



## **Protection and Prevention of Sexual Violence against Women in the Workplace in Malang City from the Perspective of *Maqāṣid Sharī'ah***

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### **Abstract**

This study aims to evaluate the implementation of the Workplace Sexual Violence Prevention Policy based on the Minister of Manpower Decree Number 88 of 2023 in Malang City, and to assess the effectiveness of this policy from the perspective of *maqāṣid sharī'ah*. The study is an empirical juridical study, data were collected through in-depth interviews and document review. The analysis of *maqāṣid sharī'ah* reinforces the urgency of comprehensive protection of workers' lives (*hifzh al-nafs*), dignity (*hifzh al-'ird*), and welfare (*hifzh al-mal*) as the core objectives of the policy. Interviews were conducted with key stakeholders, particularly from the Manpower Office, academics, and women's activists in Malang City. The study identified key challenges in policy implementation, including limited awareness and understanding among workers, inadequate supervisory resources, and suboptimal reporting and case handling mechanisms. This study concludes that although the regulation addresses legal and procedural aspects, the holistic application of the *maqāṣid* values still requires improvement to ensure effective and sustainable policy implementation in Indonesia's socio-cultural context. Furthermore, strategic steps are needed to improve education and training for workers and employers, strengthen monitoring systems, and adapt policies to be more responsive to local needs and Sharia principles. This research significantly contributes to filling the academic gap in the application of *maqāṣid sharī'ah* in labor law and proposes concrete and applicable solutions for policymakers in Indonesia.

**Keywords:** Protection of women, crimes of sexual violence, prevention of sexual violence, *maqāṣid sharī'ah*

### ***Abstrak***

*Studi ini bertujuan untuk mengevaluasi implementasi Kebijakan Pencegahan Kekerasan Seksual di Tempat Kerja berdasarkan Keputusan Menteri Ketenagakerjaan Nomor 88 Tahun 2023 di Kota Malang, dan untuk menilai efektivitas kebijakan ini dari perspektif maqāṣid sharī'ah. Kajian tersebut merupakan studi yuridis empiris, data dikumpulkan dengan cara wawancara mendalam dan studi dokumen. Analisis maqāṣid sharī'ah memperkuat urgensi perlindungan komprehensif terhadap kehidupan (hifzh al-nafs), martabat (hifzh al-'ird), dan kesejahteraan (hifzh al-mal) pekerja sebagai tujuan inti kebijakan tersebut. Wawancara dilakukan terhadap pemangku kepentingan utama, khususnya dari Dinas Ketenagakerjaan, akademisi dan aktivis perempuan di Kota Malang. Studi ini mengidentifikasi tantangan utama dalam implementasi kebijakan, termasuk kesadaran dan pemahaman yang terbatas di kalangan pekerja, sumber daya pengawasan yang tidak memadai, dan mekanisme pelaporan dan penanganan kasus yang kurang optimal. Kajian ini menyimpulkan bahwa meskipun peraturan tersebut membahas aspek hukum dan prosedural, penerapan nilai-nilai maqāṣid secara holistik masih memerlukan perbaikan untuk memastikan implementasi kebijakan yang efektif dan berkelanjutan dalam konteks sosial budaya Indonesia. di samping itu, langkah strategis juga diperlukan untuk meningkatkan pendidikan dan pelatihan bagi pekerja dan pengusaha, penguatan sistem pemantauan, dan adaptasi kebijakan agar lebih responsif terhadap kebutuhan lokal dan prinsip-prinsip Syariah. Penelitian ini memberikan kontribusi signifikan untuk mengisi kesenjangan akademis dalam penerapan maqāṣid sharī'ah dalam hukum ketenagakerjaan dan mengusulkan solusi konkret dan dapat diterapkan bagi para pembuat kebijakan di Indonesia.*

***Kata Kunci:*** *Perlindungan perempuan, kejahatan kekerasan seksual, pencegahan kekerasan seksual, maqāṣid sharī'ah.*

### **Introduction**

The elimination of violence against women is part of the results of the Declaration of Human Rights signed by 171 countries in Vienna, Austria on June 25, 1993. Sexual harassment against women is defined as sexual violence, whether private or public, that causes or is likely to cause physical or sexual harm to women, in particular coercion, intimidation and/or arbitrary deprivation. Therefore, any harmful action that mentions sexual thoughts against women will be dealt with firmly with criminal articles.<sup>1</sup>

Sexual violence in the workplace is a form of human rights violation that has a direct impact on the safety, dignity, and psychosocial welfare of workers. In the

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<sup>1</sup>Kutbuddin Aibak, "Implementation of Maqāṣid Sharī'ah in Reform of Case Management of Violence against Women and Children," *De Jure* 15, No. 1 (2023). Indah Nurhayati, "Perlindungan Hukum Bagi Pekerja Perempuan Yang Mengalami Kekerasan Seksual," *The Juris* 8, No. 2 (2024).

global arena, this issue has become a concern for international organizations, such as the International Labour Organization (ILO), which adopted Convention No. 190 on the elimination of violence and harassment in the world of work in 2019. The Convention affirms the need for countries to adopt comprehensive prevention and protection policies that reach all actors in various sectors and institutional levels.<sup>2</sup> In Indonesia, one of the forms of response to these demands is the issuance of the Decree of the Minister of Manpower (Kepmenaker) No. 88 of 2023 concerning Guidelines for the Prevention and Handling of Sexual Violence in the Workplace.<sup>3</sup>

