

**ABORTION IN THE QUR'ĀN AND ITS RELEVANCE
TO THE PREGNANCY OF RAPE VICTIMS
(WOMEN'S *HAKIKI* JUSTICE PERSPECTIVE)**

THESIS

Submitted to Faculty of Ushuluddin and Humanities
In Partial Fulfillment of the Requirements for the
Degree of S-1 of Islamic Theology
On Al-Qur'an Science and Tafsir



Submitted by:

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**FACULTY OF USHULUDDIN AND HUMANITIES
STATE ISLAMIC UNIVERSITY WALISONGO
SEMARANG**

2024

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SEMARANG**

2024

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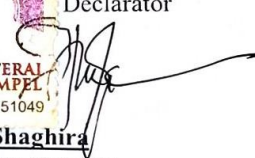
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ADVISOR APPROVAL

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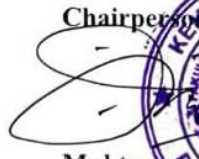
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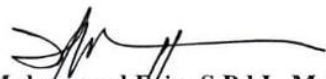
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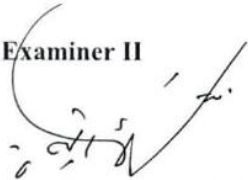
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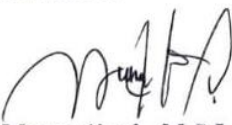
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MOTTO

.....إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَى إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ (الحجرات/13:49)

Indeed, the noblest among you in the sight of Allah is the most righteous. Indeed, Allah is All-Knowing, All-Knowing, All-Careful.¹

I'm useful, then I exist

Dr. Nur Rofiah, Bil.Uzm²

¹ “Qur’an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap),” Lajnah Pentashihan Mushaf Al-Qur’an (LPMQ), n.d., <https://quran.kemenag.go.id/>.

² Nur Rofiah, “Nalar Kritis Muslimah Refleksi Atas Keperempuanan, Kemanusiaan, Dan Keislaman,” ed. Achmad Fathurrohman Rustandi (Bandung, Indonesia: Afkaruna.id, 2020), 75.

TRANSLITERATION ARABIC-LATIN

Transliteration is the transfer of letters of the alphabet from one to the other. The Arabic-Latin transliteration referred to here is the copying of Arabic letters with Latin Arabic letters, which was issued based on a joint decision of the Ministry of Religion and the Ministry of Education and Culture in 1987. The following is the transliteration used as a guideline for writing this thesis:

1. Single Consonant

Arabic Letters	Name	Latin Letters	Description
ا	Alif	Not symbolized	Not symbolized
ب	Ba'	b	be
ت	Ta'	t	te
ث	Sa	ṣ	es (with the dot above)
ج	Jim	J	Je
ح	Ha	ḥ	ha (with the dot below)
خ	Kha	Kh	ka and ha
د	Dal	D	De
ذ	Zal	Ẓ	zet (with the dot above)
ر	Ra'	R	Er
ز	Zai	Z	zet
س	Sin	S	Es
ش	Syin	sy	Es and ye
ص	Sad	ṣ	es (with the dot below)
ض	Dad	ḍ	de (with the dot below)
ط	Ta'	ṭ	te (with the dot below)

Arabic Letters	Name	Latin Letters	Description
ظ	Za'	z	zet (with the dot below)
ع	'ain	‘	Inverted comma above
غ	Gain	G	Ge
ف	Fa'	F	Ef
ق	Qaf	Q	Ki
ك	Kaf	K	Ka
ل	Lam	L	El
م	Mim	M	Em
ن	Nun	N	En
و	Waw	W	We
ه	Ha'	H	Ha
ء	Hamzah	‘	Apostrof
ي	Ya	Y	Ye

2. Single Word

In single vowel transliteration, Arabic is transliterated in the form of signs or *harakat* as follows:

.....َ.....	Fathah (a)	كَذَلِكَ	Written	<i>Kazālika</i>
.....ِ.....	Kasrah (i)	لِيُرَدُّوهُمْ	Written	<i>Liyurdūhum</i>
.....ُ.....	Ḍammah (u)	شُرَكَاءُوهُمْ	Written	<i>Syurakā'uhum</i>

3. Double Vowels

The double vowel is symbolized by a combination of *harakat* and letters, symbolized as follows:

Fathah + ya' mati (ai)	عَلَيْهِمْ	Written	'Alaihim
Fathah + wau mati (au)	لِيَلْبِسُوا	Written	Liyalbisū

4. Maddah

Maddah Or also called long vowels are literalized in the form of signs and letters as follows:

Fathah + alif	$\bar{a}$	أَوْلَادُهُمْ	Written	<i>Aulādahum</i>
Fathah + ya' mati	$\bar{a}$	مَنْنَى	Written	<i>Masnā</i>
Kasrah + ya' mati	$\bar{i}$	تَمِيلُوا	Written	<i>Tamīlū</i>
Ḍammah + wau mati	$\bar{u}$	تُصَلِّحُوا	Written	<i>Tuṣliḥū</i>

5. Ta' Marbutah

a. If *ta' marbutah* mati or *waqaf* then written with (h)

نَاصِبَةٌ	Written	<i>Nāṣibah</i>
حَامِيَةٌ	Written	<i>Ḥāmiyah</i>

b. If *Ta' marbutah* lives or wishes for both *fathah*, *kasrah*, and *ḍammah* so it is written with (t)

مَلِكَةٌ	Written	<i>Malā'ikatu</i>
ثَلَاثَةٌ	Written	<i>Ṣalāṣati</i>

6. Syaddah

Symbolized by the sign of syaddah or tasydid

حَرَّمَ	Written	<i>Ḥarrama</i>
رَبُّكُمْ	Written	<i>Rabbukum</i>

7. Word by (ال)

a. If it is followed by the letter Qamariyyah, it is written with "al"

الْكِتَابِ	Written	<i>al-Kitāba</i>
الْعَذَابِ	Written	<i>al-‘Azābi</i>

b. If it is followed by the letter Syamsiyah then it is written according to the first letter of Syamsiyah

النَّفْسِ	Written	<i>an-Nafsa</i>
الصَّبْرِ	Written	<i>as-Ṣabri</i>

8. Hamzah

Hamzah is transliterated as an apostrophe when in the middle and at the end of the word. If it is located at the beginning of the word, it is symbolized by alif.

إِنْشَاءً	Written	<i>Insyā'ān</i>
تَأْمُرُونَ	Written	<i>Ta'murūna</i>
يَسْأَلُونَ	Written	<i>Yas'alū</i>

9. Writing Words in a Series of Sentences

فَقَتَلُوا أَوْلَادَهُمْ	Written	<i>Qatalū Aulādahum</i>
حَرَّمُوا مَا رَزَقَهُمُ اللَّهُ	Written	<i>Ḥarramū Mā Razaqahumullāhu</i>

10. Tajwid

In an Arabic transliteration, the science of tajwid is very necessary because in the process of reading harakat, signs such as the short length of the letters are needed.

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Praise be to Allah for His gifts and mercy that have provided guidance and help in every step in completing the preparation of this thesis with the title *“Abortion In The Qur’ān And Its Relevance To The Pregnancy Of Rape Victims (Women’s Hakiki Justice Perspective)”* as a requirement to obtain a Bachelor of Science (S.1) degree from the Faculty of Ushuluddin and Humanities UIN Walisongo Semarang. May prayers and greetings always be abundant to the Prophet Muhammad, as a guide for the ummah from darkness to a bright light.

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The writer realizes that this thesis still has many shortcomings, therefore to the reader to be willing to provide constructive suggestions and criticism for the writer to be better in the future. The writer hopes that this thesis can be useful for readers.

Semarang, 26th June 2024
The Writer

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ABSTRACT

Pregnancy due to rape can threaten the victim's life, either continued or aborted. The protection of the victim's life must be prioritized because the victim is a servant who has a definite right to life. However, there are still few who care about the condition of rape victims who are pregnant. This study has two main focuses on the interpretation of Qur'anic verses that prohibit infanticide and second, the relevance of such interpretation in the context of forced pregnancy as a result of rape, taking into account the *hakiki* justice for women. This study uses library research methods, and the perspective of women's *hakiki* justice by Nur Rofiah as well as theory to interpret the Qur'ān. The results of the study show that the interpretation of the Qur'ān verses about the prohibition of abortion is related to the traditions of the Arab society of the past, which is not considering of women victims of rape. In the past, this ban was aimed at preventing the practice of killing girls, which often occurred due to poverty or inability to care for children. However, the situation faced by rape victims today is more complex, with threats more focused on the victim's life and mental health. The handling of pregnancy cases due to rape must be carried out by considering *hakiki* justice, that is justice that really considers the condition and needs of the victim as a whole. This includes providing adequate psychological, medical, and social support, as well as legal policies that protect victims' rights. In this case, a more contextual and relevant interpretation to the modern situation is urgently needed to ensure that justice is truly upheld for women victims of rape. The interpretation of the abortion prohibition clause is relevant to pregnancy due to rape if the victim has strength that shows her save soul, mentally and physically health. Thus, the focus is to maintain child's soul. On the context, the interpretation becomes irrelevant if the rape victim doesn't strength the condition of her pregnancy, then safe abortion is allowed with the assistance of medical personnel and regular consultation with a psychologist. The handling must consider the *hakiki* justice by taking into account the specific condition of the victim.

Keywords: Pregnancy of Rape Victims, Verse Prohibition of Abortion, Women's *Hakiki* Justice Perspective

CHAPTER I

INTRODUCTION

A. Background

Data from the Ministry of Women's Empowerment and Child Protection (Kemen-PPPA) noted that in the period from January 1, 2023 to date (*real time*), there were 25.519 cases of violence recorded throughout Indonesia. The Ministry of PPPA also found that the most common type of violence experienced by victims was sexual violence, which was 11.258 cases, followed by physical violence 8.699 cases, psychological violence 7.867 cases, neglect 2.416 cases, *trafficking* 374 cases, exploitation 314 cases, and other violence 3.274 cases.¹

Cases of sexual violence in the form of rape are categorized into, *first* in the private sphere 403 out of 4.322 cases, *second* in the public sphere 210 out of 1.634 cases.² The data is quite concerning, the Ministry of Social Affairs also handles 780 pregnant girls due to rape (data on January 6, 2022). Of these, there are 568 victims who have given birth and 212 who have not given birth. Rape can lead to pregnancy in female victims, which raises various considerations related to human rights, morality, religion, and medical considerations.³ Women who are victims of rape and experience pregnancy must undergo the process of birth, postpartum period, and breastfeeding. Socially, pregnancy due to rape often receives a negative stigma in society, so that the victim can be considered low, dirty, and underestimated. The bad impact of the stigma lies in the victim's compulsion to marry perpetrators of rape in order to maintain the honor and image of the family in the community.

¹ <https://kekerasan.kemenpppa.go.id/ringkasan> accessed at 18.27 WIB, December 6, 2023

² <https://komnasperempuan.go.id/> CATAHU 2023: Annual Record of Violence against Women in 2022 accessed on December 6, 2023

³ Muhammad Rifqi Afrizal et al., "Pelecehan Seksual Dalam Al-Qur'an," *Jurnal Tafseer* 10, no. 2 (2022): 158, <https://doi.org/10.24252/jt.v10i2.35565>.

However, marriage with these circumstances does not have a meaningful impact on the victim, and can even worsen her condition by giving rise to ongoing trauma.

The number of cases of sexual violence (rape) that results in pregnancy has resulted in many victims choosing to terminate their pregnancy or have an abortion rather than having to bear the burden of risk and stigma in society. The rise of abortions carried out by victims is an unsafe abortion without the assistance and treatment of medical professionals so that it can have fatal consequences, such as reproductive infections, infertility, bleeding and nerve disorders, the risk of maternal and child death, uterine tears, the risk of *shock*, and even death.⁶ Experiencing unwanted pregnancies and unsafe abortions certainly violate women's reproductive rights.⁷

Psychologically, terminating a pregnancy (abortion) can cause symptoms of post-abortion syndrome that include feelings of low self-esteem, hysterical reactions such as excessive crying, frequent nightmares about babies, suicidal thoughts, a tendency to use illegal drugs, and difficulty enjoying sexual intercourse.⁸ However, some individuals may experience emotional difficulties that lead them to consider terminating a pregnancy as the only or best option for restoring confidence and maintaining the honor of the victim's family.

The case that occurred recently, befell RA (16) in Palembang, South Sumatra. The victim (RA) was raped by CA's sister-in-law (32), the victim was forced constantly and ended in pregnancy. The victim chose to give birth to the child she was pregnant with then ended up traumatized. The Ministry of Social

⁶ Aji Mulyana, "Perlindungan Hukum Terhadap Perempuan Dan Anak Akibat Tindak Pidana Abortus Provokatus Criminalis," *Jurnal Wawasan Yuridika* 1, no. 2 (2017): 139, <https://doi.org/10.25072/jwy.v1i2.132>.

⁷ Kholis Bidayati, "Perlindungan Hak Reproduksi Perempuan Dan Interpretasinya Di Pengadilan Agama (Studi Putusan Pengadilan Agama Di DKI Jakarta 2015-2019)," no. 21191200000003 (2020): 30.

⁸ Titik Triwulan Tutik, "Analisis Hukum Islam Terhadap Praktik Aborsi Bagi Kehamilan Tidak Diharapkan (KTD) Akibat Perkosaan Menurut Undang-Undang Nomor 36 Tahun 2009 Tentang Kesehatan," 2009, 19, <http://eprints.undip.ac.id/7293/>.

Affairs provides (special trauma healing) to victims so that the victim's mental condition is helped.⁹ Another case occurred in Wonogiri, Central Java. The perpetrator was a teacher, while the victim was a junior high school student. The victim who was severely depressed after experiencing molestation until she became pregnant, then wanted to commit suicide.¹⁰ The next case occurred in Pangandaran, West Java. A disabled woman (18) was raped by her biological father and neighbors. After giving birth to her baby, the victim experienced acute depression.¹¹ The case of a female student (23) who was found dead in Mojokerto, East Java. She was a victim of sexual violence, became pregnant, was forced to have an abortion, was depressed, and finally committed suicide. The perpetrator is a member of the Pasuruan Police.¹²

In addition to the negative impact from the psychological side, it seems that Islam also highlights various problems due to cases of sexual violence that invite all questions, from the side of the victim's soul who needs protection. The victim, who is essentially a servant, has the right to protection that must be sought. The basic Islamic principle of *ḥifẓ an-nasl* (protection of offspring or family) has been challenged in recent cases, since many perpetrators come from the family, meaning that there is no longer a sense of security in it. Maintaining offspring is not implemented because it does not respect the reproductive organs. The principle of family protection has been affirmed in the Qur'ān as a religious norm, so sexual violence has violated *ḥifẓ ad-dīn*

⁹ Prima Syahbana, (2023, 1 Desember), "Gadis Diperkosa Ipar Hingga Melahirkan Akan Trauma Healing Di Palembang," detiksumbagsel, n.d., <https://www.detik.com/sumbagsel/hukum-dan-kriminal/d-7065713/gadis-diperkosa-ipar-hingga-melahirkan-akan-trauma-healing-di-palembang>, diakses tanggal 20 Desember 2023.

¹⁰ Muhammad Aris Munandar, (2023, 9 Maret) "Siswi SMP Korban Perkosaan Guru Hingga Hamil Di Wonogiri Alami Depresi," detikJateng, n.d., <https://www.detik.com/jateng/hukum-dan-kriminal/d-6610172/siswi-smp-korban-perkosaan-guru-hingga-hamil-di-wonogiri-alami-depresi>, diakses tanggal 20 Desember 2023.

¹¹ Aldi Nur Fadillah, (2022, 16 Agustus) "Disabilitas Yang Diperkosa Ayah Di Pangandaran Sudah Melahirkan!," detikjabar, n.d., <https://www.detik.com/jabar/berita/d-6236723/disabilitas-yang-diperkosa-ayah-di-pangandaran-sudah-melahirkan>, diakses tanggal 20 Desember 2023.

¹² Bestari Kumala Dewi Ellyvon Pranita, (2021, 6 Desember), "Kasus Bunuh Diri Mahasiswi NWR, Ahli Tegaskan Pemaksaan Aborsi Termasuk Kekerasan Seksual," Kompas.com, n.d., <https://www.kompas.com/sains/read/2021/12/06/200500423/kasus-bunuh-diri-mahasiswi-nwr-ahli-tegaskan-pemaksaan-aborsi-termasuk?page=all>, diakses tanggal 20 Desember 2023.

(protection of religious values). The data shows that death has a great potential to occur in the victim, thus violating the principle of *hifẓ an-nafs* (protection of life). The accurate data shows that there is trauma for the victim, which threatens the principle of *hifẓ al-'aql* (protection of reason). Victims who experience trauma, mental instability will then have difficulty maintaining finances or other economic aspects, which threatens the principle of *hifẓ al-māl* (protection of property). The *maqāṣid asy-syarī'ah* is the basis for protecting the soul of women.¹³

The soul of a pregnant woman who is a rape victim has in essence been threatened, whether choosing to continue the pregnancy or terminating the pregnancy, will equally affect her psychologically, both from the bad stigma of society and the absence of support from any party because the victim tends to be blamed. If the victim chooses to terminate the pregnancy (abortion), the victim can be traumatized and considered a criminal offender, while if the pregnancy continues, then gives birth, there is the potential for chain violence against the child.¹⁴ This happens because of the prolonged impact of wounds that have not yet ended. Life protection for pregnant women victims of rape is still difficult to do, because it is in conflict with Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to *Undang-Undang* Number 23 of 2002 concerning Child Protection *Pasal* 1 paragraph (2) states that, "Child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with the dignity and dignity of humanity, as well as protection from violence and discrimination".¹⁵

Meanwhile in Islam, the prohibition of abortion is widely used as a strong reason to maintain pregnancy in rape victims without deep consideration

¹³ TIM KUPI, "Hasil Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia (KUPI) Ke-2," 2022, h.188, <https://kupipedia.id/index.php/>.

¹⁴ Mulyana, "Perlindungan Hukum Terhadap Perempuan Dan Anak Akibat Tindak Pidana Abortus Provokatus Criminalis."145.

