
Comparison of the Legal Protection for Wives as Domestic Violence Victims in Islamic Law and Republic of Indonesia's Law No. 23 of 2004 on the Elimination of Domestic Violence

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Abstract

This research aims to compare the legal protection for wives in Islamic law and the Republic of Indonesia's Law on Domestic Violence. This study also aims to analyze the problem resolution of domestic violence in these two laws. In this study, the author uses the library research method that is carried out by collecting data through books, journals, legislation, and the internet. The data is analyzed using deductive, inductive, and comparative techniques. The results of the research prove that Islamic law and the Law on Domestic Violence have similarities in protecting victims of domestic violence but in different forms of protection. According to Islamic law, legal protection for wives as victims of domestic violence is carried out with the help of a third party. The husband and wife must be accompanied by a hakam (judge as a representative of the husband/wife) each, to resolve the household disputes. Then, according to the Law on Domestic Violence, wives are entitled to protection from their families, police, prosecutors, advocates, and other social institutions.

Keywords: *Legal Protection, Domestic Violence, Islamic Law, Law on Domestic Violence, Wives.*

INTRODUCTION

According to the Islamic teachings, Allah (God) created humans to live in pairs. Men and women can be united through marriage in order to form a family. The family is formed from a legal marriage according to religion, custom, and government. Therefore, in Islamic teachings, marriage is one of the recommended acts of worship. A woman and a man marry to build a household and form a *Sakinah* (tranquil), *mawaddah* (full of love), *wa rahma* (full of affection) family. Family is a beautiful thing where people can share happiness. Every family dreams of becoming harmonious. A married relationship is sacred as it lets the husband and wife have descendants.

A family unites people of different genders to form a new household. They aim to build a happy, harmonious, and prosperous family. A household must protect all of its inhabitants. A family should protect all of its members. A household is the smallest unit in the community group. It is also the basic unit in fostering and realizing a country.

This is as regulated in the Holy Qur'an Chapter Ar-Rum verse 21 :

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً
إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يُتَفَكَّرُونَ ﴿٢١﴾

Translation

"And among the signs of His power is that He created for you wives of your own kind, so that you may tend and find peace in them, and He created between you love and compassion. Verily in that, there are indeed signs for a people who think".¹

Marriage is one of the most important teachings of Islam. This is because apart from the events of birth and death, marriage is one of the important events in human life.

Basically, women and men have differences – including biological, psychological, and anatomical differences. These differences have a blessing, as their presence allows women and men to cover each other's shortcomings, especially in the domestic sector.²

Everyone certainly wants to build a *Sakinah* (tranquil), *mawaddah* (full of love), *wa rahma* (full of affection) household. However, not all families live their domestic lives as how they should. This is because some couples try to resolve problems using violence³.

Violence is closely related to the aggressive nature of living things, including humans, to defend themselves in order to survive. Besides that, violence also has strong roots in materialism and selfish attitudes. Violence has become a social phenomenon that occurs everywhere, both in urban and rural communities.⁴

Violence against fellow human beings seems to have no boundaries of space and time. Violence does not only occur in the domestic realm (in the household). Perpetrators of domestic violence are dominated by men, both husbands against their wives and fathers against their children. If it is associated with the theory of "*Power Relations*" from M. Foucault, this domestic violence may be caused by the husband's perception that he is the head of the family who has power over his wife and children. Because the husband feels powerful over his family members, he also feels entitled to commit domestic violence. According to Foucault's theory, that power tends to oppress even "truth is not outside of power, it is within power".⁵

An example of a case of physical violence against a wife happened in Jorong IV Koto, Kinali sub-district, West Pasaman Regency. There were 3342 people who committed domestic violence. One of the victims of domestic violence is ST. She and her husband, whose name is AS have one child. The couple always gets into fights every day over trivial problems. Usually, the husband beats his

¹ Kementrian Agama Republik Indonesia, *Al-Quran* (Jakarta: Kementrian Agama Republik Indonesia, n.d.). qs. Ar-Rum; 21

² Gilang Kusuma Had and DKK, "Perlindungan Hukum Terhadap Suami Sebagai Korban Kekerasan Yang Dilakukan Oleh Istri" (Universitas Negeri Sebelas Maret, 2015).

³ Abdul Haq Syawqi, "Hukum Islam Dan Kekerasan Dalam Rumah Tangga" (UIN Maulana Malik Ibrahim, 2016).

