

The Impairment of Sexual Disorder in Marriage According to Shariah

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Abstract

Impairment is something that needs to be removed whether it is related to religion, life, dignity and lineage. Heavy or light impairment should be eliminated according to ability. The issue of sexual disability also causes impairment and is closely related to the survival of married life. This is because, in order to achieve the objective of marriage from the aspect of giving birth to offspring, sexual relations are an important aspect to achieve that goal. Couples who have sexual disabilities are considered impairing their partners if they do not seek treatment from medical experts. Therefore, this article analyzes the impairment of sexual disorders in marriage according to Sharia. This study is a qualitative study. Data obtained from reference sources, articles and interviews with medical experts are also processed and analyzed. The results of the study found that the impairment of sexual disorders that arise in marriage affects the goal of marriage from the aspect of giving birth to offspring (preserving offspring). In addition, the survival of a marriage will also be affected because the impairment that arises can lead to the dissolution of the marriage. Couples who are suffering from any form of sexual disability should seek treatment from a qualified medical specialist instead of staying silent and taking an easy solution by divorcing or dissolving the marriage.

Keywords: Impairment, Sexual Disorder, Marriage, Medical Experts

Introduction

Sexual relation in marriage is an important aspect in achieving the goal of a marriage which is the continuation of the family. The Prophet (s.a.w) was also proud of the many people. However, there are a few couples who experience problems in achieving the goal of marriage due to sexual organ disorder or defects in the function of the sexual organs.

The issue of sexual disability is often discussed. The past scholars discussed sexual disorders thoroughly in their various fiqh works. Laws related to sexual disabilities become a guide in solving problems that arise in the marriage. This shows that the ability to perform sexual relations in marriage is an important matter for the survival of Muslims and strengthens the warmth and love between couples (Abu Zahrah, 2005).

Fuqaha have discussed the types of sexual disabilities that occur in men and women. Medical field also plays an important role in explaining the true state of sexual disabilities in society.

Background

The term sexual disability stated in the past *fiqh* refers to the disability of a person's sexual physical organs. For some disabilities, if a disability arises and the partner immediately seeks early treatment, this disability can be restored based on the category of sexual disability and its level. Treatment also requires a certain period of time. For example, according to the State Islamic Family Law Enactment, couples who suffer from erectile dysfunction, are given a period of one year to ensure that they are free or can recover or not. The treatment period must be given to keep the marriage relationship from dissolving. The term disability in medicine often refers to the meaning of sexual dysfunction involving a person's sexual organs not functioning perfectly as usual (Tambi, 2021).

Zolkiply (2022) stated that among the problems that arise in the marriage apart from financial problems are problems related to sexual relations. This is strongly supported by the report of Abdullah (2013) who states that the problems faced by husbands such as, husbands do not have erectile dysfunction, but have premature ejaculation problems. While the wife's side is experiencing the problem of infertility (*mati putik*). Zaidi's report (2022) added to the statement of Family Medicine Department Lecturer Rosediani Mohamad, that three out of ten women who have had or are currently experiencing infertility have divorced. Women who suffer from infertility or sexual dysfunction usually feel that sexual relations are not a priority in their lives, while taking care of sexual health is a form of worship in marriage to achieve *sakinah* (peace), *mawaddah* (love) and *rahmah* (tenderness and love). In fact, according to Shabuddin (2016) stated that among the causes of divorce among middle-aged adults recorded at the Hulu Langat District Islamic Religious Office is because of the sexuality problems.

Every problem that arises in life whether it is in the aspect of *muamalat*, *munakahat* or crime and also social life has a way to solve it on the side of Sharia. The legal solution provided is aimed at achieving certain *maqasid* in human life. This is because the *maqasid sharia* aims to protect the five important *maslahat*, namely religion, life, intellect, lineage and wealth. Every problem that arises and affects all five or one of the benefits, then the problem needs to be eliminated because it brings *mafsadah* in accordance with the principle of *syar'a* which does not cause difficulties and harm (Ibnu Taimiyah, 1416). due to that, this article will analyze the position of sexual disabilities in the marriage from the perspective of *maqasid sharia*.