¹⁵ "Undang-Undang Republik Indonesia Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak," n.d.

to the victim's condition. Verses of the Qur'ān which are affirmations of the prohibition of abortion, including:

Q.S. Al-An'ām [6]: 137

وَكَذَلِكَ زَيَّنَ لِكَثِيرٍ مِّنَ الْمُشْرِكِينَ قَتْلَ أَوْلَادِهِمْ شُرَكَاؤُهُمْ لِيُرْذُوهُمْ وَلِيَلْبِسُوا عَلَيْهِمْ دِينَهُمْ وَلَوْ
شَاءَ اللَّهُ مَا فَعَلُوهُ فَذَرْهُمْ وَمَا يَفْتَرُونَ

It means: "Thus their idols (Satan) make it beautiful for many polytheists to kill their children in order to destroy them and to mess up their own religion. If Allah had willed, they would not have done it. Let them be with what (lies) they are making up."¹⁶

Q.S. Al-An'ām [6]: 140

قَدْ خَسِرَ الَّذِينَ قَتَلُوا أَوْلَادَهُمْ سَفَهًا بِغَيْرِ عِلْمٍ وَحَرَّمُوا مَا رَزَقَهُمُ اللَّهُ افْتِرَاءً عَلَى اللَّهِ قَدْ ضَلُّوا
وَمَا كَانُوا مُهْتَدِينَ

It means: "It is a loss to those who kill their children because of ignorance and ignorance and forbid the sustenance that Allah has bestowed upon them by (only) making lies against Allah. Truly, they have gone astray and have not received any clues."¹⁷

Q.S. Al-An'ām [6]: 151

قُلْ تَعَالَوْا أَتْلُ مَا حَرَّمَ رَبِّي عَلَيْكُمْ أَلَّا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَانًا وَلَا تَقْتُلُوا أَوْلَادَكُمْ
مِنْ إِمْلَاقٍ نَّحْنُ نَرْزُقُكُمْ وَإِيَّاهُمْ وَلَا تَقْرَبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَّنَ وَلَا تَقْتُلُوا النَّفْسَ
الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ذَلِكُمْ وَصَّيْتُكُمْ بِهِ لَعَلَّكُمْ تَعْقِلُونَ

It means: "Say (Prophet Muhammad), 'Come here! I will read you what the Lord forbids, (i.e., do not associate Him with anything), do good to both parents, and do not kill your children because of poverty. (Your Lord said,) 'We are the ones who provide for you and for them.' Nor do you approach vile deeds, whether visible or hidden. Do not kill anyone whom Allah forbids, except for the right reasons. Thus he commands you that you may understand."¹⁸

¹⁶ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

¹⁷ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

¹⁸ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

Q.S. Al-Isrā' [17]: 31

وَلَا تَقْتُلُوا أَوْلَادَكُمْ خَشْيَةً إِمْلَاقٍ نَحْنُ نَرْزُقُهُمْ وَإِيَّاكُمْ إِنَّ قَتْلَهُمْ كَانَ خِطْئًا كَبِيرًا

It means: "Do not kill your children for fear of poverty. We are the ones who provide sustenance for them and (also) for you. Indeed, killing them is a great sin."¹⁹

Q.S. Al-Baqarah [2]: 49

وَإِذْ نَجَّيْنَاكَ مِنَ آلِ فِرْعَوْنَ يَسُومُونَكَ سُوءَ الْعَذَابِ يَذْبَحُونَ أَبْنَاءَ كُفٍّ وَيَسْتَحْيُونَ نِسَاءَ كُفٍّ
وَفِي ذَلِكَ بَلَاءٌ مِّن رَّبِّكَ عَظِيمٌ

It means: "(Remember) when We saved you from (Fir'aun and) Fir'aun's followers. They inflicted a very heavy torment on you. They slaughtered your sons and let your daughters live. In such a great trial from your Lord."²⁰

In general, the verses compiled above do not mention the murder of a child from pregnancy due to rape cases. Even indications of forced continuation of pregnancy are actually dangerous from the victim's side. This can be seen from the reason *asbāb al-nuzūl* of the verse that actually fights for the right to life of children over murder based on the *jāhiliyyah* tradition.²¹ This implies that the Qur'ān conveys an implicit message, namely justice to every human being.

The phenomenon that has occurred recently is said to be quite different from the reason for the passage of these verses. So it raises a big question mark if the above verses are still used as a justification for forcing pregnancy on victims due to rape. The researcher intends to analyze the interpretation of the verses prohibiting abortion above by using the women's *hakiki* justice

¹⁹ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

²⁰ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

²¹ M. Quraish Shihab, *Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian Al-Qur'an* (Jakarta: Lentera Hati, 2007). 304.

perspective.²² Women's *hakiki* justice is one of the approaches used by KUPI (Kongres Ulama Perempuan Indonesia) or Indonesian Women's Ulema Congress which prioritizes the benefit of women which was popularized by Nur Rofiah. This research needs to be carried out because, according to researchers, the interpretation of these verses can reveal relevance to the phenomenon of forced pregnancy of victims due to rape. The researcher will present it with a study entitled **Abortion In The Qur'ān And Its Relevance To The Pregnancy Of Rape Victims (Women's *Hakiki* Justice Perspective).**

B. Research Question

Based on the background explanation mentioned earlier, the problem can be formulated as follows:

1. How is the explanation of abortion in the Qur'ān?
2. How is the relevance of Qur'anic interpretation about abortion toward pregnancy of rape victims from the women's *hakiki* justice perspective?

C. Aim of Research

From the background information and the formulation of the problem that has been explained earlier, several objectives of this research can be mentioned, such as:

1. To find out the explanation of abortion in the Qur'ān
2. To find out the relevance of Qur'anic interpretation about abortion toward pregnancy of rape victims from the women's *hakiki* justice perspective

D. Urgency of Research

This study is useful to reveal the relevance of the interpretation of the verse prohibiting aborsi in the Qur'ān with the phenomenon of forced pregnancy on victims due to rape. In order to be able to make an academic contribution to the scientific field that focuses on women's issues. It is hoped that this research

²² "Women's *Hakiki* Perspective, Nur Rofiah's statement that the word 'hakiki' It cannot be translated into other languages because it will collapse the philosophy and spirit of the term," n.d.

will be able to provide a deeper understanding and insight for researchers or scholars of the Qur'ān.

E. Literature Review

The research to be reviewed is not entirely new. After researchers conducted research, and searched, various scientific papers have been found that discuss the interpretation of the verse prohibiting abortion and how Islam views cases of sexual violence. So that it is possible to correlate the discussion of research. Here are some of them:

1. Alfi Amalia's Thesis, 2018, titled *Penafsiran Ayat-Ayat Larangan Membunuh Anak Dan Implikasinya Terhadap Aborsi (Studi Penafsiran M. Quraish Shihab Dalam Tafsir Al-Misbah)*.²³ The study examines M. Quraish Shihab's views on the interpretation of verses that prohibit child murder in the Qur'ān, and also examines how it affects the situation of abortion cases. The descriptive method is used in the analysis process. The results of the study revealed that M. Quraish Shihab argued that the prohibition of killing children in the verses of the Qur'ān does not only apply to children who have been born in the world, as understood by some scholars. According to him, the ban also applies to fetuses that are still in the womb, as happens in abortion cases that often occur today. M. Quraish Shihab stated that abortion has similarities with murder, because both have the same impact in eliminating the lives of those who are ready or have the potential to participate in the duties of the caliphate.
2. Zahfa Lisnaeni Putri's Thesis, 2023, titled *Kontekstualisasi Q.S. Al-Isrā' (17): 31 Tentang Larangan Pembunuhan Anak Pendekatan Tafsir Kontekstual Abdullah Saeed*.²⁴ The study examines the relevance of the

²³ Alfi Amalia, "Penafsiran Ayat-Ayat Larangan Membunuh Anak Dan Implikasinya Terhadap Aborsi (Studi Penafsiran M. Quraish Shihab Dalam Tafsir Al-Misbah)" (UIN SUNAN KALIJAGA, 2018), digilib.uin-suka.ac.id/id/eprint/32400/.

²⁴ Zahfa Lisnaeni Putri, "Kontekstualisasi Qs Al-Isra (17): 31 Tentang Larangan Pembunuhan Anak Pendekatan Tafsir Kontekstual Abdullah Saeed" (UNIVERSITAS ISLAM NEGERI PROFESOR KIAI HAJI SAIFUDDIN ZUHRI PURWOKERTO, 2023), eprints.uinsaizu.ac.id/19076/2/.

prohibition in Q.S. al-Isrā' (17): 31 regarding the killing of children for fear of poverty, using Abdullah Saeed's contextual theory approach. This research focuses on qualitative analysis using literature sources. The findings of this study conclude that the verse Q.S. al-Isrā' (17): 31 contains an instructive and universal prohibition against murder. If contextualized, the ban could be expanded to include various forms of violence, whether physical, psychological, sexual, or economic.

3. Nia Kurniasih's Thesis, 2020, titled *Penerapan Metode Double Movement Fazlur Rahman Pada Ayat-Ayat Larangan Membunuh Anak Dalam Al-Quran*.²⁵ The research aims to explore the moral values hidden in the verses of the Qur'an using an analytical approach initiated by Fazlur Rahman. The method applied is the *Double Movement* method developed by Fazlur Rahman. The results of this study show that the contextualization of the prohibition of child murder in these verses with modern times reveals the following: first, the motive for child murder at this time does not solely stem from economic problems, but is also triggered by other factors such as the desire to avoid shame and disgrace, as well as the desire to channel resentment towards certain individuals at the expense of children. Second, the consequences of these actions are the decline of human morality, the breaking of the chain of continuity of human descendants, and the inhibition of the role of humans as the caliph of Allah SWT in the world, resulting in losses not only in this life but also in the hereafter, in the form of very painful torture.
4. Research articles Laudita Soraya Husin, 2020, titled *Kekerasan Seksual Pada Perempuan Dalam Perspektif Al-Quran Dan Hadis*.²⁶ This study examines sexual violence against women from an Islamic perspective using references from the Qur'ān and hadīṣ related to the religious values

²⁵ Nia Kurniasih, "Penerapan Metode Double Movement Fazlur Rahman Pada Ayat-Ayat Larangan Membunuh Anak Dalam Al-Quran" (UIN Sunan Gunung Djati Bandung, 2020), digilib.uinsgd.ac.id/36665/.

²⁶ Laudita Soraya Husin, "Kekerasan Seksual Pada Perempuan Dalam Perspektif Al-Quran Dan Hadis," *Al Maqashidi* 3, no. 1 (2020): 16–23.

contained in it, especially in the context of sexuality. This research covers the causes of sexual violence, interprets and explains the significance of Qur'ān verses related to sexual violence, and provides concrete examples of these verses. The research method used is a thematic method using data sources from *library research*. As a result, it was affirmed that sexual violence is not allowed in any form and reason, including behavior that degrades one of the parties.

5. Research articles Khaulah Nabila Amjad, Nurbaiti, Eduwar, 2023, titled *Analisis Sexual Harassment Dalam Tinjauan Al-Qur'an Dan Perspektif Keadilan Hakiki*.²⁷ This research aims to review the Qur'ān's views on the wide and severe cases of sexual violence and the solutions contained in them. The analytical descriptive method is used by conducting a literature study of the Qur'an and combining three theories, namely Iceberg Analysis, U Theory, and the Concept of Hakiki Justice. The results of the study show that the best effort to overcome sexual violence is to increase the awareness of men to maintain their views, control their lust, and respect women as strong figures, even realizing that the mothers who give birth to them are women.
6. Research articles Putu Mas Ayu Cendana Wangi and Sagung Putri M.E Purwani, 2013, titled *Pengecualian Larangan Aborsi Bagi Korban Perkosaan Sebagai Jaminan Hak-Hak Reproduksi*.²⁸ The study aims to understand the exception arrangement in the prohibition of abortion for rape victims who experience pregnancy as a result of the crime, as well as to explore information about the legalization of abortion for rape victims as an effort to ensure their reproductive rights. The research method applied in this writing is normative legal research that researches using a legislative approach. The results of the study stated that pregnancies that

²⁷ Khaulah Nabila Amjad, Nurbaiti, and Eduwar, "Analisis Sexual Harassment Dalam Tinjauan Al-Qur'an Dan Perspektif Keadilan Hakiki," *Al Amin: Jurnal Kajian Ilmu Dan Budaya Islam* 6, no. 1 (2023): 1–9, <https://doi.org/doi.org/10.36670/alaman.v2i02.20>.

²⁸ Putu Mas et al., "Perkosaan Sebagai Jaminan Hak-Hak Reproduksi," *Cendana Wangi* 01, no. 03 (2009): 1–5.

occurred due to the act of rape were a violation of the reproductive rights of rape victims. Therefore, legalizing abortion for rape victims aims to ensure that there are guarantees and legal protection for the reproductive rights of rape victims as a form of respect for human rights.

7. Research articles Mimin Mintarsih and Pitrotussaadah, 2022, titled *Hak-Hak Reproduksi Perempuan dalam Islam*.²⁹ This research reveals an interpretation of the rights and powers possessed by women in making choices and controlling their bodies, sexuality, and reproductive functions. The method used is a thematic reading method of the primary West Sumatra, namely the Qur'ān. The results of this study explain three women's reproductive rights, namely: the right to make decisions, the right to information, and the right not to be treated arbitrarily. The interpretation of reproductive rights includes the protection of health and safety related to decisions related to pregnancy, childbirth, and breastfeeding, including the right to determine pregnancy if it endangers the health and safety of women.

From some of the studies mentioned above, researchers found gaps in the problem that are quite different, namely: *first*, differences in approaches, *second*, differences in topic focus, and *third*, differences in the interpretation of verses of the Qur'ān. Some of these exposures are a reference for the difference between previous research and what is to be studied.

F. Research Metodology

1. Type of Research

This type of research is a literature study (*library research*) which can be categorized as a descriptive research method that focuses on collecting and analyzing data from various sources contained in literature or library materials. This method bases the analysis on information contained in

²⁹ Mimin Mintarsih and Pitrotussaadah, "Hak-Hak Reproduksi Perempuan Dalam Islam," *Jurnal Studi Gender Dan Anak* 9, no. 01 (2022): 93, <https://doi.org/10.32678/jsga.v9i01.6060>.

publications, scientific articles, books, books of tafseer and other written sources to support the hypothesis or argument put forward in the research.

2. Data Source

There are two main categories in data sources, namely primary data sources and secondary data sources. The following are the types of data sources that have been used by researchers:

- a. Primary, The primary data used in this study are various tafsir books from previous mufasir, including *Tafsīr al-Munīr fī al-‘Aqīdah wa al-Syarī‘ah wa al-Manhaj* by Wahbah az-Zuhaili and *Tafsir al-Misbah* by M. Quraish Shihab. The two books of tafsir are contemporary interpretations, containing explanations of verses of the Qur’ān that are adapted to current conditions, so that they are relevant to be used as a reference for the problems raised in the research. The third is *Tafsīr Ibn Kaṣīr* by Ibn Kaṣīr which is a classical commentary. The researcher deliberately uses classical and contemporary tafsir books so that the data obtained is wider. The Book “Nalar Kritis Muslimah” by Nur Rofiah contains the women’s *hakiki* justice perspective.
- b. Secondary, The secondary data used in this study is from the journals, and scientific papers, *e-books*, official websites, and everything that supports the completion of research.

3. Technique of Collecting Data

The type of research methodology used by the researcher to compile this thesis is a type of *library research*. In connection with this, the data collection used by the researcher is a descriptive technique that focuses on collecting and analyzing data from various sources contained in literature or library materials. Both in the form of tafsir books, books, *e-books*, official websites, articles, journals and scientific papers that are in accordance with the core of the research problem. Researchers collect data

in the form of verses of the Qur'ān that mention the problem of abortion and then analyze them.

4. Technique of Analysis Data

The research studied uses a descriptive-analytical method, by collecting data and then describing and analyzing it. This research includes the analysis and interpretation of Qur'ān verses using the perspective of women's *hakiki* justice, which considers the typical experiences of women biologically and socially to achieve a fair understanding of the Qur'ān. So this study uses two stages, *first*, the researcher collected data in the form of verses of the Qur'ān that touched on the issue of abortion, then explained the *mufassir* view of these verses. *Second*, from this interpretation, it is revealed how its relevance with condition of the pregnancy of the victim due to rape with the perspective of women's *hakiki* justice.

G. Systematic of Writing

The preparation of this research consists of five chapters, where each chapter is divided into several sub-chapters that aim to make it easier to compile it. Here are the details of the systematics of the discussion:

The first chapter is an introduction which includes several parts, including Background, Research Question, Aim of Research, Urgency of Research, Literature Review, Research Methodology and Writing Systematics. The first chapter is a flashback or general overview of the entire study.

The second chapter is the theoretical foundation which contains the approach to women's *hakiki* justice, the reality of pregnancy cases due to rape that occur, and the Islamic view on the protection of women's souls from pregnancy due to rape.

The third chapter is a presentation of research data, containing about the *mufassir's* views on the verses prohibiting abortion, because these verses are derived from the social conditions and monotheism of the people at that time. It is reasonable that the sentence is also discussed in this chapter.

The fourth chapter contains data analysis, by showing the core problems that are the main focus of the discussion. Using the verses prohibiting abortion in the Qur'ān, analyzing them then reveals its relevance to the phenomenon of forced pregnancy due to rape.

The fifth chapter is the concluding section which includes a summary of conclusions and recommendations. The conclusion section summarizes the essence of all research results, providing answers to the main problems that have been raised in the initial chapter. The recommendations section provides some suggestions for further research that is closely related to this research topic and can be carried out by other researchers.

CHAPTER II

WOMEN'S *HAKIKI* JUSTICE ACCORDING TO NUR ROFIAH

A. Definition of Women's *Hakiki* Justice

Justice derived from the word *al-'adl* (العدل) from Arabic, *ism maṣdar* which refers to *fi'il* وَعَدَالَةٌ - وَعُدُولًا - يَغْدُلُ - غَدْلًا - وَعَدَالَةً which is defined by; Be fair, impartial, punish correctly (correctly).¹ The meaning of justice is also formulated by Rāghib al-Aṣfahānī in *mu'jam mufradat*, namely :

العدالة والعدل: لفظ يقتضى معنى المساواة

Meaning a word that describes the same meaning. Word *'adl* it is often used for things that can be understood through intuition or inner vision, such as legal matters. In this situation, referring to QS. al-Mā'idah/5: 95 اَوْعِدْ لَكَ رَٰغِبٌ Equalizing the terms *al-'adl* and *al-qist*.²

The word *al-'Adl* also means *al-tawāzun* or balance and upright nature.³ According to Ibn Manẓūr *al-'adl* is the inherent ifat to act upright, which is also the opposite of the nature of sin and omission. *'Adl* is a decision with the right way or deciding correctly.⁴ Meanwhile, according to al-Jurjānī, *al-'adl* is a balance between two opposing viewpoints or a tendency towards the truth.⁵ In terms of language, the word *al-'adl* has synonyms, namely the words *al-qistu* and *al-Istiḳāmah*. Justice according to Ibn Taymiyah is the foundation of religion and truth and all goodness, because it is a solid foundation for the existence of heaven and earth. *Al-'adl* can be interpreted as an attitude based

¹ Ahad Warson Munawwir, "Al-Munawwir Kamus Arab Indonesia" (Yogyakarta: Pondok Pesantren al-Munawwir Krapyak Yogyakarta, 1984), 971.

² Al-Raghib Al-Ashfahani, "Mu'jam Mufradat Li Alfaz Al-Qur'an" (Beirut: Dar al-Fikr, n.d.), 363.

³ Muhammad bin Ya'qub Al-Fairuz, "Al-Qomus Al-Muhit," Cet.1 (Beirut: Dar al-kutub al-'ilmiyah, 1995), 569.

⁴ Muhammad bin Mukarram bin Manzur Al-Ifriqi, "Lisan Al-'Arab," Cet.1 (Beirut: Dar al-Sadir, n.d.), 430.

⁵ Ali bin Muhammad Al-Jurjani, "Kitab Al-Ta'rifat" (Beirut: Dar al-Kutub al-'Ilmiyyah, n.d.), 147.

on objectivity in understanding and responding to something according to needs, as well as proportionate in carrying out deeds or even in the pursuit of goodness.⁶

Imām al-Qurtubī defines justice with the ability of the soul which is the basis for the behavior and manners of a servant, this ability makes him always in piety and nobility, while piety is resignation and surrender to orders, as well as distancing himself from forbidden things. The definition of fairness according to Sayyid Quṭub is something that guarantees the rights of all groups, both individuals and groups. Every race has a fixed rule in *muamalah* that is not influenced by lust, love, hatred, nor is it affected by the bond of marriage, descent, wealth, poverty, strength, and weakness. However, walking in accordance with the rules applies to all circles. The definition of justice according to Muḥammad Rasyīd Riḍā is to convey rights to the owner in a correct and appropriate way, by upholding the following two pillars, the indictment and the *istiḳāmah* judge. As for those who come out of the two pillars, they are called *ẓālim*.⁷

The meaning of justice is not to give an equal share or give rights to those who have the right. These two things cannot be said to be the definition of justice, however, they are an application of the nature of justice. At some point, he may be able to change according to the problem he is facing.⁸ Justice is a trait and attitude that shows a virtue, virtue and noble character that has fixed rules that are agreed upon by all *ummah* and applied to all circles, be it weak or strong, rich or poor, despicable or honorable, has nothing to do with family and kinship relationships, marriage, friendship, is not influenced by lust,

⁶ Ahmad ibn Abdul Halim ibn Taimiyah, "Al-Istiqomah," Cet.1 (Riyad: Jamiah al-Imam Muhammad ibn Sa'ud, n.d.), 434.

