



Examining Domestic Violence from The Lens of Islamic Law: A Maqasid Analysis

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Abstract

This article aims to examine domestic violence from the perspective of Islamic law with a focus on the maqasid sharia. This study is important to present as a counter-narrative to the widespread view that Islam legalizes violence, due to the tradition of reading normative texts (the Qur'an and Hadith) in a textualist manner. This research uses a quasi-qualitative and descriptive approach and falls into the category of library research. In gathering data sources, the researcher used various instruments, such as observation and documentation or study of related documents. The primary data sources of this research are the Qur'an, Hadith, and fatwas of scholars, while the secondary data sources consist of other relevant literature such as books and journals related to the topic under study. The analysis used by the researcher includes data reduction, data display, and conclusion drawing. To clarify the validity of the data, the researcher conducted source and method triangulation. From the study conducted, this research concludes that Islamic teachings reject domestic violence and advocate for a humane and just approach within the framework of Islamic law. The prophetic tradition reinforces the prohibition against violence towards women based on the principle of *mu'asyarah bi al-ma'ruf* (living together in kindness) in Islam. This study encourages the government and related institutions to strengthen legal protection for victims and to enforce strict sanctions against perpetrators of violence.

Keywords: Violence, Household, Islamic Law, Family Law.

Abstrak

Artikel ini bertujuan untuk meneliti kekerasan dalam rumah tangga (KDRT) dalam perspektif hukum Islam dengan fokus pada kajian *maqāsid*. Kajian ini penting untuk "dihadirkan" sebagai kontra-narasi terhadap banyaknya kalangan yang menganggap Islam sebagai agama yang melegalisasi kekerasan, dikarenakan tradisi membaca dalil-dalil normatif (Al-Qur'an dan Hadis) yang tekstualis. Penelitian ini menggunakan pendekatan *quasi-kualitatif* dan bersifat deskriptif serta termasuk dalam jenis penelitian pustaka. Dalam menggali sumber data, peneliti menggunakan berbagai instrument, seperti observasi dan dokumentasi atau studi atas dokumen terkait. Sumber data primer penelitian ini adalah Al-Qur'an, Hadis, dan fatwa ulama, sedangkan sumber data sekunder terdiri literatur lainnya seperti buku dan jurnal yang masih memiliki relevansi dengan topik kajian yang diteliti. Analisis yang peneliti gunakan yaitu dengan reduksi data, display data, dan penarikan kesimpulan. Di dalam mengklarifikasi keabsahan data, peneliti melakukan triangulasi sumber maupun metode. Dari kajian yang dilakukan, studi ini menyimpulkan bahwa ajaran Islam menolak KDRT, dan menganjurkan pendekatan yang manusiawi dan adil dalam kerangka hukum Islam. Tradisi kenabian memperkuat larangan terhadap kekerasan terhadap perempuan dengan berbasis prinsip *mu'asyarah bi al-ma'ruf* dalam Islam. Studi ini mendorong pemerintah dan lembaga terkait untuk memperkuat perlindungan hukum bagi korban dan memberlakukan sanksi yang tegas terhadap pelaku kekerasan.

Kata Kunci: Kekerasan, Rumah Tangga, Hukum Islam, Hukum Keluarga.



Introduction

The legal status of men (husbands) and women (wives) is equal.¹ This is explicitly stated in Law Number 1 of 1974 concerning Marriage. Articles 30, 31 paragraphs (1) and (2), article 32 paragraph 1 and paragraph 2, and article 33 explicitly affirm that women are equal partners to men, with the same rights, obligations, and opportunities.² However, in family life, conflicts and differences of opinion often arise, leading to physical violence committed by husbands against wives.³ Thus, husbands, who should serve as protectors, often behave in ways contrary to the expectations of their family members.⁴

It takes time and dedication to address the issue of domestic violence, given the diversity of cases, forms of violence, and victims involved.⁵ Additionally, varying cultural and religious perspectives on what constitutes violence contribute to different standards regarding its recognition. Domestic violence, often considered a hidden crime, has claimed numerous victims across various societal strata, including within Muslim communities.⁶ Violence can occur anywhere—at home, in the workplace, or in public settings—and affects individuals of all genders and ages, both as victims and witnesses.⁷ One common form of violence is domestic violence, occurring within our own homes and affecting people across different social classes, age groups, and professions, regardless of income levels.⁸

Islam has long ordained marriage as a vessel for nurturing love bonds, fostering harmony, and realizing worldly stability and eternal happiness in the Hereafter.⁹ Marriage, chosen by Allah, is humanity's path for procreation, multiplication, and life preservation, undertaken once each partner is prepared to fulfill their roles in realizing its purpose.¹⁰ Allah designed humans distinct from other creatures, which live freely based on instincts and engage in anarchic relationships devoid of rules.¹¹ Allah's rule on creation is exemplified in the creation of Eve from Adam's rib and their union through marriage. When a loving couple

¹ Muhammad Amin Summa, *Hukum Keluarga Islam di Dunia Islam* (Jakarta: Rajawali, 2004), 238.

² Mustofa, *Islam Membina Keluarga dan Hukum Perkawinan di Indonesia* (Yogyakarta: Kota Kembang, 1987), 153. This article also justifies that men and women have equal positions before the law, see in Dede Kania, "Hak Asasi Perempuan Dalam Peraturan Perundang-Undangan di Indonesia," *Jurnal Konstitusi* 12, no. 4 (2015): 716–34, doi:10.31078/jk1243.

³ Muhammad Idris Ramulyo, *Hukum Perkawinan Islam* (Jakarta: Bumi Aksara, 1996), 88.

⁴ Kania, "Hak Asasi Perempuan dalam Peraturan Perundang-Undangan di Indonesia."

⁵ Abdul Aziz, "Islam dan Kekerasan dalam Rumah Tangga," *Kordinat: Jurnal Komunikasi Antar Perguruan Tinggi Agama Islam* 16, no. 1 (April 8, 2017): 177–96, <https://doi.org/10.15408/kordinat.v16i1.6460>.

⁶ Sri Wahyuningsih, *Kriminologis Kekerasan Terhadap Istri dalam Rumah Tangga, Makalah Seminar Sehari Problematika Kekerasan terhadap Perempuan dan Alternatif Pemecahannya dalam Tinjauan Yuridis, Sosiologis, dan Keadilan Jender* (Malang, 1997).

⁷ Hasyim Hasanah, "Kekerasan terhadap Perempuan dan Anak dalam Rumah Tangga Perspektif Pemberitaan Media" 9 (2013).

⁸ Teguh Prasetyo, *Hukum Islam Menjawab Tantangan Zaman yang Terus Berkembang* (Yogyakarta: Pustaka Pelajar, 2006).