Methodology

This study is qualitative by using documentation methods to get a clear picture of the impairment of sexual disabilities. In order to obtain facts related to the impairment of sexual disorders in marriage, the meaning and definition as well as related information, highlights of the works of Islamic jurisprudence scholars and *maqasid sharia* as well as previous studies related to the topic are carried out. The previous study was a library study by reading various past *fiqh* books and related medical journals as well as *fuqaha* debates in discussions related to the study. The method used in the research for this study is through the document analysis method. Document analysis is a research technique that draws systematic and objective conclusions through data in the form of documents (Yusof, 2004). This method will also make

an explanation that examines systematically about a written content in the form of a text (Marican, 2005,: Lebar, 2009). Content analysis is very suitable to be used in qualitative research (Margit, 2012). Through this method, the document is examined and the interpretation is explained.

Content analysis has three purposes, namely examining messages, issues or themes from secondary material of works, analyzing a large group of works and studying a discussion in the form of a text that has been studied for a long time (Neuman, 2006). Based on what has been stated, the analytical method is a very suitable method to be used to complete this study. This point coincides with data collected from related documents to analyze the impairment of sexual disorders in marriage. Inductive and deductive methods are also used in this study, especially to express sexual disorders that have been discussed in the fiqh book by past and contemporary *fuqaha* as well as the latest medical journals.

Findings and Discussion

Discussions related to the impairment of sexual disabilities require a highlight on several aspects before being analyzed from a syariah perspective. The explanation related to the meaning of impairment according to the Sharia is important in giving a clear picture to the aspects that will be assessed in relation to sexual disabilities. The harmful effects of sexual disorders have levels and should be refined to identify the level of mafsadah or impairment. In relation to that, this section analyzes the question to see its position from the aspect of Sharia.

Impairment According to Sharia

The word impairment comes from the Arabic language which is *darara*, which is the opposite of benefit. This word comes from the verb (ضَرَّ) *darra* which means hardship, difficult times, lack of property and life (Abadi, 2005). In general, the word *darar* is a diction taken from the hadith of the Prophet s.a.w:

عن ابن عباس، قال: قال رسول الله صلى الله عليه وسلم: (لا ضرر ولا ضرار)

Meaning:

"From Ibnu 'Abbas r.a, he said, the Messenger of Allah, peace and blessings be upon him, said: No harm should be inflicted (*darar*) or reciprocated (*dirar*) and no harm can be given"

(Ibnu Majah, Sunan Ibnu Majah: 2341)

This hadith states about the prohibition of doing *darar* either to oneself or others. This hadith is accepted as a *fiqhiyyah* method in understanding various *fiqh* issues that are closely related to safeguarding the interests of religion, life, intellect, property and lineage (al-Suyuti, 1998). Sharia denies any form of *darar* whether the *darar* occurs verbally or deeds. Any form of *darar* that occurs whether intentionally or not, needs to be eliminated (al-Sa'di, 2012). This is because, a person's life will be exposed to various situations and tests. In certain situations, people will be faced with impairment on religion, life, intellect, lineage and property. This situation is beyond one's ability to face or reject it. Because of that, Islam suggests that every impairment that occurs and involves religion, life, lineage, intellect and property must be eliminated. These impairments include emotional and physical impairment. This is in accordance with the *fiqh* method used in Islamic law, which is al-darar yuzal (الضرر يزل) which

means impairment must be eliminated. This method includes danger or *darar* that befalls humans which means hardship, difficulty and *darurah* (Syabir, 2015).

The word *darar* is mentioned in the Qur'an as many as 74 times that give various meanings (Abdul Baqi, 1996). Among the meanings of the *darar* are, the test of hardship, hunger, destiny and position, disease, pain, the threat of wind and waves, the test of torture, poverty, dryness and narrowness of life as well as the bad consequences of the impairment done (Muwafi, 1997). Basically, all the words *darar* that are used are things that cause impairment and hardship to people in various forms and situations and have an impact on a person's life. Similarly, the *darar* stated in the hadith generally explains the prohibition of doing harm either to oneself or to others. This is because the sharia was revealed to protect the welfare of people even when faced with various situations.