⁷ Rudi Irawan, "Analisis Kata Adil Dalam Al-Qur'an," *Rayah Al-Islam*, 2, no. 2 (2018): 232, <http://ejournal.arrayah.ac.id/>, 241.

⁸ Zakki Abdillah, "Studi Tematik Tentang Konsep Keadilan Dalam Perspektif Al-Qu'ran Dan Hadis," *Teraju* 1, no. 01 (2019): 21–27, <https://doi.org/10.35961/teraju.v1i01.23>.

loyalty, partiality in accordance with Islamic law based on Divine revelation, namely the Qur'ān and hadīṣ.⁹

Women's *hakiki* justice is a paradigm or perspective popularized by Nur Rofiah, a lecturer in al-Qur'an Science and Tafsir Departement, activist of religious organizations as well as the initiator of KGI (*Keadilan Gender Islam*). Women's *hakiki* justice is also used in formulating the methodology of the KUPI (*Kongres Ulama Perempuan Indonesia*), together with the concept of *mubādalāh*, and *maqāṣid asy-syarī'ah*. Women's *hakiki* justice takes into account women's biological and social experiences. Experiences that were never considered before Islam came, even tend not to become an urgency in the present day if they are not fought for.

Before Islam came, Arab society treated women like property. As was the tradition at that time, when a baby girl was born, she would be buried alive because she was a girl. The situation is very miserable, women are considered a symbol of humiliation and shame for their families or clans. Hamka explained how the tradition of burying baby girls alive is that his family is in charge of digging a hole and then the woman who is about to give birth strained on it. If the baby is born to a woman, it is immediately put in a hole and buried with soil. On the other hand, if it is a man, it will be allowed to live, even welcomed with joy.¹⁰ Women are used as gifts, debt guarantees, and even inherited. This is a tradition of the Arab community, but it turns out that in other parts of the world it is the same. Women are treated like objects, not human beings who have rights. Women's absolute power and ownership at that time was subordinate to men, which meant that women were servants of men. Like an object that is not cared for by her rights, a woman before marriage belongs to the absolute power of her father, and after marriage belongs to the absolute

⁹ Badi'ul Marom, "Konsep Keadilan Dalam Al-Qur'an Perspektif Tafsir Ibnu Katsir" (Institut Agama Islam Negeri Kudus, 2022), 20.

¹⁰ Hamka, "Kedudukan Perempuan Dalam Islam" (Jakarta: Pustaka Panji Mas, 1996), h.22-23.

power of her husband. The husband has the right to use his wife's property without his consent.¹¹

The weak position of women at that time was also seen in the implementation of marriage customs, namely unlimited polygamy that allowed men to have many wives. Al-Thabari revealed that there was once a majority of Quraish members who had ten wives. The situation was even more concerning at that time, that men allowed some women who still had close family relationships, such as brothers and sisters, and nieces and nephews. Men have another privilege, namely being able to marry *al-dīzan*, meaning that when a man dies, his eldest son has the right to determine the fate of his father's ex-wife's life. It is permissible to marry his father's ex-wife, allow him to marry another man, or even prohibit him from marrying until the end of his life.¹² *Zawāj al-badal*, which allows men to exchange wives without *maskawin*. *Zawāj al-ṣighār*, allows men to marry women without a dowry. *Nikah al-istibdā'*, where a husband asks his wife to have sexual relations with another man in order to get pregnant, and *nikah al-zainah* which allows a man to marry a woman he captures in war.¹³

Since the beginning of its existence, Islam has shown its strong commitment to the enforcement of justice. Women as one of the oppressed social groups receive special attention from Allah SWT through the verses revealed by Him. In fact, one of the Qur'ān surah is named *an-Nisā'* (woman). Some of the revolutionary changes brought about by the Qur'ān in relation to the condition of women at that time include: first, the affirmation that gender as a tribe and tribe does not mean anything to Allah. Glory in the sight of Allah is determined by the piety of his servants.

¹¹ Yusuf Qordhawi, "Berinteraksi Dengan Alquran, Penerjemah Abdul Hayyie Al-Kattani" (Jakarta: Gema Insani Press, 1999), h.151.

¹² Abu Ja'far Muhammad bin Jarir bin Yazid Al-Thabari, "Jami' Al-Bayan 'an Ta'wil Ay Al-Qur'an" (Beirut: Dar al-Fikr, n.d.), Cet I Juz IV h.281.

¹³ Nur Rofiah, "Memecah Kebisuan Agama Mendengar Suara Perempuan Korban Kekerasan Demi Keadilan (Respon NU)," ed. Masykurudin Hafidz, Komnas Per (Open Society Publisher, n.d.), h.152-153.

Islam itself is a monotheistic teaching, which establishes justice as one of the most fundamental Islamic teachings. In the Qur'an, there are many teachings about justice that are expressly stated, such as humans who are commanded to do justice and uphold justice in every deed that has been done. As stated by Allah SWT in Q.S. An-Nisā' [4] verse 58:

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا

It means: "Indeed, Allah tells you to convey the mandate to the owner. If you establish a law among men, you must establish it justly. Indeed, Allah has taught you the best teaching. Indeed, Allah is the Hearer and the Seeing."¹⁴

Justice is also a very important thing in the life of the nation and state. Justice is a principle of Islamic teachings that must be upheld in human life. These principles must exist in every norm, and human behavior anywhere and at any time. Without justice, the religion taught by the Most Just as a teaching that guarantees justice will become a slogan like a body that has lost its soul.¹⁵ Justice to women, especially in the spotlight in today's problems.

Therefore, women's *hakiki* justice by Nur Rofiah must be fulfilled in three aspects of life, namely:

1. Religious Benefits

Every religion present in the world carries a noble mission, as well as Islam. The main mission of Islam is to humanize human beings. In her book, Nur Rofiah mentions "*humanity before religion*",¹⁶ because by having faith in Allah, it will appear a noble attitude to humans and His

¹⁴ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

¹⁵ Nur Afriani Fariha, "Argumen Keadilan Gender Perspektif Nur Rofiah (Kajian Atas Buku Nalar Kritis Muslimah)," *Institut Ilmu Al-Qur'an (IIQ) Jakarta Repository* (Institut Ilmu Al-Qur'an (IIQ) Jakarta, 2022), <http://repository.iiq.ac.id/handle/123456789/1874>., 4.

¹⁶ Nur Rofiah, *Nalar Kritis Muslimah Refleksi Atas Keperempuanan, Kemanusiaan, Dan Keislaman*, ed. Achmad Fathurrohman Rustandi (Bandung, Indonesia: Afkaruna.id, 2020)., 95.

creatures. It becomes impossible for someone who acts otherwise, but confesses faith in God. This faith must be questioned, because true faith must lead religious people to be good, speak good, respect each other, not torture, and not destructive. In the end, faith in Allah requires his people to behave well in order to realize benefits.

The achievement of benefits requires the cooperation of the people, because in the hands of the people, religion will be practiced. Humanity is made up of men and women. Both must be aware that religious teachings must be lived as a guide and command of Allah to obey. Through critical awareness, religion prohibits arbitrary action (*nahi munkar*), because religion is about creating a system of life that gives good to the universe, including men and women. Humans of any gender have the right to justice, this justice is then referred to as gender identity.

Islam responds well when the *ummah* questions gender justice, because both men and women are only servants of Allah, there is no servitude to anyone other than Allah SWT, including Allah SWT creatures.¹⁷ This provision of servitude is explained in the concept of monotheism, monotheism is the core of Islamic teachings that teach humans how to have a good god and lead humans to be a true humanity. In daily life, monotheism has become a staple that has guided and directed humans to behave well and correctly, in relation to Allah, fellow humans, or the universe.¹⁸ Monotheism in Islam revolutionizes the position of men and women. Men are forbidden to demand that women submit to absolute submission, because as fellow servants of Allah SWT, both of them can only submit absolutely to Allah SWT.

Piety is a human attitude that is in accordance with the status and trust inherent in him. This means that piety is the relationship between man and Allah which appear to a good relationship between human and His

¹⁷ Oyoh Bariah, "Kesetaraan Dan Keadilan Gender Dalam Perspektif Al Qur'an," *Jurnal Pendidikan Islam Rabbani* 1, no. 1 (2017): 12.

¹⁸ Siti Musdah Mulia, "Indahnya Islam Menyuarakan Kesetaraan Dan Keadilan Gender" (Yogyakarta: SM & Naufan Pustaka, 2014), 76.

creatures.¹⁹ Piety is an attitude of monotheism, which only fulfills Allah SWT so that appear to benefits to His creatures. Therefore, piety as the only standard and value of human beings is closely related to a good relationship, with Allah and His creatures.

The Qur'ān affirms that the value of a human being is determined by his piety, in Q.S Al-Hujurāt [49] verse 13:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاهُ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

It means: "O man, indeed We have created you from a man and a woman. Then We made you nations and tribes so that you might know one another. Indeed, the noblest among you in the sight of Allah is the most righteous. Indeed, Allah is All-Knowing, All-Knowing, All-Careful."²⁰

To what extent does monotheism have the strongest impetus to bring forth the widest possible benefit to Allah's creatures and have the endurance not to give birth to damage. This is in line with the words of Rasūlullāh SAW, who reminded that the best human being is the most beneficial to other human beings. One of the characteristics of a pious person is that his life is beneficial to his surroundings, as well as a pious woman.²¹

The verse also explains several things about the doubt of a woman's identity as a whole human being, and the factors that determine a person's glory before Allah do not lie in social status, gender, but piety. A pious woman will be nobler than a non-pious man, and vice versa. Followed by more information such as affirmation, that women are also worthy of worship, receiving rewards, entering heaven. As fellow human beings,

¹⁹ Fathul Mu'in, "Konsep Takwa Dalam Al Qur'an (Studi Tafsir Tematik)," *Institut Agama Islam (IAI) Muhammadiyah Sinjai* (2017), <http://repository.uinbanten.ac.id/>, 36.

²⁰ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

²¹ M. Rusydi, "Relasi Laki-Laki Dan Perempuan Dalam Al-Qur'an Menurut Amina Wadud," *MIQOT: Jurnal Ilmu-Ilmu Keislaman* 38, no. 2 (2014): 278, <https://doi.org/10.30821/miqot.v38i2.60>.

men and women both carry the mandate as *khalīfah fī al-ard* with the status of servants of Allah.²²

Human are also prohibited from demanding women to serve the benefit of men only, because as fellow *khalīfah fī al-ard* both carry out the mandate of Allah to jointly devote themselves to the benefit of His creatures on earth.²³ *Khalīfah fī al-ard* as the leader on earth over all His creatures. Carrying out the task of creating benefits, both men and women who hold this mandate. For the sake of creating the widest possible benefit on earth. Men and women in Islam are full subjects of life. Both have an obligation to realize and enjoy benefits, both in the realm of family, society, state, and social system.

2. State Policy

The state is often associated with women who are considered as its pillars, that is an expression that people often echo. Based on this, it means that women have a big responsibility like a pillar of a building which is a support.²⁴ In reality, the seeds of patriarchy have been ingrained so that only the negative impact is linked to women.²⁵

In fact, in the patriarchal system, many state policies are taken by men because the role of women is considered inappropriate as a policy maker. When women are not taken into account their existence as citizens or policy makers, they will produce decisions only from a male perspective. This policy tendency ignores women's experiences that need

²² Ridlo Andini, "Rekonstruksi Makna Khalīfatullāh Fī Al-Ardh Dalam AlQur'an Sebuah Tawaran Dari Teori Ekoteologi Islam Studi Tafsir Tematik," *Mauizhah: Jurnal Kajian Keislaman* XI, no. 2 (2021): 8, <https://doi.org/10.55936/mauizhah.v11i2.71>.

²³ Khotimatul Husna, "Bias Patriarkhi Dalam Hukum Keluarga Islam Sudan Tahun 1991 Mempertimbangkan Pengalaman Khas Perempuan Untuk Perlindungan Dari Diskriminasi," *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga* 6, no. 1 (2024): 447, <https://doi.org/10.47476/assyari.v6i1.5010>.

²⁴ Rohmatun Lukluk Isnaini, "Ulama Perempuan Dan Dedikasinya Dalam Pendidikan Islam (Telaah Pemikiran Rahmah El-Yunusiyah)," *Jurnal Pendidikan Agama Islam (Journal of Islamic Education Studies)* 4, no. 1 (2016): 3, <https://doi.org/10.15642/jpai.2016.4.1.1-19>.

²⁵ Napsiah, "Perempuan Dalam Budaya Patriarkhi," *Jurnal Sosiologi Reflektif* 11, no. 1 (2016): 157, <https://doi.org/10.14421/jsr.v11i1.1278>.

to be carefully considered. From planning, formulation, ratification, to implementation, it should consider the aspects of women's comfort and needs.²⁶ For example, the prompt handling of cases of domestic violence or sexual violence where the majority of victims are women, the provision of women-friendly public facilities, along with adequate hospital facilities for the high risk of death due to childbirth.²⁷

Examining the history, Rasūlullāh has great respect for women. Give them space, opportunity, and self-development. There are many events that show the involvement of women in the life of the Prophet. Some of them:²⁸

a) Political Rights

Women were given the political right to perform pledge to convert to Islam to the Prophet as Muslim men did at that time. The decision of the pledge should not be interfered with by the husband or father of the woman at all.

b) Right to Justice

Women at that time were given the right to complain about injustice in their households to Rasūlullāh. As mentioned in Q.S. al-Mujādalah [58] verse 1 which means: *"Indeed, Allah has heard the words of the woman who filed a complaint against you (the Prophet Muḥammad) about her husband and complained to Allah, but Allah heard the conversation between the two of you. Indeed, Allah is the Hearer and the Seeing."*

c) The Right to Public Space

Rasūlullāh allows women's involvement to voice their opinions which Rasūlullāh can consider to determine policy.

²⁶ Tegar Putra Munggaran, "Peran Dan Pengaruh Perempuan Dalam Dinamika Politik Di Indonesia," *Jurnal Indonesia Sosial Teknologi* 4, no. 7 (2023): 810, <https://doi.org/10.59141/jist.v4i7.653>.

²⁷ Sri Seti Indriani Ditha Prasanti, "Komunikasi Verbal Bagi Perempuan Korban Kekerasan Dalam Rumah Tangga (KDRT)," *Jurnal Signal* 4, no. 1 (2016): 3.

²⁸ Nur Rofiah, "Memecah Kebisuan Agama Mendengar Suara Perempuan Korban Kekerasan Demi Keadilan (Respon NU)" (Indonesia: KOMNAS PEREMPUAN, n.d.), 145.

If the attitude taken by Rasūlullāh is applied in today's era, women will get benefits that certainly have an impact on the balance of the country. Women should be considered full subjects as citizens and policy makers with the same rights as men. It doesn't matter if the mention of the pillar of the state is put on women, paying attention to the safety of women in any space, so that they can improve their quality and spread benefits.

3. Social Wisdom

The Qur'ān has affirmed that there is no discrimination against gender, but the reality is that patriarchal thinking is still confined in humans. This thought assumes that the woman is subordinate to the man in terms of her position. A doctrine that enters the view of the community, by using religion as a shield, thus causing discrimination against women. The understanding that humans have is also different about the position of humanity, namely:²⁹

- a) *First*, the lowest level that considers humans to be only men, so it is appropriate for women to be treated as animals or inanimate objects.
- b) *Second*, the middle level that considers women to be human beings but men to be the standard of humanity. Women's humanity is only partially recognized, namely in the same way as men. The typical conditions and experiences of women have not been considered part of humanity, for example, rape of women has not been considered a humanitarian problem, it is only a woman's problem.
- c) *Third*, the highest level that places women as fully human beings as men. By paying attention to the typical experiences of women, namely biological and social experiences.

Most humans today are stuck at the second level of understanding. This view results in a gender inequality relationship that places women as

²⁹ Rofiah, *Nalar Kritis Muslimah Refleksi Atas Keperempuanan, Kemanusiaan, Dan Keislaman*, 2020., 140.

a minority group in social views, even though women are the majority in numbers. The masculine world system of the male perspective is used as the main reference as a benchmark, because of the public assumption that men are the main breadwinners. In the end, the public interest often ignores the typical needs of women. In fact, in Islam, there is no distinction in human status between men and women.

As Muslims, there is wisdom that is indispensable in religion, namely not making diversity in terms of gender or others a single standard. Even the process of self-religion will continue to run until death. However, the higher a person's religious level is determined by the higher the human attitude inherent in him.³⁰

Justice and freedom in society, especially in social, cultural and political relations between men and women, must be given a balanced space, therefore one thing that must be emphasized is that the idea of gender justice in essence only wants to sit and respond to the relationship between men and women in a more equitable way. It is not because they want to outperform one of the parties, because in essence men and women are both servants of Allah who carry out His commandments.³¹

The explanation above may be able to affirm that the value of *hakiki* justice that is needed is not only limited to being fair and having faith formally. Rather, by paying attention to the most detailed aspects of women, namely women's biological and social experiences. At least special attention can be paid to women's biological experiences (menstruation, pregnancy, childbirth, postpartum, breastfeeding) so that pain can be reduced to a minimum of not increasing. Pay special attention to women's social experiences (stigmatization, marginalization,

³⁰ Rofiah, "Memecah Kebisuan Agama Mendengar Suara Perempuan Korban Kekerasan Demi Keadilan (Respon NU)," n.d., 166.

³¹ Fariha, "Argumen Keadilan Gender Perspektif Nur Rofiah (Kajian Atas Buku Nalar Kritis Muslimah)," 2.

subordination, violence, double burden) so that they can be prevented and even erased to the root. The achievement of the benefits of religion as a religious person, state policies as citizens, and social wisdom as a member of society are forms of *hakiki* justice.³²

B. Abortion in the View of Islamic Law

1. *Ulamā* Views on Abortion

Abortion in *fiqh* comes from Arabic, namely *ijhād*, *jahdun* be *maşdar* from *ajhāda*, or also in other terms can be called *isqāt al-ḥaml*, both have the meaning of a woman who gives birth forcibly in a state of imperfection of her creation. In language, it is also called the birth of a fetus or forced or by itself prematurely. Any act of terminating a pregnancy before the fetus reaches an age that is considered sufficient to live outside the womb.³³

According to Imam Al-Ghazali, it is *ḥarām* if abortion is performed before the fetus is alive or four months old, which is covered in his book *Ihyā' 'Ulūm ad-Dīn*. And in the circle *ulamā* already exists *ijmā'* about the *ḥarām* of abortion. As Abdullah bin Mas'ud said that the Rasulullah Saw said, it means: "Indeed, every one of you accumulates an event in the womb of your mother for forty days in the form of (*nutfah*) then in the form of (*alaqah*) during that time, a spirit was then blown on him." (Bukhori, Muslim, Abu Daud, Ahmad, and Tirmidzi). According to Imam Al-Ghazali, this abortion is an absolutely *ḥarām* criminal act, whether you already have a soul or not. In addition, in a life based on the meeting of sperm cells that mix into the ovum which causes life, which if an abortion occurs, it is a murder, especially after a clot of blood and a lump of flesh is certainly a very heinous act. When an abortion occurs, according to him, it is the same level as the killing of the baby alive. From Imam Al-Ghazali's opinion, abortion is likened to a *aqd* or an agreement that has been agreed,

³² Ngaji KGI, "Bedah Buku Nalar Kritis Muslimah," 2021, https://www.youtube.com/watch?v=E8_GrDAXsTg.

