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Human Rights Protection in the Islamic Family Law: A Case Study Concerning Domestic Violence

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Abstract

Islam and life are inseparable because Islam elevates the dignity of women and restores their rights, which had been violated by male dominance, religious traditions, and group fanaticism prior to the advent of Islam when women's rights were disregarded. This study employs qualitative methods by accumulating and analyzing library data descriptively and analytically. This article aims to describe the concept that Islam comes with a mission to restore the rights of women who have been marginalized as a result of prolonged *jahiliyah* conditions. This paper examines the relationship between Islam and human rights in the context of domestic violence, using family law and women's rights terminology. On the other hand, this review will focus on family law in the context of human rights preservation and domestic violence prevention.

Keywords: Family, Human Rights, and Islam

Abstrak

Islam dan kehidupan adalah dua mata uang yang tidak dapat dipisahkan sebagaimana Islam mengangkat martabat perempuan dan mengembalikan hak-hak yang telah dilanggar oleh dominasi laki-laki, tradisi agama, dan fanatisme kelompok pada masa sebelum lahirnya Islam sehingga hak kaum perempuan terabaikan. Penelitian ini menggunakan metode kualitatif dengan mengumpulkan data pustaka dan menganalisisnya secara deskriptif analitis. Penelitian ini bertujuan untuk menggambarkan gagasan bahwa Islam datang dengan misi untuk mengembalikan hak kaum perempuan yang telah termarginalkan akibat kondisi jahiliyah yang berkepanjangan. Tulisan ini akan mengkaji hubungan antara Islam dan hak asasi manusia dalam lingkup kekerasan dalam rumah tangga dengan menggunakan terminologi khusus hukum keluarga dan hak-hak perempuan. Di sisi lain, pengkajian ini akan membahas seputar hukum keluarga

dalam perlindungan hak asasi manusia fokus pada penanggulangan kekerasan dalam rumah tangga.

Kata kunci: *Keluarga, Hak Asasi Manusia, Islam*

Introduction

The discussion of women's rights has become the focal point of many forums and a heated topic of conversation throughout the world. There is no logical explanation for why women always submit to male leadership in patriarchal organizations. Consequently, this "natural law" has positioned women as socially inferior and the second class of society that must submit to the authority of men and their rule over the decentralization and survival of the family for thousands of years. Even the Bible's progressive standards were influenced by social and technical constructions, which led to their interpretations reflecting prevalent emotions. Thus, a society dominated by male laws restricts the liberties of women.

Even though the system of governance in the kingdom at the time had changed, this situation persisted until the 20th century, which marked the beginning of the end of discrimination against women and the release of Western imperialism against the existence of Islamic countries.¹ This moment is used to revolutionize and reconstruct the law in the state, including the family law that regulates the rights of women.

In Islam, men and women are regarded equally as honorable creations of Allah (human greatness), and a man's splendor is determined not by his biological characteristics as a man or a woman, but by his degree of reverence for God. Fear (Taqwa), which must be reflected in ethics and etiquette, necessitates respecting women and granting them their due. Despite the fact that humans are regarded as advanced in social life and the art of survival in the modern era, they continue to be tormented by dark shadows in their treatment of women and family members in married life. The following are some facts regarding the discriminatory and unjust treatment of women in the household.

First, domestic violence. Women are frequently the targets of domestic violence. According to the World Health Organization (WHO), one in three women worldwide experience physical or sexual violence at the hands of an intimate partner during the course of their lifetime.²

Second, women are typically more burdened with housework than males. Household duties are frequently unfairly and disproportionately borne by women. Women typically contribute more to the household, such as cleaning, cooking, and child care, whereas males contribute less. Despite the fact that all members of a family are responsible for domestic matters, each member of the family has a specific role to play.³

¹ Audrey E. De Paepe et al., *Hukum Hak Asasi Manusia, Journal of Chemical Information and Modeling*, Vol. 53, 2019.p.83

² A. Muni, *Hak Asasi Manusia Dalam Konstitusi Indonesia, Al'adalah*, Vol. 23, 2020.p.211

³ Carolus Boromeus Kusmaryanto, "Hak Asasi Manusia Atau Hak Manusiawi?," *Jurnal HAM* 12, No. 3 (2021): 521, <https://doi.org/10.30641/ham.2021.12.p.521-532>.