⁴ La Jamaa and Hadidja, *Hukum Islam Dan Undang-Undang Anti Kekerasan Dalam Rumah Tangga* (Surabaya: Bina Ilmu, 2013).

⁵ Jamaa and Hadidja. *ibid.* p 2

wife badly. Such violence should not be suffered by a wife from the actions of the husband, as a wife has the human right to live happily and to be protected from suffering or misery.⁶

Social reality also shows that domestic violence has reached an alarming level. In Indonesia, cases of domestic violence increase every year. The increase was caused by various factors. In the annual record of violence against women in 2020, during that year, 299,911 cases of violence against women were found. The data was collected from the district and religious courts, several partnering service institutions of the National Commission for women, and the Service and Referral Unit. Among them, there were 3,221 cases (49%) of violence against wives, 1,309 cases (20%) of violence in dating, 954 cases (14%) of violence against girls, and the rest is violence by ex-partners and violence against domestic workers (17%).

Domestic violence is rumored to widely occur in Muslim families. Some scholars allow a husband to beat his wife if she does not want to carry out her obligations. This view is based on the Qur'an, Chapter An-Nisa (4):34, which means, "Men are the leaders of women, because Allah has made some of them (men) superior to others (women), and because they are men who spend some of their wealth. Therefore, a pious woman obeys Allah and takes care of herself when her husband is not around, therefore Allah has taken care of them and the women whom you are worried about, so advise them and separate them in their beds and beat them. Then when they obey you, do not look for ways to trouble them. Verily Allah is Most High and Most Great."

Meanwhile, some groups entirely prohibit the act of beating wives, because beatings are a form of violence and they are a form of criminal activity as stated in Law No. 23 of 2004 concerning the Elimination of Domestic Violence (Law on Domestic Violence). Article 1 of the Law on Domestic Violence Law states that domestic violence is "any action against a person, especially a woman, which results in physical, sexual, psychological misery or suffering, and or neglects to the household, including threats to act, coercion, or unlawful deprivation of liberty within the household scope." Various incidents of domestic violence occurred in Indonesia. Thus, the issuing of the Law on Domestic Violence can be seen as a strategic step in reducing and even eliminating various acts of domestic violence.

Based on the description above, the writer would like to conduct normative legal research on domestic violence and compare it with Islamic law. This research is entitled "*Comparison of the Legal Protection for Wives as Domestic Violence Victims in Islamic Law and Republic of Indonesia's Law No. 23 of 2004 on the Elimination of Domestic Violence*".

RESEARCH METHODS

1. Research Type

Referring to the background and problem formulation, this research is categorized as normative legal research. Normative legal research is literary legal research.

2. Research Approach

In this research, the author uses several approaches to collect data, namely:

- a. Theological Approach
- b. Normative and Juridical Approach
- c. Sociological Approach

3. Data Collection Techniques

⁶ Oma Riyanti, "Kekerasan Dalam Rumah Tangga," n.d.

To collect the data, the researcher uses library research, where the researcher finds scientific works concerning the research subject. The researcher collected materials to answer the questions formulated through the literature study. The main data sources studied are the Holy Qur'an and hadith concerning the discussed problems.

4. Data Processing and Data Analysis Techniques

The obtained data is processed in a descriptive qualitative manner, meaning that the data analyzed is by describing what it is using the Deductive, Inductive, and Comparative techniques.⁷

ANALISIS

A. Understanding the Perfection of Legal Protection in Islamic Law

(1) The Holy Qur'an

In Islamic terminology, the presence of a religion revealed by God is certainly based on the goal of the common good (*maslahat al-ammah*). The purpose of the law is clearly spelled out in the Holy Qur'an, Chapter Al-Anbiya: 107. It means:

*"And We have not sent you, Muhammad, but to be a mercy to the worlds."*⁸

This verse emphasizes that Islamic law came to the world carrying a very noble mission, namely as a mercy for all humans on earth⁹. Al-Syathibi, an expert in Islamic law from the Maliki school of thought, developed the *maqashid al-Sharia* doctrine by explaining that the ultimate goal of Islamic law is one, namely the benefit or goodness and welfare of mankind. Al-Syathibi's opinion is based on the principle that God symbolizes Sharia (Islamic Law) for the benefit of human beings both in the short and long term. The existence of legal protection in the family institution is very important because the family is presented with the principle of *Mu'asyarah bi al-Ma'ruf* (the order to have good intercourse with the wife carried out by the husband).

