

A PROFESSIONAL LEGAL THOUGHTS ON HOUSEHOLD VIOLENCE (KDRT) AND ISLAMIC LAW

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Abstract

Recent events demonstrate that there has been an upsurge in physical, psychological, sexual, and neglectful forms of domestic abuse. As a result, the issue of domestic violence requires appropriate legal tools. Law No. 23 of 2004 in particular, a reaction to the concerns of the Indonesian people about the increase of domestic violence that is not particularly addressed in the Criminal Code, regulates the crime of domestic violence (KDRT). The Law on the Elimination of Domestic Violence generally provides for jail and fines as means of punishment, with the severity of the penalty varying according to the act committed and the victim's experience with the law. Law Number 23 of 2004 Concerning the Elimination of Domestic Violence was passed into law.. Islamic law, on the other hand, is a legal framework that puts human values first. Islamic law provides guidelines that are intended to help people and has as its overarching objectives obtaining justice, kindness, gain, and knowledge in life. Islamic law forbids all acts of cruelty and injustice, as well as all types of violence. This idea derives from the conviction that the purpose of Allah's revelation, as it is carried out through the application of Islamic law, is to provide enjoyment, goodwill, and profit to mankind.

Keywords: Household Violence (Kdrt)

A. Introduction

The family is the smallest social unit in society, yet it has the greatest impact on how each family member develops socially and personally. Families require their own organisational structure and an essential individual to serve as the family's leader in addition to a number of other family members. The father, mother, and children that make up a family are a highly close-knit group. Harmony in the reciprocal relationships between all family members or people is what defines this ideal connection. If there is no stress, conflict, or dissatisfaction inside the family and everyone is content with their physical, mental, emotional, and social well-being, the

family is said to be harmonious. The family is known as disharmony if the opposite occurs. disharmony if the opposite occurs.

Every family aspires to be able to create a harmonious, loving, and caring home, but in fact, many families experience violence in the home—physical, psychological, sexual, emotional, and neglectal—which makes them feel uneasy, dejected, and sad. Internal and external factors, both separately and in combination, can contribute to domestic violence (KDRT), especially in today's open and information age where the culture of violence that occasionally emerges through information cannot always be filtered for its detrimental effects on the comfort of family life. The victim's ability to survive might be significantly impacted by the presence of violence in the family.¹

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Family violence is specifically covered by Indonesian criminal law, abbreviated KDRT from here on out. It is referred to as unique since Law No. 23 of 2004 specifically regulates domestic violence as a separate offence. The Indonesian people's concern about the growth in domestic violence—for which the Criminal Code has no specific provisions—led to the creation of this legislation. As a result, it is challenging to find a legal solution to the domestic violence problem. In addition, there are additional challenges in ending domestic violence because of a limited view

¹ Ahmad Rofiq, *Fiqh Kontektual: Dari Normatif ke Pemaknaan Sosial*, 1st ed. (Yogyakarta: Pustaka Pelajar, 2004), 3.

of what constitutes a private, off-limits area for family issues. In this regard, for instance, it is said that certain Indonesians who still subscribe to eastern beliefs are prohibited from discussing home secrets.

B. Discussion

1. Description of Family Violence

According to Law No. 23 of 2004 Concerning the Elimination of Domestic Violence, domestic violence refers to any behavior towards a person, particularly a woman, that causes them to experience physical, sexual, psychological pain or suffering, or that results in them neglecting their house. household, such as intimidation, compulsion, or unauthorized denial of freedom within the home.²

Law Number 23 of 2004 provides legal protection for the issue of domestic abuse, which, among other things, affirms that:

- a. That, in accordance with the Pancasila doctrine and the Republic of Indonesia's 1945 Constitution, every citizen has the right to feel safe and free from all types of violence.
- b. That it is necessary to end all types of discrimination and that all forms of violence, especially domestic violence, violate human rights and are crimes against human dignity.
- c. That in order for victims of domestic abuse—the majority of whom are women—to avoid and be free from violence or threats of violence, torture, or other treatment that diminishes human dignity.
- d. That in light of the factors mentioned in letters a, b, c, and d, it is essential to implement legislation on domestic violence prevention.³

The Criminal Code (KUHP) article 356 provides the legal justification for violent acts performed by husbands against their spouses. The article's full text is as follows:

² Bunyamin Alamsyah, “Kekerasan Dalam Rumah Tangga Dihubungkan dengan Undang-Undang Nomor: 23 Tahun 2004 Tentang Pkdrt dan Islam”, *Legalitas* 2, no. 1 (2012), 48-49.

³ Undang-undang Nomor 23 Tahun 2004.