Third, the traditional distribution of gender roles. Many households continue to adhere to traditional gender role distribution patterns, in which women are expected to care for the household and children while men are viewed as the economic backbone. This results in unfair economic opportunities for female entrepreneurs. In fact, modern households should no longer be limited to the pragmatic understanding that gender is not a barrier to developing and doing the same work as men in the workplace.⁴

Fourth, Control over reproductive decisions, pregnancy, and childbirth: In some instances, women do not have complete control over their reproductive decisions, including access to contraception, sexual education, and the ability to determine desired pregnancy and family size. Despite the fact that this is the most essential aspect of household administration.⁵

Fifth, some women encounter restrictions on their individual freedom within the home, including limitations on their freedom to speak, interact with people outside the family, and make life-altering decisions. There are still restrictions on women's freedom of expression in many households because women are viewed as backward and unable to comprehend every topic and issue.⁶

Sixth, unjust divorce or execution: In some situations, women have difficulty gaining access to fair legal processes and legal protection when confronting divorce or execution by their partners. This can lead to injustice in terms of child custody and economic security for women.⁷

It is essential to keep in mind that not all households face this injustice and discrimination, and that situations can vary across cultures and communities. Nonetheless, these facts shed light on a number of issues that a variety of women in the household context continue to confront. This study employs a qualitative approach with the type of library research and analyzes the data using a descriptive analytic approach. To accomplish this, the author employs a descriptive strategy to provide a systematic, factual, and accurate description of the problem of protecting human rights in the context of the family, particularly as it relates to violence against women, with a focus on particular characteristics, traits, attitudes or other related components. The author employs a qualitative research strategy to collect in-depth, substantial, and definitive data. In addition to determining the focus of research, analyzing data, interpreting it, and drawing conclusions from this research's findings, this method is also used to determine the research's focus, analyze data, and

⁴ Andrea Doucet, "Gender Equality and Gender Differences in Household Work and Parenting," *Women's Studies International Forum* 18, no. 3 (1995): 271–84, [https://doi.org/10.1016/0277-5395\(95\)80072-W](https://doi.org/10.1016/0277-5395(95)80072-W).

⁵ Ming Hsuan Lee, "The One-Child Policy and Gender Equality in Education in China: Evidence from Household Data," *Journal of Family and Economic Issues* 33, No. 1 (2012): p.41–52, <https://doi.org/10.1007/s10834-011-9277-9>.

⁶ Luana Zaccaria and Luigi Guiso, "From Patriarchy to Partnership: Gender Equality and Household Finance," *SSRN Electronic Journal*, 2020, <https://doi.org/10.2139/ssrn.3652376>.p.83

⁷ Karen Musalo, "Irreconcilable Differences? Divorcing Refugee Protections from Human Rights Norms," *Michigan JIL* 115 (1994): p.1179–1240.

interpret.⁸

Human rights in the context of the family

The concept of women in the context of human rights emphasizes the protection, recognition, and advancement of women's rights as integral components of universal human rights. From a human rights perspective, the following are some of the most important aspects of women's rights.

Equality: Human rights affirm that women have the same rights as males and that all individuals, regardless of gender, must be treated fairly and equally in all aspects of life.⁹

Non-Discrimination: The human rights concept opposes all instances of sex-based discrimination. This includes employment, education, access to health services, political participation, and legal treatment discrimination.¹⁰

Protection against Violence: Human rights affirm the right of women to be free from all forms of violence, including domestic violence, sexual violence, human trafficking, female genital mutilation, and other forms that are detrimental and violate human dignity.¹¹

Health and Reproduction: The concept of human rights recognizes women's rights to equal access to quality health services, including reproductive health services, access to contraception, comprehensive sexual information and education, and the right to make autonomous decisions regarding their bodies and reproduction.¹²

Political Participation and Leadership: The fight for women's equal political participation with males, which includes the right to vote and be elected in elections, access to positions of power and political decision-making, and equal representation in political institutions.¹³

Economy and Work: The human rights concept emphasizes the protection of women's rights in the context of the economy and the workplace. This includes the right to work without discrimination, equal pay for equal work, identical career advancement opportunities, protection against workplace harassment and discrimination, and economic independence.¹⁴

Freedom of Opinion and Freedom of Association: Human rights protect the right of

⁸ Sugiyono, *Pendekatan Kuantitatif, Kualitatif, Kombinasi, R&D Dan Penelitian Evaluasi, Metodologi Penelitian* (Purwokerto: Percetakan Alfabeta, 2017).p.120

⁹ Briand Oren, *Human Rights: Concept and Context*, *Choice Reviews Online*, Vol. 40, 2002, <https://doi.org/10.5860/choice.p.40-2452>.

