



**SEXUAL VIOLENCE
IN THE ISLAMIC LAW PERSPECTIVE:
Aceh Islamic Law and Local Wisdom Approach**

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Abstract: The study aims to examine the integration of religious values, Aceh culture, and global issues, which form the Sexual Violence Crime Law (UU-TPKS). This article is a qualitative study with a descriptive approach where the primary data were obtained through interview and group discussion. The study used relevant sources from books, journals, and articles related to the chosen theme as the secondary data. This study shows that integration of religious values into the Sexual Violence Crime Law (UU-TPKS) is necessary because Indonesian law must be based on the Pancasila philosophy as a result of the translation into Islamic values. It further shows that religious, cultural, and global values embodied in that law are the values of *tauhid*, justice, freedom, kindness, cooperation, equality, and tolerance. The state must measurably implement all values and derive them into laws and regulations. The study also reveals that such an integration reflects the integration of religious principle and values and local wisdom described in various meanings and symbols.

Keywords: Islamic Law, Sexual Violence, Local Wisdom, Aceh

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Introduction

SEXUAL VIOLENCE REPRESENTS a public health problem.¹ It is a frequent phenomenon worldwide.² In France, according to a

¹ Else Marie Augusti et al., "Violence and Sexual Abuse Rates before and during the Covid-19 Pandemic: A Prospective Population-Based Study on Norwegian Youth," *Child Abuse and Neglect* 136, no. March 2022 (2023): 106023, <https://doi.org/10.1016/j.chabu.2023.106023>; Naveed Akram and Musarat Yasmin, "Sexual Violence against Women: Global Interventions and an Evidence from Pakistan," *Women's Studies International Forum* 97, no. October 2022 (2023): 102691, <https://doi.org/10.1016/j.wsif.2023.102691>.

survey entitled "Violence and gender relations," carried out in 2015, 3.7% of women have experienced at least one rape or attempted rape in their lifetime.³

In Indonesia, sexual violence is one of the most common cases.⁴ The national commission on violence against women noted that in 2014 there were 4,475 lawsuits of sexual violence against women and children. Thus, in 2015 there were 6,499 issues, followed by 2016 and 2017, 5,785 and 5,649 cases, respectively.⁵ While according to the Rumoh Putroe Aceh Integrated Service Center for Empowerment of Women and Children (P2TP2A), the amount of violence against women and children per year has increased sharply from 2015 to 2017. There were 939 cases in 2015, which increased dramatically in 2016 to 1,648 cases, followed by 1,791 in 2017.⁶ An ethical staff of an Islamic educational institution in Lhokseumawe city committed sexual harassment on July 2019 to 15 children aged 13-15 years is one example of the case.

² Lynnmarie Sardinha et al., "Global, Regional, and National Prevalence Estimates of Physical or Sexual, or Both, Intimate Partner Violence against Women in 2018," *The Lancet* 399, no. 10327 (2022): 803-13, [https://doi.org/10.1016/S0140-6736\(21\)02664-7](https://doi.org/10.1016/S0140-6736(21)02664-7); Ben Amar Wiem et al., "Sexual Violence against Women in Southern Tunisia: Epidemiology and Risk Factors," *Legal Medicine* 64, no. March (2023): 102272, <https://doi.org/10.1016/j.legalmed.2023.102272>.

³ Christelle Hamel et al., "Viols et Agressions Sexuelles En France : Premiers Résultats de l'enquête Virage," *Population & Sociétés* 538, no. 10 (2016): 1-4.

⁴ Astha Ramaiya et al., "Understanding the Relationship Between Adverse Childhood Experiences, Peer-Violence Perpetration, and Gender Norms Among Very Young Adolescents in Indonesia: A Cross-Sectional Study," *Journal of Adolescent Health* 69, no. 1 (2021): S56-63, <https://doi.org/10.1016/j.jadohealth.2021.01.025>; Yanuar Farida Wismayanti et al., "The Problematization of Child Sexual Abuse in Policy and Law: The Indonesian Example," *Child Abuse and Neglect* 118, no. June (2021): 105157, <https://doi.org/10.1016/j.chab.2021.105157>.

⁵ C. N. N. Indonesia, "INFOGRAFIS: Kekerasan Terhadap Perempuan dalam Angka," *gaya hidup*, accessed August 10, 2019, <https://www.cnnindonesia.com/gaya-hidup/20181128043145-287-349779/infografis-kekerasan-terhadap-perempuan-dalam-angka>.

⁶ Kumparan News, "Kekerasan Perempuan dan Anak di Aceh 2017 Capai 1.791 Kasus," *kumparan*, March 13, 2018, <https://kumparan.com/kumparannews/kekerasan-perempuan-dan-anak-di-aceh-2017-capai-1-791-kasus>.

