

## Problems of Domestic Violence and Its Solutions From The Perspective of Islamic Law and Positive Law

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### ABSTRACT

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Domestic violence is a serious issue affecting many families worldwide. Addressing this problem requires a comprehensive approach that includes legal frameworks and social interventions. This paper explores the problems of domestic violence from the perspectives of Islamic law and positive law. In Islamic law, domestic violence is strictly prohibited. The Quran and Hadith provide clear guidance on treating family members with kindness and respect. Any form of harm or abuse is considered a violation of the principles of justice and compassion that are central to Islamic teachings. Solutions within this framework include education and awareness, counseling, and mediation. From the perspective of positive law, various legislations have been implemented to protect victims of domestic violence and punish perpetrators. This paper analyzes the effectiveness of these laws and identifies weaknesses and challenges faced in their implementation. Additionally, it discusses the importance of collaboration between various parties, including the government, legal institutions, and non-governmental organizations, in addressing the issue of domestic violence. Through this comparative approach, the paper aims to provide a deeper insight into how Islamic law and positive law can contribute to the prevention and handling of domestic violence, as well as offer recommendations to enhance the effectiveness of existing strategies and policies.

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### 1. Introduction

Domestic violence (KDRT) is a serious and complex social phenomenon that has become a global and national concern. This issue involves various forms of violence, including physical, psychological, sexual, and economic, that occur within the domestic environment. Victims of domestic violence, particularly women and children, often suffer significant physical and mental health consequences. Therefore, addressing domestic violence requires a comprehensive and integrated approach.

In the context of Indonesia, domestic violence is not only a matter of positive law, regulated under Law No. 23 of 2004 on the Elimination of Domestic Violence, but also a relevant issue from the perspective of Islamic law. Islamic law upholds principles of justice, compassion, and the protection of human rights. Thus, examining domestic violence from both perspectives can provide a more comprehensive understanding and more effective solutions.

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The positive law approach provides a clear legal framework and strict enforcement mechanisms to protect victims and punish perpetrators of domestic violence. This law includes various forms of protection for victims, including the right to medical services, counseling, and legal protection. Additionally, strict law enforcement against perpetrators is expected to serve as a deterrent and prevent further violence.

On the other hand, the perspective of Islamic law emphasizes the importance of maintaining harmony and well-being within the family. Islamic law teaches that the relationship between husband and wife should be based on love, mutual respect, and justice. Domestic violence is considered a serious violation of these principles. Therefore, the Islamic legal approach also offers solutions focused on preventing violence through education, strengthening family values, and empowering individuals. This journal aims to examine the problems of domestic violence and its solutions from the perspectives of Islamic law and positive law. By integrating these two perspectives, it is hoped that a more holistic approach to addressing domestic violence can be found. The results of this study are expected to contribute positively to efforts to prevent and address domestic violence in society.

## **2. Literature Review**

Domestic violence (DV) is a serious and complex social phenomenon that has garnered global and national attention. This issue encompasses various forms of violence, including physical, psychological, sexual, and economic abuse that occur within the domestic environment. This literature review examines the problems of domestic violence and its solutions from the perspectives of Islamic law and positive law.

Law No. 23 of 2004 on the Elimination of Domestic Violence in Indonesia provides the legal framework for addressing domestic violence. Research by (author's name) indicates that this law is designed to protect victims of domestic violence and penalize perpetrators. However, challenges in implementation, such as lack of public awareness, limited access to legal services, and cultural barriers, persist (author's name, year). Studies by (author's name) have found that stringent law enforcement can act as a deterrent and prevent further violence (author's name, year).

Islamic law emphasizes the importance of harmony and well-being within the family. Principles in the Quran and Hadith highlight fair treatment, love, and mutual respect among family members. Research by (author's name) suggests that domestic violence is considered a serious violation of Islamic teachings. Education and counseling on Islamic values play a crucial role in preventing domestic violence (author's name, year).

An integrated approach combining Islamic law and positive law can provide a more holistic solution to addressing domestic violence. Research by (author's name) indicates that the collaboration between these two perspectives can enhance the effectiveness of prevention and intervention strategies for domestic violence (author's name, year). Additionally, individual empowerment through education and strengthening family values can be effective in preventing domestic violence.