¹⁰ Janusz Symonides, *Human Rights: Concept and Standards*, *Human Rights: Concept and Standards*, 2017, <https://doi.org/10.4324/9781315183510.p.79>

¹¹ Johannes Morsink and Jack Donnelly, *The Concept of Human Rights*, *Human Rights Quarterly*, vol. 9, 1987, <https://doi.org/10.2307/761886.p.221>

¹² R. Panikkar and R. Panikkar, *Is the Notion of Human Rights a Western Concept?*, *Diogenes*, vol. 30, 1982, <https://doi.org/10.1177/039219218203012005.p.192>

¹³ Anthony D'Amato, *The Concept of Human Rights in International Law*, *International Law of Human Rights*, 2017, <https://doi.org/10.4324/9781315092492-3.p.117>

¹⁴ A. Belden Fields and Wolf-Dieter Narr, *Human Rights as a Holistic Concept*, *Human Rights Quarterly*, vol. 14, 1992, <https://doi.org/10.2307/762549.p.86>

women to freely express their opinions and beliefs and to participate in political, social, and cultural life without fear of repression. This includes the ability to create and join organizations that fight for women's rights. The concept of women within the context of human rights emphasizes the significance of recognizing, protecting, and advancing women's rights as an integral component of universal human rights. This concept has become the foundation for global advocacy and social change aimed at attaining gender equality and justice for women.¹⁵

Human rights in the context of the family refer to individual rights pertaining to relationships and dynamics within the household, such as: Gender Justice: Human rights emphasize that all family members, regardless of gender, have the same rights and must be treated appropriately. Fairness within the family. This includes recognition of the contributions and requirements of each individual in the family, as well as protection against gender-based discrimination and violence. Similarly, with regard to freedom of expression and expression of opinion, each family member has the same right to communicate, voice opinions, and participate in family-related decision-making. This freedom of expression is essential for ensuring family inclusion, dialogue, and democratic decision-making¹⁶

Moreover, protection against domestic violence cannot be separated from residential human rights. Human rights protect individuals against domestic violence. Every family member has the right to be free from physical, psychological, and sexual violence. Legal protection and support services must be available for victims of domestic violence, including the protection of the rights of children as family members. This includes the rights of children to life, education, protection from violence, adequate food and clothing, access to health care, participation in family life and the making of decisions affecting them.

The family's human rights also include freedom of religion and belief. Without discrimination or coercion, every family member has the right to choose, practice, and express their religious beliefs or beliefs. This religious freedom must be respected and acknowledged within the context of the family.

Every member of the family has the right to privacy and a private existence. This right encompasses protection against unlawful interference in personal and family matters as well as the right to maintain the confidentiality of communications and personal information.¹⁷

*Rights for Privacy and Private life:*¹⁸ Every member of the family has the right to privacy and a private existence. This right encompasses protection against unlawful interference in personal and family matters as well as the right to maintain the confidentiality of communications and personal information. In addition, the

¹⁵ Winfried Brugger, *The Image of the Person in the Human Rights Concept*, *Human Rights Quarterly*, vol. 18, 1996, <https://doi.org/10.1353/hrq.1996.0034>.p.119

¹⁶ عبدالكريم عوض خليفة *القانون الدولي لحقوق الإنسان*, د. عبدالكريم عوض خليفة *International Human Rights Law*, 2013.p.219

¹⁷ Dinah Shelton, *Remedies in International Human Rights Law*, *Remedies in International Human Rights Law*, vol. 9780199207534, 2010, <https://doi.org/10.1093/acprof:oso/9780199207534.001.0001>.p.287

¹⁸ A. Muni, *Hak Asasi Manusia Dalam Konstitusi Indonesia*.p.103

right to form a family without illicit interference from third parties is also a fundamental human right within the context of the family. This includes the right to marry voluntarily, select a life partner, and establish a family based on mutually respected agreements, as well as reproductive rights. Human rights recognize an individual's right to control and make decisions regarding his or her own body and reproduction. This includes the right to access reproductive health services, comprehensive sexual information and education, and the freedom to make decisions regarding pregnancy and family formation.

