more about what you are doing.

This verse shows that protecting the weak is an obligation for every Muslim. Therefore, every Muslim should strive to protect victims of sexual violence and provide protection of their rights. This is in accordance with the LPSK's duty to protect witnesses and victims. The protection of victims of sexual violence is very important in Islam. Islamic law stresses the importance of protecting victims of sexual violence and providing protection of their rights. In Islam, sexual violence is considered a severe act of violence and is strictly forbidden. Sexual violence falls into a category of crimes called "adultery" and is subject to very harsh penalties.³⁸ In Islam, victims of sexual violence should be protected and given the same rights as others.

(Atlantis Press, 2022), 107-17, <https://www.atlantis-press.com/proceedings/icospolhum-21/125971445>.

³⁷ Laela and Adu, "Perlindungan Hukum Wanita Korban Kejahatan Kesusilaan," 186.

³⁸ Ika Agustini, Rofiqur Rachman, and Ruly Haryandra, "Perlindungan Hukum Terhadap Korban Kekerasan Seksual: Kajian Kebijakan Hukum Pidana Indonesia dan Hukum Pidana Islam," *Rechtenstudent: Journal Fakultas Syariat UIN KHLAS Jember*, Vol. 2, No. 3 (2021), 344.

Hifẓ al-Nafs

This agency is tasked with providing physical and psychological protection to victims, so that they can avoid the danger and pressure that may come from abusers.³⁹ In this context, the concept of *hifẓ al-nafs*, or protection of the individual's soul, becomes very relevant. This concept is reflected in the practice of legal protection carried out by this agency. The goal is to protect victims of sexual violence and ensure their safety.

In addition, this protection agency also prioritizes the interests of society as a whole above the interests of individuals. They seek to uphold the principle of justice in their actions. This is important to achieve justice for victims of sexual violence and prevent social conflicts that may arise due to such injustice. In the perspective of Islamic law, sexual violence is all acts that contain an "element of persecution" oriented towards sexual cases. However, it is not uncommon that the so-called violence is always preceded by coercive acts (*ikrah*).

Victims should be protected from persecution and discrimination and given access to health services and psychological support. To protect victims of sexual violence, Islamic protection measures include the application of criminal law to perpetrators as well as psychical and psychological recovery efforts for victims. Perpetrators of sexual violence and harassment are subject to criminal penalties as a form of punishment. All types of sexual activity with another person who are not based on the bond of marriage, regardless of gender, age or sexual orientation, are considered adultery in Islam. Islamic law also provides for the punishment of perpetrators of violence and harassment.⁴⁰

In preventing acts of sexual violence, Islam also emphasizes the active role of each individual. Everyone must report any incident or suspicion of sexual assault to the authorities who have the authority to handle the case. This is part of preventing acts of violence and an effort to uphold justice and protection for victims. The state also has an important role to play in protecting victims of sexual violence. States must ensure that victims of sexual

³⁹ Suyoto, "Peranan Polri dalam Perlindungan Terhadap Saksi dan Korban pada Proses Perkara Pidana," *Jurnal Suara Keadilan*, Vol. 18, No. 1 (2018), 1.

⁴⁰ Agustini, Rachman, and Haryandra, "Perlindungan Hukum terhadap Korban Kekerasan Seksual."

violence receive proper protection and justice. Protection of victims of sexual violence focuses more on providing criminal punishment to perpetrators and recovery efforts for victims. This includes rehabilitation and psychological recovery efforts that assist victims in recovering and coping with the traumatic impacts of sexual violence they experienced.

The concept of *hifz al-nafs* refers to self-protection, emphasizing the importance of taking care of one's physical and mental health as well as avoiding self-defeating behaviors, such as drug or alcohol addiction. This concept rests on the importance of protecting the soul, both physical and mental from persecution. *Hifz al-nafs* emphasizes the protection of one's life and soul,⁴¹ which includes the protection of one's honor and integrity, even when it pertains to the protection of victims of sexual assault. In the context of this concept, Islamic teachings emphasize the importance of justice, social sustainability, and peace in society. This concept also encourages the teaching of ethical values that encourage respectful and ethical behavior, as well as efforts to prevent sexual violence.