“Anybody who mistreats a father, mother, wife, or child faces legal repercussions.”⁴

2. Family Violence Instances

Acts of domestic violence against women are classified into 4 (four) categories under Law No. 23 of 2004:

a. Violent abuse

Physical aggression causes suffering, illness, or severe injuries. Slapping, hitting, spitting, pulling hair (grabbing), kicking, cornering with cigarettes, hitting/injuring with weapons, and other violent behavior are covered in this category. Typically, this therapy will leave scars, bruises, or damaged teeth.

b. Psychological and emotional harm

Psychological or emotional violence is any act that leaves a victim feeling terrified, low in confidence, powerless to take action, helpless, and/or experiencing extreme psychological anguish. Intimidation, harsh or insulting remarks, isolating the wife from the outside world, and threatening or scaring her as a way of forcing her will are all examples of violent behavior that includes emotional abuse.⁵

c. Sexual assault

This kind of abuse consists of excluding the wife from her own wants, compelling her to engage in sexual activity, compelling her own sexual urges, and not paying attention to the wife's fulfillment. Serious sexual assault, including:

- 1) Physical sexual harassment that involves physical contact, such as grabbing, touching private parts of the body, forcible kissing, embracing, and other behaviors that instill feelings of revulsion, panic, humiliation, and domination.
- 2) Forced sex that is performed against the victim's will or without her consent.

⁴ KUHP (Kitab Undang-undang Hukum Pidana) Pasal 356.

⁵ Munir, Lily Zakiah, “Domestic Violence in Indonesia”, *Muslim World Journal of Human Rights* 2, no. 1 (2005).

- 3) Forced sexual contact in an unpleasant, humiliating, or painful manner.
- 4) Pushing sexual contact with others in order to engage in prostitution or other illegal activities.
- 5) The occurrence of sexual interactions in which the offender abuses the victim's position of dependency, which should be protected.
- 6) Physically violent sexual practices that cause pain, harm, or injury, whether or not they employ instruments to do so.⁶

Minor sexual violence can take the form of verbal or nonverbal acts that demand sexual attention from the victim that they do not want, such as whistling, making pornographic jokes, making fun of them, calling them names, or other verbal or nonverbal comments or actions. Repeating small-scale sexual assaults is a form of serious sexual assault.

d. Financial violence

Everyone is forbidden from abandoning family members, regardless of whether they are entitled to life, care, or support under the legislation that applies to them or due to a contract or other arrangement. This kind of aggression includes not giving his wife a living and even using her money for personal expenses.⁷

Intense economic violence, or acts of exploitation, deception, and oppression that take the form of:

- 1) Compelling victims to engage in prostitution or other exploitative work.
- 2) Disallowing the sufferer to work while leaving her unattended.
- 3) Obtaining, capture, or otherwise manipulating the victim's property without the victim's knowledge or consent.

⁶ Moerti Hadiati Soeroso, *Kekerasan Dalam Rumah Tangga Dalam Perspektif Yuridis-Viktimologis*, (Jakarta: Sinar Grafika, 2010), 13.

⁷ Harkristuti Harkrisnowo, *Hukum Pidana dan Kekerasan terhadap Perempuan*, (Jakarta: KKCWPKWJ UI, 2006), 79.

Mild economic violence takes the form of making conscious efforts to render victims economically reliant, helpless, or unable to meet their fundamental necessities.⁸

3. Family Violence Positive law and Islamic law state

a. Family Violence According to Positive Law Positive law

Specifically, Law of the Republic of Indonesia Number 23 of 2004 about the Elimination of Domestic Violence, precisely controls the manner in which domestic violence offenders are punished (FV). The criminal sections of this law's Chapter VIII, notably Articles 44 to 50, mention penalties for those who commit acts of violence. These laws typically impose fines and imprisonment as the primary penalties for violations. Nevertheless, the length of jail and fine varies depending on the nature of the abuse and the effects it has on the victim. It's interesting to note that the statute also specifies extra punishments that may be applied depending on the judge's assessment.

The following description can be used to further delineate the type of punishment for domestic violence offenders according to the positive law:

a. Penalties and fines

The sorts and amounts of penalties that lawmakers (the Legislative Body) have decided to use as a means of criminal accountability that can be applied to those who commit domestic abuse include prison terms and fines. The definition of the phrase "criminal liability" is "a person's freedom to do or not to do an act.". The impacts of actions taken or not taken that result from free choices made by the culprit after realizing the repercussions are subject to criminal culpability. In this essay, accountability essentially refers to the load or legal repercussions that are placed on criminals. governed specifically in Articles 44 to 49. The following applies only to bodily assault under Article 44:

⁸ Novri Susan, *Pengantar Sosiologi Konflik dan Isu-Isu Konflik Kontemporer*, (Jakarta: Kencana, 2010), 118-124.

