

Protection of the Dignity of the Corpse: A Study on the Criminalization of Necrophilia Reviewed from the Maqashid Syariah

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Abstract : *Necrophilia in Indonesia has not been specifically regulated in the law. This causes a legal vacuum to punish the perpetrators of necrophilia in Indonesia. This research focuses on examining maqashid sharia in the criminalization of necrophilia in Indonesia. The research method used is normative research method. The results show that in Islamic teachings, necrophilia is considered a serious violation of the honor of the corpse which is highly respected, equivalent to respect for the living. This act not only violates the honor of the corpse but also the principle of keeping private parts and sight, which is emphasized in Islam. Criminalizing necrophilia protects individuals from heinous crimes and preserves the moral and ethical values of society in accordance with maqashid al-shariah, which aims to protect human honor and posterity. In the Qur'an, Allah SWT strictly prohibits zina, including all forms of sexual relations outside the bonds of legal marriage, as in Surah Al-Isra' verse 32. Necrophilia, as a sexual perversion, is a grave violation of Islamic teachings that emphasize respect for the human body. This prohibition emphasizes the importance of private parts and morality in the context of marriage and Islamic moral values. Necrophilia tarnishes human dignity, disrupts social order, and violates sharia law and Islamic ethics. Maqashid al-shariah includes five main principles: the preservation of religion, soul, mind, offspring, and property, all of which emphasize the importance of prohibiting and punishing practices that insult human dignity such as necrophilia. Criminalizing necrophilia is an important effort to preserve religious integrity, morality, and social justice, as well as protect human dignity and the stability of society.*

Keywords : *Criminalization, Maqashid Sharia, Necrophilia*

Abstrak : Nekrofilia di Indonesia belum diatur secara khusus dalam undang-undang. Hal ini menyebabkan kekosongan hukum untuk menghukum para pelaku nekrofilia di Indonesia. Penelitian ini berfokus pada telaah maqashid syariah dalam kriminalisasi nekrofilia di Indonesia. Metode penelitian yang digunakan adalah metode penelitian normatif. Hasil penelitian menunjukkan bahwa dalam ajaran Islam, nekrofilia dianggap sebagai pelanggaran serius terhadap kehormatan mayat yang sangat dihormati, setara dengan penghormatan terhadap orang yang masih hidup. Tindakan ini tidak hanya melanggar kehormatan mayat tetapi juga prinsip menjaga bagian pribadi dan penglihatan, yang ditekankan dalam Islam. Kriminalisasi nekrofilia melindungi individu dari kejahatan keji dan menjaga nilai-nilai moral dan etika masyarakat sesuai dengan maqashid al-shariah, yang bertujuan untuk melindungi kehormatan manusia dan keturunan. Dalam Al-Qur'an, Allah SWT secara tegas melarang zina, termasuk segala bentuk hubungan seksual di luar ikatan pernikahan yang sah, sebagaimana dalam Surat Al-Isra' ayat 32. Nekrofilia, sebagai



penyimpangan seksual, merupakan pelanggaran berat terhadap ajaran Islam yang menekankan penghormatan terhadap tubuh manusia. Larangan ini menekankan pentingnya bagian pribadi dan moralitas dalam konteks pernikahan dan nilai-nilai moral Islam. Nekrofilia menodai martabat manusia, mengganggu ketertiban sosial, dan melanggar hukum syariah dan etika Islam. Maqāshid al-syarī'ah mencakup lima prinsip utama: pemeliharaan agama, jiwa, pikiran, keturunan, dan harta benda, yang semuanya menekankan pentingnya melarang dan menghukum praktik-praktik yang menghina martabat manusia seperti nekrofilia. Kriminalisasi nekrofilia merupakan upaya penting untuk menjaga integritas agama, moralitas, dan keadilan sosial, serta melindungi martabat manusia dan stabilitas masyarakat.

Kata kunci : Kriminalisasi, Maqashid Syariah, Nekrofilia

I. INTRODUCTION

Necrophilia, or the act of having sexual intercourse with corpses¹, is a form of paraphilia that is very rarely discussed widely in legal and social contexts.² Paraphilia is a term that refers to a pattern of sexual behaviour that deviates from the norm, where a person experiences sexual urges towards unusual or unusual objects, situations or individuals.³ Among the various forms of paraphilia, necrophilia occupies a very taboo position and is viewed as particularly horrifying by society at large.⁴

Necrophilia is not only a criminal act that attacks morality, but also creates deep psychological disturbances in society.⁵ Not only does it involve the abuse of corpses, but it is also a serious violation of the honour of deceased human beings.⁶ Society considers corpses to be respected and treated with dignity, in accordance with prevailing traditions and religious beliefs.⁷ In Indonesia, positive law does not specifically regulate necrophilia. Nonetheless, this act can be interpreted as violating prevailing norms of decency and religion, as well as hurting the feelings and honour of the family of the deceased. However, the absence of specific regulations in Indonesian criminal law creates a legal vacuum that may result in the absence of strict sanctions against perpetrators of necrophilia.

A case of necrophilia that occurred in Mojokerto, East Java, highlights the urgent need to criminalise this act in accordance with the maqashid syariah principles of Islamic law. In May 2023, a 19-year-old man named M. Adi raped the body of AE, a grade 3

¹ Palash Kumar Bose et al., "Necrophilia in a Forensic Morgue Staff in Bangladesh: Forensic Psychiatric Challenges and Implications," *Journal of Affective Disorders Reports* 5 (July 1, 2021): 100158, <https://doi.org/10.1016/j.jadr.2021.100158>.

² Julien Chopin and Eric Beauregard, "Patterns of Necrophilic Behaviors in Sexual Homicide: A Criminological Perspective," *International Journal of Offender Therapy and Comparative Criminology* 65, no. 15 (November 1, 2021): 1, <https://doi.org/10.1177/0306624X20969947>.

³ Melissa S. de Roos, Nicholas Longpré, and J. D. M. van Dongen, "When Kinks Come to Life: An Exploration of Paraphilic Behaviors and Underlying Predictors," *The Journal of Sex Research*, 2024, 1, <https://doi.org/10.1080/00224499.2024.2319242>.

⁴ Robert J B Lehmann, Alexander F. Schmidt, and Sara Jahnke, "Stigmatization of Paraphilias and Psychological Conditions Linked to Sexual Offending," *The Journal of Sex Research* 58, no. 4 (May 4, 2021): 438–47, <https://doi.org/10.1080/00224499.2020.1754748>.

⁵ Arif Billah and Mosharaf Hossain, "Necrophilia in Bangladesh: Psycho-Analytic Evaluation of a Case Study," *Teikyo Medical Journal* 44, no. 5 (2021): 1890.

⁶ Manuel Camassa, "Empathy and Moral Judgement," in *On the Power and Limits of Empathy*, ed. Manuel Camassa (Cham: Springer Nature Switzerland, 2024), 69, https://doi.org/10.1007/978-3-031-37522-4_6.

⁷ Abhay Pachauri, "The Void Of Necrophilia Laws In Indian Criminal System: What Needs To Be Done," *Supremo Amicus* 25 (2021): 2, <https://doi-ds.org/doilink/08.2021-49632938/supremoamicus/v25/2021/27>.

student of SMPN 1 Kemlagi, after the victim was killed by AB, a 15-year-old classmate. The act was motivated by uncontrollable lust. Adi, who works as a labourer in an iron factory earning Rp500,000 per week, admitted that he was forced to do it out of lust. According to Mojokerto City Police Chief, AKBP Wiwit Adisatria, AB killed AE in the rice field behind the perpetrator's house at night, and then took the victim's body to his parents' empty house. The house is usually used for cutting and cleaning chickens. AB asked Adi to help him dispose of AE's body. When AB went to buy raffia rope to tie the plastic sack, Adi took the opportunity to fuck AE's corpse. This depraved act was carried out twice, with Adi ejaculating during the second intercourse.⁸

The case of AE in Mojokerto, where M. Adi raped a corpse after the victim was killed by his friend AB, demonstrates a profound cruelty that violates the moral and ethical values upheld in society. This incident creates an urgency to further explore the Islamic view of necrophilia, given that most of the Indonesia's population is Muslim, and Islamic law is often used as a moral and ethical reference in society. The need for an in-depth study is even more pronounced because such incidents not only tarnish human values, but also challenge the basic principles in maqashid sharia.

Islam, as a religion that bases its teachings on respect for human life, also places great emphasis on the protection of the dead. In the Qur'an and Hadith, there are many teachings that regulate how corpses should be treated with respect. Acts of necrophilia, therefore, are not only considered as a violation of social norms, but also as an act that is strictly against the basic principles in Islam.

In Islamic law, respect for the dead reflects fundamental values regarding human sanctity and dignity. Every individual, whether alive or deceased, has the right to be treated with respect. The protection of corpses from indecent or degrading acts is an integral part of Islamic teachings that affirm the importance of preserving human honour in all circumstances.⁹

Therefore, exploring the Islamic view on necrophilia has a high urgency. This exploration is not only to strengthen the existing legal basis, but also to ensure that moral and ethical values in society are maintained.^{10 11} Islam as the majority religion in Indonesia has an important role in shaping the morals and ethics of society. By criminalising necrophilia, we are doing more than just protecting individuals from a particularly heinous crime. It also aims to preserve the honour and integrity of the religious values upheld by most of the Indonesia's population. Criminalising necrophilia would be a clear statement that such acts are unacceptable in a society based on Islamic values. It also demonstrates a commitment to protecting the spiritual integrity and morality of society, as well as respecting the rights of individuals even after they die. As such, it will reinforce ethical

⁸ CNN Indonesia, "Pemuda Mojokerto Perkosa Mayat Siswi SMP Korban Pembunuhan," *CNN Indonesia*, June 14, 2023, <https://www.cnnindonesia.com/nasional/20230614200723-12-961962/pemuda-mojokerto-perkosa-mayat-siswi-smp-korban-pembunuhan>.

⁹ Nurma Yunita and Femalia Valentine, "Nilai-Nilai Pendidikan Islam Serta Hikmah Pengurusan Jenazah," *BELAJAJA Jurnal Pendidikan Islam* 5, no. 2 (2020): 303.