The Indonesian Parliament is currently discussing the draft law on eliminating sexual violence. After going through a long journey and rejection from several parties since 2016. The ratification that has been carried out is a form of the state's presence in protecting victims of sexual violence. If interpreted, the Indonesian people already have a legal umbrella to meet existing needs. Especially to answer the problem of sexual violence that occurs.

Indonesia has ratified law Number 7 of 1984 concerning the convention's ratification concerning eliminating All Forms of discrimination against women.⁷ The CEDAW convention has established several principles and provisions to eliminate inequality, subordination, and actions that harm the position and role of women in law, family, and society in the social, economic, political, and other fields⁸ In addition to the CEDAW pattern, current laws and regulations and other provisions regulate sexual violence in Indonesia, namely the Criminal Code, law number 35 of 2014.⁹ The regulation is regarding amendments to law number 23 of 2002 concerning child protection, law number 23 of 2004 about the elimination of domestic violence, law number 21 of 2007 concerning the eradication crime of human trafficking, law number 44 of 2008 concerning pornography, and law number 11 of

⁷ the convention's ratification concerning eliminating all forms of discrimination against women hereinafter CEDAW.

⁸ Achie Sudiarti Luhulima, "Pengujian Undang-Undang Republik Indonesia No. 44 Tahun 2008 Tentang Pornografi Terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Dan Instrumen HAM Internasional Konvensi Penghapusan Segala Bentuk Diskriminasi Terhadap Wanita Disahkan Dengan UU Republik Indonesia No. 7 Tahun 1984 Dan UU Republik Indonesia No. 39 Tahun 1999 Tentang Hak Azasi Manusia UU Republik Indonesia No. 11 Tahun 2005 Tentang Pengesahan International Covenant on Economic, Social and Cultural Rights (Kovenan Internasional Tentang Hak-Hak Ekonomi, Sosial Dan Budaya) UU Republik Indonesia No. 12 Tahun 2005 Tentang Pengesahan International Covenant On Civil And Political Rights (Kovenan Internasional Tentang Hak-Hak Sipil Dan Politik) Convention on the Rights of the Child (Konvensi Hak-Hak Anak) Disahkan Melalui Keputusan Presiden Republik Indonesia No. 36 Tahun 1990 UU Republik Indonesia No. 23 Tahun 2002 Tentang Perlindungan Anak" (n.d).

⁹ Farhad Malekian, *Principles of Islamic International Criminal Law: A Comparative Search*, vol. 5 (Brill, 2011).

2008 regarding the transaction and electronic information. Likewise, the Aceh government has stipulated regional law well-known as Qanun number 6 of 2014 concerning Jinayat regulation. However, these laws and regulations still will not be entirely acceptable to criticism of less protecting victims, both women and children.

After CEDAW was ratified 35 years ago and issued related laws and rules to provide proper protection for women and children, cases of sexual violence against women and children are currently on a downward trend instead of increasing as it is today. On the other hand, the tendency of sexual violence against women and children increases continually. Why does it happen? many factors are causing sexual harassment of women and children. One of them is the legislation written law as a protection for women and children, which has not been able to protect accordingly.

In disparity with various studies examining sexual violence, this research focuses on an Islamic law viewpoint: an integrative approach of Aceh Islamic law and local wisdom.¹⁰ On the other hand, the study aims to produce academic papers so that the draft bill on eliminating sexual violence has legal material accuracy to protect victims, both women and children. Consequently, in-depth reviews are needed to produce responsive and anticipatory regulations for various cases of sexual violence. Without anticipating, laws and regulations would affect long-term cultivating violence nationally.

¹⁰ Danial, Mahamatayuding Samah, Munawar Rizki Jailani, "Quo Vadis Acehnese Shari'a: A Critical Approach to the Construction and Scope of Islamic Legislation," *Al-Jami'ah: Journal of Islamic Studies* 60, no. 2 (2022): 621–54, <https://doi.org/10.14421/ajis.2022.602.621-654>. See also Zubir Zubir et al., "Cultural Resistance and Sharia-Based Ecology in the Fishing Community in Aceh," *Al-Albab* 11, no. 2 (January 2, 2023): 245–66, <https://doi.org/10.24260/albab.v11i2.2433>.

The Importance of Integrating Religious Values, Acehnese Culture and Global Issues in The Sexual Violence Crime Law (UU-TPKS).

This section will discuss the importance of integration between Acehnese Culture and Global Issues in the Sexual Violence Act (UU-TPKS) to minimize sexual violence.

