

PREVENTIVE MEASURE FOR MARITAL RAPE THOUGHT THE QUR'AN

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Abstract

Various statements state that marital rape is taboo, unnatural, irrational and rarely legitimized by religion. However, over time, marital rape has become a separate theme that has attracted the attention of many parties. In positive law in Indonesia, as in the 2004 Domestic Violence Law, marital rape is a part of domestic crime. There seems to be a difference between these two things, whereas in some literature it is stated that in fact marital rape does not really reflect the teachings of Islam. So the assumption that marital rape is not legitimized in religious terms is something that cannot be justified. Looking at this matter, this article aims to find out how the Al-Qur'an views preventing marital rape. This article describes how the Qur'an enlightens Muslims by explaining proper ethics both in everyday life and in sexual activities. This is actually an effort to prevent marital rape in the Qur'an.

Keywords: Preventive, Marital Rape, Al-Qur'an

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1. INTRODUCTION

Islam views that the purpose of marriage is to achieve *sakinah*, which is interpreted as calm, tranquility and happiness (Sholihah & Al-Faruq, 2020). This is as reflected in Q.S. Ar-Rūm verse 21

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

And of His signs is that He created for you from yourselves mates that you may find tranquility in them; “and He placed between you affection and mercy. Indeed in that are signs for a people who give thought” (Ar-Rūm:21)

Based on this verse, we can know that to achieve *sakinah* it must be preceded by the creation of *mawaddah* and *rahmah*. *Mawaddah* which is interpreted as love and *rahmah* which is interpreted as affection. *Mawaddah* itself has more of a biological connotation, namely the tendency to be attracted to and attract the opposite sex. Meanwhile, mercy has more of a psychological connotation, namely the tendency for someone to want to feel loved and to love fellow human beings. So that in family life, each husband and wife try to seriously give kindness to their partner and reject everything that could disturb him (Shihab, 1996).

Islam teaches us that marriage aims to bring feelings of love and affection so that we can find peace. However, in reality, many husband and wife relationships involve violence. One of the forms of violence in a husband and wife relationship is marital rape. Marital rape is rape committed between a husband and wife, where both are intertwined in a marriage bond (Siburian, 2020). Marital rape is a type of violence which is part of domestic violence. This is usually done by the husband through force without considering the wife's condition (Khumairoh & Faisol, 2024). Several elements related to marital rape are violence, coercion, threats during sexual relations. This was done without any agreement between one another (Darussamin & Armansyah, 2019).

Some of these elements conflict with the purpose of marriage, namely achieving *sakinah*. The existence of coercion is not one of the ways to achieve *sakinah*, it is actually the opposite

(Darussamin & Armansyah, 2019). However, this understanding is still considered taboo by some people. They consider that fulfilling sexual relations is a wife's duty. Many of them legitimize this as part of religious teachings. This kind of understanding is in fact the impact of patriarchal culture (Pitrotussaadah & Fadhilah, 2023). The development of patriarchal culture means that a woman is considered a sin if she is reluctant to comply with her husband's requests for sexual relations. This is also used as men's politics in showing their power over their wives (Fauzy & Maharani, 2021). They also legitimize religion that refusing to have sexual relations is also an act that violates religious law and is a sin (Masud, 2022).

Based on this background, in this case the researcher wants to conduct a study on the ethics taught by the Al-Quran in sexual relations between husband and wife in order to avoid marital rape. The issue of marital rape is not a new issue, but there are several other studies such as research by Muhammad Khoirul Anwar, etc. (2022) "Perspektif Islam Terhadap Pemerkosaan Dalam Pernikahan" in the Al Burhan Journal. This research states that in Islam, especially in the Koran, there are no terms explicitly related to marital rape. In fact, marriage indicates the legality of the social relationship between a man and a woman in a meaningful way and each of them is under the auspices of marriage rights. So in marriage there is essentially no idea of rape in marriage. This research contradicts most of the literature which states that even though the term marital rape is not stated in the Al-Quran, marriage is an act that is contrary to Islamic law. This is as explained by Darussamin and Armansyah (2019) "Marital Rape Sebagai Alasan Perceraian Dalam Kajian Maqāṣid Syarī'ah" in the Al-Ahwal Journal. The research position is different from the studies that have been mentioned. This research will examine the ethics taught by the Al-Qur'an as guidance in matters relating to husband and wife sexual relations.