“Anyone who engages in physical violence inside the confines of the household as defined in Article 5 letter an is liable to a maximum sentence of 5 (five) years in jail or a fine of Rp. 15,000,000.00 (fifteen million rupiah). In the event that the act mentioned in paragraph (1) results in the victim becoming extremely ill or injured, the penalty is either a maximum of 10 (ten) years in jail or a maximum fine of Rp. 30,000,000.00 (thirty million rupiah). In accordance with paragraph (2), if the act mentioned in clause (3) lead to the victim's death, the offender will face a maximum sentence of 15 (fifteen) years in jail or a fine of Rp. 45,000,000.00 (forty-five million rupiah). In the event that a husband commits the act referred to in paragraph (1) against his wife or vice versa, and it does not result in illness or prevent him from performing his job, earning a living, or engaging in daily activities, the penalty is a maximum of 4 (four) months in prison or a maximum fine of Rp. 5,000,000.00 (five million rupiah)”.⁹

Based on the results of physical assault, the aforementioned article mentions at least four different categories of penalties for offenders, including 5 years in prison or a fine of Rp 15,000,000, 10 years in prison or a fine of Rp 30,000,000, 15 years in prison or a fine of Rp 45,000,000, and 4 months in jail or a fine of Rp 5,000,000. This clause makes it clear that the extent of the punishment is matched to the severity of the consequences the victim suffers. Both husband and wife actors should be aware of this. Because the law does not specifically address certain sorts of offenders.

The following are additional forms of punishment for psychological assault that are described in Article 45:

“Anyone who engages in psychological violence inside the confines of the household as defined in Article 5 letter b is liable to a maximum sentence of three years in prison or a fine of up to Rp. 9,000,000.00 (nine million rupiah). If the act mentioned in paragraph (1) is carried out by a husband against his wife or vice versa, and it does not result in illness or prevent him from carrying out his job, livelihood, or daily activities, the penalty is a maximum jail sentence of four (four) months or a maximum fine of three million rupiahs (three million).”¹⁰

According to the aforementioned article, there must be mention of at least two different forms of penalties for psychological abuse, including 3 years in prison or a fine of Rp. 9,000,000 and 4 months in jail or a fine of Rp. 3,000,000. The term "psychological violence" can apply to verbal abuse that is severe and degrading, which

⁹ Undang-Undang Republik Indonesia Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga, Pasal 44 sampai dengan Pasal 49

¹⁰ Undang-Undang Republik Indonesia Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga, Pasal 45

causes the victim to experience stress and other negative psychological effects.¹¹ The article on psychological violence does not mention any severe repercussions, including death. As a result, the sort of punishment is adjusted to the typical effects that are brought about. The punishment is merely 4 months in prison if psychological assault does not result in disease or makes it difficult for the victim to carry out everyday activities, jobs, or livelihoods. If the contrary occurs, the law calls for three years in prison. The two sorts of punishment for those who commit psychological acts of domestic abuse may be a good representation of all psychological acts of violence that take place in society. Because the repercussions of this provision might range from slight injuries, which fall under the category of non-physical violence punishment, to major injuries, which fall under the category of physical violence punishment.

The next clause gives sexual assault offenders the option of being imprisoned or paying a fine. The rules are found in Articles 46, 47, and 48, each of which reads as follows:

“Anyone who commits acts of sexual violence as referred to in Article 8 letter a shall be subject to imprisonment for a maximum of 12 (twelve) years or a fine of up to Rp. 36,000,000.00 (thirty-six million rupiah), in Article 46),¹²

“According to Article 47, “Anyone who forces a person who resides in his household to engage in sexual activity as defined in Article 8 letter shall be punished by imprisonment for a term of not less than four (4) years nor more than fifteen (15) years, or by fine of not less than Rp. 12,000,000.00 (twelve million rupiah) nor more than Rp. 300,000,000.00 (three hundred million rupiah).

“If the acts mentioned in Articles 46 and 47 cause the victim to suffer an injury from which there is no chance of recovery, experience mental or mental disorders for at least 4 (four) consecutive weeks or 1 (one) year without a break, lose or kill the fetus in the womb, or cause the reproductive organs to stop functioning, they will be punished with imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years. in Article 48).¹³

¹¹ Amran Suadi dan Mardi Candra, *Politik Hukum: Perspektif Hukum Perdata dan Pidana Islam Serta Ekonomis Syariah*, 1st ed (Jakarta: Kencana Prenada Media Group, 2016), 126.

¹² Pasal 8 yang dimaksud berbunyi: “Kekerasan seksual sebagaimana dimaksud dalam Pasal 5 huruf c meliputi: a. pemaksaan hubungan seksual yang dilakukan terhadap orang yang menetap dalam lingkup rumah tangga tersebut; b. pemaksaan hubungan seksual terhadap salah seorang dalam lingkup rumah tangganya dengan orang lain untuk tujuan komersial dan/atau tujuan tertentu.

