

Recontextualizing Sexting and Digital Pornography as Jarimah in the Perspective of Fiqh Jinayah

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Abstract: *The development of digital technology has given rise to the practice of sexting and digital pornography which presents moral challenges as well as legal problems in the Muslim society. This phenomenon has to do not only with private ethics, but also has an impact on the broader social order. This study aims to examine the concept, classification, and legal implications of sexting and digital pornography as jarimah in the perspective of Jinyah Fiqh. This research is a normative legal research with a qualitative approach. Data was obtained through literature studies of primary sources of Islamic law, classical and contemporary fiqh literature, and relevant scientific journals. The analysis is carried out with a conceptual approach and maqāṣid al-syarī'ah to assess the substance of the act and its impact on the public good. The results of the study showed that sexting and digital pornography did not meet the elements of hudud jarimah because they did not always involve physical intercourse as in adultery with strict evidentiary standards. However, both can be categorized as jarimah ta'zir because they contain elements of moral violations, the opening of the aurat, and the potential destruction of individual honor and public morals. Viewed from the perspective of maqāṣid al-shari'ah, the practice is contrary to the purpose of protecting honor (ḥifẓ al-'irdh), heredity (ḥifẓ al-nasl), and reason (ḥifẓ al-'aql). This research confirms that Fiqh Jinayah has normative flexibility to respond to the phenomenon of digital sexuality through the mechanism of ijtihad and the application of ta'zir, so that it remains relevant in maintaining the benefit and dignity of human beings in the digital era.*

Keywords: *Sexting, Digital Pornography, Jarimah, Fiqh Jinayah, Maqāṣid al-Syarī'ah.*

Abstrak: *Perkembangan teknologi digital memunculkan praktik sexting dan pornografi digital yang menghadirkan tantangan moral sekaligus problem hukum di tengah masyarakat Muslim. Fenomena ini tidak hanya berkaitan dengan etika privat, tetapi juga berdampak pada tatanan sosial yang lebih luas. Penelitian ini bertujuan untuk mengkaji konsep, klasifikasi, serta implikasi hukum sexting dan pornografi digital sebagai jarimah dalam perspektif Fiqh Jinayah. Penelitian ini merupakan penelitian hukum normatif dengan pendekatan kualitatif. Data diperoleh melalui studi kepustakaan terhadap sumber primer hukum Islam, literatur fiqh klasik dan kontemporer, serta jurnal ilmiah yang relevan. Analisis dilakukan dengan pendekatan konseptual dan maqāṣid al-syarī'ah guna menilai substansi perbuatan serta dampaknya terhadap kemaslahatan umum. Hasil kajian menunjukkan bahwa sexting dan pornografi digital tidak memenuhi unsur jarimah hudud karena tidak selalu melibatkan persetubuhan fisik sebagaimana dalam zina dengan standar pembuktian yang ketat. Namun demikian, keduanya dapat dikategorikan sebagai jarimah ta'zir karena mengandung unsur pelanggaran kesusilaan, pembukaan aurat, serta potensi perusakan kehormatan individu dan moral publik. Ditinjau dari perspektif maqāṣid al-syarī'ah, praktik tersebut bertentangan dengan tujuan*

perlindungan kehormatan (*hifz al-'irdh*), keturunan (*hifz al-nasl*), dan akal (*hifz al-'aql*). Penelitian ini menegaskan bahwa Fiqh Jinayah memiliki fleksibilitas normatif untuk merespons fenomena seksualitas digital melalui mekanisme ijtihad dan penerapan ta'zir, sehingga tetap relevan dalam menjaga kemaslahatan dan martabat manusia di era digital.

Kata Kunci: *Sexting, Pornografi Digital, Jarimah, Fiqh Jinayah, Maqāṣid al-Syarī'ah.*

Introduction

The development of information and communication technology in the digital era has fundamentally changed people's lifestyles. Social interactions that used to take place in person are now shifting to the digital space through various online platforms. This transformation gave birth to what is known as *cyberspace*, a new social space that presents both opportunities and risks.¹ On the one hand, people enjoy easy access to information and communication efficiency. But on the other hand, the digital space also raises moral and legal issues that are not simple. Phenomena such as *sexting* and digital pornography are real examples of how technology can be used problematically, especially when the practice goes beyond the boundaries of privacy and has an impact on the breakdown of the moral order.² The impact is not only social and psychological, but also raises complex legal problems, both in the framework of positive law and in Islamic law, especially in the study of Islamic criminal law (*Fiqh Jinayah*).³