³³ M. Nu'aim Yasin, "Fikih Kedokteran" (Jakarta: Pustaka Al-Kautsar, 2001), 193.

which includes *ijāb* and *qobūl*. Which sperm from a man is a *ijāb* and ovum is a *qobūl*, So that when the two meet or mix, the *aqd* cannot be canceled and this analogy is a form of *qiyās jalīl*. which in fiqh law the perpetrator must be punished.³⁴

In contrast to Imam Al-Ghazali, according to Imam Yusuf al-Qardhawi, his opinion in Abortion is permissible, as for this ability, he agrees with Imam Hambali who states that abortion is permissible before the occurrence of creation, that is, before the fetus is forty days old. As for the ability to take abortion drugs to abort *nutfah*, Yusuf Al-Qardhawi argued: "It is permissible to have an abortion when the reason is stronger, then the ability is clearer and if the abduction is done if the gestation age is before the age of forty days". The purpose of Yusuf al-Qardhawi himself in allowing the crime of abortion is for the benefit of the people. As in Q.S Al-Baqarah [2]:185, that in making the law, Allah should not burden people, but prioritize the benefit and all efforts so that the benefit is realized but in accordance with the *syarīah* and maintenance *illat* also *maqāṣid* from being *syarīah* to the law, which is about adjustment to the situation and conditions, times and customs.

According to Yusuf al-Qardhawi, with the determination of the ability to perform an abortion on a woman who is pregnant, which if the pregnancy is maintained will endanger the life of the pregnant woman, so that the purpose of allowing the law on the crime of abortion is a form of benefit for the ummah. Fiqh Yusuf Al-Qardhawi is moderate who adheres to ethics, The *as-salaf as-ṣāliḥ* and make it easy so that it does not burden and complicate.³⁵

Quraish Shihab tries to observe the reality in society. If you look at the reality that it turns out to be different, the reason for abortion is because there is a possibility of defects caused by the birth of the child, dan the

³⁴ Yailendra Reza Irwansyah Rezeki, Yuliana Restiviani, and Rita Zahara, "Hukum Aborsi Menurut Imam Al-Ghazali Dan Yusuf Al-Qardhawi," *Journal of Islamic and Law Studies* 4, no. 2 (2022): 63, file:///Users/macbookair/Downloads/3804-11870-2-PB (1).pdf.

³⁵ Rezeki, Restiviani, and Zahara.h.62.

possibility of the defect has been predicted by a doctor who is indeed an expert in his field, as has been discussed between Quraish Shihab and an Egyptian mufti, namely Syaikh Muhammad Thanthawi, regarding this kind of case, he answered very, very carefully, if indeed a trusted doctor considers that the quality of life of the fetus after birth will be very low due to congenital defects or diseases that are suffered, The legal rules of abortion can be considered, and in expressing this the age of the fetus is not the problem. If so, if the fetus is more than four months old or less than four months and the condition is worrisome as she has disclosed, then the legality of abortion can be considered.³⁶

Some views of madzab *fuqahā* about abortion:

- a. In the opinion of Madzhab Hanafi, abortion is only possible in gestational age before four months. If the situation threatens and endangers the mother's life, it is feared that it will cause diseases in the mother's body, and if the new pregnancy can cause the cessation of the breastfeeding process of the existing baby and life is very dependent on the mother's milk.
- b. According to Madzhab Maliki, abortion is prohibited if conception has occurred. Even sperm that have just met the ovum are prohibited from being released, even if the time is less than forty days.
- c. In Madzhab Hambali's opinion, it is permissible to abort a pregnancy before four months by using drugs that can be allowed. Some Hanbali scholars argue that abortion after forty days is not allowed because the fetus begins to show signs of life.
- d. According to Madzhab Syafi'i's opinion, abortion is prohibited if there has been a zygote fertilization, namely after a period of four months, which if violated is called a crime.

³⁶ Uzlal Wahidah Maulidiyah, "Menakar Ulang Fikih Aborsi Perspektif M. Quraish Shihab (Kajian Metodologis)," *An-Nisa' : Jurnal Kajian Perempuan Dan Keislaman* 12, no. 2 (2019): 195–216, <https://doi.org/10.35719/annisa.v12i2.50>.

2. Abortion in Emergency Conditions

Some of the rules of fiqh include: first, "The danger according to religion must be eliminated (*aḍ-ḍarar yuzālu syar'an*)"; second, "Heavier hazards can be eliminated by choosing a lighter hazard (*aḍ-ḍarar al-asyadd yuzālu bi aḍ-ḍarar al-akhaf*)" or "If faced with two conditions that are equally dangerous, then choose the danger with less risk (*izā ta'āradat al-mafsatātāni rū'iyā a'ḍamuhumā ḍararan*)"; third, "Compulsion can allow to do things that are forbidden (*ad-darūrāt tubīḥ al-maḥẓūrāt*)"; Fourth, changes in Islamic law can be carried out by changing the times, changing places, changing conditions, changing intentions and culture or customs. (*aghayyur al-aḥkām bi-taghayyur al-azminah wal-amkinih wal-aḥwāl wal-niyyāt wal-'awā'id*).³⁷

Al-Syatibi dividing fame into three parts: *ḍaruriyyah*, *ḥājiyyah* and *taḥsiniyyah*. In this state *ḍaruriyyah* is the interest of religion and the world which without its presence will cause damage and defects in this world and in the hereafter. While what is meant by *ḥājiyyah* are secondary interests in the form of interests needed to eliminate difficulties in life *mukallaf* and provide flexibility. While in *taḥsiniyyah* is complementary interest which means taking the best of a habit and avoiding ways that are not liked by wise people.³⁸

In the rules of fiqh on the considerations of *ḍaruriyyah* and *ḥājiyyah* it is for the sake of the benefit. The considerations of *ḍaruriyyah* and *ḥājiyyah* are certainly different, *ḍaruriyyah* takes precedence. In the case of abortion of fetal age, it can be done at any time for the safety of the mother's life, while in the case of *ḥājiyyah*, abortion can only be done before the age of the fetus before forty days and even with the consent of

³⁷ Tutik, "Analisis Hukum Islam Terhadap Praktik Aborsi Bagi Kehamilan Tidak Diharapkan (KTD) Akibat Perkosaan Menurut Undang-Undang Nomor 36 Tahun 2009 Tentang Kesehatan."h.19.

³⁸ Maulidiyah, "Menakar Ulang Fikih Aborsi Perspektif M. Quraish Shihab (Kajian Metodologis)."h.209.

several parties including the family (mother). However, in certain cases abortion is allowed. The intended benefits are: ³⁹

- a. The mother's safety from the risk of illness and death (in the case of a seriously ill pregnant woman)
- b. Defective babies (in the case of fetuses that are predicted to have a genetic disease that will be very difficult to cure if they are born)
- c. Severe stress (for rape victims).

Some benefits are considered more dominant and beneficial to implement, than finding some risks that arise when the pregnancy continues. The risks that will be borne are that the mother will get seriously ill and even die, the baby is born with a state of disability in the mother's psychological condition which is worried due to the fetus resulting from rape.

Islam recommends that victims immediately seek medical attention to prevent any possibility of pregnancy. This opinion is reinforced by the Qurthubi's view that semen is not a sure thing (*yaqīnan*), and there are no consequences if the woman immediately removes it before she settles in the womb. And also, medically, as soon as the sexual act has occurred, as in the case of rape, it is impossible to know if a pregnancy has occurred. Therefore, it is allowed at that time to get treatment to prevent pregnancy.⁴⁰

C. The Reality of Pregnancy Cases of Rape Victims

Pregnancies that occur due to rape cases are rampant until now, so it is familiar to the ears, even though not all cases have been revealed because not all victims have the courage to report the incidents they experienced. This happens because women who are victims tend to be blamed, both by the community, religious leaders, and the government. As if the victim was the

³⁹ Rustam Magun Pikahulan and Hajrah Hamuddin, "Relevansi Fatwa MUI Nomor 4 Tahun 2005 Dengan Peraturan Pemerintah Nomor 61 Tahun 2014 Tentang Kebolehan Aborsi Janin Kasus Pemerkosaan," *Tahkim* 16, no. 2 (2020): 245.

⁴⁰ TIM KUPI, "Hasil Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia (KUPI) Ke-2."h.190.

perpetrator, his confession actually sounded like a disgrace or the victim was afraid because he had been threatened by the perpetrator that he would be killed if he reported the incident to the police.⁴¹

This made the victim shut up, because he considered the incident he experienced taboo to tell, and finally not many people knew about it. When something is unknown, it tends to be considered non-existent. Similar to sexual violence, sexual violence is considered far-fetched because rarely anyone wants to tell it, the victim considers what happened to him to be a disgrace and even those who hear it sometimes make it a joke.⁴²

Some victims have the courage to report what they experienced, usually the victim women will seek justice and protection first to the family, then religious leaders or institutions, then the government through the judiciary. However, the three places where women victims expect justice are dominated by men, whose reality is precisely the injustice that victims get. The victim's greatest hope usually lies with the family, but in fact the safe space no longer exists because in most cases it is the family who is the perpetrator. The actions taken by the family are just silence, covering up the incident and letting the victim suffer with mental disorders. In fact, the prestige maintained by the family does not provide any benefits, in fact, the bond of the chain of sexual violence continues to be stronger.⁴³

If the perpetrator is someone else, it is not uncommon for the perpetrator and the victim to be married by the family. In one case, a raped girl was then forced by her parents to marry her rapist in order to maintain the good name of the family and the norms of society.⁴⁴ Rape is a very painful act for the female

⁴¹ Febry Sasmita, "Kajian Terhadap Tindakan Aborsi Berdasarkan Kehamilan Akibat Perkosaan," *Jurnal Fakultas Hukum Universitas Atma Jaya Yogyakarta*, 2016., 4.

⁴² Rofiah, *Nalar Kritis Muslimah Refleksi Atas Keperempuanan, Kemanusiaan, Dan Keislaman*, 2020., 91.

⁴³ Ridho Rokamah, "Restorative Justice Bagi Anak Pelaku Tindak Pidana Perkosaan Anak Perspektif Hukum Islam Dan Hukum Positif," *Justicia Islamica* 10, no. 2 (2013): 276, <https://doi.org/10.21154/justicia.v10i2.150>.

⁴⁴ Mahfud Cut Finsa Rifatunisa, "Pemberitahuan Pembebasan Terpidana Pelaku Tindak Pidana Pemerkosaan Kepada Korban Pemerkosaan," *Jurnal Ilmiah Mahasiswa Bidang Hukum Pidana* 3, no. 1 (2019): 165.

victim. His suffering can last a lifetime. The solution of marrying a rape victim to her rapist is an unfair act that opens up opportunities for repeated sexual violence.

If the family that has the most close emotional relationship is not necessarily able to accept the female victim, what about other people. The society's view of women who tend to be negative will blame women for the events that happened to them. Government officials who are dominated by men in reality have a negative view of the victims, so that when dealing with government officials, female victims are actually harassed and ignored. In the end, it can affect the mental or psychiatric development of the victims and also affect the law enforcement process itself to realize a sense of justice for the victims and the community.

The justice that must be received by women victims of rape is the victim's version of justice, because even though they both believe that justice is important, people can differ in formulating the necessary form of justice. In general, the forms of justice received by victims are as follows:⁴⁵

a) *First*, freedom from violence

Female victims tend to find it difficult to break free from the chain of violence, because the perpetrator is the closest person, even under the same roof.

b) *Second*, hearing the victim

The victim needs to be heard and his opinion considered. The victim is in a weaker position than the perpetrator so his opinion is often ignored.

c) *Third*, treat the victim well

Often the victim is considered the one who seduces men, getting a negative view that corners.

⁴⁵ Rofiah, "Memecah Kebisuan Agama Mendengar Suara Perempuan Korban Kekerasan Demi Keadilan (Respon NU)," n.d., 91.

d) *Fourth*, the perpetrator is punished appropriately

This hope is difficult to realize, because during the trial process, female victims often experience mental instability. So that the trial process was not successful.

D. The Impact of Pregnancy of Rape Victims

Pregnancy that occurs as a result of rape is the heaviest impact that the victim does not want. This pregnancy is very contrary to the reproductive rights of the victim. The pregnancy give some negative impact on the victim.⁴⁶ Rape victims suffer many losses including physical, psychological, sexual and economic. This impact puts psychological pressure on victims for not being ready to accept the reality of having to experience pregnancy.⁴⁷

If the victim does not get pregnant, the victim must have lost her virginity or morally, considered to have lost her dignity as a woman. Rape victims may also become sexually transmitted diseases and even contract AIDS, which of course is very dangerous for their survival.

Therefore, rape victims often have abortions or abortions of the fetus on purpose.⁴⁸ Abortion is prohibited by law (*Undang-Undang Number 39 of 2009 on Health*), However, specifically rape victims are excluded on the condition that there are indications of a media emergency detected from an early age of pregnancy, either threatening the life of the mother and/or fetus, pregnancy due to rape that can cause psychological trauma for rape victims.

⁴⁶ Syahid Akhmad Faisol and Hawa' Hidayatul Hikmiyah, "Hak Reproduksi Perempuan Dalam Pemikiran Husein Muhammad Dan Masdar Farid Mas'udi," *Asy-Syari'ah: Jurnal Hukum Islam* 9, no. 2 (2023): 271, <https://doi.org/10.55210/assyariah.v9i2.1129>.

⁴⁷ Yuandini Ariefka, Kartika Sari, and Nucke Yulandari, "Memaafkan Pelaku Perkosaan Di Masa Konflik: Perjalanan Panjang Korban Konflik Di Aceh," *Seurune : Jurnal Psikologi Unsyiah* 1, no. 2 (2018): 75, <https://doi.org/10.24815/s-jpu.v1i2.11572>.

⁴⁸ Ida Bagus Wirya Dharma, "Legalitas Abortus Provocatus Sebagai Akibat Tindakan Pemerkosaan," *Kertha Wicaksana* 16, no. 1 (2022): 49, <https://doi.org/10.22225/kw.16.1.2022.45-50>.

The implementation of abortion by rape victims can be carried out with various requirements both legally and socially.⁴⁹

1. The Dangers of Forced Pregnancy

Forced pregnancy in a rape victim is a situation in which a woman who becomes pregnant as a result of rape is forced to continue the pregnancy, even though she may not want or be able to do so for health, psychological, or social reasons. Forced pregnancy is a serious and dangerous form of sexual violence against women that has detrimental physical, emotional, and social consequences.⁵⁰ Here are some of the dangers of forced pregnancy:

a) Physical Health Risks

Forced pregnancy can increase the risk of serious health complications for women, including physical injury, organ damage, heavy bleeding, and even death from unsafe childbirth.

b) Mental and Emotional Health

Forced pregnancy can cause deep psychological trauma for women, including stress, anxiety, depression, and post-traumatic stress disorder (PTSD). Women who experience forced pregnancy can also experience social isolation, low self-esteem, and difficulty trusting others.

c) Educational and Career Barriers

The presence of unwanted pregnancies can hinder women's access to education and career opportunities. Women may be forced to leave school or work to care for pregnancy and care for children, which can interfere with their personal and professional development.

⁴⁹ Pemerintah Pusat, "Undang-Undang (UU) Nomor 36 Tahun 2009 Tentang Kesehatan," Peraturan Perundang-undangan, 2009, <https://peraturan.bpk.go.id/Details/38778/uu-no-36-tahun-2009>.

⁵⁰ Ristintyawati and Binov Handitya, "Tindakan Aborsi Terhadap Kehamilan Akibat Perkosaan Dan Kaitannya Dengan Hak Asasi Manusia," *Rampai Jurnal Hukum (RJH)* 1, no. 2 (2022): 35, <https://doi.org/10.35473/rjh.v1i2.2240>.

d) Influence on Personal Relationships

Forced pregnancy can damage women's interpersonal relationships with their partners, family, and friends. Conflicts and stress resulting from forced pregnancy situations can result in broken relationships and social isolation.

e) Limitations in Independent Decision Making

Forced pregnancy is a violation of a woman's right to make independent decisions about her own body and health. This reduces women's autonomy and control over their own bodies and lives.

f) Child and Family Health Risks

The presence of a child born from forced pregnancy may have a negative impact on the health and well-being of the child as well as the overall family dynamics. The child may experience social stigma, health difficulties, and a lack of social support.

Forced pregnancy is a serious violation of human rights and should not be ignored.⁵¹ It is important for the community and the government to take steps to prevent and protect women from forced pregnancy, as well as to provide support and assistance to women who have experienced sexual violence.

When pregnancy, childbirth, postpartum, breastfeeding occur due to rape, of course the pain is not only physical. However, mentally it can last for the life of the child who is born and for his life.⁵²

Experiencing physical, mental and social suffering. The victim experienced psychological trauma and felt worthless in the eyes of the community. giving birth to a child whom he may hate very much, not because the child did something to him, but because his father not only

⁵¹ Rini, "Dampak Psikologis Jangka Panjang Kekerasan Seksual Anak (Komparasi Faktor: Pelaku, Tipe, Cara, Keterbukaan Dan Dukungan Sosial)," *IKRA-ITH Humaniora* 4, no. 3 (2020): 164.

⁵² Mifta Hanif Muslimah, "Kesehatan Mental Pada Anak Korban Kekerasan Seksual" (Universitas Muhammadiyah Surakarta, 2019), <https://eprints.ums.ac.id/71352/>, 58.

ruined his body but also ruined his future.⁵³ Thus rape can even damage two generations, namely the rape victim and her innocent child, because the legal status is an illegitimate child and an illegitimate mother.

2. Dangers of Pregnancy Termination

Termination or abortion has existed since the beginning of human history. It has the understanding that abortion is not yet the time. The issue of abortion has been controversial since ancient times. There are parties who agree and disagree with the legalization of abortion for rape victims, although it is hoped that it can reduce the suffering of the victims.⁵⁴ The problem of abortion for pregnant women is indeed very risky, if they can have an abortion legally because considering that there is a life that must be risked or sacrificed. performing illegal abortions that can endanger the victim's own life, namely through non-medical means, by incompetent non-medical personnel and at unqualified gestational age.

Abortion is a popular term for abortion. What is meant by the act of aborting a pregnancy is doing an act that no matter how it forms and how it is done to a woman's womb that causes the birth of a baby or fetus from the woman's womb before it is born according to nature. The act of forcing the birth of a premature baby or fetus is often called *an abortion provocatus* or sometimes abbreviated as an abortion.

For those who do not agree with abortion for rape victims, they think that everyone has the right to live, the fetus in the womb of a woman due to rape is a creation of God who has the right to enjoy life. For those who agree that abortion can be carried out for rape victims, the pregnancy arises not from the victim's will so it can reduce the victim's suffering both

⁵³ Ning Sasi Awaliyah, Ulin Nihayah, and Khozaainatul Muna, "Konseling Traumatik Untuk Menangani Gangguan Kesehatan Mental Trauma Pada Korban Pelecehan Seksual," *Ghaidan: Jurnal Bimbingan Konseling Islam Dan Kemasyarakatan* 5, no. 1 (1970): 31, <https://doi.org/10.19109/ghaidan.v5i1.7003>.