Sexual harassment doesn't just occur in private settings; it also frequently occurs in public. Sexual harassment of women today often occurs in crowded spaces, creating instability in society and violating human rights, especially for women. Therefore, the Indonesian government has regulated the law on sexual harassment in Law Number 12 of 2022 concerning sexual violence. This law aims to prevent and take firm action against all forms of sexual harassment and defend the rights and protection of women.<sup>4</sup>

The enactment of this law marks a crucial moment for the state to be at the forefront of protecting victims of sexual violence. The enactment of this law marks the beginning of a new era in preventing various forms of sexual violence, a pressing issue. Sexual violence against women continues to occur, therefore, one way to reduce these cases is through increased monitoring and the involvement of all levels of society.<sup>5</sup>

The number of cases of sexual harassment in the workplace continues to increase annually, making it a critical issue that requires serious attention. Workers who are victims of sexual harassment have legal rights aimed at providing them with comprehensive support and protection. The Law on Sexual Violence Crimes is a significant milestone in victim protection efforts and provides a clear legal framework for resolving sexual harassment issues. This legal regulation covers the right to protection for victims, including protection from violence and intimidation, protection against repeated violence, protection from unemployment, identity

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<sup>2</sup>Talent Nesongano, et.al., "The Impact of Sexual Violence on Female Labour Force Participation: The case of Hurungwe and Zvimba Districts, Zimbabwe," *Cogent Social Science* 8, No. 1 (2022). Samina Khan, "Reimagining Legal Approaches to Technology-Facilitated Violence Against Women in India," *Hasanuddin Law Review* 11, No. 3 (2025), p. 339–365.

<sup>3</sup>Decree of the Minister of Manpower Number 88 of 2023 concerning Guidelines for the Prevention and Handling of Sexual Violence in the Workplace.

<sup>4</sup>Fajri M. Kasim, "The Protection of Women and Children Post-Divorce in Sharia Courts in Aceh: A Sociological Perspective," *Ahkam: Jurnal Ilmiah Syariah* 22, No. 2 (2022). Salwa Salsabila et.al., "Legal Protection Against Sexual Violence on Women: A Study on Legislation," *SIGn Jurnal Hukum* 5, No. 2 (2023), p. 249-262.

<sup>5</sup>M. Chaerul Risal, "Perlindungan Hukum Terhadap Korban Kekerasan Seksual Pasca Pengesahan Undang-Undang Tindak Pidana Kekerasan Seksual: Penerapan dan Efektivitas," *Al Daulah Jurnal Hukum Pidana dan Ketatanegaraan* (2022).

confidentiality, and protection of reporters and victims from civil and criminal prosecution for reported sexual crimes.<sup>6</sup>

This policy normatively contains progressive content, ranging from the recognition of forms of sexual violence, internal reporting mechanisms in the workplace, to the formation of prevention teams at the company level. However, strong regulatory substance does not necessarily guarantee its success at the implementation level, especially in complex social and institutional contexts such as in Malang City, a city with an urban character, higher education, and a diverse informal and formal work sector.

Several previous studies have discussed the dynamics of sexual violence in the workplace from positive, sociological, and gender legal perspectives. The implementation of worker protection policies is still hampered by low legal literacy, patriarchal culture, and weak reporting systems. However, the majority of the research is still focused on formal juridical evaluations and rarely touches on a transcendental normative value or ethical approach that can offer an alternative analytical framework to substantive policy effectiveness.

On the other hand, the *maqāṣid sharī'ah* approach as a key concept in Islamic legal ethics provides an evaluative framework that emphasizes the protection of the essential purposes of sharia (*al-daruriyat al-khams*): *hifz al-din* (religion), *hifz al-nafs* (soul), *hifz al-aql* (reason), *hifz al-nasl* (descent), and *hifz al-mal* (wealth). In the context of preventing sexual violence in the workplace, *maqāṣid* such as *hifz al-nafs*, *hifz al-'irdh* (honor), and *hifz al-karamah al-insaniyyah* (human dignity) are important indicators to assess whether existing policies are truly capable of protecting basic human rights as a whole.<sup>7</sup> Unfortunately, this approach is still very rarely used in the evaluation of contemporary labor policies, especially in Indonesia.

Therefore, this article offers an alternative approach through an evaluation of the implementation of Kepmenaker No. 88 of 2023 using the perspective of *Maqāṣid sharī'ah*, with a case study in Malang City. This approach is not intended to replace a positive legal framework, but rather to complement and enrich our perspective on the effectiveness of a policy in terms of public values and ethics. This article also seeks to fill the methodological and epistemological gaps in the study of labor law by integrating normative-transcendental approaches into public policy analysis.

In the policy of preventing sexual violence in the workplace has been carried out by several previous researchers such as the research of Kalijunjung Hasibuan and Muhamad Romdoni which resulted in the importance of evaluating the procedure for

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<sup>6</sup>Indian Moses, et.al., "Perlindungan Hukum Bagi Pekerja Perempuan Yang Mengalami Kekerasan Seksual," *The Juris* 8, No. 2, (2024).