Meanwhile, the impairment that arises in the aspect of sexual disability can be seen when one of the spouses is unable to fulfill the objective of marriage, which is to perform sexual intercourse perfectly. This is because there is a disorder or the sexual organ does not work perfectly. This impairment even affects the partner's emotions and soul. This can lead to the dissolution of the marriage.

Sexual Relations as the Basic of a Harmony Marriage

The meaning of marriage or *nikah* when referring to its use in terms of language means sexual intercourse. While the meaning of marriage from the point of view of Sharia means a contract that contains certain pillars and conditions. The origin of the word *nikah* in Arabic conversation refers to intercourse (al-Hisni, 2012). According to Abu Zahrah (2005) and the meaning of marriage from the term *syarak* is a contract signed between a man and a woman that allows a husband to have intercourse with the woman in a prescribed manner. These two meanings are the basis and goal of a marriage. This is because the Prophet (s.a.w) said:

عن عبد الرحمن بن يزيد، قال: دخلت مع علقمة، والأسود على عبد الله، فقال عبد الله: كنا مع النبي صلى الله عليه وسلم شابا لا نجد شيئا، فقال لنا رسول الله صلى الله عليه وسلم: {يا معشر الشباب من استطاع منكم الباءة فليتزوج فإنه أغض للبصر، وأحصن للفرج، ومن لم يستطع فعليه بالصوم فإنه له وجاء}

Meaning

"From Abdullah bin Mas'ud r.a: O young men, whoever among you is able to marry, then marry, because it will lower your gaze, and will preserve dignity, then whoever is not able, then he should fast, because fasting is a restraint of lust". (Riwayat al-Bukhari, Sahih al-Bukhari: 4799. Chapter Man la Yastaṭi' al-Baah Falyaṣum)

Based on the words of the Prophet s.a.w, there are three opinions about the meaning of *al-baah*. The first opinion states the meaning of *al-baah* as being able to have intercourse and the second opinion gives the meaning of being able to support family life (al-Shawkani, 1993). While the third opinion explains the meaning of *al-baah* as a more general meaning of being able to have sexual intercourse and sufficiency in providing household needs (al-Asqalani, 1379).

This statement shows that sexual relations are among the rights and responsibilities of married couples that need to be fulfilled (Abu Zahrah, 2005) if the couple does not have any

problems. This is because, through intercourse, a person can fulfill the sexual desire that has been created by Allah in a person to achieve the true nature of a marriage (al-Ghazali, 1990). In fact Shaykhul Islam Ibnu Taimiyah said that the ability to marry is for those who are able to have intercourse. Thus, Rasulullah s.a.w advised those who are unable to marry to fast because by fasting they can weaken sexual desire because the nature of fasting is not eating and not drinking and weakens a person (Al-Hisni, 2012).

Part from that, the failure of a couple in a sexual relationship is a deficiency and can ruin the real purpose of a marriage. According to Jasmi (2004) who includes Maslow's learning theory, the need to complete sexual desire is one of the basic human needs. The lack or imperfection in fulfilling this need will be the cause for a person to look for other initiatives to fulfill this need. In order to fulfill this need, human beings are willing to find various other negative ways, while the halal sexual needs are only through legal marriage. Allah said in al-Baqarah verse 187;