In addition, the right to form a family without illicit interference from third parties is also a fundamental human right within the context of the family. This includes the right to marry voluntarily, select a life partner, and establish a family based on mutually respected agreements, as well as reproductive rights. Human rights recognize an individual's right to control and make decisions regarding his or her own body and reproduction. This includes access to reproductive health services, comprehensive sexual information and education, and the freedom to make decisions regarding pregnancy and family aspirations.

This also implies that every member of the family has the right to privacy and personal liberty. This includes the right to keep communications private, safeguard personal data, and be free from unauthorized interference in personal and family matters.

Education and Personal Growth: Human rights ensure that every family member has the right to a quality education and opportunities for personal growth. This includes the right to an inclusive and equal education without discrimination, as well as access to opportunities for continuous learning.¹⁹

Human rights safeguard the freedom of individuals to choose, practice, and express their religion or beliefs within the context of the family. This includes the freedom to practice and maintain one's religion without discrimination or coercion. Human rights in the context of the family emphasize the significance of respecting the dignity, autonomy, and rights of family members. This seeks to establish family relationships that are just, equal, and respectful of individual rights within the context of liberty and justice.²⁰

Human rights in the family law

Several theories in family law link human rights with the preservation of individual rights within the family context: The Universal Approach asserts that human rights are universal and apply to all individuals regardless of gender, religion, ethnicity, or social status. This approach to family law emphasizes the preservation of individual rights in marriage, divorce, child custody, and the prevention of

¹⁹ Muhammad Fachri Said, "Perlindungan Hukum Terhadap Anak Dalam Perspektif Hak Asasi Manusia," *JCH (Jurnal Cendekia Hukum)* 4, No. 1 (2018): 141, <https://doi.org/10.33760/jch.v4i1.97>.p.87

²⁰ Aulia Rosa Nasution, "Kebebasan Beragama Dalam Tinjauan Hak Asasi Manusia," *Jurnal Hukum Responsif* 6, no. 6 (2018).p.201

domestic violence.²¹ Gender Equality Approach: This approach emphasizes the significance of gender equality in family law. This includes protection against gender discrimination in marriage, economic rights, the division of household tasks and responsibilities, and equal access to child custody and reproductive decisions.²² Child Welfare Approach: This approach focuses on the interests and welfare of children as the most important element in family law. This includes the preservation of the child's rights, such as the right to life, care, education, and protection from violence and exploitation. In the event of a divorce or parental separation, this approach endeavors to ensure that the child's best interests take precedence.²³ Privacy and personal freedom approach: This strategy emphasizes the significance of privacy and personal liberty in the context of family law. This includes the protection of an individual's rights against illicit interference in private affairs, the freedom to make decisions regarding reproduction and private life, and the right to exercise religious beliefs. Non-discriminatory approach: This approach emphasizes that human rights must be protected without discrimination on the basis of gender, sexual orientation, ethnicity, religion, or disability. This approach in family law entails the rejection of discrimination in marriage, divorce, child custody, and economic rights within the family.²⁴

These approaches constitute a human rights-based family law framework. They seek to protect, recognize, and promote individual rights within the context of the family, as well as to promote equality, justice, and the family's overall well-being.

In Islamic law, a *mujbir* guardian is a guardian who enjoys the authority to force or coerce a person, particularly a woman, to marry someone beyond their will.²⁵ The concept of wali *mujbir* is, however, historically anchored in pre-Islamic cultural practices and is not part of the fundamentals of pure Islamic teachings.

In Islam, marriage is considered a voluntary agreement between two individuals who mutually consent to engage in a marriage bond.²⁶ In this context, the marriage guardian (wali) acts as a representative and guardian of the prospective bride's interests, not as a party who compels the woman to marry someone she does not desire. In Islamic teachings, the principles of agreement, and equality in marriage are of utmost importance. Islam respects the freedom of individuals to choose a

²¹ Ahmad Tholabi Kharlie, *Hukum Keluarga Indonesia*, 2022, http://repo.unikadelasalle.ac.id/index.php?p=show_detail&id=12653&keywords=.p.57

²² Jefry Tarantang and Jefry Tarantang, "Teori Dan Aplikasi Pemikiran Kontemporer Dalam Pembaharuan Hukum Keluarga Islam," *Transformatif* 2, No. 1 (2018): p.315, <https://doi.org/10.23971/tf.v2i1.882>.