¹⁰ Memo Bayu Pratama, "Kriminalisasi Perbuatan Zina Sebagai Perwujudan Implementasi Sila Ketuhanan Yang Maha Esa Dalam Rancangan Kitab Undang-Undang Hukum Pidana (RKUHP)," *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam* 4, no. 2 (2022): 587.

¹¹ Francisco Carpintero Benitez, "The Fundamentals of Ethics," in *Criminal Law and Morality in the Age of Consent: Interdisciplinary Perspectives*, ed. Aniceto Masferrer (Cham: Springer International Publishing, 2020), 175, https://doi.org/10.1007/978-3-030-64163-4_1.

and moral norms in society, which are essential for building a just, dignified and civilised community in accordance with the principles of sharia.

This research focuses on a review of Islamic teachings regarding necrophilia and the criminalisation of such acts within the maqashid sharia concept. In contrast to previous research that has mostly highlighted aspects of Indonesian positive law, this research integrates the Islamic religious perspective as the main foundation to justify the criminalisation of necrophilia. This research aims to strengthen the legal foundation with sharia values and ensure that moral and ethical norms in society are maintained. Some relevant previous studies include Elza Deswira Pratiwi and Gelar Ali Ahmad's¹² research analysing the crime of treating a corpse in an uncivilised manner in Article 271 of the New Criminal Code, focusing on the interpretation of the meaning of this crime and its qualification in Indonesian positive law. In addition, Jeane Neltje Salydan and Hafidz Indra Pratama¹³ examined the implementation of criminal sanctions for perpetrators of murder accompanied by intercourse with the dead in the journal *Kewarganegaraan*, focusing on the implementation of criminal sanctions arrangements and legal remedies for the victim's family. Kowland Hawary's research¹⁴ discusses the punishment of the perpetrators of the crime of corpse rape in Indonesian positive law, focusing on the idea of punishment in the context of positive law. Finally, Virgin Muthia Imron, Febrian Arif Wicaksana, and Arif Dian Santoso¹⁵ examine necrophilia in the perspective of Indonesian positive law and Islamic law, focusing on the application of judges and the classification of jarimah (categories of crimes) without going into depth about maqashid sharia as the main foundation.

The novelty of this research lies in the comprehensive approach that combines positive law with maqashid sharia principles. This research not only aims to qualify necrophilia as a criminal offence but also to understand and justify the criminalisation of the act based on the five main objectives of sharia (maqashid sharia), namely the maintenance of religion, soul, mind, offspring, and property. Thus, this research enriches the legal discourse with a sharia perspective that can provide moral and ethical guidance for the Muslim-majority Indonesian society. This research seeks to bridge the gap between positive law and sharia values, and provide a strong moral and ethical justification for the criminalisation of necrophilia, so that it can contribute significantly to the formation of legal policies that are more holistic and in accordance with religious and cultural values in Indonesia.

II. RESEARCH METHOD

This research is normative in nature, this method is conducted by focusing on the review of literature relevant to the topic of necrophilia in the context of Islamic law.¹⁶ The

¹² Elza Deswira Pratiwi and Gelar Ali Ahmad, "Analisis Yuridis Tindakan Perkosaan Terhadap Jenazah Di Indonesia," *Novum: Jurnal Hukum*, 2024, <https://doi.org/10.2674/novum.v0i0.58364>.

¹³ Jeane Neltje Saly and Hafidz Indra Pratama, "Penerapan Sanksi Pidana Bagi Pelaku Tindak Pidana Pembunuhan Disertai Persetubuhan Dengan Orang Meninggal," *Jurnal Kewarganegaraan* 7, no. 2 (2023), <https://doi.org/10.31316/jk.v7i2.5410>.

¹⁴ Kowland Hawary, "Gagasan Pemidanaan Terhadap Pelaku Kejahatan Pamerkosaan Mayat (Nekrofilia) Dalam Hukum Positif Indonesia," *JOM Fakultas Hukum Universitas Riau* VI, no. 2 (2019).

¹⁵ Febrian Arif Wicaksana, Arif Dian Santoso, and Virgin Muthia Imron, "Necrophilia In Perspectives of Indonesian Positive Law And Islamic Law," *SYARPAH: Journal of Indonesian Comparative of Syari'ah Law* 6, no. 2 (2023).

¹⁶ Muhaimin Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), 43.

approach used is a case approach, where this research examines a necrophilia case that occurred in Mojokerto, East Java, as the main study to explore the urgency of criminalising the act. Legal materials were obtained from various literatures, including international scientific journals, relevant books, and Islamic legal sources. Legal analyses were conducted systematically to examine the subject matter in depth. The results of the analysis are presented qualitatively, with clear and easy-to-understand narratives, so as to provide a comprehensive understanding of the Islamic view on necrophilia and its implications in the legal system.

III. DISCUSSION

Understanding the Concept of Parafilia and Islamic Teachings

Sexual perversion is sexual behaviour performed in an unnatural way to obtain sexual pleasure, often involving unnatural sexual objects. It includes sexual practices or fantasies aimed at achieving orgasm through relationships other than heterosexual relationships, with members of the same sex, or with immature partners, which are contrary to generally accepted sexual norms in society. In addition to being known as sexual deviance, the term also refers to sexual behaviour or fantasies that do not conform to religious or legal norms, or that are considered immoral. According to Sutardjo A. Wiramihardja, deviant behaviour is the outward manifestation of inner personality or behaviour, and sexual behaviour is an act driven by sexual desire, whether with the opposite sex, same sex, self, or imaginary objects. These sexual activities can be unaffected if there are no physical or social consequences, but some sexual behaviours can result in regret, depression, and anger.¹⁷

There are two concepts of sexual deviance that represent opposing views: sexual deviance as a disease or biologically normal sexual variation. Various sexual preferences, desires, and behaviours have been pathologised and also depathologised to distinguish mental disorders from activities that are considered immoral, unethical, or illegal.¹⁸ The Diagnostic and Statistical Manual of Mental Disorders (DSM-5) uses the term paraphilia to describe intense and persistent sexual interest other than genital stimulation with an adult partner.¹⁹ Paraphilic disorder is defined as a condition that causes suffering or distress to the individual, or involves a risk of harm to others.²⁰

A paraphilic disorder is a paraphilia that causes distress or impairment to the individual or where its gratification involves harm or risk of harm to others. This means that the boundaries of clinical relevance are set based on the impact on the individual or others. Some behaviours may not be 'normophilic', but have no or little clinical importance. Another important change is the addition of specifiers in the classification

¹⁷ Hannani, Hamza Abed Al Karim Hammad, and Zulfahmi AR, "Tracing the Rules of Sexual Abnormality in the Islamic Jurisprudence," *MAZAHIBUNA: Jurnal Perbandingan Mazhab* 5, no. 1 (2023): 5, <https://journal.uin-alauddin.ac.id/index.php/mjpm/article/view/35794>.

¹⁸ Ethel Quayle, "Online Sexual Deviance, Pornography and Child Sexual Exploitation Material," *Forens Psychiatr Psychol Krimino* 14 (2020): 252, <https://doi.org/10.1007/s11757-020-00607-y>.

¹⁹ Michael C. Seto et al., "Concordance of Paraphilic Interests and Behaviors," *The Journal of Sex Research* 58, no. 4 (May 4, 2021): 1, <https://doi.org/10.1080/00224499.2020.1830018>.

²⁰ Heng Choon Chan and Wade C. Myers, "Risky Sexual Behavior, Paraphilic Interest, and Sexual Offending," *International Journal of Environmental Research and Public Health*, 20, no. 5 (2023): 4, <https://doi.org/10.3390/ijerph20054279>.

scheme. The first group of disorders is 'anomalous activity preference' which is divided into several subcategories.²¹ Parafilia is a term introduced into English by Robertson, originally coined by Friedrich Solomon Krauss in 1903 to describe "erotic instincts in reverse". The term comes from the Greek: "para" meaning 'beside' or 'beyond' and "philos" meaning 'to love'. Robertson stated that neurotics with fantasies that always lead to forbidden (guilt-inducing) territory are against masturbation because it is associated with incestuous fantasies, criminal desires, and a perversion that Krauss called paraphilia.²²

The concept of paraphilia was first proposed by Stekel in his 1930 book "Sexual Aberrations." He distinguished paraphilias from other mental disorders by defining them as perversions, separate from neuroses and psychoses. Stekel's work categorized paraphilias into two main areas: fetishism and sadomasochism, while viewing homosexuality as a separate condition arising from social repression. The term "paraphilia" was later popularized by American sexologist John Money, who used it in a non-pejorative way to describe unusual sexual interests that deviate from normative heterosexual behavior. Money's definition highlighted a separation between sexual pleasure and love, emphasizing that paraphilias are not inherently pathological unless they cause personal distress or harm.²³

The term "paraphilia" was first used to avoid negative stigma and entered into the medical nomenclature in the third edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM). Paraphilia describes sexual desires that go beyond the norm and is often compared to normophilia. The DSM, created by psychiatrists for the diagnosis of mental disorders, is considered the gold standard. The category of paraphilia has undergone many changes in the DSM-5, but sexual deviance has been included since the first DSM. In the first DSM, sexual deviance was considered a criminal act and was included in psychopathic personality disorder. In DSM-II, sexual perversions such as homosexuality, paedophilia, fetishism, and masochism were moved to the category of "personality disorders and other nonpsychotic mental disorders". DSM-III introduced the word "paraphilia" to describe "psychosexual disorders".²⁴ The International Classification of Diseases and Related Health Problems (ICD-10), which is the official WHO classification of diseases and disorders, was approved in 1990. In the ICD-10 chapter on Mental and Behavioural Disorders, disorders related to paraphilias were given their own specific grouping:^{25 26 27}

²¹ Surobhi Chatterjee, "Paraphilia: Concepts, Classifications, Epidemiology, Attributes and Management," *Indian Journal of Health, Sexuality & Culture* 5, no. 2 (2019): 45.