¹³ Undang-Undang Republik Indonesia Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga, Pasal 46, 47, dan Pasal 48.

The restrictions listed above describe at least three different ways that sexual assault can be punished, including a fine of Rp. 36,000,000 or 12 years in prison. Both 4 to 15 years in prison and 5 to 20 years in prison and fines ranging from Rp 25,000,000 to Rp 500,000,000 are possible sentences. In order to distinguish between the three categories of punishment for sexual assault offenders, one must take into account the conditions for the perpetrator's acts, including whether or not they were motivated by coercion. This differs from the prior provision for physical and psychological violence punishment, where the severity of the punishment was determined by examining the results of the act of violence itself.

“Additionally, positive law establishes penalties for those who engage in domestic violence through neglect, specifically in violation of Article 49 of the law, which reads as follows: "Punished with a maximum imprisonment of 3 (three) years or a maximum fine of Rp. 15,000,000.00 (fifteen million rupiah), each person who: a. abandons other people within the scope of the household as referenced in Article 9 paragraph (1); b. abandons other people as referenced in Article 9 paragraph)"¹⁴.

The concern Article 9 states: Everyone is forbidden from leaving members of his or her family, regardless of whether they are entitled to life, care, or support under the law that applies to them or due to an agreement or other legal obligation. Anyone who forces economic dependency by restricting and/or forbidding appropriate labor inside or outside the home, placing the victim under that person's control, constitutes neglect as described in paragraph (1).

The aforementioned article only lists one possible sentence for the offender who abandoned the person who was legally designated as his dependents: three years in prison or a fine of Rp. 15,000,000. Economic violence includes violence of this kind that results from neglect. According to Amran Suadi, economic violence can take the form of failing to provide for the needs of those who are under his care, such as food, shelter, medical attention, or maintenance. The standards may be light or strict.¹⁵

¹⁴ Undang-Undang Republik Indonesia Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga, Pasal 49.

¹⁵ Amran Suadi dan Mardi Candra, *Politik Hukum*, 127.

When considering the provisions of the aforementioned articles, it is clear that the main form of punishment for those who commit domestic violence is the kind or form of imprisonment and fines. The length of the prison term or the size of the fine is based on the effects of the particular act of violence. The primary factor taken into account by lawmakers when deciding the severity of punishment for those who commit acts of physical or psychological violence is observed from the repercussions or outcomes that have occurred. In contrast, in situations of sexual violence, the length of imprisonment and amount of the fine are based on the outcomes and the nature of the perpetrator's actions.

b. Further Penalty

In addition to the punishment referred to in this Chapter, the judge may impose additional punishment in the form of: a. restrictions on the perpetrators' movement, both those aimed at keeping the perpetrators away from the victims within a certain distance and time, as well as restrictions on celibacy. This is expressly stated in Article 50, namely as follows:

“In addition to the punishment specified in this Chapter, the judge may impose additional punishment in the following forms: a. restrictions on the perpetrators' movements, including those meant to keep them away from the victims for a predetermined amount of time and distance, as well as limitations on specific perpetrator rights; b. the requirement that the perpetrators participate in a counseling program run by a specific institution.”¹⁶

It is common knowledge that the court may choose to impose further penalty. The judge may impose an additional sentence in addition to the primary sentence if required. The above article refers to further punishment as restricting the offender's movement, such as by imposing a time limit on the offender's ability to approach the victim. This seeks to keep the offender away from the victim for a predetermined

¹⁶ Rika Saraswati, *Perempuan dan Penyelesaian Kekerasan Dalam Rumah Tangga*, (Bandung: PT Citra Aditya Bakti, 2009), 20.

amount of time and distance. Additionally, the judge has the authority to restrict the offender's privileges based on the relevant factors.

It is well known that the court has the option of imposing further punishment. If necessary, the judge may impose a second sentence in addition to the original one. The aforementioned article defines further punishment as limiting the offender's freedom of movement, such as by placing a time limit on how quickly they are allowed to approach the victim. This aims to keep the perpetrator a set distance and amount of time away from the victim. The judge also has the power to limit the offender's rights in light of the pertinent circumstances.¹⁷

As could be observed from the explanation above, positive law regulates the type of punishment for domestic violence offenders through different rules outside the Criminal Code. The kind of punishment for those who commit acts of violence is adapted to the acts of violence and the resulting legal ramifications. Although the qualifications of punishment are adjusted to the type of action and the legal effects and consequences suffered by the victim, generally speaking, the forms of punishment specified in positive law, particularly the Law on the Elimination of Domestic Violence, are in the form of imprisonment and fines.