⁹ Alief Budiyo and Akhmad Roja Badrus Zaman, "Marriage of Different Islamic Community Organizations (Ormas) and Its Implications for Household Harmony: A Review of Sigmund Freud's Psychoanalysis," 2021, doi:10.21043/kr.v12i2.12563.

¹⁰ Santoso Santoso, "Hakekat Perkawinan Menurut Undang-Undang Perkawinan, Hukum Islam dan Hukum Adat," *Yudisia: Jurnal Pemikiran Hukum Dan Hukum Islam* 7, no. 2 (2016): 412–34, <https://doi.org/10.21043/yudisia.v7i2.2162>.

¹¹ Abd. Rahman Ghajali, *Fiqh Munakahat* (Jakarta: Prenada Media, 2003).

comprehends and shares together, they navigate their household like a ship, blessed with tranquility, affection, and mercy, rooted in faith and piety towards Allah SWT.¹²

Based on the theological facts outlined, fostering positive spousal relationships is imperative to prevent domestic violence. Islam advocates for the harmonization of relations between genders, aiming to ideally eradicate the notion of domestic violence.¹³

However, data on Domestic Violence (DV) in Indonesia reveals a grave issue demanding serious attention.¹⁴ According to reports from the Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia, the prevalence of DV continues to increase annually.¹⁵ The latest data indicates that in the period of 2019-2020, there were over 190,000 reported DV cases to various law enforcement agencies in Indonesia.¹⁶ However, this figure is likely below the actual number, considering the many unreported DV cases due to various reasons such as social stigma, fear of the perpetrator, and lack of awareness about their rights as victims.¹⁷ Additionally, reports also indicate that DV victims are predominantly women, although cases of violence against men also occur but in smaller numbers.

The importance of reinterpreting Islamic law in the context of domestic violence cannot be underestimated.¹⁸ While Islamic law asserts equality between husbands and wives and prohibits violence against women, there are misconceptions or misinterpretations of Islamic teachings that reinforce views supporting domestic violence.¹⁹ Therefore, efforts are needed to rectify the understanding of true and accurate Islamic teachings related to the protection of women from domestic violence. This involves educational approaches and comprehensive dissemination of information about the principles of humanity and justice in Islam, as well as emphasizing ethical and moral norms that promote respect and protection of human rights, including women's rights. By strengthening the correct understanding of Islamic law, it is hoped that communities can be more responsive and proactive in preventing and addressing cases of domestic violence, thereby creating a safe and harmonious environment for all members of society.

A clear relationship between spouses necessitates distinct roles and responsibilities, acknowledging the unique duties and authorities of each. Husbands have the right to assert their entitlements, including expecting exemplary service from their wives. Conversely,

¹² Bustamar Bustamar and Fitri Yeni M. Dalil, "Kronologis Kisah Nabi Adam as dalam Tafsir Ibn Katsir," *Istinarah: Riset Keagamaan, Sosial dan Budaya* 2, no. 1 (June 17, 2020): 60–75, <https://doi.org/10.31958/istinarah.v2i1.1813>.

¹³ Cahyadi Takariawan, *Di Jalan Dakwah Aku Menikah* (Surakarta: Era Intermedia, 2005), 74.

¹⁴ Sri Windani, Rizky Ayu, and Indri Meiliawati, "Penegakan Hukum Terhadap Kekerasan dalam Rumah Tangga dalam Konteks Perkawinan," *Lex Lectio Law Journal* 2 (February 2, 2024): 103–15, doi:10.61715/jlexlectio.v2i2.75.

¹⁵ Chyntia Pradivtasari Utami, Putri Indah Maharani, and Renanda Okta, "Increased Violence Against Women in the Household Scope during the Pandemic," *Journal of Politics and Policy* 3, no. 2 (2021).

¹⁶ Komnas Perempuan, "Perempuan dalam Himpitan Pandemi: Lonjakan Kekerasan Seksual, Kekerasan Siber, Perkawinan Anak, dan Keterbatasan Penanganan di Tengah Covid-19," Komnas Perempuan | Komisi Nasional Anti Kekerasan terhadap Perempuan, 2021, <https://komnasperempuan.go.id/siaran-pers-detail/catahu-2020-komnas-perempuan-lembar-fakta-dan-poin-kunci-5-maret-2021>.

¹⁷ Admin IJRS, "Mengapa Korban Kekerasan Seksual Enggan Melapor?" *IJRS* (blog), March 18, 2021, <https://ijrs.or.id/mengapa-korban-kekerasan-seksual-enggan-melapor/>.

¹⁸ Lukman Santoso Az and Bustanul Arifin, "Perlindungan Perempuan Korban Kekerasan Perspektif Hukum Islam," *Journal de Jure* 8 (January 13, 2017): 113, doi:10.18860/j-fsh.v8i2.3732.

¹⁹ Septia Rani, "Islam Melindungi Perempuan dari Kekerasan Seksual," *Jurusan Informatika - Fakultas Teknologi Industri - Universitas Islam Indonesia*, December 17, 2021, <https://informatics.uii.ac.id/2021/12/17/islam-melindungi-perempuan-dari-kekerasan-seksual/>.

husbands bear the responsibility of educating their spouses and offspring, ensuring sufficient provision, and treating them with kindness and fairness.²⁰

Islamic law mandates husbands to treat their wives with kindness and fairness (*ma'ruf*). *Ma'ruf*, as explained by ath-Thabari, involves fulfilling their rights. Even if husbands find aspects of their wives displeasing, excluding cases of adultery and disobedience, they are advised to exercise patience and avoid immediate divorce. This is because, despite perceived shortcomings, there might be underlying virtues. When both spouses adhere to their roles and obligations under Islamic law, domestic violence can be averted, as the family unit is grounded in Islamic jurisprudence.²¹

Several studies closely related to the researcher's study include, firstly, "Domestic Violence: Comparison between Islamic Law and Domestic Violence".²² This article compares Islamic law with secular legal systems regarding domestic violence. Hanafi et al. outline differing approaches influenced by religious and cultural values. It offers deep insights into how Islamic law safeguards individual rights, especially within marital dynamics.