²² Charles Moser and Peggy J. Kleinplatz, "Conceptualization, History, and Future of the Paraphilias," *Annual Review of Clinical Psychology* 16 (2020): 382, [https://doi.org/Annual Review of Clinical Psychology](https://doi.org/Annual%20Review%20of%20Clinical%20Psychology).

²³ Alain Giami, "Between DSM and ICD: Paraphilias and the Transformation of Sexual Norms," *Archives of Sexual Behavior* 44, no. 5 (July 1, 2015): 1132, <https://doi.org/10.1007/s10508-015-0549-6>.

²⁴ Mark A. Levand and Renee Roy, "Teaching Paraphilias with the DSM 5: Learning the Distinction between Difference and Disorder," *Australian Journal of Clinical Education* 7, no. 1 (2020): 3.

²⁵ Richard B. Krueger et al., "Proposals for Paraphilic Disorders in the International Classification of Diseases and Related Health Problems, Eleventh Revision (ICD-11)," *Archives of Sexual Behavior* 46, no. 5 (July 1, 2017): 1531, <https://doi.org/10.1007/s10508-017-0944-2>.

²⁶ Tomás Rodríguez López and Lidia Rosa Salgueiro Labrador, "Parafilias: Consideraciones Clínicas y Médico Legales," *Rev Ciencias Médicas* 24, no. 6 (2020): 4.

²⁷ Gautam Biswas, *Review of Forensic Medicine and Toxicology Forensic Medicine and Toxicology Forensic Medicine and Toxicology* (New Delhi: Jaypee Brothers Medical Publishers, 2012), 345.

N0	Typology of Paraphilia	Characteristics
1	Fetishisme	Dependence on lifeless objects for sexual stimulus and gratification
2	Travestism Fetishistic	Use of clothing of the opposite sex to obtain sexual stimulation
3	Exhibitionism	The tendency to display genitals, usually to the opposite sex, accompanied by sexual stimulation and masturbation
4	Voyeurism	Observing people having sexual intercourse or changing clothes, which produces arousal and is often accompanied by masturbation
5	Pedophilia	Sexual preference for children who have not yet reached puberty
6	Sadomasochism	A preference for sexual activity that causes pain or humiliation. In the receiver it is called masochism, in the giver it is called sadism. Both terms belong to the same category
7	Multiple Sexual Preference Disorder	Two or more preceding sexual preferences occur together. For example, fetishism, travestism, and sadomasochism
8	Other Specified Sexual Preference Disorders	Various features associated with erotic stimulation, including frotteurism (rubbing one's body against another in public), obscene phone calls, zoophilia (sex with animals), partial asphyxia to increase stimulation and pleasure, and preference of partners with physical abnormalities.

Table 1. Classification of Paraphilia in ICD-10

One paraphilia that remains a legal void in Indonesia is sexual attraction to corpses (necrophilia). The DSM-5 lists necrophilia as Paraphilia Not Otherwise Specified (PNOS). Pettigrew and Deehan note that although individuals with true necrophilia have a primary attraction to corpses, they are unlikely to sexually abuse corpses and will only keep these sexual fantasies private, perhaps by using pornographic material. The true prevalence rate is unknown and there is no dominant aetiological theory of necrophilia. However, there is a commonality in the existing theories that the individual with necrophilia has complete control over the corpse, which cannot resist, refuse or demand anything.²⁸

Necrophilia, derived from the Greek "necros" (corpse) and "philia" (love), is defined as a sexual attraction to corpses.²⁹ Behavioural manifestations of necrophilia are

²⁸ Leam A. Craig and Ross M. Bartels, "An Overview of Sexual Deviance and Paraphilic Disorders," in *Sexual Deviance*, 2021, 8, <https://doi.org/10.1002/9781119771401.ch1>.

²⁹ Mark Pettigrew, "Fantasy, Opportunity, Homicide: Testing Classifications of Necrophilic Behaviour," *Journal of Police and Criminal Psychology* 34, 2019, 15, <https://doi.org/10.1007/s11896-018-9259-z>.

distinguished from vampirism (drinking blood), necrophagia (eating corpse flesh), and necrozoophilia (attraction to dead animals). Rosman and Resnick divide necrophilia into two groups: true necrophilia, where the attraction to dead bodies is permanent, and pseudonecrophilia, where the attraction is only temporary.³⁰ According to Knafo, there are more than 80,000 websites related to necrophilia. Some necrophiles may seek sexual stimulation in cemeteries or funeral homes. Rosman and Resnick also differentiate necrophiles into regular necrophiles and killer necrophiles, where the latter will kill to obtain a corpse. Aggrawal adds other categories such as romantic necrophiles who cannot accept the death of a loved one and necromutilomaniacs who gain sexual gratification through mutilating corpses. Necrofetishists enjoy being around dead bodies and interacting with them as if they were alive.³¹

To most people, perpetrators of necrophilia, who violate strong social taboos, are considered capable of heinous, inhumane acts. However, although most of us find necrophilia extremely alien and disgusting, this behaviour can be classified as a clear sexual perversion or as a harmless fantasy without physical contact with a corpse. Other forms of necrophilia include murder for the purpose of obtaining a corpse for sexual assault (lust murder or necrosadism), corpse theft (necrostuprum), and mutilation or consumption of corpse body parts (necrophagy). This variation involves necrophetishism, in which a human corpse becomes the object of persistent sexual attraction. The categories of necrophiliac characteristics can be divided into 11 broad categories based on various case studies and review articles by several renowned authors.^{32,33} Dr Anil Aggarwal, a Professor of Forensic Medicine, has proposed a new classification based on his research on necrophilia consisting of ten levels. Here is the classification, viz.^{34, 35}

Class	Typology of Necrophiliacs	Characteristics
I	Role Players	They seem to enjoy a certain type of role-playing, which is only slightly pathological. The researchers did not have sex with corpses, but rather with living people pretending to be corpses in order to get intense stimulation. This constitutes a form of sexual role play. This practice has been referred to as pseudo necrophilia by some authors. Necrophilia has also been referred to as symbolic necrophilia, simulated necrophilia, and symbolic

³⁰ Mark Pettigrew, "Comorbid, Sequential, or Different Desires? Exploring the Relationship between Somnophilia and Necrophilia," *Journal of Sexual Aggression* 23 (2017): 353, <https://doi.org/10.1080/13552600.2017.1372937>.

³¹ Mark Pettigrew and Elizabeth T. Deehan, "Passivity Paraphilias," in *Sexual Deviance*, 2021, 146, <https://doi.org/10.1002/9781119771401.ch9>.

³² Anand Kumar Vasudevan, Prashanthi Krishna Dharma, and L. Eccleston, "Necrophilia: A Study of the Psychoanalysis in the Characteristics of the Offenders Who Sexually Molest the Dead," *Medico-Legal Update* 19, no. 2 (2019): 13, <https://doi.org/DOI Number: 10.5958/0974-1283.2019.00136.1>.

³³ Anand Kumar Vasudevan, Prashanthi Krishna Dharma, and L. Eccleston, 14.

³⁴ Fuadi Isnawan, "Policy on Criminalisation of Necrophilia Behaviour: Case Study of Junior High School Students in Mojokerto," *Krtha Bhayangkara* 18, no. 1 (2024): 260, <https://doi.org/10.31599/krtha.v18i1.1056>.

³⁵ Anibav Yadav, "Defiling The Dead: Laws On Necrophilia," *SSRN*, 2023, 4.

		<p>necrophilia. There is a better term for this phenomenon called necrobiophilia. In Paris there are brothels that cater to this perversion, where prostitutes are dressed in coffins and altered in appearance to look like corpses. To simulate blood-losing skin, one might cover their partner's body with greyish-white cosmetics, cover it with a plastic blanket, or even add toe tags before initiating sexual intercourse. It is not uncommon for couples to have resurrection fantasies where they resurrect a 'dead' partner through sexual activity. In a zombie fantasy, the lover who claims to be resurrected may turn the tables on her, dominate her, and even describe herself as a zombie. It is not uncommon for lovers to simulate murder by biting their partner's neck as part of the vampire fantasy. There are cases where a woman believes herself to be a vampire. With her mouth, she would stimulate her husband's organs to make him look dead. This then gave her the erotic pleasure of pretending that the erection was caused by rigor mortis.</p>
II	Romantic necrophiliacs	<p>There is a very mild tendency towards necrophilia in these individuals. They are normally grieving people who cannot bear to be separated from their loved ones for long periods of time. They can't seem to accept that their loved one has died. The mummification of their loved one's corpse (or part of the corpse) continues like life, and they have a sexual relationship with them. They usually recover over time from their psychopathology, which is only temporary. From a legal perspective, being a class I or II necrophiliac is very harmless. Prosecution of class II necrophiles has not been documented; however, they may require psychiatric intervention.</p>
III	Necrophiliac fantasizes	<p>Compared to Class I necrophiliacs, Class III necrophiliacs seem to be more dangerous from a legal perspective. In their psychosocial behaviour, they are considered abnormal due</p>

		to their lack of sexual activity with the dead. Instead of having sexual intercourse with the dead, they only fantasise about it. The sight of corpses gives them erotic pleasure, so they often visit cemeteries and funeral homes for this purpose.
IV	Tactile necrophiliacs	<p>Necrophiles get orgasms by erotically touching corpses. It is common for them to touch or stroke parts of the corpse's body, such as the genitals or breasts, or perhaps lick them. Those who crave being near a corpse may even become funeral attendants or do other work related to the dead.</p> <p>It is important for them to have a channel through the funeral home. It is also common for medical students to get an erection during the dissection of a corpse. According to Stekel, one student suddenly got an erection while dissecting a cadaver during anatomy class. In most jurisdictions, necrophiles can sue if their corpse is disturbed.</p>
V	Fetishistic necrophiliacs	<p>It should be noted that although their behaviour is considered abnormal, these necrophiliacs do not have sexual intercourse with corpses, as class III and IV necrophiliacs do. Instead, they will randomly cut off a corpse's breasts if they accidentally encounter one for later fetishistic activities. Many women keep pubic hair or a finger from a corpse in their pockets to keep their erotic stimulation constant or wear them as amulets. The removal of clothing from a corpse, especially pantyhose, or even tampons, is considered a fetish by some. Necrofetishism is the paraphilia of these perverts, and they are called necrofetishists. Necrophiles in class II may look similar to them at first glance because they engage in similar activities. The goal of class II necrophilia is to fill the psychosexual void caused by the death of a loved one by retaining body parts of that person. When it comes to the corpses of strangers, they will not act similarly to class V necrophiles. A Belgian woman who kept her husband's penis as a</p>