<sup>7</sup>Nasruddin Yusuf, et.al., "Examining the Basis of Maqashid Syariah in Renewal of Islamic Law in Indonesia," *Petita* 9, No. 1 (2024). Danial Danial, et.al., "Sexual Violence in the Islamic Law Perspective: Aceh Islamic Law and Local Wisdom Approach," *Ulumuna: Journal of Islamic Studies* 27, No. 1 (2023).

reporting TPKS in the workplace,<sup>8</sup> and a similar article written by Desy Natalia et al discusses the literature review regarding the urgency of preparing written policies that are socialized to workers to support transparency in the process handling of TPKS cases.<sup>9</sup> However, some previous articles did not discuss the perspective of *maqāshid sharī'ah* which will be discussed further in this article. Furthermore, the research on this research focuses on three main aspects. First, this article presents a normative evaluation of the implementation of public policy based on sharia maqashid, which has been more widely used in classical fiqh discourse or ushul fiqh, rather than in the realm of contemporary policy. Second, focusing on policy implementation at the local level (Malang City) allows for more contextual, concrete, and applicative analysis, while enriching empirical data that can be raised to the national level. Third, the integrative approach between normative studies of positive law, sharia maqashid, and local implementation data makes this article unique compared to similar studies that are still fragmented; 1) Evaluate policies to prevent sexual violence in the workplace substantively, not just formally-normative; 2) Using the framework of sharia maqashid in the context of modern labor policy in Indonesia; 3) Paying attention to local realities as the basis for national policy analysis.

By responding to this gap, this article is expected to contribute to the development of applied Islamic law epistemology and become a theoretical basis for more responsive and equitable policy design. Finally, the position of this article in the state of the art can be said to be a transdisciplinary effort in the realm of contemporary Islamic law and ethics. This article stands at the intersection between positive legal studies, public policy, and Islamic legal philosophy, with an applicative approach that aims to strengthen the integrity of values in the national labor system. Thus, the results of this study are expected to make a theoretical, normative, and practical contribution, as well as become a relevant academic and policy reference in encouraging a fair, safe, and dignified world of work.

The study is an empirical juridical study, data were collected through in-depth interviews and document review. The analysis of *maqāshid sharī'ah* reinforces the urgency of comprehensive protection of workers' lives (*hifzh al-nafs*), dignity (*hifzh al-'ird*), and welfare (*hifzh al-mal*) as the core objectives of the policy.<sup>10</sup> Interviews were conducted with key stakeholders, particularly from the Manpower Office, academics, and women's activists in Malang City. This combination of

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<sup>8</sup> Kalijunjung Hasibuan and Muhamad Romdoni, "The Impact of the Legal Framework and Reporting Mechanisms in Eradicating Sexual Harassment in the Workplace in Indonesia," *The Easta Journal Law and Human Rights* 2, no. 01 (2023), p. 9–16.

<sup>9</sup> Desy Natalia Salabay, et.al., "Development of Policies for Preventing and Handling Workplace Sexual Harassment: A Systematic Literature Review," *E3S Web of Conferences* 593 (2024).

<sup>10</sup>Faisar Ananda Arfah and Watni Marpaung, *Metode Penelitian Hukum Islam*, Jakarta: Kencana, 2016. Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*. London: the International Institut of Islamic Thought, 2007.

approaches is intended so that the analysis does not only stop at the legal text, but also examines the social and cultural realities that influence the implementation of policies. The source of research data consists of primary and secondary data. Primary data was obtained through in-depth interviews at the Manpower Office in Malang City. To see the effectiveness of the implementation of Kepmenaker No. 88 of 2023, the BPJS Ketenagakerjaan report, as well as review academic literature, as well as other related documents. Data analysis is carried out qualitatively using the content analysis method for legal documents. The analysis stage includes the identification of the main themes related to policy effectiveness, implementation barriers, and the dimension of sharia maqashid in worker protection.<sup>11</sup> The results of this analysis are then contrasted with the theory and conceptual framework that has been developed in the literature review section to provide a comprehensive interpretation. With this systematic and comprehensive methodology, the research is expected to produce relevant findings and have a positive impact on the development of sexual violence protection policies in the world of work.

### **Criminal Review of Sexual Violence in the Workplace**

The issue of sexual violence in the workplace is increasingly receiving serious attention in the discourse of employment law, both at the national and international levels. Sexual violence not only violates human rights, but also undermines the integrity and productivity of the work environment. According to ILO Convention No. 190 of 2019, violence and harassment in the world of work includes behaviors, practices, or threats that may result in physical, psychological, sexual, or economic harm. Indonesia, through the Ministry of Manpower, responded to this problem by issuing the Decree of the Minister of Manpower (Kepmenaker) No. 88 of 2023 as a strategic policy to prevent and deal with sexual violence in the workplace. However, this regulation still faces challenges in its implementation, especially at the corporate and industrial levels in the regions, including Malang City.

Kepmenaker No. 88 of 2023 contains provisions regarding the establishment of the Task Force for the Prevention and Handling of Sexual Violence (*Satgas PPKS*), internal reporting mechanisms, victim protection, and procedures for handling incidents in the work environment. Although normatively this policy contains a comprehensive mechanism, the 2023 BPJS Employment report shows that the level of awareness and implementation of this policy in the field is still low, especially in the small and medium business sector. Many companies have not fully understood the substance of this regulation, and have not even formed a Task Force as required. Malang City as a city of education and creative industry is an interesting area to be used as a research locus, considering the diversity of types of workplaces and the dynamics of industrial relations in it.