Secondly, "Domestic violence in Muslim communities." Hamid's study offers a sociological analysis of domestic violence within Muslim communities, elucidating the socio-cultural influences contributing to its prevalence. Through an investigation of power dynamics, gender norms, and patriarchal frameworks, the research provides understanding into the root causes of domestic violence and confronts prevalent stereotypes and misunderstandings.²³

Thirdly, "The Role of Islam in Preventing Domestic Violence towards Muslim Women in Azerbaijan" highlights the significance of Islam in combating domestic violence (DV) against Muslim women in Azerbaijan.²⁴ The author delves into the social, cultural, and religious contexts of Azerbaijan to comprehend the dynamics of DV within the Muslim community. Employing a qualitative approach, the study involves interviews with Muslim women and local scholars to gain insights into religious perspectives on DV and prevention efforts. Research findings underscore Islam's pivotal role in shaping social norms and ethics that emphasize women's protection. Scholars reinforce religious messages of peace and justice within households, advocating for education and societal awareness of women's rights. Nevertheless, challenges persist in translating Islamic values into tangible actions within society, including social and cultural constraints affecting the acceptance of DV prevention efforts. In conclusion, the article underscores the importance of integrating Islamic values in DV prevention efforts, while emphasizing the necessity for cross-sectoral cooperation and holistic approaches to address this issue in Azerbaijan.

Fourthly "Challenges of Implementing Restorative Justice for Intimate Partner Violence: From an Islamic Perspective" explores the obstacles in applying restorative justice to cases of

²⁰ Henderi Kusmidi Kusmidi, "Konsep Sakinah, Mawaddah dan Rahmah dalam Pernikahan," *El-Afkar: Jurnal Pemikiran Keislaman dan Tafsir Hadis* 7, no. 2 (December 6, 2018): 63–78, <https://doi.org/10.29300/jpkth.v7i2.1601>.

²¹ Muhammad Yunus Samad, "Jurnal Hukum Pernikahan dalam Islam," *Istiqlah: Jurnal Pendidikan dan Pemikiran Islam* 5, no. 1 (2017), <https://jurnal.umpar.ac.id/index.php/istiqlah/article/view/487>.

²² Hanafi Hanafi, Hidayatullah Hidayatullah, and Tamjidnor Tamjidnor, "Domestic Violence: Comparison between Islamic Law and Domestic Violence," *International Journal of Social Science, Education, Communication and Economics (Sinomics Journal)* 1 (April 29, 2022): 1–8, <https://doi.org/10.54443/sj.v1i1.1>.

²³ Rafia M. Hamid, "Domestic Violence in Muslim Communities," in *Religion and Men's Violence against Women* (New York, NY, US: Springer Science + Business Media, 2015), 319–42, doi:10.1007/978-1-4939-2266-6.

²⁴ Nazila Isgandarova, "The Role of Islam in Preventing Domestic Violence towards Muslim Women in Azerbaijan," *Spiritual Psychology and Counseling* 2, no. 2 (August 15, 2017), <https://doi.org/10.12738/spc.2017.2.0019>.

intimate partner violence (IPV) from an Islamic standpoint.²⁵ This article examines the role of restorative justice in addressing IPV cases and highlights the complexities associated with its implementation within the framework of Islamic values. In the context of Islamic law, restorative justice poses challenges as it requires consideration of aspects such as forgiveness, rehabilitation, and reconciliation, often conflicting with the punitive approach adopted in secular law systems.

This article identifies several challenges encountered in implementing restorative justice in the context of IPV, including resistance to change within the legal system, the inability to mend broken relationships, and differences in interpreting relevant Islamic legal principles. By referring to theories and concepts of Islamic law, this article provides a profound understanding of the challenges faced in integrating a restorative approach in handling IPV from an Islamic perspective.

The literature review above offers a deep understanding of the debates, approaches, and responses to IPV in the Islamic context. The forthcoming article can enrich this discussion by presenting a comprehensive analysis and highlighting important aspects that have not been adequately addressed, particularly within the Indonesian context and the perspective of *maqasid shariah* in Islamic Law.

Method

The research method employed in this article is a literature review that integrates maqasidi analysis to comprehend and interpret the data. Primary data sources relied upon include major Islamic texts such as the Qur'an and Hadith, as well as fatwas from relevant religious authorities concerning the issue of domestic violence (DV). Secondary data sources encompass scholarly articles, books, research reports related to DV within an Islamic perspective, as well as literature discussing the concept of maqasidi analysis in Islamic law. Data collection techniques involve detailed searches in academic databases and digital libraries, as well as manual exploration of relevant literature.

The data analysis technique employed in this article adopts the maqasidi analysis approach within Islam. Maqasidi analysis is grounded in understanding the overarching objectives of Shariah law (*maqasid shariah*), which encompass safeguarding five fundamental interests in Islam: religion, life, intellect, progeny, and property. Within the context of domestic violence (DV), maqasidi analysis is utilized to interpret verses from the Qur'an, Hadith, and relevant Islamic legal principles pertaining to DV cases. This approach enables researchers to evaluate actions and policies related to DV in light of these Shariah objectives, as well as to identify their practical implications in addressing DV issues within Muslim communities. By employing maqasidi analysis, this article aims to provide a deeper and more contextual understanding of the Islamic perspective on DV, while underscoring the importance of integrating maqasidi values in DV prevention and intervention efforts within Muslim societies.

Theoretical analysis of domestic violence

In Indonesian, violence means: matters that are characterized as hard or severe, actions of an individual or a group of people that cause injury or death to others, or cause physical

²⁵ Md Jahirul Islam et al., "Challenges of Implementing Restorative Justice for Intimate Partner Violence: From an Islamic Perspective," *Journal of Religion & Spirituality in Social Work* 37 (February 28, 2018): 2018, doi:10.1080/15426432.2018.1440277.

damage to others' bodies or property.²⁶ Violence in English means an attack or physical invasion or psychological harm to someone's mental integrity. As stated by Elizabeth Kander Englander: "In general, violence is aggressive behavior with the intent to cause harm (physical or psychological). The word intent is central; physical or psychological harm that occurs by accident, in the absence of intent, is not violence."²⁷

Based on the theory above, it can be said that someone's aggressive behavior towards others falls into the category of violence if the action is done intentionally and with the aim of causing harm, both physically and psychologically, resulting in harm to the other party. If the violence occurs without any intentionality and is not oriented towards criminal intent, then the action is not categorized as violence. From a juridical perspective, the theory of violence can be seen in Article 89 of the Criminal Code, which states: "Rendering someone unconscious or powerless is equated with the use of violence. Powerlessness can be interpreted as lacking strength or energy altogether, so that one is unable to resist at all, but a person who is powerless can still be aware of what is happening to them. Acts of violence such as those described above can be considered as assault."²⁸

Persecution under the Indonesian Penal Code (KUHP) is categorized into two types: severe persecution regulated in Article 354 of the Penal Code and minor persecution in Article 352 of the Penal Code. Severe persecution is defined as an act that results in serious injury, such as falling ill or suffering injuries that do not offer hope of recovery, or that pose mortal danger, rendering one unable to continuously perform a duty or livelihood, losing one of the five senses, sustaining severe disabilities, experiencing paralysis, impaired cognitive function for at least 4 weeks, or the miscarriage or death of a fetus of a woman.²⁹ In addition to the provisions of Article 352 and Article 354 of the Penal Code, there are several other articles related to planned severe persecution committed against one's father, mother, husband, wife, or child, whereby the punishment is increased by one-third.³⁰