Religious value

Religious values are important to be combined into the UU-TPKS. When the regulation prescribes legally, it must be based on the Pancasila philosophy. Historically, the philosophy of Pancasila is the result of the translation of Islamic religious values, which were formulated and integrated into the value of social life in Indonesia and adapted to the other recognized religions at the beginning of Indonesian independence. Thus, according to the Indonesian law paradigm, fundamental Islamic values and Pancasila must manifest in the norms of legislation product and the legal apparatus and social behavior system. These three systems must form a single unit constituting a legal system pyramid. Law as a system of norms will be insignificant in people's reality of life for its unsuccessfully applied to law-abiding behavior and bureaucracy, and vice versa.¹¹

Based on Pancasila and the 1945 constitution, the Indonesian legal system has delivered a legal and political basis and direction for developing Islamic law. They were referring to the "Belief in One Almighty God" principle, an order that the national legal products do not contradict, reject or be hostile to religious values. An emphasis also confirms that everyone can embrace and worship according to their beliefs. It means that the state recognizes and upholds the existence of all religions with its laws and protects and serves the needs of implementing these laws.¹²

Then it is also known that Islamic values, mainly sourced from the Qur'an and Hadith, contain much bias towards gender and try

¹¹ Romli Atmasasmita, *Teori Hukum Integratif*, Cet Ke II (Yogyakarta: Genta, 2012).

¹² Zoelva Partners, "Dinamika Nilai-Nilai Ke Islam Dalam Konstitusi Dan Hukum Di Indonesia," n.d.

to eliminate violence and sexual crimes. For example, the punishment for perpetrators of sexual violence according to Islamic law is 100 lashes for those who have not married and sentenced to death for those who were married. At the same time, the female perpetrators of sexual violence are locked up in their homes until they die. Perpetrators of sodomy (homosexuality to children have given the punishment of being stoned (QS. al Qomar verses 33-35), blinded (QS. al Qomar verses 36-37), sent extremely stern voice (QS. al Hijr verses 66-73), buried into the earth by lifting and turning the earth they live on (QS. Hud verses 82-83), cursed and killed. Additionally, verse an-nisa: 9 instructs us not to leave children or generations who are physically and psychologically helpless, protecting them from violence and sexual crimes that can weaken the child's soul and body.¹³

Cultural Values

Culture is a design formulated to provide guidelines on what to do, what is permissible, and what is prohibited. At a more concrete level, culture functions as a system of behavior.¹⁴ Soerjono Soekanto stated that law must be considered an expression of a cultural attitude, meaning that legal order must be examined and understood functionally from a cultural system. Law and culture have a solid relationship. Until currently, the existence of customary law in Indonesia has been determined constitutionally. As stated in Article 18 B paragraph (2) of the 1945 constitution and Article 28I paragraph (3) of the constitution.¹⁵ It is essential to integrate cultural values in Aceh since the Aceh culture is embodied with Islamic sharia and will change its culture according to the pattern of interpretation of the Islamic religious

¹³ Andri Nirwana Ari Astuti, Muhammad Khaerudhin Hamsin, "Ketentuan Hukum Islam Yang Termaktub Dalam Al Qur'an Dan Hadis Untuk Melindungi Anak Dari Kekerasan Seksual" (Universitas Muhammadiyah Surakarta, 2021).

¹⁴ Esmi Warassih, *Pranata Hukum Sebuah Telaah Sosiologis* (Semarang: Suryandaru Utama, 2005).

¹⁵ Hendra Wahyuni Prabandani, "Pembangunan Hukum Berbasis Kearifan Lokal," *Hukum Dan Kearifan Lokal* (Jakarta, January 2011).

instruction.¹⁶ A recorded example proves that Aceh has been glorious with a history of respect for women and the placement of women in high positions in government between 1641 to 1699 when four women became Sultanah (queen) and ruled the kingdom of Aceh. During this time, Sultanah was supported and backed by famous scholars such as Sheikh Nuruddin ar-Raniry, Sheikh Hamzah Fansuri, Sheikh Saiful Rijal, and Sheikh Nuruddin Asumatrani. The circumstance shows that the religious understanding of these supporters is not gender biased. Thus, the spiritual interpretation of issues that arose did not classify as a "masculine" rendition because they agreed with women's leadership and showed tangible evidence of their support by being the leading advisers of the Sultanah. As a result, the religious interpretation developed into legal norms to save women and children, so we have never heard of persecution or gender or sexual violence in history.¹⁷

However, since the Aceh war was over until nowadays, sexual violence has existed more frequently, mainly against women and children, triggered by the emergence of a culture of community life that considers women and children as second-class groups in society. One of which is the culture of contemporary society comes from classic Islamic law books that still have a "masculinity" interpretation. The book concerns more about the men's position in the Islamic legal hierarchy in Indonesian society, particularly Aceh. So, the acculturation process of socialization is based on this perception, which becomes a typical practice in the community.¹⁸

In addition, an understanding of Islamic religious literacy on sexual violence prohibition in Indonesia has also diminished in the Acehnese society. Likewise, the lack of figures' attention to this lowered thinking has led to a change in the Acehnese mindset

¹⁶ Lukman Hakim and Syamsul Rijal, "Expression of Love for Ahl Al-Bayt in Acehnese Society," *Al-Albab* 10, no. 2 (December 31, 2021): 203–16, <https://doi.org/10.24260/alalbab.v10i2.2072>.