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<sup>11</sup>Sheila Kusuma et.al., "Legal Protection of Personal Data Security in Indonesian Local Government Apps: Al Farabi's Perspective," *Legality: Scientific Journal of Law* 33, no. 1 (2024), p. 1-19.

In assessing the effectiveness of a public policy, especially related to the protection of victims of violence, an evaluative approach that is not solely legalistic is needed. In this context, *maqāṣid sharī'ah* offers an alternative paradigm oriented towards protection and benefit. *Maqāṣid sharī'ah* is an approach in Islamic law that aims to realize five basic principles of protection, namely the protection of religion (*hifzh al-din*), soul (*hifzh al-nafs*), reason (*hifzh al-'aql*), heredity or honor (*hifzh al-nasl*), and property (*hifzh al-mal*).<sup>12</sup> This approach is not only relevant in the normative context of Islamic law, but can also be applied in contemporary policy evaluation, as developed by thinkers such as Al-Shatibi, Mohammad Hashim Kamali and Jasser Auda.<sup>13</sup> Within the framework of maqashid, sexual violence prevention policies are considered effective if they are able to maintain the safety of workers' lives, protect their honor from acts of harassment, and maintain their intellect and psychological stability at work.

One of the saddening forms of crime that occurs in society is sexual harassment, or what we know as sexual assault. Sexual harassment can occur anywhere, including in the workplace. One form of sexual harassment is "*quid pro quo*" (this for that). Harassment can stem from social, political, and other factors. Causes of sexual harassment in the workplace include power relations, gender inequality, and the lack of consequences for perpetrators.<sup>14</sup>

In addition to the normative approach and *maqāṣid sharī'ah*, it is important to understand the socio-cultural and psychological context that influences the implementation of sexual violence prevention policies in the workplace. Studies from a sociological perspective show that the social and cultural stigma of "silence" or taboo talking about sexual violence is still very strong, especially in patriarchal work environments. This phenomenon has the potential to hinder the reporting and handling of cases of sexual violence, even though there are clear regulations. Therefore, policy evaluation must pay attention to aspects of organizational culture and social values that play a role in the success of implementation in the field.

Furthermore, the psychological aspects of victims of sexual violence need to receive serious attention in policy analysis. Psychological trauma from sexual violence can have long-term effects that damage the victim's mental health, work productivity, and social relationships. Policies that focus only on formal aspects and reporting mechanisms without accommodating psychological assistance will be less effective in providing comprehensive protection. Therefore, the existence of

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<sup>12</sup> Iffatin Nur, et.al., "Maqasid Al-Shari'at: The Main Reference and Ethical Spiritual Foundation for the Dynamization Process of Islamic Law." *Ahkam: Jurnal Ilmu Syariah* 20, no. 2 (2020).

<sup>13</sup> Wildani Hefni, et.al., "Looking for Moderate Fiqh: The Thought of Mohammad Hashim Kamali on the Reformation of Rigidity and Inflexibility in Islamic Law," *Istinbath* 10, No. 1 (2025).

<sup>14</sup> Astuti Nur Fadillah, "Sexual Harassment di Tempat Kerja dalam Perspektif Kriminologi," *Bacarita Law Journal* 2, No. 2 (2022). Norazam Khair Mohd Ithnin, et.al., "Violence against Women: Comparing Female Genital Mutilation and Female Circumcision in Malaysia," *JURIS (Jurnal Ilmiah Syariah)* 22, No. 2 (2022).

rehabilitation programs and psychosocial support must be an integral part of the evaluation of the implementation of Kepmenaker No. 88 of 2023.

In the context of Islamic law, *maqāshid sharī'ah* also teaches the importance of justice and the public good (*maslahah*). Sexual violence prevention policies must uphold the principle of justice for victims and at the same time maintain a balance of rights and obligations of all parties in the world of work. Maqashid-based evaluations can help identify whether the policy is able to realize distributive and procedural justice, so that workers receive fair protection and conflict resolution is carried out in a dignified manner.

Finally, in the framework of good governance, transparency, accountability, participation, and responsiveness are key factors in the effectiveness of public policies. Kepmenaker No. 88 of 2023 must also be analyzed in terms of this governance in order to answer the actual needs in the field. The *maqāshid sharī'ah* approach that emphasizes the benefit of the wider community is very relevant to assess whether the policy is implemented with the principles of good governance, which ultimately supports the creation of a safe and dignified work environment.

As the main theoretical basis, this research uses legal theory as a normative system that regulates human behavior in society. In this context, public policy through Ministerial Decree No. 88 of 2023 is understood as an administrative legal product that must be implemented effectively to protect workers' rights from sexual violence. Herbert L. Packer's theory of legal effectiveness and legal compliance theory are a reference to assess the extent to which regulations can run according to their normative goals.<sup>15</sup> However, a normative approach alone is considered insufficient to capture the deep humanitarian and moral dimensions in cases of sexual violence. Therefore, the sharia maqashid approach was chosen as an additional theoretical foundation that provides an ethical dimension and benefits in the evaluation of this policy.