Violence against fellow human beings has various sources or reasons, one of which is believed to be the gender ideology that contributes to violence by men against women. The history of gender differences between males and females has evolved through a lengthy process. Therefore, the formation of gender differences is influenced by many factors, including being shaped, socialized, reinforced, and even socially and culturally constructed, both through religious teachings and state mechanisms. Through this protracted process, gender socialization eventually comes to be perceived as God's decree, seemingly biological and unchangeable, thus gender differences are regarded and understood as the natural roles of men and women. For instance, society often views "women's roles" as nurturing children, caring for and managing household cleanliness and aesthetics, or domestic affairs.³¹

Example of societal beliefs that consider "women's nature" as delicate, their position beneath men, serving rather than leading households, rendering women as property belonging to men, thus subject to arbitrary treatment, including violence. Gender differences

²⁶ Retnoningsih Suharno, *Kamus Besar Bahasa Indonesia* (Semarang: Widya Karya, n.d.), 79.

²⁷ Elizabeth Kander Englander, *Understanding Violence Mahwa New Jersey* (London: Lawrence Erlbaum Associate, 2003), 35.

²⁸ Moeldjatno, *Kitab Undang-Undang Hukum Pidana* (Jakarta: Bumi Aksara, 1994), 42.

²⁹ Ibid.

³⁰ Ibid.

³¹ Lihat Siti Musdah Mulia, *Keadilan Kesetaraan Gender Perspektif Islam* (Jakarta: Lembaga Kajian Agama dan Gender, 2003), 57.

themselves are not problematic as long as they do not result in gender injustices.³² However, the issue arises when gender disparities manifest various injustices, affecting both men and women, but particularly women. Gender injustice materializes in various forms such as economic marginalization or impoverishment processes, subordination or insignificance in political decision-making, formation of stereotypes or negative labeling, violence, longer and heavier workloads, among others.³³

Meanwhile, According to Article 1 of the Declaration on the Elimination of Violence against Women issued by the United Nations in December 1993, violence against women is defined as: “The manifestation of historical imbalances of power relations between men and women that have resulted in the domination and discrimination against women by men and impediments to their advancement.”³⁴

Furthermore, in Article 2 of the United Nations Declaration on the Elimination of Violence Against Women, it is stated that: Gender-based violence, resulting in or likely to result in physical, sexual, or psychological harm or suffering to women, including threats and acts such as coercion or arbitrary deprivation of liberty, whether occurring in public or private life.³⁵

After presenting theories of violence from various dimensions, the author needs to address the theory of domestic violence. The theory of domestic violence, as stated in Article 1 of the Law on the Elimination of Domestic Violence, is as follows: “Any act towards an individual, especially women, resulting in physical, sexual, psychological, and/or household neglect causing suffering or distress, including threats of action, coercion, or unlawful deprivation of freedom within the household.”³⁶

Law Number 23 of 2004 concerning the Elimination of Domestic Violence holds an undeniable urgency in the context of protecting victims of domestic violence (DV) in Indonesia. Firstly, this law provides a clear and robust legal framework for the enforcement of laws against DV perpetrators. With the existence of this law, legal institutions have a strong basis to firmly enforce penalties against perpetrators of violence, thereby providing a sense of justice and protection for DV victims.³⁷

Secondly, Law Number 23 of 2004 asserts the state’s commitment to safeguarding human rights, particularly those of women and children, who are often the primary victims of domestic violence. With this regulation in place, the state actively engages in efforts to prevent,

³² Saifuddin Zuhri and Diana Amalia, “Ketidakadilan Gender dan Budaya Patriarki di Kehidupan Masyarakat Indonesia,” *Murabbi* 5, no. 1 (April 8, 2022), <https://ejournal.stitalhikmah-tt.ac.id/index.php/murabbi/article/view/100>.

³³ Ita F. Nadia, *Kekerasan terhadap Perempuan dari Perspektif Gender (Kekerasan Terhadap Perempuan, Program Seri Lokakarya Kesehatan Perempuan)* (Jakarta: Yayasan Lembaga Konsumen Indonesia dan The Ford Foundation, 1988), 73.

³⁴ UN, “Declaration on the Elimination of Violence against Women,” *OHCHR*, 1993, <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women>.

³⁵ Zaitunah Subhan, *Kekerasan terhadap Perempuan* (Yogyakarta: Pustaka Pesantren, 2004), 44.

³⁶ Tim Penyusun Permata Press, “UUD 1945 Amandemen I, II, III & IV | Perpustakaan Mahkamah Konstitusi.”

³⁷ Aminoel Akbar Novimaimory, “Analisis Undang-Undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga,” *Jurnal Pahlawan* 3, no. 1 (March 1, 2020): 20–24, <https://doi.org/10.31004/jjp.v3i1.592>.

address, and rehabilitate victims of domestic violence, thereby enhancing the state's capacity to protect the rights of its citizens.³⁸

Furthermore, this Law also provides the foundation for the establishment of more holistic and integrated policies and protection programs for victims of domestic violence (DV). These encompass efforts to empower victims, raise public awareness about DV, and strengthen cooperation among governmental and non-governmental institutions in effectively addressing this issue.³⁹

In other hand, Law Number 23 of 2004 also strengthens the role of social protection institutions and the police in combating domestic violence. With the existence of this regulation, these institutions are encouraged to enhance their capacity and responsiveness in handling cases of domestic violence, thus providing more effective protection for the victims.⁴⁰

Therefore, the existence of Law Number 23 of 2004 concerning the Elimination of Domestic Violence is crucial in providing legal protection for victims of domestic violence, strengthening the state's commitment to protect human rights, and promoting the formation of more holistic policies and programs in addressing this issue.

Forms of domestic violence

Domestic violence, a pervasive issue across societies worldwide, manifests itself in various forms within the confines of familial relationships. This phenomenon, often hidden behind closed doors, encompasses a spectrum of abusive behaviors that inflict physical, emotional, or psychological harm upon individuals within the household.⁴¹ Understanding the diverse manifestations of domestic violence is crucial for effective intervention and support mechanisms aimed at mitigating its impact on victims.