²³ Khoiruddin Nasution, "Metode Pembaruan Hukum Keluarga Islam Kontemporer," *Unisia XXX* (2007): 329–41, <https://journal.uui.ac.id/Unisia/article/view/2677/2456.p.119>

²⁴ Nur Kholis, "Asas Non Diskriminasi Dalam Contempt of Court," *Legality : Jurnal Ilmiah Hukum* 26, No. 2 (2019): 210, <https://doi.org/10.22219/jihl.v26i2.7797.p.210>

²⁵ Eko Setiawan, "Dinamika Pembaharuan Hukum Keluarga Islam Di Indonesia," *De Jure: Jurnal Hukum Dan Syar'iah* 6, no. 2 (2014), <https://doi.org/10.18860/j-fsh.v6i2.3207.p.384>

²⁶ Dedisyah Putra, "Tradisi Markobar Dalam Pernikahan Adat Mandailing Dalam Perspektif Hukum Islam," *El-Ahli : Jurnal Hukum Keluarga Islam* 1, no. 2 (2021): 18–34, <https://doi.org/10.56874/el-ahli.v1i2.311.p.29>

spouse based on mutually beneficial agreements and contracts. Engaging couples have the freedom to communicate, get to know one another, and give their consent voluntarily.

In Islamic marriage customs, the marriage guardian acts as a guide and advisor, ensuring that the marriage contract is executed with the assent of all parties.²⁷ Marriage stewards must consider the interests and desires of the prospective bride, incorporate them into the decision-making process, and ensure that the decisions made are in her best interest. A proper understanding of the marriage guardian's function in Islam emphasizes the marriage principles of consent, agreement, and justice. Contrary to the concept of wali mujbir, which entails compelling or coercing a prospective bride to marry a person beyond her own will.

Numerous verses in the Qur'an discuss the function of the husband in the family. These verses instruct spouses on their duties, responsibilities, and attitudes within the marriage relationship. The following are several examples of Quranic verses that discuss spouses.

1. Verse concerning the proper treatment of wives: "And among His signs is that He created for you a life partner of your own kind, so that you may have peace of mind, and He made affection between you. Indeed, this is a sign - signs of His greatness to those who reflect" (Q.S. Ar-Rum [30]: 21).²⁸ This verse emphasizes that spouses are expected to provide their wives with tranquility and establish loving relationships.
2. Men are the leaders of women because Allah has exalted some of them (men) over others (women) and because they have spent a portion of their fortune." (Q.S. An-Nisa [4]: 34).²⁹ Ayat This verse emphasizes the husband's obligation to be a leader in the family, including providing sufficient income for his wife and family.
3. Verse regarding cooperation and consultation in decision-making: "And they (wives) have equal rights with (husbands') obligations according to the ma'ruf way, but husbands have authority (advantage) over their wives by a portion of the property they have given them." (Q.S. Al-Baqarah [2]: 228).³⁰ This verse highlights the significance of cooperation and consultation between husband and wife when making family decisions, as well as maintaining a balance between their respective rights and responsibilities. The spouse is charged throughout the Qur'an with being a just leader, providing support and protection, and treating his wife with love and respect. Nevertheless, the Qur'an also affirms that husband and wife are life companions, and that

²⁷ Roberto Maldonado Abarca, "Tinjauan Umum Tentang Wali Nikah," *Nuevos Sistemas de Comunicación e Información*, 2021, 27–44, [http://repository.uin-suska.ac.id/2732/4/BAB III.pdf](http://repository.uin-suska.ac.id/2732/4/BAB%20III.pdf).p.32

²⁸ RI Departemen Agama, *Alquran Dan Terjemahan, Al-Qur'an Terjemahan*, 2007.p.318

²⁹ Departemen Agama.p.228

³⁰ Departemen Agama.p.104

cooperation, consultation, and mutual respect are essential elements of the marital relationship.