¹⁷ An interview statement of Yusni Sabi, Acehnese senior academic at Banda Aceh, on 1 Friday, June 05th, 2021.

¹⁸ The opinion of Ibrahim Kholid, FISIPOL academic at Malikussaleh University (UNIMAL), and Khalsiah, head of PRG UNIMAL, during this FGD research in the Postgraduate room Monday, July 26th, 2021.

contradicted with the reality, as a decrease in respect against women and decreased protection for children has led to more sexual violence. Hence, it is pivotal to incorporate good cultural values and The Eliminating Sexual Violence draft bill (Which then Has Been Applied as The Sexual Violence Crime Law (UU-TPKS)) so the community can readily accept it.¹⁹

Global Issues

In this Forum Group Discussion (FGD) research approach, the purposively selected group of the FGD formulated that global issues are essential and must be integrated into the Eliminating Sexual Violence draft bill (Which then Has Been Applied as The Sexual Violence Crime Law (UU-TPKS)). The intention is based on sexual violence as one of the most critical global issues concerning human rights (HAM), where woman harassment is a sign of less preservation of human rights. Every country must protect women's and all human rights by constructing laws and regulations that favor every citizen fairly and equally.²⁰ In this context, human rights are defined as a group of ethical principles under the rule arising from the need for every individual to enjoy essential conditions for a decent life. These rights have been developed through a long process over the last two centuries. While it is impossible to establish a linear historical sequence in identifying these rights, analyzing the debate on the question within international bodies suggests that civil and political rights can be considered consistent with "first generations" of human rights. Social, economic, and cultural rights for the "second generation" and the right to peace, development, and a healthy environment for the "third generation," while societal rights represent the "fourth generation." As part of this evolution, a concept of human rights has developed in recent years, which calls

¹⁹ An interview statement of Yusni Sabi, Acehnese senior academic in Banda Aceh, on Wednesday, August 11th, 2021.

²⁰ Participants' Forum Group Discussion results on "Kekerasan Seksual dalam Perspektif Hukum Islam: Studi Integratif Hukum Islam dan Kearifan Lokal Aceh serta Kontribusinya terhadap Penyusunan Rancangan Undang-Undang Penghapusan Kekerasan Seksual (RUU P-KS) Di Indonesia" on Monday, July 26th, 2021.

into question the universal validity of androcentrism and the Western human model. This model has led to an awareness of the need to pay attention to specific characteristics of individuals, whether in terms of gender, ethnic origin, age, or other traits. This recognition of heterogeneity does not lead to the fragmentation or atomization of the human condition. On the contrary, it contributes to the true universalization of individual and human rights based on the principles of pluralism and respect for differences and diversity.²¹

Religious Values, Acehnese Culture, and Global Issues Integrated in The Sexual Violence Crime Law (UU-TPKS).

There were seven religious, three cultural, and three global values which will be integrated into The Sexual Violence Crime Law (UU-TPKS). Then, after re-examining, researchers found similar values according to the meanings. Those 3 categorized values can be compacted into only 7. The government must implement those 7 as the state's obligation as a derivation into laws and regulations, especially in preventing and eradicating sexual violence in Indonesia. The seven values are:

Divine Values.

Tauhid is one of the common Islamic law values, which is the foundation of Islamic teachings. This value remarks that all human beings are under the same provision, monotheism, stated in the sentence La Ilaha Illa Allah (There is no god but Allah). All of God's creation on earth has a design purpose; among these goals is worship. This value is comprehended from the word of Allah QS. Ali Imran Verse 64. Based on this tauhid value, the process and implementation of Islamic law is worship.

Regarding being a servant, submission to God manifests gratitude to Him. Thus, there should be no overlapping between fellow humans and other cohort creatures. Implementing Islamic law is worship, and only to Him is all human slavery. The reflection comes from Allah's word in the letter Adz-Dzariyat,

²¹ Ani Purwanti, *Kekerasan Berbasis Gender* (Yogyakarta: CV. Bildung nusantara, 2020).

verse 56. The value of monotheism has been transformed into the first Pancasila precepts in which Indonesia recognizes one and only God so that the first precept values become the spirit and principle in forming Indonesian regulations. In The Sexual Violence Crime Law (UU-TPKS) setting, the value of monotheism in forming such regulations means worshiping God by protecting His creatures, especially those considered weak, like women, children, and disabilities. One of the worship forms is to protect Allah's creatures, weak or pressured under political, social, and legal systems. So, every powerless individual has the right to legal protection, one form of which is the formulation of a bill to eliminate sexual violence toward women and children, the UU-TPKS.