Firstly, Physical Violence. Physical violence, as defined in Article 6 of the Law on the Elimination of Domestic Violence, is "An act that causes pain, illness, or serious injury." In comparison to the draft of the Domestic Violence Law proposed by the legal aid institution of the Indonesian Women's Association for Justice, physical violence is interpreted as: "Pain, injury, wound, or disability to a person's body."⁴²

Physical violence can be categorized into two main types: Firstly, severe physical violence, which involves serious acts of abuse such as kicking, hitting, attempted murder, and any other actions that may result in the death of another person, such as severe injuries, inability to perform daily tasks, unconsciousness, severe bodily harm, or injuries that are difficult to heal and lead to death, loss of one of the senses, disability, suffering from paralysis, impaired cognitive function for 4 weeks or more, miscarriage, or death of a wife.⁴³ Secondly, mild physical violence, which includes actions like slapping, hair-pulling, pushing, and other

³⁸ Mudjiati, "Implementasi Undang-Undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga Suatu Tantangan menuju Sistem Hukum yang Responsif Gender," *Jurnal Legislasi Indonesia* 5, no. 3 (November 29, 2018): 45–68, <https://doi.org/10.54629/jli.v5i3.297>.

³⁹ Elias Zadrach Leasa, "Aspek Legal Spirit Undang-Undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga," *SASI* 24, no. 2 (February 28, 2019): 168–78, doi:10.47268/sasi.v24i2.131.

⁴⁰ Emilda Firdaus, "Implementasi Undang-Undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga di Kota Batam," *Jurnal Hukum Ius Quia Iustum* 21, no. 1 (2014): 139–54, <https://doi.org/10.20885/iustum.vol21.iss1.art8>.

⁴¹ Tim Penyusun Permata Press, "UUD 1945 Amandemen I, II, III & IV | Perpustakaan Mahkamah Konstitusi."

⁴² Rika Saraswati, "Perempuan dan Penyelesaian Kekerasan dalam Rumah Tangga" (Bandung: PT Citra Aditya Bakti, 2006), 2.

⁴³ Efendi Yusuf, *Kriminalitas* (Jakarta: Mizan, 2003), 56.

behaviors that result in minor injuries, pain, and physical wounds that do not fall under the category of severe.⁴⁴

Secondly, Psychological Violence. According to Article 7 of the Law on the Elimination of Domestic Violence, psychological violence refers to Acts that result in fear, loss of self-confidence, loss of ability to act, feelings of helplessness, and/or severe psychological suffering in an individual.⁴⁵

Based on the explanation of Article 7 of the Domestic Violence Eradication Law, there is no further elaboration on the condition of someone experiencing severe psychological violence. Meanwhile, in the proposed amendment to the Anti-Domestic Violence Bill submitted by the Legislative Body of the House of Representatives on May 6, 2003, the explanation of Article 4b regarding severe psychological violence is as the condition that indicates the hindrance of the ability to enjoy life, develop positive conceptions of oneself and others, failure to perform human functions, leading to the experiencing of psychological problems by someone, such as depression, trauma disorders, self-destruction, and even loss of contact with reality.

Examples of actions that can be categorized as psychological violence include insulting, threatening, or intimidating as a means to impose one's will, isolating a spouse from the outside world.⁴⁶ Psychological violence can be categorized into two aspects. Firstly, severe psychological violence consists of acts of control, manipulation, exploitation, coercion, and social isolation, physical, sexual, and economic violence or threats, each of which can result in severe psychological suffering. Secondly, mild psychological violence, which can be observed in acts of control, manipulation, exploitation, coercion, degradation, and humiliation in the form of violations, coercion, and social isolation. Actions or statements that degrade or insult, stalking, threats of physical, sexual, and economic violence, each of which can result in mild psychological suffering. To prove psychological violence,⁴⁷ it must be based on two integrated aspects: first, the actions taken by the perpetrator, and second, the psychological implications experienced by the victim. Simultaneously, testimony from a psychologist or psychiatrist is required, which not only states the victim's psychological condition but also describes its causes.

Thirdly, Sexual Violence. According to Article 8 of the Law on the Elimination of Domestic Violence, sexual violence is defined as the coercion of sexual relations upon individuals residing within the household or one of its members with others for commercial and/or specific purposes.⁴⁸ Domestic violence, as defined by the Gender-Perspective Health Communication Center, encompasses: "Any act that ranges from sexual harassment to forcing someone into sexual intercourse without the victim's consent or when the victim does not desire it due to illness or menstruation, engaging in sexual intercourse in ways that are abnormal or disliked by the victim, and/or depriving the victim of their sexual needs, forcing the spouse to engage in sexual relations with others, forcing the spouse into prostitution."⁴⁹

⁴⁴ Ibid.

⁴⁵ Tim Penyusun Permata Press, "UUD 1945 Amandemen I, II, III & IV | Perpustakaan Mahkamah Konstitusi."

⁴⁶ Ahmad Sukarja, *Psykologis & Skizofrenia Seksual dalam Tatanan Rumah Tangga* (Surabaya: Jaya Aksara, 1999), 41.

⁴⁷ Ibid.

⁴⁸ Tim Penyusun Permata Press, "UUD 1945 Amandemen I, II, III & IV | Perpustakaan Mahkamah Konstitusi."

⁴⁹ Rika Saraswati, "Perempuan dan Penyelesaian Kekerasan dalam Rumah Tangga."

From the definition of the Draft, it is apparent that the proposed understanding of sexual violence by the DPR and the Health Communication Center, with a gender perspective, is broader than that outlined in the Domestic Violence Eradication Act, as it also encompasses sexual harassment and the destruction of women's reproductive organs, which frequently occur within the household. In the proposed amendments to the Anti-Domestic Violence Bill put forth by the Legislative Body of the House of Representatives on May 6, 2003, it is stated in Article 1 number 7 that sexual harassment is defined as "Any act involving conveying indecent jokes to someone that is perceived as deeply hurtful and embarrassing, asking questions about someone's sexual or personal life, touching, groping, or holding someone's body parts without their consent in various ways and occasions without their willingness."⁵⁰

Furthermore, sexual violence in the form of reproductive organ destruction is not only limited to damage inflicted upon female reproductive organs, resulting in their inability to function properly and hence inability to bear offspring. Based on the analysis of sexual violence above, sexual violence can be categorized into two aspects: mild sexual violence, in the form of verbal sexual harassment, and severe sexual violence, such as sexual coercion.⁵¹

Fourthly, Household Neglect. Household neglect, as defined in Article 9 of the Law on the Elimination of Domestic Violence, prohibits anyone from abandoning individuals within their household environment, despite their obligation under applicable law or agreement to provide sustenance, care, or maintenance to such individuals. Neglect as referred to in the provision also applies to anyone causing economic dependence by restricting and/or prohibiting suitable employment within or outside the home, thus placing the victim under their control.⁵² When compared to the formulation in the draft law on domestic violence, the term used is economic violence, which means any act that restricts someone from working inside or outside the home to earn money, goods, or services, and/or allows the victim to be exploited or neglects family members.