		sacred item in a silver chest during her lifetime was described by Martin Schurig (1656-1733) in <i>Spermatologia</i> . After pounding it, she found it to be an effective medicine for herself and others. According to Havelock Ellis, there is an earlier example of a French woman who preserved and perfumed her dead husband's genital organ and placed it in a golden chest.
VI	Necromutilomaniacs	The cases in this class are more severe than those in the previous classes. Rosman and Resnick describe this category as "necrophilic fantasies". The term necrophagy is used by Wulffen to describe this class. It is not common for these individuals to engage in sexual relations with corpses. While they mutilate corpses and masturbate simultaneously, their erotic pleasure comes from performing mutilations on corpses. It is most likely that the perpetrator eats parts of the corpse to satisfy his sexual appetite. Among the four types of mutilation described by Rajs and his colleagues is necromantic mutilation. This investigation describes a 40-year-old white man's fantasy about killing a woman, mutilating her body, and removing her organs before masturbating in the blood of the corpse by Rosman and Resnick. Mutilation of warm bodies was his main source of erotic pleasure. Her main goal in working at the morgue in her late 20s was to be near the corpse and cut it up. This is a typical case of class VI necrophilia. There are many mortuary clerks and technicians in this category.
VII	Opportunistic necrophiliacs	Pseudonecrophilia, a term used by Rosman and Resnick, describes this category. In general, they prefer to have sex with living people and would not consider having sex with a deceased person. However, if the opportunity arises, they will take advantage of it. According to Rosman and Resnick, there was a case in this category where a 37-year-old white man dated a 49-year-old woman and had a normal sexual relationship with her. Due to alcohol consumption, he accidentally shot her

		<p>one day. When he saw her dead body, he panicked and tried to hide it. His intimate relationship with her corpse continued as he hid her body, and then her body was disposed of. As she had read about necrophilia in porn magazines before, she was familiar with the term. This category includes funeral workers, undertakers and sailors who have easy access to corpses. Sexual intercourse can occur between a person and his or her deceased spouse when he or she kills the spouse for other reasons. One accused had sexual intercourse with his wife after killing her, as described by Setia and Tabin. According to his testimony, he had not given consent to have sex with her for the past few years because he was in an affair. Even in the presence of her husband, she sometimes had physical relations with her boyfriend, which frustrated him greatly.</p>
VIII	Regular necrophiliacs	<p>They had a relatively common profile and were socially habituated (e.g., in a relationship rather than a solitary lifestyle), which is consistent with previous research. These individuals had asexual collections (e.g., films, images involving deviant sexual behaviour) that allowed them to fulfil their deviant sexual fantasies. This group of offenders corresponds with previous research which identified that necrophilic behaviour is often related to or is part of sexual sadism. For sadistic offenders, post-mortem sexual acts are considered secondary to a process focussed on humiliation, torture and the death of the victim.</p>
IX	Homicidal necrophiliacs	<p>In this category, necrophiliacs are the biggest threat. For them, it is so important to have sex with corpses that they use murder to satisfy their needs. They are often called homicidophiles, which are violent necrophiles or lagnonectors (people who kill to have sex with corpses). Since sex occurs on a recently deceased body, the term "warm necrophilia" can be applied to these cases.</p>

		<p>This category includes necrosadists or lust killers. This category includes many cases of lust killing. It falls under the subclass of 'necrophilic murder' defined by Rosman and Resnick. One of the authors describes the case of a single white man who had a very high sexual drive, aged 25. An attendant at the hospital where he worked masturbated at least seven times a day, collected pornography, and committed various types of crimes including bestiality, urophilia, coprophilia, necrophilia, and necrophilia with animals. A neighbour girl, aged eight, was murdered to fulfil his sexual fantasies. There are many murders believed to have taken place under this category by American serial killer Jeffrey Dahmer from 1960-1994. Apart from dead animals, he is also said to have been aroused by the body parts of his victims.</p>
X	Exclusive necrophiliacs	<p>Despite being the rarest of the bunch, this group is not always the biggest threat. Even though these criminals only need a corpse to have sex with, they are still listed at the bottom of the list. They are unlikely to have sexual intercourse with a living being. Since a corpse is an absolute necessity for them to have sex, they will do anything to get it. This makes them potentially more dangerous than their counterparts. A necrophile would not be included in this class if he or she is capable of having sex with a living person of either gender or age.</p>

Table 2. Necrofilia Classification of Anil Aggrawal

Sexual fantasies play an important role in the context of sexual homicide. However, individuals who commit sexual homicide, similar to other sexual offenders, may be reluctant to disclose their fantasies related to the crime. Necrophilia, a rare paraphilia characterised by sexual attraction to deceased bodies, is a condition that has been documented since ancient times. Individuals who derive pleasure from causing pain and engaging in sexual violence have been found, with significant emphasis on the role of fantasy in their criminal behaviour. Blanchard (1995) proposed that instances of 'killing on desire' may be associated with the formation and escalation of sexual fantasies. These sexual fantasies are believed to stem from childhood experiences of physical and sexual harm. MacCulloch et al. (1983) and Blanchard consider imagination as the driving force behind heinous violence, including murder. The results of the investigation revealed that

the individual involved in case II (Surinder Koli) had a deviant desire to engage in sexual relations with deceased victims and also consume their flesh. Similarly, the individual involved in case IV had an obsession to collect and wear the underwear of their victims after sexually assaulting and killing them.³⁶

The concept of necrophilia in Islam must be viewed through the same strict lens as zina, as it involves the sexual abuse of corpses which are highly revered in Islam. As mentioned in various traditions, the honour of the corpse is to be strictly guarded, similar to the protection of the living. The act of necrophilia not only violates the honour of the corpse but also contradicts the basic principle of guarding the private parts and the sight, which is strongly emphasised in Islamic teachings. Criminalising necrophilia not only protects individuals from a particularly heinous crime but also preserves the moral and ethical values upheld by the majority of the Indonesian population. This is in line with maqasid al-shariah, which aims to protect human honour and posterity, ensuring that society lives within a framework of honourable and dignified values.

In the Qur'an, Allah SWT strictly prohibits adultery, let alone legalising it. Allah SWT says in Surah Al-Isra' verse 32:³⁷

﴿وَلَا تَقْرُبُوا الزَّوْجَىٰ إِنَّهُ كَانَ فَاحِشَةً ۖ وَسَاءَ سَبِيلًا ۝﴾

“And do not approach unlawful sexual intercourse. Indeed, it is ever an immorality and is evil as a way.”

This verse instructs Muslims not to approach adultery, even approaching it is prohibited, let alone legalising it. This verse also means that in Islam there is a recommendation to stay away from all actions that can lead a person to the implementation of sexual relations outside the legal marriage bond.³⁸

Etymologically, zina means "fahisyah," which means an abominable act. In terminology, zina is sexual intercourse between a man and a woman outside the bonds of marriage.³⁹ The jurists define zina as sexual intercourse involving penetration of the penis into the vagina without any doubt and with desire.⁴⁰ Zina is also defined as the insertion of the penis into an unlawful vagina without any doubt. According to Ibn Rushd, zina is intercourse that is not done because of legal marriage or the rules of slave ownership. Hamka states that zina is any form of sexual intercourse outside of marriage. The Encyclopaedia of Islamic Criminal Law explains zina as intercourse between a man and a woman committed by a mukallaf who is not bound by a legal marriage. Adultery is a criminal offence punishable by hudud or had, which is a punishment determined by Allah SWT in the Qur'an and is considered as Allah's absolute right. Islamic law defines adultery

³⁶ Geetika Saxena, "Behavioral Characteristics Of Male Psychopaths Serial Murderers Involved In Sexual Homicides In India," *GAP Indian Journal Of Forensics And Behavioural Sciences* 1, no. 1 (2024).

³⁷ Aghnat'Aliyah et al., "Tinjauan Hukum Pidana Islam Terhadap Pembuktian Jarimah Zina," *Tashdiq: Jurnal Kajian Agama Dan Dakwah* 2, no. 1 (2023): 5.

³⁸ Muhammad Akmal Rizki Rivaldi, Anisa Fernanda, and Baidhowi, "Pro Kontra Pengaturan Pencegahan Dan Penanganan Kekerasan Seksual Di Perguruan Tinggi: Tinjauan Perspektif Hukum Islam," *Mutawasith* 4, no. 2 (2021): 109.

³⁹ Fuadi Isnawan, "Fenomena Friend With Benefit (FWB) Di Kalangan Remaja Dalam Tinjauan Hukum Islam," *Jurnal Darussalam; Jurnal Pendidikan, Komunikasi Dan Pemikiran Hukum Islam* XIV, no. 1 (2022): 138.