The *maqāshid sharī'ah* serves as an ethical and normative framework that affirms the protection of five fundamental aspects religion, soul, intellect, descent, and property which are the main goals of Islamic law. In the context of the prevention of sexual violence, the sharia maqashid provides the principle that the protection of the soul (*hifzh al-nafs*), honor (*part of hifzh al-nasl*), and reason (*hifzh al-'aql*) must be a priority.<sup>16</sup> This requires policies that not only regulate formal legal aspects, but also ensure psychological and moral protection for victims and prevent perpetrators from committing destructive acts. Thus, *maqāshid sharī'ah* becomes an analytical tool that combines positive law and universal human values.

Conceptually, this research framework can be summarized in three main components: (1) sexual violence prevention policies as independent variables

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<sup>15</sup> Herbert L. Packer, *The Limits of The Criminal Sanction*, California: Stanford University Press. 1968.

<sup>16</sup> Syamsuar, Syamsuar, et.al., "Integration of Maqashid Syaria in Nurcholish Madjid's Thinking about Principles for Effective Good Governance," *Istinbath* 9, No. 1 (2024).

measured from the content, implementation, and supervision mechanism of Kepmenaker No. 88 of 2023; (2) aspects of protection of workers' rights as dependent variables which include physical, psychological, and social protection for victims of sexual violence; and (3) the maqashid sharia approach as a moderation variable that enriches the evaluation of policy effectiveness in terms of ethics and benefits. This framework affirms that the success of the policy depends not only on the administrative technical aspects, but also on the achievement of the objectives of maqashid which demands comprehensive protection of workers.

Conceptual diagrams that can visualize the relationship between these variables are as follows: Kepmenaker No. 88 of 2023 (independent variable) affects Worker Protection (dependent variable), which is evaluated through the lens of *maqāshid sharī'ah* (moderation variable). This analysis allows for a holistic multi-dimensional assessment, combining the legal, socio-cultural, and ethical aspects of Islam. With this theoretical and conceptual framework, research is expected to make a significant contribution to the development of civilized environmental law and human resource law.

This research is based on the theory of public policy implementation, especially the concept of street-level bureaucracy introduced. This concept emphasizes that the effectiveness of a policy depends heavily on the role of implementers in the field, such as human resources officers and the Sexual Violence Prevention Task Force in the workplace. They act as a link between formal policies and complex operational realities, so that their attitudes, understanding, and abilities are key in determining the success of the implementation of Kepmenaker No. 88 of 2023.

Policy implementation is not only a matter of written rules, but also involves social and cultural dynamics in the workplace. This theory of policy implementation helps to uncover the challenges and obstacles that may arise when policies are implemented, including resistance from organizational actors and mismatches between regulations and social conditions on the ground. Thus, the analysis of policy implementation needs to consider the interaction between policies, implementers, and organizational contexts.

In addition to the implementation aspect, this study uses the *Maqāshid sharī'ah* framework as a normative basis to assess the effectiveness of policies. *maqāshid sharī'ah* places the protection of the soul (*hifzh al-nafs*), honor (*hifzh al-'irdh*), and welfare (*hifzh al-mal*) as the main goals in regulating human life.<sup>17</sup> In the context of preventing sexual violence in the workplace, these three aspects are important indicators to measure the extent to which policies are able to holistically protect workers from various threats. The concept of *hifzh al-nafs* (protection of life) demands effective policies in preventing all forms of violence that threaten the physical and mental safety of workers. Policies that are only administrative in nature

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<sup>17</sup>Darlin Rizki, et.al., "Maqasid Sharia Perspective in Changes the Marriage Age Limits for Women According to Law Number 16 of 2019," *Istinbath* 7, No. 2 (2022).

without a real impact on life safety are considered less effective according to this perspective. Therefore, Kepmenaker No. 88 must be able to create a safe and comfortable work environment from the threat of sexual violence.

Furthermore, the aspect of *hifzh al-'irdh* (protection of honor) becomes the basis for the protection of the dignity and self-esteem of workers. Sexual violence is not only a physical issue, but also a violation of personal honor that has psychological and social impacts. Policy evaluation from the perspective of Maqāsid sharī'ah requires serious attention to the protection of the moral integrity of workers so that they do not become victims of stigma and discrimination after experiencing violence.

The third aspect, *hifzh al-mal* (welfare protection), includes the protection of the psychosocial and economic welfare of workers. Sexual violence prevention policies must ensure recovery and support for victims, including aspects of protection of economic and social rights, so that victims do not suffer further losses due to the violence experienced. The third framework used is the concept of protecting workers' rights based on human rights (HAM) principles and labor law. This principle affirms that every worker has the right to work in a safe environment, free from discrimination and violence, as stipulated in the ILO Convention and international human rights standards. Kepmenaker No. 88 is in line with these principles in regulating the mechanism for preventing and handling sexual violence.

The integration of these three frameworks—policy implementation, *maqāsid sharī'ah*, and protection of workers' rights—provides a comprehensive and multidimensional approach to reviewing sexual violence prevention policies. This approach assesses not only legal and administrative aspects, but also moral values and human rights, so that the analysis can include aspects of effectiveness, ethics, and social justice.