One prominent feature of the domestic violence eradication law is the recognition of the rights of domestic violence victims, as stipulated in Article 10 of the Domestic Violence Eradication Law. It states that victims are entitled to protection from family members, police, prosecutors, courts, lawyers, social institutions, or other parties, both temporarily and based on court-issued protection orders. They are also entitled to healthcare services according to their medical needs, specialized handling regarding victim confidentiality, assistance from social workers, and legal aid at every stage of the examination process in accordance with legal regulations and spiritual guidance services.⁵³

Domestic violence factors in Indonesia

Cases of Domestic Violence (DV) represent a complex and serious social issue in Indonesia, as reflected by statistical data indicating high levels of violence. Data from various sources, including the Indonesian Central Statistics Agency (BPS) and related institutions, demonstrate that DV remains a significant problem in Indonesia, despite the actual incidence rate potentially being much higher than reported due to many unreported cases. The high

⁵⁰ Ibid.

⁵¹ Sukarja, *Psykologis & Skizofrenia Seksual Dalam Tatanan Rumah Tangga*, 58.

⁵² Tim Penyusun Permata Press, "UUD 1945 Amandemen I, II, III & IV | Perpustakaan Mahkamah Konstitusi."

⁵³ Ibid.

prevalence of DV in Indonesia is attributed to a variety of factors, involving a multitude of complex interrelated factors.⁵⁴

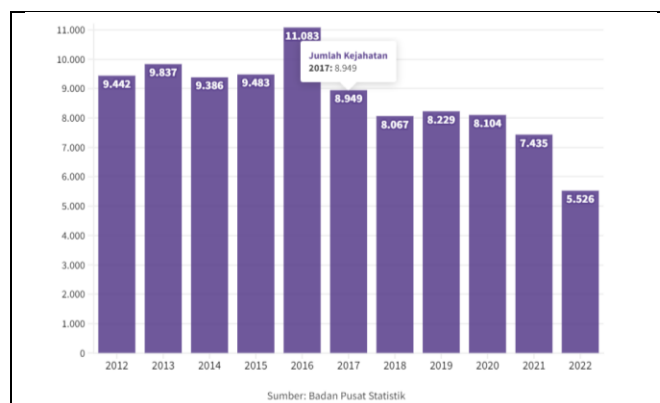


Figure 1. Number of Domestic Violence Cases in Indonesia in 2012 to 2022.⁵⁵

One of the primary factors contributing to the high incidence of domestic violence in Indonesia is the persistent gender inequality.⁵⁶ The patriarchal culture dominating Indonesian society often places women in vulnerable and powerless positions within domestic relationships.⁵⁷ Inequality in access to education, employment, and economic resources further renders women susceptible to violence from partners or other family members who hold power or control in the relationship. Additionally, the existence of social norms that condone or even justify violence against women in the household exacerbates the situation.⁵⁸

Economic factors also play a significant role in increasing the risk of domestic violence in Indonesia. Economic instability, poverty, and unequal access to job opportunities and financial resources can lead to economic pressure within households, which in some cases can trigger conflicts and violence. Moreover, psychological and emotional issues such as stress, mental disorders, and lack of conflict management skills can exacerbate the situation and increase the risk of domestic violence.⁵⁹

Another factor that needs to be considered is the lack of legal protection and access to justice for domestic violence victims in Indonesia. The lack of societal awareness about women's rights and the insufficient enforcement of laws against perpetrators of violence are also significant factors enabling domestic violence to occur. Therefore, to effectively address the issue of domestic violence, a comprehensive approach involving various stakeholders is needed, including the government, non-governmental organizations, and the general public.

⁵⁴ Rosma Alimi and Nunung Nurwati, "Faktor Penyebab Terjadinya Kekerasan dalam Rumah Tangga terhadap Perempuan," *Jurnal Pengabdian dan Penelitian Kepada Masyarakat (JPPM)* 2, no. 1 (2021).

⁵⁵ Pratiwi Sulistya Pratiwi, "Data Jumlah Kasus KDRT di Indonesia pada 2022", <https://dataindonesia.id/varia/detail/data-jumlah-kasus-kdrt-di-indonesia-pada-2022>.

⁵⁶ Yonada Nancy, "5 Faktor Penyebab KDRT: Dominasi Gender hingga Masalah Ekonomi," *tirto.id*, October 3, 2022, <https://tirto.id/5-faktor-penyebab-kdrt-dominasi-gender-hingga-masalah-ekonomi-gwSL>.

⁵⁷ itsram, "Belunggu Budaya Patriarki terhadap Kesetaraan Gender di Indonesia," *ITS News* (blog), April 22, 2020, <https://www.its.ac.id/news/2020/04/22/belunggu-budaya-patriarki-terhadap-kesetaraan-gender-di-indonesia/>.

⁵⁸ Yanuarious You, "Relasi Gender Patriarki dan Dampaknya terhadap Perempuan Hubula Suku Dani, Kabupaten Jayawijaya, Papua," *Sosiohumaniora* 21, no. 1 (April 1, 2019): 65, <https://doi.org/10.24198/sosiohumaniora.v21i1.19335>.

⁵⁹ Rochani Nani Rahayu, "Kekerasan dalam Rumah Tangga di Indonesia" 4, No. 6 (2023).

Additionally, there is a need to enhance awareness about human rights and women's protection at all levels of society.⁶⁰

The concept of Islamic law regarding domestic violence

Domestic violence is an attack on the physical, mental, psychological, or other aspects of one's partner, as previously outlined. Typically, violence is perpetrated by husbands against their wives. Despite being a significant social issue, such problems often receive insufficient attention from both the community and law enforcement agencies. This is because it occurs within the institution of marriage, and interference from external parties is usually viewed as unwanted intervention by the parties involved. Another factor is the perception that a husband, as the leader of the household, is entitled to such behavior.

The emerging religious perspective within society tends to unfairly stigmatize Islam, as if it condones spousal violence. This misconception stems from the controversial interpretation of Allah's verse in Surah al-Nisa, verse 34:

... يَا أَيُّهَا الَّذِينَ آمَنُوا إِنِ امْرُؤٌ مِّنَ بَنِيكَ أَسْرَبَ إِلَىٰ سِتْرِ امْرَأَتِكَ فَاصْرَبْ وَلَا تُخَالِفْ...⁶¹

"In regard to women whom you fear disobedience from, admonish them, leave them alone in the sleeping place, and [if necessary], strike them [lightly]..."⁶¹

The verses on *nusyuz* are sometimes construed as a justification for a husband's arbitrary behavior towards his wife. However, considering the context in which these verses were revealed, we can draw a different conclusion. With the presence of gradual sanctions as outlined in Surah An-Nisa/4:34, the Qur'an actually aims to prevent the physical abuse of wives and gradually eliminate it.