⁴⁰ Nunung Dian Wahyuningsih, "Perbandingan Hukum Perzinahan Dalam UU No. 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana (KUHP) Dengan Hukum Islam," *JOLSIC: Journal of Law, Society and Islamic Civilisation* 11, no. 2 (2023): 102.

very strictly, stating that any sexual relationship outside the legal bond of marriage is considered adultery. The prohibition of adultery in the Qur'an and hadith aims to encourage good, prevent evil, and protect offspring and honour. One of the main objectives (maqasid al-shariah) in Islamic law is to protect offspring, human honour, and human existence.⁴¹

Zina can be understood as sexual intercourse outside of marriage. From a moral perspective, this act is considered dirty, despicable and immoral in society, while from a religious perspective, adultery is a punishable act and considered sinful. Therefore, the punishment of adultery is inevitable, except for those whose minds are controlled by lust. According to fiqh, zina is sexual intercourse between a man and a woman without a legal marriage bond, i.e. inserting the male genital organ into the female genital organ, at least to the extent of hashish. Adultery is considered a crime that falls under the category of hudud or had, which are punishments prescribed for offences involving the rights of Allah SWT. Thus, the law regarding adultery has been regulated by the Qur'an because it is the absolute right of Allah SWT.⁴²

Adultery in Islam is considered a crime, whether committed by unmarried or married individuals. The act of adultery is not a private and personal matter, but a serious offence that undermines the social and moral order of society. Islam views adultery as a major threat to the honour of the family, especially the family of the woman involved, as well as the potential for other social problems such as out-of-wedlock pregnancies, illegitimate children, illegal abortions, and the spread of sexually transmitted diseases such as AIDS. All of this is contrary to one of the main objectives of maqasid al-shariah, which is the protection of offspring and human honour.⁴³

With regard to necrophilia, this act is not only a more severe form of adultery but also involves the humiliation of corpses, which are highly honoured in Islam. Necrophilia undermines the basic values upheld by maqasid al-shariah, which aims not only to protect offspring and honour but also to preserve human dignity both while alive and after death. Zina is considered a grave sin and a heinous act, which can open the gates to other shameful acts, destroy the foundation of the family, cause strife and murder, ruin good names, and spread physical and spiritual diseases. Therefore, Islamic criminal law considers adultery a very serious criminal offence. Adulterers are divided into two categories: married (muhsan) and unmarried (ghair muhsan). The punishment for muhsan offenders is stoning or stoning to death, while for ghair muhsan it is flogging a hundred times and exile for one year. In the sentencing process, Islamic law requires strong evidence such as four witnesses, the confession of the perpetrator, or other supporting evidence, showing attention to justice and caution in handling adultery cases.⁴⁴

⁴¹ Noor Izzati Amelia, Radiatus Sholehah, and Khairunnisa, "Tindak Pidana Zina Dan Penuduhan Zina: Kajian Hukum Pidana Islam," *Hukum Inovatif: Jurnal Ilmu Hukum Sosial Dan Humaniora* 1, no. 2 (2024): 141, <https://doi.org/10.62383/humif.v1i2.172>.

⁴² Farah Edhar Khaerunisa, "Adultery In The Perspective Of Islamic Religious Law And Positive Law In The Indonesian Community," *Jurnal Hunafa: Studia Islamika* 18, no. 2 (2021): 160.

⁴³ Wan Nor Hana Wan Ismail et al., "Hudud: The Right Of Allah Swt In Perspective Of Punishment For Adultery," *Journal of Critical Reviews* 7, no. 8 (2020): 789.

⁴⁴ Syamsul Askandar, "Kedudukan Pengaturan Tindak Pidana Perzinahan Di Indonesia," *Jurnal Negara Dan Keadilan* 10, no. 1 (2021): 43.

Islam regulates sexual relations between men and women to preserve human dignity through the institution of marriage, as human biological needs can only be fulfilled through legal marriage. In this context, paraphilia, including necrophilia, strongly contradicts the basic principles of Islam. Paraphilia, which encompasses various forms of sexual perversion, undermines the integrity and honour of the individual as well as society. Necrophilia, as one form of paraphilia, is a highly immoral and destructive behaviour, not only because it violates social and ethical norms, but also because it disrespects the dignity of deceased human beings.⁴⁵

In Islamic teachings, modesty is one of the values that is highly emphasised as part of individual chastity and morality. This is reflected in Surah al-Mu'minūn verses 5-6, where Allah SWT asserts that sexual intercourse is only allowed between a husband and wife who are legitimate according to Islamic law. The verse not only emphasises the importance of the marriage bond as a foundation for legally fulfilling human biological needs, but also as an effort to maintain the honour, dignity and sanctity of individuals, this verse is :

﴿ وَالَّذِينَ هُمْ لِأُزُوجِهِمْ حَافِظُونَ ۗ إِلَّا عَلَىٰ أَزْوَاجِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ فَإِنَّهُمْ غَيْرُ مَلُومِينَ ﴾

5. *And they who guard their private parts*

6. *Except from their wives or those their right hands possess, for indeed, they will not be blamed*

In this context, the prohibition against sexual relations with corpses, as stated in the verse, makes clear the Islamic view on the lawfulness of sexual behaviour. Necrophilia, as a form of paraphilia involving sexual attraction to dead bodies, is considered a serious offence against religious teachings as it goes against the morality upheld in Islam. Such acts are not only considered to be in violation of Allah's law, but they also tarnish human dignity and disrupt social order. Thus, the prohibition against necrophilia, as stated in the Qur'anic verse, not only underscores the importance of chastity and morality in the context of marriage, but also affirms the moral values upheld in Islam. This reflects Islam's commitment to preserving the chastity and integrity of individuals and society as a whole, and confirms that behaviour that violates religious norms will not be accepted in the moral view of Islam.

The verses in Surah an-Nur verses 30-31 provide strict guidelines to Muslims to maintain chastity and morality in sexual relations.⁴⁶ This verse is:

﴿ قُلْ لِلْمُؤْمِنِينَ يَغُضُّونَ مِنْ أَبْصَارِهِمْ وَيَحْفَظُونَ أْفُرُوجَهُمْ ذَلِكَ أَزْكَىٰ لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ وَقُلْ لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا وَلَا يَضْرِبْنَ بِجُمُرِهِنَّ عَلَىٰ جُيُوبِهِنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا لِبُعُولَتِهِنَّ أَوْ آبَائِهِنَّ أَوْ أَبْنَائِهِنَّ أَوْ بُعُولَتِهِنَّ أَوْ إِخْوَانِهِنَّ أَوْ بَنِي إِخْوَانِهِنَّ أَوْ بَنِي أَخَوَاتِهِنَّ أَوْ نِسَائِهِنَّ أَوْ مَا مَلَكَتْ أَيْمَانُهُنَّ أَوْ التَّبَعِينَ غَيْرِ أُولَىٰ الْأَرْبَةِ

⁴⁵ Sri Astuti Ana Darwis, Abdul Wahid Haddade, and Andi Muhammad Akmal, "Sexual Deviation of Animals Between Law and Sharia; a Comparative Analysis," *MAZAHIBUNA: Jurnal Perbandingan Mazhab* 3, no. 2 (2021): 122.

⁴⁶ Vania Andari Damanik, "Tinjauan Kriminologi Terhadap Pornografi Yang Diperjualbelikan Melalui Member Vip Media Sosial Telegram," *SEMAR: Jurnal Sosial Dan Pengabdian Masyarakat* 1, no. 3 (2023): 24.

مِنَ الرِّجَالِ أَوْ الطِّفْلِ الَّذِينَ لَمْ يَظْهَرُوا عَلَى عَوْرَتِ النِّسَاءِ ۖ وَلَا يَضْرِبْنَ بِأَرْجُلِهِنَّ لِيُعْلَمَ مَا يُخْفِينَ ۗ وَتُوبُوا إِلَى اللَّهِ جَمِيعًا أَيُّهَ الْمُؤْمِنُونَ لَعَلَّكُمْ تُفْلِحُونَ ﴿٣٠﴾

30. Tell the believing men to reduce [some] of their vision and guard their private parts. That is purer for them. Indeed, Allah is Acquainted with what they do.

31. And tell the believing women to reduce [some] of their vision and guard their private parts and not expose their adornment except that which [necessarily] appears thereof and to wrap [a portion of] their headcovers over their chests and not expose their adornment except to their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers, their brothers' sons, their sisters' sons, their women, that which their right hands possess, or those male attendants having no physical desire, or children who are not yet aware of the private aspects of women. And let them not stamp their feet to make known what they conceal of their adornment. And turn to Allah in repentance, all of you, O believers, that you might succeed.

In the context of necrophilia, the prohibition to guard one's private parts and keep one's gaze becomes relevant and crucial. Necrophilia, which is the sexual practice with corpses, is explicitly against the teachings of Islam which encourages the maintenance of bodily chastity and legitimate sexual relations within the bonds of marriage.

exual relations within the bonds of marriage.

The verses emphasise the importance of keeping one's gaze and keeping one's private parts as an effort to abstain from all forms of behaviour that violate moral and religious norms. The command to keep one's gaze and keep one's private parts also reflects religious teachings about self-control and obedience to the rules set by God. By abstaining from temptation and indecent behaviour, individuals can maintain their honour and prevent actions that harm themselves and others. In addition, the prohibition against sexual relations with dead bodies is also related to the concept of humanity and respect for human dignity in Islam. Treating dead bodies with respect and honouring the sanctity of the human body, even after death, are values that are emphasised in Islamic teachings.⁴⁷

Sayyid Quṭb asserts that guarding the genitalia from adultery begins with restraining the gaze from haram things. Allah SWT combines the command to restrain the gaze and guard the genitals in one verse because the two are closely related. Al-Syanqiti explains that Allah SWT commands believers, both men and women, to lower their gaze and guard their private parts from destructive acts such as adultery, homosexuality, and lesbianism. Ibn Qayyim also emphasised that Allah SWT prioritises the command to subdue the gaze before the command to guard the genitals because many major calamities start from the gaze, like a big fire that comes from a small spark. At first it is only a fantasy, then real action, and finally a great crime such as adultery. Lowering one's gaze and guarding one's private parts is a preventive measure against immoral and destructive acts, including necrophilia. Necrophilia is not only a grave violation of the honour of the

⁴⁷ Nisrina Nur Fatimah et al., "Peran Agama Islam Dalam Mencegah Tindak Kekerasan Seksual," *Moderasi: Jurnal Kajian Islam Kontemporer* 1, no. 1 (2023): 7.

corpse, but also an extreme form of the inability to control lust and the gaze. Hence, the Islamic view stresses the importance of maintaining honour, both in life and after death.⁴⁸

Shaykh Muhammad Amin Ash-Syanqithi in Tafsir Adhwaul Bayaan explains that Allah commands believing men and women to lower their gaze. Lowering one's gaze means maintaining one's honour. Allamah Ibnul Qayyim in the book Jawabul Kafi mentions that subduing the gaze is an important step to keep the private parts from sinful acts. Whoever lets his gaze run wild is plunging himself into destruction.⁴⁹

The one who does not keep his gaze will pollute his heart and keep himself away from the light of knowledge and nur of Allah SWT, so that sins will be easier to commit. The first glance that occurs suddenly and unintentionally can still be forgiven, but if it continues, it can become a poisonous arrow from the arrows of Satan, as stated by the Prophet Muhammad SAW in Musnad. Uncontrolled views will give birth to whispers in the heart, the whispers give birth to thoughts, thoughts grow lust, then lust grows desire. Furthermore, the desire continues to grow so that it causes a strong desire that can no longer be controlled, until finally an adulterous act occurs.