⁵⁴ Vivi Savira and Widodo Tresno Novianto, "Kritik Teori Hukum Feminis Terhadap Kebijakan Aborsi Pada Korban Perkosaan Di Indonesia," *Recidive : Jurnal Hukum Pidana Dan Penanggulangan Kejahatan* 9, no. 2 (2020): 87, <https://doi.org/10.20961/recidive.v9i2.47396>.

psychologically and socially, then it is given the right for rape victims to be able to have an abortion.⁵⁵

Medically, abortion is the end or abortion of a pregnancy before the pregnancy reaches the age of twenty weeks, that is, before the fetus can live outside the womb independently with the limitation of abortion as the termination of pregnancy before the fetus reaches a weight of five hundred grams or a gestational age of twenty weeks. The medical world divides abortion in general into two types, namely:⁵⁶

- a. (*Abortus Spontaneous*) that is, abortion that occurs by itself is not a human act. In everyday language, this type of abortion can be called a miscarriage.
- b. (*Abortus provocatus*), namely abortion that is carried out intentionally. This abortion is further divided into two groups, namely: 1). *Abortus provocatus therapeuticus*, That is, an abortion that is done deliberately for a medical reason that is very urgent or if there is an indication that the pregnancy could harm or threaten the mother if the pregnancy continues. 2). *Abortus provokatus criminalis*, is an abortion that is performed intentionally without having a health (medical) reason, motivated by other reasons, and against the law.

Abortion has a high risk to women's health and safety. There are two types of health risks to women who have abortions. Physical health and safety risks at the time of and after an abortion, such as: ⁵⁷

- 1) Sudden death due to heavy bleeding
- 2) Sudden death due to failed anesthesia

⁵⁵ Jajang Arifin, "Perlindungan Hukum Bagi Anak Korban Perkosaan Yang Melakukan Aborsi," *ADIL: Jurnal Hukum* 13, no. 2 (2023): 21, <https://doi.org/10.33476/ajl.v13i2.3090>.

⁵⁶ Indah Sintia and Dey Ravena, "Pertanggungjawaban Pidana Terhadap Keterlibatan Dokter Dan Perawat Dalam Tindak Pidana Aborsi Di Klinik Ditinjau Dari Undang-Undang No. 36 Tahun 2009 Tentang Kesehatan Dan KUHP," *Bandung Conference Series: Law Studies* 3, no. 1 (2023): 152, <https://doi.org/10.29313/bcsls.v3i1.4932>.

⁵⁷ Mufliha Wijayati, "Aborsi Akibat Kehamilan Yang Tak Diinginkan (KTD): Kontestasi Antara Pro-Live Dan Pro-Choice," *Analisis: Jurnal Studi Keislaman* 15, no. 1 (2017): 50, <https://doi.org/10.24042/ajsk.v15i1.712>.

- 3) Slow death due to serious infections around the womb
- 4) Uterine Perforation
- 5) Cervical Lacerations which will cause disability in the next child.
- 6) Breast cancer, due to an imbalance of the hormone estrogen in women
- 7) Ovarian Cancer
- 8) Cervical Cancer
- 9) Liver Cancer
- 10) Abnormalities in the placenta or aristocracy (Placenta Previa) that will cause deformity in the next child and severe bleeding in the next pregnancy
- 11) Becoming infertile or unable to have any more offspring (*Ectopic Pregnancy*)
- 12) Pelvic Inflammatory Disease
- 13) Infection of the lining of the uterus (*Endometriosis*)
- 14) Mental health risks

The abortion process is not only a process that has a high risk in terms of a woman's health and safety physically, but also has a very strong impact on a woman's mental state. This symptom is known in psychology as "*Post-Abortion Syndrome*" or PAS.⁵⁸ Basically, a woman who has an abortion will experience the following things:

- 1) Loss of self-esteem (82%)
- 2) Hysterical screaming (51%)
- 3) Repeated nightmares about babies (63%)
- 4) Wanted to commit suicide (28%)
- 5) Started trying to use illegal drugs (41%)
- 6) Can't enjoy sexual intercourse anymore (59%)

⁵⁸ Rumelda Silalahi and Rasmita Luciana, "Pandangan Hukum Kesehatan Terhadap Abortus Provocatus Berdasarkan Undang-Undang Nomor 36 Tahun 2009," *Jurnal Darma Agung* 27, no. 3 (2019): 1094, <https://doi.org/10.46930/ojsuda.v27i3.367>.

Beyond the above, women who have abortions will be filled with feelings of guilt that have not disappeared for many years in their lives.⁵⁹

3. Women's Reproductive Rights

Reproductive rights have two meanings, namely in terms of power and resources. Power in the sense to make decisions based on safe information about fertility, pregnancy, education, two children, health and sexual activity.⁶⁰ Meanwhile, resources in the sense of carrying out these decisions safely. This certainly involves body integrity and control over the body for women. Biologically, women experience menstruation, pregnancy, childbirth, postpartum, and breastfeeding. The duration starts from minutes, hours, days, months, to years. All of them give a biological sensation of pain, besides perhaps being psychologically happy.⁶¹

Undang-undang or law recognize that everyone has reproductive rights, as provided for in *Pasal 72 UU of Health*.⁶² Reproductive rights are human rights, and are guaranteed by law. These reproductive rights include:⁶³

a) Access to Information and Reproductive Education

Women have the right to accurate, complete, and non-discriminatory information about reproductive health, contraception, pregnancy, and protection from sexually transmitted diseases. Reproductive education is also important so that women can make the right decisions related to their bodies and health.

⁵⁹ Lia Mulyanti, "Perubahan Psikologis Pasca Aborsi Premarital Pada Remaja," *Jurnal Riset Kebidanan Indonesia* 4, no. 2 (2021): 75, <https://doi.org/10.32536/jrki.v4i2.135>.

⁶⁰ Utari Dewi Fatimah, "Perlindungan Hukum Hak Kesehatan Reproduksi Perempuan," *Jurnal Hukum Sasana* 5, no. 2 (2019): 216, <https://doi.org/10.31599/sasana.v5i2.101>.

⁶¹ Frieda Farchiyah et al., "Kesehatan Reproduksi Perempuan Di Indonesia Dalam Perspektif Gender," *Seminar Nasional Kesehatan Masyarakat UPNVJ* 2, no. 1 (2021): 77.

⁶² Pusat, "Undang-Undang (UU) Nomor 36 Tahun 2009 Tentang Kesehatan."

⁶³ Sali Susiana, "Urgensi Pengaturan Hak Kesehatan Reproduksi Perempuan," *Pusat Penelitian Badan Keahlian DPR RI* 8, no. 5 (2021): 16.

b) Access to Reproductive Health Services

Women have the right to equal and non-discriminatory access to reproductive health services, including reproductive health screenings, counselling, prenatal and postnatal care, and safe and legal contraceptive and abortion services if needed.

c) Equality in Marriage and Family

Women have the right to make independent decisions regarding marriage, pregnancy, and family. They also have the right to be free from harmful practices, such as forced marriage, female genital mutilation, or domestic violence.

d) Protection from Sexual Violence and Gender-Based Violence

Women have the right to be protected from all forms of sexual violence and gender-based violence, including rape, sexual harassment, and human trafficking.

e) Access to Jobs and Economic Decision-Making

Women have the right to work in the field of their choice and to have control over their own income. They also have the right to be involved in economic decision-making that affects their lives and that of their families.

f) The Right to Choose and Determine the Number of Children

Women have the right to make independent decisions about when and whether they want to have children, as well as the number of children they want to have.⁶⁴ This includes access to a wide range of contraceptive options and reproductive services to suit their needs and preferences.

Based on the description above, an unwanted pregnancy due to rape is a clear violation of the reproductive rights of rape victims as mentioned in *Pasal 72 Undang-Undang* of Health. Rape victims lose their

⁶⁴ Ratna Dewi, "Konsep Kesehatan Reproduksi Perempuan Dalam Al-Qur'an," *Mawa'izh: Jurnal Dakwah Dan Pengembangan Sosial Kemanusiaan* 10, no. 2 (2019): 252, <https://doi.org/10.32923/maw.v10i2.920>.

reproductive rights and lose their reproductive health physically, mentally and socially.⁶⁵ Every woman should have the right to determine her reproductive life freely, including the right to determine her own pregnancy. So, in order to provide legal guarantees and protection for the reproductive rights of rape victims as a form of human rights, with such considerations, it is very appropriate to have legal abortion for women who become pregnant due to rape.

⁶⁵ Ari Ardianto and Achmad Hariri, "Perlindungan Hukum Atas Pengguguran Kandungan Korban Pemerkosaan Di Tinjau Dari Hukum Nasional," *Media of Law and Sharia* 2, no. 3 (2021): 231, <https://doi.org/10.18196/mls.v2i3.11535>.

CHAPTER III

VERSES PROHIBITING ABORTION

A. Interpretation According to M. Quraish Shihab

1. Q.S. Al-An'ām [6]: 137

وَكَذَلِكَ زَيَّنَ لِكَثِيرٍ مِّنَ الْمُشْرِكِينَ قَتْلَ أَوْلَادِهِمْ شُرَكَاؤُهُمْ لِيُزْدُوهُمْ وَلِيَلْبِسُوا عَلَيْهِمْ دِينَهُمْ وَلَوْ شَاءَ اللَّهُ مَا فَعَلُوهُ فَذَرْهُمْ وَمَا يَفْتَرُونَ

It means: "Thus their idols (Satan) make it beautiful for many polytheists to kill their children in order to destroy them and to mess up their own religion. If Allah had willed, they would not have done it. Let them be with what they are making up." ¹

Asbāb al-nuzūl this verse, the Prophet Ibrāhīm AS was commanded by Allah to slaughter his son. They plan to follow this example without realizing that the actions of the Prophet Ibrāhīm AS were at the direct command of Allah SWT and in fact to negate the erroneous traditions that have developed in human society. After some time, some thinkers during the time of the Prophet Ibrāhīm AS suggested the abolition of this tradition on the grounds that humans should not be sacrificed as offerings. However, Allah SWT through the Prophet Ibrāhīm AS reaffirmed this view by telling him to slaughter humans, even his beloved son, as proof that obedience to Allah should exceed everything, but then Allah canceled the command not because "man is too valuable", but because Allah loves and appreciates His perfect creation, namely man. Satan and their leaders obscure the understanding of the religious teachings that the Prophet Ibrāhīm AS brought and seduce the polytheists to sacrifice their children as offerings, as if following the teachings of the Prophet Ibrāhīm AS, when in reality it is very different. The Prophet Ibrāhīm AS carried out the command of Allah SWT which was later canceled by Allah, while the

¹ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

polytheists did not do it at His command, but at the urging of satan, idols, or their leaders, and without any cancellation.²

Munāsabah al-āyāt this verse, Q.S. at-Takwīr (81):8 which means "*When baby girls buried alive is asked*". The Qur'ān strongly condemns this heinous act, even describing it as parallel to the potential destruction of the universe. Although the practice of burying girls alive is limited to a few specific tribes.³

Quraish Shihab in his commentary al-Misbah explained that the verse tells the story of the satanic deception that affects the polytheists. They believed that by burying the child alive, they could beautify their deeds even with bad deeds, because it was considered an offering to the idols. They imitated the event that the Prophet Muḥammad's grandfather, Abdul Muttalib, almost did to his father, Abdullah, before the event was replaced with a hundred camels. Their actions cause destruction for them in this world by losing their children and in the hereafter with painful torment. Their actions also obscure their true understanding of religion taught by the Prophet Ibrāhīm AS so that they do not understand religion properly. This was conveyed through the incitement of Satan to the polytheistic leaders. But all these events are the will of God, in his words "*...and if Allah wills, they will not do it,...*". Allah has given people the freedom to choose good and evil, but polytheists persist with lies of their own making.

Quraish Shihab in the book "*Secercah Cahaya Ilahi*", highlighting the similarities and differences between abortion and murder, especially in the context of their impact on the lives of those who are ready or have the potential to participate in the task of halīfahan. Although there are similarities in the elimination of potential lives, Quraish Shihab revealed that the reasons used by abortion perpetrators today are considered worse than those of past infanticide.

² M. Quraish Shihab, "Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian Al-Qur'an (Vol 4 Surah Al-An'am)," vol. 4 (Lentera Hati, 2007), 304.

³ Shihab.

Ironically, although twentieth-century society has advocated for human rights more vocally, the reasons for abortion are now considered more unfounded.⁴

Some abortion providers in the modern era do not do so out of fear of poverty, both for themselves now and for the future of their child. They committed the heinous act mainly to cover up the shame that arose after what they called the "accident" of their mother's sin. This is different from the past *jāhiliyyah era*, where the reason for killing a child is because of fear that the child will be raped or adulterated. However, in this modern era, children are killed because their own mother commits adultery.

Quraish Shihab reveals the difference between the killing of children in the *jāhiliyyah era* and the modern era today:

- a) In the past *jāhiliyyah era*, children were killed by people who were less knowledgeable and did not know the concept of human rights *HAM* (*Hak Asasi Manusia*). However, in this modern *jāhiliyyah era*, children are killed by mothers and knowledgeable doctors, and this happens in the midst of rampant human rights demands.
- b) In the past *jāhiliyyah*, children were killed or buried alive by their fathers alone. However, in this modern era of *jāhiliyyah*, children are killed by their mothers along with the support of doctors and midwives. If a person in charge is unconscious due to the influence of Satan and no one reminds him, according to Quraish Shihab, one of the three parties should be conscious of remembering the other.
- c) In the past *jāhiliyyah*, only girls were killed or buried alive. However, in this modern *jāhiliyyah era*, it is children who are killed, both women and men.
- d) In the old *jāhiliyyah era*, the daughter who was to be buried alive was usually decorated first and taken to a distant place by her father alone. However, the murders that are happening today are much more cruel, where babies are simply thrown away without notice, even to their own

⁴ M. Quraish Shihab, *Secercah Cahaya Ilahi: Hidup Bersama Al-Qur'an* (Bandung: Mizan Pustaka, 2007), 285.

parents, without knowing where the baby was dumped. This is really ironic and cruel according to Quraish Shihab.⁵

2. Q.S. Al-An'ām [6]: 140

قَدْ خَسِرَ الَّذِينَ قَتَلُوا أَوْلَادَهُمْ سَفَهًا بِغَيْرِ عِلْمٍ وَحَرَّمُوا مَا رَزَقَهُمُ اللَّهُ افْتِرَاءً عَلَى اللَّهِ قَدْ ضَلُّوا
وَمَا كَانُوا مُهْتَدِينَ^٦

It means: "It is a loss to those who kill their children because of ignorance and ignorance and forbid the sustenance that Allah has bestowed upon them by (only) making lies against Allah. Truly, they have gone astray and have not been guided."⁶

Asbāb al-nuzūl this verse, Imam Bukhari narrated from Ibn Abbas, he said, "If you want to know the ignorance of the Arabs, recite the verse from surah al-An'ām":

قَدْ خَسِرَ الَّذِينَ قَتَلُوا أَوْلَادَهُمْ سَفَهًا بِغَيْرِ عِلْمٍ وَحَرَّمُوا مَا رَزَقَهُمُ اللَّهُ افْتِرَاءً عَلَى اللَّهِ قَدْ ضَلُّوا
وَمَا كَانُوا مُهْتَدِينَ^٦

Ibn Munzir and Ibn Abī Ḥātim narrated from Qatādah that he said, regarding this verse, "Ini is the deed of the *Fāhiliyyahs*. One of them killed his daughter for fear of being taken captive and becoming a fakir; while he can feed his dog."

Most of the narration of *asbab al-nuzul* (the causes of the descent of the verse) for Surah Al-An'ām verse 140 relates to a group of Quraish tribes called "*Bahsham*" or "*Bishr*", who have certain religious practices related to food. They claim that some types of animals are haram for them to eat, while this is not based on true religious law, but only on the basis of their own customs. They stated that the animals became haram because they had died naturally or been eaten by wild animals. God rebuked them in this verse for establishing

⁵ Shihab, "Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian Al-Qur'an (Vol 4 Surah Al-An'ām).", 135.

⁶ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

such laws without proper authority, and asked them to provide concrete and logical evidence for their claims. This verse underlines the importance of adhering to the true laws of religion and not following the prohibitions set by humans without a solid basis.

Discrimination against women is also very strong in the tradition of the infidel community of Mecca. They arranged that milk from cattle and male animals was only for men, while they forbade it for women. They regard the carcasses as equal rights between males and females, and allow the female animals to give birth without hindrance. God will punish those who lie and commit lies with appropriate punishment.⁷

Munāsabah al-āyāt this verse, there are also those who associate the word ignorance with the perpetrator of the murder, in the sense that when they kill, they are in a state of ignorance of how short-sighted their thoughts are and how cruel and bad the deeds are. The sentence without knowledge, refutes the conjecture and at the same time judges them as arrogant people, feeling qualified and knowing, even though they do not know. They are: "Those who have done in vain in the life of this world, when they think that they are doing their best" (QS. al-Kahf [18]: 104).

After briefly explaining the ugliness of the polytheists' beliefs and practical lives, this verse describes the unfavorable end they experienced as a result of these *jāhiliyyah* beliefs and practices. In His words, "*Indeed, they have lost those who have killed their children because of foolishness*". That is, when they narrow their views and act for no apparent reason, without the knowledge they should have, such as religious guidelines that they should know, such as legitimizing murder only in the context of a true war, or imposing sanctions on unjust and intentional killings. "*And indeed, they have also lost when they forbid what Allah has provided for them, including in the form of animals and plants by simply making up lies against Allah*". They have suffered great losses

⁷ Shihab, "Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian Al-Qur'an (Vol 4 Surah Al-An'am).", 310.

because they have lost their children, their wealth, and their religion because they lie in the name of God, so "...indeed they have gone astray..." from the right path with a very distant deviation, and thus "...not they..." who insist on the custom and belief "...the muhtadins...", They are the ones who truly accept and follow Allah's guidance as they expected.

Quraish Shihab highlights several words in this verse that need to be underlined, namely:⁸

- a) Word (خَسِرَ) or loss, the fact is that it is a shortage or destruction.

Polytheists have children who should be a boon to them and the community at large. However, they killed these children, resulting in a huge loss in future potential and capital that had been lost. Ironically, even though they kill in the belief of protecting themselves from the loss of the birth of a daughter, either by burying them alive or avoiding the wrath of idols, in reality they do suffer losses. In the hereafter, they will be tortured for their deeds. *"They really suffer great losses: in this world and the hereafter; in themselves, their children, their intellect, and their souls. They lose the honor that God has given them for worshipping other than Him. Before all this, their losses for not getting Divine guidance were due to heresy in the faith."* This is the expression of Sayyid Qutṭub.

- b) Word (سَفَهَا) contains the meaning of weakness of intellect or shortsightedness, therefore, the person who carries out these activities is not based on sufficient knowledge, either because he does not know, does not want to know, or knows but does the opposite because of his arrogant attitude. "By the word *"ignorance"* after *"safahan* or shortsightedness," the explanation is that their actions are based on the assumption that they are doing right, and they seem to know how to

⁸ Shihab., 312.

correct their mistakes and manage their lives well." This was revealed by Ibn Āsyūr.

Ibn Āsyūr added that his explanation is supported by the continuation of the verse that states: "*Truly, they have gone astray*", because heresy is the inability to find the right direction. Deviation occurs after an attempt to find the right path, but to no avail. The judgment against them is strengthened by the last passage of this verse, which states that they are not the ones who are instructed, as they claim.