أَجَلٌ لَكُمْ لَيْلَةَ الصَّيَامِ الرَّفْتُ إِلَى نِسَائِكُمْ هُنَّ لِبَاسٌ لَكُمْ وَأَنْتُمْ لِبَاسٌ لَهُنَّ عَلِمَ اللَّهُ أَنَّكُمْ كُنْتُمْ تَخْتَانُونَ أَنْفُسَكُمْ فَتَابَ عَلَيْكُمْ وَعَفَا عَنْكُمْ ۖ فَالْتَنَ بِأَشْرُوهُنَّ وَابْتَغُوا مَا كَتَبَ اللَّهُ لَكُمْ ۖ وَكُلُوا وَاشْرَبُوا حَتَّى يَبْيُنَ لَكُمْ الْخَيْطُ الْأَبْيَضُ مِنَ الْخَيْطِ الْأَسْوَدِ مِنَ الْفَجْرِ ۖ ثُمَّ أَتَمُوا الصَّيَامَ إِلَى اللَّيْلِ وَلَا تُبَاشِرُوهُنَّ وَأَنْتُمْ عَاكِفُونَ فِي الْمَسْجِدِ ۚ تِلْكَ حُدُودُ اللَّهِ فَلَا تَقْرُبُوهَا ۚ كَذَلِكَ يُبَيِّنُ اللَّهُ لِّلنَّاسِ لَعَلَّهُمْ يَتَّقُونَ

Meaning: *It has been made permissible for you to be intimate with your wives during the nights preceding the fast. Your spouses are a garment¹ for you as you are for them. Allah knows that you were deceiving yourselves.² So He has accepted your repentance and pardoned you. So now you may be intimate with them and seek what Allah has prescribed for you.³ 'You may' eat and drink until you see the light of dawn breaking the darkness of night, then complete the fast until nightfall. Do not be intimate with your spouses while you are meditating in the mosques. These are the limits set by Allah, so do not exceed them. This is how Allah makes His revelations clear to people, so they may become mindful⁴ of Him⁵.*

The phrase *لهن لباس وانتم لكم لباس هن* in the verse above compares husband and wife as clothes to each other. Allah uses the word *libas*, which is clothing, to refer to a parable of the mixing of husband and wife in sexual intercourse. The use of the word *libas* is due to clothing sticking to the body, which means sexual intercourse between husband and wife. At the same time, husband and wife also keep the secrecy of the sexual relationship between them (al-Qurtubi, 2005). This shows that husband and wife have an important role in achieving the objectives of marriage.

Abandonment of the husband or wife in playing a role from the aspect of performing sexual relations will affect the harmony and well-being of the marriage. This can also happen due to sexual problems between couples. For example, a husband who suffers from erectile dysfunction will fail to have sexual intercourse if he does not seek advice and treatment from a qualified medical expert. Similarly, when a woman who suffers from pistil death (*mati putik*) can cause a failure to a sexual intercourse due to not having the desire for sexual intercourse. Meanwhile, women who suffer from Mayer Rokitansky Kaster Hauster (MRKH Syndrome) are unable to have sexual intercourse through the vagina and are unable to give birth even though their external genitalia appear normal. This is because MRKH Syndrome is a condition of women who experience vaginal agenesis or the congenital absence of the uterus and vagina.

Other names are also known as Mullerian Aplasia and Kuster Syndrome. Women with MRKH Syndrome usually have normal reproductive endocrine function. According to Morcel et. al (2007) MRKH Syndrome is also known as the absence of a uterus and vaginal canal in women.

In conclusion, among the general principles of the goal of marriage is the existence of sexual relations between husband and wife. Failure to meet this goal can damage the harmony of the family and lead to divorce which should be avoided.

Parts of Sexual Disorders

The debate on sexual disability is discussed in the debate related to munakahat because it involves the law of marriage dissolution. Because of that there are *fuqaha* who allow it and not. Sexual disability is mentioned in the *fiqh turath* book as *al-'uyub* which means shame or disability. Discussions about sexual disabilities are widely discussed in *al-ahwal al-syakhsiyyah*, that is, in the chapters related to the marriage (Ibnu Hamam, n.d.; al-Dusuqi, n.d.; al-Shirazi, 1985; Ibnu Qudamah, 1405).

Disorder means a less than perfect condition or quality that affects a condition or quality. While the sexual disability referred to in this article is a lack or disability that prevents sexual intercourse (Kamus Dewan Fourth Edition). The main sexual disorders that affect sexual relations as stated in fiqh silam (Ibnu Humam, n.d.; al-Dusuqi, n.d.; al-Shirazi, 1985; Ibnu Qudamah, 1405) are divided into two parts, namely:

1. Disorders that happen to the husband only, such as a cut penis (الجب) and impotence (العنة) which are referred to in medical terms as erectile dysfunction.
2. Disorders that only involve the wife such as a vagina that is covered by excess bone (القرن), or flesh (الرتق) which is referred to in medical science terms as "anomalous of vagina" which is an abnormality in the female vagina.