2. METHODS

This research uses a type of library research using a qualitative approach. This aims to obtain data originating from library data. The focus of this research is to explore several verses of the Koran relating to sexual relations between husband and wife. This is because marital rape is violence committed by husband and wife in a marriage. The data sources in this research are divided into two, namely primary and secondary data. Primary data is the Koran, which specifically contains verses relating to marital rape or relating to the relationship between husband and wife. Meanwhile, secondary data comes from several literatures that can support this research, such as tafsir books and articles and books related to preventing marital rape in the Al-Qur'an.

3. RESULTS

Preventive Measures

Nurdjana (2010) in her book explains that preventive efforts mean preventive actions carried out with the aim of preventing violations of certain norms. This step is shown by trying to ensure someone does not commit violations in order to create a safe and peaceful life. Hartono and Soedarmadji (2012) explained that the function of preventive action is to avoid a problem, or in this case, to avoid marital rape. In marital rape, prevention can actually be done in various ways. Situmorang and Susanti (2022) in their article explain that communication can be one way to prevent marital rape. When someone can communicate their concerns well, this has great potential to prevent marital rape. This is of course also by looking at various specific cases. Because most conflicts in the household, including marital rape, start from miscommunication.

Marital Rape; Theoretical Review

The word "rape" comes from Latin which means rape, which means forcing, seizing and/or taking. According to the KBBI, the word "rape" comes from the word rape, namely an attack carried out by force on someone without that person's consent. Rape is also interpreted as a process or method of coercion, so that it is included in violence. The term rape also means sexual violence or is usually interpreted as sexual violence (Khumairoh & Faisol, 2024).

Initially, the term Marital Rape was known in the West and was used to describe violence that occurred during a husband's sexual relationship with his wife. Signs include a lack

of sexual desire and the wife's disinterest in doing so, as well as coercion on the wife to have sex in inappropriate ways. In terminology, Marital Rape is an English term which consists of the two words Marital and Rape. Marital has a meaning related to husband and wife relations, while Rape means the act of sexual coercion. So, this term can be interpreted as an act of rape committed by a husband against his wife within the framework of marriage. The effects of Marital Rape are not only on the body, but also have an impact on the mental well-being of a wife who is forced to have sexual relations based on acts of violation, harassment, and being unable to resist bad sexual urges, which can lead to health problems and even trauma (Khoirul Anwar et al., 2022).

Marital rape is mostly experienced by women. This tends to form a vicious cycle of violent relationships between partners, thus perpetuating chronic violence. It also varies based on sociocultural and political ideology. For example, interpretations of the institution of marriage, traditional ways of viewing male and female sexuality, and cultural expectations regarding relationship dynamics between husband and wife couples have led to a reluctance to classify non-consensual sexual relations as punishable acts (Lestari & Afifah, 2023).

The most heinous and horrific crime committed against women is spousal assault. Conjugal savagery has been viewed as a serious threat to everyone's health with disturbing impacts on women's bodily, conceptual, and sexual, and mental well-being. Women need protection of their human rights. Therefore, the state is legally obliged to prosecute sexual violations against women who have intimate relations with men, by using the power of criminal law to stop this form of gender violence and human rights violations (Fitria Noviatu Rizki & Zainal Arifin, 2023).