3. Q.S. Al-An'ām [6]: 151

قُلْ تَعَالَوْا أَتْلُ مَا حَرَّمَ رَبِّي عَلَيْكُمْ أَلَّا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَانًا وَلَا تَقْتُلُوا أَوْلَادَكُمْ
مِنْ إِمْلَاقٍ نَحْنُ نَرْزُقُكُمْ وَإِيَّاهُمْ وَلَا تَقْرَبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ وَلَا تَقْتُلُوا النَّفْسَ
الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ذَلِكُمْ وَصَّيْتُكُمْ بِهِ لَعَلَّكُمْ تَعْقِلُونَ

Meaning: "Say (Prophet Muḥammad), 'Come here! I will read you what the Lord forbids, do not associate Him with anything, do good to both parents, and do not kill your children because of poverty. (Your Lord said,) 'We are the ones who provide for you and for them.' Nor do you approach vile deeds, whether visible or hidden. Do not kill anyone whom Allah forbids, except for the right reasons. Thus he commands you that you may understand.'" ⁹

Munāsabah al-āyāt this verse, The verse of Al-An'ām talks about the motivation for murder caused by poverty experienced by the father and his fear that he will be further depressed in the difficulties of life due to the birth of a child. God assures fathers by declaring that He will provide sustenance, followed by a guarantee of the availability of sustenance for their children. As for surah al-Isrā' [17]: 31, At that time, poverty had not occurred, there was only worry. The verse adds the word "*khasyah*" or fear to emphasize this. Poverty is worried about children. This verse assures us that Allah will provide

⁹ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

sustenance for children who are worried about poverty. Afterwards, a similar assurance was given to the father with the words "and also to you".¹⁰

This verse instructs the Prophet to invite the polytheists to abandon the low and despicable position reflected in moral depravity and worship to others besides Allah, towards the height of degree and nobility of ethics. Allah's prohibitions for humans include the following:

First, man is forbidden to associate anything with Him, even the slightest form of polytheism.

Second, after mentioning the main cause of all forms and the source of all blessings, it is also called the intermediary of human birth that must be grateful, namely parents. Therefore, the first commandment was followed by this commandment, which meant the prohibition of disobeying them. This prohibition is very strict, expressed in the form of an order to be filial and do good to both parents with love and respect.

Third, after mentioning the role of parents in the existence of humans on earth, Allah forbids killing children for fear of poverty. Allah affirms that sustenance comes from Him and that man must strive to obtain it. After forbidding reprehensible acts such as shirk, disobedience to parents, and murder, all kinds of abominations in general are now prohibited.

Fourth, do not approach heinous acts such as murder and adultery, both overt and hidden such as relationships without a valid marriage bond.

Fifth, do not kill souls that Allah forbids, except on the basis of a clear law. Allah commands this so that you understand and avoid these prohibitions.

This verse prohibits three things: killing children, committing atrocities such as adultery and murder, and killing without a valid reason. The human soul is revered by God and should not be touched in any form. It supports the human rights values upheld by the Quran. This verse teaches the basic principles of life based on belief in the oneness of God, relationships between

¹⁰ Shihab, "Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian Al-Qur'an (Vol 4 Surah Al-An'am).", 338.

others based on human rights, respect, and staying away from all forms of moral abominations.¹¹

4. Q.S. Al-Isrā' [17]: 31

وَلَا تَقْتُلُوا أَوْلَادَكُمْ خَشْيَةَ إِمْلَاقٍ نَحْنُ نَرْزُقُهُمْ وَإِيَّاكُمْ إِنَّ قَتْلَهُمْ كَانَ خِطْئًا كَبِيرًا

It means: "Do not kill your children for fear of poverty. We are the ones who provide sustenance for them and (also) for you. Indeed, killing them is a great sin."¹²

Asbāb al-nuzūl this verse, One of the negative aspects of the Jahiliyah community is the practice of killing girls, especially those caused by poverty. The prohibition of killing children is associated with bad practices in the *jāhiliyyah* era in Mecca. Many of them choose to kill girls because it is considered an economic burden and is considered shameful. This verse goes down to affirm the strict prohibition on the practice, reminding people that killing children is a very heinous act and contrary to the teachings of God. After explaining that Allah provides sustenance to all His servants according to their needs, this verse prohibits the act of murder by stating it in this verse.¹³

The information about sustenance for children is emphasized here because of the context: God speaks to the rich, underlining the concern for their sustenance. When he spoke to the poor, Allah forbade them to kill children for fear of poverty, because the sustenance for parents and children was in the hands of Allah. Killing children because of poverty is a form of prejudice against God. If it was because of concerns over the girl's flaws and condition, killing her would ruin the world. This verse shows that God is more merciful to His servants than a father to his son. God forbids parents to kill their children, and also stipulates that parents give their children an inheritance. During the

¹¹ Shihab., 150.

¹² "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

¹³ Muhammad Quraish Shihab, "Tafsir Al Mishbah Pesan, Kesan Dan Keserasian Al-Qur'an (Vol 7 Surah Ibrahim, Al-Hijr, An-Nahl Dan Surah Al-Isra)" VII (2005): 455, <https://shorturl.at/lny37>.

jāhiliyyah period, they did not give inheritance rights to their daughters. In fact, they sometimes bury girls alive because they are considered weak in making a living, in contrast to boys who are considered more talented at fighting, robbing, and taking the girls from their parents. They also feared that the poverty of the girl would discourage respectable people from marrying her, forcing her to marry inappropriate people.¹⁴

5. Q.S. Al-Baqarah [2]: 49

وَإِذْ نَجَّيْنَكُمْ مِنَ آلِ فِرْعَوْنَ يَسُومُونَكُمْ سُوءَ الْعَذَابِ يَدَّبْحُونَ أَبْنَاءَكُمْ وَيَسْتَحْيُونَ نِسَاءَكُمْ وَفِي ذَلِكُمْ بَلَاءٌ مِّن رَّبِّكُمْ عَظِيمٌ

It means: "(Remember) when We saved you from (Fir'aun and) Fir'aun's followers. They inflicted a very heavy torment on you. They slaughtered your sons and let your daughters live. In such a great trial there is a great trial from your Lord."¹⁵

Asbāb al-nuzūl this verse, Fir'aun dreamed that his power would be overthrown by a son of the Banu Isra'il, who was allegedly influenced by his mind at that time. Some claim that the ancient Egyptian religious leaders slandered the Banu Isra'il for plotting a betrayal because of differences in religious teachings.¹⁶ Fir'aun is said to have ordered the murder of all boys born in one particular year, while those born in the following year were left alive, and this took place alternately. Prophet Harun was born in the year in which the boy was saved, while the Prophet Musa Born in the year in which the murder of the boy occurred.¹⁷

This verse shows that the behavior of Fir'aun's family and followers reflects Fir'aun's own personality. When the Children of Israel were tortured, they saw Fir'aun as the one responsible for all suffering, although he may not

¹⁴ Shihab., 457.

¹⁵ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

¹⁶ M. Quraish Shihab, *TAFSIR AL-MISHBAH Pesan, Kesan Dan Keserasian Al-Qur'an (Vol 1 Surah Al-Fatihah, Surah Al-Baqarah)* (Lentera Hati, 2007). 189.

¹⁷ Shihab., 190.

have been directly involved. Fir'aun is a title used for the haughty and ruthless supreme ruler of Egypt, similar to Emperor or King. Therefore, in the time of the Prophet Yusuf titled "Fir'aun" not used, but "*malik*" or "king".

Exams do not only consist of difficulties or negative things, but they can also be favorable. Difficulties demand patience, while favors demand gratitude. The challenge of gratitude is often more difficult because people are more likely to forget Allah when they are overflowing with blessings, while difficulties tend to remind Him.¹⁸

B. Interpretation According to Wahbah Zuhaili

1. Q.S. Al-An'ām [6]: 137

وَكَذَلِكَ زَيَّنَ لِكَثِيرٍ مِّنَ الْمُشْرِكِينَ قَتْلَ أَوْلَادِهِمْ شُرَكَاؤُهُمْ لِيُرْذُوهُمْ وَلِيَلْبِسُوا عَلَيْهِمْ دِينَهُمْ وَلَوْ
شَاءَ اللَّهُ مَا فَعَلُوهُ فَذَرْهُمْ وَمَا يَفْتَرُونَ

It means: "Thus their idols (Satan) make it beautiful for many polytheists to kill their children in order to destroy them and to mess up their own religion. If Allah had willed, they would not have done it. Let them be with what they are making up." ¹⁹

Wahbah mentions in the conformity of the verse, that this verse is This is proof of their ignorance and ignorance (the infidels of Mecca) who produce their own rules, including the practice of burying girls. In his commentary and explanation, Wahbah also mentions that the infidels of Mecca had a tradition of dividing plants and livestock between Allah and the idols, their leaders (guardians and servants of the idols) made the polytheists look favorably on the act of killing their children. *Mujāhid* said "*Their allies, I mean the demons, they are the ones who ordered the burial of their daughters for fear of falling into poverty.*" As-Suddi said, "*Their allies who told them to bury their daughters, could insult and destroy them or obscure their religion so that they mixed their religion.*"

¹⁸ Shihab., 192.

¹⁹ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

Here are the factors that lead to the appearance of the view that the act is a good act:

- a. Satan has succeeded in making them afraid and worried about the threat of poverty both now and in the future.
- b. Satan also instilled a fear of shame among them, prompting them to kill their daughters out of fear of shame, poverty, and marriage being considered unequal.
- c. Satan makes them think that killing children can bring them closer to God.²⁰

Of course, everything that the polytheist does is the will and choice of Allah in accordance with perfect wisdom. *Ahlus Sunnah* said "*Ini shows that everything done by polytheists is the will of Allah SWT.*" Although Allah is able to make them all believe by making them ready to receive faith.

2. Q.S. Al-An'ām [6]: 140

قَدْ خَسِرَ الَّذِينَ قَتَلُوا أَوْلَادَهُمْ سَفَهًا بِغَيْرِ عِلْمٍ وَحَرَّمُوا مَا رَزَقَهُمُ اللَّهُ افْتِرَاءً عَلَى اللَّهِ قَدْ ضَلُّوا
وَمَا كَانُوا مُهْتَدِينَ²¹

It means: "It is a loss to those who kill their children because of ignorance and ignorance and forbid the sustenance that Allah has bestowed upon them by (only) making lies against Allah. Truly, they have gone astray and have not been guided."²¹

Allah SWT denounces the actions of those who bury their daughters alive and forbid what has been forbidden by Allah. Those who commit murder against their children, especially girls, are really at a loss. They forbade the good things that Allah has bestowed upon them. Their act of killing their children arose from their ignorance and fear of poverty. They do not understand which provide benefits and harms, which are good and which are bad. It is clear that ignorance is the greatest ignorance and evil. They forbid good things just

²⁰ Wahbah Az-Zuhaili, *Tafsir Al-Munir Fi Al-'Aqidah Wa Al-Syari'ah Wa Al-Manhaj, Gema Insani*, vol. 4 (Jakarta, 2016)., 338.

²¹ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

to lie in the name of Allah. They have gone astray with obvious heresy because they have no advantage in the world and religion. They also do not get guidance to the right and straight path. The meaning of the words of Allah SWT **وَمَا كَانُوا مُهْتَدِينَ** as an affirmation that they have not received any guidance at all.

The most despicable custom and rule and the sin committed by them is to kill daughters and forbid what Allah has allowed. God rebuked them in these verses and mentioned seven things that refer to their behavior that violates religious and moral principles:²²

- a) Loss, because children are a great gift that Allah gives to His servants.
- b) Weak in mind, and regretted that the reason they kill children is because they are afraid of poverty. Although poverty has a negative impact, killing has a greater impact. The impact of poverty is only speculative, while the impact of killing is certain.
- c) Stupidity, stupidity arises from lack of knowledge. There is no denying that ignorance is the most significant negative and despicable trait.
- d) Forbidding what Allah has allowed for them. This is the worst act of stupidity because it prevents them from gaining benefits and goodness.
- e) Dare to lie in the name of Allah. It is clear that daring to lie to God is the greatest sin.

3. Q.S. Al-An'ām [6]: 151

قُلْ تَعَالَوْا أَتْلُ مَا حَرَّمَ رَبِّيَ عَلَيْكُمْ أَلَّا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَانًا وَلَا تَقْتُلُوا أَوْلَادَكُمْ مِنْ
إِمْلَاقٍ نَحْنُ نَرْزُقُكُمْ وَإِيَّاهُمْ وَلَا تَقْرَبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ وَلَا تَقْتُلُوا النَّفْسَ الَّتِي
حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ذَلِكُمْ وَصَّيْتُكُمْ بِهِ لَعَلَّكُمْ تَعْقِلُونَ

Meaning: "Say (Prophet Muḥammad), "Come here! I will read you what the Lord forbids, do not associate Him with anything, do good to both parents, and do not kill your children because of poverty. (Your Lord said,) 'We are the ones who provide for you and for them.' Nor do you approach vile deeds, whether visible or hidden. Do not kill anyone whom

²² Az-Zuhaili, *Tafsir Al-Munir Fi Al-'Aqidah Wa Al-Syari'ah Wa Al-Manhaj*., 338.

Allah forbids, except for the right reasons. Thus he commands you that you may understand."²³

Munāsabah al-āyāt this verse, The prohibition of committing heinous acts in this verse is also expressed in Q.S. Al-A'rāf [7]: 33 Say (Prophet Muḥammad), *"Indeed, my Lord only forbids all visible and hidden heinous deeds, sinful deeds, and transgressions without a right reason. You associate Allah with something that Allah does not give evidence of justification for and you say about Allah what you do not know."*²⁴

وَلَا تَقْتُلُوا أَوْلَادَكُمْ مِّنْ إِمْلَاقٍ is the prohibition of burying daughters, Allah emphasizes the importance of being filial to parents, grandparents, and grandmothers, and doing good to children and grandchildren. He forbade killing children for fear of lack of sustenance, because Allah is the one who provides sustenance to all. We don't need to worry about lack of sustenance because Allah guarantees sustenance for His servants.

وَلَا تَقْرُبُوا الْفَوَاحِشَ is the sentence of prohibition of committing heinous acts, that is, all sinful acts, both words and deeds, such as adultery and accusing married believers of adultery, are considered great by Allah. The Arabs of the time of *the jāhiliyyah* did not take issue with hidden adultery, but regarded adultery that was carried out openly as an abomination.

وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ, The sentence prohibits killing life without rights. Allah affirmed the prohibition of killing as a strictly forbidden act. This reflects the concern and concern for these crimes. Violating this prohibition is a grave sin that violates human rights and hurts God's creation. This prohibition, along with other prohibitions of heinous deeds, is referred to as God's will to understand His commandments. It promises an understanding of goodness and justice, as well as abandoning what is forbidden. A will is an

²³ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

²⁴ Az-Zuhailli, *Tafsir Al-Munir Fi Al-'Aqidah Wa Al-Syari'ah Wa Al-Manhaj.*, 366.

agreement to do good and avoid evil. God showed that the act of worshipping others than Him and forbidding some livestock was an unreasonable act.

The prohibition of heinous acts and the means that support them is a must because it is detrimental to health, existence, and society. This prohibition includes all forms of heinous acts. Killing people without a sharia and logical reason damages Allah's creation and is a great sin. Those who are forbidden to be killed are Muslims who are protected, or under certain conditions such as refusing zakat, abandoning prayer, self-defense, robbers, *qiṣāṣ law*, apostasy, and zina *mukhṣan*.

Some scholars allow the act of killing a person on the basis of homosexual practices, referring to a hadith narrated by Abu Dawud from Ibn Abbas, he said that the Prophet said, "If you find a person who does the deeds of the Luths, then kill the perpetrator and the object." (Narrated by Abu Dawud).²⁵

4. Q.S. Al-Isrā' [17]: 31

وَلَا تَقْتُلُوا أَوْلَادَكُمْ خَشْيَةَ إِمْلَاقٍ نَحْنُ نَرْزُقُهُمْ وَإِيَّاكُمْ إِنَّ قَتْلَهُمْ كَانَ خِطْئًا كَبِيرًا

It means: "Do not kill your children for fear of poverty. We are the ones who provide sustenance for them and (also) for you. Indeed, killing them is a great sin."²⁶

Wahbah interprets the verse as, "*And do not kill your daughters for fear of poverty or reproach. For We are the ones who will provide for them, not you. And We will also provide you with sustenance. Indeed, killing them for fear of poverty or reproach is a great sin and mistake.*" Information about sustenance for children is highlighted here because of the situation: God speaks to the rich, alluding to their sustenance. When speaking to the poor, Allah forbids them to kill children for fear of poverty, because the sustenance for parents and children is in the hands of Allah. Killing children because of poverty is a form of

²⁵ Az-Zuhaili., 368.

²⁶ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

prejudice against God. If it was because of concerns over the girl's flaws and condition, killing her would ruin the world. This verse shows that God is more merciful to His servants than a father to his son. God forbids parents to kill their children, and also stipulates that parents give their children an inheritance. During the *jāhiliyyah* period, they did not give inheritance rights to their daughters. In fact, they sometimes bury girls alive because they are considered weak in making a living, in contrast to boys who are considered more talented at fighting, robbing, and taking the girls from their parents. They also feared that the poverty of the girl would discourage respectable people from marrying her, forcing her to marry inappropriate people.²⁷

5. Q.S. Al-Baqarah [2]: 49

وَإِذْ نَجَّيْنَاكَ مِنَ آلِ فِرْعَوْنَ يَسُومُونَكَ سُوءَ الْعَذَابِ يُذَبِّحُونَ أَبْنَاءَكَ وَيَسْتَحْيُونَ نِسَاءَكَ
وَفِي ذَلِكَ بَلَاءٌ مِّن رَّبِّكَ عَظِيمٌ

It means: "(Remember) when We saved you from (Fir'aun and) Fir'aun's followers. They inflicted a very heavy torment on you. They slaughtered your sons and let your daughters live. In such a great trial there is a great trial from your Lord."²⁸

Asbāb al-nuzūl this verse, There are also those who say that Fir'aun once dreamed of seeing fire from Jerusalem which frightened him, entering the houses of the Copts in Egypt except for the houses of the Children of Israel. The dream was later interpreted by some as a sign that Firaun's power would disappear into the hands of a man from the Children of Israel.²⁹ At that time, Fir'aun oppressed the Children of Israel by turning them into servants and slaves, using them in his projects. He arranged for them to perform various tasks, from construction to agriculture. Thus, they worked for Fir'aun, and

²⁷ Wahbah Az-Zuhaili, "Tafsir Al-Munir Fi Al-'Aqidah Wa Al-Syari'ah Wa Al-Manhaj Jilid 8 (Al-Lsra' - Thaha) Juz 15 & 16" (Depok: Gema Insani, 2013), 82., 85.

²⁸ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

²⁹ Wahbah az-Zuhaili, *Tafsir Al-Munir Fi Al-'Aqidah Wa Al-Syari'ah Wa Al-Manhaj (Jilid 1)* (Jakarta: Gema Insani, 2013), 120.

anyone who refused to carry out the duties assigned by Fir'aun had to pay taxes.³⁰

The explanation in this verse fully describes a number of gifts that have been given by God to the Children of Israel, as a reminder that they should be grateful for these gifts, including: *First*, the salvation of Fir'aun and his followers. *Second*, the crossing of the Children of Israel through the Red Sea with safety. *Third*, the acceptance of the remorse of the Children of Israel and God's forgiveness of them. *Fourth*, the lowering of the Torah which clarifies the difference between truth and falsehood, as well as between what is permissible and what is forbidden. *Fifth*, the act of cleansing involving a large number of sinful individuals, was carried out by Allah's command to the Prophet Musa AS, after the Children of Israel worshipped the calf as a god other than God. Of course, Fir'aun's acts of torture against the Children of Israel attracted great attention, including the murder of boys as well as the oppression of girls who were left to live in torture.³¹

C. Interpretation According to Ibnu Kaṣīr

1. Q.S. Al-An'ām [6]: 137

وَكَذَلِكَ زَيْنَ لِكَثِيرٍ مِّنَ الْمُشْرِكِينَ قَتَلَ أَوْلَادِهِمْ شُرَكَاؤُهُمْ لِيُرْثُوهُمْ وَلِيَلْبِسُوا عَلَيْهِمْ دِينَهُمْ وَلَوْ شَاءَ اللَّهُ مَا فَعَلُوهُ فَذَرْهُمْ وَمَا يَفْتَرُونَ

It means: "Thus their idols (Satan) make it beautiful for many polytheists to kill their children in order to destroy them and to mess up their own religion. If Allah had willed, they would not have done it. Let them be with what they are making up." ³²

Satan leads polytheists to think positively of giving offerings from the crops and animals that God has created to Him. Later, the demons also influenced them to see it as natural to kill their children for fear of economic

³⁰ Wahbah az-Zuhaili., 122.