Sexting refers to the activity of sending or exchanging sexually charged messages, photos, or videos through electronic devices. This practice is quite prevalent, especially among the younger generation, and is often understood as part of the expression of intimate relationships in a digital context. However, sexting contains serious risks, such as the dissemination of content without consent, privacy violations, and exploitation that has a long-term impact on the victim. Meanwhile, digital pornography the production, distribution, and consumption of sexually explicit content over the internet has become a global problem in the cyber age. This kind of content not only has implications for the moral degradation of individuals, but also has the potential to trigger sexual exploitation, addiction, and various ethical and legal issues.⁴ In the context of Muslim-majority

¹E. V. Tihonova, T. P. Borisova, and E. G. Bunov, "Cyberspace as a New Social Reality in the Era of Globalization," 2022, 274–80, https://doi.org/10.1007/978-3-030-94870-2_35.

²Shane W. Kraus and Marc N. Potenza, "Digital Technologies and Sex," in *The Oxford Handbook of Digital Technologies and Mental Health*, ed. Marc N. Potenza, Kyle A. Faust, and David Faust (Oxford University Press, 2020), 240–50, <https://doi.org/10.1093/oxfordhb/9780190218058.013.21>.

³M Fathir Rizky, "Juridical Review of Adultery Cases at the Sigli Syar'iyah Court (Case Study of Decision Number 12 JN 2024 MS.Sgi)", *El-Hadhanah : Indonesian Journal Of Family Law And Islamic Law*, vol. 4, no. 2, (2024): 169-88, doi:10.22373/hadhanah.v4i2.5497.

⁴Shane W Kraus and Marc N Potenza, "Digital Technologies and Sex: Internet and Smartphone Influences on Pornography Viewing and Other Sexual Behaviors," *The Oxford Handbook of Digital*

Indonesia, this phenomenon raises a fundamental question: how does Islamic law view the practice? Are sexting and digital pornography strictly forbidden acts, or can they be qualified as *jarimah* in the perspective of *Fiqh Jinayah*?

A number of studies show that the dissemination of sexual content in digital media is a moral violation that has a wide impact. Some studies of Islamic law affirm that pornography is morally damaging content and contrary to the principles of sharia, because it threatens the honor and moral values of society. In one of the articles that discussed pornography from the perspective of Islamic law and positive law, it was emphasized that pornography is prohibited because it involves the dissemination of content that degrades human dignity and opens the *awrah*, so it is contrary not only to positive legal norms but also to sharia principles. The *fiqh* approach views such actions as acts that undermine the sanctity of the soul, self-respect, and social harmony.

The study of *Fiqh Jinayah* on sexual phenomena in the digital space has also begun to develop. An analysis of the case of incest fantasy groups on Facebook, for example, shows that virtual sexual content can meet the elements of *jarimah*, especially related to *fahisyah acts*, moral transgressions, and the spread of evil that damages the social order.⁵ The study confirms that even though the actions take place virtually, the moral and social impact is still real. Therefore, the perpetrator can be subject to *ta'zir* sanctions as a form of discretionary punishment in Islamic criminal law. This approach shows that *Fiqh Jinayah* does not limit criminality to physical acts only, but also considers the moral and social impacts it causes.

Theoretically, *Fiqh Jinayah* relies on the Qur'an, Hadith, *ijma'*, and *qiyas* in formulating the categories of criminal acts and their sanctions. Acts such as adultery, sexual harassment, and the dissemination of immoral content can be categorized as *jarimah* if they meet the elements of violations set by the sharia.⁶ In the digital context, the form of action is not always physical contact, but the effects of *mafsadah* (damage) can be the same, even wider because of the unlimited spread of the internet. Thus, it is relevant to examine whether sexting and digital pornography meet the elements of *jarimah* in *Fiqh Jinayah*, as well as how the construction of Islamic legal postulates and theories can support such classifications.

Technologies and Mental Health, 241, 2020, October 2020, <https://doi.org/10.0410/cata/756b19679c50d715776763d4ac3f4d6e>.

⁵Naufal Rizky Fadhilah et al., "The Case of Blood Fantasy Groups on Facebook: Jinayah's Fiqh Analysis of Virtual Sexual Crimes," *Jurnal Sains Student Research (JSSR)* 3, no. 4 (2025): 680–91, <https://doi.org/https://doi.org/10.61722/jssr.v3i4.5418>.