Principles of marriage in the Koran

Marriage in Islam is a sacred bond based on the principles taught in the Koran. These principles emphasize the importance of love, justice, and responsibility between husband and wife. Here are some of the main principles of marriage in the Qur'an:

1. Principles of Sakinah, Mawaddah, and Rahmah (Tranquility, Love, and Compassion)

In Islamic teachings, marriage is not just a formal bond between a man and a woman, but also a relationship that is expected to bring peace, love and affection. These principles are called Sakinah, Mawaddah, and Rahmah, which have a very deep meaning and are important for creating a harmonious and happy family. This is explained in Qs. Ar-Rum verse 21:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

"And among the signs of His power is that He created for you wives from among yourselves, so that you will be inclined and feel at ease towards them, and He made between you feelings of love and affection. Verily in this there is indeed a sign -a sign for a people who think."

a. Sakinah (Tranquility)

Sakinah means calm, tranquility and peace. In the context of marriage, sakinah describes an atmosphere where a husband and wife feel calm and peaceful when together. They find solace and serenity in each other, which makes the household a place of comfort and safety. Q.S. Ar-Rum verse 21 emphasizes that one of the goals of marriage is to achieve sakinah, where husband and wife can live together in tranquility and peace.

b. Mawaddah (Love)

Mawaddah means deep and passionate love. It is an active and energetic form of love, in which a married couple shows their love through concrete actions, attention, and dedication to each other. Mawaddah includes feelings of cash strong affection and commitment to love and support each other in various circumstances. Mawaddah here means passionate and caring love, which is an important element in keeping a marriage relationship alive and dynamic.

c. Rahmah (Compassion)

Rahmah means affection, gentleness and compassion. In marriage, rahmah describes an attitude of mutual love, understanding, and giving kindness to each other without any strings attached. This includes empathy, understanding, and generosity in facing various situations and challenges in life together. Rahmah shows that marriage relationships must be based on

compassion and tenderness, where husband and wife respect and love each other sincerely. Tafsir Al Misbah

2. Principles of Equality and Justice

The Qur'an emphasizes the importance of equality and justice in marriage. These principles aim to ensure that the relationship between husband and wife is based on mutual respect, respect for each other's rights and obligations, and treat each other fairly and wisely. The following is an explanation of the principles of equality and justice in marriage according to the Koran, namely Q.S. An-Nisa' verse 19 states (Shihab, 2002):

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحِلُّ لَكُمْ أَنْ تَرِثُوا النِّسَاءَ كَرِهًا وَلَا تَعْضُلُوهُنَّ لِيَذْهَبُوا بِبَعْضِ مَا آتَيْتُمُوهُنَّ إِلَّا أَنْ يَأْتِيَنَّ بِفَحْشَةٍ مُبِينَةٍ وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَيجعلَ اللهُ فِيهِ خَيْرًا كَثِيرًا

O you who have believed, it is not lawful for you to inherit women by compulsion. And do not make difficulties for them in order to take [back] part of what you gave them unless they commit a clear immorality [i.e., adultery]. And live with them in kindness. For if you dislike them - perhaps you dislike a thing and Allāh makes therein much good.

Explanation of the Principles of Equality and Justice in this verse (Shihab, 2002)

a. Prohibition of Treating Women Unfairly

This verse strictly prohibits the act of inheriting a woman by force. This emphasizes that women are not property that can be treated arbitrarily or forced to do things without their will.

b. Prohibition of Distressing Your Wife

It is forbidden to cause trouble to wives with the aim of taking back what has been given to them. This includes unfair treatment such as forcing the wife to hand over property that the husband has given as a dowry or gift.

c. Appropriate and Good Association

Husbands are required to get along with their wives properly (ma'ruf). This means that husbands must treat their wives well, with respect, affection and fairness in all situations.

d. Patience in Facing Dislikes

If husbands don't like something about their wives, they are advised to be patient because there may be a lot of good in them that they don't know about yet. This emphasizes the importance of patience and understanding in dealing with differences and challenges in marriage.