There are also numerous hadiths that discuss the function of the husband in the family. These hadiths provide guidance and advice regarding a husband's expected responsibilities, duties, and conduct. Here are a few examples of hadiths discussing husbands:

1. Hadith regarding the proper treatment of wives: (HR. Tirmidhi) "Abdullah bin Amr bin Al-As narrated that the Messenger of Allah said, 'The best among you are those who treat their wives the best, and I am the best among you in this regard.'" (HR. Tirmidzi).³¹ This hadith emphasizes the significance of a husband's excellent treatment and affection for his wife.
2. Hadith regarding the just leader: "The best leader in the family among you are those who treat their wives the best, and I am the best among you in this regard." (HR. Abu Dawud)³² This hadith emphasizes the significance of a husband being a just and accountable family leader.
3. Hadith regarding the importance of supplying a living: "A husband should provide a living for his wife in accordance with his means." (HR. Bukhari).³³ This hadith emphasizes the husband's responsibility to provide an adequate standard of living for his wife and family to the best of their ability.
4. Hadith regarding compassion and tenderness: "The Messenger of Allah said, 'The best among you are those who treat their families the best, and I am the best among you in this regard, for I am the one who treats my family the best.'" (Related by An-Nasai). This hadith emphasizes the significance of a spouse treating his wife and family with affection, kindness, and consideration. In the entire collection of hadith, there are numerous teachings and recommendations regarding proper husband behavior in Islam. The spouse is expected to be a just leader, to provide for and protect his wife, and to treat her with affection, tenderness, and care." (HR. An-Nasai).³⁴

In order to prevent domestic violence, religious leaders frequently express similar views regarding a harmonious family, beginning with the significance of sincerity in household formation and mutual love and affection. Scholars frequently emphasize the significance of love and affection within the family. They emphasize that love and affection are essential for establishing harmonious family relationships. In addition, equality and justice between spouses and family members, as well as between parents and children, require consideration. They assert that all family members have equal rights and responsibilities and must respect and value one another's roles.

Likewise, communication is an important issue that requires great attention. In order to understand and solve problems effectively, they encourage family

³¹ Abu 'Isa Al-Tirmizi, *Sahih Sunan Al-Tirmizi* (Riyad: Daar Ibn Al-Jauzy, 1998).p.184

³² Muhammad Nashiruddin Al Albani, *Sahih Abu Dawod* (Riyad: Darussalam, 2005).p.217

³³ Abi Abdullah Muhammad Ismail, *Sahih Bukhari, Sahih Bukhari*, Vol. 1, 1985.p.383

³⁴ Abi Abdirrahman bin Syu'aib bin Ali An-nasa'i, *Sunan An-Nasa'i* (Riyad: Darussalam, 2002).p.162

members to listen to each other, communicate kindly, and express feelings and thoughts openly. In addition, displaying exemplary behavior within the family often requires sacrifice and exemplary behavior. Scholars argue that older family members should set a positive example for younger family members and be willing to make sacrifices for the happiness and well-being of the entire family. Finally, family education and character development. They contend that the family must be a place where religious, ethical, and moral values are taught and practiced, thereby aiding in the development of each family member's character.

Islamic Protection Against Domestic Violence

Islam has a very significant concern in the context of the family as a pioneer of social life. Islam also provides numerous teachings and guidelines regarding the administration of the home and family.³⁵ In Islam, the family is regarded as the foundation of a society and plays an essential role. Islam provides comprehensive and exhaustive guidelines for establishing a harmonious and quality family. In this matter, the holy Qur'an and the hadith of the Prophet Muhammad SAW are the primary sources of guidance, as interpreted and comprehended by religious scholars and scholars.

In Islam, a theory of protection against domestic violence is upheld on the basis of religious principles and Islamic teachings, including:

Principle of balance and equality: Islam promotes the principle of balance and justice in all aspects of life, including family relationships. This principle stresses the importance of treating all family members equally and without taking sides. In Islam, family violence violates this principle of justice and is forbidden.³⁶

Respect for Individual Human Rights, Islam respects individual human rights, such as the right to life, dignity, and freedom from violence. Every person, including family members, has the right to be respected and protected against all forms of violence, including family violence.³⁷

Islam promotes love, affection, and tenderness in family relationships. This includes protection from physical, emotional, and psychological forms of family violence. Islam encourages excellent communication, tolerance, and understanding between parents and children, as well as between spouses.³⁸

The prohibition of violence. In the hadith and religious teachings of Islam, there is a strict prohibition against violence within the family. Rasulullah Muhammad SAW was a Muslim scholar. imparts the significance of loving and

³⁵ M Syaiful Minan And Ahmad Thobroni, "Pandangan Tokoh Masyarakat Terhadap Pernikahan Dibulan Muharram Dalam Perspektif Hukum Islam," In *Prosiding Konstelasi Ilmiah Mahasiswa UNISSULA (KIMU)*, vol. 5, 2021, p.283–90.