⁶Zulfadli et al., *Fiqh Jinayah* (Surabaya: Pena Cendekia Pustaka, 2024).

The next challenge is the extent to which *Fiqh Jinayah* is able to respond to the reality of modern digital law. The phenomenon of digital sexuality is not explicitly recognized in classical fiqh literature, so a contextual ijtihad approach is needed to connect normative principles with contemporary reality.⁷ Adultery, for example, is expressly categorized as hudud jarimah with certain sanctions. However, practices such as sexting or online pornography distribution need to be analyzed whether they fall into the hudud category or more appropriately placed as jarimah ta'zir. In contemporary *fiqh*, this phenomenon is often associated with the prohibition of opening the awrah, arousing orgasm, and damaging honor. The principles of *maqasid al-shari'ah*, especially *hifz al-'irdh* (protection of honor) and *hifz al-'aql* (protection of reason), are the basis for the argument that these practices are contrary to the purpose of the shari'a in maintaining human dignity and the moral order of society.

Based on this background, this study focuses on several key questions. First, how does *Fiqh Jinayah* define and view the phenomenon of sexting and digital pornography in the context of today's digital society? Second, can these two phenomena be classified as jarimah according to the perspective of Islamic criminal law? Third, what are the shari'i postulates and Islamic legal theories that can be used as the basis for arguments? Fourth, what are the normative implications for victim protection and law enforcement policy formulation in the digital realm? These questions are important because the practice of digital sexuality has become a social reality that cannot be ignored and requires a comprehensive normative response.

This research was carried out on the basis of academic and practical needs. Academically, this study is expected to enrich the development of *Fiqh Jinayah* in responding to contemporary issues. The integration between Islamic legal principles and digital reality opens up space for the renewal of Islamic legal thought that is more adaptive without losing its normative foundation. Practically, this research is expected to help the public understand the moral and legal consequences of digital sexual practices, as well as provide a reference for policymakers, religious leaders, and law enforcement officials in formulating a more comprehensive approach. In addition, this research has the potential to be a bridge of dialogue between Islamic law and positive law in dealing with cyber law issues.

This study aims to fill this gap by analyzing sexting and digital pornography through the lens of Islamic criminal law, particularly by employing *maqāṣid al-sharī'ah*

⁷ Muhammad Sholahul Umam and Sakila Putri Zahwa, "Virtual Zina in the Perspective of Maqāṣid Al-Sharī'ah: Reconstructing the Islamic Criminal Law Approach to Contemporary Sexual Crimes," *Ballad Al Mubaarok* 1, no. 1 (2025): 33–54, <https://doi.org/https://doi.org/10.55555/bam.v1i1.35>.

as an analytical framework. Unlike previous studies that focus primarily on prohibition, this research emphasizes legal classification and its implications for contemporary Islamic legal thought.

The main purpose of this study is to identify, analyze, and interpret sexting and digital pornography as possible jarimah in the perspective of *Fiqh Jinayah*, by basing the analysis on shariah postulates and relevant Islamic legal theories. This research aims to provide a clear normative picture of the legal position of the practice in Islam, as well as formulate recommendations that can be applied in efforts to protect the moral of society in the digital era. Thus, this research is expected to be able to fill the gap in the study of contemporary *fiqh* and make a substantive contribution to the development of Islamic law in response to the dynamics of modern society.

Method

This research is a normative legal research (library research) with a qualitative approach. The focus is to conceptually analyze the phenomenon of sexting and digital pornography in the perspective of *Fiqh Jinayah*. The normative approach was chosen because the main object studied is the norms, principles, and rules of Islamic law sourced from the Qur'an, Hadith, *ijma'*, *qiyas*, as well as the views of the jury, both classical and contemporary.

This study uses several approaches. First, a *conceptual approach* to unravel the concepts of *jarimah*, *ta'zir*, and the protection of honor (*hifz al-'irdh*) within the framework of Islamic criminal law. Second, *the statute approach* is used as a comparative material with positive legal regulations related to pornography and cybercrime in Indonesia. Third, *the approach of maqāsid al-syarī'ah* to assess the extent to which sexting and digital pornography are contrary to the purpose of sharia in safeguarding religion (*hifz al-dīn*), soul (*hifz al-nafs*), reason (*hifz al-'aql*), heredity (*hifz al-nasl*), and honor (*hifz al-'irdh*). This combination of approaches allows for an analysis that is not only textual, but also contextual and oriented towards the purpose of Islamic law.