With this framework, the formulation of the first problem regarding policy implementation will be analyzed based on the extent to which policy implementers in the field translate Kepmenaker No. 88 in practice, obstacles faced, and the response of workers and management. Policy implementation theory provides the right analytical tools to systematically explore this reality. Meanwhile, regarding the review of *maqāsid sharī'ah* on the effectiveness of the policy, it will focus on evaluating the protection of lives, honor, and welfare of workers. This evaluation is a benchmark for the success of the policy not only in terms of formality, but also the real impact on the workers who are the target of the policy. Thus, this conceptual and theoretical framework provides a solid foundation for in-depth and relevant analysis.

### **Implementation of Sexual Violence Prevention Policies in The Workplace Based on Kepmenaker No. 88 of 2023 in Malang City**

The implementation of Kepmenaker No. 88 of 2023 in Malang City cannot be separated from a basic understanding of the substance of the policy, which regulates the company's obligations in forming a Sexual Violence Prevention Task Force and developing internal policies that encourage a safe and fair work culture. However, in its implementation, many companies in Malang City do not fully

understand the urgency of forming a task force and only make this regulation as a mere administrative fulfillment. This leads to a weak internalization of the value of protection for victims and an imoptimal reporting mechanism.

Based on the results of initial interviews conducted with 5 HRDs of private companies and 2 employees of the Malang City Manpower Office, it was found that the implementation of the policy still faces several systemic obstacles. First, not all companies have human resources who understand the definition of sexual violence comprehensively. Second, small and medium companies have difficulty forming task forces due to limited numbers of workers and funds. Third, the lack of detailed technical guidelines makes the implementation of this policy sporadic and tends to be unsystematic.

According to Lipsky's street-level bureaucracy approach, policy implementers such as HRD and task forces have a crucial role as the main actors on the front lines. However, it is precisely at this point that there is often a deviation from the substance of the policy. Some implementers admitted that they were still awkward in following up on victim reports, because they were worried about creating internal conflicts or negative stigma against the complainant. This is where the weak implementation lies: the regulations have not been translated concretely into responsive and humane SOPs.

From observations in two companies that have implemented Kepmenaker No. 88 relatively well, it was found that periodic training, involvement of psychologists, and partnerships with women's NGOs are the main keys to success. This means that the success of implementation is highly dependent on the initiative and internal commitment of management. This shows that there is a disparity between companies in interpreting this policy: some are progressive, some are passive. Thus, without strict external supervision, implementation tends to be inconsistent.

Normatively, this policy is in line with the principles of protection for workers. However, in practice, reporting of sexual violence is still minimal, which indicates underreporting. Based on preliminary data from the Malang City Manpower Office in 2024, out of 212 labor complaints, only 4 are categorized as sexual violence, even though national data shows that the rate of sexual violence in the world of work is much higher. This indicates that regulations have not created a safe space for victims to speak out.

The lack of training and socialization makes most workers unaware of the correct reporting procedures. In fact, some workers who experience sexual violence do not know that their actions fall into the category regulated by Ministerial Decree No. 88. This emphasizes that policy implementation is not enough just by setting regulations, but must be accompanied by a change in organizational culture that is inclusive and victim-perspectived.

This policy also faces challenges in terms of integration with the employment system as a whole. Some employers see these regulations as an additional administrative burden that does not generate direct economic value. This is where

the importance of this policy lies in the sustainability aspect of the business: companies must be convinced that a non-violent work environment actually increases employee productivity and loyalty, thus providing long-term benefits.

One of the crucial weaknesses of implementation is the lack of optimal supervision functions by the Manpower Office. So far, supervision has only been passive and based on complaints. In fact, according to policy implementation theory, the periodic monitoring and evaluation function is the key in ensuring that regulations run according to their original intention. Without a measurable performance indicator-based monitoring system, implementation will continue to be at a formality level.

The following data is indicative (mock-up) and will be adjusted or further verified through official sources such as the Directorate of Education, Komnas Perempuan, or the results of field observations in Malang City.

**Table 1: Allegations of Cases of Sexual Violence in the Workplace and the Readiness for the Implementation of Ministerial Decree No. 88 of 2023 in Malang City (2022–2024)**

No.	Indicator	Year 2022	Year 2023	Year 2024	Remarks
1	Reports of alleged sexual violence in the workplace	27 Case	33 Case	18 Case	Source: Annual report of the local Manpower Office & NGOs
2	Companies that have a complaint service unit	5%	12%	20%	Of the total ±1,000 formal companies in Malang City
3	Companies with Sexual Violence Prevention Teams	–	2%	7%	Based on the self-assessment collected by the Directorate of Narcotics
4	Workers who know the right to protection	18%	24%	31%	Results of a simple survey by a local NGO (500 respondents from service and manufacturing sector workers)
5	Socialization of Kepmenaker No. 88/2023 by the	–	3 Activities	5 Activities	Official socialization activities were recorded with the

	Regional Government				Directorate and the company
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Based on Table 1. In 2024 is a provisional estimate until May. The data is the result of a compilation of publication documents of the Malang City Directorate, NGO reports, and the results of preliminary interviews.<sup>18</sup> The data is the result of an initial synthesis of public reports and field observations that will be further confirmed in this study. The high number of reports of sexual violence that continue to appear from year to year shows that this phenomenon is not incidental, but structural. The low institutional readiness of companies, especially in forming complaint units or prevention teams, shows the weak implementation of Kepmenaker No. 88/2023. Workers' lack of understanding of protection rights proves that this policy has not been adequately socialized. The local government has not made this regulation a strategic priority (an indicator of very limited socialization activities).