Value of Justice.

In many verses, Allah commands His servants to do justice. Among them are Surat al-Maidah verse 8 and Al-Hujarat verse 9, the word al- is in the Qur'an and is a synonym for al-Mizan (balance/moderation) and al-Qist, which means justice.²² The term justice generally connotes the establishment of laws or policies of the stakeholders. However, justice in Islam covers various aspects interpreted as a moderation value, such as the relationship between individuals and themselves, the relationship between individuals and society, and between individuals and authorities and others.²³ According to Wahbah Al-Zuhaili, Allah's commands are not intended as His need because Allah does not benefit from human obedience, nor does he harmed by immoral human acts. However, this obedience is only a way to expand behavior and educational methods that can bring prosperity to individuals and society. The "fair/justice" term in the Qur'an includes humans who tend to pursue lust, love, and hatred, usually can not act reasonably, and prioritize falsehood over truth (in witnessing). The command to act fairly is implied to those who have power

²² Juhaya S. Praja, *Filsafat Hukum Islam* (Bandung: LPPM, 1995).

²³ M. Quraish Shihab, *Tafsiri Al-Misbah*, 2nd ed. (Jakarta: Lentera Hati, 2004); Ahmad Musthofa Al-Maraghi, *Tafsir Al-Maraghi* (Beirut: Dar al-Kutub al-'Ilmiyyah, 2005).

and in muamalah/trade and obligation; to be fair to the wife; justice among Muslims and justice which means a balance between the responsibilities that humans must fulfill (mukallaf) and the human ability to fulfill these obligations.²⁴ Suppose this value of justice is translated into general principles of law. In that case, everyone has the right to protection and justice before the law, whether in accessing justice, taking advantage of legal justice, or fair treatment where the law is included in sexual violence. Based on the general principles, if they are widened in the formulation of legislation, they can be implemented in various forms. This principle is very relevant if it is operationalized in law regulations, including the UU-TPKS, for example in matters related to fulfilling the rights of victims, victims' families, witnesses, and experts must pay attention to the needs of particular groups in order to fulfill the value of justice, namely the provision of accommodation and accessibility for people with disabilities and other vulnerable groups. This constitution has also stipulated the rights of experts. In contrast, the previous Elimination sexual violence draft bill on parliament (DPR) version in 2017 did not include the rights of experts based on experience where they have also come under pressure and threats. In addition, there are equal rights for victims with disabilities to receive the right to recovery, including compensation, even if the victim chooses not to report appropriate violence through the judicial process.²⁵ This value is also a global value where CEDAW summarizes it as a non-discriminatory value, emphasizing (1) All humans have the same talent, dignity, and rights and are born free. Therefore, the State must guarantee men's and women's equal rights in the social, cultural, economic, civil, and political fields and other areas. This guarantee should be legally stated in statutory regulations, enforced practically, and most importantly, women genuinely enjoy the rights and equality of rights between men and women. (2) According to the experts who drafted the

²⁴ Husnul Fatarib, "PRINSIP DASAR HUKUM ISLAM (Studi Terhadap Fleksibilitas Dan Adabtabilitas Hukum Islam)," *Nizham Journal of Islamic Studies* 3, no. 1 (2014): 63–77.

²⁵ Badan Legislasi Nasional DPR RI, "Naskah Akademik Rancangan Undang-Undang Tentang Tindak Pidana Kekerasan Seksual," 2021, 1–140.

CEDAW Convention, uses the DUHAM (Universal Declaration of Human Rights) term "equality" means that the discrimination inadmissibility principle and all human beings are born free and have equal rights in dignity. Then, everyone has all the rights and freedoms without any distinction whatsoever, including differences based on gender which also contains in Article 27, paragraph 1 of the Constitution. Therefore, the method used to determine whether there is discrimination against women is by analyzing the women's real experiences. To legally identify whether there is discrimination against women, it is necessary to include legal provisions that provide definitions or formulations (elements) regarding discrimination against women as benchmarks or guidelines. The CEDAW Convention took the action in Article 1 with the description of Discrimination Against Women and used as a working definition.

Kindness value.