The data sources in this study are divided into primary, secondary, and tertiary legal materials. Primary legal materials include the Qur'an and Hadith related to the prohibition of adultery, *fahisyah* acts, the command to maintain the *aurah*, as well as postulates on the protection of honor and morality. Classic *Fiqh Jinayah* books and the works of contemporary scholars are also used as the main reference to understand the theoretical construction of *jarimah* and its classification of sanctions both *hudud*, *qishash*, *diyat*, and *ta'zir*.

Secondary legal materials were obtained from Sinta-indexed scientific journals that discuss Islamic criminal law, digital-based sexual crimes, and fiqh studies on

contemporary phenomena. The tertiary legal materials include legal dictionaries, encyclopedias, and other supporting literature that help clarify terms and strengthen conceptual understanding in this research.

The data collection technique is carried out through documentation studies and systematic literature search. Each source is identified, classified, and then analyzed based on its relevance to the focus of the research. The collected data was analyzed using a qualitative descriptive method with *content analysis* techniques.⁸ Through this technique, normative texts are interpreted in depth and associated with the reality of sexting and digital pornography in cyberspace.

The analysis process is carried out through three main stages: data reduction, data presentation, and conclusion drawn. Conclusions are drawn deductively, namely by lowering the legal implications of the general principles of *Fiqh Jinayah* into specific cases that appear in the digital space. With this method, the research is expected to be able to compile a coherent, systematic, and comprehensive legal argument regarding the possibility of classifying sexting and digital pornography as *jarimah* in the perspective of *Fiqh Jinayah*.

Discussion

A. The Concept of Sexting and Digital Pornography in the Perspective of *Fiqh Jinayah*

The development of digital technology has fundamentally changed the way humans communicate and build relationships. Social media, instant messaging apps, and various content sharing platforms allow for fast, private, and geo-bound, interactions. In this space, sexual expression is no longer limited to physical encounters, but also comes in virtual form through the practice of sexting and digital pornography. Sexting refers to sending sexually charged messages, photos, or videos through electronic devices, either voluntarily in a relationship or without the full consent of one of the parties.⁹ Digital pornography includes the production, distribution, and consumption of sexually explicit content through the internet whether in the form of images, videos, live *streaming*, or paid content on certain platforms.¹⁰

⁸Mendra Wijaya et al., *Metodologi Penelitian: Kombinasi Pendekatan Kuantitatif, Kualitatif Dan Mixed Methods* (Medan: PT. Media Penerbit Indonesia, 2025).

⁹ Ricardo Barroso et al., "Abusive Sexting in Adolescence: Prevalence and Characteristics of Abusers and Victims," *Frontiers in Psychology* 12 (February 24, 2021), <https://doi.org/10.3389/fpsyg.2021.610474>.

¹⁰ Francisca Das Dores Ferreira, Deddy R. CH. Manafe, and Adrianus Djara Dima, "Perspektif Hukum Pidana Terhadap Tindak Pidana Cyber Pornography Dalam Penggunaan Platform OnlyFans," *Artemis Law Journal* 3, no. 1 (November 1, 2025): 204–26, <https://doi.org/10.35508/alj.v3i1.22216>.

Terminologically, these two terms are indeed not found in classical *fiqh* literature. However, the substance of his actions has similarities to the form of moral violations that have long been discussed in *Fiqh Jinayah*. The change in medium from physical to digital does not necessarily change the normative judgment in Islamic law. *Fiqh Jinayah* not only looks at the external form of an act, but also the moral, social, and spiritual impact it causes. Therefore, understanding sexting and digital pornography from the perspective of *Fiqh Jinayah* requires a search for the basic values of Islamic criminal law, especially related to the protection of public honor and morality.¹¹

In the treasures of *Fiqh Jinayah*, moral violations are generally associated with *jarimah* such as adultery, *qazaf* (accusing adultery without evidence), and various forms of *fahisyah* (heinous acts). *Zina* as a hudud *jarimah* has a strict definition: intercourse between a man and a woman without a valid marriage bond, with certain standards of proof. However, the Qur'an not only forbids adultery, but also forbids approaching it (*lā taqrabū al-zinā*). This prohibition is understood as a form of preventive protection against all acts that can lead to adultery, including unguarded views, *khalwat*, and actions that arouse orgasm illegally.