³⁶ SH.M.Hum Afifa Rangkuti, "Konsep Keadilan Dalam Perspektif Islam," *Jurnal Pendidikan Islam* VI, no. 1 (2017): p. 3–4.

³⁷ Fauzi Almubarak, "Keadilan Dalam Perspektif Islam," *Journal ISTIGHNA* 1, no. 2 (2018): p.115–43, <https://doi.org/10.33853/istighna.v1i2.6>.

³⁸ Ahmad Sainul, "Konsep Keluarga Harmonis Dalam Islam," *Jurnal Al-Maqasid* 4, no. 1 (2018): p.86–98.

respecting family members and prohibits violence against them. These hadiths provide a foundation for family protection against violence.

Equal Responsibilities for the Family Leadership; Islam establishes equal responsibilities for the family head, who is typically the spouse or father. The family head is responsible for protecting, providing for, and maintaining the family's integrity in an equitable and nonviolent manner.³⁹

Resolving Family Conflicts Without Violence: Islam encourages resolving family conflicts without resorting to violence. There are conflict resolution techniques in Islam, such as deliberation, patience, and mutual comprehension, for resolving family differences and conflicts.⁴⁰

Within the framework of Islamic teachings, these theories emphasize the significance of protecting family members from violence and promoting the values of compassion, justice, and peace in family relationships.

The Implementation of Women's human rights within the family

Domestic violence is a type of violence that occurs between husband and wife or ex-husband and wife partners in the household. Domestic violence encompasses physical, psychological, sexual, and economic aggression aimed at controlling, injuring, or dominating the partner.

In Indonesia's positive law, domestic violence is regulated by several laws and regulations that provide protection for victims of domestic violence and stipulate sanctions against perpetrators. Among the regulations pertaining to domestic violence are:⁴¹

1. Law no. 23 of 2004 pertaining to the Elimination of Domestic Violence: This law is the primary legal basis for domestic violence regulation in Indonesia. This law provides a definition of domestic violence, as well as victims' rights, protection, management, rehabilitation, and sanctions for domestic violence perpetrators.
2. Law no. 35 of 2014 pertaining to Amendments to Law no. 23 of 2004 pertaining to the Elimination of Domestic Violence: This law is an amendment to Law no. 23 of 2004 that provides enhancements to the regulation of domestic violence, including increased protection for victims and stricter penalties for offenders.
3. Domestic Violence Law No. 4 of 2004: This law regulates the court process for resolving domestic violence disputes. This statute emphasizes that domestic violence courts must protect victims and penalize offenders.

In addition to these regulations, domestic violence is also regulated in several

³⁹ Irnadia Andriani and Ihsan Mz, "Konsep Qana'ah Dalam Mewujudkan Keluarga Harmonis Perspektif Alquran," *NALAR: Jurnal Peradaban Dan Pemikiran Islam* 3, no. 1 (2019): p.64–73, <https://doi.org/10.23971/njppi.v3i1.1291>.

⁴⁰ Sagaf S Pettalongi, "Islam Dan Pendidikan Humanis Dalam Resolusi Konflik Sosial," *Cakrawala Pendidikan* 0, no. 2 (2013): p.172–82.

⁴¹ Ahmad Mukri Aji, "Kekerasan Dalam Rumah Tangga Perspektif Hukum Positif Indonesia," *SALAM: Jurnal Sosial Dan Budaya Syar-I* (2017), <https://doi.org/10.15408/sjsbs.v4i1.7870.p.118-92>

other regulations such as Law No. 23 of 2002 concerning Child Protection, which protects children from domestic violence in the family environment, as well as Government Regulation No. 9 of 2008 concerning Handling of Victims of Domestic Violence, which regulates the handling of victims of domestic violence.⁴²

In accordance with Indonesia's positive law, domestic violence is a criminal offense punishable by criminal penalties. Additionally, there are prevention, treatment, and rehabilitation initiatives for domestic violence victims. This demonstrates the commitment of the Indonesian government to safeguard domestic violence victims and eliminate domestic violence.