4. Domestic Violence from an Islamic Law Perspective

Islam places a high value on humanity. An attribute of Allah SWT is the horizontal interaction between living things, particularly humans. People always give the scriptures relating to law enforcement serious thought. According to Ibn al-Qayyim, all facets of Islamic law must have their roots in accordance with the humanistic values of justice, mercy, benefit, and wisdom, or wisdom for life, and that is why Islamic Shari'a was created. Contravening these rules entails disobeying sharia principles or convictions. This definition eliminates any unfairness or lack of kindness from Islamic beliefs.¹⁸

¹⁷ Badryah Khaleed, *Penyelesaian Hukum KDRT*, (Yogyakarta: Medpress Digital, 2015), 33.

¹⁸ Ahmad Tholabi Kharlie. (2022). *Hukum Keluarga Indonesia*. Sinar Grafika. http://repo.unikadelasalle.ac.id/index.php?p=show_detail&id=12653&k eywords=

The satisfaction, health, well-being and benefit of mankind are the goals of the revelation of Islamic law. Benefit in this context refers to benefit that can affect all sexes, nations, and racial groups equally. One indication that this has been accomplished is when a family refrains from engaging in violent behavior that leads to unfairness or insecurity. Islam arose and seemed to liberate people from misery, tyranny, folly, and maintaining the law. These objectives are built on human principles, and elevating human dignity, equality, freedom, and fair treatment is their top priority.¹⁹

One of the triggers contributing to family violence, such as beating a wife who nusyuz is an order from Allah SWT, is the existence of incorrect explanations about religious teachings on how to respect the husband's position, the provision of education for the wife, and the teachings of the wife's obedience to her husband. The Center for Religious and Cultural Studies (CSRC) of UIN Jakarta performed a study to see how citizens perceived the use of legitimacy when a husband was permitted to beat a nusyuz, or rebellious wife. The results are presented in the table below:

Table 1: perspective of Nusyuz's wives

Perspectives	Percentage (%)
Agree	33
Uncertain	9
Disagree	55
Abstain	3

The findings of the aforementioned study are hard to argue with, especially since 33% of respondents still unanimously choose to beat their wives using the rationale of nusyuz. This statistic demonstrates the growing acceptance in society of the notion that it is OK for a husband to physically abuse a disobedient wife. Religion also affirms the notion that a man is the head of his household and has the power to

¹⁹ J. Dwi Narwoko dan Bagong Suyanto, *Sosiologi: Teks Pengantar dan Terapan*, (Jakarta: Kencana, 2007), 334.

raise his wife. Locals have the following beliefs concerning whether or not to beat a nusyuz wife, according to Q.S. al-Nisaa' (4):34:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ ۗ فَالصَّالِحَاتُ قَنَاطٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ ۗ وَالَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ ۗ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا ۗ إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

Translated:

Since a few of them (the males) utilized some of their riches, Allah elevates some of them (the men) above the women. Because Allah has taken care of (them), a pious lady is one who obeys Allah and looks after herself when her husband is away. If you are concerned about nusyuznya in women, then counsel them, divide their beds, and beat them. Don't try to worry them if they follow your orders. Undoubtedly, Allah is the Highest and Greatest.

There are various interpretations of the word "واضربواهن" in the stanza above among experts. According to Al-Tabari, Allah only permits beatings as a last option. Remember that if the woman disobeys the first two instructions, Allah's form of punishment should not damage her. Al-Tabari uses the opinions of renowned academics to interpret this statement. The majority of these experts think that beating is acceptable—just not with the intention of pestering a lady or inflicting serious harm or illness on her. He also cited Abdullah bin Abbas' assertion that the beating in this case is *dhorb ghoiru mubarroh*, which is hitting with a toothbrush (miswak) or something similar without inflicting pain or injury.²⁰

Wahbah al-Zuhaily claims that the definition of "wadhribuhunna" is "hitting one that does not hurt," "hitting him with his hand on his shoulder three times," "hitting him with a miswak or a tree branch," or "hitting him with a stick or a branch," because the initial intent of the beating is for reconciliation and nothing else. The beating of Wahbah al-Zuhaily also calls for three things that you must not do. the stomach and other organs that cause death as a result of beatings are not intended to

²⁰ Aliyah, L. "KDRT dalam Penafsiran Mufassir Indonesia (Studi atas Tafsir an-Nur, al-Azhar, dan al-Misbah)", *Jurnal Islam Indonesia* 2, (2010), 35–74. <http://jurnal-islam-indonesia.isif.ac.id/index.php/Jurnal-Islam-Indonesia/article/view/7>

harm or even kill the nusyuz wife but rather to alter the nusyuz behavior; and c) striking only one region as doing so will increase suffering and raise the risk of death.