Within this framework, sexting can be understood as part of *muqaddimāt al-zinā* (introduction to adultery). Although it does not involve physical contact, sexting often involves the exchange of images or videos that show the *awrah* something that in *fiqh* is clearly forbidden to be shown to anyone other than the mahram. More than that, this practice has the potential to arouse orgasm and normalize sexual relationships outside of marriage. Its moral substance remains in line with the sharia's prohibition on everything that leads to adultery. Thus, even though it takes place in a virtual space, sexting cannot be separated from the framework of Islamic ethics and law.

Digital pornography has a broader and more complex dimension. It not only involves the actors who produce content, but also the massive distribution and consumption networks. In *fiqh*, the spread of heinous acts (*isyā'at al-fāhisyah*) is seen as a despicable act because it has the potential to damage collective morality. Digital pornography openly displays the *awrah* while making the human body a commodity that can be produced and consumed without limits. This is contrary to the principles of Islam which places human honor as a value that must be maintained.

The protection of honor (*hifz al-'irdh*) is an important aspect of *Fiqh Jinayah*. Honor concerns not only reputation, but also one's dignity and moral integrity. Digital

¹¹ Yuni Roslaili, et al, "Islamic Criminal Law in a Plural Legal Order: A Systematic Literature Review of Qanun Jinayah Effectiveness in Aceh, Indonesia", *El-Hadhanah : Indonesian Journal Of Family Law And Islamic Law*, vol. 5, no. 2, (2025): 115-30, doi:10.22373/hadhanah.v5i2.7885.

pornography especially those involving unauthorized dissemination directly undermines the honor of individuals. Even when content is created voluntarily, its social impact remains relevant because it has the potential to normalize free sexual behavior and erode moral boundaries in society. From the perspective of *maqāṣid al-syarī'ah*, actions that threaten the protection of offspring (*ḥifẓ al-nasl*) and reason (*ḥifẓ al-'aql*) must also be prevented. Repeated pornography consumption can affect mindset, form a false perception of sexual relationships, and even trigger addiction.¹²

Digital characters also increase the risk. Content that was originally private can be easily copied, disseminated, and accessed without control. In *fiqh*, exposing or spreading someone's disgrace without a justified reason is a reprehensible act and can be sanctioned. Therefore, the dissemination of intimate content without consent is not only a violation of morality, but also a form of tyranny and violation of individual rights. This dimension shows that the problem of sexting and digital pornography does not only touch personal morality, but also the protection of victims.

Even though the digital medium presents a new form, the principles of *Fiqh Jinayah* can still be applied through *qiyas* and *ijtihad*. As long as there are similarities in 'illat such as violations of morality, unlawful arousal, and destruction of honor then a legal analogy can be applied. With this approach, digital phenomena can be judged based on their substance, not just their technological form.

Thus, conceptually, sexting and digital pornography are closely related to the discussion of moral values in *Fiqh Jinayah*. Although not known in classical terms, its substance and impact remain within the scope of Islamic law's attention. Both can be analyzed in the framework of actions that violate moral values, damage honor, and are contrary to the goals of sharia in safeguarding the welfare of the people.

B. Classification of Sexting and Digital Pornography as Jarimah in *Fiqh Jinayah*

In the *Fiqh Jinayah* system, *jarimah* is systematically classified into three main categories: *hudud*, *qishash*, *diyat*, and *ta'zir*. *Jarimah hudud* is a criminal act whose type and sanctions have been expressly determined in the Qur'an and Hadith, such as adultery, theft (*sariqah*), robbery (*hirabah*), *qazaf* (accusation of adultery without evidence), and drinking *khamar*.¹³ The main characteristic is that sanctions are permanent (*muqaddarah*) and cannot be changed, unless the conditions of proof which are very strict are not met. *Jarimah qishash diyat* is related to criminal acts against the soul or limbs, such as murder

¹²Miftahul Janna et al., "Faktor Dan Dampak Kecanduan Pornografi Pada Remaja," *Sindoro: Cendikia Pendidikan* 14, no. 5 (2025): 81–90, <https://doi.org/10.99534/z3gncm69>.