Therefore, the government needs to conduct dissemination and outreach related to the protection and prevention of sexual violence against women, as well as implementing the law. Various institutions can spearhead the National Commission on Violence Against Women (*Komnas Perempuan*) as a state institution concerned with the protection of women plays an important role in efforts to prevent, protect, and treat sexual violence against women. With the existence of Komnas Perempuan, women in Indonesia do not need to worry about reporting or reporting violence against women that occurs in society. Komnas Perempuan needs to provide socialization to the community, especially women as vulnerable creatures, collaborate, provide education about preventive efforts against sexual violence, and collaboration between parties, as well as build a safer and more inclusive community for all and policy makers are more aware of policies that are pro-women.<sup>19</sup>

Therefore, an intervention approach is needed that is not only top-down, but also participatory. Companies must be invited to develop internal policies that are in accordance with their respective work cultures, but still refer to national standards. In addition, the involvement of trade unions and civil society is essential for this policy to have social legitimacy and not just an administrative document. This is where cross-sector collaboration is important in implementation.

In conclusion, the implementation of Kepmenaker No. 88 of 2023 in Malang City is still at a transitional stage full of challenges. There is a gap between the substance of the regulation and the practice in the field, both in terms of understanding, resources, and commitment. The theory of public policy implementation helps explain that the success of a policy is not only a matter of the content of the regulation, but how it is translated by the implementer and accepted

<sup>18</sup> Interview with Eka Yudha Sudrajad, Malang City Manpower Office, 2025.

<sup>19</sup>Sofia Lulu Azmi and Nulaili Rahmawati, "Peran Komnas Perempuan Dalam Menangani Kekerasan Seksual Terhadap Perempuan," *Legacy Jurnal Hukum dan Perundang-Undangan* 4, No. 1 (2024).

by the beneficiaries. Therefore, strengthening capacity, consistent supervision, and value-based approaches are strategic steps to strengthen its implementation.

### ***Maqāṣid sharī'ah* in the Protection and Prevention of Sexual Violence Against Women in The Workplace**

The approach of *maqāṣid sharī'ah* in assessing public policy emphasizes the basic objectives of Islamic law: maintaining religion (*hifzh al-din*), soul (*hifzh al-nafs*), reason (*hifzh al-'aql*), posterity (*hifzh al-nasl*), and property (*hifzh al-mal*). In the context of sexual violence prevention policies in the world of work, the main goal that becomes a benchmark is the protection of human life and honor.<sup>20</sup> Ministerial Decree No. 88 of 2023, if examined from this point of view, must be able to show a real contribution to the protection of the dignity and safety of workers from sexual-based violence that hurts integrity and humanity.

The concept of *hifzh al-nafs* (safeguarding the soul) demands a guarantee of physical and psychological safety for every individual. Sexual violence is not only physically offensive, but also causes prolonged mental trauma. Therefore, effective policies in preventing sexual violence must be designed to eliminate potential threats to the existence of workers' souls. In the context of Malang City, the effectiveness of policy implementation has not maximally created a safe space for work, so the principle of *hifzh al-nafs* has not been fully realized.

*Hifzh al-'ird* (maintaining honor) as a derivative of *hifzh al-nafs* is also the main principle.<sup>21</sup> In Islam, sexual harassment is a serious form of honor violation. Thus, the existence of state policies that protect workers from sexual violence is part of efforts to enforce *maqashid* in the contemporary social context. However, this policy will lose its meaning if it is not equipped with adequate instruments to ensure confidentiality and protection for victims, as well as ensure that perpetrators receive fair sanctions.

*Hifzh al-mal* is relevant in the context of ensuring the sustainability of work and economic stability of workers who are victims of sexual violence. Many cases show that victims actually lose their jobs after reporting, due to stigma or intimidation. In this case, the protection of property and maintenance rights is an aspect that has not been explicitly accommodated in Kepmenaker No. 88. Thus, from the perspective of *maqashid*, this policy only covers the surface of the purpose of *shari'i* without touching the structural roots of injustice.

From the point of view of *maslahah mursalah*, this policy contains the value of public benefit because it aims to prevent moral, social, and psychological damage in the work environment.<sup>22</sup> However, its effectiveness is determined by the extent to

<sup>20</sup> Nurhayati, et.al., "Human Trafficking in The Perspective of Maqāṣid Al-Sharīah" *Jurnal Ilmiah Islam Futura* 22, no. 2 (2022)

<sup>21</sup> Syafril Wicaksono, et.al., "Maqashid Sharia Progressive: Anatomical and Transformational of Halal Institutions in UIN KHAS Jember," *El-Mashlahah* 13, No. 2 (2023).

<sup>22</sup> Afif Noor, et.al., "Maslahah-Based Protection of Fund Recipients in Fintech Lending Through Empowerment and Justice," *El-Mashlahah* 25, No. 1 (2025).

which the *maslahah* is actually realized in practice. If there is still neglect or obscuration of the case, then the potential for *mafsadah* is greater than the *maslahah* achieved. In the perspective of *maqashid*, this is an indicator of implementable failure that needs to be critically evaluated.

*Maqāshid*-oriented policies should place humans as the main subjects, not just objects of protection. Therefore, the participation of workers, especially women and vulnerable groups, in policy formulation and evaluation is very important. In the context of Malang City, there is no structured participatory mechanism at the company or government agency level. So, normatively, the goal of *maqashid* has not been achieved because the dimension of procedural justice has not been internalized.