Examining the context of the revelation of the above verses, Asghar Ali suggests that the physical punishment taught in that Surah is only contextual, not a normative teaching applicable to all times. The Prophet himself, after the revelation of those verses, issued many sayings prohibiting the beating of women. One of the hadiths containing this prohibition is Violence against women (wives) is contrary to the concept of living with kindness (*mu'āsarah bi al-ma'rūf*). Furthermore, is it conceivable that Allah, the Most Just, would allow unfair treatment and violence against some of His creatures?

Then how is the position of "*wadhribūhunna*" (and strike them) explained? Before elaborating on the word "strike them," the author first explains the concept of *nusyūz* which is related to domestic violence. The understanding of disobedience to the husband (*nusyūz*) is interpreted by scholars in various ways. Imam ar-Ragib suggests that *nusyūz* carries the meaning of resisting against one's husband. Ath-Thabari implies that *nusyūz* is to resist one's husband with sinful acts, such as engaging in illicit relationships and expressing hatred towards him by turning away. Az-Zamakhsyari, a prominent Qur'anic commentator, states that *nusyūz* means to oppose one's husband and commit sins against him (*anta'za zaujuha*). Meanwhile, Muhammad Asad translates *nusyūz* as resentment and offers an explanation for its translation as follows: the term *nusyūz* (literally meaning resistance, here interpreted as resentment) encompasses all forms of deliberate misconduct from a wife towards her husband or from a husband towards his wife, including what is now described as mental abuse.

⁶⁰ La Jamaa, "Perlindungan Korban Kekerasan dalam Rumah Tangga dalam Hukum Pidana Indonesia," *Jurnal Cita Hukum* 2, no. 2 (December 1, 2014), <https://doi.org/10.15408/jch.v1i2.1467>.

⁶¹ Jajasan Penjelenggara Penterjemah/Pentafsir Al-Qoeraan (1967), *Al-Qur'an dan Terjemahannya Edisi Penyempurnaan 2019* (Jakarta: Lajnah Pentashihan Mushaf Al-Qur'an, 2019).

According to Mursyidah Thahir from various literature, *nusyūz* is divided into several levels: Firstly, ordinary *nusyūz* such as leaving the house without permission, fasting voluntarily without permission, refusing the husband's invitation for intimacy, contradicting the husband, and disobeying the husband's orders. For this type of ordinary *nusyūz*, the husband only needs to advise, remind, and guide his wife in a gentle manner. Secondly, serious *nusyūz* such as arrogance towards the husband, behaving haughtily, hating the husband, and resisting him. For serious *nusyūz*, separation (*hajr*) is implemented. Thirdly, extremely serious *nusyūz*, such as running away from home, extreme defiance, suspicious behavior, and adultery.⁶²

Based on the phrase “*wadhribūhunna*” (in striking them), the husband's striking of his wife is indeed permitted by Sharia, but only for cases of extremely serious *nusyūz*. In this context, Islamic law allows it with the condition that the striking is gentle and oriented towards education, and it must not hit the face. This proposition can be observed through the Hadith of the Prophet Muhammad (peace be upon him), as follows:

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذَا ضَرَبَ أَحَدُكُمْ فَلْيَتَّقِ الْوَجْهَ (رواه ابو داود)

From Abu Hurairah, may Allah be pleased with him, the Messenger of Allah, peace be upon him, said, “If any of you were to strike, then let him avoid striking the face.”⁶³

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِنْ تُطِعْتُمْمَا إِذَا أَطَعْتُمْ وَتَكْسُوهُمَا إِذَا كَتَسَبْتُمْ وَلَا تَضْرِبِ الْوَجْهَ وَلَا تُفْبِحْ وَلَا تَهْجُرْ إِلَّا فِي الْبَيْتِ (رواه ابو داود)

From Abi Hurairah, may Allah be pleased with him, he said: The Messenger of Allah, peace be upon him, said, ‘Feed your wife as you feed yourself, clothe her as you clothe yourself, and do not beat her or revile her, and do not separate from her except within the house.’⁶⁴

Islamic legal experts delineate conditions under which a husband may strike his wife. Sheikh Rashid Rida posits that striking a wife is a final recourse permissible solely if it avoids harm (*mubarrih*). Al-Hijazi specifies that striking is allowable solely for exceedingly disobedient women, correctable solely through physical discipline. Ali As Sabuni further asserts that striking is permissible for women guilty of transgressions, defiance against husbands, and displaying arrogance.⁶⁵ When a wife openly engages in immoral actions, it is termed as *faahisyah*, such as committing adultery. Since adultery is a grave act of disobedience, it requires its own legal scrutiny.

Therefore, husbands must refrain from arbitrarily striking their wives over minor mistakes. Legal analysis of the verse suggests that husbands are obliged to educate their wives progressively, beginning with advising and guiding, then resorting to separating beds, and only considering physical punishment as a last resort. Islam unequivocally prohibits any form

⁶² Mursyidah Thahir, “Jendela Keluarga,” *Majalah Suara Hidayatullah-10/XIV/Dzulqad'idah-Dzulhijjah 1422 h*, 1442H.

⁶³ Abi Dawud Sulaiman ibn 'Asy'as Sajastani al-Azdi, *Sunan Abu Daud* (Dar Ihyas al-Sunnah, n.d.).

⁶⁴ Ibid.

⁶⁵ Ibid.

of oppression or violence by husbands towards their wives. While Islamic law may allow for the possibility of chastising a wife, it is primarily in response to her behavior exceeding acceptable bounds, necessitating correction from the husband. This action should only be taken by a husband who fulfills his household responsibilities in accordance with religious teachings, not out of roughness or arrogance.⁶⁶

The verse about *nusyūz* is often understood literally to imply that spousal abuse is sanctioned and not contrary to Islamic law. However, this verse should be correlated with other verses and hadiths that prohibit men from committing violence against their wives. Quantitatively, the word *ma'ruf* (command to treat wives kindly) is mentioned 12 times in the Qur'an, while *wadribuhunna* (and strike them) is only found once in Surah An-Nisa verse 34.⁶⁷

Muhammad Asad modernizes the interpretation of "striking," explaining that there is evidence from various authentic traditions that the Prophet strongly disliked the idea of striking one's wife. This can be observed from one of the Prophet's hadiths:

عَنْ عَبْدِ اللَّهِ بْنِ زَعَمَةَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يَجْلِدُ أَحَدُكُمْ امْرَأَتَهُ جَلْدَ الْعَبْدِ ثُمَّ يُجَامِعُهَا فِي آخِرِ أَلْيَوْمِ (رواه البخاري)

"From Abdillah bin Zaamta, from the Prophet Muhammad, may peace be upon him, he said, "Can any of you beat his wife as he would beat a slave, and then sleep with her at night?"⁶⁸

Therefore, Prophet Muhammad sought to emphasize that striking one's wife is the most detested and reluctantly permitted action, to be used only in specific and extreme cases.