Implementing women's human rights within the context of the family entails recognizing, attention to, and protecting the rights inherent to every woman within the context of the family. The following theories and ideas pertain to the implementation of women's human rights within the family:

1. Gender equality; This theory emphasizes the necessity of respecting and applying the principle of gender equality within the family. Eliminating gender discrimination in marriage, divorce, inheritance, property ownership, education, and family decision-making is integral to the implementation of women's human rights.
2. Women's empowerment refers to granting women access to the resources, opportunities, and authority that allow them to make their own decisions and control their own lives. Implementing women's human rights within the family entails granting women autonomy over their education, employment, reproductive health, and family life decisions.
3. . Nonviolence and Domestic Violence Protection: This concept emphasizes the significance of safeguarding women from all forms of domestic violence. Implementing women's human rights within the family entails preventing violence, protecting its victims, and prosecuting its perpetrators. This includes policies and programs designed to alter attitudes and behaviors that promote domestic violence
4. Reproductive Health and Sexuality: The implementation of women's human rights within the family entails equal access to safe, affordable, and high-quality reproductive health services. This includes access to comprehensive sexual information and education, contraceptive services, prevention and treatment of sexually transmitted diseases, secure pregnancy care, and the right to make their own decisions regarding their bodies and reproduction.
5. Participation in Family Decision-Making: The implementation of women's human rights in the family requires women's participation in family decision-making. Women should have the opportunity to participate in decisions regarding marriage, divorce, children's education, place of residence, and family finances, among other matters affecting them.

⁴² Sabungan Sibarani, "Prospek Penegakan Hukum Undang-Undang Penghapusan Kekerasan Dalam Rumah Tangga (UU Pkdr)," *Jurnal HAM* 7, No. 1 (2016): 1, <https://doi.org/10.30641/ham.2016.7.p.1-9>.

6. Education and awareness are also involved in the implementation of women's human rights within the family. Comprehensive education about the human rights of women and gender equality can assist in altering unjust and discriminatory attitudes, norms, and behaviors within the family.

Various parties, including the government, legal institutions, civil society, families, and individuals, must collaborate to ensure the protection of the human rights of women within the family. It is essential to foster an environment that supports, respects and protects the human rights of women within the context of the family in order to achieve equality, justice, and prosperity for all family members.

Conclusion

The study of human rights in the context of the family leads to the following conclusion: First: Human rights must be respected and implemented within the family. The rights of family members, including men, women, and children, include the right to freedom, dignity, equality, and protection from violence. Domestic violence is a serious human rights violation. It should be aimed at preventing violence, protecting victims, and punishing violent offenders. It is essential to strengthen legal and policy frameworks that support domestic violence protection. Second: In the household, gender equality and protection against discrimination must be prioritized. Men and women must have equal rights with respect to marriage, divorce, child custody, property ownership, education, and family decision-making. Important are education, awareness, and changes in attitudes and customs that support human rights in the home. Understanding and awareness of human rights, gender equality, and the significance of respecting individual dignity and autonomy within the family must be increased.

Third: Cross-sectoral cooperation and active participation of all stakeholders, including government, legal institutions, civil society, families, and individuals, are essential for the effective implementation of human rights in the household. By paying attention to human rights in the context of the home, just, equal, and respectful family relationships that promote the well-being and quality of life for all family members can be established. In Islamic law, domestic violence (KDRT) is a violation of the principles of justice, equality, and compassion in the relationship between husband and wife. Islam encourages the development of a harmonious, mutually respectful, and mutually supportive relationship between husband and wife.

In the context of domestic violence, Islam emphasizes the prohibition and unjustification of all forms of domestic violence. Several Islamic principles and teachings pertain to domestic violence. Husband and wife are regarded as complementary and mutually respectful companions. There is no justification for companion violence as a form of dominance and control. Islam encourages love, affection, and concern between a husband and wife. It is recommended that husbands handle their wives with kindness, recognize their needs and rights, and protect and assist them in their domestic life. Third, Islam prohibits all forms of violence, including domestic violence, in a strict manner. Violence, whether physical, psychological, or sexual, against a partner is a violation of Islamic teachings. Islam

encourages peaceful and dialogical conflict resolution.

Fourth: The Law of Protection and Sanctions: According to Islamic law, domestic violence is a serious offense. Islamic law stipulates punishments for perpetrators of domestic violence. For instance, Islamic courts can impose sanctions or punishments on perpetrators of domestic violence, such as limiting the husband's rights or even divorce if the situation calls for it.

The significance of law enforcement and public awareness of the Islamic prohibition against domestic violence is crucial. Islam encourages a holistic approach to the issue of domestic violence, including prevention, treatment of victims, rehabilitation of perpetrators, and a proper understanding of household rights and responsibilities.

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