¹³Abdul Qadir Audah, *Al-Tasyri' Al-Jina'i Al-Islami* (Beirut: Muassasah al-Risalah, 1994).

and persecution, with the principle of just retribution or the payment of *diyat*. Meanwhile, *jarimah ta'zir* includes acts whose sanctions are not specifically determined in *nash*, so that the form and degree of punishment are left to the *ijtihad* of the judge or ruler based on consideration of benefits.¹⁴

In the context of sexting and digital pornography, the key question is: into which category can these two phenomena be placed? Normatively, sexting does not meet the elements of hudud *jarimah*. Adultery as hudud requires physical intercourse between a man and a woman who are not a legal couple, with proof in the form of four witnesses who witnessed directly or the confession of the perpetrator. Sexting which is only in the form of exchanging sexually charged messages, photos, or videos through digital media does not meet the elements of intercourse as defined in *fiqh*. Thus, textually sexting cannot be categorized as adultery.

The same is true for digital pornography. The production and distribution of sexually explicit content is not automatically included in the hudud category, unless there is an element of adultery that is proven according to sharia proof standards. However, the non-inclusion of these two acts in hudud does not mean that it is free from legal consequences. This is where the relevance of *jarimah ta'zir* becomes clear. *Ta'zir* provides room for Islamic law to respond to acts that are not explicitly regulated in *nash*, but are substantially contrary to sharia values and cause *mafsadah* (damage).

Normatively, sexting and digital pornography contain several elements of offense. First, the act of opening the *aurat* to an unentitled party, which in *fiqh* is a violation of the obligation to maintain self-honor. Second, there is an element of arousing and spreading orgasm outside of a valid marriage. Third, the potential social impact is in the form of normalization of free sexual behavior, exploitation of the body, and commodification of sexuality. These elements suggest that such violations do not stop at the personal moral realm, but have broad social implications. Because it does not have specific hudud sanctions, but it is clearly contrary to sharia principles, both are appropriately categorized as *jarimah ta'zir*.

The level of violation becomes more serious when sexting leads to *non-consensual distribution*. These actions are not only a violation of morality, but also a form of tyranny and a violation of individual rights. In *fiqh*, honor (*al-'irdh*) is a right that must be maintained. Spreading disgrace or revealing someone's secrets without a justified

¹⁴Abu Al-Hasan Al-Mawardi, *Al-Ahkam As-Sulthaniyah* (Mesir: Musthafa Al-Baby Al-Halaby, 1975).

reason is a reprehensible act that can be sanctioned.¹⁵ Under certain conditions, if accompanied by a narrative that damages reputation, the action can even approach the element of *qazaf*. Furthermore, practices such as *sextortion* (intimate content-based extortion) reveal a more complex dimension of fingering because it involves honor violations, psychological distress, and potential defamation.¹⁶

In the framework of *ta'zir*, the judge has the authority to determine the form and level of sanctions according to the level of *mafsadah* caused. The sanctions can be in the form of advice, reprimands, fines, confinement, imprisonment, or other forms of punishment that are considered effective in preventing repetition. This flexibility is essential to respond to diverse digital phenomena. The limited exchange of private content certainly has different implications from mass distribution through public platforms. Therefore, proportionality is an important principle in imposing sanctions.

The aspect of intention (*qasd*) and responsibility capacity also need to be considered. In *fiqh*, criminal liability requires intentionality and the ability to be responsible. Cases involving minors, victims of manipulation, or certain pressures should be distinguished from adult perpetrators who knowingly produce and distribute pornographic content for economic gain. This shows that *ta'zir* is not solely repressive, but also educational and preventive, with the aim of maintaining the public welfare.

Based on this analysis, the *ta'zir* approach is the most relevant framework for classifying sexting and digital pornography as *jarimah* in *Fiqh Jinayah*. This approach allows Islamic law to remain responsive to technological developments without deviating from its basic principles. Through *ijtihad* and consideration of *maqāṣid al-syarī'ah*, new phenomena can be judged based on their substance and impact, not just their outward form. Thus, sexting and digital pornography can be positioned as *jarimah ta'zir* because they contain elements of moral violations, destruction of honor, and threats to the public welfare. This approach also confirms that *Fiqh Jinayah* has adaptability in facing contemporary legal challenges without losing its normative authority.

¹⁵Muslikhah et al., "Larangan Mengumbar Aib Dalam Al-Qur'an (Kajian Tafsir Tahlili)," *Al-Qolamuna: Journal Komunikasi Dan Penyiaran Islam* 1, no. 2 (2024): 161–69, <https://doi.org/10.71242/sw3dvh07>.

¹⁶ Kadziyah Atiqah Putri and Sukmareni Sukmareni, "Pengaturan Tindak Pidana Pemerasan Menggunakan Foto Atau Vidio Pornografi (Sekstorsi) Siber Berbasis Gender Dalam Hukum Pidana Positif Indonesia," *Innovative: Journal Of Social Science Research* 4, no. 5 (2024): 7505–7515, <https://doi.org/10.31004/innovative.v4i5.15119>.