(2) Hadith

In a hadith, it has been told that Abu Kuraib, from Abdah bin Sulaiman from Muhammad bin Amr from Abu Salamah from Abu Hurairah said: The Messenger of Allah (peace be upon him) said: "The most perfect believer in faith is the one with the best character. The best of you is those who are best to their wives."¹⁰

(3) *Ijtihad* (Independent Reasoning)

Fuqaha (Islamic legal experts) termed the pronouncement of punishment with the plural form of *ajziah* and the singular form is *jaza*¹¹, if committing or leaving an act is said to be a crime (*jarimah*) the *fuqaha* divides criminal acts (*jarimah*) against humans.

B. The Rights and Duties of the Wife According to Islamic Law

1. The Rights of the Wife

⁷ Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif Dan R&D* (Bandung: Alfabeta, 2009).

⁸ Kementerian Agama Republik Indonesia, *Al-Quran.Q.S. Al-Anbiyaa:107*

⁹ Had and DKK, "Perlindungan Hukum Terhadap Suami Sebagai Korban Kekerasan Yang Dilakukan Oleh Istri."

¹⁰ Abu Isa Muhammad bin Isa bin SauraAttirmizi, *Kitab Penyusunan Juz 2* (Darul Fikri, 1994).

¹¹ Husen Muhammad, *Islam Agama Ramah Perempuan Pembelaan Kiai Pesantren* (Yogyakarta: LKiS, 2004).

In a marriage, some rights must be obtained by a wife and there are obligations that she must fulfill. Her rights include

a. Obtaining a dowry

A dowry is a gift that must be given to a woman in return for marrying her.¹² A dowry is the most important part of a marriage. Without a dowry, the marriage cannot take place.

b. *Nafaqah*

Nafaqah means a budget for shopping for basic needs or financial support. ¹³ Even so, *Nafaqah* is not limited to the fulfillment of physical needs, but it also consists of the fulfillment of non-physical needs. Physical maintenance includes clothing, food, and shelter, while non-physical needs include protection, affection, and so forth.

c. To be treated fairly

Obtaining fair treatment is one of a wife's basic rights. It is the most important factor to achieve goodness and peace in the family and create harmony between family members.¹⁴

d. To be treated well

As with other rights, obtaining good treatment from a husband is the right of a wife that must be fulfilled by a husband¹⁵.

2. Duties of a Wife

Meanwhile, according to Islam, a wife also has duties as follows:

a. Obeying the husband in righteous things

This is explained in the Holy Qur'an, Chapter An-Nisa: 34. This verse shows the obligation of the wife to obey her husband in things that do not violate God's orders.¹⁶

b. To stay in the house unless obtaining the husband's permission to go out

The wife is not allowed to leave the house without the permission of her husband. Because is the caretaker of the household and the children. If the wife leaves the house, she may not be able to undergo some of her duties. Apart from that, it is to prevent slander. ¹⁷

c. To not allow anyone to enter the house except with the permission of the husband.

The husband is the owner of the house and is in charge of his family¹⁸. He has the right to lead over his wife and has the right to know who entered the house and the relationship between the guest and his wife. Because it may affect her morals or her treatment of her husband. In addition, the husband also has jealousy and wants to protect his wife's honor. So, he is very concerned about the people who enter the house to meet his wife. So, the

¹² Abdul Aziz bin Fauzan bin Shalih Al-Fauzan, *Aturan Islam Tentang Bergaul Dengan Sesama* (Jakarta: Griya Ilmu, 2010).

¹³ Iman Jauhari, "Kewajiban Nafkah Hadana Dan Rada'ah Terhadap Anak Di Indonesia," *Ilmu Syari'ah Dan Hukum* 46 (2012): 508.

¹⁴ Al-Fauzan, *Aturan Islam Tentang Bergaul Dengan Sesama*.p 232

¹⁵ Nur Rochaety, "Menegakkan HAM Melalui Perlindungan Hukum Bagi Perempuan Korban Kekerasan Di Indonesia," *Jurnal Studi Gende* 7, no. 1 (2014).

¹⁶ Al-Fauzan, *Aturan Islam Tentang Bergaul Dengan Sesama*.ibid.p 242

¹⁷ Sulistyowati Irianto and Nurtjahyo, *Perempuan Di Persidangan Pemantauan Peradilan Perfektif Perempuan (Edisi I)* (Jakarta: yayasan Obor Indonesia, n.d.).