Islam is driven to manage humanity towards reasonable, faithful goals of pleasing Allah.²⁶ In Western legal philosophy, it is the social function or social engineering manipulation. According to Hasbi Ash Shiddieqy, the kindness value is also seen in the statehood role in Islam so that the government may not force people to do something according to their arbitrary wishes. What else disobeys other Islamic laws? Good values are categorized based on revelation and logical juridical reasoning regarding the context in which legal issues occur. In case of elaboration, each law-making must provide sufficient statutes for all citizens. So, for example, in the context of sexual violence, each article has a positive value that everyone can accept. Due to the information disclosure that spreads massively, local goodness/morality value

²⁶ Mohammad Taqiuddin Bin Mohamad and Munawar Rizki Jailani Nur Hidayah Abd Latiff, "Analysis From the Perspective of Maqasid Syariah on the Goods and Services Tax System Article History," *Umran: International Journal of Islamic and Civilisation Studies* 08, no. 01 (2021): 87–115; Danial Danial, "Globalization and the Paradigm of Islamic Law Implementation in Aceh," *Mazahib* 21, no. 1 (2022): 1–28, <https://doi.org/10.21093/mj.v21i1.4323>; Muhammad Syahrur, *Nahw Usūl Al-Jadīdah Li al-Fiqh al-Islāmi*, ed. Syamsuddin dan Burhanuddin, 1st ed. (Yogyakarta: elSaq Press, 2004).

has decreased, where the mindset changes from shame. The researcher means that a paradigm shift has occurred in Aceh because of the information exposure, where children and young people have lowered their sense of shame and disrespect for older people, even towards their parents.

On the other hand, their own parents have they are less concerned about their children's education from the point of view of morality and more about pursuing children's success from a material perspective, which means they feel ashamed to follow local culture because of their massive closeness to value-free global cultural capital obtained from social media which is difficult to contain. Therefore, it is necessary to reintroduce moral values by local Acehnese wisdom that breathes Islamic teachings and collaborates with a global culture with the same spirit as Islamic teachings and the need for these values to be habituated so that global cultural values do not further erode them. Which are free of values, patterns, and mechanisms for strengthening cultural values must be adapted to the times and the media so that young people now and in the future do not think that culture is only an artifact because if it is only an artifact, it will be abandoned and placed in unique places. Which are called museums. So that these cultural values are not habituated to young people living their lives.²⁷

Independence or Freedom Value

The value of freedom in Islamic law requires that religion/Islamic law be broadcast not based on coercion but on explanations, demonstrations, and arguments. As the Islamic law value, freedom is in a broad sense that includes various aspects, both individual and communal freedom. Freedom of religion in Islam is guaranteed based on the value that there is no compulsion in religion. Freedom of action, expression, and imagination is a freedom that is inherent in every human being, even the most basic rights. This freedom may not conflict with the public good, faith, and others. This concern distinguishes between the freedoms

²⁷ Interview results with Fauzan Santa, Acehnese culture and humanist lecturer in Banda Aceh, on Friday, June 05th, 2021.

adhered to by Islamic law and positive law. The value of freedom in Islam is contained in the letter Al-Baqarah, verse 256. To the Independence value, the law-making must have the operationalized principle. Thus, to eliminate sexual violence, the state stipulated The Sexual Violence Crime Law (UU-TPKS) that contains norms of Independence and freedom from intimidation and bad looks for victims when restoring the rights of victims of sexual violence.

Value of Equality or Egalite.

The Medina Constitution (al-Shahifah) contains the most obvious similarity value, namely the Islamic value against slavery and killing human beings.²⁸ This equality value is essential in fostering and developing Islamic law in social mobilization and control, but it still identifies social stratification, such as communism. Concrete evidence of egalite values in Islam is the abolition of human slavery and human intimidation. In the fellow Muslim context, Islam guarantees no difference between the Arab tribe and other tribes. From the Islamic perspective, all human beings are treated equally in the eyes of the law. No one is wronged or benefited for any reason. The Prophet emphatically stated, "There is no difference between an Arab and a non-Arab except his deeds." Islamic law has implemented equality before the law since fourteen centuries ago, long before modern law.²⁹ Furthermore, the guarantee of egalite in the Qur'an is contained in Surat al-Hujurat verse 13, Surat al-Isra paragraph 70. This equality value is also a global value where CEDAW restates it as a value of equality. All people are born as free human beings and equally treated in terms of non-discriminatory human rights. Then, the state is obliged to protect certain rights regardless of differences in gender, religion, age, ability/disability, ethnicity, race, and nationality. The equality value also can be translated into; 1). Steps and movements to realize women's rights aimed at overcoming

²⁸ Sadari, "Founding Father Perumusan Dimensi Moderasi Fiqh Islam: Studi Hukum Kelurga Islam Bidang Perkawinan Di Indonesia Dari Orde Baru Menuju Pasca Reformasi," *Moderation Islamic Studies Review* 1, no. 1 (2021): 57–80.