Sexual disability in medical refers to the disability of a person's sexual organs. Sexual disability is caused by sexual organs experiencing problems such as abnormalities that arise in sexual organs or nerve disorders and chronic diseases that cause sexual organs to not function properly (Tambi, 2021). For example, disorders of the *al-jubb* type (cut penis) and any form of abnormality that occurs in the anatomical structure of the vagina which means disability (Irdawaty, 2022). Sexual disability is often associated with sexual dysfunction which means that there is no disorder in the main sexual organ, but the sexual organ is not able to function properly. Therefore, the role of medical science is very important to get a clear picture of sexual disorders and sexual dysfunction.

There are many sexual disorders listed by past *fiqh* and medical science that involve men and women and can affect the harmony of the marriage. Among them are erectile dysfunction, premature ejaculation, vagina closed with bones and flesh, vaginismus, dyspareunia, MRKH Syndrome and so on. Likewise for men who experience premature ejaculation or early ejaculation during intercourse (premature ejaculation) are considered to be those who experience sexual dysfunction. Whereas women who experience pain before, during or after sexual intercourse (dyspareunia) are not considered as sexual dysfunction but pain syndrome which is pain only (Meana M, 1997). Women who suffer from dyspareunia need to seek treatment from medical experts to provide the best solution.

Sexual Disability According to Syarak

The impairment of a sexual disability is determined by the which extent it harms the married couple. The harm that arises needs to be seen and evaluated as best as possible so it will not affect the harmony and well-being of the marriage. This is because marriages that have problems and lack *sakinah*, *mawaddah* and *rahmah* can be dissolved through fasakh.

The concept of *sakinah mawaddah* and *rahmah* is only formed in a harmonious marriage. al-Imam Fakhrudin al-Razi (n.d.) in interpreting the verse *عليها لتسكنوا* as the meaning of mental and physical calm. Having physical peace is a beginning in married life. While peace of mind is the main objective of marriage. The feeling of *mawaddah* will be achieved when they perform sexual intercourse perfectly and the feeling of *rahmah* will be achieved after they get offspring. This is because, according to Nur Mustaphar (2020), intimate relationships are one of the important steps to bring a family towards a *sakinah* family, which means there is always peace and harmony. Fathonaddin (2019) also stated that the feelings of *sakinah*, *mawaddah* and *rahmah* will arise through two aspects, namely sexual and spiritual relationships.

Al-Nawawi (1983) thinks that the happiness of a family can be maintained if the objective of marriage can be fully achieved. This is because the couple will feel fun and happy if the goal can be achieved perfectly. A husband and wife who have perfect health in the aspect of sexual relations will fulfill their obligations in any situation except in situations that are not permitted by Shariah, such as the wife in a state of menstruation, childbirth and illness. Therefore, the perfect health and sexual physicality of the partner should be taken into account.

State Islamic Family Law Enactment in Malaysia have provided enactments that allow the dissolution of marriage to occur due to having a sexual disability indicating that the failure of the couple in the aspect of having sexual intercourse is one form of impairment. Therefore, any form of impairment that arises from the aspect of achieving the *maqasid* of marriage needs to be eliminated by getting appropriate treatment methods and getting the advice of medical experts. The impairment of sexual disability according to *maqasid sharia* can be seen through the diagram below;