To prevent sexual violence as an effort to maintain the soul of *hifz al-nafs*, it is very important to apply the concept of *hifz al-nafs* and raise awareness about individual rights and signs of sexual violence. Protecting victims of sexual violence is an important step in maintaining social stability and peace. In addition, every member of society has an important role in carrying out the concept of *hifz al-nafs*. Everyone can help provide protection and justice by knowing and doing things right.⁴² *Hifz al-nafs* is not only a concept in Islam but also has relevance within a universal legal and ethical framework. Many organizations and agencies around the world support the protection of victims of sexual violence and promote common human values. Therefore, the concept of *hifz al-*

⁴¹ Asrul Hamid and Dedisyah Putra, "The Practice of Buying and Selling during Friday Prayer in Mandailing District Natal: A Study with a Maqashid al-Syari'ah Approach," *Samarab: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 5, No. 2 (2021), 1038.

⁴² Moh Dahlan, Mohammad Reevany Bustami, Makmur, Siti Mas'ulah, "The Islamic Principle of Hifz al-Nafs (Protection of Life) and COVID-19 in Indonesia: A Case Study of Nurul Iman Mosque of Bengkulu City," *Heliyon*, Vol. 7, No. 7 (2021), 6.

nafs is not only a religious concept but also a global perspective on the protection of victims of sexual violence.

Hifẓ al-Nasl

In Islam, the principle of *rahmah li al-'alamin* is taught to bring happiness to all nature.⁴³ Therefore, Islam categorically rejects violence against women and children, considering it a violation of sharia law and Islamic principles. To address this issue, it is important that we deal with it wisely and study the nature of sexual violence from the perspective of the Qur'an and ḥadīth. The handling of attacks must be carried out by agencies responsible for upholding law and justice. Then, any form of sexual intercourse with another person, including with a man, woman, or person of different sexual orientation, regardless of age, is considered adultery. It is forbidden in Islam and is considered an act that violates the rules of religion. Because it negatively impacts not only the individuals involved but also society as a whole. Adultery is considered a serious in Islam. However, Islam also understands that every individual has biological needs and sexual instincts.⁴⁴ In this context, Islam stresses the importance of channeling these needs through legal and religiously recognized marriage. Marriage in Islam is considered an agency that protects the rights and obligations of both spouses who love, respect, and meet each other's needs.⁴⁵ This is related to maintaining the *maslahah* of guarding offspring (*hifẓ al-nasl*). Because they have violated this benefit, perpetrators of sexual violence must be punished according to applicable rules, as a form of fulfillment of victims' rights.

⁴³ Hisam Ahyani, Memet Slamet, and Tobroni, "Building the Values of Rahmatan Lil 'Alamin for Indonesian Economic Development at 4.0 Era from the Perspective of Philosophy and Islamic Economic Law," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial*, Vol. 16, No. 1 (2021), 114.

⁴⁴ Suhartini and Syandi Rama Sabekti, "Penyelesaian Tindak Pidana Zina melalui Mediasi Perspektif Hukum Positif dan Hukum Islam," *Jurnal Bina Mulia Hukum*, Vol. 4, No. 1 (September, 2019), 73.

⁴⁵ Zikri Darussamin, Armansyah, and Ahmad Zikri, "The Urgency of Maturity to Get Married and Its Relevance to Family Life Goals," *Al-Istinbath: Jurnal Hukum Islam*, Vol. 8, No. 1 (2023), 219.

Hifẓ al-'Aql

Victims of sexual violence are typically in a devastating condition and require an extended period for recovery. In providing assistance, victims must be aware of various processes and rights, including guarantees related to the administration of justice at every stage of the legal process. Witnesses and/or victims, in this context, have the right to provide testimony without pressure, receive assistance from an interpreter if needed, be free from convoluted questions, receive updates on the case's progress, be accompanied by legal counsel, testify without appearing in person in court, and cannot face legal prosecution. Even if the victim or witness is distressed, it is crucial to communicate this information to ensure they understand their rights properly. This aspect is integral to preserving reason (*hifẓ al-'aql*), and it is the right of the victim to acquire knowledge about it.