The literature shows that domestic violence is an issue requiring a comprehensive approach. The combination of positive law and Islamic principles offers a thorough framework for protecting victims, penalizing perpetrators, and preventing further violence. Further research is needed to evaluate the effectiveness of this integration and identify ways to address existing challenges

## **3. Methodology**

The research method applied in this study is library research. This method aims to gather data, perspectives, and information on Iddah and the impact of technological advancements through various sources available in libraries, including books and records relevant to the main issues being explored by the researcher.

### **3.2 Technique of Data Collection**

To obtain data, the author employs a data collection method through library research by reviewing various literatures or scholarly works related to the discussion needed for this academic writing.

### **3.2 Technique of Data Analysis**

The collected data is then processed and analyzed using a qualitative method.

#### **4. Results and Discussion**

Domestic Violence (DV) etymologically consists of "violence" and "domestic." "Violence" refers to suffering or inflicting suffering, meaning behavior by an individual or group that causes suffering to others, whether personal or collective. "Domestic" is also examined etymologically, meaning the bond between a man and a woman with the aim of forming a family based on the belief in the One Supreme God. This is in line with the core of Article 1 of Law No. 1 of 1974 on Marriage.

According to Herkutanto, the definition of domestic violence (DV) is an action or behavior carried out with a specific purpose that can harm women, both physically and psychologically.

The scope of the household in this law includes: a. Husband, wife, and children. b. People who have familial relationships with those mentioned in point a due to blood relations, marriage, nursing, caregiving, and guardianship, who reside in the household; and/or c. People who work to assist the household and reside in the household.

Article 5 of Law No. 23 of 2004 explains the prohibition of domestic violence as follows: "No individual is allowed to commit domestic violence against people in their family, by means of: 1) Physical violence, 2) Psychological violence, 3) Sexual violence, and 4) Economic violence (neglect)."

One of the solutions to the problem of domestic violence is that the government has shown proactive efforts to support and advocate for gender equality, such as the establishment of the Ministry of Women's Empowerment and the enactment of Law No. 23 of 2004 on the Elimination of Domestic Violence (UU PKDRT). However, the government has not yet reviewed several legal products inherited from the New Order era, such as Panca Dharma Wanita, PKK, and the Marriage Law. Therefore, in line with the spirit of the struggle for gender equality, it is deemed necessary to review and adjust some of these inherited legal products to align with the goals of gender equality. Additionally, it is also necessary to establish special courts for female victims of violence.

Strict law enforcement against perpetrators of domestic violence is essential to provide a deterrent effect and protect victims. The law must be enforced fairly and consistently to ensure that perpetrators receive appropriate punishment. This also sends a strong message that domestic violence will not be tolerated in our society. With a holistic and collaborative approach, we can reduce incidents of domestic violence and create a safer and more harmonious environment for all individuals.

#### **5. Conclusion**

Domestic violence (DV) is a serious issue that affects individual well-being and family stability. From the perspective of Islamic law, DV is considered a violation of the principles of justice, compassion, and human rights protection. Islamic law emphasizes the importance of healthy and harmonious relationships within the family and condemns all forms of violence. Meanwhile, positive law in Indonesia, through Law No. 23 of 2004 on the Elimination of Domestic Violence, provides a strong legal foundation to protect victims and punish perpetrators of DV.

Solutions to the problem of DV must include a holistic and collaborative approach. Islamic law and positive law can synergize in providing protection to victims and encouraging the rehabilitation of perpetrators. It is essential to raise public awareness through education and public campaigns about the dangers and consequences of DV, as well as to provide comprehensive support services for victims, such as shelters, counseling, and legal assistance.

Strict and consistent law enforcement is necessary to deter perpetrators and ensure justice for victims. Training for law enforcement officers, medical personnel, and social workers is also crucial to ensure that DV cases are handled with adequate sensitivity and expertise. This way, victims can feel safe and supported in their recovery process.

Early education on the importance of healthy and respectful relationships should be integrated into school curricula. This will help young generations understand and appreciate individual rights and encourage them to take appropriate actions if they or someone around them experiences DV. With a combination of Islamic law and positive law approaches, as well as support from all elements of society, it is hoped that an environment free from domestic violence can be created. This collective effort will help reduce incidents of DV and create a safer and more harmonious environment for all individuals.

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