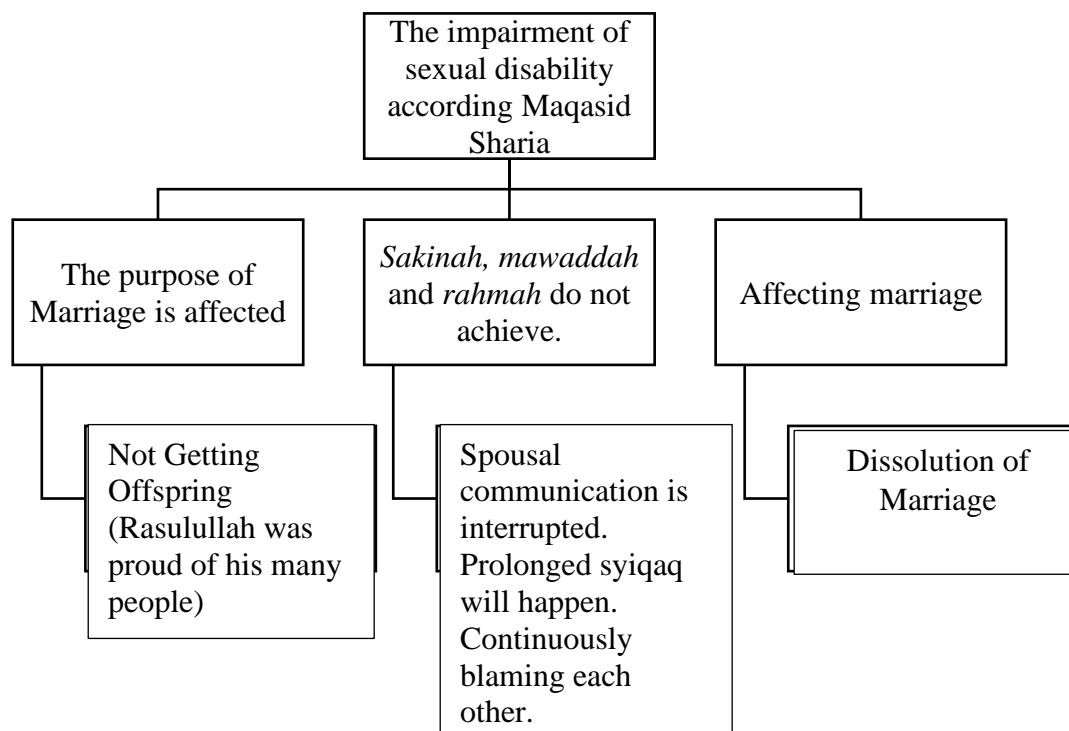


Diagram: The Impairment of Sexual Disability According to Maqasid Sharia

The diagram above shows that there are three impairment elements of sexual disability to the marriage. First, the goal of marriage will be affected when there is a failure in obtaining offspring. In general, there are three objectives of marriage which are to satisfy sexual desire, get offspring from a legal marriage and create a good life through aspects of *sakinah*, *mawaddah* and *rahmah* (Ghanaim, 2013). While the second element of impairment is *sakinah*, *mawaddah* and *rahmah* that are not achieved when they interfere in the daily life of married couples such as communication conflicts between couples and always blaming one party when they fail in sexual relations. This is considered as a great impairment of sexual disorder that can cause the dissolution of marriage. This is as stated in the State Islamic Family Law Enactment (Section 50 (1) (e) and 50 (2) which provides the permission to dissolve a marriage due to husband's erectile dysfunction and anything that prevents the occurrence of sexual relations.

Conclusion

Sexual disability is not a new issue, in fact the law about it has been discussed by past scholars. In order to achieve the goal of a marriage, any form of impairment that arises due to sexual disorders and can disrupt sexual relations and lead to the dissolution of a marriage must be avoided. Impairment that thwarts the goal of marriage in the aspect of preserving offspring also needs to be eliminated according to ability and resolved in an appropriate way. The impairment that arises is not only seen from the aspect of not achieving the goal of marriage, but is seen from the aspect of affecting the soul and feelings of the couple (preserving the soul). Married couples who have sexual problems should try to resolve by any mean before choosing to dissolve the marriage. This is because the role of *maqasid syariah* is to protect

the welfare and reject any impairment. Couples with sexual disabilities should seek advice and treatment from qualified medical experts. By taking this solution, *maqasid* of marriage can be achieved perfectly and the marriage relationship can be preserved.

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