¹⁸ Nurain Soleman, "Analisis Perbandingan Hukum Islam Dan UU KDRT Tetang Kekerasan Dalam Rumah Tangga," *Jurnal Kajian Perempuan, Gender Dan Agama* 14, no. 2 (2020).

wife must protect her husband's feelings and reassure them by avoiding something he doesn't like. Therefore, it is not justified to open up opportunities for people he does not like to enter his house.

d. To maintain the husband's honor, wealth and children

The obligation to maintain honor, property, and children is found in the Holy Qur'an, Chapter An-Nisa verse 34. It means taking care of when the husband is not present. The wife must take care of their private parts, their husband's children and their property.¹⁹

C. Legal Protection for Domestic Violence Victims from the Perspective of Islamic Law

In Islam, the material aspect of criminal law is certainly based on Sharia (the Islamic law). Allah as the lawmaker has outlined various types of criminal actions such as theft, persecution, murder, and rape. In the Islamic perspective, violence against women both inside and outside of the household is a form of crime. When husbands hurt their wives by hitting them, until they get hurt, it is also a crime.

Abu Ishaq al-Shatibi formulated the five objectives of Islamic law – namely maintaining the religion, soul, mind, lineage, and property – which has been agreed upon by other Islamic law experts. A person who maintains these five things will gain the benefit, while those who fail to do so will experience harm. This principle was developed by al-Shatibi in his book *al-Muwafaqat fi Ushul al-Ahkam*. In this book, al-Shatibi details the doctrine of *maqashid Al-Sharia* at length, which is based on *al-kulliyat al-khams* (five legal protections). These five protections are still divided into three levels, namely, protection of the primary aspect (*daruriyyat*), protection of the secondary aspect (*hajiyyat*), and protection of the tertiary aspect (*tahsiniyyat*). The protection of the primary aspect is something that must exist for the benefit of humans. The protection of the second aspect is a necessity that is needed by humans to eliminate difficulties and worries in maintaining the five aspects. If this protection does not exist, it will not turn the order of human life into chaos, but it will only bring some trouble. Therefore, the main principle of secondary protection is to eliminate difficulties and make it easier for humans to do *muamalah* (commercial transaction) and exchange benefits. The protection of the tertiary aspect is complementary protection for humans in supporting the fulfillment of the protection of primary and secondary aspects. In the context of protecting victims of domestic violence, the application of the *kulliyat al-khams* protection theory becomes crucial. This means that legal protection for victims must be based on these five aspects²⁰.

D. Domestic Violence in Islamic Law

In Islam, there is no specific term or definition of domestic violence. However, Islam strongly prohibits the occurrence of domestic violence. This is evidenced by the many verses in the Qur'an and hadith that instruct husbands to treat their wives well. As Allah says in the Holy Qur'an, Chapter An-Nisa (4) verse 19. This verse explains the commandment to treat the wife well. In addition, the Prophet also emphasized the issue of compassion and protection, that affection is part of protection and protection is part of compassion.

1. Domestic Violence in the Indonesian Law on Domestic Violence

¹⁹ Al-Fauzan, *Aturan Islam Tentang Bergaul Dengan Sesama*.

²⁰ Bustanul Arifin and Lukman Santoso, "Perlindungan Perempuan Korban Kekerasan Dalam Rumah Tangga Perspektif Hukum Islam," *Jurnal Hukum Dan Syariah* 8, no. 2 (2016): 115.

Legal protection in the Great Indonesian dictionary means a place of refuge or an act concerning protection. Chapter 1 Article 1 points 4 and 5 stipulate as follows: Point 4 states that protection is all efforts aimed at providing a sense of security to victims carried out by families, advocates, social institutions, police, prosecutors, courts, or other parties, either temporarily or based on court decisions. Point 5 states that temporary protection is protection that is directly provided by the police and/or social institutions or other parties, before the issuance of a protection order from the government.