³¹ Wahbah az-Zuhaili., 123.

³² "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

hardship, and even bury their daughters alive for fear of being reproached by society.

In the Word *وَكَذَلِكَ زَيَّنَ لِكَثِيرٍ مِّنَ الْمُشْرِكِينَ قَتْلَ أَوْلَادِهِمْ شُرَكَاؤُهُمْ* which is interpreted *"And thus their leaders have made most of the polytheists look up to killing their children."* Ali ibn Abi Talhah said from Ibn 'Abbas: "Their leaders have made them look good to kill their children." The Mujahid said: *"Shurakā'uhum* is the *shayāṭīnuhum* (their demons), who ordered them to kill their children for fear of poverty."

As-Suddi said: "Satan has ordered them to kill their daughters, either to destroy them or to obscure their religion, so that they are confused and their understanding of religion is blurred." The same thing was also said by Abdurrahmān bin Zaid bin Aslam and Qatādah. What is clear is that all of this is an attempt by the devil to make everything look good.

This suggests that all forms of satanic persuasion against polytheists are the will of Allah. Allah has perfect wisdom about this, so Allah is not asked about what He does, but they will be held accountable (for what they do).³³

2. Q.S. Al-An'ām [6]: 140

قَدْ خَسِرَ الَّذِينَ قَتَلُوا أَوْلَادَهُمْ سَفَهًا بِغَيْرِ عِلْمٍ وَحَرَّمُوا مَا رَزَقَهُمُ اللَّهُ افْتِرَاءً عَلَى اللَّهِ قَدْ ضَلُّوا
وَمَا كَانُوا مُهْتَدِينَ^٤

It means: "It is a loss to those who kill their children because of ignorance and ignorance and forbid the sustenance that Allah has bestowed upon them by (only) making lies against Allah. Truly, they have gone astray and have not been guided."³⁴

In interpreting this verse, al-Hafizh Abu Bakr bin Mardawaih said from Ibn 'Abbas, he said: "If you want to know the ignorance of the Arabs, then read

³³ Ibnu Katsir, "Tafsir Ibnu Katsir Jilid 3 (Penerjemah M. Abdul Ghoffar E.M., Abdurrahim Mu'thi, Abu Ihsan Al-Atsari)," ed. M. Yusuf Harun (Bogor: Pustaka Imam Syafi'i Penerbit Penebar Sunnah, 2004), 304.

³⁴ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

Surah al-An'ām after the one hundred and thirtieth verse" which is meant by al-An'ām verse 140.³⁵

No different from Wahbah and Quraish, Ibn Kašīr stated that the *polytheists* who commit these actions really suffer losses, both in this world and in the hereafter. They lose money in the world by losing the children they kill, as well as reducing their prosperity by forbidding some things they set for themselves. Their disadvantage in the hereafter is to be placed in the most despicable position because of lies and unrighteousness towards Allah.

3. Q.S. Al-An'ām [6]: 151

قُلْ تَعَالَوْا أَتْلُ مَا حَرَّمَ رَبِّي عَلَيْكُمْ أَلَّا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَانًا وَلَا تَقْتُلُوا أَوْلَادَكُمْ
مِنْ إِمْلَاقٍ نَحْنُ نَرْزُقُكُمْ وَإِيَّاهُمْ وَلَا تَقْرَبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ وَلَا تَقْتُلُوا النَّفْسَ
الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ذَلِكُمْ وَصَّيْتُكُمْ بِهِ لَعَلَّكُمْ تَعْقِلُونَ

Meaning: "Say (Prophet Muḥammad), "Come here! I will read you what the Lord forbids, do not associate Him with anything, do good to both parents, and do not kill your children because of poverty. (Your Lord said,) 'We are the ones who provide for you and for them.' Nor do you approach vile deeds, whether visible or hidden. Do not kill anyone whom Allah forbids, except for the right reasons. Thus he commands you that you may understand." ³⁶

Ibn Kašīr in his commentary on Surah al-An'ām [6]: 151 describes the verse as a stern warning from Allah against the heinous deeds that humans must avoid. He explained that Allah expressly forbids His punishment with anything, because it is the greatest and most heinous deed. This condemnation thwarted God's right to be fully worshipped and deviated from the path of righteousness that He had ordained.

In addition, Ibn Kašīr highlighted Allah's prohibition against wrongdoing, including committing *ẓālim* against fellow human beings. This

³⁵ Katsir, "Tafsir Ibnu Katsir Jilid 3 (Penerjemah M.Abdul Ghoffar E.M., Abdurrahim Mu'thi, Abu Ihsan Al-Atsari).", 307.

³⁶ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

includes all forms of violence, oppression, and injustice that unfairly harm others. This ban emphasizes the importance of maintaining justice and respecting the rights of others in society.

Ibn Kaṣīr also emphasized Allah's prohibition against killing without a valid cause. This shows the importance of maintaining human safety and well-being and respecting the value of life. Thus, Ibn Kaṣīr's interpretation of this verse highlights the importance of staying away from heinous acts and obeying Allah's commands to create a society based on justice, peace, and humanity.³⁷

4. Q.S. Al-Isrā' [17]: 31

وَلَا تَقْتُلُوا أَوْلَادَكُمْ خَشْيَةَ إِمْلَاقٍ نَحْنُ نَرْزُقُهُمْ وَإِيَّاكُمْ إِنَّ قَتْلَهُمْ كَانَ خِطْئًا كَبِيرًا

It means: "Do not kill your children for fear of poverty. We are the ones who provide sustenance for them and (also) for you. Indeed, killing them is a great sin."³⁸

This great verse reflects God's deep love for His servants, beyond the love that parents usually have for their children, for Allah has forbidden mankind to kill their children. In addition, Allah also affirms the inheritance rights given to parents over their children. During *the jāhiliyyah* period, the practice of giving inheritance to girls was unusual. In fact, there are cases where one of them murders his daughter with the intention of avoiding the increasing burden of life. Then Allah forbade this act while saying وَلَا تَقْتُلُوا أَوْلَادَكُمْ خَشْيَةَ

إِمْلَاقٍ "And do not kill your children for fear of poverty." That is to say, because you are afraid of being poor in the second state. Therefore, He puts forward attention to their provisions, where He says: نَحْنُ نَرْزُقُهُمْ وَإِيَّاكُمْ "We are the ones

³⁷ Katsir, "Tafsir Ibnu Katsir Jilid 3 (Penerjemah M.Abdul Ghoffar E.M., Abdurrahim Mu'thi, Abu Ihsan Al-Atsari).", 321.

³⁸ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

who give them sustenance, and also to you," He said, *إِنَّ قَتْلَهُمْ كَانَ خِطْئًا كَبِيرًا*,

"Killing them is a great mistake." that is a great sin.

Overall, Ibn Kaṣīr's interpretation of Q.S. al-Isrā' verse 31 emphasizes the importance of safeguarding children's lives as a mandate from Allah, and shows that Islam strictly prohibits the practice of killing children, especially girls, for fear of poverty or other economic reasons.³⁹

5. Q.S. Al-Baqarah [2]: 49

وَإِذْ نَجَّيْنَكُمْ مِنَ آلِ فِرْعَوْنَ يَكُومُونَ سُوَاءَ الْعَذَابِ يُذَبِّحُونَ أَبْنَاءَكُمْ وَيَسْتَحْيُونَ نِسَاءَكُمْ
وَفِي ذَلِكَ بَلَاءٌ مِّن رَّبِّكُمْ عَظِيمٌ

It means: "(Remember) when We saved you from (Fir'aun and) Fir'aun's followers. They inflicted a very heavy torment on you. They slaughtered your sons and let your daughters live. In such a great trial there is a great trial from your Lord."⁴⁰

Asbāb al-nuzūl this verse, Fir'aun instructed that all baby boys from the Children of Israel born after his dream should be killed, while baby girls are left alive. He also ordered that the Children of Israel be employed in hard and degrading work.⁴¹

Munāsabah al-āyāt this verse, Q.S. Ibrāhīm [14]: 6,

وَإِذْ قَالَ مُوسَىٰ لِقَوْمِهِ اذْكُرُوا نِعْمَةَ اللَّهِ عَلَيْكُمْ إِذْ أَنْجَاكُمْ مِنْ آلِ فِرْعَوْنَ يَكُومُونَ سُوَاءَ الْعَذَابِ
وَيُذَبِّحُونَ أَبْنَاءَكُمْ وَيَسْتَحْيُونَ نِسَاءَكُمْ وَفِي ذَلِكَ بَلَاءٌ مِّن رَّبِّكُمْ عَظِيمٌ

It means: "When Moses said to his people, "Remember God's favor on you when He saved you from Pharaoh's followers. They torture you with painful torture, slaughter your male children, and allow your female lives (to be tortured and abused). In such a thing there is a great temptation from your Lord."⁴²

³⁹ Ibnu Katsir, "Tafsir Ibnu Katsir Jilid 5 (Penerjemah M.Abdul Ghoffar E.M., Abdurrahim Mu'thi, Abu Ihsan Al-Atsari)," ed. M.Yusuf Harun (Bogor: Pustaka Imam Syafi'i Penerbit Penebar Sunnah, 2004), 160.

⁴⁰ "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

⁴¹ Ibnu Katsir, "Tafsir Ibnu Katsir Jilid 1 (Penerjemah M.Abdul Ghoffar E.M., Abdurrahim Mu'thi, Abu Ihsan Al-Atsari)," ed. M.Yusuf Harun (Bogor: Pustaka Imam Syafi'i Penerbit Penebar Sunnah, 2004), 128.

⁴² "Qur'an Kemenag (Terjemah Kemenag 2019 Dan Tafsir Lengkap)."

This verse is almost the same as Q.S. Al-Baqarah [2]: 49, but differs in the section *وَيَذَرْنَهُنَّ* where there are conjunctions (و).⁴³ The interpretation in this verse is further explained that girls are deliberately left alive to be tortured and harassed.⁴⁴

In essence, this verse tells of the prophet Moses who invited his people to reflect on God's favor as He saved them from the cruelty of Pharaoh and his followers. Fir'aun had tortured them in cruel ways, including killing their sons, while keeping their daughters alive. The prophet Moses reminded his people that the experience was actually a severe test from Allah to test their faith and obedience.⁴⁵

⁴³ Katsir, "Tafsir Ibnu Katsir Jilid 1 (Penerjemah M.Abdul Ghoffar E.M., Abdurrahim Mu'thi, Abu Ihsan Al-Atsari).", 129.

⁴⁴ *Tafsir Qur'an Kemenag* (Gedung Bayt Al-Qur'an & Museum Istiqlal Jalan Raya Taman Mini Indonesia Indah Pintu I Jakarta Timur 13560: Lajnah Pentashihan mushaf Al-Qur'an, n.d.).

⁴⁵ Katsir, "Tafsir Ibnu Katsir Jilid 1 (Penerjemah M.Abdul Ghoffar E.M., Abdurrahim Mu'thi, Abu Ihsan Al-Atsari).", 131.

CHAPTER IV

THE RELEVANCE OF THE QUR'ANIC INTERPRETATION OF ABORTION TO THE PREGNANCY OF RAPE VICTIMS

A. *Mufassir's View of Abortion*

In the context of the passage about the prohibition of abortion, the consideration of *mufassir* is more about the child's right to life. Because after all, seeing the reason for the descent of the verse, it is the right to life of the child that needs to be prioritized and has achieved *maqāṣid* justice at that time. In addition to the problems that occurred at that time were not as complex as they are now, it is possible that the incidence of pregnancy due to rape has not occurred much so that it has received less public attention. But in fact, *mufassir* highly upholds the right to life in the interpretation of these verses, which includes the right to life for all human beings.

Textually, the verse prohibiting abortion expressly condemns the act of depriving one's life. This verse emphasizes that every soul has a high value and must be protected from all forms of threats, including the threat of the practice of abortion. In Islam, life is a sacred human right and should not be violated except under certain very limited conditions and with very strong reasons. This verse reflects the basic principle that human life, both born and unborn, has dignity that must be respected and cared for with care.

In the context of the descent of this verse, the *mufassir* emphasizes the right to life that exists in children. They see that during the period of the passage of the verse, the social and moral situation of the community really needs emphasis on the protection of children's right to life. In those days, the practice of infanticide was often carried out for a variety of reasons, including poverty and social stigma. Therefore, this verse was revealed as a direct response to overcome the problem and to affirm the importance of children's right to life.

The *mufassir* interpret this verse with an emphasis on the right to life of children as part of the fulfillment of *maqāṣid as-syarī'ah* justice, which includes the protection of life as one of the five main goals of *syarī'ah*. They

argue that safeguarding children's right to life is an integral part of maintaining the entire order of human life.

However, interpretations regarding abortion bans may need to take into account the more complex situations and conditions in this modern era. Pregnancy due to rape, the medical condition of the mother and fetus, and other social factors are issues that need more attention in the interpretation of these verses. Modern scholars and *mufassirs* need to study and interpret these verses by considering the development of the times and the complexity of the existing problems.

The *mufassir* argue that in the era of the passage of the verse, the problems faced by society were not as complex as they are now. At that time, incidents such as pregnancy due to rape may not have occurred much or did not receive significant public attention. Therefore, the main focus of the verse is to ensure that the child's right to life is guaranteed and protected.

Overall, the interpretation of the verse on the prohibition of abortion by the *mufassir* is based on the principle of the right to life which is highly upheld in Islam. Although the historical context may be different from the current situation, the basic value of such interpretation remains relevant and important to hold. This shows that Islam as a dynamic religion always tries to balance basic principles with the reality and challenges of the changing times. From the interpretations of the abortion prohibition verse, there are two main values about the fulfillment of human rights, namely:

1. The Right to Life of Every Human Being

The right to life of every human being is a fundamental value in Islamic teachings, including respect, protection, and fulfillment of basic needs that are appropriate for each individual, as well as the enforcement of justice and protection for the weak and vulnerable.¹ Islam emphasizes the importance of safeguarding life and providing fair rights to every human

¹ Arsyad Almakki, "Hak Asasi Manusia Dalam Al-Quran," *Al-Furqan : Jurnal Agama, Sosial, Dan Budaya* 2, no. 1 (2023): 25.

being, which is universally recognized by the books of tafsir. The perspective of *hakiki* justice affirms that every individual, regardless of gender, has the same and inviolable right to life.² Classical and contemporary books of Tafsir often highlight verses of the Qur'ān that underscore the importance of protection of life, including women's lives.

Tafsīr al-Munīr by Wahbah Zuhaili, Tafsīr al-Misbah by Quraish Shihab, and Tafsīr Ibnu Katsir agreed to explain that the right to life is a basic right given by Allah to all human beings without discrimination. The Qur'an in Q.S. al-An'ām [6]: 137 forbids the killing of girls in the tradition of some *jāhiliyyah* tribes because it is a deception of Satan, Q.S. al-An'ām [6]: 140 narrates how stupid the *jāhiliyyah* people are for killing their daughters, even though children are sustenance, Q.S. al-An'ām [6]: 151 prohibits the killing of girls because of poverty, it is affirmed that it is a heinous act that does not respect the value of life, Q.S. al-Isrā' (17:31) explicitly prohibits the killing of girls for fear of poverty or economic disadvantage. These interpretations emphasize that a woman's life is as valuable as a man's life and that discriminatory acts against women, such as the murder of girls that used to be common in *the time of jāhiliyyah*, are highly condemned in Islam.

Likewise, men also have the right to life. It is explained in Q.S. al-Baqarah [2]:49 that Allah severely punished Fir'aun and his followers for killing a son. This happened, because Fir'aun was afraid that there would be a man of the descendants of the Children of Israel who would become the ruler to defeat him. Of course, this reason is a form of arrogance that does not respect the child's right to life. Every human being has the right to life, both men and women. The Qur'ān as His Word affirms the prohibition of killing girls and boys. Although the two are told for different reasons, the fact is that the prohibition on killing girls and boys aims to protect the right to life of every child.

² Rofiah, *Nalar Kritis Muslimah Refleksi Atas Keperempuanan, Kemanusiaan, Dan Keislaman*, 2020., 140

The above verses show that the Qur'ān places great emphasis on the right to life of every individual, especially children. Infanticide, whether for economic, social, or political reasons, is a strictly forbidden act in Islam. Islam teaches that every life is precious and must be protected. Justice for all human beings, including children, is one of the main principles that Muslims must uphold.³ God guarantees sustenance for each of His creatures and affirms that fear of poverty should not be an excuse for unjust and cruel actions.

Tafsīr Ibn Kaṣīr highlights the right to life for women in interpreting the verses concerning the prohibition of the killing of girls by providing a historical context in which women are often considered a burden. Ibn Kaṣīr affirmed that Islam came to abolish these inhumane practices and uphold the dignity and rights of women as noble beings.⁴ In his view, Allah emphasizes this equality of the right to life as a manifestation of *hakiki* justice. This perspective of *hakiki* justice is also reflected in the role of women in Islamic society as explained in various books of tafsir. Women's right to life not only means freedom from murder but also includes the right to live with dignity and dignity.⁵ This means providing equal access to education, employment, and participation in social and political life, all of which are integral to the right to life in an Islamic perspective.⁶

Hakiki justice according to these interpretations also includes the protection of every human being, including women who often experience

³ Muhajirin and Zulaikha Fitri Nur Ngaisah, "Keadilan Dalam Al-Quran," *Hermeneutik: Jurnal Ilmu Al Qur'an Dan Tafsir* 13, no. 1 (2019): 44, <https://doi.org/10.21043/hermeneutik.v13i1.5538>.

⁴ Katsir, "Tafsir Ibnu Katsir Jilid 3 (Penerjemah M.Abdul Ghoffar E.M., Abdurrahim Mu'thi, Abu Ihsan Al-Atsari).", 305

⁵ Masnun Tahir, "Perempuan Dalam Bingkai Hak Asasi Manusia Dalam Hukum Keluarga Islam," *Musāwa Jurnal Studi Gender Dan Islam* 15, no. 1 (2016): 57, <https://doi.org/10.14421/musawa.2016.151.59-75>.

⁶ Nurhayati B and Mal Al Fahnum, "Hak-Hak Perempuan Menurut Perspektif Al-Quran," *Marwah: Jurnal Perempuan, Agama Dan Jender* 16, no. 2 (2017): 191, <https://doi.org/10.24014/marwah.v16i2.4139>, 191.

violence and oppression.⁷ Islam condemns all forms of violence against women, be it physical, psychological, or economic.⁸ This interpretation supports the view that women should be protected and empowered to enjoy a safe and productive life, in line with the principles of justice and welfare taught by Islam.