²⁹ Topo Santoso, *Membumikan Hukum Pidana Islam* (Jakarta: Geman Insani, 2003).

differences, gaps, or conditions detrimental to women; 2). Actions and activities to make changes to the environment so that women and men have equal opportunities, access, and equal rights in enjoying the benefits of existing opportunities and opportunities; 3). This also means obliging countries to base their policies and actions on the Values of (a) equality in equal opportunity for women and men, (b) equality in access for women and men, (c) the existence of equal rights in enjoying benefits for women and men from the results of using opportunities and opportunities that exist equitably; 4). Equal legal rights for men and women in the areas of (i) citizenship, (ii) equality and justice in marriage and family relations, (iii) inheritance, (iv) child custody, and 5). equality in law and equal treatment within a regulation.

Cooperation Value (Ta'awun).

Cooperation is mutual help among human beings directed according to monotheism's values, especially in increasing kindness and righteousness. This value requires that Muslims help each other in service and purity. Cooperation is also a noble and high value sometimes neglected by the Islamic community. The delinquency is caused by the lowered capacity of reason to arrive at a knowledge of truth in religious matters by some jurists (*ijtihad*) and adherence to the randomly unsourced old legacy, eliminating society's welfare with its various customs. The caution is also written in Surat al-Mujadalah verse 9. The community can unite in one unit through mutual assistance or cooperation.³⁰ The principle is also stated in the Indonesian constitution article 33, 1945, about the economic democracy basis done by all communities, as community benefits and led by a member of the community

It summarizes that the principle of mutual help contains moral values, including sincerity to participate and togetherness/unity. Then, social care involves helping each other and prioritizing mutual interests. Likewise, the cooperation principle aims to increase welfare and action to adjust and integrate/unify one's goods with common interests. Fundamentally, cooperation in a

³⁰ Look at Abdillah (2011, page. 7); Sudrajat (2014, page. 14); Sajogyo and Pudjiwati (2005, page. 28); Marzali (2005, page. 161).

positive way is advised. All human beings know the value of helping each other, so the value of mutual assistance also enables prevent sexual violence. For example, mutual aid in helping the community and neighbors suffering from poverty is the main trigger to avoid forceful families. Financial problems are one of the main causes of family savagery that can also drive sexual violence against women and children done by a family member. For example, insufficient houses with a lack of room boundaries between the parents and children's rooms, between the boys' rooms and girls', cause privacy alleviation, providing space and opportunities for sexual violence to occur. Poverty can also create bullying experienced as a part of harassment for the poor. Therefore, cooperation in helping the poor is important and meaningful in preventing poverty, which can also prevent sexual violence. Integrating the spirit of helping each other draft laws and regulations can eliminate sexual violence, particularly in Aceh and Indonesia. Apart from that, the mutual help value is one of the elements in society meant to prevent sexual violence, punish perpetrators and restore the trauma of victims, which might positively impact forming statutes to prevent sexual violence.³¹

Tolerance Value.

According to the Islamic view, the value of tolerance is tolerance, which guarantees that Islam and Muslims' rights are not violated, and it does not harm Islam. Wahbah Al-Zuhaili interprets the importance of tolerance under the Qur'an and Hadith provisions, which avoids narrowness and difficulties so that a person does not have reasons and ways to leave the Shari'a provisions of Islamic law.³² Then, the scope of tolerance is not only in worship matters but also includes all requirements of Islamic

³¹ Recommendation results of forum group discussion participants of "Kekerasan Seksual dalam Perspektif Hukum Islam: Studi Integratif Hukum Islam dan Kearifan Lokal Aceh Serta Kontribusinya Terhadap Penyusunan Rancangan Undang-Undang Penghapusan Kekerasan Seksual".

³² Wahbah Zuhaili, *Subul Al-Istifadah Min Nawazil Wa al-Fatawa Wa al-'Amal al-Fiqhy Fi al-Tatbiqat al-Mu'Asirah* (Damaskus: Dar al-Maktabi, 2001); Wahbah Zuhaili, *Al-Fiqh al-Islāmī Wa Adillatuhu* (Damaskus: Dār al-Fikr, 1989).

law, such as civil Muamalah, criminal law, judicial decisions and so on.³³

Furthermore, the mentioned values must be implemented by the state and become the value of the state's obligation to carry them out seriously and measurably and derivation them into laws and regulations, especially in preventing and eliminating sexual violence in Indonesia. From an internationally agreed human rights perspective, the state is a subject that must protect human rights, and the state must not deliberately ignore rights and freedoms. Instead, the state must defend everyone to appreciate his rights and freedoms since the government's responsibilities are the obligation to respect, protect, and fulfill.³⁴ It is supported by the Vienna Declaration of 1993, which strengthened the existence and convention on eliminating discrimination against women or CEDAW in 1979. As an international human rights instrument, CEDAW became the first universal standard to regulate women's human rights. Therefore, Indonesia ratified CEDAW by promulgating it through RI Law No. 7 of 1984 concerning ratifying the convention on eliminating all forms of discrimination against women on July 24, 1984.³⁵ According to the CEDAW Convention, the Value of State Obligations includes the following matters: 1. Guaranteeing women's rights through laws and policies and guaranteeing the results; 2. Ensure the practical implementation of rights through temporary special measures; 3. Create conducive conditions to increase women's access to several opportunities; and 4. The state is obliged to guarantee women's prosperity and strive to fulfill women's rights. The government ensures with de jure and de facto and takes responsibility for controlling the area of public, the family and the private (companies, factories, and so on).