Al-Qurtubi defines the meaning of “wadhribuhunna” as follows in the book *Al-jami' li ahkam al-Quran*:

الضرب في هذه الآية هو ضرب الادب غير مبرح. وهو الذي لا يكسر عظما ولا يشين
جارحة كاللكزة ونحوها, فان المقصود منه الصلاح لا غير. فلا جرم اذا أدى الى الهلك
وجب الضمام. وكذلك القول في ضرب المؤدب غلامه لتعليم القرآن والادب

The assaults mentioned in the previous sentence are of an informative nature and do not result in injuries, broken bones, bleeding from wounds, or other injuries; rather, their sole purpose is to aid in rehabilitation. Therefore, if the beating results in any damage (impact), the spouse is required to do dhammam (pay a fine and be held accountable), much like a teacher who hits a pupil in order to instill manners and knowledge. quoting the Qoran.²¹

Lafadz dharb, according to Quraish Shihab in Aliyah, L., does not always refer to striking in the sense of inflicting unpleasant and strenuous harm. Depending on the context of the dialogue, dharb is frequently employed in the Koran for additional meanings. As a rule, Quraish Shihab does not accept and reinforce the interpretation of the meaning advanced by classical scholars, namely hitting that does not hurt but has educational and awareness values, namely the indications from Rasulullah SAW that “don't hit the face and don't hurt”.²²

According to Amir Syarifuddin's interpretation of this passage in his book *Islamic Marriage Rules*, a blow in this verse is one that neither hurts nor hurts. A gentle blow to the ta'dib (educational) is not motivated by animosity; if it causes the wife to acknowledge her error, the issue is resolved. The following step, divorce, can be taken if these steps don't resolve the issue.²³

The misinterpretation and ambiguity surrounding religious instructions for the standards for raising children is another factor contributing to physical violence in

²¹ Al-Qurtubi, A. A. M. (n.d.). *Al-Jami' Li ahkam al-Qur'an*, Jilid 3.

²² Aliyah, L. *KDRT*, 35–74.

²³ Syarifuddin A, *Hukum Perkawinan Islam di Indonesia. Kencana. Hukum Perkawinan Islam di Indonesia*. (Jakarta: Kencana, 2006), 26.

families. The hadith reported by Imam David, the Prophet said, is one of these hadiths;

عن عمرو بن شعيب عن ابيه عن جده قال: قال رسول الله ص م: مروا اولادكم بالصلاة
وهم ابناء سبع سنين, واضربوهم عليها وهم ابناء عشر سنين, وفرقوا بينهم في
المضاجع (رواه ابو داود)

It translates to:

Rasulullah SAW said: Order your children to pray at the age of seven, beat them at the age of ten, and separate the beds between them (of the opposite sex). This was reported by Umar Ibn Syu'aib from his father from his grandfather. Abu Dawud, HR

Muhammad Usman Najati asserts that a child's degree of intelligence will start to stand out once they reach the last period of childhood, which lasts between nine and twelve years. A child's capacity for thought at this age is an indicator of how intelligent he will be in the future. His desire to learn more about the nature of the objects and phenomena in the world around him will only increase. His personality is encouraged to develop to understand notions like right and wrong and good and bad by this growing mental strength. During this stage of development, it is crucial to guide and advise him as he learns about religion and morality. However, if a youngster veers off course, makes a mistake, or disregards guidance, he must.

The Prophet's hadith offers parents counsel on how to teach kids from an early age by offering guidance and corrective action when they err. If it is thought necessary, parents should not overindulge their children in pride or gifts. Therefore, it is acceptable to beat (discipline) a youngster for disobeying the call to prayer when they are ten years old. because children in this age range have started to build their cognitive and knowledge-based skills. During this period, a child's personality and sense of responsibility start to develop. Additionally, he will be more likely to disregard moral, ethical, and even religious standards. Children at this age frequently disobey parental instructions. However, children should not be subjected to too harsh punishment because it would have a bad effect on the child's spiritual growth, such as

the appearance of fear, a loss of self-confidence, and possibly even hatred for the parents who chastised him.²⁴

In light of the aforementioned justification, it is clear that even after a child reaches the age of ten, when advice is disregarded, it is still acceptable to strike him as a last resort (*ultimatum remedium*). However, here, physical abuse of minors does not constitute *ta'dib* (education), nor does it constitute torture.²⁵

It is evident from the explanation above that Islamic law is a body of legislation that is deeply concerned with humanity, has laws designed to help people, and has universally beneficial aims like justice, kindness, benefit, and wisdom in life. Violations of the Shari'a or beliefs are deviations from the preceding principles. Islam forbids everything that is harsh or unjust, including all types of violence. Because in theory, the manifestation of Allah's revelation in the application of Islamic law is meant to serve mankind and spread happiness and goodwill.