3. Consent and Openness in the Interpretation of Al Misbah

Husband and wife relationships in Islam are based on the principles of mutual consent and comfort. Q.S. Al-Baqarah verse 187 states the following:

أَجَلَ لَكُمْ لَيْلَةَ الصِّيَامِ الرَّفَقْتُمْ إِلَى نِسَائِكُمْ هُنَّ لِبَاسٌ لَكُمْ وَأَنْتُمْ لِبَاسٌ لَهُنَّ عَلِمَ اللَّهُ أَنَّكُمْ كُنْتُمْ تَخْتَانُونَ أَنْفُسَكُمْ فَتَابَ عَلَيْكُمْ وَعَفَا عَنْكُمْ فَالآنَ بَاشِرُوهُنَّ وَابْتَغُوا مَآكِنَ اللَّهِ لَكُمْ وَكُلُوا وَاشْرَبُوا حَتَّى يَتَبَيَّنَ لَكُمُ الْخَيْطُ الْأَبْيَضُ مِنَ الْخَيْطِ الْأَسْوَدِ مِنَ الْفَجْرِ ثُمَّ أَتُمُوا الصِّيَامَ إِلَى اللَّيْلِ وَلَا تُبَاشِرُوهُنَّ وَأَنْتُمْ عَاكِفُونَ فِي الْمَسَاجِدِ تِلْكَ حُدُودُ اللَّهِ فَلَا تَقْرُبُوهَا كَذَلِكَ يُبَيِّنُ اللَّهُ آيَاتِهِ لِلنَّاسِ لَعَلَّهُمْ يَتَّقُونَ

It has been made permissible for you the night preceding fasting to go to your wives [for sexual relations]. They are a clothing for you and you are a clothing for them. Allāh knows that you used to deceive yourselves, so He accepted your repentance and forgave you. So now, have relations with them and seek that which Allāh has decreed for you [i.e., offspring]. And eat and drink until the white thread of dawn becomes distinct to you from the black thread [of night]. Then complete the fast until the night [i.e., sunset]. And do not have relations with them as long as you are staying for worship in the mosques. These are the limits [set by] Allāh, so do not approach them. Thus does Allāh make clear His verses [i.e., ordinances] to the people that they may become righteous

a. "Clothing" Metaphor

Clothing is something that is very close to a person's body, indicating that the relationship between husband and wife must be based on closeness and deep intimacy. This verse uses the metaphor of "clothes" to describe the relationship between husband and wife. Clothing protects, covers, and provides comfort to the wearer. Likewise, husband and wife relationships should protect each other from physical, emotional and social dangers. Married couples should also provide a sense of comfort and calm to each other, both physically and emotionally (Shihab, 2002).

b. Openness and Honesty

This metaphor also emphasizes the importance of openness and honesty in the husband and wife relationship. Like clothing that covers and protects, married couples must be open to each other and must be able to talk honestly about the feelings, needs and desires of married couples because honesty is the key to building trust, which is the foundation of every healthy relationship.. Married couples must also be able to provide the emotional and psychological support needed to face the challenges of life together (Shihab, 2002).

c. Consent in Intimate Relationships

This verse also provides clues about the importance of consent in intimate relationships (Shihab, 2002):

- In the context of fasting, intimate relations between husband and wife are limited to certain times (at night), indicating that intimate relations must be carried out with the agreement and approval of both parties.
- Allah knows that humans have desires, but self-control and mutual agreement are needed to have a healthy relationship and in accordance with religious teachings.

d. Communication in Marriage

Openness and good communication are very important in resolving conflicts that may arise in marriage. Couples must be able to discuss their problems and find solutions together. By being open and honest with each other, couples Wives can build trust in each other, which is the basis of a strong and healthy relationship (Saidiyah & Julianto, 2017).

4. DISCUSSIONS

Implementation of Marriage Principles in Marital Rape Prevention

1. Education and Awareness

Spreading awareness about the rights of wives in marriage according to Islam is an important first step. This can be done through premarital education which emphasizes the importance of consent and communication in the husband and wife relationship.

Educational and awareness steps that can be taken to prevent marital rape

a. Comprehensive Sexual Education

Teaching the values of equality, respect for individual rights, and the importance of consent from an early age can form healthy attitudes towards relationships and sexuality from an early age and also include material about sexual consent, rights in relationships, and the importance of communication in basic education curricula and intermediate.