2. Physical Violence in Islamic Law and the Indonesian Law on Domestic Violence

a. Physical Violence in Islamic Law

Al-Quran and Al-hadith are believed by all Muslims as the main source of reference in all actions. Both sources are studied by educational institutions and layers of society so that it is natural for interpretation to occur. The Qur'an pays attention to a *nusyuz* (disobedient) wife. This is used as the basis of thought in giving lessons to wives who are *nusyuz* in Chapter An-Nissa (4): 34.²¹

b. Physical Violence in the Indonesian Law on Domestic Violence

Physical violence is an act that causes pain, causes someone to fall ill or to become seriously injured. Physical violence is punishable by a maximum imprisonment of 5 (five) years or a maximum fine of Rp. 15,000,000.00 (fifteen million rupiah). As mentioned in Article 44 paragraph 1.

RESULT

A. The Comparison of Legal Protection for Wives in Islamic Law And Law No. 23 of 2004 Concerning the Elimination of Domestic Violence

1. The Just Protection for Wives as Victims of Domestic Violence in the Law on Domestic Violence and the Islamic Law.

The Islamic law and the Law on Domestic Violence have similarities in protecting victims of domestic violence but they have different forms of protection. The similarities are:

The Islamic law and the Law on Domestic Violence both aim to provide protection to victims of domestic violence for the benefit of the community; to maintain the community system; to maintain a sense of security, to avoid disobedience, to stay away from damage, and ensure the survival of the community. The purpose of sanctions for domestic violence is to provide a deterrent effect, correct the criminal, and protect the victims. As stated in Article 10 of the Law on Domestic Violence, it aims to provide victims with protection from family, police, prosecutors, courts, advocates, institutions, social, or other parties, either temporarily or based on a protection order from the court²².

Substantially, the physical violence against the wife in the Law on Domestic Violence can be said to be in line with the criminal act of other than the soul (maltreatment) in the *jarimah* (crime) concept. Article 6 reads "Physical Violence as referred to in article 5 letter a) is an act that causes pain, illness or serious injury." Meanwhile, the Islamic legal experts termed the pronouncement of punishment with *ajziah* as the plural form and the singular form is *jaza*. The

²¹ Kementerian Agama Republik Indonesia, *Al-Quran*.

²² Hasandin, "Kedudukan Taklik Talak Dalam Perkawinan Ditinjau Dari Hukum Islam Dan Hukum Positif" 14, no. 1 (2016).

action of committing a crime is called a crime (*jarimah*)²³. Islamic legal experts (*fuqaha*) divided criminal acts (*jarimah*), against humans into three parts, one of which is in point b). Criminal acts other than the soul mean crimes that touch members of the human body but do not take their lives, including beatings and inflicting injuries (persecution)²⁴.

The Law on Domestic Violence has punishments for physical violence perpetrators against wives, namely imprisonment and fines²⁵. As stated in Article 44 paragraph 1, "Physical violence is punishable by imprisonment for a maximum of 5 (five) years or a maximum fine of Rp. 15,000,000.00 (fifteen million rupiah)." Meanwhile, the punishment for perpetrators of crimes other than the soul is *qisas* (retaliation in kind) and *takzir* (imprisonment/exile). According to the Malikiyah scholars, it is still mandatory to apply *qishas* punishment against perpetrators of criminal acts of persecution, especially persecution (*al-jarh*) which is carried out intentionally as long as it is possible to impose the same on the perpetrator, without fear of killing the perpetrator. According to Imam Malik, another punishment is *takzir*.

- a. That the perpetrator of an intentional crime has the right to have the liability limit of thirteen years of imprisonment, whether he has the right to be imposed with *qishas* or not, because in *qishas* there is a barrier, in the form of forgiveness or a peace agreement.
- b. The form of protection in Islamic law is a marriage agreement by the husband at the time of the marriage contract, and the wife has the right to ask her husband for divorce. Meanwhile, Law on Domestic Violence protects the wife as stipulated in 16, 17, and including Article 32 concerning legal protection for wives as victims of domestic violence.

2. Differences in Legal Protection for Wives as Victims of Domestic Violence in Islamic Law and the Law on Domestic Violence.

- a. Legal protection according to Islamic law.

In the terminology of *ushul fiqh* (the study of *fiqh* arguments), legal protection is in line with the objectives of the law, namely, the five main elements that must receive legal protection. The five main elements are the protection of the religion, soul, reason, lineage, and property. A person who maintains these five things will gain benefits and those who fail to do so will get damage

Al-Syathibi, an expert in Islamic law from the Maliki school, developed the *maqashid al-Sharia* doctrine by explaining that the ultimate goal of Islamic law is one, namely the benefit or goodness and welfare of mankind. The existence of legal protection in the family institution is very important. Because the family is presented with the principle of *mu'asyarah bin al-maruf* (an order to have good intercourse with the wife carried out by the husband).