5. Analysis of Indonesian Domestic Violence Case Studies

a. Data on domestic violence

7,435 domestic abuse cases were reported in Indonesia for 2021–2022, according to BPS data. Of these, 837 cases—or the majority—of domestic violence—occurred in North Sumatra. Domestic violence is a type of crime that frequently occurs in a family setting (KDRT). Domestic violence is caused by a variety of circumstances, including lack of financial resources, extramarital relationships, conflicts over parenting rights, and more. In Indonesia, there were 7,435 reported cases of domestic violence in 2021, according to the Central Statistics Agency (BPS). In comparison to the previous year, which had 8,104 cases, this number dropped by 8.26%. North Sumatra, according to region, is the province with the most cases overall. With 812 domestic violence cases, South Sulawesi comes in second place to him. In Jakarta and its vicinity, 693 incidences of domestic violence were reported.

²⁴ Najati, M. U. *Psikologi Dalam Perspektif Hadits*, (Bandung: Pustaka Alhusna Baru, 2004), 25.

²⁵ Rita Serena Kolibonso, S.H., L. M, “Penegakan Hukum Kejahatan Kekerasan Dalam Rumah Tangga Dalam Perspektif Hukum”, *Widya Accarya* 4, no. 1 (2015), 35–44.

There were 651 and 354 domestic violence cases reported in East Java and Central Sulawesi, respectively. North Kalimantan, with only 16 occurrences, is the province with the lowest incidence of domestic violence. Above it is North Maluku and Bangka Belitung, with 29 and 48 domestic violence cases, respectively.²⁶

In Indonesia, there were 18,261 cases of domestic abuse reported up through October 2022, with 16,745 victims, or 79.5%, being female. In addition to this information, we can draw attention to the fact that 2,948 men were also victims of domestic abuse, according to data from the Ministry of Women Empowerment and Child Protection. Because both men and women run the risk of becoming victims of domestic abuse, they shouldn't be overlooked.²⁷

According to information from the Indonesian Police, South Sulawesi had the second-highest percentage of domestic violence events, 812 instances (10.92%), among the Regional Police. Following closely behind were Polda East Java with 651 incidents (8.76%) and Polda Metro Jaya with 693 events (9.32%). North Kalimantan had the fewest domestic violence incidents last year, with just 16 incidents. Following that were the North Maluku Regional Police with 48 incidences and the Bangka Belitung Islands Regional Police with 29 incidents.²⁸

A full listing of all domestic violence incidents reported to the police in 2021 is provided below:

1. West Sumatra: 837 incidents
2. South Sulawesi: 812 incidents
3. Metro Jaya: 693 incidents
4. East Java: 651 incidents
5. Centre Sulawesi: 354 incidents
6. North Sulawesi: 315 incidents

²⁶ <https://dataindonesia.id/ragam/detail/indonesia-catat-7435-kasus-kdrt-pada-2021-terbanyak-di-sumut>, Diakses 18 Maret 2023.

²⁷ <https://www.metrotvnews.com/play/b2lCrdXL-kemenpppa-rilis-data-jumlah-kasus-kdrt-di-indonesia-hingga-oktober-2022>, Diakses 18 Maret 2023.

²⁸ <https://polri.go.id/berita-polri/2265>, Diakses 18 Maret 2023.

7. Southeast east Nusa: 313 incidents
8. West Java: 286 incidents
9. Southeast west Nusa: 286 incidents
10. South Sumatera: 277 incidents
11. Aceh: 210 incidents
12. Lampung: 188 incidents
13. Gorontalo: 179 incidents
14. Riau: 176 incidents
15. West Sumatera: 170 incidents
16. Bengkulu: 151 incidents
17. Papua: 144 incidents
18. Southeast Sulawesi: 143 incidents
19. Maluku: 122 incidents
20. Jawa Tengah: 117 incidents
21. DI Yogyakarta: 110 incidents
22. East Kalimantan: 107 incidents
23. Bali: 106 incidents
24. Riau: 98 incidents
25. Jambi: 97 incidents
26. South Kalimantan: 78 incidents
27. Banten: 76 incidents
28. West Kalimantan: 67 incidents
29. Centre Kalimantan: 65 incidents
30. West Papua: 63 incidents
31. West Sulawesi: 51 incidents
32. North Maluku: 48 incidents
33. Bangka Belitung: 29 incidents

34. North Kalimantan: 16 incidents²⁹

The authorities passed Law Number 23 of 2004 Concerning the Elimination of Domestic abuse (UUPKDRT) in an effort to end domestic abuse. According to Article 4 of the PKDRT Law, the following is its goal:

1. Eliminate all types of domestic violence
2. Assist victims of domestic violence
3. Punish those who commit domestic abuse
4. Protect families in harmony and prosperity.