In the context of necrophilia, controlling one's gaze and preserving one's honour becomes very relevant. Necrophilia, the act of having sexual intercourse with a corpse, is an extreme form of sexual perversion that is highly contrary to Islamic teachings. According to Islam, the human body must be honoured both in life and after death. Sexual intercourse is only justified within the legal bond of marriage between husband and wife. Therefore, the practice of necrophilia is a gross violation of Islamic values of chastity, honour and respect for the dead body. Necrophilia is a manifestation of uncontrolled lust, which begins with an unguarded gaze and mind. Islam strongly emphasises the importance of guarding the gaze as the first step to avoid committing sins. By keeping the gaze and maintaining honour, a Muslim can protect himself from various forms of sexual perversion, including necrophilia. A guarded gaze will keep the heart clean, thus keeping away from actions that are contrary to Islamic teachings and damage the honour of self and others.

In Surah Al-Ahzab verse 35, Allah affirms that both men and women who believe, obey, are honest, patient, and maintain their honour, as well as performing acts of worship such as fasting and almsgiving, will receive forgiveness and great rewards from Him. This verse emphasises the importance of maintaining chastity, goodness and adherence to the teachings of Islam for both sexes.^{50 51} This verses is :

﴿ إِنَّ الْمُسْلِمِينَ وَالْمُسْلِمَاتِ وَالْمُؤْمِنِينَ وَالْمُؤْمِنَاتِ وَالْقَنَاتِ وَالْقَنَاتِ وَالصَّادِقِينَ وَالصَّادِقَاتِ وَالصَّابِرِينَ وَالصَّابِرَاتِ وَالْخَشِيعِينَ وَالْخَشِيعَاتِ وَالْمُتَصَدِّقِينَ وَالْمُتَصَدِّقَاتِ وَالصَّابِغِينَ وَالصَّابِغَاتِ ﴾

⁴⁸ Wan Ramizah Hasan, Mohd Farid Ravi Abdullah, and Adnan bin Mohamed Yusof, "Perspektif Sayyid Qutb Tentang Isu Penjagaan Pandangan Berdasarkan Ayat 30-31 Surah Al-Nur," *Jurnal Pengajian Islam* 13, no. 2 (2020): 115.

⁴⁹ Dicky Mohammad Ilham, Aep Saepudin, and Eko Surbiantoro, "Implikasi Pendidikan Dari Al-Quran Surat An-Nur Ayat 30-31 Tentang Perintah Menjaga Pandangan Terhadap Pendidikan Akhlak," *Bandung Conference Series: Islamic Education* 2, no. 2 (2022): 599, <https://doi.org/10.29313/bcsied.v2i2.4078>.

⁵⁰ Faqihuddin Abdul Kodir, "Mafhum Mubadalah: Ikhtiar Memahami Qur'an Dan Hadits Untuk Meneguhkan Keadilan Resiprokal Islam Dalam Isu-Isu Gender," *Jurnal Islam Indonesia* 6, no. 2 (2016): 3.

⁵¹ Nor Dalilah Zakaria and Raihanah Azahari, "Menghayati Nilai Iman, Islam Dan Ihsan Dalam Mendepani Cabaran Kontemporari," *Ar-Raiq* 5, no. 1 (2022): 41.

وَالصَّامِتَاتِ وَالْحَفِظَاتِ فُرُوجَهُمْ وَالْحَفِظَاتِ وَالذَّكِرَاتِ وَالذَّكِرَاتِ كَثِيرًا وَالذَّكِرَاتِ أَعَدَّ اللَّهُ لَهُمْ مَغْفِرَةً وَأَجْرًا عَظِيمًا ﴿

35. *Indeed, the Muslim men and Muslim women, the believing men and believing women, the obedient men and obedient women, the truthful men and truthful women, the patient men and patient women, the humble men and humble women, the charitable men and charitable women, the fasting men and fasting women, the men who guard their private parts and the women who do so, and the men who remember Allah often and the women who do so - for them Allah has prepared forgiveness and a great reward.*

The verse is a reminder to Muslims and Muslim women of the importance of maintaining chastity, obedience and morality in their lives. In the context of necrophilia, the practice clearly contradicts the teachings of Islam which affirms the value of honouring life and death. Necrophilia, which is the act of sexual intercourse with corpses, is considered to be highly immoral and violates the natural laws established by Allah. A deep understanding of Islam, faith and obedience in the verse also includes an understanding of the strict prohibitions in Islam. Necrophilia, as a form of sexual perversion, clearly contradicts these principles. Islam teaches respect for the human body, both during life and after death. Therefore, the practice of necrophilia not only violates sharia law, but also violates the ethics and morality upheld in Islamic teachings.⁵²

In Islam, the dead body is respected as part of the process of dying and burial, and disturbing or abusing a deceased body is a grave violation of human values. In addition, sexual intercourse is only allowed between a legal husband and wife in a legal marriage. The practice of necrophilia clearly violates Islamic principles of morality and ethics that promote respect for the human body, both in life and after death. Necrophilia is not only a violation of natural law, but it is also a violation of human honour and dignity. Therefore, such a practice cannot be inserted or justified in the teachings of Islam which emphasises the importance of maintaining chastity and adherence to religious values.

Islamic law's concern for human honour does not only apply while a person is alive, but continues after his or her death. Although there is a difference in treatment between the living and the dead, Islam still emphasises a high level of courtesy towards the dead. For example, Imam Abū Dāwūd narrated from 'Āisyah that the Prophet said: "Breaking the bones of a dead person is like breaking them when he was alive." This indicates that respect for the dead should be equal to that for the living. In addition, Ibn Abi Shaibah also narrated from Ibn Mas'ud that harming a believer after death is the same as harming him when he was alive. Based on these arguments, it can be understood that the honour of the dead is the same as that of the living. Islam teaches to treat the corpse well and all forms of actions that humiliate the corpse are prohibited. Therefore, treating the corpse with care is obligatory. Haphazard actions towards the corpse can be

⁵² Nor Dalilah Zakaria, Raihanah Azahari, and Bahiyah Ahmad, "Elemen Kebertanggungjawaban Rumah Tangga Menurut Perspektif Islam," *Jurnal Fiqh* 20, no. 2 (2023): 187, <https://doi.org/10.22452/fiqh.vol20no2.1>.

considered a form of injustice. This emphasis on manners shows how important it is to preserve human honour in Islam, both during life and after death.⁵³

There are several manners that still apply to a person who has passed away as well as when he was alive. In Sunan Ibn Majah, it is narrated that the Prophet said: "When you attend those who have passed away from you, close their eyes, for the eyes follow the spirit. And say good things, for the angels agree with what the people of the house say". This Hadith teaches Muslims to treat the corpse with respect, such as closing the eyes and aurat, as well as saying tahlil and good words near the corpse.⁵⁴ The organisation of funerals in Islam is also regulated by a clear law, namely Fardhu Kifayah. According to the scholars, if someone has heard that someone has died, then they must immediately go to the place of the deceased. Thus, the obligation is cancelled for some other brothers. Conversely, if no one comes to the place of the deceased, then the sin will fall on all his other brothers. This shows how important it is to preserve the honour of the dead and to fulfil the obligation of funeral arrangements in Islam.^{55,56}

The Urgency of Criminalising Necrophilia from an Islamic Perspective

In Islamic law, honour is one of the maqāshid al-syarī'ah that must be protected. Allah SWT has prohibited the violation of one's honour, such as the prohibition of blood and property. The Prophet advised his companions towards the end of his life in one of his sermons:⁵⁷

"Verily Allah has forbidden to you your blood, your property, and your honour. As it is forbidden today, it is also forbidden in this month, and in this country, it is also forbidden".

Maqāshid al-Syarī'ah, in ushul fiqh terms, refers to the values and objectives of the Shari'ah that are embodied in most or all of its rulings. These values and objectives are the core and secret of the Shari'ah, which the lawmaker (al-Syāri') stipulates in every legal provision. Thus, Maqāshid al-Shari'ah is a collection of values that are the ultimate goal of the application of sharia law. According to Ibn 'Ashūr, maqāshid al-Syarī'ah is defined as the wisdom, secret, and general purpose of the derivation of sharia without being limited to one particular area. From this definition, it can be concluded that maqāshid al-Shari'ah is the values that guide the rulings, which are universal and not limited to a particular legal case.⁵⁸

Al-kulliyāt al-khams is a conception that develops al-Juwaini's maqāshid principles, namely al-daruriyāt, al-hajiyāt, and al-tahsiniyāt. As formulated by al-Ghazali, al-kulliyāt al-khams aims to safeguard the interests of the shariah in five main aspects: religion, soul, mind, offspring, and property. According to al-Ghazali, the fulfilment of

⁵³ Nur Afni A. et al., "Penggunaan Mayat Sebagai Pupuk Perspektif Maqāshid Al-Syarī'ah," *NUKHBATUL 'ULUM: Jurnal Bidang Kajian Islam* 8, no. 2 (2022): 213.

⁵⁴ Yuliana Nelisma and Barmawi, "Penyelenggaraan Jenazah Perspektif Islam, Etika Dan Budaya Dalam Bimbingan Dan Konseling," *Jurnal Pendidikan Dan Konseling* 4, no. 4 (2022): 5319.

⁵⁵ Darman, Abdul Gafar Mallo, and Asbar Tantu, "Mengazankan Jenazah Saat Penguburan Dalam Pandangan Fuqaha," *ALMASHADIR: Jurnal Ilmu Hukum Dan Ekonomi Islam* 5, no. 1 (2023): 47.