- b. Legal protection according to the Law on Domestic Violence

Legal protection for women victims of domestic violence according to the Law on Domestic Violence is contained in article 10 of Law No 23 of 2004. Victims are entitled to obtain:

²³ Didi Sukardi, "Kajian Kekerasan Rumah Tangga Dalam Perspektif Hukum Islam Dan Hukum Positif" 9, no. 1 (2015).

²⁴ Arifin and Santoso, "Perlindungan Perempuan Korban Kekerasan Dalam Rumah Tangga Perspektif Hukum Islam."

²⁵ Sukardi, "Kajian Kekerasan Rumah Tangga Dalam Perspektif Hukum Islam Dan Hukum Positif."

- 1) Protection from the family, police, prosecutors, courts, advocates, social institutions, or other parties, either temporarily or based on a protection order from the court.
 - 2) Health services according to medical needs.
 - 3) Special handling related to the confidentiality of the victim.
 - 4) Assistance by social workers and legal assistance at every level of the examination process following the provisions of the legislation.
 - 5) Spiritual guidance services.
 - 6) Several forms of legal protection are contained in Law Number 23 of 2004 concerning the Elimination of Domestic Violence, namely:
 - a) Temporary Protection
Provisions for temporary protection are contained in articles 16 and 17, Chapter VI concerning protection, Law Number 23 of 2004 concerning the Elimination of Domestic Violence.
 - b) Determination of Protection Order by Court
Provisions regarding the determination of protection orders by the court are contained in Articles 28 and 32 Chapter VI concerning the protection of Law Number 23 of 2004 concerning the Elimination of Domestic Violence.
 - c) Provision of special service rooms at the police office
Provisions of special service rooms at the police office are contained in Article 13 letter a, Chapter V concerning the obligations of the government and society and Law Number 23 of 2004 concerning the elimination of domestic violence as follows: "To provide services to victims, the government and local governments under their respective functions and duties can make efforts to provide a special service room at the police station."
 - d) Provision of safe houses or alternative housing
Provisions for safe houses or alternative residences exist in Article 22 paragraph (1) letter c, Chapter VI concerning protection, Law Number 23 of 2004 concerning the Elimination of Domestic Violence, namely: 1). In providing services, social workers must: c). escort the victim to a safe house or an alternative residence.
 - e) Providing legal consultation by advocates regarding the rights of victims and the judicial process.
Provisions for legal consultation by advocates regarding the rights of victims and the judicial process are contained in Article 25 letter a, Chapter VI concerning Protection, Law No. 23 of 2004 concerning the Elimination of Domestic Violence, as follows: providing legal consultation which includes information regarding victims' rights and the judicial process.
 - f) Providing advocate assistance to victims at the level of investigation, prosecution, and examination in court proceedings. Provisions for the assistance of advocates for victims at the level of investigation, prosecution and examination in a court session are contained in Article 25 letter b), Chapter VI concerning Protection, Law Number 23 of 2004 concerning the Elimination of Domestic Violence. As follows: Assisting victims in the investigation, prosecution, and examination processes in court and help the victims fully describe the domestic violence they experience.
- 3. How to Settle Domestic Violence According to Islamic Law and the Law on Domestic Violence**
- a. How to Resolve Domestic Violence According to Islamic Law

Islamic law provides appropriate sanctions/punishments for the types of crimes committed by the perpetrator. According to the perspective of Islamic criminal law, the act of a husband committing physical violence against his wife is a form of crime and it is prohibited by the Shari'a because it will cause harm and it harms to the safety of the wife, therefore it is included in the act of *jarimah*.²⁶

If there are disputes and conflicts in the household, the first step is to reconcile. So, Islam provides a way out. The husband and wife must each provide a peacemaker (*Hakam*) from the family to resolve conflicts and household disputes. As set out in the Holy Qur'an, Chapter An-Nissa verse (35) which means: "And if you are worried that there is a dispute between the two, then send a *hakam* (peacemaker) from a male family and a *hakam* from a female family, if the two *hakams* are involved in making repairs, surely Allah gave *taufik* (prosperity) to the husband and wife, indeed Allah is all-knowing." (An-Nissa: 35).