Family violence is defined as "any act against a person, especially a woman, which results in physical, sexual, psychological misery or suffering, and/or neglect of the household, including threats to commit acts, coercion, or unlawful deprivation of liberty within the context of household" in Article 1 of the UUPKDRT.³⁰

1. Case of domestic violence committed by artist Rizky Billar against his wife Lesti Kejora as an example

The incident of violence between Rizky Billar and his wife Lesti Kejora stunned the Indonesian populace a while back. The victims and the reported party were a husband and wife who were allegedly caught having an affair. On October 13, 2022, Rizky Billar was detained by Satreskrim investigators at the South Jakarta Metro Police. According to the report, Risky violently attacked Lesti by grabbing her hands, choking her, and slamming them, inflicting major injuries. Once more, there is a public debate about Lesti's choice. Some people applauded the action, however many were against the news being retracted because.³¹

2. The domestic violence case involving artist Ferry and his wife Venna Melinda

²⁹ <https://polri.go.id/berita-polri/2265>, Diakses 18 Maret 2023.

³⁰ Anisa Mutia <https://databoks.katadata.co.id/datapublish/2022/12/20/daftar-10-polda-dengan-pelaporan-kasus-kdrt-tertinggi-pada-2021>, Diakses 18 Maret 2023.

³¹ Susiana, S. *Kekerasan dalam Rumah Tangga Pasca Pandemi Covid-19*. Info Singkat Kajian Singkat Terhadap Isu Aktual dan Strategis. Vol 12 (2022). (24).14-18. https://berkas.dpr.go.id/puslit/files/info_singkat/Info%20Singkat-XII-24-II-P3DI-Desember-2020-177.pdf

On January 8, 2023, role actress Venna Melinda filed a report with the East Java Regional Police accusing her husband, Ferry Irawan, of domestic assault (KDRT). In East Java's Kediri City, a hotel was the scene of the event. Reza Mahastra, Venna's younger brother, described the alleged domestic violence his brother endured in chronological order. As stated by Kompas.com, it is as follows. Suffering from a nasal wound Venna Melinda gave Reza Mahastra the timeline of domestic violence. Domestic violence prompted Venna Melinda to sustain a nose injury that resulted in bleeding.

- 1) Suffering from a nasal wound Venna Melinda gave Reza Mahastra the timeline of domestic violence. Domestic violence prompted Venna Melinda to sustain a nose injury that resulted in bleeding. Venna claimed that he accomplished this by hardening his forehead against Mrs. Venna's nose and sort of pressing against her.
- 2) Abuse frequently occurs but is not reported. Venna acknowledges that Ferry has physically abused her on numerous occasions. Venna, however, purposefully hid it to preserve the household's shame. Venna waited until finally, on January 8, she had had enough and decided to call the police on Ferry.³²

Domestic violence is defined as "any act against a person, especially women, which results in physical, sexual, psychological misery or suffering, and/or neglect of the household, including threats to commit acts, coercion, or unlawful deprivation of liberty within the household sphere" in Article 1 of Law Number 23 of 2004 Concerning the Elimination of Domestic Violence. Domestic violence can affect both men and women in a home, as well as everyone who is related to that household by marriage, breastfeeding, parenting, or living there, according to Komnas Perempuan.

³² <https://www.kompas.com/hype/read/2023/01/12/085701266/kronologi-kdrt-terhadap-venna-melinda-sering-alami-kekerasan-tetapi?page=all>, Diakses 18 Maret 2023.

Domestic abuse can also affect those who reside in a household and provide household assistance.³³

C. Conclusion

People are beginning to realize that domestic abuse is a crime that needs to be reported to the police and is not only a family issue thanks to the passage of Law Number 23 of 2004 for the Elimination of Domestic abuse. The actions taken to handle domestic abuse situations that were controlled after the passing of this law have been successful. With the assistance of law enforcement personnel, including the police, attorneys, and judges, as well as in partnership with medical professionals, social workers, spiritual advisers, and volunteer companions. Therefore, if domestic violence happens, the community must play a proactive role by alerting the police.

All types of violence, including domestic abuse, are forbidden in Islam. Violence is against Islamic ideals, which are kind, gentle, and merciful to the cosmos, in addition to violating the individual's right to feel protected from all harm. Although some Hadith writings do permit parents to strike kids who refuse to be ordered to pray, the context of those texts is instruction, not approving of violence. There is a clear prohibition against husbands beating their wives in other hadiths, specifically. As a result, Islamic principles are highly pertinent to Indonesia's laws and regulations against domestic violence as well as its anti-violence philosophy.

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³³ Komnas Perempuan. (2020). *Menemukanali Kekerasan Dalam Rumah Tangga (KDRT)*. Instrumen Modul dan Reference Pemantauan. <https://komnasperempuan.go.id/instrumen-modul-Reference-pemantauan-detail/menemukanali-kekerasan-dalam-rumah-tangga-kdrt>, Diakses 18 Maret 2023.

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