Within the household, roles are typically assigned to its members. For instance, the husband often acts as the head of the household, primarily due to bearing the heavier burden of providing for the family. In this role, he is entrusted with the responsibility of protecting and nurturing the family. Conversely, the wife commonly assumes the role of homemaker and is responsible for managing the family's needs.

Acts of violence that occur within the household are analyzed in Islamic law not explicitly but implicitly. This is because the Qur'an fundamentally contains ethical norms in classifying criminal acts of violence in general. Meanwhile, Islamic law itself has regulated the relationships between family members, including husband and wife, and parents and children. In the relationship between spouses, Islam has regulated it as a sacred relationship, particularly in the institution of marriage. Besides, husbands and wives also have equal rights and responsibilities and must mutually respect each other.

Jasser Auda, a Muslim scholar renowned for his research in the field of *maqasid al-shariah* (the objectives of Islamic law),⁶⁹ offers an intriguing perspective on the recontextualization of domestic violence law, particularly regarding spousal abuse, in Islam.⁷⁰

⁶⁶ HAMKA, *Tafsir Al-Azhar* (Jakarta: Pustaka Panjimas, n.d.).

⁶⁷ Thahir, "Jendela Keluarga."

⁶⁸ Muhammad ibn Ismail al-Bukhari, *Al-Shahih Al-Bukhari* (Kairo: Dar wa Mathabi al-Sya'b, n.d.).

⁶⁹ Retna Gumanti, "Maqasid Al-Syariah Menurut Jasser Auda (Pendekatan Sistem dalam Hukum Islam)," *Jurnal Al-Himayah* 2, no. 1 (March 1, 2018): 97–118, <https://journal.iaingorontalo.ac.id/index.php/ah/article/view/582>.

⁷⁰ Wati Kumala and Faisar Ananda, "Korban KDRT antara Gugat Cerai atau Mempertahankan Pernikahan Ditinjau dari Perspektif Hukum Islam, Hukum Positif, dan Psikologis," *Jurnal Pendidikan Tambusai* 8, no. 1 (January 17, 2024): 3289–99, doi:10.31004/jptam.v8i1.12904.

According to Auda, a proper understanding of Islamic teachings must consider principles of humanity, justice, and the promotion of common good.⁷¹ In the context of domestic violence, Auda emphasizes that the primary objective of Islamic teachings is to safeguard human rights, including women's rights to live free from violence and oppression.

Auda highlights the importance of understanding the historical and cultural context in which Islamic teachings were revealed, as well as adapting legal interpretations to the changing times.⁷² He emphasizes that Islamic laws should be interpreted in accordance with the principles of *maqasid al-shariah*, which aim to achieve the primary objectives of Islamic law such as preserving religion, life, intellect, progeny, and wealth.⁷³ In the case of domestic violence, the emphasis on these principles implies that acts of violence against wives contradict these primary objectives and thus cannot be acceptable within the true context of Islamic law.⁷⁴

Furthermore, Auda asserts that physical punishment, as sometimes interpreted from certain verses in the Qur'an, must be understood within a broader context, where specific conditions and ethical considerations are taken into account.⁷⁵ According to Auda, striking one's wife cannot be justified in Islam as it contradicts the principles of justice, equality, and compassion upheld by Islamic teachings.

Thus, Jasser Auda's opinion provides a basis for recontextualizing domestic violence laws within Islam, emphasizing the importance of understanding the humanitarian principles and justice that underpin Islamic teachings. In this regard, considering the primary objectives of Islamic law and adapting legal interpretations to evolving contexts are key to addressing domestic violence issues in a manner consistent with true Islamic teachings.

Conclusion

This study reveals that within Islamic jurisprudence, domestic violence is classified across various contexts, encompassing personal aspects, criminal violations, and enforcement laws, while considering ethical dimensions. Interpretations of specific verses, notably those in surah An-Nisa/4:34, have evolved over time, contextualized to emphasize non-normative applicability. Prophetic traditions reinforce the prohibition against violence towards women, grounded in the principle of *mu'āsyarah bi al-Ma'rūf* in Islam. From the analytical findings, this study concludes that Islamic teachings unequivocally reject domestic violence, advocating for a humane and just approach within the framework of Islamic law. This underscores the necessity for robust legal protection for victims and the enforcement of stringent sanctions against perpetrators.

⁷¹ Khairinur Monasa, "Maqashid Larangan Kekerasan dalam Rumah Tangga (Studi Perbandingan Undang-Undang Nomor 23 Tahun 2004 Dan Fikih)" (Aceh, Universitas Islam Negeri Ar-Raniry, 2017).

⁷² Edi Susilo, "Penyelesaian Problem Hukum melalui Pendekatan Maqasid Shari'ah," *Nizham: Jurnal Studi Keislaman* 8, no. 01 (May 18, 2020): 11–19, <https://doi.org/10.32332/nizham.v8i01.2091>.

⁷³ Mohammad Fauzan Ni'ami and Bustamin Bustamin, "Maqāshid Al-Syarī'ah dalam Tinjauan Pemikiran Ibnu 'Āsyūr Dan Jasser Auda," *Juris (Jurnal Ilmiah Syariah)* 20, no. 1 (June 21, 2021): 91–102, <https://doi.org/10.31958/juris.v20i1.3257>.

⁷⁴ Nur Rofiq et al., "Hukum Keluarga Islam: Perspektif Maqāshid asy-Syarī'ah terhadap Dasar Wajib Patuh pada Undang-undang Perkawinan dan Kompilasi Hukum Islam" 9, no. 2 (October 31, 2023): 173–93, <https://doi.org/10.61136/cbgbze13>.

⁷⁵ Ainol Yaqin, "Rekonstruksi Maqāshid Al-Syarī'ah dalam Pengembangan Metodologi Hukum Islam (Kajian Eksploratif Pemikiran Jasser Auda)," *Madania: Jurnal Kajian Keislaman* 22 (July 3, 2018): 63, <https://doi.org/10.29300/madania.v22i1.803>.

The study provides a significant scholarly contribution by conducting a thorough analysis of domestic violence within Islamic jurisprudence. Through meticulous examination of primary Islamic sources like the Qur'an, Hadith, and religious fatwas, alongside secondary scholarly literature, it concludes that domestic violence is inherently prohibited under Islamic law. Consequently, it advocates for governmental and relevant institutions to intensify efforts in bolstering legal protection for domestic violence victims and implementing strict sanctions as preventive and punitive measures.

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