The alternative settlement above aims so that the marriage does not break up. If these efforts fail, then the next settlement step is divorce. Based on Islamic law, there are several forms of crime that occur²⁷, especially against women. Some forms of crime and the resolution method through the Islamic law are: Every member of the body that has been hurt by the perpetrator gets a *diyat* or ransom, namely for one eye the *diyat* is 50 camels; for each toe and hand, 10 camels; wounds to the skull, 1/3 *diyat*: wound to the bone and breaking it, 15 camels; for one tooth the *diyat* is 5 camels; for wounds to the bone until it is visible, the *diyat* is 5 camels.

b. Methods of Resolving Domestic Violence according to the Law on Domestic Violence

Law Number 23 of 2004 concerning the Elimination of Domestic Violence contains the obligations of the government and society, the rights of victims of domestic violence, recovery of victims, and the settlement of violence through the application of legal sanctions.²⁸

1) Obligations of Government and Society

As contained in Articles 11-14 Chapter V concerning the Obligations of the Government and Society, Law Number 23 of 2004 concerning the Elimination of Domestic Violence.

2) The rights of victims of domestic violence

The resolution of domestic violence is linked to the rights of the victims. The rights of victims must be considered in their efforts to resolve domestic violence. To guarantee the rights of these victims, the victims must have:

- a) Protection from the family, police, prosecutors, courts, advocates, social institutions, or other parties, either temporarily or based on a protection order from the court.
- b) Health services according to their medical needs.
- c) Special handling is related to the confidentiality of the victim.
- d) Assistance by social workers and legal assistance at every level of the examination process following the provisions of the legislation.
- e) Spiritual guidance services.

3) Victim recovery

²⁶ Arifin and Santoso, "Perlindungan Perempuan Korban Kekerasan Dalam Rumah Tangga Perspektif Hukum Islam."

²⁷ Didin Komarudin, "Taklik Talak Dan Gugat Cerai Dalam Perspektif Tujuan Pernikahan (Studi Kasus Di Kecamatan Geresik Kabupaten Cirebon)" 3, no. 1 (2018).

²⁸ Arfan Affandi, "Tinjauan Hukum Islam Terhadap Kekerasan Dalam Rumah Tangga Dalam Kaitannya Dengan Undang-Undang Nomor 23 Tahun 2004 Tentang Kekerasan Dalam Rumah Tangga (UU PKDRT)" (n.d.).

Recovery of victims is contained in article 39, Chapter VII concerning Recovery Victims, Law no. 23 of 2004 concerning the Elimination of Domestic Violence. For the sake of recovery, victims can obtain services from:

- a) Health Workers
 - b) Social worker
 - c) Volunteer companion and,
 - d) Spiritual guides
- 4) Settlement of violence through the application of legal sanctions

Resolution of violence through the application of legal sanctions is the last alternative to provide a deterrent effect for perpetrators of domestic violence. The forms of legal sanctions are; imprisonment, additional penalties, and fines.

CONCLUSION

Based on the results of the research and discussion described above, the following conclusions can be drawn: the Law on Domestic Violence and the Islamic Laws are equally aimed at providing protection for the wife and the interests and welfare of the community, maintaining the community system, maintaining peace, and avoiding damage in the survival of the community.

In resolving domestic violence according to Islamic law, if there are disputes in the household, the first step is to reconcile. Each husband and wife must provide a peacemaker (*Hakam*) from the family to resolve conflicts and household disputes. Alternative settlements aim to prevent the marriage from breaking up, and if these efforts fail, the next step is divorce. Meanwhile, there are four methods of resolving domestic violence according to the Law on Domestic Violence, namely: government and community obligations, rights of victims of domestic violence, victim recovery, and the application of legal sanctions against perpetrators of the Law on Domestic Violence, applying legal sanctions in the form of imprisonment, additional penalties, and fines.

SUGGESTION

Based on the results of the research, discussion and conclusions obtained, the authors would like to suggest:

- a. It is hoped that the community will be wise in responding to problems in the household because the household is a place to express love and affection.
- b. Husbands should think about their responsibilities to their partners. Married couples should love and care for each other and prevent domestic violence.
- c. The government should conduct socialization and counseling on the elimination of domestic violence to the public, especially through print and electronic media.
- d. The government should disseminate information about the existence of institutions that support efforts to eliminate domestic violence in the community.

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