Hifẓ al-Māl

Victims of sexual violence, besides enduring physical and psychological suffering, also face material losses. LPSK must also consider the benefit of safeguarding property (*hifẓ al-māl*). In this context, LPSK assists victims of sexual violence in applying for compensation or restitution and provides financial support, covering transportation costs and temporary living expenses.

In the perspective of Islamic law, the presence of LPSK is crucial for protecting victims and witnesses, particularly in cases of sexual violence. From the standpoint of *maqāṣid al-sharī'ah*, Islam prioritizes the interests of society over individual interests in safeguarding victims of sexual violence, emphasizing the principles of justice, social sustainability, and peace.

Establishing LPSK is a government initiative aimed at addressing the inadequate attention previously given to victims and witnesses. The presence of the LPSK as an agency responsible for protecting witnesses and victims offers new hope to those who have been victims of human rights violations and crimes, including sexual violence. With the existence of LPSK, they can feel more empowered and play a more significant role in disclosing the chronology of events they have experienced, especially in cases of criminal acts that often occur unexpectedly, such as within their own family environment where human values and dignity are

frequently undermined by sexual violence. Nevertheless, there is still much work to be done by the LPSK in fulfilling its duties, involving not only direct actions but also indirect measures such as supervising and preventing sexual violence in the family environment. Legal protection is directly provided through assistance for victims of sexual violence, while indirect legal protection involves preventive and mitigative efforts both before and after occurrences of sexual violence crimes.

Based on this, the LPSK's efforts in providing legal assistance, escort, protection, rehabilitation, and restitution to victims of sexual violence and their families must adhere to five principles of benefit: *ḥifẓ al-dīn*, *ḥifẓ al-nafs*, *ḥifẓ al-nasl*, *ḥifẓ al-'aql*, *ḥifẓ al-māl*. This is a concerted effort to uphold justice, social sustainability, and societal peace. Although the LPSK faces numerous obstacles hindering optimal protection, the involvement of various stakeholders is essential to enhance the agency's performance in safeguarding witnesses and victims. To improve the effectiveness of witness and victim protection against sexual violence, the government needs to take additional steps: implementing fair and stringent punishment for perpetrators, expanding witness and victim access to psychological support and services, and increasing public education on the importance of protecting witnesses and victims while preventing sexual violence.

Conclusion

Based on the discussion above, this study concludes that the Witness and Victim Protection Agency plays a crucial role in safeguarding witnesses and victims of sexual violence. In fulfilling its responsibilities, LPSK adheres to two laws: Law Number 13 of 2006, amended into Law Number 31 of 2014 concerning the Protection of Witnesses and Victims, and Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence. The agency offers legal assistance, escort, protection, rehabilitation, and restitution to victims of sexual violence and their families. Protection for victims or witnesses is provided at various stages, encompassing investigation, inquiry, prosecution, and court hearings. However, several challenges persist in the LPSK's endeavors to protect victims of sexual violence. These challenges include insufficient budgetary allocation, a shortage of high-quality human resources,

and a lack of support from the community in the effort to protect victims of sexual violence.

From the perspective of Islamic law, the LPSK's role in protecting witnesses and victims of sexual violence is associated with *maqāṣid al-shari'ah*, emphasizing the preservation of benefit and the rejection of harm. Islam prohibits physical or psychological violence, mandates punishment for perpetrators, and ensures the protection of victims. In safeguarding witnesses and victims of sexual violence, LPSK must focus on five benefits, namely *ḥifẓ al-dīn* (protecting the victim in accordance with God's commandments), *ḥifẓ al-nafs* (providing medical protection), *ḥifẓ al-nasl* (administering punishment to the perpetrator for violating the dignity of the victim), *ḥifẓ al-'aql* (offering guidance and knowledge about victims' rights), and *ḥifẓ al-māl* (accompanying victims to obtain restitution or material needs).

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