The right to life of women and men in the perspective of *hakiki* justice also means recognition of their contribution to the family and society. Islam emphasizes that women have an important and respected role in building a just and prosperous society just like men. *Hakiki* justice means not only physical protection, but also recognition and appreciation of women's role and contribution in all aspects of life.⁹ Thus, *hakiki* justice in Islam includes a comprehensive right to life and respects the dignity of women as an integral part of humanity.¹⁰

The right to life of every human being from the perspective of women's *hakiki* justice can be seen through various perspectives, including Ibn 'Āsyūrr which underscores the importance of *Maqāṣid asy-Syarī'ah*.¹¹ *Maqāṣid asy-Syarī'ah*, which includes *ḥifẓ an-naḥs* (protection of the soul), *ḥifẓ an-nasl* (protection of offspring), *ḥifẓ al-māl* (protection of property), *ḥifẓ al-'aql* (protection of reason), and *ḥifẓ ad-dīn* (protection of religion), providing a comprehensive framework for understanding women's right to life in a fair and equitable manner.

⁷ Gamal Iskandarsyah Abidin, "Pemikiran Relasi Gender Muhammad Asad Dalam The Message Of The Qur'an (Kajian Tafsir Tematik)," *Repository* (Institut PTIQ Jakarta, 2022), repository.ptiq.ac.id/id/eprint/.

⁸ Adinda Cahya Magfirah, Kurniati Kurniati, and Abd. Rahman, "Kekerasan Seksual Dalam Tinjauan Hukum Islam," *Jurnal Cakrawala Ilmiah* 2, no. 6 (2023): 4, <https://doi.org/10.53625/jcijurnalcakrawalailmiah.v2i6.4927>.

⁹ Muhammad Adres Prawira Negara, "Keadilan Gender Dan Hak-Hak Perempuan Dalam Islam," *Az-Zahra: Journal of Gender and Family Studies* 2, no. 2 (2022): 75, <https://doi.org/10.15575/azzahra.v2i2.15840>.

¹⁰ Nur Rofiah, "Islam Tidak Setengah-Setengah Dalam Memperjuangkan Perempuan," Podcast PW Fatayat NU DIY, 2022, <https://www.youtube.com/watch?v=BZ5E-2XmOdM&list=WL&index=6>.

¹¹ Achmad Reza Utama Al Faruqi and Sayyid Muhammad Indallah, "Sexual Consent Perspektif Maqasid Syariah (Studi Analisis Kritis)," *Al-Ahkam Jurnal Ilmu Syari'ah Dan Hukum* 7, no. 2 (2022): 172, <https://doi.org/https://doi.org/10.22515/alahkam.v7i2.6263>.

2. Al-Qur'ān Guarantes Justice for All Human Beings

The Qur'ān expressly guarantees justice for all human beings, both men and women, and this is reflected in teachings that condemn cruel practices against children.¹² The stories of the killing of female babies in the time of *jāhiliyyah* and the slaughter of baby boys in the time of Fir'aun are strong evidence of the Qur'ān's commitment to universal justice. Here is a more detailed explanation of how the Qur'ān condemns and prohibits these practices and guarantees justice for all human beings:

a) The Prohibition of Killing Girls in the Jāhiliyyah Period

It shows that the Qur'ān places a very high value on the life of every child, including women, and strongly condemns such cruel acts. In the form of justice and protection of human rights, by condemning the killing of baby girls, the Qur'ān affirms that every individual, regardless of gender, has the right to protection for his or her life.¹³ This is part of Islam's efforts to eliminate discriminatory and unfair practices that harm certain groups, including women.

b) The Prohibition of Killing Baby Boys in the Fir'aun Period

In the form of *Ilāhī*'s justice and retribution, this story shows that although Fir'aun tried to oppress and kill baby boys, God had a greater plan to uphold justice. Moses, who was saved by God, eventually became the leader who liberated the Children of Israel from oppression. This shows that *Ilāhī*'s justice will always prevail over human injustice.

c) Justice in Providing Sustenance

The Qur'an emphasizes that sustenance is a gift from Allah that is guaranteed for each of His creatures. In Surah al-Isrā' verse 31, Allah says: *"And do not kill your children for fear of poverty. We will provide sustenance for them as well as for you. Indeed, killing them is a great sin."* This verse emphasizes that fear of poverty cannot be used as an

¹² Akhmad Bazith, "Keadilan Dalam Perspektif Al-Qur'an (Kajian Tafsir Maudu'i)," *Jurnal Ilmiah Islamic Resources* 16, no. 1 (2019): 10, <https://doi.org/10.33096/jiir.v16i1.1>.

¹³ M. Hajir Mutawakkil, "Keadilan Islam Dalam Persoalan Gender," *Kalimah* 12, no. 1 (2014): 67, <https://doi.org/10.21111/klm.v12i1.219>.

excuse to commit murder, both against boys and girls. It shows that all children, regardless of gender, have the same right to life.

d) Gender Equality

Islam emphasizes gender equality in rights and obligations.¹⁴ The murder of girls in the time of *the jāhiliyyah* and the sons of the time of Pharaoh is an extreme example of gender injustice that Islam opposes. It is explained in Q.S. al-Ḥujurāt [49]:13, *"O people, indeed We created you from a man and a woman and made you into nations and tribes so that you may know one another. Indeed, the most noble among you in the sight of Allah is the most righteous."* This verse confirms that a person's glory before Allah is not determined by gender, but by piety.

e) Sosial Responsibility

Islam teaches social responsibility and encourages its people to protect the weak and oppressed, including children.¹⁵ The prohibition of abortion is part of this responsibility. refers to the obligation of individuals and society to care, help, and protect those in need, as well as to fight for justice in all aspects of life.

The Qur'ān guarantees justice for all human beings, both men and women, and strongly condemns unfair and cruel practices against them. By condemning the act of burying baby girls alive during *the jāhiliyyah* period and slaughtering baby boys during the time of Fir'aun, the Qur'ān emphasizes the importance of protecting the right to life of every individual. Islam teaches that every human being, regardless of gender, has the same right to life, respect, and fair treatment. These principles of justice are reflected in various aspects of life, ranging from law,

¹⁴ Luqman Hakim, "Kesetaraan Gender Dalam Pendidikan Islam Perspektif M. Quraish Shihab," *Peradaban Journal of Interdisciplinary Educational Research* 1, no. 1 (2023): 11, <https://doi.org/10.59001/pjier.v1i1.101>.

¹⁵ Moh. Safrudin, Nasaruddin Nasaruddin, and Ihwan Ihwan, "Tafsir Ayat-Ayat Kemasyarakatan Implementasi Nilai-Nilai Kemanusiaan Dalam Kehidupan Modern," *TAJIDID: Jurnal Pemikiran Keislaman Dan Kemanusiaan* 7, no. 1 (2023): 138, <https://doi.org/10.52266/tajid.v7i1.1851>.

economics, to social relations, making Islam a religion that upholds human values and universal justice.¹⁶

B. The Relevance of the Interpretation of Abortion Verses in the Qur'an to the Pregnancy Conditions of Rape Victims

Generally, victims of pregnancy due to rape require comprehensive support involving medical, psychological, social, and economic aspects.¹⁷ An women's *hakiki* justice perspective that upholds the benefit of women is very useful in this situation, so a holistic and empathetic approach is essential to help victims overcome trauma and rebuild their lives. A victim whose physical condition is healthy is not necessarily psychologically healthy, and vice versa. Therefore, physical and psychological factors cannot be separated, both must be a measure in considering whether or not a person is dangerous.

This includes all situations and conditions that are the background, being an intermediary or cause that leads to the occurrence of emergency conditions such as rape are part that must also be analyzed in taking action. To realize the benefit of the victim as (mother), because the mother is the mother (*al-aşl*) of the fetus so it must be maintained and must be protected. Mothers have a humanitarian responsibility to their families and communities. Meanwhile, the fetus does not have any responsibility. In this case, it is indeed relative, it cannot be generalized in black and white because the conditions that are considered *dlarurat* and beneficial for one person are not necessarily the same as emergency conditions and benefits for others.

Appreciation of human existence in the Islamic view must take precedence, unless the pregnancy threatens the survival of the mother, then the conditions will be different, in which case abortion may be an option. However, if the pregnancy can be continued while the mother does not experience health

¹⁶ Luluk Masruroh et al., "Perbedaan Qudrati Dan Persamaan Hak Gender Dalam Prespektif Al-Quran (Studi Analisis Tafsir Al-Mishbāh)," *Analisis: Jurnal Studi Keislaman* 21, no. 1 (2021): 87, <https://doi.org/10.24042/ajsk.v21i1.8234>.

¹⁷ Annisa Qurrota Aini and Riska Riyanni, "Fenomena Marital Rape: Hukum Dan Konsekuensinya Dalam Perspektif Islam," *Al-Ahkam Jurnal Ilmu Syari'ah Dan Hukum* 7, no. 1 (2022): 8, <https://doi.org/10.22515/alakhkam.v7i1.4817>.

problems due to pregnancy, then abortion is not an option. A better attitude is to continue the pregnancy until finally giving birth well. Because, in *maqāṣid as-syarī'ah*, one of the aspects is to protect life (*ḥifẓ an-nafs*).¹⁸

When a rape victim experiences pregnancy, there are two types of responses that may occur, each with different implications for the victim's mental and physical state. Here's an explanation of the two responses:

1. The Victim Accepts Pregnancy

a. Support from Institutions and Families

- 1) Victims who are able to accept their pregnancy are often supported by caring institutions or organizations, as well as by families who provide emotional and physical support. This support is essential to ensure the victim feels safe and supported in continuing her pregnancy.
- 2) These institutions can provide various forms of assistance, such as counseling, legal support, and financial assistance.

b. Medical and Psychological Assistance

- 1) Throughout pregnancy, the victim must be closely monitored by medical experts to ensure that her health is maintained. Regular check-ups and medical care are necessary to identify and treat possible complications.
- 2) Assistance by a psychologist or psychiatrist is also very important to help victims cope with trauma and stress. Ongoing counseling can provide needed emotional support and help victims prepare for pregnancy and childbirth.

¹⁸ Anisa Mufliah and Ali Mursyid, "Tafsir Ayat-Ayat Kekerasan Seksual: Analisis Metodologis Terhadap Penafsiran Kongres Ulama Perempuan Indonesia (KUPI)," *MISYKAT Jurnal Ilmu-Ilmu Al-Quran Hadist Syariah Dan Tarbiyah* 6, no. 2 (2021): 30, <https://doi.org/10.33511/misykat.v6n2.1-40>.

c. Mental and Physical Readiness

- 1) With the right support, victims can feel better mentally and physically ready to continue the pregnancy. This support helps to reduce feelings of fear and anxiety, as well as improve overall well-being.

The situation that has been explained earlier, the safety of the mother's life as a victim has been guaranteed. This condition is similar to the mother's condition during the period of the verse prohibiting abortion, where at that time the mother's condition was good and not worrisome. If (*hifẓ an-nafs*) the salvation of the mother's soul is guaranteed, then what needs to be fought for is (*hifẓ an-nafs*) the salvation of the child's soul. Of course, ignoring the safety of children's lives in such circumstances will be detrimental. Referring to the verse that prohibits abortion, in Q.S. Al-An'ām [6]: 140, Quraish Shihab explains that those who suffer from deficiency or destruction, which means that they do not take care of the child's life will result in a great loss, namely the loss of the future.¹⁹ In addition, in Q.S. Al-Isrā' [17]: 31, the mufasssirs agree that children are sustenance that needs to be taken care of in their lives.

From this explanation, it can be concluded that the abortion prohibition clause is relevant in the condition of the victim who received a pregnancy due to rape. If the victim is mentally and physically ready to continue the pregnancy, then the right to life of both the mother who is the victim and the fetus can be maintained. The principle of women's *hakiki* justice that prioritizes benefits emphasizes that the justice that must be received by the victim is based on the conditions she chooses herself.²⁰ This means that the victim's decision to continue the pregnancy must be respected

¹⁹ Shihab, "Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian Al-Qur'an (Vol 4 Surah Al-An'am)." h.309.

²⁰ Rofiah, "Memecah Kebisuan Agama Mendengar Suara Perempuan Korban Kekerasan Demi Keadilan (Respon NU)," n.d., 196.

and supported by taking into account their well-being and basic rights as a whole.

2. The Victim Did Not Accept the Pregnancy

a. Trauma and Severe Stress

- 1) Victims who cannot accept their pregnancy may experience severe trauma and stress due to the rape they experienced. This condition can threaten the mental and physical health of the victim, as well as the fetus she is carrying.
- 2) Severe trauma can lead to serious disorders such as depression, anxiety, and even suicidal potential. In this situation, continuing the pregnancy can be very dangerous for the victim, proved by the result of psychological.

b. Medical Considerations

- 1) A medical physical examination by a competent doctor is essential to determine whether the victim's physical condition allows for the pregnancy to continue. If the examination shows that the pregnancy may endanger the victim's life, then the doctor may recommend an abortion.
- 2) These recommendations should be based on an in-depth medical evaluation, which takes into account all the risks and potential complications that may occur if the pregnancy continues.

c. Psychologist's Advice

- 1) A psychologist must conduct a thorough evaluation of the victim's mental condition. If it is found that the victim is experiencing severe stress and significant trauma, psychologists may recommend abortion as a measure to protect the victim's mental health.
- 2) These recommendations should be based on a careful and detailed professional assessment, which takes into account the long-term psychological impact of continuing the pregnancy.

d. Safe Abortion

- 1) The abortion procedure must be performed safely to reduce the risk of complications. It involves the use of proper medical techniques and sterile equipment.
- 2) Abortion must be performed at an official health facility with the assistance of experts such as doctors and other medical personnel. This is important to prevent complications such as infection, bleeding, and damage to the reproductive organs.
- 3) After an abortion, victims need to get follow-up care to ensure physical and psychological recovery. Counseling and emotional support are also important during the recovery process.

e. Full Support

- 1) Both survivors who continue their pregnancies and those who undergo abortions need ongoing support from family and professionals. This support helps victims overcome trauma and rebuild their lives.
- 2) Support programs can include long-term counseling, support groups, and social assistance to help victims recover comprehensively.²¹

If a mother is not in good condition, then the child's soul will not be guaranteed because the mother's own soul needs help. Therefore, the priority must be to maintain the safety of the mother's soul (*hifẓ an-nafs*). In the verse prohibiting abortion, Q.S. Al-An'am [6]:151, the context is different. This prohibition is aimed at the *jāhiliyyah* who are afraid of poverty, even though such fear is unnecessary.²² Quraish Shihab emphasized that the human soul must be respected, and Ibn Kasir in his commentary also emphasized the

²¹ Fiqih Amalia and A'yunin Akrimni Darajat, "Peran Dukungan Sosial Keluarga Dalam Proses Penerimaan Diri Pada Remaja Korban Kekerasan Seksual," *Al Huwiyah: Journal of Woman and Children Studies* 2, no. 2 (2022): 111, <https://doi.org/10.24042/jwcs.v2i2.15269>.

²² Shihab, "Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian Al-Qur'an (Vol 4 Surah Al-An'am)." h.343.

importance of upholding justice, peace, and humanity.²³ Wahbah in his commentary on Q.S. Al-An'am [6]:140 states that humans who live in this world provide benefits and avoid danger.²⁴ In those days, abortions due to pregnancy caused by sexual violence, such as rape, have not received any focused attention. In the context of the descent of the verse, it is the child's soul that needs to be saved. However, the conditions that occur to rape victims are very threatening if the mother's life safety is threatened. In fact, what really needs to be done for her safety is the mother as a victim. The mother's soul is present first and is clear her life in the world, while the fetus she conceives does not yet have a life like her mother. After all, the female victim is a servant of Allah who has the right to life.

Pregnancy treatment for rape victims must be carried out with empathy and attention to the mental and physical condition of the victim. Support from families and institutions, as well as assistance by medical and psychiatric personnel, is essential to ensure that victims can get through this traumatic situation as best they can. In situations where abortion is deemed necessary, strict medical and psychological measures must be followed to guarantee the safety and well-being of the victim. Every decision must be taken with the long-term well-being of the victim and fetus in mind, as well as with respect for the rights and dignity of the victim.

In situations where a rape pregnancy victim must choose to have an abortion, it is very important that they still have the full support of those closest to them, such as family and aid agencies. The choice to have an abortion in this case is made with the main objective of saving the victim's life, which must be protected and prioritized. Therefore, the abortion prohibition clause is irrelevant if it is used as a basis to force the victim to continue the pregnancy under these conditions. In this context, the

²³ Katsir, "Tafsir Ibnu Katsir Jilid 3 (Penerjemah M.Abdul Ghoffar E.M., Abdurrahim Mu'thi, Abu Ihsan Al-Atsari)."h.304.

²⁴ Az-Zuhailli, *Tafsir Al-Munir Fi Al-'Aqidah Wa Al-Syari'ah Wa Al-Manhaj*.h.337.

protection of victims' right to life must be prioritized based on the principle of *hakiki* justice, which emphasizes the importance of respecting and protecting women's right to vote in the face of this very difficult situation.

CHAPTER V

CLOSING

A. Conclusion

This study has discussed the prohibition of abortion in the Qur'ān and how relevant it is if applied to the case of pregnancy of rape victims by reviewing the perspective of women's *hakiki* justice. Here are the conclusions that the researcher got:

1. Interpretation of Qur'ān Verses that prohibit the killing of children are basically aimed at the practice that occurred in Arab society during the time of revelation, where there was a tradition of killing children, especially female infants, for economic and social reasons. Likewise with baby boys who are afraid that Fir'aun will be seized of his power. The social conditions and traditions of Arab society at that time were very different from the situation faced by pregnant women due to rape today. In the past, the threat in question was more related to inhumane practices carried out for reasons unrelated to emergencies such as pregnancy due to rape.
2. In the context of pregnancy due to rape, the main threat is to the victim's life and mental health. Women rape victims are in a very different and complex situation, where the pregnancy occurs not against their will, but as a result of acts of violence that violate their human rights. So that the threat is directed at the victim's life. The approach to *hakiki* justice for women victims of rape must consider the psychological, social, and health conditions of the victims. The interpretation of the Qur'ān's verses must be carried out with a contextual understanding that takes into account the dynamics and challenges faced by the victims, which are different from the traditions and historical contexts of the past. Based on the analysis, the interpretation of the verses that prohibit abortion is relevant if the victim has emotional, spiritual, and physical strength whether from herself or from support system around her. It can be said that nothing to worry about the mother's soul and healthy both physical and mental. Then, the focus is to

maintain the soul of the child. It is different from the condition of pregnancy in rape victims who doesn't strength physical, spiritual and mental whether from herself or support system around her. The focus is to maintain mother's soul. Because if forced, it will actually threaten the lives of the victim as well as the child. If this is the case, then the abortion prohibition clause is irrelevant to use. This is due to the difference in the context of threats and the impact faced by victims. The handling of this case must be carried out with consideration of the *hakiki* and profound justice for the victims, including the possible options available to protect their well-being, because in fact, saving the victim's life and life is a must.

B. Suggestion

The researcher realizes that this thesis has a limited scope, so this research needs to be further developed in the study of interpretation and from the perspective of women's *hakiki* justice. The verses about abortion in the Qur'ān can still be discussed with some interpretation, such as *the maqāṣidi* point of view, which provides a more comprehensive understanding of (*maqāṣid asy-syarī'ah*), such as *ḥifẓ an-naḥs*, *ḥifẓ an-nasl*, *ḥifẓ ad-dīn*, *ḥifẓ al-'aql*, and *ḥifẓ al-māl*. In addition, it can be further discussed from the point of view of hermeneutics, to understand the text of the Qur'ān by considering the historical, linguistic, and cultural context of the time of revelation, to see how the meaning of the verses can evolve according to the changing times and social conditions. Furthermore, the perspective of women's *hakiki* justice is not only a study of verses about abortion. This theory can analyze other verses of women, such as polygamy, reproductive rights, and women's leadership, both in the context of family, social, and politics. This research can help understand how Islam supports women's role as leaders and how the interpretation of these verses can support gender equality.

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