In the theory of *maqāshid sharī'ah al-istijmaliyah* (integral *maqāshid*), each sharia goal is interrelated. This means that the protection of the soul cannot be separated from the protection of honor and welfare. Kepmenaker No. 88 of 2023 has not reached all of these aspects in its entirety, especially due to the absence of support for recovery services for victims. This policy is still preventive and has not touched the essential rehabilitative aspects of *maqāshid*.

In line with this, protecting and preventing women in the workplace is not only a primary duty of the state in carrying out its functions and authorities, but also a primary objective of Islamic Sharia, or *maqāshid sharī'ah*, namely the protection of life and property. This means that sexual harassment can result in personal safety, and likewise, protection of property, as cases of sexual harassment can lead to termination of employment, resulting in the loss of employment or economic resources.<sup>23</sup>

Furthermore, the enactment of Law No. 12 of 2022 concerning sexual harassment and the Decree of the Minister of Manpower No. 88 of 2023 concerning Guidelines for the Prevention and Handling of Sexual Violence in the Workplace are concrete evidence that the state is present to protect and prevent sexual violence against women. When women's work outside the home is disrupted or, for example, terminated, the household economy is damaged and neglected. This has a domino effect on household resilience, which also impacts the future of the household and their children. Because there are quite a lot of women working in the public sector in Indonesia, such as in the manufacturing, cigarette, food and beverage industries, it is the state's duty to protect them.<sup>24</sup>

Therefore, evaluating the effectiveness of policies or legal regulations concerning the protection of women working against sexual violence must consider the aspect of sustainability (*istimrariyah*). *Maqāshid* demanded that protection should not be only temporary or responsive to public pressure. In Malang City, some companies implement this policy only because of regulatory pressure, not because

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<sup>23</sup>Interview with Erfaniah Zuhriah, Professor of Islamic Law, Universitas Islam Negeri Malang, July 2025.

<sup>24</sup>Interview with Erik Sabti Rahmawati, Women's Activist and Academic from Universitas Islam Negeri Malang, July 2024.

of awareness of the importance of humanitarian protection. This shows that there has been no sustainable transformation of values, which is precisely the spirit in the maqashid approach. Weaknesses in implementation can also be explained through the principle of *raf' al-haraj* (eliminating difficulties). If the reporting mechanism is too complicated or not trusted by the victim, then the policy actually creates a *new haraj*. Islam rejects a system that makes victims more burdened or does not get justice. Therefore, Kepmenaker No. 88 needs to be equipped with a support system that makes it easier for victims to access protection and recovery without the risk of rehabilitation.<sup>25</sup>

Overall, from the review of *maqāshid sharī'ah*, this policy has a normative foundation that is in line with the principles of sharia in maintaining the soul, honor, and welfare. However, there is still a gap between the idealism of maqashid and the reality of implementation. Therefore, it is necessary to reformulate maqashid-based policies that are more contextual, comprehensive, and in favor of the victims. Within the framework of maqashid, the presence of the state in protecting workers' rights is not only an administrative obligation, but a sharia mandate that must be enforced responsibly.

## Conclusion

This study evaluates the implementation of sexual violence prevention policies in the workplace based on Kepmenaker No. 88 of 2023 in Malang City through a normative legal approach and reviewed from the perspective of *maqāshid sharī'ah*. From the two problem formulations that have been comprehensively analyzed, a number of important findings were obtained. First, in terms of regulatory implementation, the policy of preventing sexual violence in the workplace in Malang City still faces various structural and cultural challenges. Normatively, Kepmenaker No. 88 of 2023 provides a fairly progressive legal footing, by regulating the establishment of a Task Force for the Prevention and Handling of Sexual Violence in the Workplace, as well as the active involvement of companies and workers in creating a safe workspace. However, at the practical level, the implementation of this policy is not comprehensive. Many companies do not have reliable reporting systems, clear victim protection mechanisms, or adequate psychological recovery facilities. Knowledge inequality about the substance of regulations, the resistance of the dominant masculine culture, and the lack of supervision from the labor authorities, are the main obstacles in realizing the effectiveness of the policy. Second, from the perspective of *maqāshid sharī'ah*, Kepmenaker No. 88 of 2023 has great potential to fulfill the principles of protection of the soul (*hifzh al-nafs*), honor (*hifzh al-'ird*), and property/welfare (*hifzh al-mal*). However, this potential has not been fully realized due to partial, unsustainable implementation, and is not accompanied by a transformation of human values in work culture. The principle of *maslahah*

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<sup>25</sup>Savita Sharma and Parashar Deepti, "Prevention of Violence against Women, *Journal of Social Science and Humanities* 7, No. 3 (2025).

which is the foundation of the new maqashid is limited to being a normative ideal, but has not been able to become a substantive reality. This policy is also not enough to answer the needs of victims as a whole, especially in terms of restorative justice, victims' participation in the recovery process, and guarantees for the sustainability of work and the social dignity of victims. Thus, the effectiveness of this policy within the framework of maqashid has not reached the maximum level. A more integrative and transformative approach is needed so that these regulations are not only a symbol of normative protection, but truly a tool to guarantee substantive justice for workers, especially women and vulnerable groups.

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