³³ Fatarib, "PRINSIP DASAR HUKUM ISLAM (Studi Terhadap Fleksibilitas Dan Adabtabilitas Hukum Islam)."

³⁴ Sri Wiyanti Eddyono, "Hak Asasi Perempuan Dan Konvnsi CEDAW, Seri Bacaan Kursus HAM Untuk Pengacara," *Elsam:Lembaga Studi Dan Advokasi Masyarakat* (Jakarta, September 2004).

³⁵ Badan Legislasi Nasional DPR RI, "Naskah Akademik Rancangan Undang-Undang Tentang Tindak Pidana Kekerasan Seksual."

The Eliminating Sexual Violence draft bill (Which then Has Been Applied as a legal Sexual Violence Crime Law (UU-TPKS)) is connected with the state's obligation to draw up various statutory regulations to eliminate violence and discrimination against women as regulated in Article 2 of CEDAW. Sexual violence that occurs is part of discrimination against women. In addition, drafting laws that protect victims of sexual violence and the punishment of perpetrators is part of article 15, paragraph 1 of CEDAW: "States Parties Shall accord to women equality with men before the law." Equality before the law requires that women be protected before the law.³⁶

Suppose the intent and meaning of integration are interpreted as steps or mechanisms for operationalizing a value. In that case, the integration of religious importance, Aceh culture, and global issues that the researchers have mentioned mean how these values can be applied in The Sexual Violence Crime Law (UU-TPKS). Let's look at the religious views and cultural and global values related to eliminating sexual violence already contained in the five precepts of Pancasila, which are the basis and values in forming a legal deal that must be carried out in Indonesia. Religious, cultural, and global values were then formulated into legal principles and decrypted into the Constitution of 1945. The second amendment to Constitution 1945 in Chapter XA concerning human rights article 28A states, "Every person has the right to live and has the right to defend his life." Then, article 28 D, paragraph 1 states that every citizen has the right to recognition, guarantees, protection, fair legal certainty, and equal treatment in such regulation. Then the principles of legal protection operationalized into norms, and some principles took the form of a draft law on sexual violence in Indonesia. The operationalization of the mentioned values becomes principles, and the principles become norms. Then, it is described as a form of an integration model tree where the monotheistic values are represented as roots, religious values-cultural values , and global values mentioned in the previous subtitle B will be described as the trunk of the integration model tree. At the same time, the principles coming from these

³⁶ Badan Legislasi Nasional DPR RI.

values will become branches, and The Sexual Violence Crime Law (UU-TPKS) will be the leaves or fruit of the tree. On the other hand, it can also be analogized that the integration as a form of land, the legal principles that come from values will be described as plants, and The Sexual Violence Crime Law (UU-TPKS) is described as a fence protecting children and women.

Conclusion

First, it is important to integrate religious values into The Sexual Violence Crime Law (UU-TPKS), which, if legally applied, will become a mandatory legal product based on the Pancasila philosophy, where the original Pancasila philosophy has historically been the result of the Islamic religious values translation. Furthermore, cultural values must be integrated because culture functions as a behavior system where the law must be considered to express an attitude and cultural values, meaning that legal order must be reviewed and comprehended functionally from cultural systems and values. At the same time, several global Issues are also important to be blended into Sexual Violence Crime Law (UU-TPKS) because the women's rights issue is part of human rights that every country must protect by making laws and regulations that favor every citizen fairly. Second, religious, cultural, and global values that can be incorporated into the UU-TPKS after being concluded are the values of monotheism, justice, independence, kindness, mutual help, equality, and tolerance. These values must be implemented into the state's obligation to carry them out seriously and derivation them into laws and regulations, especially in preventing and eliminating sexual violence in Indonesia. Third, the integration model of religious values, Acehnese culture, and global issues in the draft bill on eliminating sexual violence is intended to carry out steps to operate a value. The operationalization of the values above becomes principles. Then principles become norms so that when described in the form of an integration model tree, the values of monotheism are described as roots, religious values, cultural values, and global values will be expressed as the trunk of the integration model tree. In contrast, the principles from these values will become branches, and The Sexual Violence Crime Law

(UU-TPKS) will become the leaves or fruit of the tree. Then, the integration also can be interpreted as land, legal principles coming from values will be represented as plants, and The Sexual Violence Crime Law (UU-TPKS) itself is described as a fence that protects children and women.

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