Other family members must also be involved in teaching their children about the importance of consent, respecting other people's rights, and the values of equality from an early age in an effort to prevent domestic violence (Ubaedillah, 2021).

b. Public Awareness Campaign

Using social media, advertising and public campaigns to raise awareness about marital rape and the importance of consent in marital relationships. There is collaboration involving community leaders, religious leaders and celebrities to convey messages about consent and respect in marriage.

c. Training for Couples About to Get Married

Providing a pre-marital counseling program that includes education about the rights and obligations of husband and wife, especially about the rights and obligations in the husband and wife relationship. Having consent and how to build healthy communication in marriage (Ubaedillah, 2021).

2. Legal and Social Support

Strict and clear laws regarding domestic violence, including marital rape, need to be enforced. In addition, social support such as counseling and protection for victims of violence must be provided.

Marriage is a sacred procession that determines the rights and obligations of men and women as husband and wife to achieve happiness in the family. From an Indonesian legal perspective, the meaning of marriage is explained in Article 1 of Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage.

On the other hand, criminal acts of sexual violence, including those that occur during marriage, are regulated in Article 1 point 1 of Law Number 12 of 2022. This law defines criminal acts of sexual violence as any act that meets the elements of a criminal act as regulated in the law. -this law, as well as other criminal acts of sexual violence regulated in other legal provisions. Based on this definition, crimes of sexual violence include various forms of criminal acts, both those specifically regulated in Law Number 12 of 2022 and other crimes that are categorized as sexual violence by law.

The types of criminal acts of sexual violence are regulated in Chapter II concerning Crimes of Sexual Violence, Article 4 paragraph (1) of Law Number 12 of 2022 concerning Crimes of Sexual Violence. Based on these provisions, the types of criminal acts of sexual violence are Forced Marriage, Sexual Exploitation, Sexual Slavery, Sexual Torture, Forced Prostitution, Forced Abortion, Forced Pregnancy, Forced Contraception, Forced Sterilization, and Domestic Sexual Violence.

3. The Role of Religious and Community Leaders

Religious leaders and community figures have a very important role in preventing marital rape. They have a great influence on the norms and values held by the community, and can be agents of change in promoting gender equality and marriage rights.

Religious leaders can use opportunities such as lectures, sermons, and sermons to convey messages about the importance of consent in marriage and the sexual rights of couples. They can emphasize religious teachings that support equality and justice in husband and wife relationships. Community leaders can also organize outreach activities in the community to raise awareness about the dangers of marital rape and the importance of healthy communication in marriage (Akeyla & Fadhilah, 2023).

Religious leaders and community leaders can work with policymakers to encourage the formulation of laws that recognize and criminalize marital rape. They can vote in public consultations and support legislative initiatives that protect individual rights in marriage.

5. CONCLUSIONS

The Quran actually does not explicitly mention marital rape. Islam believes that in the relationship between husband and wife both require mutuality, so that this path leads to the goal of marriage, namely *sakinah*. *Sakinah* can be obtained through mercy and *mawaddah*. These two principles are certainly not in line with the act of marital rape. because in marital rape there is an element of coercion so that there is no feeling of love and affection between one another. Coercion that leads to violence is very contrary to the principle of *sakinah*. The prevention shown by the Al-Quran in preventing marital rape is that the Al-Qur'an explains how husband and wife relations should actually be carried out. It contains no elements of coercion, let alone violence. Both - husband and wife - must equally feel protective of each other as explained in Q.S. Al-Baqarah verse 187. Both are like clothes that protect each other. It requires good understanding and communication between the two. So with this, there will be a feeling of love and affection as a path to *sakinah*.

Implementation that can be realized based on prevention in the Al-Quran is through education. Because with education there will be good communication between the two. This is because marriage often occurs because there is no good communication between husband and wife. This must also be fully supported by all elements of society, especially by people who are leaders such as *ulama* and community figures. With the support of these various elements, it is a form of preventing acts of marital rape.

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