⁵⁶ Yuliana Nelisma and Barmawi, "Penyelenggaraan Jenazah Perspektif Islam, Etika Dan Budaya Dalam Bimbingan Dan Konseling," 5319.

⁵⁷ Islamul Haq et al., "Paraphilia Exhibitionism between Sharia and Law: A Comparative Analysis," *Al-Adl* 14, no. 1 (2021): 4.

⁵⁸ Tgk. Safriadi, *Maqāshid Al-Syarī'ah & Maslahah: Kajian Terhadap Pemikiran Ibnu 'Asyur Dan Sa'Id Ramadhan Al-Buth* (Lhokseumawe: Sefa Bumi Persada, 2021), 101.

al-kulliyāt al-khams should be a basic level priority (al-dharuriyat), because without it, human welfare cannot be realised. The substance of maqashid al-syariah is benefit.⁵⁹

According to Imam Syatibi, there are five points that must be realised and maintained to realise the benefits of the world and the hereafter. This point if associated with the criminalisation of Necrophilia is among others:

1. First, the preservation of religion is considered the most essential because religion is the main human need and the establishment of religion perfectly is an obligation. Islam teaches to protect one's religion and guarantees the freedom of individuals to practice their religious teachings.⁶⁰

The urgency of religious maintenance in Islam is very important because religion has a central role in establishing morality, ethics and norms of behaviour that must be followed by individuals in society. The maintenance of religion is the foundation for the moral integrity and spirituality of individuals and is an integral part of efforts to maintain social order and justice in society.⁶¹ When we consider the urgency of religious maintenance in the context of criminalisation, we must realise that religion provides clear guidelines on what is permissible and prohibited in human behaviour. In Islam, religion affirms the importance of maintaining human dignity, honour and human rights. Therefore, practices that violate religious principles, including necrophilia which insults human dignity, should be opposed and given legal sanction. Religious observance also plays an important role in maintaining peace and harmony in society. By adhering to religious teachings, individuals are directed to coexist peacefully and respect one another. In the context of the criminalisation of necrophilia, religious observance is important because such practices not only violate religious moral values, but can also disrupt the peace of society and create distrust between individuals.

Religious preservation in the context of criminalisation is also important to maintain the continuity of religious values from generation to generation. By taking firm action against offences against religious teachings, society affirms its commitment to the moral and ethical values taught by religion. This ensures that religious values remain relevant and applicable in modern society, and provide a moral foundation for the formation of laws and policies.

The criminalisation of necrophilia in Islamic law is not only important to preserve religious integrity and values, but also to protect the freedom of individuals to practice their religious beliefs. The principles of maqashid sharia emphasise the importance of maintaining religion as the main foundation of human life. Religion in Islam is not just a teaching, but a guide to life that determines the values, norms and ethics that must be followed by its followers. Thus, maintaining the sanctity and integrity of religion becomes an obligation that cannot be ignored. Setiap individu memiliki hak untuk hidup dan beribadah sesuai dengan keyakinan agamanya tanpa terganggu oleh

⁵⁹ Aljuraimy and A. Halil Thahir, "Maqāsid Qs. Al-Fiil: Koneksitas Munasabah Dan Al-Kulliyāt Al-Khams," *An-Nuha* 6, no. 2 (2019): 170.

⁶⁰ Yulies Tiena Masriani, "Sinergi Maqashid Syariah Asy-Syatibi Dengan Pancasila Sebagai Falsafah Negara Indonesia," *Jurnal Ius Constituendum* 8, no. 1 (2023): 23.

⁶¹ Antiek Firdausi Putri, "Praktik Permainan Mesin Capit Manusia (Human Claw Machine) Dalam Pandangan Hukum Islam Dan Maqashid Syariah," *Bustanul Fuqaha: Jurnal Bidang Hukum Islam* 5, no. 1 (2024): 175.

tindakan kejahatan yang mengganggu integritas jasmani maupun rohaninya. Dengan mengatur dan menghukum tindakan necrophilia, hukum Islam menegaskan bahwa setiap orang berhak dilindungi dari tindakan kekerasan dan pelanggaran terhadap martabatnya.

In addition, the criminalisation of necrophilia is also a form of protection for society as a whole. By enforcing laws that prohibit and punish acts of necrophilia, society can be spared from the negative impacts that such behaviour brings, such as psychological trauma, social disruption, and a decline in moral values. Thus, criminalising necrophilia not only protects the individual, but also ensures the welfare and security of society as a whole in accordance with the maqashid principles of sharia.

2. Secondly, the importance of preserving and ensuring that souls are respected, and prohibiting persecution and killing without just cause.⁶²

The urgency of soul preservation refers to the protection of individual life and respect for human dignity. The preservation of the soul is important because life is a gift given by God, and every individual has the right to live with dignity and without fear of violence or threats to their lives.⁶³

One aspect of the urgency of the preservation of life in the context of criminalisation is the protection of human rights, including the right to life. In Islam, life is considered as something sacred and must be respected. Therefore, criminal practices that threaten or deprive human life, such as murder or sexual violence against dead victims (necrophilia), must be dealt with strictly in accordance with applicable laws.

It is also related to maintaining social order and community security. By preventing acts of violence or crimes against human life, the law not only protects individuals directly, but also provides a guarantee for society to live in a safe and secure atmosphere. Criminalising necrophilia in this context not only enforces the law, but also creates a safe and peaceful environment for society.

Furthermore, the urgency of soul preservation in the context of criminalisation is also related to social justice. By punishing criminals who deprive or threaten the lives of others, the legal system ensures that every individual has the opportunity to live safely, without fear or injustice. It ensures that no one is excluded from the protection of the law, and everyone has an equal right to live with dignity.

The criminalisation of necrophilia in the context of the maqashid principle of sharia also confirms the importance of protecting the integrity of the human soul, both living and deceased. In Islam, the soul is considered the most precious aspect of human life, which must be safeguarded at all costs and respected without exception. Prohibiting persecution and killing without just cause is an integral part of the religious principles that affirm the importance of safeguarding human life from all forms of threats and abuse of power.

By preserving the soul, Islamic law sets a high moral standard in the protection of the individual. This is in line with the main objective of the maqashid principle of sharia,

⁶² Nisput Khoiri, "Analisis Teori Hukum Maqashid Al-Syariah Al-Syatibi Terhadap Peran Perguruan Tinggi Dalam Penanggulangan Stunting Di Indonesia," *Journal of Gender And Social Inclusion In Muslim Societies* 3, no. 2 (2022): 126.

⁶³ Solehuddin Harahap and Arisman, "Maqashid Al-Syari'ah Berdasarkan Kemaslahatan Yang Dipelihara Dalam Hukum Islam," *Jurnal Hukum: Jurnal Hukum Islam* 6, no. 2 (2023): 43.

which is to ensure welfare and justice for humanity. Criminalising necrophilia is an important step as it not only threatens the physical life of deceased individuals, but is also a serious violation of human dignity and honour in general.

In this context, efforts to prevent the practice of necrophilia in accordance with Islamic teachings are also part of a commitment to maintaining social and moral order in society. Laws prohibiting such acts are not only a form of enforcement of justice, but also an attempt to ensure that religious values and moral norms are respected and strongly enforced. Therefore, criminalising necrophilia in accordance with the maqashid principle of sharia is not only a legal imperative, but also a manifestation of the human values and justice upheld in Islam. Thus, protecting the human spirit from all forms of abuse and humiliation, including necrophilia, is a moral and religious imperative that must be implemented in the Islamic legal system. Ketiga, memelihara akal, karena rusaknya akal akan merusak keseluruhan manusia. Islam menjamin kebebasan untuk berkarya, berpikir, dan berpendapat, serta melarang segala perbuatan yang dapat merusak akal.⁶⁴

3. Third, preserving the intellect, because the destruction of the intellect will damage the whole human being. Islam guarantees freedom of creativity, thought and opinion, and prohibits all actions that can damage the mind.⁶⁵

The urgency of maintaining the mind is related to the protection of individual mental health and maintaining social order. The maintenance of reason is important because reason is a gift given by Allah to humans to distinguish between good and bad, and to make wise decisions in everyday life.

One aspect of the urgency of preserving the mind in the context of criminalisation is the protection of individuals who are vulnerable or affected by mental or psychological disorders. Necrophilia, for example, is often associated with serious psychological disorders, such as psychopathy or antisocial personality disorder. In this regard, the criminalisation of necrophilia helps to protect individuals who may be victims of acts committed by people who have no control over their minds.

In addition, the preservation of reason is also related to maintaining social order and community security. By preventing acts of violence or abuse committed by individuals who may not be able to control their minds, the law not only protects individuals directly, but also prevents disruption to public order and community security.

The urgency of preserving reason in the context of criminalisation is also related to social justice. By punishing criminals who commit harmful acts due to lack of control over their minds, the legal system ensures that every individual is responsible for their actions and that no one is exempted from legal accountability.

It should be understood that Islam not only regulates the relationship between man and God, but also between man and his fellow man and the surrounding environment. One of the main principles in maqashid sharia is to maintain the integrity of individuals and society and protect the fundamental values espoused in Islamic teachings.

⁶⁴ Muhammad Nur Iqbal, Faisar Ananda Arfa, and Abi Waqqosh, "Tujuan Hukum Islam Dalam Perspektif Maqashid Al-Syari'ah," *Jurnal Pendidikan Dan Konseling* 5, no. 1 (2023): 4891.

⁶⁵ Nimas Ayu Sholehah, Lukmanul Hakim, and Isman, "Pertimbangan Hakim Dalam Sengketa Hak Asuh Anak: Perspektif Maqashid Syariah Analisis Putusan Nomor 0145/Pdt.G/2015/PA.Ska," *AL-AFKAR: Journal for Islamic Studies* 7, no. 1 (2024): 252, <https://doi.org/10.31943/afkarjournal.v7i1.931>.

Preserving reason as one of the five maqashid sharia is a crucial aspect in maintaining human integrity. Intellect is a gift given by Allah to humans as a guide in distinguishing between good and bad, between right and wrong. Damage to the intellect will have a serious impact on individual behaviour, so maintaining the integrity of the intellect is a very important priority in Islam.