C. Legal Implications and the Relevance of *Maqāṣid al-Syarī'ah* to the Phenomenon of Digital Sexuality

The discussion of sexting and digital pornography cannot be separated from the *approach of maqāṣid al-syarī'ah*, which is the fundamental goal that Islamic law wants to realize in human life.¹⁷ Classically, *maqāṣid* is formulated in five main protections (*al-darūriyyāt al-khams*): religious protection (*ḥifẓ al-dīn*), soul (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), heredity (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). In the development of contemporary thought, the protection of honor (*ḥifẓ al-'irdh*) is often positioned as an integral part of the protection of posterity, even by some scholars it is placed as a separate goal because of its urgency in preserving human dignity. In the context of digital sexuality, at least the three most relevant goals are the protection of honor, heredity, and reason.

First, from the perspective of *ḥifẓ al-'irdh* (protection of honor), sexting and digital pornography have serious implications. In Islam, honor is not only interpreted as social goodwill, but also includes the dignity and moral integrity of the individual. The dissemination of sexual content especially without consent is a direct violation of that honor.¹⁸ Victims often face stigma, psychological pressure, and social exclusion. In the digital space, the problem becomes more complex because content that is already spread is difficult to remove completely. The impact can be long-lasting and widespread. Therefore, within the framework of *maqāṣid*, legal intervention does not simply stop at the punishment of the perpetrator, but must also be directed at the protection and recovery of the victim.

Secondly, this phenomenon is closely related to *ḥifẓ al-nasl* (protection of offspring). Islam places marriage as a legitimate mechanism to channel sexual instincts and maintain the continuity of offspring in a respectable manner. The normalization of sexual content in the digital space has the potential to shift the perspective on legitimate sexual relationships. Sexting outside of marriage can be the gateway to free sexual relationships, which in the long run has an impact on family instability and the emergence of social problems, such as out-of-wedlock pregnancies or domestic conflicts. Digital pornography can also form a false perception of sexuality, making it a mere commodity

¹⁷ Siti Jauhariatul Masruroh and Atun Wardatun, "Regulasi Hukum Dalam Menangani Konten Digital Negatif (Tidak Mendidik) Dan Dampaknya Terhadap Anak Ditinjau Dari Perspektif Maqasid Syari'ah," *Pendas: Jurnal Ilmiah Pendidikan Dasar* 10, no. 1 (2025): 237–58, <https://doi.org/10.23969/jp.v10i01.22624>.

¹⁸ Saipul Bahrain, Teti Indrawati Purnamasari, and Rendra Khaldun, "Relevansi Al-Qur'an, Hak Asasi Manusia, Dan Gender Dalam Melindungi Hak Kehormatan Pribadi Di Era Digital: Tinjauan Literatur," *MODELING: Jurnal Program Studi PGMI* 11, no. 4 (December 14, 2024): 154–72, <https://doi.org/10.69896/modeling.v11i4.2642>.

and obscuring the sacred values upheld in Islamic teachings. Within the framework of *maqāṣid*, everything that has the potential to damage the lineage and the family order should be prevented through proportionate regulations.

Third, the aspect of *ḥifẓ al-'aql* (protection of the intellect) is also an important consideration. A number of psychological studies show that excessive pornography consumption can affect mindset, decrease moral sensitivity, and even trigger addiction. In the perspective of Islamic law, reason is the main instrument for understanding revelation and judging right and wrong. Anything that undermines clarity of reason or weakens self-control is seen as contrary to the purpose of sharia. If digital pornography causes distortions of perceptions about sexual relationships and lowers the quality of moral decision-making, then it is clearly contrary to the principle of the protection of reason.

The *maqāṣid* approach assesses an act not only by its outward appearance, but also by its impact on the public good (*maṣlaḥah 'āmmah*). In this context, sexting and digital pornography bring *more mafṣadah* than benefits. Despite the argument that sexting in private relationships is done on a consensual basis, the risk of abuse and unauthorized distribution remains high. In addition, the collective impact on people's culture and morals cannot be ignored. When sexual content becomes accessible and considered commonplace, the boundaries of public ethics become blurred. In the principle of *maqāṣid*, the prevention of damage (*dar' al-mafāṣid*) takes precedence over the attraction of benefits (*jalb al-maṣāliḥ*), so that preventive measures through regulation and sanctions have normative legitimacy.¹⁹

The legal implications lead to the application of a proportionate *ta'zir* mechanism. Through *ta'zir*, the authorities can adjust the sanctions to the level of damage caused. The dissemination of intimate content without permission, for example, deserves heavier sanctions because of its direct impact on the victim's honor. In contrast, in the case of private consumption without distribution, an educational or rehabilitative approach may be preferred. This flexibility is in line with *the spirit of maqāṣid* which places benefit as the main orientation of the law, not merely retribution.

Furthermore, the relevance of *maqāṣid al-syarī'ah* to the phenomenon of digital sexuality shows that Islamic law has adaptive capacity through *ijtihad*. Social and technological changes do not remove the relevance of sharia norms, but rather demand a

¹⁹ Muhammad Nor Sulaimi Bin Omar, and Sa fira Mustaqilla, "Reconstructing the Law of Nasab for Children Born With a Gestation Period of Less Than Six Months through a Critical Analysis of the Perlis State Fatwa Based on Maqāṣid Al-Syarī'ah", *El-Hadhanah : Indonesian Journal Of Family Law And Islamic Law*, vol. 5, no. 2, (2025): 178-95, doi:10.22373/hadhanah.v5i2.8480.

contextual reading of their basic values. *Fiqh Jinayah* has methodological tools such as *qiyas*, *istihsan*, and *maslahah* considerations to respond to new realities. With this approach, Islamic law is not rigid, but remains rooted in its principles while being responsive to the times.

Thus, sexting and digital pornography although not known in classical *fiqh* terminology can be analyzed as *jarimah* in the perspective of *Fiqh Jinayah* because they contain elements of violations of honor, morality, and public welfare as formulated in *maqāṣid al-syarī'ah*. The implications are not only on the imposition of sanctions, but also include preventive, educational, and rehabilitative efforts. The *maqāṣid* approach provides a solid and flexible theoretical foundation to maintain a balance between individual freedom and social responsibility in facing the challenges of digital sexuality in the modern era.

In modern digital contexts, the phenomena of sexting and digital pornography present complex challenges due to the unique characteristics of cyberspace. Social media, instant messaging applications, and various content-sharing platforms facilitate fast interactions and massive distribution networks. The intersection of platform dynamics, cross-border dissemination, and non-consensual sharing requires a more holistic legal and social response.

Conclusion

Based on an analysis of the concepts, classifications, and legal implications of sexting and digital pornography in the perspective of *Fiqh Jinayah*, it can be affirmed that although these two phenomena are not explicitly recognized in classical *fiqh* literature, the substance of their acts is in line with the category of moral violations in Islamic criminal law. Conceptually, sexting and digital pornography contain elements of opening the *awrah*, arousing orgasm outside the sharia-justified mechanism, and potentially damaging individual honor and public morality. In terms of classification, the two practices do not meet the elements of *hudud jarimah* because they do not always involve physical intercourse with strict evidentiary standards as required in the case of adultery. However, it does not mean that he is beyond the reach of the law. Normatively, sexting and digital pornography are more appropriately placed in the category of *jarimah ta'zir*, because they contain *mafsadah* and are contrary to basic sharia values, even though they do not have specific sanctions provisions in *nash*. In the perspective of *maqāṣid al-syarī'ah*, this practice clearly intersects with the protection of honor (*ḥifẓ al-'irdh*), heredity (*ḥifẓ al-nasl*), and reason (*ḥifẓ al-'aql*). When an act has the potential to damage human dignity, disrupt family stability, and undermine moral integrity, legal intervention

becomes relevant to protect the public interest. It is in this context that the *ta'zir* mechanism has a strategic position, because it allows the determination of proportionate, preventive, and educational sanctions. Thus, *Fiqh Jinayah* has the normative flexibility to categorize sexting and digital pornography as *jarimah* in a contemporary context without departing from the basic principles of sharia. This conclusion also confirms that Islamic law is not static, but adaptive and responsive to social dynamics, including the challenges of digital sexuality, while remaining oriented towards the protection of human morals and dignity. This study concludes that sexting and digital pornography can be classified as *jarimah ta'zir* within *Fiqh Jinayah*. This classification is supported by *maqāṣid al-sharī'ah* considerations and reflects the adaptability of Islamic law in addressing contemporary challenges. Future research should explore policy implementation and interdisciplinary approaches to strengthen legal responses in the digital age.

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