When we talk about necrophilia, this practice clearly contradicts the principle of preserving the mind. Having sexual intercourse with a corpse indicates a serious impairment of one's mind, as the act violates fundamental moral, ethical and human values. In addition, the act may also indicate the presence of a serious psychological disorder, which if left unchecked, could damage the mental and emotional health of individuals and harm society as a whole.

Therefore, criminalising necrophilia in accordance with the maqashid principles of sharia is not only important to preserve the integrity of the individual, but also to preserve the morality and social integrity of society. By imposing penalties on the perpetrators of necrophilia, Islam affirms that acts that violate human rights and religious values will not be tolerated in a society governed by the principles of sharia.

In addition, criminalising necrophilia is also a step towards upholding social justice. By placing penalties on perpetrators of necrophilia, Islam ensures that victims and families of victims get justice for acts that harm them morally and emotionally. This is in line with the maqashid principle of sharia which demands fair treatment for all individuals in society. In a broader context, the criminalisation of necrophilia also reinforces human values and respect for human dignity. By rejecting practices that violate human rights, including the rights of corpses, Islam affirms that every individual, whether living or deceased, has value and dignity that must be respected and protected. Thus, the criminalisation of necrophilia is not only an attempt to preserve religious integrity, but also to preserve human dignity and moral integrity in a society governed by the principles of sharia

Urgensi pemeliharaan akal pikiran dalam konteks kriminalisasi juga terkait dengan keadilan sosial. Dengan menghukum pelaku kejahatan yang melakukan tindakan-tindakan yang merugikan karena kurangnya kendali atas akal mereka, sistem hukum memastikan bahwa setiap individu bertanggung jawab atas tindakan mereka dan bahwa tidak ada yang dikecualikan dari pertanggungjawaban hukum.

4. Fourth, the maintenance of offspring is taken seriously in Islam because the destruction of the human generation will result in the destruction of humanity as a whole.

The urgency of the maintenance of offspring is related to the protection of the family, the continuity of generations, and moral values in society. The preservation of offspring is important because offspring are the future successors, inheritors of cultural values, and the foundation of a stable family in society.⁶⁶

One aspect of the urgency of preserving offspring in the context of criminalisation is to protect children and future generations from bad influences or criminal acts that can damage their development. Criminalising acts such as child abuse or domestic

⁶⁶ Zainal Abidin, "Urgensi Maqashid Syariah Bagi Kemashlahatan Umat," *Ma'u'izhah: Jurnal Kajian Keislaman* 13, no. 1 (2023): 127.

violence helps maintain the safety and well-being of children and ensures that their rights are protected.

In addition, the preservation of offspring is also concerned with ensuring the continuity of human survival as a human race. By preventing criminal acts that may interfere with reproduction or affect reproductive health, the law helps to preserve human survival.

The urgency of preserving offspring in the context of criminalisation is also related to maintaining moral values in society. By punishing criminal acts that damage family institutions or threaten family relationships, the law not only protects individuals physically, but also strengthens the moral and ethical foundations of society.

In addition, the protection of offspring also involves enforcing laws against practices that can be detrimental to human survival, such as human trafficking or sexual exploitation practices. By preventing these practices and punishing the perpetrators, the legal system helps protect human dignity and the survival of humans as a species.

In the context of the urgency of criminalising necrophilia in accordance with the maqashid principles of sharia, it is important to expand the understanding of how this practice damages not only individuals but also society as a whole. One of the key principles in maqashid sharia is the preservation of posterity, which emphasises the importance of maintaining the continuity and honour of the bloodline.

The preservation of offspring in Islam encompasses the moral, ethical and spiritual aspects of generations. From an Islamic perspective, a morally strong generation is the backbone of a sustainable society. Therefore, when the younger generation is exposed to immoral behaviour, such as necrophilia, it can have a damaging impact not only on the individual but also on the overall social structure.

The practice of necrophilia, which involves sexual intercourse with corpses, is not only a violation of the ethical and moral norms upheld in Islam, but also implies a serious degree of deviance in the psychology of the individuals involved. The psychological impact of such acts is not only limited to the perpetrators, but can also extend to the wider community, creating psychological and social instability that can disrupt the balance and well-being of society.

Thus, criminalising necrophilia in accordance with the maqashid principles of sharia is not only about upholding law and justice, but also about safeguarding the moral and spiritual integrity of society as a whole. By protecting the younger generation from exposure to destructive practices, Islam affirms its commitment to the development of a moral and responsible society.

In addition, the criminalisation of necrophilia also aims to protect human dignity and preserve the honour of individuals and their families. In Islam, every individual has the right to be respected and protected, both in life and after death. The practice of necrophilia, by insulting and desecrating corpses, is a serious violation of human rights and individual honour that cannot be tolerated in Islamic teachings.

It is a necessary step to safeguard the moral and spiritual integrity of society, protect future generations from exposure to destructive practices, and ensure that human rights and individual dignity are respected and safeguarded. By implementing laws that prohibit the practice of necrophilia, Islam affirms its commitment to justice, social equity and the well-being of humanity as a whole.

5. Fifth, safeguarding property, where Islamic law regulates and values property and strongly protects property owned by individuals.⁶⁷

In the context of criminalisation, the urgency of preserving property is related to maintaining justice, economic stability and social welfare in society. The maintenance of property is important because property is a valuable resource for individuals and society. One aspect of the urgency of property preservation in the context of criminalisation is to protect individual property rights from acts of theft, fraud, or other economic exploitation. By punishing criminals such as thieves or fraudsters, the law helps maintain the security and integrity of property ownership, which is one of the fundamental human rights. In addition, the maintenance of property is also related to maintaining economic stability and social justice in society.

In the context of the urgency of criminalising necrophilia in accordance with the maqashid principles of sharia, it is important to understand that safeguarding property is not just about protecting material wealth, but also about maintaining moral integrity, individual dignity and social stability in society. Islamic law teaches that wealth is a gift from Allah that must be safeguarded and managed wisely. This includes the spiritual, moral and social aspects of ownership. Hence, safeguarding wealth does not only mean protecting property, but also involves protecting the dignity and honour of individuals, as well as ensuring the fair and responsible use of wealth.

In Islam, wealth is seen as a tool to achieve larger moral and social goals, such as giving alms, helping the needy, and establishing social justice. Therefore, the management of wealth must be in accordance with the moral and ethical principles taught in the religion.

When we consider the urgency of criminalising necrophilia, we must realise that this practice is not only a violation of morality and ethics, but also an attack on human dignity and societal values. Sexual intercourse with a corpse is not only an offence against the property of a deceased individual, but it is also an affront to human sanctity and honour. Thus, the criminalisation of necrophilia is important in safeguarding the moral and ethical values upheld in Islam. By prescribing punishment for such practices, Islam affirms its commitment to the protection of human rights, individual dignity and social justice.

In addition, the criminalisation of necrophilia is also an important step towards maintaining social stability in society. Practices that violate moral norms can disrupt social harmony and order, as well as undermine trust and social integrity in society. Therefore, legal measures to prohibit and punish necrophilia aim not only to protect the individuals involved, but also to maintain the stability and well-being of society as a whole. Thus, safeguarding property in Islam is not only about protecting material assets, but also about protecting moral integrity, individual dignity and social stability in society. Criminalising necrophilia as a form of offence against moral values and social norms is an important step in safeguarding individual honour, promoting social justice, and ensuring the safety and well-being of society as a whole.

⁶⁷ Yara Shafa Alcika, Moh. Fadhil, and Marluwi Marluw, "Kebijakan Hukum Pidana Penghapusan Kekerasan Dalam Rumah Tangga Perspektif Maqashid Syariah," *SANGAJI: Jurnal Pemikiran Syariah Dan Hukum* 7, no. 2 (2024): 54, <https://doi.org/10.52266/sangaji.v7i2.1756>.

IV. CONCLUSION

As per Islamic teachings, necrophilia should be seen as a serious violation of the honour of the corpse which is highly respected in religious teachings. As affirmed in various traditions, respect for the dead must be maintained on par with respect for the living. Necrophilia not only violates the honour of the corpse but also contradicts the basic principle of guarding one's private parts and sight, which is strongly emphasised in Islam. Criminalising necrophilia protects individuals from heinous crimes and preserves the moral and ethical values upheld in society, in line with maqasid al-shariah, which aims to protect human honour and posterity. In the Qur'an, Allah SWT strictly prohibits the act of adultery, as in Surah Al-Isra' verse 32: "And do not approach adultery; verily adultery is an abominable deed and a bad way." This verse instructs Muslims to stay away from adultery and all forms of behaviour that may lead to sexual relations outside the bonds of legal marriage. Necrophilia, as a form of sexual perversion, is a grave violation of the teachings of Islam which teaches respect for the human body, both during life and after death. The prohibition against sexual intercourse with corpses, as stated in the Qur'an and hadith, emphasises the importance of chastity and morality in the context of marriage and the moral values upheld in Islam. Necrophilia violates the laws of Allah and tarnishes human dignity, disrupts social order, and undermines the values of honour taught in Islam. Therefore, Islam considers necrophilia to be a highly immoral act, violating sharia law, as well as the ethics and morality upheld in religious teachings.

Maqāṣid al-syarī'ah, which refers to the values and goals of sharia, includes five main principles: the preservation of religion, soul, mind, offspring, and property. The preservation of religion emphasises the importance of protecting human dignity and human rights, so practices that insult human dignity, such as necrophilia, should be prohibited and punished. The preservation of the soul involves protecting human life and dignity, including prohibiting criminal acts such as necrophilia that threaten the dignity of the dead. The maintenance of reason refers to safeguarding individual mental health and social order, where acts of necrophilia represent a serious impairment of the perpetrator's reason and morality, undermining social integrity. The preservation of offspring emphasises protecting families and future generations from bad influences and criminal acts, as well as ensuring the continuity of moral values in society. Finally, the preservation of property includes protecting the dignity and honour of the individual, as well as ensuring the fair and responsible use of property. Thus, the criminalisation of necrophilia in Islamic law is an important effort to preserve religious integrity, morality and social justice, as well as protect human dignity and the stability of society.

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